

**BOROUGH CODE - REENACTMENT AND OMNIBUS AMENDMENTS**

**Act of May. 17, 2012, P.L. 262, No. 43**

**CL. 08**

Session of 2012

No. 2012-43

HB 1702

**AN ACT**

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

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#### ARTICLE XXXV

##### ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE

Section 3501. Acts of Assembly Repealed; Saving Clause.

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

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

#### ARTICLE I

##### PRELIMINARY PROVISIONS

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

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

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

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

(2) The collection of municipal claims by liens.

(3) The method of incurring or increasing indebtedness.

(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 The repeal by this act of any act of Assembly, or part thereof, shall not revive any act or part thereof heretofore repealed or superseded, nor affect the corporate existence of any borough heretofore incorporated.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 act of Assembly repealed by this act shall continue to hold [such] office until the expiration of the term thereof, subject to the conditions attached to [such] **the** office prior to the [passage] **enactment** of this act.

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not only as set forth in this act but also as provided in other laws to the extent that the powers and duties are not repealed by this act.**

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

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

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

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

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

**(1)** all boroughs incorporated under general laws[, and to];  
**(2)** all boroughs incorporated under special law which have accepted the provisions of the act of April 3, 1851 [(P.L.320)] **(P.L.320, No.218)**, entitled "An act regulating boroughs[," and also to]";

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

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

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

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

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

Section 107. Acceptance of Act by Boroughs [and Incorporated Towns.--Any].--**(a)** **A** borough [or incorporated town,] incorporated or acting under any local or special act of Assembly, may surrender the provisions of its special and local acts in their entirety, or so far as they are inconsistent with this act, and be governed by the provisions of this act, by presenting a petition to the court of [quarter sessions] **common pleas** of the county setting forth the desire of [such] **the** borough [or incorporated town] to accept the provisions of this act. The petition shall also set forth whether it is the desire of the petitioners to surrender all of the provisions of its special and local acts or to retain [such] **the** provisions of its special and local acts as are not inconsistent with this act. [Such] **If the petition sets forth a desire to retain provisions of local or special acts, it shall set forth the provisions of the local or special acts to be retained. The** petition shall be made by the council or by at least ten percent

of the registered electors of the borough [or incorporated town] as of the date the petition is filed.

(b) 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] **the** hearing, any inhabitant of the borough [or incorporated town] 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 [grant] **grants** the petition, the decree of the court shall be recorded in the office for the recording of deeds, and thereafter the borough [or incorporated town] shall be subject to all the provisions of this act, and any [such] incorporated town shall become a borough and the local and special acts of Assembly in force in any such boroughs or incorporated town shall be annulled in their entirety, or so far as they are inconsistent with the provisions of this act, as may be set forth in the petition in the particular case. When any incorporated town accepts the provisions of this act, the decree of the court permitting such acceptance shall set forth the title of the new borough.] **local or special acts of Assembly retained as set forth in the petition. From the date of the decree, any local or special act of Assembly applicable to the borough shall be of no force and effect to the extent it is inconsistent with this act or has been surrendered.**

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

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

**Section 107.1. Acceptance of Act by Incorporated Towns.--(a)** An incorporated town incorporated or acting under a local or special act of Assembly may, by ordinance, elect to be governed by provisions of this act, and shall surrender any provisions of its special and local acts, in whole or in part, that are inconsistent with the provisions of this act adopted by the incorporated town. The ordinance shall set forth, at length or by reference, the provisions of this act to be adopted and, to the extent applicable, those provisions of its special and local acts to be surrendered. As of the effective date of the ordinance and until such time as the ordinance may be repealed or amended, the provisions of this act as set forth in the ordinance shall be the law applicable to the incorporated town and the provisions of any local or special acts of Assembly, to the extent surrendered as set forth in the ordinance, shall be of no force and effect to the extent they would otherwise apply to the incorporated town.

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

(c) When an incorporated town shall accept the provisions of this act, as provided by this section, all liabilities incurred, rights accrued or vested, obligations issued or

contracted, and all suits and prosecutions pending or to be instituted to enforce any right or penalty accrued or punish any offense committed prior to acceptance, and all ordinances shall continue with the same force and effect as if no acceptance had been made. An incorporated town shall not have the power to alter or amend any provision of this act that has been adopted in accordance with this section or section 107.

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

Section 108. Effective Date.--This act shall take effect 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:

#### ARTICLE II

##### CREATION **AND ALTERATION** OF BOROUGHs

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

(a) Incorporation of Boroughs

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

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

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

Section 202. Applications for Incorporation.--(a) The application for incorporation shall be by a petition signed by a majority of the freeholders residing within the limits of the proposed borough and by the freeholders of a majority of the territory within the limits of the proposed borough, when all parts of the proposed borough are in the same township[, and, where]. **Where** portions of the proposed borough are in different townships, the petition shall be signed by a majority of the freeholders residing in each of [such] **the** separate portions and by the freeholders of a majority of the territory in each of [such] **the** separate portions. The signatures must be secured within three months immediately preceding the presentation thereof to the court. [Such] **The** petition shall be subscribed by and sworn to by at least one of the signers. The number of signers required to **sign** the petition shall be ascertained as of the date the petition was presented to court.

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

(c) Such committee shall, within sixty days of its creation, advise the court in relation to the establishment of the proposed borough. In particular, the committee shall render expert advice and findings of fact relating to the desirability of such 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) the existing and potential commercial, residential and industrial development of the proposed borough; and

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

(d) 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 and their witnesses. The court shall certify the question of the proposed incorporation to the board of election of the county for a referendum vote of the residents of the proposed borough only if it finds that the conditions prescribed by this section have been complied with and that the desirability of the proposed incorporation is supported by a preponderance of the evidence submitted at the hearing and by the committee. Upon receipt of the certified election results, the court shall enter a final decree granting or denying the prayer of the petitioners.] **For purposes of this subsection, the residence of freeholders shall be established by evidence of domicile in a permanent structure.**

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

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

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

**Section 202.1. Borough Advisory Committee.--(a)** The court shall establish a Borough Advisory Committee when a petition is received by the court for the creation of a borough. The committee members shall be appointed by and shall serve at the pleasure of the court, and shall consist of two residents of the proposed borough, two residents from each of the existing townships recommended by the respective governing body of the township or townships and not residing within the proposed borough and one resident of the county not residing in either area who shall serve as the chair of the committee. The members shall serve without salary, but the court may entitle each member to reimbursement for the member's actual and necessary



expenses incurred in the performance of the member's official duties. The members may consult with the director of the county planning commission who may advise the committee.

(b) The committee shall, within sixty days of its creation, advise the court in relation to the establishment of the proposed borough. In particular, the committee shall render 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 additional information. When the court has obtained all reasonably necessary information, and has determined that the conditions prescribed by this section have been complied with, the court shall determine the desirability of the proposed incorporation based upon the evidence submitted at the hearing and by the committee, any additional information obtained after the hearing, and any other applicable factors the court deems relevant.

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

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

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

[Section 203. Contents of Petition.--The petition shall set forth the name of the proposed borough, with a particular description of the boundaries thereof, and be accompanied with a plot of the same. If the boundaries of the proposed borough are not the same as an existing political subdivision, the description shall include the courses and distances of the boundaries. If the boundaries of the proposed borough are the same as an existing political subdivision, the description need not contain the courses and distances of the boundaries but shall refer to the name and location of the existing political subdivision.]

Section 15. Section 204 of the act is repealed:

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

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

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

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

**(1) The corporate name of the borough.**

**(2) The boundaries of the borough.**

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

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

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

Section 18. Section 208 of the act is repealed:

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

- (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 duly organized under this act.

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

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

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

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

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

Section 213. Agreement to Adjust Indebtedness Where Borough Created.--[Whenever a borough is created out of a township, the commissioners or supervisors of the township and the council of the borough] **(a) After the election of borough council under section 211 when a borough is newly incorporated, the borough council and the governing body of the township or townships from which the borough was created shall make a just and proper adjustment and apportionment of all the public real and personal property owned by the township or townships at the time of the incorporation of the borough[, both real and personal, including]. The property to be adjusted and apportioned between the borough and the township or townships shall include funds, as well as indebtedness [between the borough and township: Provided, That] provided that in adjusting property and indebtedness, streets, sewers, and utilities shall not be considered except to the extent that current and unpaid indebtedness was incurred for the construction and improvement thereof.**

**(b) In making [such] the adjustment and apportionment under subsection (a), the [taxable] borough shall be entitled to a division of the property and indebtedness in the same proportion that the assessed valuation of the taxable real estate included within the territorial limits of the newly incorporated borough, bears to the assessed valuation of the taxable real estate in the entire township or townships immediately prior to the incorporation of [such] the borough, and the township or townships shall be entitled to the remainder of [such] the property and indebtedness[: Provided, That where]. Where indebtedness was incurred by the township or townships for an improvement located wholly within the territorial limits of the newly incorporated borough, [such] the indebtedness shall be assumed by the borough[, and where any]. Where only part of [such] the improvement is located within the newly incorporated borough, the part of [such] the indebtedness, representing the part of the improvement located within the borough, shall be assumed by the borough and the adjustment and apportionment of any remaining debt [and the public property of the township shall be made as above provided] shall be retained by the township or townships.**

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

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

Section 214. Judicial Adjustment on Failure of Agreement.--[In case the township] **If the governing bodies of the township or townships and the borough [authorities] cannot make an amicable adjustment and apportionment of the property and indebtedness within six months after the government of the newly incorporated borough is established, then the [commissioners or] supervisors of the township or townships or the council of the borough may present a petition to the court of [quarter sessions] common pleas. The court shall then appoint three disinterested commissioners, all residents and taxpayers of the county, but [none residing in or owners of] who do not reside in or own real estate in the township or townships or**

borough, who, after hearing, notice of which shall be given to the township **or townships** and borough as the court shall direct, shall make report to the court making an adjustment and apportionment of all the property as well as the indebtedness between the township **or townships** and the borough. The report shall state the amount that shall be due and payable from **either** the borough [to] **or** the township[, or from the township to the borough] **or townships, to the other and vice versa,** and the amount of indebtedness that shall be assumed by [the borough or the township or both of them] **any or all of them.**

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

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

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

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

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

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

Section 219. Bond Issues; Taxation.--In any [such] proceeding **to adjust and apportion indebtedness,** the township **or townships** or the borough shall have power to issue and deliver to the borough or township **or townships** interest-bearing bonds in liquidation of the indebtedness ascertained, to be its proportionate share payable, if [such] **the** bonds are acceptable to the borough or township **or townships** entitled to receive the [same] **bonds.** The court may also make all [needful] **necessary** orders for the collection and payment by the township **or townships** or borough **of the amount needed to pay its share of any indebtedness apportioned to it** by special taxes to be

collected in one year, or by annual installments[, the amount needed to pay the share of any indebtedness apportioned to it].

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

[ (b) Consolidation of Boroughs ]

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

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

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

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

Section 232. Filing Petition; Notice of Election; Return.--Upon the presentation of [any such] **a** petition **pursuant to section 231**, the court shall determine whether the petition is in due form and properly signed, and if the court so finds, it shall enter an appropriate order and direct that the petition shall be filed with the clerk of the court and that a copy of the petition and order of court shall be filed with the county board of elections. The county board of elections shall frame the proper question to be submitted to the electors at the election ordered by the court. Notice of [such] **the time and purpose of the** election shall be given in at least one newspaper of general circulation of the proper county once a week for four consecutive weeks [of the time of such election and the purpose thereof]. The publication of the notice shall be made on behalf of the petitioners and shall be in **the** form [as the court may approve] **approved by the court**.

The county board of elections shall make return of the vote cast on the question submitted to the clerk of the court of [quarter sessions] **common pleas**, which return shall be filed with the petition. If a majority of those voting on the question submitted were in favor of the change of the charter of the city to a borough charter, the court shall order that the record of the proceedings be recorded in the office for the recording of deeds of the county, which record shall constitute the charter of the borough under the name set forth in the petition. **The recorder of deeds in each county affected shall certify to the Department of State, the Department of Transportation, the Department of Community and Economic Development and the county planning commission a copy of the record constituting the charter of the borough.** If a majority of those voting on the question were against the change of the city charter no further proceedings shall be had, and the same question shall not again

be submitted for a period of five years following [such] **the** election.

Section 233. When Borough Government Effective.--Upon the recording of the record of the proceedings as [above] provided **in section 232**, the city form of government shall continue in operation until the first Monday of January next succeeding the first municipal election, occurring at least ninety days after the recording of the record, at which time the borough government shall be organized by the officers elected at [said] **the** municipal election in accordance with section 805 [of this act].

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

Section 234. Property; Assets; Liabilities; Ordinances; Wards; Election Districts and Certain Officers.--Upon the formation of the borough government, all of the property and assets of the city shall become the property of the borough, and [such] **the** change of government 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 punish any offense committed prior to [such] **the** change. All ordinances of the former city shall continue in force in the new borough until altered or repealed in the manner provided by law. The wards and election districts of the city shall become the wards and election districts of the borough until altered or changed as may be provided by law. [And in] **In** the election of members of council from the several wards, two members of council shall be elected from each ward, unless thereafter changed as provided by law. All constables[, aldermen] and election officers in office in the city, when the borough government is organized, shall remain in office until the expiration of their respective 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, and the court may grant or refuse the petition as appears just and proper to the court. 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 the recording shall be as set forth in the petition.

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

(d) Liabilities not affected.--A change of corporate name 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 the change regardless of whether the old or the new name of the borough shall have been used therein.

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

[ARTICLE III  
ANNULMENT OF CHARTERS AND CHANGE  
OF CORPORATE NAMES

Section 301. Petitions for Annulment of Charters or Change of Corporate Names.--The court of quarter sessions shall, upon petition of at least ten percent of the registered electors of any borough setting forth that the inhabitants of such borough desire to annul the charter of the borough or to change the corporate name of such borough, order an election to be held on the next day appointed for the holding of a general, municipal or primary election, occurring at least ninety days after the presentation of such petition, at which election the electors of the borough shall vote for or against the annulment of the charter or the change of name of the borough, as the case may be. In the case of an annulment of charter, such petition shall set forth that the petitioners desire that the territory embraced within such borough shall revert to and become a part of the township from which it was taken or that it shall be created a new township of the second class, in which case the petition shall also set forth the proposed name of the new township.

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



shall be filed with the petition. If a majority of those voting on the question submitted were in favor of the annulment of the charter or the change of the corporate name, as the case may be, the court shall order that the record of the proceedings shall be recorded in the office of the recorder of deeds, otherwise no further proceedings shall be had.

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

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

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

Section 305. Change of Corporate Name to Conform to General Usage or to Post Office Designation.--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 such name, the court of quarter sessions may change the name of such borough to conform to the 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 annexation. The number of registered electors required to sign a petition shall be determined as of the date the petition is filed. All petitions shall be accompanied by a plot or plots of the territory to be annexed, showing all streets and highways, municipal improvements and public buildings. All petitions for the annexation of a part of a township of the first class shall include a description of the part of the township sought to be annexed.

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

Section 403. Result of Election.--If a majority of the persons voting on such question in the entire township and a majority of the persons voting on such question in the borough shall vote in favor of the annexation, then the township of the first class, or part thereof, as the case may be, shall on the first Monday of January next following be and become a part of the borough. If the majority of the votes cast on the question in either the entire township or in the borough was against annexation, then the annexation proceeding shall fail and the question of such annexation shall not again be voted upon for a period of two years from the date of such election.

Section 404. Wards.--Until changed in the manner provided by law, the township of the first class, or part thereof annexed to the borough, if not divided into wards, shall constitute a separate new ward of the enlarged borough, if such borough is

at the time divided into wards. If the township, or part of the township, at the time of annexation was divided into wards, then each ward of the township, or part of the township, shall constitute a separate ward of the enlarged borough (if divided into wards) and shall be consecutively numbered or otherwise appropriately designated by the council of the borough:

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

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

Section 406. Government Where Lands Lie In Two or More Counties.--If the lands annexed to the borough are located in a county or counties different from that of the borough, they shall be governed for borough purposes as part of the borough to which annexed, and for county and institution district purposes as part of the county and institution district in which actually situated, in the manner provided by law in such cases.

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

(1) Where territory is in one county:

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

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

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

Section 414. Decree of Court; Costs; Limitation of Subsequent Proceedings.--The court after hearing may make such order on the petition as to right and justice shall appertain. If the court shall confirm the petition, the said petition and decree shall be recorded in the recorder's office of the county, at the expense of the petitioners, who shall pay all other expenses and costs in connection with said petition and decree. Thenceforth the territory so annexed shall be a part of the borough, and shall become a part of the contiguous ward or wards of the borough, or constitute a new ward or wards of the borough as the court in its order may prescribe. If the court shall not confirm the petition, no other proceeding for the annexation

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

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

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

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

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

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

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

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

Section 420. Approval by Court; Compensation of Commissioner; Limitation of Subsequent Proceedings.--If each of the courts shall approve the report of the commissioners, the whole proceeding shall be entered on the record of each court, and the territory annexed shall be part of the borough. Each commissioner shall receive such compensation for his services as the court shall allow to be paid by the original petitioners. If the commissioners shall not favor or if either court shall not approve the annexation, no other proceeding for the annexation of the same territory, or any part thereof, shall be had within five years thereof.

Section 421. Government of Territory.--Where territory is so annexed to a borough of an adjoining county, such territory so annexed, shall be governed, for borough purposes, as a part of the borough to which they are annexed, and for county and institution district purposes, as a part of the county and

institution district in which actually situated, in the manner provided by law in such cases.

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

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

Section 427. Procedure.--A certified copy of any ordinance, adopted together with a description of the land to be annexed and a plot showing the courses and distances of the boundaries of the borough before and after such proposed annexation, shall be filed in the court of quarter sessions of the county, or, in case the land proposed to be annexed is situate in an adjacent county, then in the courts of both counties. A notice of such filing shall also be filed in the office of the county board of elections of the proper county. Thereupon the territory proposed to be annexed shall be a part of the borough; except when any ordinance and plot are filed in the office of the clerk of the court of quarter sessions within two months of any general, municipal, or primary election, in which case the property proposed to be annexed shall not become a part of the borough until the day succeeding such election.

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

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

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

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

(b) Upon such annexation by ordinance, a plan of the territory annexed shall be filed by the borough council in the office of the county commissioners and with the clerk of the court of quarter sessions and, thereupon, the annexation shall become effective. The annexation proceedings authorized by this section are in addition to, and not in substitution of, proceedings otherwise provided by law for annexation of territory, and may be followed without reference to or compliance with any other such provisions.]

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

[(e) Detachment of Territory

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

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

Section 433. Filing Petition; Notice; Decree.--Upon its presentation, the court shall order the petition filed and shall fix a time for hearing. Notice of the filing of the petition shall be given to the supervisors of the township and to the secretary of the borough and president of council of each borough affected, at least twenty days prior to the date of hearing. If, after hearing, the court shall determine in favor of the proposed detachment of territory, it shall state in its decree to what adjacent township or borough the territory so detached shall be annexed. The petition and decree shall be recorded in the office for the recording of deeds of the county and thenceforth the boundaries of the borough and of the adjacent township or borough shall be as decreed by the court. The costs of the proceedings, including the cost of the recording of the petition and decree, shall be paid by the petitioners.

(f) Adjustment of Indebtedness and Public Property]

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

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

In adjusting property and indebtedness, streets, sewer and utilities shall not be considered except to the extent that current and unpaid indebtedness was incurred for the construction and improvement thereof. In making such adjustment and apportionment, the township shall be entitled a division of the property and indebtedness in proportion that the assessed valuation of the taxable real estate in the annexed portion of the township bears to the assessed valuation of the taxable real estate in the entire township immediately prior to the annexation and the borough shall be entitled to the remainder of such property and indebtedness. Where indebtedness was incurred by the township for an improvement located wholly within the limits of the territory annexed to the borough, such indebtedness shall be assumed by the borough and where any part of such improvement is located partly within the limits of such

annexed territory, the part of such indebtedness representing the part of the improvement located within such annexed territory shall be assumed by the borough, and the adjustment and apportionment of any remaining debt and public property of the township shall be made as hereinabove provided. Such adjustment and apportionment shall be reduced to writing, and shall be duly executed and acknowledged by the clerk or secretary of the borough and shall be filed with the clerk of the court of quarter sessions of the county or counties in which the borough and the township are located, and a copy thereof shall also be filed with the Department of Community Affairs of the Commonwealth.]

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

[Section 442. Judicial Adjustment on Failure of Agreement.--In case the borough council and the governing body of the township cannot, within six months after an annexation becomes effective, arrive at a determination of the cost of value of certain improvements as required by the act of July 20, 1953 (P.L.550), entitled "An act providing for and regulating the annexation of parts of a second class township to boroughs, cities and townships," or of the adjustment of indebtedness and public property as required by section 441 of this act, the borough council or the governing body of the township may appeal to the court of quarter sessions of the county in which the borough is located. The court shall then appoint three disinterested commissioners, all residents and taxpayers of the county, but none residing in or owners of real estate in the township or the borough. Such commissioners, after hearing, notice of which shall be given to the township and the borough as the court shall direct, shall make report to the court, stating the cost and value of improvements and/or making an apportionment and adjustment according to the provisions of this article, of all the property, as well as the indebtedness, if any, to and between the borough and the township. Such report shall state the amount, if any, that shall be due and payable from the borough, or from the township to the borough, as well as the amount of indebtedness, if any, that shall be assumed by the borough or the township, or both of them.]

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

Section 35. Section 444 of the act, repealed in part June 3, 1971 (P.L.118, No.6), is repealed:

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

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

[Section 445. Compensation and Expenses of Commissioners; Costs.--The commissioners shall be allowed such compensation

and expenses for their services as the court shall fix. The costs of the proceedings, including the compensation and expenses of the commissioners, shall be apportioned by the court between the borough and the township as it deems proper.

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

Section 447. Payment of Amounts Due; Taxation.--The borough or the township, as the case may be, shall have power to issue and deliver to the other municipality interest-bearing bonds in liquidation of the indebtedness ascertained to be its proportionate share payable, if such bonds are acceptable to the township or the borough, as the case may be, entitled to receive the same. The court may also make all needful orders for the collection and payment by the township or the borough, by special taxes to be collected in one year, or by annual installments, the amount needed to pay the share of any indebtedness apportioned to it.

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

(g) When Territory is Detached

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

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

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

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

ARTICLE V  
BOROUGH BOUNDARIES



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

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

Section 502. **Petition to Court; Establishment of Disputed Boundaries.**--The court of [quarter sessions] **common pleas** may, upon presentation of a petition, [(i) alter the lines of a borough and any adjoining township, borough or city so as to suit the convenience of the inhabitants thereof, (ii) cause the lines and boundaries of boroughs to be ascertained and established, and (iii)] ascertain and establish disputed boundaries between [two or more boroughs, between boroughs and cities, or between boroughs and townships] **a borough and another municipal corporation**. When [any such] **a** petition is presented, the court may require the petitioners to file a bond in sufficient sum to secure the payment of all costs of the proceeding.

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

Section 504. Exceptions and Procedure.--Exceptions to [any such] **the** report may be filed by [any] **an interested person** or political subdivision [interested], within thirty days after the filing of the report, and the court [may thereupon fix] **shall set** a day for the hearing of [such] **the** exceptions[, of which such notice]. **Notice of the hearing** shall be given as the court may direct. After hearing, the court [shall have power to] **may** sustain [such] **the** exceptions, [or to] dismiss them and confirm the report[, or [to] refer the report back to the same or new commissioners with [like] authority to make another report [on which like proceedings may be had. Where]. **If** no exceptions are filed within thirty days after the filing of the report, the court shall confirm the [same] **report** absolutely. When [any] **a** report is confirmed absolutely, the court shall

enter a decree [altering or] ascertaining and establishing the lines and boundaries as shown in [said] **the report. The court shall direct publication of the decree establishing the lines and boundaries.**

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

Section 506. Boundary Monuments.--[Whenever any such borough line is altered or ascertained and established, the court shall cause the same to be appropriately marked. Following any change of borough limits pursuant to any procedure set forth in article IV hereof, the annexing municipality shall be responsible for making the boundary as newly established.] **The court shall cause a borough line ascertained and established pursuant to this article to be appropriately marked.**

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

#### ARTICLE VI BOROUGH WARDS

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

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

**(b)** No ward shall be created containing less than three hundred registered electors [therein] **in the ward**, and all wards which now or at any time hereafter shall contain less than three hundred fifty registered electors [therein] **in the ward** may[, in the discretion of the court,] be abolished and [if so abolished,] the territory [thereof] **of the ward** shall be distributed among the remaining wards [in such manner as the court of quarter sessions shall direct] **as council shall determine.** All other wards [as heretofore established] shall remain as [heretofore] **established**, until altered or divided as provided in this article.

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

[If the latest official census of the United States shall disclose that in any borough the population of any ward exceeds

by fifty percent or more or is fifty percent or more less than the average population of all the wards of such borough, the court of quarter sessions upon application of the borough council or, in case of failure of the council so to apply, upon petition of any citizen of the borough, shall adjust the boundaries of any or all of the wards in such borough, for the purpose of more nearly equalizing ward populations throughout the said borough. The provisions of sections 602, 603 and 604 of this act shall not apply in cases of ward boundary adjustment as provided for by this paragraph.]

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

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

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

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

Section 603. [Confirmation of Report; Review.--Upon its presentation, the court shall confirm the report nisi, and shall direct that notice of the filing of the report] **Notice of Ordinance.--(a) Notice of an ordinance enacted in accordance with section 601 shall be given by publication once in a**

newspaper of general circulation [stating that exceptions may be filed to such report within thirty days after the same was filed. The court shall confirm the report absolutely if no exceptions are filed or if it dismisses the exceptions. The court may remand the report to the commissioners for a review, if in its opinion a better adjudication may thereby be secured].

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

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

Section 605. [Payment of Costs; Bond.--Such compensation and all costs and expenses incurred in such proceedings shall be paid by the borough or the petitioners, as directed by the court. To secure such reimbursement, the court may require the petitioners, other than the borough council, to file a bond with their petition.] **(Reserved)**.

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

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

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

Section 43. Section 607 of the act is repealed:

[Section 607. Change of Names and Numbers.--Boroughs may, by ordinance, change the name of any ward to a number, or change the number of any ward to name. No such ordinance shall go into force until a certified copy thereof is filed with the clerk of the court of quarter sessions.]

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

#### ARTICLE VII

##### ASSOCIATIONS AND ORGANIZATIONS

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

Section 701. State Association of Boroughs.--(a) The boroughs of the Commonwealth are authorized to organize a State Association of Boroughs for the purpose of advancing the interests of the boroughs. [Any] **A** borough may join the [said] association by motion of council and payment of the annual dues. [Council may designate one or more delegates from the elected or appointed officials of the borough to attend the annual meeting of the association, which shall be held in the Commonwealth in accordance with the procedure adopted by the association. In addition to any compensation allowed by law for each delegate, the borough may, for each delegate, pay expenses

which shall be limited to the registration fee, mileage for use of personal vehicle or reimbursement of actual transportation expense going to and returning from such meeting plus all other actual expenses that the council may have agreed to pay. Every delegate attending the annual meeting shall submit to the council an itemized account of expenses incurred thereat. The council may authorize borough employees to be compensated at their regular employee rate during their attendance at the annual meeting. The borough council solely may authorize the mayor and any council member who is not employed by the borough to receive total or partial reimbursement for lost wages or salary while attending the annual meeting, provided that sufficient documentation is presented to the borough council to justify the reimbursement. The time spent in attending said meeting shall not be more than four days, including the time employed in traveling thereto and therefrom.] Each borough, becoming a member of the association, shall pay [such] reasonable dues as may be fixed by the association.

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

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

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

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

(c) In addition to any compensation allowed under section 701.2, council may, for each attending delegate, elected or appointed officer or employee, pay expenses upon receipt of an itemized account of expenses, which shall be limited to the registration fee, mileage for use of personal vehicle or reimbursement of actual transportation expenses going to and returning from the respective annual meeting, conference, educational training or committee meeting of the association plus all other actual expenses that council may have agreed to pay. Notwithstanding the provisions of this subsection, at least one member of council 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 expenses going to and returning from the meeting plus all other actual expenses that the council may have agreed to pay.

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

(b) Council solely may authorize the mayor and any council member who is not employed by the borough to receive total or partial reimbursement for lost wages or salary, including those from self-employment, while attending the annual meeting or a conference, educational training or committee meeting of the

association if sufficient documentation is presented to council to justify the reimbursement.

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

(d) The borough council may authorize a mayor or any council member employed by the borough to be compensated at their regular employee rate and a mayor or council member who is not employed by the borough to receive total or partial reimbursement for lost wages or salary, including those from self-employment, if they attend a meeting for which the mayor or council member is an officer, a member of the board of directors, a member of the executive committee, a member of a standing committee or a trustee of the association, subject to the following limitations which shall include time spent traveling to and from the event:

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

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

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

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

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

Section 702. County and Regional Associations of Boroughs.--The boroughs of any county or of two or more adjoining or nearby counties, may organize a county or regional association of boroughs, composed of elected and appointed borough [officials] **officers** in [such] **the** county or counties, organized for the purpose of furthering the interests of the boroughs in the association and their inhabitants. [Any] **A** borough may annually appropriate a sum of money, not exceeding [seventy-five dollars (\$75)] **one hundred dollars (\$100)** for the support of [such] **the** association. For attendance at a meeting of the county or regional association of which [such] **the** borough is a member, the borough may, for each delegate, pay expenses which shall be limited to the registration fee, 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 delegate attending the [annual] meeting shall submit to the council an itemized account of expenses incurred [thereat]. The council may authorize borough employees to be compensated at their regular employee rate during

their attendance at the [annual] meeting. The borough council solely may authorize the mayor and any council member who is not employed by the borough to receive total or partial reimbursement for lost wages or salary while attending the [annual] meeting, provided that sufficient documentation is presented to the borough council to justify the reimbursement. [Any such] **A** county or regional association of boroughs shall have the option of admitting to membership representatives of political subdivisions other than boroughs within [such] **the** county or counties but representatives of [such] **the** other political subdivisions shall have no voice or vote in any matter that is or may be of concern solely to boroughs.

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

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

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

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

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

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

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

[Any] (b) **A** borough, by motion of council, may authorize any 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 (P.L.325, No.34), is amended to read:

Section 705. National or State Lodge of Police Officers.--[Any] **A** borough council may grant [any] **a** borough employe, who is a duly elected representative of [any] **a** State lodge of police officers or [any] **a** local lodge being a part of any national or State lodge of police officers, a leave of absence with pay to attend [any] **an** annual national or State convention or conference of [such] **the** lodge, for a period not to exceed four days, including necessary time for travel to and from [same. Any] **the convention or conference. An** employe receiving time off with pay under this section shall, upon [his] return, submit to [his] **the employe's** immediate superior a certificate testifying to [his] **the employe's** attendance at the convention or conference, signed by at least two responsible officers of the convention or conference. No more than two elected representatives who are employes of the same borough may attend [any such] **a** convention or conference on behalf of [any such] **a** lodge under this section.

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

#### ARTICLE VIII

##### ELECTIONS OF OFFICERS

###### (a) General Provisions Relating to Elected Officers

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

Section 801. Electors Only to be Eligible; Incompatibility.--(a) Except as provided in subsection (b), **only** registered electors of the borough [only] shall be eligible to elective borough offices. [All] **Before being sworn in to office, each** elected borough [officers shall reside] **officer shall present a signed affidavit to the borough secretary that states that the officer resides** in the borough from which elected and [shall have] **has** resided in the borough continuously for at least one year immediately before [their] **the officer's** election. A school director shall not be eligible to an elective borough office. No individual shall at the same time hold more than one elective borough office.

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

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

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

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



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

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

Whenever [any] **an** elected official of a borough is required to give bond for the faithful performance of [his] **the elected official's** duties, the borough may pay the premium for [such] **the** bond[; except that]. **For a tax collector's bond, however,** the borough shall pay a proportionate share of the cost of the bond [of the tax collector, such] **with the** share to be in the same ratio as the amount of borough taxes bears to the total amount of all taxes indicated by the tax duplicate to be collected by the tax collector during the year preceding the date the premium is due.

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

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

At [any such] **the** election, if the borough is not divided into wards, of the seven members of council to be elected, three or four members of council, as the case may be, shall be elected for terms of two years each, and three or four members of council, as the case may be, shall be elected for terms of four years each, to coincide with the number of members of council elected at [such] **the** election in existing boroughs under the provisions of section 811 [of this act].

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

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

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

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

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

(2) **One tax collector, who shall be elected at the municipal election in the year 1969, and every four years thereafter, and who shall be a properly qualified person. No magisterial**

district judge may at the same time hold the office of tax collector.

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

(i) in boroughs providing for three elected auditors, one auditor shall be elected at each municipal election for a term of six years; or

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

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

[(2)] (5) In boroughs divided into wards, at least one, and not more than two members of council in each ward, except in boroughs where prior to the passage of this act three members of council were elected in each ward. In [such] **those** boroughs, the number of members of council is fixed at three in each ward until [such] **the** number is reduced in the manner provided by this act. Members of council shall be residents of the ward from which they are elected, and chosen by the electors of the ward[; also a mayor, a tax collector and three auditors or a controller, except in such boroughs where there shall be an appointed auditor in lieu of elected auditors or controller, and an assessor, except in those boroughs where, under the applicable county assessment law, the office of elected assessor shall have been abolished who shall be chosen by the electors of the boroughs at large].

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

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

(b) Members of Council

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

Section 811. Election of Members of Council.--**(a)** At the municipal election to be held in the year 1967, there shall be elected in each borough a sufficient number of members of council to equal one-half of the entire number of which [such] **the** council is legally composed, to serve for a term of four years from the first Monday of January next succeeding[, and, where such] **the election. Where the** entire number of council is seven, nine, or eleven, then **it shall be** sufficient to [constitute] **elect** three, four, or five **council members**, as the case may be[; the aforesaid members of council, to be]. **The members of council** elected in the year 1967, being successors to those elected in the year 1963, whose terms, as heretofore

provided by law, expire on the first Monday of January, 1968. All members of council whose terms expire on the first Monday of January, 1970 shall continue to hold their office until the first Monday of January, 1970, as now provided, and their successors shall be elected at the municipal election in the year 1969, to serve for a term of four years, from the first Monday of January next succeeding. If for any reason members of council are not elected as [hereinabove] provided **under this section**, members of council whose terms end on the same date shall cast lots to determine who shall serve for a two-year term and who shall serve for a four-year term. The secretary of the borough shall certify the results to the appropriate county board of elections.

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

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

(b) Where a borough is first divided into wards, the [court] **ordinance providing for the division** shall fix the number of members of council in each ward at not more than two. [In decreeing such election, when] **When** the entire number of council shall be composed of an even number, [the decree shall be so made that] one-half of the entire number shall thereafter be elected at each municipal election. When the entire number of council shall be an odd number, the [court shall divide such council into] **ordinance shall establish** two classes, and shall [make its decrees so] **provide** that one-half of the entire number of members of council, less one, shall, as soon as possible, take their office in a year divisible by four, and the remaining number of members of council shall take their office in an even-numbered year not divisible by four. The apportionment shall be [so made by the court that there shall be] equal or as nearly equal as possible, representation by wards in each class. Biennially thereafter, at each municipal election, a sufficient number of members of council shall be elected, for the term of four years from the first Monday of January next succeeding, to fill the places of those whose terms shall expire on the first Monday of [the] January next following [such] **the** election.

Section 813. Fixing Number of Members of Council When Wards Created.--Whenever upon the division of [any] **a** borough into wards, or the creation of a new ward or wards, the number of members of council cannot be equally divided among the wards of the boroughs, it shall be lawful for [the court, in decreeing such division or creation,] **council** to increase the number of council to, and not exceeding, [such number as] **a number that** will enable [the court to make an] equal apportionment of the same among the several wards of [such] **the** borough. But where

a borough is first divided into wards, the number of members of council provided for a ward shall not exceed two.

Section 814. Increase in Number of [Members of Council.--The court of common pleas, having fixed the number of members of council, as provided in section 812 of this article,] **Ward Council Members.--Council** may, upon petition of at least five percent of the registered electors of the borough, increase the [same] **number of members of council** to any number not exceeding two for each ward. The sufficiency of the number of signers to [any such] **the** petition shall be ascertained as of the date when the petition is presented to [court] **council**.

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

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

- (1) a council which is less unwieldy in size;
- (2) a council which is comparable in size to those in boroughs not divided into wards;
- (3) a council consisting of an odd number of members instead of an even number;
- (4) a reduction in borough expenditures; and[,]
- (5) the expedition of the conduct of council meetings.

[Said] **The** petition shall clearly state whether [it is the prayer of] the petitioners **request** that the number of members of [such] **the** council to be elected in each ward shall be reduced from two to one, or from three to two or one, and shall further state the reasons why [such] **the** reduction in number shall be desired. The petition may also state whether it is necessary to add a council member or members to be elected at large in order to achieve or maintain a council consisting of at least seven members or to achieve or maintain a council consisting of an odd number of members. The sufficiency of the number of signers to [any such] **the** petition shall be ascertained as of the date the petition is presented to [court] **council**.

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

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

At each municipal election thereafter in [such] **the** boroughs, where there is one member from each ward, the electors from each of the odd-numbered wards shall, at the first municipal election thereafter, elect one council member for a term of four years, and the electors from each of the even-numbered wards shall elect one council member for a term of two years. At each municipal election thereafter, the electors of the even-numbered wards, or odd-numbered wards as the case may be, shall each elect one council member for a term of four years, to take the place of those whose terms are about to expire. [All such] **The** council members shall take office on the first Monday of January following their election.

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

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

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

(1) Seven members of council, the [decree shall be so made] **ordinance shall provide** that, at the first municipal election thereafter the electors shall elect three or four members of council, as the case may be, the number to be elected to be that which, when added to the number of members of council already in office whose terms are not about to expire, shall bring the membership of the council to seven. [Such] **The** newly elected members of council shall serve for terms of four years from the first Monday of January next succeeding [such] **the** first municipal election, except that, in any case where the election of four members of council shall be required to bring the membership of council to its full complement of seven, and only three members of council are elected at [such] **the** municipal election in the other boroughs of the [State] **Commonwealth** not divided into wards, three members of council shall be elected for four-year terms and one for a two-year term. Thereafter, at every succeeding municipal election, the electors shall elect three or four members of council, as the case may be, each to serve for a term of four years from the first Monday of January following [such] **the** municipal election.

(2) Eight or more members of council, the [decree shall be so made] **ordinance shall provide** that, at the first municipal election thereafter the electors shall elect a sufficient number of members of council that, when added to the number of members of council already in office whose terms are not about to expire, will bring the membership of the council to seven. [Such] **The** newly elected members of council shall serve for terms of four years from the first Monday of January next

succeeding [such] **the** first municipal election. At the second municipal election after [such decree] **the effective date of the ordinance**, the electors shall elect a sufficient number of members of council, that, when added to the number of members of council elected at the previous municipal election, shall bring the membership of council to its full complement of seven, some of [such] **the** members of council elected at [such] **the** second municipal election to serve for a four-year term following the first Monday of January next succeeding, the remainder to serve for a two-year term, the number in each case to be that required to bring the number of members of council to be elected in [such] **the** borough in succeeding municipal elections into conformity with the number elected in the other boroughs of the Commonwealth not divided into wards. In the third and all subsequent municipal elections following [such decree of court] **the effective date of the ordinance**, the electors shall elect three or four members of council, as the case may be, each to serve for a term of four years from the first Monday of January following [such] **the** municipal election.

In any [such] borough where, under the ward system of electing members of council, the council shall have been so large that there shall be seven or more members of council whose terms shall not expire on the first Monday of January following the first municipal election after [such decree] **the effective date of the ordinance**, no members of council shall be elected at [such] **the** first municipal election, and the members of council remaining in office shall constitute [such] **the** borough council until the first Monday of January following the second municipal election following [such decree] **the effective date of the ordinance**. At [such] **the** second municipal election, seven members of council shall be elected in [such] **the** borough, some to serve for a four-year term of office from the first Monday of January following [such] **the** second municipal election, the remainder to serve for a two-year term, the number in each case [to be such] as **necessary** to bring the number of members of council to be elected in [such] **the** borough in succeeding elections into conformity with the number elected in other boroughs of the Commonwealth not divided into wards. Thereafter, at the third and all subsequent municipal elections following [such decree] **the effective date of the ordinance**, the electors shall elect three or four members of council, as the case may be, each to serve for a term of four years from the first Monday of January following [such] **the** subsequent municipal election.

(3) Six or fewer members of council, the [decree shall be made so] **ordinance shall provide** that at the first municipal election thereafter, the electors shall elect a sufficient number of members of council that, when added to the number of members of council already in office whose terms are not about to expire, will bring the membership of council to its full complement of seven. Of [such] **the** newly elected members of council, either three or four, as necessary to bring the number of members of council to be elected in [such] **the** borough in succeeding municipal elections into conformity with the number elected in other boroughs of the Commonwealth not divided into wards, shall be elected for four-year terms of office, beginning the first Monday of January following [such] **the** first municipal election, and the balance shall be elected for two-year terms. Thereafter, at the second municipal election following [such decree] **the effective date of the ordinance** and at all subsequent municipal elections, the electors shall elect three or four members of council, as the case may be, to serve for a

term of four years from the first Monday of January following [such] **the** subsequent municipal election.

[In any case where a vacancy may occur, at] **(b) At any time following [such decree,] the effective date of the ordinance, where a vacancy may occur** in the office of a member of council originally elected or appointed from a particular ward, the person appointed to fill [such] **the** vacancy need not be a resident of the area formerly comprising [such] **the** ward, but [need only be a registered elector of the borough] **shall be otherwise qualified for office as provided in section 801.**

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

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

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

At the municipal election following the decrease in the number of members of council in [such] **the** borough, from seven to five, if four members of council would otherwise have been elected, there shall instead be elected three members of council; if three members of council would otherwise have been elected there shall instead be elected two members of council. At the second municipal election following the decrease in the number of members of council in [such] **the** borough, if four members of council would otherwise have been elected, there shall instead be elected three members of council; if three members of council would otherwise have been elected, there shall be elected two members of council. At all following municipal elections, there shall be elected the proper number of members of council to correspond to the number of members of council whose terms are to expire the first Monday of the following January.

At the municipal election following the decrease in the number of members of council in [such] **the** borough from seven to three, if four members of council would otherwise have been elected there shall instead be elected two members of council; if three members of council would otherwise have been elected there shall instead be elected one member of council. At the second municipal election following the decrease in the number of members of council in [such] **the** borough, if four members of council would otherwise have been elected, there shall instead be elected two members of council; if three members of

council would otherwise have been elected, there shall be elected one member of council. At all the following municipal elections, there shall be elected the proper number of members of council to correspond to the number of members of council whose terms are to expire the first Monday of the following January.

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

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

[(c) Mayor

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

(d) Auditors

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

(e) Controller

Section 841. Election of Controller.--The qualified electors in every borough having a controller, and in every borough accepting the provisions of this act relating to the controller, shall, at the municipal election in the year 1969, and every four years thereafter, elect as borough controller one person who shall be a competent accountant and a registered elector of the borough, for at least four years prior to his election. The person so chosen shall serve for a term of four years from the first Monday of January next succeeding his election.

(f) Assessors

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

(g) Tax Collector

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

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



ARTICLE IX  
VACANCIES IN OFFICE

Section 62. Section 901 of the act, amended June 25, 2001 (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 required under section 801 or to take the required oath, the borough council, before making the appointment, shall declare the office vacant.**

(c) If the council of any borough shall refuse, fail or neglect, or be unable, for any reason whatsoever, to fill any vacancy within thirty days after the vacancy happens, as provided in this section, then the vacancy shall be filled within fifteen additional days by the vacancy board. [Such] **The** board shall consist of the borough council exclusive of the mayor, and one registered elector of the borough who shall be appointed by the borough council at the council's first meeting each calendar year or as soon thereafter as practical and who shall act as [chairman] **chair** of the vacancy board. The board shall appoint a registered elector of the borough, [(or ward in the 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.

(d) If the vacancy is not filled by the vacancy board within fifteen days, the [chairman] **chair** shall, or in the case of a vacancy in the [chairmanship] **chair**, the remaining members of the vacancy board shall petition the court of common pleas to fill the vacancy by the appointment of a registered elector of the borough [(or ward in the case of a ward)], 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.

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

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

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

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

Section 903. Right of Council to Declare Seat of Member Vacant for Failure to Qualify.--If any person, elected or appointed as a member of council, who has been notified of election or appointment, shall refuse or neglect to qualify as [such] **a** member of council within ten days next succeeding the beginning of the person's term of office, unless prevented by sickness or prevented by necessary absence from the borough, the borough council, acting without [such] **the** person, may declare the person's office as member of council vacant, and may fill [such] **the** vacancy as provided in section 901 [of this act]. For such actions a majority of the remaining members of the council shall constitute a quorum.

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

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

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

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

Section 905. Temporary Auditor.--If for any reason two or three vacancies exist in the office of borough auditors, the council may temporarily appoint and reasonably compensate a

qualified person, who need not be an elector of the borough, who shall have all the powers and duties of the two or three auditors whose offices are vacated.

ARTICLE X  
POWERS AND DUTIES OF ELECTED  
BOROUGH OFFICIALS

(a) Council

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

Section 1001. Organization of Council; Quorum; **Participation by Telecommunication Device**; Voting; Compensation;

Eligibility.--(a) The borough council shall organize on the first Monday of January of each even-numbered year, by electing one of their number as president and one of their number as vice-president, who shall hold [such] **the** offices at the pleasure of the council. If the first Monday is a legal holiday, the meeting and organization shall take place the first day following. Any action taken by any borough council at any time between 12:01 o'clock ante meridian on January 1 of an even-numbered year and the organization of council in that year shall be subject to reconsideration by the new council at any time within ten days after [such] organization. The council may at the organization meeting [elect such] **appoint** other officers as may be provided for by law or ordinance, or as may be deemed necessary for the conduct of affairs of the borough and may transact [such] **any** other business as may come before the meeting. The president, and during the president's absence or incapacity the vice-president, shall preside over the meetings of council and perform [such] other duties as are prescribed by this act or by ordinance.

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

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

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

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

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

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

(3) The telecommunication device used permits the members of council and the members of the public who are physically present 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 thousand one hundred twenty-five dollars (\$4125) a year[; in].

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

(6) In boroughs with a population of thirty-five thousand or more, a maximum of five thousand dollars (\$5000) a year. [Such] **The** salaries shall be payable monthly or quarterly for the duties imposed by the provisions of this act. Benefits provided to members of council under section [1202(37)] **1202(26)** shall not be considered pay, salary or compensation, but payment for all or a part of the premiums or charges for the benefits shall be in accordance with section [1202(37).] **1202(26)**. **Any change in salary, compensation or emoluments of the elected office shall become effective at the beginning of the next term of the member of council.**

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

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

Section 1002. Oath of Members of Council.--Before entering upon the duties of their office, the members of council shall take and subscribe an oath or affirmation [to support the Constitution of the United States and of the Commonwealth of Pennsylvania and to perform the duties of their office with fidelity, together with such loyalty oath as is prescribed and

required by law] **of office under 53 Pa.C.S. § 1141 (relating to form of oaths of office)**. The oath or affirmation may be taken before any judge or [justice of the peace] **magisterial district judge** of the county, **a notary public** or before the mayor of the borough when [he] **the person** has qualified, and shall be filed with the borough secretary and be preserved among the records of the borough for a period of six years.

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

The mayor may attend any or all regular and special meetings of council and may take part in the discussions of the council on matters pertaining to borough affairs, subject to any restrictions applicable to members of council contained in the rules of order or bylaws of the council. In all cases where, by reason of a tie or split vote, the council of any borough shall be unable to enact or pass any ordinance, resolution, or motion, or to declare **any vacancy pursuant to section 903** or fill any **other** vacancy in its membership, or in any other borough office, or to take any action on any matter lawfully brought before it, the mayor, if in attendance at the meeting, may at [his] **the mayor's** option cast the deciding vote, or [request] **shall direct** that the matter be tabled until a special meeting of council to be held within not less than five days or more than ten days at which time the matter shall be reconsidered by council and, if a tie or split vote still exists, it shall be the duty of the mayor at that time to cast the deciding vote. If [such] a tie or split vote shall occur at any meeting when the mayor is not in attendance the matter shall be tabled to a special meeting to be held within not less than five days or more than ten days as set by the president of council, and the mayor shall be given at least five days' notice of [such] **the** meeting, at which meeting it shall be the duty of the mayor to cast the tie-breaking vote.

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

Section 69. Section 1005 of the act, repealed in part July 12, 1972 (P.L.781, No.185) and amended November 2, 1979

(P.L.458, No.94) and June 25, 2001 (P.L.651, No.56), is amended to read:

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

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

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

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

(4) To appoint and revoke the appointment of one or more depositories for borough funds and to fix and approve security to be furnished by [any such] **the** depository. [Such] **The** security may be bonds with corporate or individual securities to be approved by council, or collateral security consisting of obligations of the United States or the Commonwealth of Pennsylvania, or any political subdivision thereof, deposited with the borough or with any bank or trust company within the Commonwealth of a market value of one hundred twenty percent of the amount of the deposit to be secured. Any deposit of collateral shall be under proper agreement and be accompanied by proper assignment or power of attorney for the transfer of the collateral. The borough treasurer shall deposit all borough funds in any depository so designated, and when so deposited, the borough treasurer shall be released and discharged from further liability on account of [such] **the** deposit. [Nothing herein contained] **This paragraph** shall **not** be construed to require a depository to furnish bond or collateral security to cover the amount of any deposit to the extent that the same is insured with the Federal Deposit Insurance Corporation.

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

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

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

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

**(iii) liquidate any** investment, in whole or in part, by disposing of securities or withdrawing funds on deposit. Any action taken to make or to liquidate any investment shall be made by the officers designated by action of the borough council.

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

Whenever any borough has provided by ordinance for the audit of its accounts by an appointed auditor, the borough shall have the right at any time to repeal [said] **the** ordinance, and [thereupon] **then** the office of appointed auditor shall be abolished, as of the date set in [such] **the** ordinance and [said] **the** borough shall have the further right at the next municipal election following the repeal of [said] **the** ordinance to elect three auditors, one for a term of two years, one for a term of four years, and one for a term of six years, from the first Monday of January succeeding [such] **the** election, which auditors so elected shall succeed the appointed auditor and shall have and possess all the powers and perform all the duties provided in this act for elected auditors. If at any time after the effective date of any [such] ordinance abolishing the office of appointed auditor, there shall be a vacancy in the office of elected auditor, council shall fill [such] vacancies in the manner prescribed in section 901 [of this act].

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

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

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

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

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

(2) To meet statedly at least once a month. Council may adjourn to a stated time for general business or for special businesses. If no quorum is present at a regular, **special** or [adjourned] **reconvened** meeting, a majority of those who do meet may agree upon another date for like business [and may continue to so agree until the meeting is held] **in a manner consistent with 65 Pa.C.S. Ch. 7 (relating to open meetings)**. Special meetings may be called by the president of council or upon written request of at least one-third of the members [thereof]

**of council.** Members shall have at least twenty-four hours' notice of [such] **the** special meetings. The notice shall state whether it is for general or special purposes, and, if it is for special purposes, the notice shall contain a general statement of the nature of the business to be transacted. Presence at a meeting constitutes waiver of notice. Council may adopt rules relating to the calling and holding of special meetings, which rules shall supersede the provisions of this section, **provided that such rules comply with the provisions of 65 Pa.C.S. Ch. 7.**

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

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

**(4) To enact, revise, repeal and amend ordinances and resolutions pursuant to Article XXXIII, and bylaws, rules and regulations , not inconsistent with the laws of this Commonwealth as it deems beneficial to the borough and to provide for the enforcement of the same. Unless otherwise provided, all powers shall be exercised by vote of the majority of council eligible to vote at a meeting.** Routine, ministerial or administrative purchases and powers may be made and exercised by officers or committees, if authority [therefor] **for the action** was previously given, or if the action is subsequently ratified by council. Whenever any action by the council shall result in a specific written contract or agreement, [such] **the** contract or agreement shall be signed by the president of the borough council.

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

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

(6) To fix the compensation of all of the borough officers, appointees and employees.



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

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

[Section 1007. Passage, Approval and Veto of Ordinances.--(a) Every ordinance and every resolution of legislative character except as herein otherwise provided, passed by the council, shall be presented to the mayor for his approval. If the mayor approves, he shall sign it; but, if he shall not so approve, he shall return it with his objections to the council at its next regular meeting occurring at least ten days after the meeting at which such ordinance was passed by the council, when the objections shall be entered upon the minutes and the council shall proceed to a reconsideration thereof either at the meeting at which the vetoed ordinance was returned or at any other regular, special or adjourned meeting held not later than ten days thereafter. If, after such reconsideration, two-thirds of all the members elected to said council, or a majority of council plus one, when the number composing such council is less than nine, shall vote to pass such ordinance or resolution, it shall become of as full force and effect as if it had received the approval of the mayor; but in such case the vote shall be determined by yeas and nays, and the names and votes of the members shall be entered on the minutes. If any such ordinance or resolution shall not be returned by the mayor at the regular 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 recorded in the ordinance book of the borough and has been advertised as provided in this article. All ordinances, or resolutions of a legislative character in the nature of an ordinance, may be proved by the certificate of the borough

secretary, under the corporate seal, and, when printed or published in book or pamphlet form and purporting to be published by the authority of the borough, shall be read and received as evidence in all courts and places without further proof. All borough ordinances shall, within one month after their enactment, be recorded by the borough secretary in a book provided for that purpose, which shall be at all times open to the inspection of citizens. The entry of the borough ordinance in the ordinance book by the secretary shall be sufficient, without the signature thereto of the president of council, mayor or other person.

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

(b) Whenever any borough shall have caused to be 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 such consolidation, codification or revision as an ordinance of the borough, in the same manner that is now prescribed by law for the adoption of borough ordinances, except as hereinafter provided.

Any such consolidation, codification or revision of borough ordinances to be enacted as a single ordinance shall be introduced in the borough council at least thirty days before its final enactment, and at least fifteen 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 in said borough.

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

The procedure set forth in this section for the consolidation, codification or revision of borough ordinances as a single ordinance may also be followed in enacting a complete group or body of ordinances, repealing or amending existing ordinances as may be necessary, in the course of preparing a consolidation, codification or revision of the borough ordinances, except that in such case 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 such complete group or body of ordinances, and the notice following enactment shall simply state that such group or body of ordinances was passed finally.]

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

Section 1009. Typewritten, Printed, [Photostated and] **Photocopied**, Microfilmed **and Electronically or Digitally Stored** Records Valid; Recording or Transcribing Records.--(a) All borough records, required to be recorded or transcribed, shall be deemed valid if typewritten, printed, [photostated or] **photocopied**, microfilmed [and where] **or electronically or**

digitally stored or retained by any other process that accurately reproduces the original and forms a durable medium for recording, storing and reproducing in accordance with the act of May 9, 1949 (P.L.908, No.250), entitled "An act relating to public records of political subdivisions other than cities and counties of the first class; authorizing the recording and copying of documents, plats, papers and instruments of writing by digital, photostatic, photographic, microfilm or other process, and the admissibility thereof and enlargements thereof in evidence; providing for the storage of duplicates and sale of microfilm and digital copies of official records and for the destruction of other records deemed valueless; and providing for the services of the Pennsylvania Historical and Museum Commission to political subdivisions."

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

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

(2) **in a bound book with pages being consecutively numbered by transcribing directly upon the pages of [such] the book of record or [such] by permanently attaching the records or copies [thereof may be attached] to [such] the book of record [by stapling or by glue or by any other adhesive substance or material, and all records heretofore recorded or transcribed in any manner authorized by this section are validated. When any record shall be recorded or transcribed after the effective date of this act by attaching such record or a copy thereof to the book of record as hereinabove provided,] with the borough seal [shall be] being impressed upon each page to which [such] the record is attached, with each impression [thereof] covering both a portion of the attached record and a portion of the page of the book of record to which [such] the record is attached.**

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

Section 74. Section 1010 of the act, amended December 10, 1970 (P.L.202, No.53) and repealed in part April 28, 1978 (P.L.202, No.53), is repealed:

[Section 1010. Appeals from Ordinances.--Complaint as to the legality of any ordinance or resolution may be made to the court. 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 75. Sections 1011, 1012 and 1013 of the act are repealed:

[Section 1011. Lost Ordinance Books to be Replaced; Recording Ordinances.--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 such lost, destroyed or unserviceable ordinance book or books. The secretary, in recording such ordinances, shall make complete copies thereof, including the date of enactment and approval and the names of the officers who signed the same, and, after notice given, as hereinafter provided, and corrections made, shall certify each ordinance as a correct copy of the original.]

Section 1012. Ordinance Providing for Recording; Notice.--The ordinance providing for the recording of such ordinances shall be recorded in such book, immediately following the ordinances so recorded and it shall provide that the secretary of the borough, upon the completion of such recording, shall publish once, in one newspaper of general circulation in the borough, 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 thirty days from the date of the notice.

Section 1013. Certificate of Secretary.--The secretary of the borough, at the expiration of such 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 copies thereof. After the ordinances are recorded, notice thereof given, and the certificate of correction made, the ordinances so recorded shall take the place of the original record and shall be the valid and legal ordinances of the borough for the period covered by such new ordinance book.]

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

Section 1014. Hearings Before Council; Witnesses.--Borough councils may compel the attendance of witnesses and the production of books, papers, or other evidence, at any meeting of the council, or any committee [thereof, and,] **of the council** and for that purpose may issue subpoenas, signed by the president of council or the [chairman] **chair** of the committee, [and cause the same to] **which shall** be served in any part of this Commonwealth. If any witness shall refuse to testify to any fact within [his] **the witness's** knowledge, or to produce any books or papers in [his] **the witness's** possession or control, required to be used as evidence in any [such] case, the [secretary of the council] **borough solicitor** shall report the facts relating to [such] **the** refusal to the court of common pleas. If the court determines the evidence required of [such] **the** witness to be legal and competent, it shall order [such] **the** witness to testify or produce the evidence required.

Section 1015. Witness Fees and Mileage.--No person residing [without] **outside** the borough and subpoenaed [as aforesaid,] **under section 1014** shall be required to respond to the [same] **subpoena** until mileage to and from the borough[, ] at the rate [of ten cents (10¢) a mile,] **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 witness fees as required by law relating to witnesses, have been [furnished] **paid.**

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

Section 77. Article X subdivision (b) heading and sections 1021, 1022, 1023 and 1024 of the act are repealed:

[ (b) Mayor

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

at any meeting of the council, except as provided in section 1003 of this act.

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

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

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

Section 78. Section 1025 of the act, amended March 22, 2002 (P.L.207, No.17), is repealed:

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

Section 79. Section 1026 of the act is repealed:

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

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

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

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

(b) In addition to the power granted to mayors by Part V of Title 35 of the Pennsylvania Consolidated Statutes (relating to emergency management services) and in order to enable him effectually to preserve the public peace within the borough, all the powers which are devolved by the laws of this Commonwealth upon sheriffs, to prevent and suppress mobs, riots and unlawful and tumultuous assemblies, are hereby conferred upon the mayor. In the event that a state of emergency exists, a mayor shall have the authority to request aid and assistance from law enforcement officers and agencies from a neighboring municipality. In response to a request of a mayor made in accordance with this subsection, a municipal police officer shall, within the borough from which the request was made, have the power and authority to enforce the laws of this Commonwealth or otherwise perform the functions of that office as if enforcing those laws or performing those functions within the territorial limits of his or her primary jurisdiction, subject to the limitations and conditions set forth in 42 Pa.C.S. § 8953(b) through (e) (relating to Statewide municipal police jurisdiction). When the mayor considers that a state of emergency exists, he may issue his proclamation, which shall be in writing and the contents of which shall be made available to all news media, declaring a state of emergency for a period not to exceed seven days, unless sooner rescinded, modified or ratified or extended by resolution of council. In his proclamation he may prohibit, for all or any part of the borough:

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

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

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

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

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

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

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

Section 81. Section 1029 of the act, amended May 9, 1980 (P.L.120, No.47) and December 12, 1980 (P.L.1194, No.220), is 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 council. While discharging the duties of mayor, the president or vice-president of council shall be entitled to the same salary as the mayor would receive, and, during the time such salary is paid to the president or vice-president of council as acting mayor, the mayor shall not be paid compensation. The president or vice-president of council, when acting as mayor, shall have power to veto any proposed ordinance or to break a tie, but shall not have power to vote as a member of council.]

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

(c) Auditors

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

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

(b) The auditors shall audit, adjust, and settle the accounts of the tax collectors, the [justice of the peace,] **magisterial district judge** and all officers of the borough, and may also audit, adjust and settle the accounts of any person, corporation, association, organization, committee or commission receiving or expending borough funds[; and shall prepare a report thereof, 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 actual indebtedness, the amount of the funded debt, the amount of the floating debt, the valuation of taxable property therein, the assets of the borough with the character and value thereof, and the date of maturity of the respective forms of funded debt thereof. Such report shall be prepared within ninety days after the close of the fiscal year].

[(c) The amount of any balance or shortage, or of any expenditure of a kind, or made in a manner, prohibited or not authorized by statute, which causes a financial loss to the borough, shall be a surcharge against any officer against whom

such balance or shortage shall appear, or who by vote, act, or neglect, has permitted or approved such expenditure, but no elected or appointed official of a borough shall be surcharged for any act, error or omission in excess of the actual financial loss sustained by the borough, and any surcharge shall take into consideration as its basis the results of such act, error or omission and the results had the procedure been strictly according to law. The provisions hereof limiting the amount of any surcharge shall not apply to cases involving fraud or collusion on the part of officers, nor to any penalty enuring to the benefit or payable to the Commonwealth.

(d) After such report has been prepared and executed by the auditors, it shall be the duty of the auditors to file a copy of the report with the secretary of the borough, with the clerk of the court of common pleas of the county, with the Pennsylvania Department of Transportation and with the Department of Community Affairs. Such reports shall be filed by the auditors of the borough not later than ninety days after the close of the fiscal year. Any auditor refusing or wilfully neglecting to file such report shall, upon conviction in a summary proceeding, be sentenced to pay a fine of five dollars (\$5) for each day's delay beyond the last day for filing such report and costs, but the total fine which may be imposed and collected for any such offense shall not exceed two hundred dollars (\$200). If the failure to file such report within the period specified is due to the failure of the auditors to prepare the statement upon which said report is to be based, said fine shall be imposed upon all of the auditors.

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

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

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

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

Section 85. Section 1042 of the act is repealed:

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

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

[Section 1043. Completion of Auditors' Report; Publication of Financial Statement.--The auditors shall complete such audit,



adjustment and settlement, as soon as possible. The auditors shall within ten days thereafter publish, by advertisement in at least one newspaper of general circulation in the borough, a concise financial statement setting forth the balance in the treasury at the beginning of the fiscal year, all revenues received during the fiscal year by major classifications, 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, the gross liability and net debt of the borough, the amount of the assessed valuation of the borough, the assets of the borough with the character and value thereof, the date of the last maturity of the respective forms of funded debt, and the assets in each sinking fund.]

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

[Section 1044. Appeals from Audit.--It shall be lawful for the borough, or any taxpayer thereof, on its behalf, or any officer whose account is settled or audited, to appeal from the settlement or audit, as shown in the auditors' report, to the court of common pleas of the county, not later than forty days from the date of filing of the auditors' report with the clerk of the court of quarter sessions.

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

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

When more than one appeal from a report of such auditors shall have been taken, whether by the borough or an officer or officers thereof, or by a taxpayer, or any or all of them, the court shall, on its own motion, or upon motion of any party interested, direct the several appeals to be disposed of in a single proceeding.

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

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

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

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

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

[Section 1051. Balances Due to be Entered as Judgments.--Any balance, in any report of the auditors, against any officer of the borough, shall constitute a surcharge against such officer, as fully as if expressly stated in said report to be a surcharge, and the amount of any balance, and of any express surcharge, shall, if no appeal is taken, or after an appeal has been finally determined, be entered by the prothonotary as a judgment, against such officer and in favor of the borough. The clerk of the court of quarter sessions shall certify the amount of every balance or surcharge, contained in any such report, from which no appeal has been taken within time herein provided, to the court of common pleas, for entry thereof by the prothonotary as a judgment. Any taxpayer of the borough may enforce the collection thereof, for the benefit of the borough, by action or execution, upon filing in the court of common pleas a bond, in the sum of one thousand dollars (\$1000) with one or more sureties, conditioned to indemnify the borough from all costs which may accrue in the proceedings undertaken by such taxpayer, subject, however, to all rights of appeal from the report of auditors granted by this act. If any person or persons have been, or shall be, surcharged for an illegal purchase, and no fraud or collusion is shown and the surcharge is paid to the borough, then the article purchased shall become the property of the person or persons surcharged.]

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

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

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

Section 1053. Compensation of Auditors.--(a) Subject to the limitations set forth in subsection (b), each auditor shall receive [no less than five dollars (\$5) nor more than] ten dollars (\$10)[, as council may determine,] per hour for each hour or portion thereof necessarily employed in the discharge of 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 attendance, **and may also compel the production of all documents, including books, vouchers and papers relative to borough accounts.** If any person shall refuse or neglect to appear [or], **to produce documents or to testify,** the auditors shall petition the court of common pleas of the county to issue a subpoena to [such] **the** person and to require [him] **the person** to **produce documents or to** appear and to testify before the court. The court shall issue [such] **the** subpoena if it deems the **documents or** testimony relevant to the issue.

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

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

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

Section 1057. Persons Refusing to Testify to be Committed.--If any person, appearing before such auditors for examination, shall refuse to take such oath or affirmation, or, after having been sworn or affirmed, shall refuse to make answer to such questions as shall be put to him by the auditors touching the accounts or the official conduct of such person or any corporation, association, organization, committee or commission with which such person shall be connected, then the auditors may petition the court to issue its subpoena as hereinbefore provided.]

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

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

costs from any officer, they] **The costs collected from any officer** shall be repaid into the borough treasury.

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

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 value; and

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

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

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

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

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

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

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

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

Section 1059.5. Taxpayers Appealing to Enter Bond.--No appeal by a taxpayer or officer may be allowed, unless within the time of taking the appeal, the appellant shall secure a bond in the sum of one thousand dollars (\$1,000) with sufficient surety, to prosecute the appeal and to pay all costs of appeal,

in case, if the appellant is a taxpayer, the appellant fails to obtain a final decision more favorable to the borough than that awarded by the auditors, or, in case, if the appellant is an accounting officer, the appellant fails to obtain a final decision more favorable to the officer than that awarded by the auditors. Unless the bond is filed as provided in this section, the court of common pleas, upon application, shall set aside the appeal.

Section 1059.6. Procedure on Appeals.--(a) In any proceeding upon an appeal from a report of the auditors, the accounts of the office or officers, or the person, corporation, association, organization, committee or commission in question may be investigated de novo, and the burden shall be upon each officer, person, corporation, association, organization, committee or commission whose accounts are involved in the appeal of establishing the person's right to credits claimed by the person, but the opposing party in the appeal may use any facts, figures or findings of the report of the auditors as prima facie evidence against any officer or other entity.

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

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

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

(1) If in the opinion of the court the final determination is more favorable to the borough officer involved than that awarded by the auditors, the borough shall pay reasonable attorney fees or, under paragraph (3) , a portion of reasonable attorney fees incurred by the officer in connection with the surcharge proceeding.

(2) In the case of an appeal taken by the borough or a taxpayer, if in the opinion of the court the final determination is more favorable to the borough than that awarded by the auditors, the borough officer who is the subject of the surcharge proceeding shall pay reasonable attorney fees or, under paragraph (3) , a portion of reasonable attorney fees incurred by the borough, elector or taxpayer in connection with the surcharge proceeding.

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

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

Section 1059.9. Balances Due to be Entered as Judgments.--A balance in a report of the auditors against an officer of the

borough shall constitute a surcharge against the officer as fully as if expressly stated in the report to be a surcharge. The amount of a balance and of any express surcharge shall, if no appeal is taken, or after an appeal has been finally determined in favor of the borough, be entered by the prothonotary as a judgment against the officer. The clerk of the court of common pleas shall certify the amount of every balance or surcharge contained in a report from which no appeal has been taken within the time provided under this article to the court of common pleas for entry by the prothonotary as a judgment. Any taxpayer of the borough may enforce the collection of the balance or surcharge for the benefit of the borough, by action or execution, upon filing in the court of common pleas a bond, in the sum of one thousand dollars (\$1,000) with one or more sureties, conditioned to indemnify the borough from all costs of the proceedings undertaken by the taxpayer, subject, however, to all rights of appeal from the report of auditors granted by this act. If a person has been or shall be surcharged for an illegal purchase, and no fraud or collusion is shown and the surcharge is paid to the borough, then the article purchased shall become the property of the person surcharged.

Section 1059.10. Penalty for Failure to Comply with Law.--(a) An auditor neglecting or refusing to comply with the provisions of this article shall be guilty of a summary offense.

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

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

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

(1) The scope of the examination.

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

(3) The amount of any balance or shortage or any expenditure of any kind or made in a manner prohibited or not authorized by a statute which came to the independent auditor's attention during the course of the examination and which, in the independent auditor's opinion, causes a financial loss to the borough as provided in section 1059.3, shall be a surcharge

against an officer against whom the balance or shortage shall appear, subject to appeal, entry as judgment, certification and enforcement as provided in this article.

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

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

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

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

(d) Controller

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

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

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

Section 1063. General Powers and Duties of Controller.--The borough controller, shall [superintend] **manage** the fiscal affairs of the borough. [He] **The controller** shall examine, audit, and settle all accounts [whatsoever] in which the borough is concerned either as debtor or creditor, where provision for the settlement [thereof] is made by law[; and, where no such]. **Where no** provision or an insufficient provision has been made, [he] **the controller** shall examine [such] **the** accounts and report to the borough council the **relevant** facts [relating thereto with his] **and** opinion [thereon] **on the accounts**.

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

The borough controller shall have supervision and control of the accounts of all departments, bureaus, and officers of the borough, authorized to collect, receive, or disburse the public moneys, or who are charged with the management or custody [thereof. He] **of the accounts. The controller** shall audit their respective accounts, and may at any time require from any of



them a statement in writing of any moneys or property of the borough in their possession, or under their control, showing the amount of cash on hand and the amount deposited in banks and banking institutions together with the names of [such] **the** institutions. [He] **The controller** shall have power to examine every [such] account of a borough officer in any bank or banking institution to verify the accuracy of the statement of [such] **the** borough, department, bureau or officer and it shall be the duty of every [such] department, bureau or officer, and [it shall be the duty] of every [such] bank and banking institution, its officers and agents, to furnish full information to the controller in relation to [such] **the** account. No banker or banking institution, its officers or agents, shall be subject to prosecution under other laws of this Commonwealth for disclosing [any such] information with respect to [any such] **an** account. [He] **The controller** shall, immediately upon the discovery of any default, irregularity, or delinquency, report the same to the borough council. [He] **The controller** shall also audit and report upon the accounts of [any such] **an** officer upon the death, resignation, removal, or expiration of the term of the [said] officer.

Section 98. Section 1064 of the act is repealed:

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

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

Section 1065. Controller to Countersign Warrants.--The borough controller shall countersign all warrants upon the borough treasurer, **with** the form [thereof] **of the warrant** to be prescribed by council, but no warrant shall be countersigned unless there is money in the treasury to pay the same. Whenever a warrant on the treasurer shall be presented to the controller to be countersigned, the person presenting the same shall, if the controller requires, produce evidence:

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

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

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

Section 1067. Amount of Contracts to be Charged Against Appropriations.--[Every] **A** contract involving appropriation of money shall designate the item of appropriation on which it is founded, and the estimated amount of the expenditure [thereunder] shall be charged against [such] **the** item, and [so] certified by the borough controller on the contract, before it shall take effect as a contract, and the payment required by

[such] **the** contract shall be made from the fund appropriated [therefor]. If the controller shall certify [any] **a** contract in excess of the appropriation made [therefor], the borough shall not be liable for [such] **the** excess, but the controller and [his] **the controller's** sureties shall be liable for the same, which may be recovered in an action at law by the **aggrieved** contracting party [aggrieved]. It shall be the duty of the controller to certify contracts for the payment of which sufficient appropriations have been made.

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

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

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

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

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

Section 1071. Acceptance by Ordinance.--The foregoing provisions of subdivision (d) [of this article] shall not become operative or effective in any borough not having a controller, until the borough shall, by ordinance, accept the provisions of subdivision (d) [of this article]. When any borough accepts the provisions of subdivision (d) [of this article], the court of [quarter sessions] **common pleas**, upon petition of council, shall appoint a controller to hold office until the first Monday of January, next succeeding the next municipal election at which a controller [may] **shall** be elected under the provisions of this act.

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

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

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

[ (e) Assessors

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

Section 103. Article X subdivision (f) heading of the act is reenacted to read:

(f) Tax Collector

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

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

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

#### ARTICLE X-A

##### MAYOR

Section 1001-A. Eligibility of mayor.

No mayor may hold any other borough office or appointment during the term for which the mayor is elected, except as is permitted under section 1104. The mayor shall be eligible to succeed himself. The mayor shall not be a member of council, nor shall the mayor preside over or vote at any meeting of council, except as provided in section 1003.

Section 1002-A. Incompatible offices.

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

Section 1003-A. Oath of mayor.

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

Section 1004-A. Salary of mayor.

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

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

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

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

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

Benefits provided to the mayor under section 1202(26) shall not be considered pay, salary or compensation, but payment for all or a part of the premiums or charges for the benefits shall be in accordance with section 1202(26).

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

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

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

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

Section 1006-A. General powers of mayor.

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

(b) Other powers.--In addition to the power granted to mayors by 35 Pa.C.S. Pt. V (relating to emergency management services) and in order to enable the mayor to effectually preserve the public peace within the borough, the mayor shall have the power to prevent and suppress mobs, riots and unlawful and tumultuous assemblies. In the event that a state of emergency exists, a mayor shall have the authority to request aid and assistance from law enforcement officers and agencies from a neighboring municipality. In response to a request of a mayor made in accordance with this subsection, a municipal police officer shall, within the borough from which the request was made, have the power and authority to enforce the laws of this Commonwealth or otherwise perform the functions of that office as if enforcing those laws or performing those functions within the territorial limits of his or her primary jurisdiction, subject to the limitations and conditions set forth in 42 Pa.C.S. § 8953(b), (c), (d) and (e) (relating to Statewide municipal police jurisdiction). When the mayor considers that a state of emergency exists, the mayor may issue a proclamation, which shall be in writing and posted in one or more conspicuous places and the contents of which shall be made available to all news media, declaring a state of emergency for a period not to exceed seven days, unless sooner rescinded,

modified or ratified or extended by resolution of council. The mayor may prohibit in the proclamation, for all or part of the borough:

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

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

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

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

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

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

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

Section 1007-A. 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 any other duties as shall be vested in the mayor's office by law or ordinance.

(2) Except as provided in section 1006(4), to sign papers, contracts, obligations and documents as may be required by law.

(3) To collect any costs and fees received and to pay the money into the treasury, except as provided in section 1005-A(b), 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 the necessary dockets, books, forms and files as are necessary for the conduct of the mayor's office, and which shall be and remain the property of the borough and shall be surrendered to the mayor's successor in office.

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

When 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 council. While discharging the duties of mayor, the president or vice-president of council shall be entitled to the same salary as the mayor would receive and, during the time the salary is paid to the president or vice-president of council as acting mayor, the mayor shall not be paid compensation. The president or vice-president of council, while acting as mayor, shall have power to veto a proposed ordinance or to break a tie, but shall not have power to vote as a member of council.

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

ARTICLE XI  
POWERS, DUTIES AND RIGHTS OF APPOINTED  
OFFICERS AND EMPLOYEES

(a) General Provisions

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

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

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

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

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

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

Section 110. Section 1104 of the act, amended November 22, 2011 (P.L.417, No.104), is amended to read:

Section 1104. Appointments; Incompatible Offices.--(a)

Unless there is incompatibility in fact, any elective or appointive officer of the borough shall be eligible to serve on any board, commission, bureau or other agency created by or for the borough, or any borough office created or authorized by statute and may accept appointments thereunder, but no mayor or member of council shall receive compensation therefor.

(b) The following apply to employment:

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

(2) This subsection shall not apply to a borough official serving as an employee of that borough prior to the certification of [a] **the 2010 census or a subsequent** decennial census which indicates an increase in the population of that borough to 3,000 or more.

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

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

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

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

[(f)] (g) Nothing [herein] contained **in this section** shall affect the eligibility of any borough official to hold any other public office or receive compensation therefor.

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

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

Section 1105. Compensation to Aged Employees.--[By ordinance a] **A** borough may provide, **by ordinance**, for compensation to appointees and employees of not less than ten years of satisfactory service, and who are not less than sixty years of age, upon termination of active employment with the borough a proportion of the compensation last paid to them but not in excess of fifty percent thereof, including benefits received under the social security act, if any, as fixed in [said] **the ordinance or amendment thereto**. Any arrangement to provide post-retirement compensation to aged appointees and employees pursuant to this section shall be a pension plan within the meaning of that term pursuant to the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act," and the borough establishing that plan shall provide funding of that pension plan in an amount sufficient to meet the minimum obligation of the municipality with respect to the pension plan pursuant to that act. The expenditures herein authorized shall be paid out of the general tax levy for the current expenditures of the year, and not by any special tax therefor. Nothing [herein] **in this section** shall preclude any appointee or employee of the borough from joining in any pension system or municipal retirement system that the borough may adopt. [The true intent and purpose hereof is to permit boroughs, without exceeding the present general tax limitation, to pay to servants in their employ who are too old to advantageously join any pensioning or retirement system, a reasonable annuity in lieu of joining a pensioning or retirement system.]

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

Section 1105.1. Retirement Benefits of Employees Transferred to [Wastewater] Authorities.--(a) **The following employees of municipal authorities shall be members of the borough retirement system upon a written election as provided in this section:**

(1) An employee of a wastewater authority created by a borough and one or more townships pursuant to 53 Pa.C.S. Ch. 56 (relating to municipal authorities) that commenced operations after December 1, 2001, who satisfies the requirements of [paragraph (2) and] **subsection (b)**, has past service credits under the borough retirement plan [may file a written election with the borough council and the wastewater authority to be a member of the borough retirement system. The qualified employee shall file the written election within one year after the effective date of this section.] **and has filed a written election to be a member of the borough retirement system with borough council and the wastewater authority prior to September 14, 2005.**

(2) An employee of a municipal authority created by a borough pursuant to 53 Pa.C.S. Ch. 56 that commenced operations after October 4, 2010, who satisfies the requirements of subsection (b), has past service credits under the borough retirement plan and files a written election with the borough council and the

**authority to be a member of the borough retirement system within one year of the effective date of this paragraph.**

[(2)] **(b) (1)** In order to qualify for the option under [paragraph (1)] **subsection (a)(1) or (2)**, the employee must satisfy both of the following requirements:

(i) Immediately prior to the date of transfer of employment to the [wastewater] authority, be an employee of the borough that, **either alone or** together with one or more [townships] **municipalities**, established the [wastewater] authority.

(ii) Be an active member of the borough's retirement system on the date that the employee's employment was transferred to the [wastewater] authority.

[(3)] **(2)** For an employee who files an election under [paragraph (1)] **subsection (a)**, the affected [wastewater] authority shall:

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

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

[(b)] **(c)** All employees who elect to be members of the borough retirement system under this section shall be treated as borough employees in determining the borough's annual allocation of general municipal pension system State aid pursuant to section 402(e) of the "Municipal Pension Plan Funding Standard and Recovery Act," and the annual allocation of general municipal pension system State aid pursuant to section 402(e) of the "Municipal Pension Plan Funding Standard and Recovery Act" shall be payable to the borough.

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

(b) Treasurer

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

Section 1106. Bond and Duties.--**(a)** The borough treasurer shall, before entering upon the duties of [his] office, give bond **in an amount determined by council**, conditioned for the faithful performance of [his] **the treasurer's** duties. [He shall keep a just account of all receipts and disbursements, and shall annually submit his account to the borough auditors or controller; he shall pay over all moneys remaining in his hands and deliver all books, papers, accounts, and other things belonging to the borough, to his successor. All moneys received by any officer, or other person, for the use of the borough shall be forthwith paid to the borough treasurer. He shall deposit all moneys received by him in a bank or banking institution in the name of the borough. All expenditures shall be paid out of funds in the treasury only when authorized by the treasurer, upon an order signed by the president of council and the borough secretary and also by the borough controller, if any. Such order shall not be executed unless there is money in the treasury available therefor.]

**(b) The treasurer shall:**

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



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

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

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

**(b) The secretary shall:**

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

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

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

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

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

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

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

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

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

(d) Solicitor

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

Section 1116. Solicitor to Have Control of Legal Matters.--The legal matters of the borough shall be under the control of the borough solicitor, and no department or officer of the borough, except as [herein] otherwise provided **by law**, shall employ an additional counsel without the assent or ratification of the council. **The borough solicitor shall be licensed to practice law in this Commonwealth and may be one person or a law firm, partnership, association or professional corporation. The borough solicitor serves at the pleasure of council.** In the absence of the solicitor, the law firm of which [he] **the solicitor** is a member or associate may perform any of the duties or functions of the solicitor.

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

Section 1117. Duties of Solicitor; Outside Counsel.--(a) The borough solicitor[, when directed or requested so to do by council or the mayor, shall prepare or approve such bonds, obligations, contracts, leases, conveyances, ordinances and assurances to which the borough or any department thereof may be a party; he shall commence and prosecute all actions brought by the borough for or on account of any of the estates, rights, trusts, privileges, claims, or demands, as well as defend all

actions or suits against the borough, or any officer thereof, wherein or whereby any of the estates, rights, privileges, trusts, ordinances, or accounts, of the borough, or any department thereof, may be brought in question before any court in the Commonwealth; and shall do every professional act incident to the office which he may be authorized or required to do by the council or the mayor. He shall, whenever required, furnish the council, or committees thereof, the mayor, or the head of department, with his opinion in writing upon any question of law which may be submitted by any of them in their official capacities.] **shall:**

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

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

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

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

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

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

Section 1118. Assistant Solicitor.--Every borough council may, by resolution, appoint an assistant solicitor who shall **assist the solicitor in the performance of the solicitor's duties and,** in the absence or disability of the solicitor, perform the duties and exercise the powers of the solicitor.

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

(e) Police

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

Section 1121. [Appointment, Suspension, Reduction, Discharge, Powers; Mayor to Have Control.--Borough council may, subject to the civil service provisions of this act, if they be in effect at the time, appoint and remove, or suspend, or reduce in rank, one or more suitable persons, citizens of the United States of America, as borough policemen, who shall be ex officio constables of the borough, and shall and may, within the borough or upon property owned or controlled by the borough or by a municipal authority of the borough whether such property is within or outside the limits of the borough, without warrant and upon view, arrest, and commit for hearing any and all persons guilty of breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness, or who may be engaged in the

commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens, or for violating any ordinance of the borough for the violation of which a fine or penalty is imposed, and notwithstanding any statute pertaining to the same or similar offenses. Any person so arrested shall be received for confinement by the keepers of the jails, lockups, or station houses within the county.

The borough council may designate one of said policemen as chief of police. The mayor of the borough shall have full charge and control of the chief of police and the police force, and he shall direct the time during which, the place where and the manner in which, the chief of police and the police force shall perform their duties, except that council shall fix and determine the total weekly hours of employment that shall apply to the policemen.

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

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

The borough council may assign the chief of police or any member of the police force to undergo a course of training at any training school for policemen established and made available by the State or Federal government, and may provide for the payment by the borough of his expenses while in attendance in such school.] **Council's Powers; Police.--(a) Council may, by ordinance, establish a police department. If council has established a police department, the following shall apply:**

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

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

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

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

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

(4) Council may assign any member of the police department to attend training classes offered by the Federal or State

government and may pay the police officer's expenses while attending the school.

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

(c) In any case in which a borough has [heretofore] **previously** appointed [policemen] **police officers** or established a police department by action of council but not [by or] pursuant to an ordinance regularly enacted, [such] **the** action shall be deemed to have been a valid exercise of the legislative power of the borough [for all purposes the same as though an ordinance had been enacted], and all [policemen] **police officers** appointed [thereunder] shall occupy the same status and shall have the same rights and privileges as in the case of [policemen] **police officers** appointed under authority of an ordinance.

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

Section 1122. Police Serving Under Cooperative Agreement or Contract.--Whenever any borough shall have entered into a cooperative agreement or contract with any [near or adjacent city, borough, or township] **municipal corporation, regional police force or other governmental entity created by two or more municipal corporations pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation)**, for the furnishing or receiving of police protection, as authorized by clause (35) of section 1202 [of this act, such policemen, individually], **the police force of the municipal corporation, regional police force or other governmental entity furnishing the police protection** shall be appointed and accepted as [policemen] **the police force** of the borough receiving [such] **the police service** by resolution of the **borough council** [of the said borough. Policemen]. **Police officers of the police force of a municipal corporation, regional police force or other governmental entity** so appointed shall, however, in so far as civil service and pensions are concerned, be deemed to be appointees and employees only of the [municipality or township] **municipal corporation, regional police force or other governmental entity** furnishing their service and making the original appointment [thereof].

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

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

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

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

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

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

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

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

Section 1124. Suspension by Mayor.--In addition to the powers of council to suspend [policemen] **police officers**, the mayor may, for cause and without pay, suspend any [policemen] **police officers** until the succeeding regular meeting of the council, at which time or [thereafter] **later** the council may, subject to the civil service provisions of this act, if they be in effect at the time, suspend, discharge, reduce in rank or reinstate with pay, [such policemen: Provided, however, That a policeman] **the police officers. A police officer** suspended by the mayor may not be reinstated by council at a date earlier than ten working days from the date fixed by the mayor for the suspension to commence. In any case where the council has reinstated a [policeman] **police officer**, after having been suspended by the mayor, the mayor shall not thereafter suspend [such policeman] **the police officer** for reasons arising from the same act for which the first suspension was made, or for reasons that the council, in reinstating [such policeman] **the police officer**, shall have determined not to be grounds for suspension.

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

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

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

Section 1127. School Crossing Guards.--(a) Upon request of the board of school directors of the school district in which a borough is **wholly or partially** located, the borough council may appoint school crossing guards who shall have the duty of controlling and directing traffic **and pedestrians** at or near schools and who shall be in suitable and distinctive uniform. While on duty, these crossing guards shall be under and subject to the direction of the mayor. They shall serve at the pleasure of the borough council, except as noted in subsection (b), and shall not come within the civil service provisions of this act and shall not be entitled to participate in any borough pension plan or plans now in effect or hereafter effective. The compensation of the school crossing guards, if any, shall be fixed by the borough council and shall be jointly paid by the borough council and the board of school directors, in a ratio to be determined by the borough council and board of school directors. If the borough council and board of school directors are unable to determine the ratio of compensation of the crossing guards to be paid by the council and the board, each shall pay one-half of the compensation of [such] **the** crossing guards. [Auxiliary policemen] **Notwithstanding any other provision of law, auxiliary police officers**, appointed as prescribed by general law, may be designated to serve as crossing guards.

(b) The borough council may [approve] **enact** an ordinance allowing a board of school directors to assume hiring and oversight of school crossing guards. Before the borough council may [approve such an] **enact the** ordinance, the board of

directors of the school district shall [approve] **adopt** a resolution requesting the authority to assume the hiring and oversight of school crossing guards. The ordinance **enacted by the borough council** shall outline how the police department will provide any necessary training and assistance of the school crossing guards while on duty. [Such] **The** school crossing guards shall be authorized only in the management of traffic and pedestrians in and around areas identified by the police department and the school district superintendent or his or her designees. The school crossing guards shall not come within the civil service provisions of this act, nor shall they fall under the bargaining unit of the school district nor be considered an employe as defined under section 1101-A of the act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949," or a school employee as defined under 24 Pa.C.S. § 8102 (relating to definitions), or under any plans hereafter effective. [Once] **After** the ordinance [receives approval] **is enacted** by the borough council, the school district shall assume the cost of compensation, including fixing [such] compensation, if any, of the school crossing guards. [Auxiliary policemen] **Notwithstanding any other provision of law, auxiliary police officers**, appointed as prescribed by general law, may be hired by the school district to serve as school crossing guards. The board of school directors shall notify the borough council of those hired to serve as school crossing guards and request the necessary training or assistance be provided as outlined by the ordinance.

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

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

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

Section 1131. Police Pension Fund.--(a) Where a police force of less than three **full-time** members is being maintained, the borough may, unless there is a private organization or association constituting and managing an existing pension fund for the members of the police force in [such] **the** borough, by ordinance, [provide for the purchase of annuity contracts for the payment of pensions, or] establish a police pension fund into which each member of the police force shall pay an equal and proportionate monthly charge to be withheld from the pay of [such] **the** member.

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

(c) All pension funds **or investment or insurance instruments** established under the provisions of this section shall be under the direction of the borough council, or [such] **a** committee as it may designate, and shall be applied under [such] regulations as the council may by ordinance prescribe for the benefit of [such] **the** members of the police force as shall receive honorable discharge therefrom by reason of age or disability and the families of [such as] **members of the police force that** may be injured or killed in the service. **Council shall appoint, by resolution, a chief administrative officer who shall have the primary responsibility for the execution of the**

administrative affairs of the pension plan, subject to the direction of council. Any allowances made to those who are retired by reason of disability or age shall be in conformity with a uniform scale.

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

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

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

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

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

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

Section 1132. Private Police Pension Funds; Optional Transfers.--(a) Where there is a private organization or association constituting and managing an existing pension fund for the members of the police force in any borough, [such] **the** borough shall establish a police pension for the purpose of paying pensions to the members of its police force, if the membership of [such] **the** organization or association, by a two-thirds vote, elects to transfer its funds with all its assets and liabilities into a borough pension fund, as required to be established by this act.

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

Section 129. Section 1133 of the act, amended May 31, 1984 (P.L.362, No.72), is repealed:



[Section 1133. Service Required Before Retirement.--The ordinance establishing the police pension fund shall prescribe a minimum period of total service, and/or a minimum age after which members of the force may be eligible for retirement from active duty. Borough policemen so retired shall be subject to service as police reserve, until unfitted for such service by reason of age or disability, when they may be finally discharged.]

Section 130. Section 1134 of the act, amended December 16, 1992 (P.L.1215, No.158), is repealed:

[Section 1134. Pensions Not to be Charged on Other Funds; Pension Plan Funding.--(a) Payments made on account of police pensions shall be a charge on no fund in the treasury of the borough, or under its control, other than the police pension fund.

(b) The borough establishing a police pension fund by ordinance pursuant to this act shall provide, from any available borough revenue source, funding of that police pension fund in an amount sufficient to meet the minimum obligation of the municipality with respect to the pension fund pursuant to the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act."]

Section 131. Sections 1135, 1136 and 1137 of the act are repealed:

[Section 1135. Gifts to Pension Fund.--Borough may take, by gift, grant, devise, or bequest, any money or property real, personal, or mixed, in trust for the benefit of such police pension fund. The care, management, investment and disposal of such trust funds or property shall be vested in such offices as the borough shall by ordinance direct, and shall be governed by such officers, subject to any directions not inconsistent therewith as the donors of such funds and property may prescribe.

Section 1136. Rights of Members.--No person participating in such police pension fund and becoming entitled to receive a benefit therefrom, shall be deprived of his right to an equal and proportionate share therein, upon the basis upon which he first became entitled thereto.

Section 1137. Annuity Contracts in Lieu of Establishing a Police Pension Fund.--Boroughs may provide annuity contracts for the purpose of paying pension or annuities to the members of the police force who receive honorable discharge therefrom by reason of age or disability and the families of such as may be injured or killed in service.]

Section 132. Article XI subdivision (g) heading of the act is reenacted to read:

(g) Borough Manager

Section 133. Sections 1141 and 1142 of the act, amended July 7, 2011 (P.L.267, No.54), are amended to read:

Section 1141. Borough Manager May be Created by Ordinance; Election.--The council of any borough may, at its discretion at any time, create by ordinance the office of borough manager and may in like manner abolish the same. While [said] **the** office exists, the council shall, from time to time, and whenever there is a vacancy, elect, by a vote of a majority of all the members, one person to fill [said] **the** office. The borough manager shall serve at the pleasure of council, subject to contractual rights that may arise under an employment agreement that may be entered in accordance with section 1142.

Section 1142. Powers and Duties[; Bond].--The powers and duties of the borough manager shall be regulated by ordinance. Council may enter into an employment agreement with the borough

manager. The employment agreement may set forth the terms and conditions of employment, and the agreement may provide that it shall remain in effect for a specified period terminating no later than two years after the effective date of the agreement or the date of the [organization] **organizational** meeting of council following the next municipal election, whichever shall first occur. An employment agreement entered into pursuant to this section may specify conditions under which a borough manager would be entitled to severance compensation, but in no event shall an employment agreement guarantee employment through the term of the agreement or confer upon the borough manager any legal remedy based on specific performance. **Any employment agreement with a borough manager executed on or after a municipal election but before the first meeting in January the year after the municipal election shall be void.**

The council, by ordinance, may delegate, subject to recall, any of the nonlegislative and nonjudicial powers and duties of the council, the planning commission and the shade tree commission, to the borough manager. With approval of borough council, the mayor may delegate to the borough manager any of [his] **the mayor's** nonlegislative and nonjudicial powers and duties.

Section 133.1. Section 1143 of the act is reenacted to read:

Section 1143. Other Offices Not Incompatible.--The offices of borough manager, street commissioner, secretary, treasurer and chief of police, shall not be incompatible, and any two or more or all of the said offices may be held by one person. Neither the mayor nor any member of the borough council shall be eligible to hold the office of borough manager.

Section 134. Article XI subdivision (h) and (i) headings and sections 1161, 1162, 1163, 1164, 1165, 1166, 1167 and 1168 of the act are repealed:

[ (h) Borough Planning Commission

(i) Mine and Quarry Inspection and Surface Support

Section 1161. Ordinance Creating.--Any borough may, by ordinance, provide for and regulate mine and quarry inspection and surface support.

Section 1162. Engineer and Other Personnel.--In any such borough an engineer, to be appointed by the council, and such assistants, clerks and employes as the council may provide, to receive such compensation as may be prescribed by council, may be appointed to supervise and administer the work of mine and quarry inspection and surface support.

Section 1163. Inspection.--Any such engineer, or assistant or other employes may enter, inspect, examine and survey any mine, colliery or quarry within the limits of the borough, at all reasonable times, either by day or night, but not so as to impede or obstruct the workings of such colliery or quarry; and may be accompanied by such other persons as may be necessary for the purpose of making an examination or survey. The owner, operator, or superintendent of such mine, colliery or quarry, shall furnish the means necessary for such entry, inspection, examination, survey and exit.

Section 1164. Maps and Drawings.--The owner, operator, or superintendent of every mine, colliery or quarry, within three months after the passage of an ordinance by any borough regulating mine or quarry inspection and surface support, shall make or cause to be made and furnish to the borough such map, plans and/or drawings of the workings, excavations and surface support as the council may require. In the case of coal mines and collieries, the map or plan shall exhibit the workings or excavations in every seam of coal on a separate sheet, and the tunnels and passages connecting with such workings or

excavations. It shall show in degrees the general inclination of the strata, with any material deflection therein in the workings or excavations, and shall also show the tidal elevations of the bottom of every shaft, slope, tunnel and gangway, and of any other point in the mine or on the surface where such elevation shall be deemed necessary by the bureau. The map or plan shall show the number of the last survey on the gangways or the most advanced workings.

Section 1165. Extensions to be Placed on Maps.--Every owner, operator, or superintendent, of a mine, colliery or quarry, shall place or cause to be placed upon the pertinent map, at least once in every three months, all the extensions made in any mine or quarry, within the limits of such borough during the three preceding months, except those made within thirty days immediately preceding the time of placing such extensions upon the said map or drawing.

Section 1166. Certain Surface Supports Not to be Removed.--It shall be unlawful for any person, copartnership, association, or corporation to dig, mine, remove, or carry away the coal, rock, earth, or other minerals or materials forming the natural support of the surface beneath the highways, streets and public places of any borough to such an extent and in such a manner as thereby to remove the necessary support of the surface, without having first placed or constructed an artificial permanent support sufficient to uphold and preserve the stability of the surfaces of such highways, streets, and public places.

Section 1167. Penalty.--Any person being the general manager, superintendent, or person in charge of the work of any corporation, copartnership, or association, violating any of the provisions of this subdivision, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced, for such offense, to pay a fine not exceeding one thousand dollars (\$1000) or to undergo imprisonment in the county jail for a period not exceeding ninety days, or both. All fines imposed under this section shall be paid into the treasury of the borough.

Section 1168. Enactment of Ordinances.--Borough councils may enact such ordinances as may be necessary for the enforcement of the provisions of this subdivision.]

Section 135. Article XI subdivision (j) heading of the act is amended to read:

(j) Civil Service for Police and [Firemen]

**Fire Apparatus Operators**

Section 136. Section 1171 of the act, amended October 4, 1978 (P.L.1000, No.210), is amended to read:

Section 1171. Appointments of Police and [Firemen] **Fire Apparatus Operators**.--This subdivision [(j) of this article] shall not apply to any borough having a police force of less than three members or to those having three or more members if those members in excess of two are appointed on a temporary basis through a Federally funded program or to volunteer fire departments or companies employing their own operators, or to boroughs having less than three salaried operators of fire apparatus. This subdivision [(j) of this article] is subject [as heretofore] to the power of council to determine compensation. [Hereafter each and every] **Every** appointment to and promotion in the police force or as fire apparatus operators paid directly by the borough in every borough shall be made only according to qualifications and fitness, to be ascertained by examinations which shall be competitive as hereinafter provided.

No person shall [hereafter] be suspended, removed or reduced in rank as a paid employe in any police force or as a paid operator of fire apparatus of any borough, except in accordance with the provisions of this subdivision. However, nothing in this subdivision [(j)] shall apply to retirement nor shall anything herein prevent any borough from adopting a compulsory retirement age for its employes or for any class or classes thereof and from retiring all [such] employes automatically when they reach such age.

Section 137. Sections 1172, 1173, 1174, 1175, 1176, 1177, 1178 and 1179 of the act are amended to read:

Section 1172. Civil Service Commission Created; Appointments; Vacancies; Oath; Compensation.--**(a)** There is hereby created in each borough, where a police force or paid fire apparatus operators as hereinbefore provided are being maintained, a civil service commission hereinafter referred to as the commission. The commission shall consist of three commissioners who shall be qualified electors of the borough and shall be appointed by the borough council initially to serve for the terms of two, four and six years, and as terms thereafter expire shall be appointed for terms of six years.

Any vacancy occurring in any commission for any reason whatsoever shall be filled by the borough council for the unexpired term within the period of thirty days after [such] the vacancy occurs.

**(b) Borough council may appoint no more than three qualified electors of the borough to serve as alternate members of the commission. The term of office of the alternate members shall be six years. When seated pursuant to section 1174, an alternate shall be entitled to participate in all proceedings and discussions of the commission to the same and full extent as provided by law for commission members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this act and as otherwise provided by law. Alternates shall hold no other office in the borough. An alternate may participate in any proceeding or discussion of the commission but shall not be entitled to vote as a member of the commission unless designated as a voting alternate member pursuant to section 1174.**

**(c)** Each member of the commission created by this subdivision, before entering upon the discharge of the duties of [his] office, shall take an oath or affirmation [to support the Constitution of the United States and of the Commonwealth of Pennsylvania and to perform his official duties with fidelity, together with such loyalty oath as is prescribed and required by law] **of office pursuant to 53 Pa.C.S. § 1141 (relating to form of oaths of office).** The civil service commissioners shall receive no compensation.

Section 1173. Offices Incompatible with Civil Service Commissioner.--No commissioner shall at the same time hold an elective or appointed office under the United States Government, the Commonwealth of Pennsylvania or any political subdivision of the Commonwealth, except that one member of the commission may be a member of the [council of the] borough **council** and one may be a member of the teaching profession.

Section 1174. Organization of Commission; Quorum.--The commission first appointed shall organize within ten days of its appointment and shall elect one of its members as the [chairman] **chair** and one as the secretary. The commission shall thereafter meet and organize on the first Monday [of February] of each even-numbered year. [The secretary of the commission

shall give each commissioner twenty-four hours' notice] **Each commissioner shall be notified** in writing of each and every meeting [of the commission. Two]. **Three** members of the commission shall constitute a quorum [and no action of the commission shall be valid unless it shall have the concurrence of at least two members]. **If, by reason of absence or disqualification of a member a quorum is not reached, the chair shall designate as many alternate members of the commission to sit on the commission as may be needed to provide a quorum. An alternate member of the commission shall continue to serve on the commission in all proceedings involving the matter or case for which the alternate was initially designated until the commission has made a final determination of the matter or case. Designation of an alternate member pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among the alternates. No action of the commission may be valid unless it shall have the concurrence of at least two members.**

Section 1175. Clerks and Supplies, Etc.; **Solicitor.**--The borough shall furnish to the commission, on its requisition, [such] clerical assistance [as] **that** may be necessary for the work of the commission. The borough shall provide a suitable and convenient room for the use of the commission. The commission shall order from the borough the necessary stationery, postage, printing and supplies[, and the]. **The borough shall also provide the services of a solicitor for the commission to be appointed by the commission and paid by the borough. The borough shall have the authority to place a reasonable limit on the amount allowed each year for the services of the commission solicitor. The** elected and appointed officials of every [such] borough shall aid the commission in all proper ways in carrying out the provisions of this subdivision relating to civil service.

Section 1176. Rules and Regulations.--The commission shall have power to prescribe, amend and enforce rules and regulations for carrying into effect the provisions of this subdivision and shall be governed thereby. Before [any such] **the effective date of the** rules and regulations [are in force], **or amendments thereto,** the same shall be first approved by [the] **borough** council [of the borough]. When [such] **the** rules and regulations, **or amendments,** have been [so] approved, they shall not be annulled, amended, or added to, without the approval of [the said] council. All rules and regulations and modifications [thereof] shall be made available by the boroughs for public distribution or inspection.

Section 1177. Minutes and Records.--The commission shall keep minutes of its proceedings and records of examinations and other official actions. All recommendations of applicants for appointment received by the commission shall be kept and preserved for a period of five years, and all [such] records and all written causes of removal filed with the commission, except as otherwise provided in section 1191 [of this act], shall be open to public inspection and subject to reasonable regulation.

Section 1178. Investigations.--The commission shall have power to make investigations concerning all matters touching the administration and enforcement of this subdivision and rules and regulations adopted thereunder. The [chairman] **chair** of the commission is hereby given power to administer oaths and affirmations in connection with [such] **the** investigations.

Section 1179. Subpoenas.--The commission shall have power to issue subpoenas over the signature of the [chairman] **chair**, to require the attendance of witnesses and the production of records and papers pertaining to any investigation or inquiry. The fees of [such] witnesses for attendance and travel shall be the same as for witnesses appearing in the courts and shall be paid from appropriations for the incidental expenses of the commission.

All officers in public service and employees shall attend and testify when required to do so by the commission.

If any person shall refuse or neglect to obey any subpoena issued by the commission, [he] **the person** shall upon conviction thereof in a summary proceeding, be sentenced to pay a fine not to exceed one hundred dollars (\$100), and in default of the payment of [such] **the** fine and costs, shall be imprisoned not to exceed thirty days.

If any person shall refuse or neglect to obey any subpoena issued by the commission, [it] **the commission** may apply by petition to the court of common pleas of the county for its subpoena, requiring the attendance of [such] persons before the commission or the court there to testify and to produce any records and papers necessary, and in default thereof, shall be held in contempt of court.

Section 138. Section 1180 of the act is reenacted to read:

Section 1180. Annual Report.--The commission shall make an annual report to the council containing a brief summary of its work during the year, which shall be available for public inspection.

Section 139. Section 1181 of the act, amended November 22, 2011 (P.L.417, No.104), is amended to read:

Section 1181. General Provisions Relating to Examinations.--(a) The commission shall make rules and regulations, to be approved as provided in section 1176 [hereof], providing for the examination of applicants for positions in the police force and as paid operators of fire apparatus and for promotions, which rules and regulations shall prescribe the minimum qualifications of all applicants to be examined and the passing grades. All examinations for positions or promotions shall be practical in character and shall relate to [such] matters and include [such] inquiries as will fairly test the merit and fitness of the persons examined to discharge the duties of the employment sought by them. All examinations shall be open to all applicants who have the minimum qualifications required by the rules and regulations. Each applicant for an original position shall:

(1) be subject to the regulations adopted by the commission;

(2) either before or after the written examination, be required to submit to a physical fitness or agility examination that is job related and consistent with business necessity;

(3) if made a conditional offer of employment, be given a physical and psychological medical examination as provided in section 1189 [of this act]; and

(4) be subject to a background investigation. Background investigations may be restricted to those candidates on an eligibility list or those to be certified to borough council for appointment in accordance with section 1184 [of this act].

(a.1) Each applicant for promotion shall be subject to the regulations adopted by the commission and to examination and selection in accordance with section 1188 [of this act]. Physical fitness or agility examinations that are job-related and consistent with business necessity and physical and

psychological medical examinations may, but need not, be required for promotions.

(b) Public notice of the time and place of every examination, together with the information as to the kind of position or place to be filled, shall be given by publication once in a newspaper of general circulation [in the borough], at least two weeks prior to each examination, and a copy of the notice shall be prominently posted in the office of the commission or other public place.

(c) The commission shall post in its office the [eligible] **eligibility** list, containing the names and grades of those who have passed the examination.

Section 140. Section 1182 of the act is amended to read:

Section 1182. Application for Examination.--Each person desiring to apply for examination shall file with the commission a formal application in which the applicant shall [state] **provide**, under oath or affirmation [(i) his full name and residence or post office address, (ii) his citizenship, place and date of birth, (iii) his condition of health and physical capacity for public service, (iv) his business or employment and his residence for the past five years, and (v) such] **the following information:**

- (1) **full name and residence or post office address;**
- (2) **citizenship, place and date of birth;**
- (3) **condition of health and physical capacity for public service;**
- (4) **business or employment and his residence for the past five years; and**

(5) other information as may be required by the commission's rules and regulations, showing the applicant's qualifications for the position for which [he] **the applicant** is being examined.

Section 141. Section 1183 of the act, amended October 27, 2010 (P.L.884, No.91), is amended to read:

Section 1183. Rejection of Applicant; Hearing.--(a) The commission may refuse to examine, or, if examined, may refuse to certify after examination as eligible, any applicant who is found to lack any of the minimum qualifications for examination prescribed in the rules and regulations adopted for the position or employment for which he has applied, or who is physically unfit for the performance of the duties of the position to which he seeks employment, or who is illegally using a controlled substance, as defined in section 102 of the Controlled Substances Act (Public Law 91-513, 21 U.S.C. § 802), or who has been guilty of any crime involving moral turpitude, or of infamous or notoriously disgraceful conduct, or who has been dismissed from public service for delinquency or misconduct of office, or who is affiliated with any group whose policies or activities are subversive to the form of government set forth in the constitutions and laws of the United States and Pennsylvania.

(b) If any applicant [or person is aggrieved by refusal of the commission to examine or certify the applicant as eligible after examination, the commission shall, at the request of the applicant, within ten days, appoint a time and place for a public hearing, with or without counsel, at which time] **is aggrieved by the refusal of the commission to certify the applicant as eligible after examination, or a person is aggrieved by refusal of the commission to examine the person, the commission shall, at the request of the applicant or person aggrieved, within ten days, appoint a time and place for a public hearing. At the hearing, the applicant or person aggrieved may appear with or without counsel, and the commission**

shall take testimony and review its refusal to provide examination or certification. **The deliberations of the commission, including interim rulings on evidentiary or procedural issues, may be held in the nature of a closed executive session. The commission's disposition of the matter shall constitute official action which shall occur at a public meeting held pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings).** The decision of the commission shall be final.

Section 141.1. Section 1184 of the act, amended October 27, 2010 (P.L.884, No.91) and November 22, 2011 (P.L.417, No.104), is amended to read:

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

(b) Except as provided in subsection (c), every original position or employment in the police force or as paid operators of fire apparatus, except that of chief of police or chief of the fire department, or equivalent, shall be filled only in the following manner: the council shall notify the commission of any vacancy which is to be filled and shall request the certification of an eligibility list. The commission shall certify for each existing vacancy from the eligibility list, the names of the three persons, or a lesser number where three are not available, who have received the highest average. The council shall make a conditional appointment from the three names certified, based solely on the merits and fitness of the candidates, unless borough council makes objections to the commission regarding one or more of the certified persons for any of the reasons stated in section 1183 [of this act]. Should [such] **the** objections be sustained by the commission, as provided in section 1183 [of this act], or if the conditional appointee is determined to be unqualified in accordance with the procedures set forth in section 1189 [of this act], the commission shall strike the name of the person from the eligibility list and certify the next highest name for each name stricken from the eligibility list. As each subsequent vacancy occurs in the same or another position precisely the same procedure shall be followed.

(c) Any vacancy in an existing position in the police force or as a paid operator of fire apparatus which occurs as a result of retirement, resignation, disability or death may be filled by council by the reappointment or reinstatement of a former employe of the police force or fire department who had previously complied with the provisions of this section. No examination, other than a physical examination as directed by



the civil service commission, shall be required in any case of reappointment or reinstatement.

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

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

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

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

Section 1186. Probationary Period.--All original appointments to any position in the police force or as paid operators of fire apparatus shall be for a probationary period of not less than six months, and not more than one year, but during the probationary period an appointee may be dismissed only for a cause specified in section 1183 [of this act] or because of incapacity for duty due to the use of alcohol or drugs. If at the close of a probationary period the conduct or fitness of the probationer has not been satisfactory to the council, the probationer shall be notified in writing that [he] **the probationer** will not receive a permanent appointment, and the appointment shall cease. If the probationer is not notified or dismissed in accordance with this section, [his] **the probationer's** retention shall be equivalent to a permanent appointment. **The decision of a borough to suspend or discharge a probationer shall be final and shall not be subject to the hearing provisions of section 1191.**

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

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

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

Section 1188. Promotions.--Promotions shall be based on merit to be ascertained by examinations to be prescribed by the commission. All questions relative to promotions shall be practical in character and [such as] will fairly test the merit and fitness of persons seeking promotion. Borough council shall notify the commission of a vacancy in the police force or as a paid operator of fire apparatus in the borough which is to be filled by promotion and shall request the certification of an eligibility list. The commission shall certify for each vacancy the names of three persons on the eligibility list who have received the highest average in the last preceding promotional examination held within a period of two years preceding the date of the request for the eligibility list. If three names are not available, the commission shall certify the names remaining on the eligibility list. The borough council shall make an appointment from the names certified, based solely on the merits and fitness of the candidate, unless council makes objections to the commission regarding one or more of the persons so certified for any reason provided under section 1183 [of this act].

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

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

Section 1189. Physical and Psychological Medical Examination.--(a) An applicant selected from the eligibility list shall receive a conditional offer of employment. The offer of employment shall be conditioned upon the conditional appointee undergoing a physical and psychological medical examination and a determination that the conditional appointee is capable of performing all the essential functions of the position. Physical medical examinations shall be under the direction of a physician or other qualified medical professional. Psychological medical examinations shall be under the direction of a psychiatrist or psychologist.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Neglect or violation of any official duty.

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

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

(5) Intoxication while on duty.

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

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

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

If for reasons of economy or other reasons it shall be deemed necessary by any borough to reduce the number of paid employes of the police or fire force, then [such] **the** borough shall [apply the following procedure: (i) if there are any employes eligible for retirement under the terms of any retirement or pension law, if the party to be retired exceeds the maximum age as defined in the act of October 27, 1955 (P.L.744, No.222), known as the "Pennsylvania Human Relations Act," then such reduction in numbers shall be made by retirement of such employes, starting with the oldest employe and following in order of age respectively, (ii) if the number of paid employes in the police force or fire force eligible to retirement is insufficient to effect the necessary reduction in numbers, or if there are no persons eligible for retirement, or if no retirement or pension fund exists, then the reduction shall be effected by furloughing] **furlough** the person or persons, including probationers, last appointed to the respective force. Such removal shall be accomplished by furloughing in numerical

order commencing with the person last appointed until such reduction shall have been accomplished. In the event the said police force or fire force shall again be increased the employees furloughed shall be reinstated in the order of their seniority in the service. The provisions of this paragraph as to reductions in force are not applicable to a chief of police.

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

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

**(b)** At any [such] hearing, the person against whom the charges are made may be present in person and by counsel. The council may suspend [any such] **the person**, without pay, pending the determination of the charges against [him] **the person**, but in the event the commission fails to uphold the charges, then the person sought to be suspended, removed or [demoted] **reduced in rank** shall be reinstated with full pay for the period during which [he] **the person** was suspended, removed or [demoted] **reduced in rank**, and no charges shall be officially recorded against [his] **the person's** record. A stenographic record of all testimony taken at [such] **the** hearings shall be filed with, and preserved by, the commission, which record shall be sealed and not be available for public inspection in the event the charges are dismissed.

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

**(d)** The council and the person sought to be suspended, removed or [demoted] **reduced in rank** shall at all times have the right to employ counsel before the commission and upon appeal to the court of common pleas. **Unless the council or the person sought to be suspended, removed or reduced in rank requests that the proceedings before the commission be open to the public, the proceedings before the commission pursuant to this section shall be held in the nature of a closed executive session that shall not be open to the public. Any such request shall be presented to the commission before the civil service hearing commences. The deliberations of the commission,**

including interim rulings on evidentiary or procedural issues, may be held in private and shall not be subject to a request for being open to the public, the council or to the person sought to be suspended, removed or reduced in rank. The commission's disposition of the disciplinary action shall constitute official action which shall occur at a public meeting held pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings).

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

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

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

No discrimination shall be exercised, threatened or promised by any person against or in favor of any applicant or employee because of political or religious opinions or affiliations or race, and no offer or promise or reward, favor or benefit, directly or indirectly, shall be made to or received by any person for any act done or duty omitted or to be done under this subdivision [of this article].

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

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

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

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

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

(2) Any person appointed solely for parking meter enforcement duties,

(3) Any special school police,

(4) Any extra police serving from time to time or on an hourly or daily basis, or,

(5) Any auxiliary policeman appointed under the act of January 14, 1952 (P.L.2016).

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

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

[(k) Independent Auditor]

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

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

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

(1) The scope of his examination,

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

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

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

(d) In any matter involving any financial transaction, any official knowingly and wilfully acting contrary to law, or, knowingly and wilfully failing to act as required by law, is guilty of a misdemeanor, and on conviction thereof, may be sentenced to a fine not exceeding one hundred dollars (\$100),

and his office may be forthwith declared vacant as may seem meet and just to the court passing sentence.

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

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

(2) To publish within ten days thereafter, by advertisement in at least one newspaper of general circulation in the borough, a concise financial statement setting forth the balance in the treasury at the beginning of the fiscal year, all revenues received during the fiscal year by major classifications, 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, the gross liability and net debt of the borough, the amount of the assessed valuation of the borough, the assets of the borough with the character and value thereof, the date of the last maturity of the respective forms of funded debt, and the assets in each sinking fund. The independent auditor shall make his report on the uniform form prepared pursuant to article XIII of this act.

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

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

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

Section 1198. Balances Due to be Entered as Judgments.--Any balance, in any report of the independent auditor, against any officer of the borough, shall constitute a surcharge against such officer, as fully as if expressly stated in said report to be a surcharge, and the amount of any such balance, and of any express surcharge, shall, if no appeal is taken, or after an appeal has been finally determined, be entered by the prothonotary as a judgment, against such officer and in favor of the borough, the clerk of the court of quarter sessions shall certify the amount of every balance or surcharge, contained in any such report, from which no appeal has been taken within time herein provided, to the court of common pleas, for entry thereof by the prothonotary as a judgment. Any taxpayer of the borough may enforce the collection thereof, for the benefit of the borough, by action or execution, upon filing in the court of common pleas a bond, in the sum of five hundred dollars (\$500) with one or more sureties, conditioned to indemnify the borough from all costs which may accrue in the proceedings undertaken by such taxpayer, subject, however, to all rights of appeal from the report of independent auditors granted by this act. If any person or persons have been, or shall be, surcharged for an illegal purchase, and no fraud or collusion is shown and the surcharge is paid to the borough, then the articles purchased shall become the property of the person or persons surcharged.

Section 1199. Employment of Attorney, Compelling Attendance of Witnesses, Administration of Oath, Penalties and Settlement of Accounts.--(a) The independent auditor, with the consent of the borough council, may employ an attorney whenever the

same is deemed advisable by him and the compensation of such attorney shall be determined by the borough council and shall be payable by the borough out of the general funds of the borough.

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

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

(d) If any person, appearing before such independent auditor for examination, shall refuse to take such oath or affirmation, or, after having been sworn or affirmed, shall refuse to make answer to such questions as shall be put to him by the independent auditor touching the accounts or the official conduct of such public officers or any of them, then the independent auditor may petition the court to issue its subpoena as hereinbefore provided.

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

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

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

#### ARTICLE XII 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.**

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

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

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

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

(2) Any conveyance of real property acquired in an exchange to an entity listed in section 1201.3 may contain a clause whereby the lands and buildings will revert to the borough if they are no longer being used for the purposes of the entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(5)** To invest in or purchase bonds of any municipal authority or parking authority created solely by the borough, for the purpose either of investment or of possible retirement of such bonds and acquisition of authority projects at an earlier date than originally contemplated, using for the purpose

either surplus funds of the borough or money appropriated in the annual budget for the purpose.]

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

Section 1202. Specific Powers.--The powers of the borough shall be vested in the [corporate authorities. Among the specific powers of the borough shall be the following, and in] **borough council. In** the exercise of any [of such] **specific** powers involving the enactment of [any] **an** ordinance or the making of any regulation, restriction or prohibition, the borough may provide for [the] enforcement [thereof] and [may prescribe] penalties for [the violation thereof or for the failure to conform thereto] **violations. The specific powers of the borough shall include the following:**

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

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

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

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

(5) Nuisances and dangerous structures.] To prohibit and remove any nuisance **or dangerous structure on public or private grounds**, including but not limited to accumulations of garbage and rubbish [and], the storage of abandoned or junked automobiles [and to prohibit and remove any dangerous structure on public or private grounds, or to] **and obstructions or nuisances in the streets of the borough. The borough may** require the removal of any [such] nuisance or dangerous structure by the owner or occupier of [such] **the** grounds, in default of which the borough may cause the same to be done, and collect the cost [thereof] **of removal**, together with a penalty of ten percent of [such] **the** cost, in the manner provided by law for the collection of municipal claims, or by action of assumpsit, or may seek relief by bill in equity.

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

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

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

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

[ (10) Accumulations of garbage] (8) Garbage and other refuse material.

(i) To individually or jointly with other municipal corporations pursuant to an agreement, prohibit accumulations of garbage or other refuse material upon public and private property and to [provide] make regulations for the care, removal [of prohibited accumulations] and collection of garbage or other refuse material[.], including:

(A) To provide for the collection and imposition of reasonable fees and charges for the collection of garbage and other refuse material.

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

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

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

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

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

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

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

[(14)] (10) Livestock, fowls and [certain] **all** other animals. To [prohibit and regulate, by ordinance,] **enact ordinances prohibiting or regulating the keeping or** running at large of livestock and fowls and any other animals not covered in clause [(13) hereof] (9), and [to authorize] **authorizing** their seizure [and], detention, [prescribing] **or, in the case of unowned pigeons, humane destruction. The borough may prescribe** reasonable charges [therefor, and to] **for the seizure and detention of the animals and** provide for their sale for the benefit of the borough, in default of the redemption [thereof] **of the animals** by their owners. **Ordinances enacted pursuant to this clause shall not unreasonably interfere with any agricultural operation to the extent prohibited by applicable State law.**

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

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

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

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

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

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

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

[(21) Fire regulations; fire prevention codes by reference. To make regulations, within the borough, or within such limits thereof as may be deemed proper, relative to the cause and management of fires and the prevention thereof. To enact and enforce suitable fire prevention codes, and to provide for the enforcement thereof by a suitable fine, and by instituting appropriate actions or proceedings, at law or in equity, to effect the purposes of this provision and ordinances thereunder. Such fire prevention code shall not be advertised by publication of the full text thereof, and, in place of such complete advertisement, an informative notice of intention to consider such proposed fire prevention code, and a brief summary, setting forth the principal provisions of such proposed fire prevention code in such reasonable detail as will give adequate notice of its contents and a reference to the place or places within the borough where copies of such proposed fire prevention code may be examined or obtained shall be published once in one newspaper of general circulation in the borough at least one week and not more than three weeks prior to the presentation of the proposed fire prevention code to council. No further advertisement or notice need be published following enactment of the fire prevention code.]

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

[(22)] **(16) Prohibition of fire producing devices [in certain retail stores] and smoking. To prohibit and regulate the smoking or carrying of lighted cigarettes, cigars, pipes or matches, and the use of matches or fire-producing devices[, in retail stores arranged to accommodate one hundred persons or more or which employ ten or more persons]. Any ordinance enacted or regulation or resolution adopted under this clause shall not [prohibit] regulate smoking in [any restaurant, rest room, beauty parlor, executive office or any room designated for smoking in such store.] a manner that conflicts with the act of June 13, 2008 (P.L.182, No.27), known as the "Clean Indoor Air Act ."**

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

**(17) Fireworks and inflammable articles.**

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

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

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

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

[ (24) Building, housing, property maintenance, plumbing and other regulations. To enact and enforce ordinances relating to buildings and housing, their construction, alteration, extension, repair and maintenance and all facilities and services in or about such buildings or housing, to require that, before any work of construction, alteration, extension, or repair of any building is begun, approval of the plans and specifications therefor be secured; to provide for the inspection of such work of construction, alteration, extension and repair, including the appointment of one or more building inspectors and/or housing inspectors; to prescribe limits wherein none but buildings of noncombustible material and fireproof roofs shall be erected, or substantially reconstructed, or moved thereinto; to provide for enforcement of such regulations by a reasonable fine, and by instituting appropriate actions or proceedings at law, or in equity, to effect the purposes of this provision and ordinances enacted thereunder. Any building, housing or property, or part thereof erected, altered, extended, reconstructed, removed or maintained, contrary to any of the provisions of any ordinance passed for any of the purposes specified in this clause is declared to be a public nuisance and abatable as such.

Any such ordinance may be adopted by reference to a standard building code, housing code or other standard codes, or to parts thereof, determined by council, or the provisions of the ordinance may be supplied by reference to a typed or printed building code, housing code or other standard codes, prepared under the direction of or accepted by council, or the provisions may consist of a standard building code, housing code or other standard codes, or parts thereof, and also further provisions typed or printed as aforesaid. Such building code, housing code or other standard codes shall not be advertised either in advance of or following enactment, by publication of the full text thereof, and, in place of such complete advertisement, an informative notice of intention to consider such proposed building code, housing code or other standard codes, and a brief summary, setting forth the principal provisions of such proposed building code, housing code or other standard codes in such reasonable detail as will give adequate notice of its contents and a reference to the place or places within the borough where copies of such proposed building code, housing code or other standard codes may be examined or obtained shall be published once in one newspaper of general circulation in the borough at least one week and not more than three weeks prior to the presentation of the proposed building code, housing code or other standard codes to council. No further advertisement or notice need be published following enactment of the building code, housing code or other standard codes. Copies of the building code, housing code or other standard codes thus adopted by reference shall be made available to any interested party at the cost thereof, or may be furnished or loaned without



charge. Such building code, housing code or other standard codes need not be recorded in or attached to the ordinance book, but it shall be deemed to have been legally recorded if the ordinance by which such building code, housing code or other standard codes were adopted by reference shall have been recorded, with an accompanying notation stating where the full text of such building code, housing code or other standard codes shall have been filed. The procedure set forth relating to the adoption of the building code, housing code or other standard codes, by reference, may likewise be adopted in amending, supplementing or repealing any of the provisions of the building code, housing code or other standard codes.

To enact suitable ordinances relating to property maintenance and plumbing, in the same manner and to the same effect as herein provided for building codes, housing codes or other standard codes. The building code, the property maintenance code, the housing code and the plumbing code may be combined or separately enacted or combined with other standard codes.

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

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

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

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

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

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

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

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

(C) **Market places.** Council may:

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

(II) purchase and own ground;

(III) erect, establish and maintain market places for which purposes parts of a street or sidewalk may be temporarily used;

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

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

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

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

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

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

- (i) establishing and maintaining uniform building lines upon any or all borough streets pursuant to applicable law; and
- (ii) utilizing powers delegated by the Pennsylvania Municipalities Planning Code, and other applicable laws by adopting zoning, subdivision and land use and development regulations.

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

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

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

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

(32) Creation of special funds; investments. To set aside in a separate fund any moneys received out of or from the sale, lease, or other disposition of any borough property or received from any source other than taxation, unless such money was received or acquired for a particular purpose. Such fund shall be controlled, invested and administered, and the income arising therefrom expended, in such manner as may be determined by action of the council pursuant to the ordinance creating the fund. Such ordinance may provide that only the income from such fund may be used or expended, and that neither principal, not any part thereof, may be used or expended unless upon authorization of a majority vote of the qualified electors of the borough. All ordinances heretofore enacted and ordained by any borough, creating and establishing such a separate fund as is authorized by this clause, shall be deemed and taken as valid and effectual for all purposes: Provided, That all other requirements of law concerning the enactment of the same have been complied with.

(33)] (22) Creation of capital reserve fund for anticipated capital expenditures. To create and maintain a separate capital reserve fund for anticipated legal capital expenditures. The money in the fund shall be used, from time to time, for the

construction, purchase or replacement of or addition to municipal buildings, equipment, machinery, motor vehicles or other capital assets of the borough and for no other purpose.

Council may appropriate moneys from the general borough funds to be paid into the capital reserve fund or place in the fund any moneys received from the sale, lease or other disposition of any borough property or from any other source, unless received or acquired for a particular purpose. The fund shall be controlled, invested, reinvested and administered and the moneys expended for any of the purposes for which the fund is created in [such] a manner as may be determined by council. The money in the fund, when invested, shall be invested in securities designated by [law] **53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing)** as legal investments for sinking funds of municipalities.

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

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

[ (34) Joint municipal agreements] **(24) Intergovernmental Cooperation.** To enter into agreements with other political subdivisions, in accordance with existing laws, in making joint purchases of materials, supplies or equipment and in performing governmental powers, duties and functions and in carrying into effect provisions of [law relating to said subjects which are common to such political subdivisions] **53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation)**, and agreements with the proper authorities of municipal corporations, regional police or fire forces, or other public safety or governmental entities created by two or more municipal corporations pursuant to **53 Pa.C.S. Ch. 23 Subch. A**, either for mutual aid or assistance in police and fire protection or any other public safety services, or for the furnishing to or, receiving from the municipal corporations or governmental entities, police and fire protection or any other public safety services, and to make appropriations for public safety services. In connection with agreements for police or fire protection or any other public safety services, it shall not be necessary to advertise for bids or receive bonds as required for contracts under existing law. When an agreement has been entered into, the police, firefighters, fire police or any other public safety services of the employing municipal corporation or governmental

**entity shall have all the powers and authority conferred by law on police, firefighters, fire police or any other public safety services in the territory of the municipal corporation which has contracted to secure the service.**

[(35)] Joint contracts for police and fire protection. To enter into contracts with the proper authorities of near or adjacent cities, boroughs, or townships, either for mutual aid or assistance in police and fire protection, or for the furnishing to or, receiving from, such cities, boroughs, or townships, aid and assistance in police and fire protection, and to make appropriations therefor: Provided, That in connection with such contracts, it shall not be necessary to advertise for bids or receive bonds as required for other contracts under existing law. When any such contract has been entered into the police, firemen or fire police of the employing city, borough or township shall have all the powers and authority conferred by law on city, borough or township police, firemen, or fire police in the territory of the city, borough or township which has contracted to secure such service.

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

[(37)] **(26)** Other insurance.

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

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

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

**(ii) Life and health insurance.** To make contracts of insurance with any insurance company, association or exchange, authorized to transact business in the Commonwealth, insuring borough employes, **or any class or classes of employes**, or mayor and council, [or any class, or classes thereof,] or their dependents, under a policy or policies of insurance covering life, health, hospitalization, medical and surgical service [and/or] **or** accident insurance[, and to].

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

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

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

[(38) Contract with railways. To enter into contract with any person or company, operating a street passenger railway, surface, elevated, or underground, or furnishing motor transportation, or leasing and operating the franchise and property of such person or company, within the limits of the borough, regulating the franchises, powers, duties and liabilities of such persons or companies, and the respective rights of the contracting parties. Such contracts may, inter alia, provide for payments by the persons or companies to the borough, in lieu of the performance of certain duties, or the payment of license fees or charges imposed in favor of such borough, or by the charters of any such companies, or by any general law, or ordinances; for the appointment by the borough of a certain number of persons to act as director of any such company, in conjunction with the directors elected by the stockholders of such company; and may further provide for the ultimate acquisition by the borough, upon terms mutually satisfactory, of the leaseholds, property and franchises of the contracting persons or companies.

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

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

**(27) Public transportation. To contract with a company owning, leasing or operating a light rail or similar transportation system, whether surface, elevated or underground, 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 Pennsylvania 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 maintain the [same] public facilities; to provide for the payment of [the] **their** cost [thereof], and the expense of [such] **their** maintenance either in whole or in part out of the funds of the borough.

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

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

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

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

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

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

[(47)] Inclined planes. To acquire by purchase, lease, or otherwise, any existing inclined plane passenger and vehicular traffic transportation facilities, and to maintain and operate the same in the transportation of passengers and vehicles for hire, and for the accommodation of the public, and in like manner to acquire or to establish bus feeder lines, and to

maintain and operate the same in connection with such inclined plane passenger and vehicular traffic transportation facilities.

(48)] **(32)** Historical property. To acquire by purchase, or by gift, and to repair, supervise, operate and maintain ancient landmarks, and other property of historical or antiquarian interest and to make appropriations to nonprofit associations or corporations organized for the purpose of acquiring and maintaining historical properties. [Such] **The** appropriations shall only be used by the association or corporation for the acquisition, restoration and maintenance of the historical properties.

[(49)] **(33)** Provisions against hazards of war, **terrorism and disasters**. To [build or establish bomb shelters or assist in so doing to] provide against all hazards of war, **terrorism and other disasters** and their consequences; and for [all such] **those** purposes, to have the power of eminent domain, to cooperate with any other unit and agency of government, Federal, State or local, in every lawful way, for purposes of defense against the hazards of war **and terrorism and to further provide against the hazards of manmade or natural disasters in conjunction with the powers applicable to boroughs in 35 Pa.C.S. Pt. V (relating to emergency management services)**.

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

(51)] **(34)** Towing [equipment]. To purchase vehicles and other equipment necessary for the towing of motor vehicles, tractors, **trailers, recreational trailers** and other vehicles from **highways**, roads, streets, and public property of the borough and to impose fees [therefor] **for towing** whenever [such] **the** towing equipment is used for the lawful removal of motor vehicles, **tractors, trailers, recreational trailers** and other vehicles from highways, roads, streets, and public property of the borough [and/or] **and** to authorize or contract with [one or more] commercial towers **that agree to tow vehicles for a negotiated price** as the official towers for the borough for the lawful removal of motor vehicles, tractors, **trailers, recreational trailers** and other vehicles from highways, roads, streets and public property of the borough **in accordance with Federal and State law** and to impose fees in the same manner as hereby authorized when the towing is performed with borough vehicles and equipment. **A commercial tower that agrees not to charge in excess of the negotiated price and is otherwise lawfully authorized to tow vehicles in accordance with Federal and State law, shall be put on an official rotation list for the borough if borough council provides for a list.** This clause shall apply only when the borough is requesting a vehicle to be towed. In all other cases, the owner or operator of a vehicle shall be permitted to select and pay for the tower.

[(52)] **(35)** Fire, rescue and life saving apparatus and [houses] **buildings**. To purchase, or contribute to the purchase of fire engines and fire apparatus, boats, rescue and life saving equipment and supplies for the use of the borough[, and to appropriate money to fire companies, rescue units and for the construction, repair and maintenance of fire company and rescue units houses, including the acquisition of land for such

purposes and, as set forth in this clause, for fire training schools and centers.

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

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

(54) Lands for armory purposes. To acquire, by purchase or by gift or by the right of eminent domain, any land for the use of the National Guard of Pennsylvania; to convey such lands so acquired to the Commonwealth of Pennsylvania in order to assist the Armory Board in the erection of armories. The power conferred by this clause shall not be exercised to take any church property, graveyard, cemetery, or any dwelling-house or the curtilage of the same in the actual occupancy of the owner.

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

(56) Support of national guard units. To appropriate annually a sum not exceeding seven hundred and fifty dollars (\$750) for the support and maintenance, discipline and training of any dismounted company or similar unit of the national guard, and a sum not to exceed fifteen hundred dollars (\$1500) for the support and maintenance of any mounted or motorized troop or similar unit of the national guard. Where such units are organized as a battalion, regiment or similar organization, the total amount due may be paid to the commanding officer of the battalion, regiment or similar organization. Any moneys so appropriated shall be paid by warrant drawn to the order of the



commanding officer of such company, battalion, regiment or similar organization, only when it shall be certified to the borough, by the Adjutant General of the State, that the said company or companies have satisfactorily passed the annual inspection provided by law. The moneys so appropriated shall be used and expended solely and exclusively for the support and maintenance, discipline and training of the said company, battalion, regiment, or similar organization; and the commanding officer shall account, by proper vouchers to the said borough each year, for the expenditure of the money so 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 such expenditures shall be subject to the inspection of the Department of Military Affairs, and shall be audited by the Auditor General in the manner provided by law for the audit of accounts of State moneys.

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

(58) Payment of rent for veterans' organizations. By a two-thirds vote of the council, to appropriate annually a sum not exceeding five hundred dollars (\$500) to be divided in such amounts as council deems proper to incorporated organizations of American veterans of any war in which the United States was engaged, to be used in the payment of the rent of any building or room or rooms in which such camps or post have their regular meetings.

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

(60) Care and erection of memorials. To take charge of, care for, maintain and keep in good order and repair, at the expense of the borough, any soldiers monument, gun, or carriage, or similar memorial 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 of the Union, and to receive from any person or organization any moneys or funds which can be used for the maintenance of such memorials, and to expend the same; and to erect or 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.

(61) Appropriations for burial ground maintenance. To appropriate annually, out of the general funds of the borough,

a sum not exceeding three thousand dollars (\$3000) for the care, 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 (b) 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 nursing services for **the elderly and other needy persons**, the control of communicable disease, the immunization of children, the operation of child health centers (Well-Baby Clinics), instructive visits to parents of new babies, beginning in the prenatal period, and family health guidance, including nutrition, detection and correction of defects all of which relate to the responsibilities of local boards of health.

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

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

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

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

[(70)] **(44)** Appropriations to tourist promotion agencies. To appropriate **money** annually[, such amount of money but not in excess of ten cents (10¢) for each resident of the borough,

as determined by the latest official census, which may be deemed necessary], to any "tourist promotion agency," as defined in the act of [April 28, 1961 (P.L.111), known as the "Tourist Promotion Law,"] **July 4, 2008 (P.L.621, No.50), known as the "Tourism Promotion Act,"** to assist [such] the agencies in carrying out tourist promotional activities.

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

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

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

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

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

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

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

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

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

[(80)] (54) Appropriations to Senior Citizens Organizations. To appropriate funds for programs which benefit senior citizens, or make grants to civic organizations which represent senior citizens, provide services to senior citizens, or of which its members are senior citizens.

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

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

(57) **Appropriations to conservation district. To appropriate money 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.**

(58) **Mines and quarries. To require the owner, operator or superintendent of every mine, colliery or quarry located wholly or partially within the limits of the borough, to furnish to**

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

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

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

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

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

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

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

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

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

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

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

**Section 1203. Reserved Powers.--**The council may make and adopt all ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution of Pennsylvania 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.

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

ARTICLE XIII  
TAXATION AND FINANCE

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

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

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

(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 or fire houses, not exceeding three mills.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) For purposes of this section:

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

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

(c) [The] **Notwithstanding section 104, the** provisions of this section are nonseverable. If any provision of this [act] **section** or its application to any person or circumstance is



held invalid, the remaining provisions or applications of this [act] **section** are void.

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

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

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

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

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

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

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

Section 1306. Additions and Revisions to Duplicates.--Whenever in any borough, there is any construction of a building or buildings not otherwise exempt as a dwelling after the borough council has prepared a duplicate of the assessment of borough taxes and the building is not included in the tax duplicate of the borough, the [authority responsible for assessments in the borough] **county assessment office** shall, upon the request of the borough council, direct the assessor in the [borough] **county assessment office** to inspect and reassess, subject to the right of appeal and adjustment provided by the act of assembly under which assessments are made, all taxable property in the borough to which major improvements have been made after the original duplicates were prepared, and to give notice of such reassessments within ten days to the authority responsible for assessments, the borough and the property owner. The property shall then be added to the

duplicate and shall be taxable for borough purposes at the reassessed valuation for that proportionate part of the fiscal year of the borough remaining after the property was improved. Any improvement made during the month shall be computed as having been made on the first of the month. A certified copy of the additions or revisions to the duplicate shall be furnished by the borough council to the borough tax collector, together with their warrant for collection of the same, and within ten days thereafter, the borough tax collector shall notify the owner of the property of the taxes due the borough.

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

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

Section 1308. Notice of Proposed Budget; Penalty.--(a)

Notice that the proposed budget is available for inspection shall be published by the borough secretary in a newspaper of general circulation [in the borough], except in boroughs where the estimated budget receipts are less than [five thousand dollars (\$5000)] **fifty thousand dollars (\$50,000) in the year in which this amendment is enacted**, where in lieu of such newspaper publications, notice may be conspicuously posted during the ten day period, in a place readily viewable by the public at the office of the borough secretary and with such further notice as shall be prescribed by council.

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

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

Section 1309. Revision and Completion of Budget.--After the expiration of the said ten days, council shall make such revision in the budget as shall be deemed advisable. The budget shall be as comprehensive and exact as the information available will admit. In addition to expenditures proposed for the current fiscal year, council may include as proposed expenditures a sum sufficient to pay any existing indebtedness and to pay the ordinary operating expenses for the subsequent year until the taxes of the subsequent year are received therefor, and may also include a sum to provide in whole or in part for any deferred maintenance, depreciation and replacements. Within the tax levy and debt limitations, council may also include, in whole or in part, expenditures for capital investments and purchases. Expenditures of a legislative character shall be made, authorized or ratified by ordinance. Other expenditures allowed by law may be made or ratified by motion in council. Such expenditures, whether by ordinance or motion, shall then be considered as appropriations affecting the budget. Any balance of revenues over expenditures may be expended in any subsequent year for any lawful purpose.

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

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

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

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

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

Section 1311. Amending Budget; Notice.--During the month of January next following any municipal election the council of any borough may amend the budget and the levy and tax rate to conform with its amended budget. A period of ten days' public inspection at the office of the borough secretary of the proposed amended budget after notice by the borough secretary to that effect is published once in a newspaper [as provided in section 109 of this act] **of general circulation**, shall intervene between the proposed amended budget and the adoption thereof. Any amended budget must be adopted by council on or before the fifteenth day of February.

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

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

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

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

**Section 1313.1. Creation of Special Funds; Investments.--Borough council may set aside in a separate fund any moneys received out of or from the sale, lease or other disposition of any borough property or received from any source unless such money was received or acquired for a particular purpose. The fund shall be controlled, invested and administered, and the income arising therefrom expended, in the manner as may be determined by action of the council pursuant to the ordinance creating the fund. The ordinance may provide that only the income from the fund may be used or expended, and that neither principal, nor any part thereof, may be used or expended unless upon authorization of a majority vote of the**

qualified electors of the borough. All ordinances previously enacted by any borough, creating and establishing a separate fund as is authorized by this section, shall be deemed and taken as valid and effectual for all purposes provided that all other requirements of law concerning the enactment of the same have been complied with.

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

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

[Such] **The** representatives of boroughs shall be appointed by the president of the [organization. Such] **Pennsylvania State Association of Boroughs.** The representatives shall be chosen from among the finance officers or other officers of the borough who have knowledge of their fiscal procedures. As far as possible, they shall be chosen to represent boroughs in the various population groups. The president of the organization shall supply to the Department of Community and Economic Development the names and addresses of [such] **the** representatives immediately upon their appointment.

[Such] **The** representatives shall serve without compensation, but shall be reimbursed by the Commonwealth for all necessary expenses incurred in attending meetings of the committee. The committee shall meet **from time to time as conditions may warrant** at the call of **the** 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 gas plant or gas distribution system for its own municipal purposes, including the purchase and installation of machinery and equipment, any borough owning any such plant or facility may issue non-debt revenue bonds as provided in clause [(72)] **(46)** of section 1202 of this act.

(b) Any borough issuing non-debt revenue bonds under the authority of this section shall adjust and, where necessary, increase the rates of rentals or charges pledged as security

for the bonds, in order to provide sufficient revenue which shall be set aside as reserve funds to cover depreciation of the properties involved, and for future improvements to the plant or facility involved, as well as for the payment of the interest on the bonds and the principal at the time of maturity.

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

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

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

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

(i) United States Treasury bills.

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

(iii) Deposits in savings accounts or time deposits, other than certificates of deposit, or share accounts of institutions insured by the Federal Deposit Insurance Corporation [or the Federal Savings and Loan Insurance Corporation] or the National Credit Union Share Insurance Fund [or the Pennsylvania Deposit Insurance Corporation or the Pennsylvania Savings Association Insurance Corporation] to the extent that such accounts are so insured, and, for any amounts above the insured maximum, provided that approved collateral as provided by law therefore shall be pledged by the depository.

(iv) Obligations of the United States of America or any of its agencies or instrumentalities backed by the full faith and credit of the United States of America, the Commonwealth of Pennsylvania or any of its agencies or instrumentalities backed by the full faith and credit of the Commonwealth, or of any political subdivision of the Commonwealth of Pennsylvania or any of its agencies or instrumentalities backed by the full faith and credit of the political subdivision.

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

(vi) Certificates of deposit purchased from institutions insured by the Federal Deposit Insurance Corporation [or the Federal Savings and Loan Insurance Corporation] or the National Credit Union Share Insurance Fund [or the Pennsylvania Deposit Insurance Corporation or the Pennsylvania Savings Association Insurance Corporation] to the extent that such accounts are so insured. However, for any amounts above the insured maximum, such certificates of deposit shall be collateralized by a pledge or assignment of assets of the institution, and such collateral may include loans (including interest in pools of loans) secured by first mortgage liens on real property. Certificates of deposit purchased from commercial banks shall be limited to an amount equal to twenty percent of a bank's total capital and surplus. Certificates of deposit purchased from savings and loan associations or savings banks shall be limited to an amount equal to twenty percent of an institution's assets minus liabilities.

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

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

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

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

(ii) To combine moneys from more than one fund under borough control for the purchase of a single investment, provided that each of the funds combined for the purpose shall be accounted for separately in all respects and that the earnings from the investment are separately and individually computed and recorded, and credited to the accounts from which the investment 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 contracts and purchases. Any pre-qualification standards shall be reasonably designed to assist council in determining the ability of a bidder to successfully complete a contract or purchase.**

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

Section 176. Section 1402 of the act, amended or added October 4, 1978 (P.L.1022, No.226), April 6, 1980 (P.L.95, No.34), June 26, 1995 (P.L.63, No.12), December 20, 1996

(P.L.1497, No.193) and November 3, 2011 (P.L.381, No.92), is amended to read:

Section 1402. Regulation of Contracts.--(a) All contracts or purchases in excess of the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under subsection (a.2), except those [hereinafter] mentioned[,] **in this section and except as provided by the act of October 27, 1979 (P.L.241, No.78), entitled "An act authorizing political subdivisions, municipality authorities and transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received,"** shall not be made except with and from the lowest **qualified and** responsible bidder after due notice in one newspaper of general circulation [in the borough], at least two times at intervals of not less than three days where daily newspapers of general circulation are available for [such] publication, in case of weekly newspapers, [such] notice once a week for two successive weeks. The first advertisement shall be published not more than forty-five days and the second advertisement not less than ten days prior to the date fixed for the opening of bids. Advertisements for contracts or purchases shall also be posted in a conspicuous place within the borough. Advertisements for contracts and purchases shall contain the date, time and location for opening of bids and shall state the amount of the performance bond determined under subsection (c). The amount of the contract shall in all cases, whether of straight sale price, conditional sale, [bailment] lease, **lease purchase** or otherwise, be the entire amount which the borough pays to the successful bidder or his assigns in order to obtain the services or property, or both, and shall not be construed to mean only the amount which is paid to acquire title or to receive any other particular benefit or benefits of the whole bargain. [In awarding contracts, council shall have the right to take into consideration such other factors as the availability, cost and quality of service.]

(a.1) Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts in excess of the base amount of ten thousand dollars (\$10,000) subject to adjustment under subsection (a.2), but are less than the amount requiring advertisement and competitive bidding or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years. **Written price quotations as used throughout this section shall include electronic mail.**

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

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

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

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

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

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts, for the current year. The sums thereof shall be rounded to the nearest one hundred dollars (\$100) to determine the new final adjusted base amounts for purposes of subsections (a) and (a.1).

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

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

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

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

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



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

(c) The successful bidder when advertising as required herein may, at the discretion of council, be required to furnish a bond **or irrevocable letter of credit or other security** with suitable reasonable requirements guaranteeing the work to be done with sufficient surety in an amount as determined by council which shall be not less than ten percent nor more than one hundred percent of the amount of the liability under the contract within twenty days after the contract has been awarded, unless council shall prescribe a shorter period of not less than ten days, and upon failure to furnish such [bond] **security** within such time the previous award shall be void. Deliveries, accomplishment and guarantees may be required in all cases of expenditures.

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

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

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

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

(3.1) Those for used equipment, articles, apparatus, appliances, vehicles or parts thereof being purchased from a public utility[.], **municipal corporation, county, school district, municipal authority, council of government or Federal or State government ;**

(4) Those involving any policies of insurance or surety company bonds; those made for [public] utility service [under tariffs on file with the Pennsylvania Public Utility Commission] **for borough purposes, including, but not limited to, those made for natural gas or telecommunications services; those made for electricity with the entities set forth in clause 6(i), (ii), (iii), (iv), (v), (vi) and (vii)(A);** those made with another political subdivision, or a county, **or council of government, consortium, cooperative or other similar entity created pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) or** the Commonwealth of Pennsylvania, the Federal Government, any agency of the Commonwealth or the Federal Government, or any municipal authority, including the sale, leasing or loan of any supplies or materials by the Commonwealth or the Federal Government or their agencies. The price thereof

shall not be in excess of that fixed by the Commonwealth, the Federal Government, or their agencies;

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

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

(i) A political subdivision.

(ii) Another state.

(iii) The Commonwealth or an agency thereof.

(iv) The Federal Government.

(v) A private corporation.

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

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

(A) consists solely of Pennsylvania boroughs, such as a consortium, buying group or municipal power agency under section [2471.2] **2404-A**; or

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

(viii) An electric cooperative of another state.

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

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

(f) No person, consultant, firm or corporation contracting with the borough for purposes of rendering personal or professional services to the borough shall share with any borough officer or employee, and no borough officer or employee shall accept, any portion of the compensation or fees paid by the borough for the contracted services provided to the borough except under the following terms or conditions:

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

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

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

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

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

Section 1403. Evasion of Advertising Requirements.--(a) No member or members of council shall evade the provisions of section 1402 hereof as to advertising for bids, by purchasing or contracting for services and personal properties piecemeal for the purpose of obtaining prices under the amount specified or adjusted under section 1402(a) upon transactions, which transactions should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than the amount specified or adjusted under section 1402(a). This provision is intended to make unlawful the evading of advertising requirements by making a series of purchases or contracts, each for less than the advertising requirement price, or by making several simultaneous purchases or contracts, each below said price, when, in either case, the transactions involved should have been made as one transaction for one price. Any members of council who so vote in violation of this provision and who know that the transaction upon which they so vote is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids, shall be jointly and severally subject to surcharge for ten percent of the full amount of the contract or purchase. Whenever it shall appear that a member of council may have voted in violation of this section but the purchase or contract on which [he so] **the member of council** voted was not approved by council, this section shall be inapplicable.

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

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

Section 1404. [Penalty for] Personal Interest in Contracts or Purchases.--[Except as otherwise provided in this act, no borough official either elected or appointed, who knows or who by the exercise of reasonable diligence could know, shall be interested to any appreciable degree either directly or indirectly in any purchase made or contract entered into or expenditure of money made by the borough or relating to the business of the borough, involving the expenditure by the borough of more than one thousand dollars (\$1000) in any calendar year, but this limitation shall not apply to cases where such officer or appointee of the borough is an employee of the person, firm or corporation to which the money is to be paid in a capacity with no possible influence on the transaction, and in which he cannot be possibly benefited thereby either financially or otherwise. But in the case of a member of council or mayor, if he knows that he is within the exception just mentioned he shall so inform council and shall refrain from voting on the expenditure or any ordinance relating thereto, and shall in no manner participate therein. Any official or appointee who shall knowingly violate the provisions of this section shall be subject to surcharge to the extent of

the damage shown to be thereby sustained by the borough and to ouster from office, and shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding one thousand dollars (\$1000), or not exceeding one hundred eighty days' imprisonment, or both] **Elected and appointed borough officials and borough employees shall be restricted from any interest in borough contracts and purchases to the extent provided in 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).**

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

Section 1404.1. Purchase Contracts for Petroleum Products; Fire Company, Etc., Participation.--The council of each borough shall have power to permit, subject to such terms and conditions as it may, and as hereinafter specifically provided, shall, prescribe any paid or volunteer fire company, paid or volunteer rescue company and paid or volunteer ambulance company in the borough to participate in purchase contracts for petroleum products entered into by the borough. Any such company desiring to participate in [such] purchase contracts shall file with the borough secretary a request that it be authorized to participate in contracts for the purchase of petroleum products of the borough and agreeing that it will be bound by [such] **the** terms and conditions as the borough may, and as hereinafter specifically provided, shall, prescribe and that it will be responsible for payment directly to the vendor under each purchase contract. Among [such] **the** terms and conditions, the borough shall prescribe that all prices shall be F.O.B. destination.

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

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

Section 181. Section 1406 of the act, amended October 9, 1967 (P.L.380, No.171), is amended to read:

Section 1406. Bonds for the Protection of Labor and [Materialmen] **Materials**.--[It shall be the duty of every borough to require any person, copartnership, association, or corporation, entering into a contract with such borough for the construction, erection, installation, completion, alteration, repair of, or addition to, any public work or improvement of any kind whatsoever, where the amount of such contract is in excess of one thousand five hundred dollars (\$1,500), before commencing work under such contract, to execute and deliver to such borough, in addition to any other bond which may now or hereafter be required by law to be given in connection with such contract, an additional bond for the use of any and every person, copartnership, association, or corporation interested, in a sum not less than fifty percent and not more than one

hundred percent of the contract price, as such borough may prescribe, having as surety thereon one or more surety companies legally authorized to do business in this Commonwealth, conditioned for the prompt payment of all material furnished and labor supplied or performed in the prosecution of the work, whether or not the said material or labor enter into and become component parts of the work or improvement contemplated. Such additional bond shall be deposited with and held by the borough for the use of any party interested therein. Every such additional bond shall provide that every person, copartnership, association, or corporation, who, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in the prosecution of the work as above provided, and who has not been paid therefor, may sue in assumpsit on said additional bond, in the name of the borough, for his, their or its use and prosecute the same to final judgment for such sum or sums as may be justly due him, them, or it and have execution thereof; provided, the borough shall not be liable for the payment of any costs or expense of any suit.] **Before any contract exceeding ten thousand dollars (\$10,000) is awarded to any prime contractor or construction manager for the construction, erection, installation, completion, alteration, repair of or addition to any public work or improvement of any kind, the contractor shall furnish to the borough a payment bond for the protection of claimants supplying labor or materials to the prime contractor to whom the contract is awarded, at one hundred percent of the contract amount, conditioned for the prompt payment of all materials furnished or labor supplied or performed in the prosecution of the contract under the act of December 20, 1967 (P.L.869, No.385), known as the "Public Works Contractors' Bond Law of 1967." This bond requirement shall be in addition to any other bond requirement that may now or hereafter be required by law to be given in connection with the contract.**

Section 182. Section 1407 of the act is repealed:

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

Every contract for the construction, alteration or repair of any public work or improvement, founded on specifications containing any such stipulation for minimum wage or wages, shall stipulate a penalty of an amount equal to twice the difference between the minimum wage contained in said specifications and the wage actually paid to each laborer or mechanic for each day during which he shall have been employed at a wage less than that prescribed in said specifications.

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

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

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

Section 1410. Acceptance by Contractor of [Workmen's] **Workers'** Compensation Act.--All contracts executed by any borough, or any officer [thereof] **of a borough**, which involves the construction or doing of any work involving the employment of labor, shall contain a provision that the contractor shall accept, insofar as the work covered by [any such] **the** contract is concerned, the provisions of the [Workmen's Compensation Act of 1915,] **act of June 2, 1915 (P.L.736, No.338), known as the "Workers' Compensation Act,"** and the supplements and amendments [thereto] **to the act**, and that the [said] contractor will insure his **or her** liability [thereunder] **under the act and will file with the borough with which the contract is made a certificate of insurance providing evidence of such coverage**, or file with the borough with which the contract is made a certificate of exemption from insurance from the Bureau of [Workmen's] **Workers'** Compensation of the Department of Labor and Industry. **The certificate of exemption from insurance may be issued on the basis of either individual self-insurance or group self-insurance. Additionally, a contractor shall file with the borough with which the contract is made any applications to be excepted by the provisions of the "Workers' Compensation Act" in respect to certain employe s on religious grounds if the applications have been accepted by the Department of Labor and Industry.**

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

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

[Section 1411. Architects and Engineers Employed Prohibited From Bidding on Public Works; Penalty.--It shall be unlawful for any architect or engineer, in the employ of any borough, and engaged in the preparation of plans, specifications or estimates, to bid or negotiate on any public work at any letting of such work by the borough, except that any such architect or engineer who shall have prepared preliminary plans only shall not be prohibited from bidding or negotiating on the final contract for such work.

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

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

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

ARTICLE XV  
EMINENT DOMAIN; ASSESSMENT OF DAMAGES [AND  
BENEFITS]; DAMAGES FOR INJURY TO PROPERTY

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

(a) General Provisions Relating to Eminent Domain

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

Section 1501. Exercise of Eminent Domain.--In the laying out, opening, widening, extending, vacating, grading, or changing the grades or lines of streets; the construction of bridges, and the piers and abutments therefor; the construction of slopes, embankments, and sewers; the erection and extension of [waterworks] **water systems**, wharves, and docks, public buildings, **public auditoriums, memorials, monuments**, public works, filtration plants, sewerage systems, sewage treatment works, [garbage] **refuse disposal or incineration plants, sanitary landfills**, gas plants, electric light plants and libraries; the establishing of parks, playgrounds and recreation places; the changing of watercourses; and for all other purposes authorized by this act, a borough may enter upon, appropriate, injure, or destroy, private lands, property or material, **or lands previously granted or dedicated to public use and which are no longer used for the purpose for which the lands were granted**, according to the proceedings set forth in the law governing eminent domain.

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

(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 is reenacted to read:

(c) Damages for Injury to Property

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

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

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

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

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

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

#### ARTICLE XVI

#### LAND SUBDIVISION]

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

#### ARTICLE XVII

#### STREETS

(a) General Provisions Relating to Streets

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

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

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



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

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

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

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

(iii) a subdivision or land development plan; or

(iv) an individual deed.

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

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

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

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

(8) "Personal notice" shall mean and include notice upon the owner of a premises either by personal service upon [such] **the** owner or by certified mail to [such] **the** owner at [his] **the owner's** last known address, or where service shall not have been successfully made by either of the two methods first mentioned herein, then by leaving such notice at or upon [such] **the** premises.

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

Section 197. Sections 1702 and 1703 of the act are repealed:  
[Section 1702. Right of Borough to Take Over Streets.--Any borough shall have the right at any time to take over, by laying out and/or opening the same--

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

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

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

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

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

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

Section 1704. Streets Connecting With Street of Other Municipality [or Township].--No action shall be taken under this article that would result in the change of location or grade, or the vacation of any street or portion thereof that connects with a street of another municipality [or township], without approval of the court of [quarter sessions] **common pleas** of the county in which [such] **the** municipality [or township] is located, unless [such] **the** municipality [or township] shall itself first file with the borough secretary its approval of [such] **the** proposed action.

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

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

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

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

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

**Section 1708. Street Lighting, Ornamental Lighting and Traffic Control Signals and Devices.--Council may provide street lights and ornamental lighting and make regulations for the 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 is reenacted to read:

(c) Laying Out Streets

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

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

(b) Boroughs may lay out or open:

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

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

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

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

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

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

(c) Within ten days after the second publication of the notice required in subsection (b), any interested party may petition council for a hearing, which council shall hold within

sixty days after the date of the petition. Council shall give at least fifteen days' notice of the hearing in a newspaper of general circulation and by personal notice to persons entitled to such notice under subsection (b). Council may enact the ordinance no later than thirty days following the date of the hearing, or, where no timely petition has been filed, within thirty days of the second publication of the notice required by subsection (b). The enactment of the ordinance shall constitute public notice of the borough's intent to recognize the street within the system of borough streets and the borough's rights in the street. Within thirty days of the enactment of the ordinance, any party aggrieved by council's action may appeal to the court of common pleas.

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

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

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

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

Section 205. Section 1723 of the act is repealed:

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

Section 206. Section 1724 of the act, amended April 28, 1978 (P.L.76, No.36) and repealed in part October 5, 1980 (P.L.693, No.142), is amended to read:

Section 1724. Effect of [Failure to Open Street After its] Laying Out **Street**.--(a) At any time after any street or portion thereof shall have remained laid out but not opened for a period of ten years or longer, any owner or owners of fifty percent of the front feet of the land over which [such] **the** street or portion thereof was laid out may petition the borough council to [remove such street from the plan of streets and to] cancel the laying out [thereof] **of the street**. Council shall thereupon, following at least fifteen days' notice in a newspaper of general circulation [in the borough], and at least fifteen days' personal notice to the owners of all real estate abutting upon the land over which [such] **the** street or portion [thereof] **of the street** was laid out, hold a public hearing on the matter. Council may, on motion, deny the petition, or, by ordinance, grant [such] **the** petition and [remove such street or portion thereof from the borough plan and] cancel the laying out thereof. Any person aggrieved by the decision of the council, either granting or denying [such] **the** petition, may appeal therefrom. **The ordinance providing for the cancellation of the**

laying out of a street shall be filed with the recorder of deeds in accordance with section 1721.2(d).

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

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

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

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

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

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

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

(c) Within ten days after the second publication of the notice required under subsection (b), any interested party may petition council for a hearing, which council shall hold within sixty days after the date of the petition. Council shall give

at least fifteen days' notice of the hearing in a newspaper of general circulation and by personal notice to persons entitled to notice under subsection (b). Council may enact the ordinance no later than thirty days following the date of the hearing or, where no timely petition has been filed, within thirty days of the second publication of the notice required under subsection (b). Within thirty days of the enactment of the ordinance, any party aggrieved by council's action may appeal to the court of 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 Damages and Benefits; Award [Thereof].--(a) Upon the effective date of an ordinance enacted **to open a street or portion of a street** by authority of section 1731 or 1732 [hereof], the borough shall have authority to enter upon and take possession of the street or portion thereof opened by [such] **the** ordinance, if no structures are upon [such] **the** street. If any structure shall have been located upon [such] **the** street or portion [thereof] **of the street** so opened, prior to the laying out of [such] **the** street or prior to the simultaneous laying out and opening [thereof, such] **of the street, the** street shall not be opened until the owner of [such] **the** structure shall have been given sixty days' personal notice to vacate the same. [If any of the parties cannot agree upon damages sustained by reason of the opening of any street or portion thereof, such damages shall be assessed by a jury of view under the provisions of the law governing eminent domain.] Council shall not be required to file any bond or security for the exercise of the right granted by this section.

(b) All parties whose ground is taken in the opening of a street or portion [thereof] **of the street** shall have three years from and after the effective date of the ordinance opening [such] **the** street or portion [thereof] **of the street** in which

to bring an action for damages resulting [therefrom] **from the opening of the street or portion of the street**. In case of the assessment of damages for the opening of any street or portion [thereof] **of the street**, the award of damages, if any, shall include all damages resulting from the grade at which [such] **the street or portion [thereof] of the street** is to be opened; the plan attached to the report of the viewers awarding the damages shall [have therein] **include** a profile plan showing the existing grade as well as the grade to which [such] **the street or portion [thereof] of the street** is to be opened. Any costs and expenses which cannot be assessed upon property benefited shall be paid by the borough.

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

Section 1734. Acceptance and Dedication of Streets.--**(a)**

Any borough may, by ordinance, accept any opened street not previously dedicated to or laid out by the borough, by following the procedure set forth in section 1731 or 1732 [hereof], and the effect of [such] **the acceptance** shall be the same as of opening [such street: Provided, That no] **the street**. No street may be accepted unless [such] **the street** connects with at least one other previously opened street or State highway.

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

Section 1735. Streets Not to Be Constructed, or Dedicated or Opened to Travel Without the Approval of Council.--**(a)** No person shall construct, dedicate, or open to travel any street, or any drainage facilities in connection [therewith] **with the street**, for public use or travel or for the common use of occupants of buildings abutting thereon in any borough, without first submitting suitable plans [thereof] to the council [for its approval. Such] **and obtaining its approval**. The plans shall be prepared in accordance with [such] rules and regulations as may be prescribed by the council, and shall show the profiles of [such] **the street**, the course, structure and capacity of any drainage facilities, and the method of drainage of the adjacent or contiguous territory, and also any other or further details that may be required under the rules or regulations adopted by the council.

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

**(c) Before acting upon [any such] plans not subject to review under subsection (b), [the] council may, at its discretion, arrange for a public hearing after giving such notice as it may deem desirable in each case. [The council is authorized to] Council may alter [such] the plans, and [to] specify [any] changes or modifications of any [kinds, which it may deem necessary with respect thereto,] kind and may make its approval of [such] the plans subject to [any such] alterations, changes or modifications. Any plans, when so approved, shall be signed on behalf of the borough by such officer as the council may designate, and shall be filed where the same shall**

be available to public inspection among the records of the borough at all reasonable times. [No street, or any drainage facilities in connection therewith, shall be constructed or dedicated for public use or travel, except in strict accordance with plans so approved by the council, or with further plans subsequently approved by it in the same manner.

In any case where council has heretofore required or shall hereafter require the construction or improvement of streets or parts of streets, or of any drainage facilities in connection therewith, or the posting of a bond or other security for so doing, within any parts or subdivisions of a borough, as a condition to approval of any plan thereof, and the materials or other specifications for such construction or improvements are required by the borough to be of better quality or type or otherwise superior to and more costly than those of most of the already existing streets and drainage facilities in connection therewith of the borough, or of the particular zone of the borough, in case it has a zoning ordinance, the cost of such construction or improvement shall be allocated and paid in accordance with the provisions of section 1761 of this act, and the submission of a plan shall not be deemed a petition for the construction or improvements so required, but if the borough shall require substantially the same quality or type and specifications of street and drainage facilities as generally exists either in the borough, or, if the borough has a zoning ordinance, in the particular zone involved, the submission of a plan shall be deemed a petition therefor by a majority in the number of feet assessable, properties abutting thereon, and the cost of such constructions and improvements shall be paid in accordance with the provisions of section 1761 of this act under such circumstances: Provided, That council and the person or persons submitting a plan may in all cases, by agreement, provided otherwise as to such costs: And provided further, That this section shall not authorize the recovery or avoidance of any such costs heretofore agreed to or paid. Whenever council requires the construction or improvement of streets or parts thereof, it shall establish or cause to be established the grades of such streets or parts, or shall approve the grades indicated upon the plan submitted before such streets or parts are improved or constructed. Council's approval of plans, whether or not such plans are subject to any such conditions as to streets, parts of streets, or drainage facilities in connection therewith, shall constitute the streets as shown upon the plans so approved as streets of the borough, any plan so approved as filed and as recorded, indicate clearly all such constructions and improvements required to be made, the grades thereof, the materials and other specifications required, and the allocation of cost thereof, as provided by law or as agreed upon.] **No approval of plans by council may obligate or require the borough to construct, reconstruct, maintain, repair or grade any street or drainage facilities associated therewith.**

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



recorded by the person applying for approval in the office of the recorder of deeds in the county.

(e) If any street, or any drainage facilities in connection with the street, shall be opened, constructed or dedicated for public use or travel, except in strict accordance with plans approved by the council, or the court on appeal, as provided in this article, neither the borough council nor any other public authority shall place, construct or operate any sewer, drain, water pipe or other facilities, or do any work of any kind in or upon the street; and neither borough council nor any other public authorities shall have any responsibility of any kind with respect to any such street, or drainage facilities, notwithstanding any use of the same by the public, provided that nothing in this article shall prevent the laying of trunk sewers, drains, water or gas mains, if required by engineering necessity for the accommodation of other territory.

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

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

[Section 1736. Appeal From Refusal of Council.--In any case where the borough council shall refuse to approve any plans submitted to it, any person aggrieved by the action of such council may, within thirty days after such action, appeal from such action, by petition to the court of quarter sessions of the county which court shall hear the matter de novo, and, after hearing, may enter decree affirming, reversing or modifying the action of the council as may appear just in the premises. The court shall designate the manner in which notice of the hearing of any such appeal shall be given to all parties interested. The decision of the court shall be final.

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

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

Any person who shall construct, open or dedicate any street or any drainage facilities in connection therewith, for public use or travel in any borough, without having first complied

with the provisions of sections 1735 and 1736 of this act, or of any borough ordinance adopted pursuant thereto, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1000), or suffer imprisonment not exceeding two years, or both, in the discretion of the court. Nothing herein contained shall be construed to apply to the Department of Highways of the Commonwealth.

(e) Vacating Streets]

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

[Section 1741. Authority to Vacate Streets; Procedure.--Any borough shall have authority, by ordinance, to vacate or close any street or portion thereof previously opened or laid out, but no street or portion thereof providing the sole means of access to any lot or tract of land shall be vacated unless those to whom access would be denied shall consent. No such ordinance shall become effective until forty days after the enactment thereof. Within ten days after the enactment of any such ordinance, the borough shall give written notice by United States certified mail return receipt requested to the personal address to the owners of all property abutting on the street or portion thereof so proposed to be vacated. If any street or portion thereof proposed to be vacated shall be on a recorded plan, the borough shall also give thirty days notice in a newspaper of general circulation in the borough of the proposed vacation directed to all the owners of property abutting on the street or portion thereof proposed to be vacated by name and directed generally to all other owners of property appearing on such plan. In the event any owners of property abutting on the street or portion thereof so proposed to be vacated cannot be found a copy of the ordinance shall be posted on the premises of such property owner within ten days after the enactment of any such ordinance. During such forty-day period between the enactment and taking effect of such ordinance, any interested party may petition council for a hearing, which council shall hold within thirty days after the date of such petition, and of which the borough shall give at least fifteen days' notice in a newspaper of general circulation in the borough. Any such petition shall serve to stay the effective date of such ordinance, until council shall have held such hearing and shall have acted upon such petition by motion, or, in case of further appeal, until the court shall have finally disposed of the matter. After such hearing and within thirty days after action by council upon such petition, any party aggrieved by council's action thereupon may appeal to the court of common pleas.]

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

[Section 1742. Petition for Vacating Street; Action Thereon.--Any person or persons constituting a majority in number and interest of the owners of the real estate abutting upon any street or portion thereof may petition the council to vacate such street or portion thereof. Council shall hold a hearing upon such petition, following at least fifteen days' personal notice to all owners of abutting real estate not joining in such petition, and following at least fifteen days' notice thereof in a newspaper of general circulation in the borough. Following such hearing the council shall either by motion deny such petition or by ordinance vacate such street or portion thereof. All provisions of section 1741 hereof applicable to ordinances enacted by authority of that section shall apply to ordinances enacted by authority of this section:

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

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

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

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

(f) Straightening and Relocating Streets

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

Section 1751. Authority to Straighten and Relocate Streets; Procedure.--[Any borough] **Council** may, by ordinance, provide for straightening [and/or] **or** relocating any street previously opened, involving the opening of a portion of [such] **the** straightened [and/or relocate] **or relocated** street over land not previously a portion of [such] **the** street [and/or] **or** the vacation of a portion of such previously opened street no longer to be used for street purposes. [In such cases, such] **The** straightening [and/or] **or** relocation shall be considered as an 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 owner of non-assessable property, of street intersections and of the deducted frontage on equitable adjustment. At the discretion of the borough council, the total cost of the improvement or a lesser amount, if the borough desires, may be assessed on the assessable properties abutting without any deduction for non-assessable property or street intersections, or for the equitable adjustments aforesaid, if the petition states that the total cost may be assessed on the abutters: Provided, if in connection with such proceedings any street or sidewalk is so graded or changed in grade that private property is damaged thereby and the damages have not been released or agreed upon, then the damages shall be awarded as provided in the law governing eminent domain, and benefits, costs, and expenses in connection with the improvement shall be assessed as provided in article XV: Provided further, That owners of all real estate abutting upon any such improvement shall be assessable for the cost thereof, whether such property owner be a natural person, partnership, association, firm or corporation, including but not limited to any nonprofit corporation or association, and any public utility corporation, or political subdivision, but not including the Commonwealth of Pennsylvania or the United States of America] **in accordance with Article XXI-A.**

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

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

Section 1763. Collection of Assessments.--If any assessment shall remain unpaid at the expiration of the notice, it shall be the duty of the borough solicitor to collect the same, with interest from the time of completion of the improvement, by action of assumpsit, or by a lien to be filed and collected in the same manner as municipal claims. When an owner has two or more lots, against which there is an assessment for the same improvement, all of such lots may be embraced in one claim.]

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

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

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

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

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

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

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

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

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

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

[Section 1772. Proceedings to Improve Boundary Streets by Agreement with Counties and Townships.--Whenever the center line of any street constitutes the dividing line between any borough and a township located in the same county, the borough may enter into a contract with the commissioners of the county and the commissioners or supervisors of the township, as the case may be, to improve such street. Such improvement shall be constructed and subsequent repairs shall be made under the supervision of the borough, and in compliance with the plans to be agreed upon, in writing, between such borough and the commissioners of the county and the commissioners or supervisors of the township. One-half of the cost of such repairs shall be borne by the borough. The borough may assess its share of such costs against the owners of property abutting on the borough's side of such improvement, in the manner provided in section 1761, 1762 and 1763 of this act.

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

Section 1774. Assessment on Property Outside Limits Where Boundary Line Street Entirely Within Borough.--Wherever any street, entirely within the limits of any borough, shall divide

such borough from any other municipality or township, located in the same county, the property on the side of the street opposite the line of the borough shall, for the depth of one hundred and fifty feet, be assessed for municipal improvements on such streets on which such property shall abut, in the manner provided by this article for assessments by the foot-front rule; and such improvements may be made, assessed, and collected in accordance with the provisions of this article for assessments by the foot-front rule.

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

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

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

Section 220. Section 1781 of the act is repealed:

[Section 1781. Use of Abutting Lands for Embankments, Slopes, Fills, and Culverts.--In the improvement of any street or portion thereof, any borough may use as much of the land abutting on the same for the construction of embankments, slopes, fills and culverts, as may be necessary and proper for the completion of the improvement; and the assessment of damages, costs, and expenses, resulting thereby, shall be regarded as other assessments of damages, costs, and expenses, caused by the improvement of streets, in said borough, and shall be assessed and paid, as is provided by the law governing eminent domain.]

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

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

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

(c) The proceedings for the condemnation of [such] **the** view over and across [such] lands and for the assessment of damages for property taken, injured or destroyed, or the portion thereof agreed to be paid by the borough if the taking is jointly with another [borough, city, county or township] **municipality**, shall be taken in the manner provided in the law governing eminent domain.

(d) Upon the purchase or condemnation of a view, the owner of [such] **the** lands may make every [such use thereof] **use of the lands** as will not interfere with a free and unobstructed

view at the dangerous crossing or curve [and, unless specially provided for in such purchase or condemnation proceedings, such purchase or condemnation shall be constructed to prevent the owner thereof from using the land for pasture or the growing of grass, oats, wheat or other crops which will not obstruct the vision more than wheat].

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

#### ARTICLE XVIII

##### SIDEWALKS

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

Section 1801. Power to Lay Out[, Ordain] and Establish Sidewalks and to Compel the Construction Thereof.--Any borough may, **by ordinance**, lay out[, ordain] and establish sidewalks, curbs, gutters and surface water drains along any street, and, with the consent of the Secretary of [Highways] **Transportation** of the Commonwealth, along any State highway, and may, with or without petition, require owners of property abutting on any street or State highway to grade, construct, drain, pave and repave the sidewalk, curb or gutter and keep [the same] **them** in repair, and in safe and usable condition along [such] **the** property, at such grades and under such regulations and specifications as council may prescribe[: Provided, That the]. **The** word "sidewalk" as used in this article, shall mean and include the portion of a street located outside the cartway, and may include paved footway, unpaved grassplot, curb and gutter.

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

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

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

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

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

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

All [such] notices shall be served upon the owner of the premises to which the notice refers, if [such] **the** owner is a resident of the borough. If the owner is not a resident, then the notice may be served upon the agent or tenant of the owner, or upon the occupant of [such] **the** premises[, after such

premises, if]. **If** the owner has no agent or tenant or there is no occupier of [such] **the** premises, then service shall be by notice posted upon the premises. **The notice required by this section shall specify a period of time of not less than thirty days for the owner to complete the specified work. If the work has not been completed after the specified time has elapsed, the owner shall be deemed to have failed to comply.**

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

Section 1806. Emergency Repairs to Sidewalks.--In addition to the remedies now vested in boroughs to make repairs to sidewalks, any borough shall have power to make emergency repairs to any sidewalks [thereon, where, in the opinion of the officer or head of the department or committee lawfully having charge of sidewalk repairs, a dangerous condition exists that can be repaired by an expenditure of not more than five hundred dollars (\$500)] **within the borough if an inspection of the sidewalk discloses that, and a certificate made by the officer or head of the department or committee lawfully having charge of sidewalk repairs specifies that, a dangerous condition exists that can be repaired by an expenditure of not more than one thousand dollars (\$1,000).** Before [any such] repairs are made, a notice to make the repairs within forty-eight hours shall be served upon the owner of the [said] property. If the owner cannot be served within the county, notice may be served upon the agent of the owner or the party in possession, or if there is no agent or party in possession, the notice may be served by posting the same upon [such] **the** premises.

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

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

ARTICLE XIX  
BRIDGES, VIADUCTS AND UNDERGROUND  
PASSAGEWAYS

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

Section 1901. Construction or Acquisition and Maintenance of Bridges and Viaducts.--Any borough may locate and build, or acquire by purchase, condemnation or otherwise, any bridge or viaduct and the piers, approaches and abutments therefor, to be used and thereafter improved and maintained as a street, over any river, creek, stream, railroad or public or private property or over and across a combination of any of them, whether [such] **the** bridge or viaduct shall be wholly **or partly** within[, or partly within and partly without] the borough limits. The proceedings for laying out and opening [any such] **a** bridge or viaduct shall be the same as provided by this act for the laying out and opening of streets, and [any such] **the**



bridge or viaduct or portion [thereof] **of the bridge or viaduct** may thereafter be vacated under the same procedure as provided in this act for the relocation or vacation of streets or portions thereof.

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

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

Section 1904. Contracts With Railroads and Other Companies and With Counties.--The borough may also enter into a contract with the county commissioners, and also with railroads, street railways, and other companies, or parties interested, for the building and maintenance of [such] bridges or viaducts, and for the payment of any damages caused by the location or erection thereof. [Such] **The** contracts may stipulate that the borough, county, railroad company, street railway, or other company or party interested, shall pay a certain part of the contract price of the work, including damages; or may stipulate that each shall construct a certain portion of the work, and may provide otherwise for the payment of damages.

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

Section 1905. Overhead and Underground Passageways.--Whenever the comfort and safety of the residents of any borough and any adjoining municipality [or township] be enhanced by any overhead or underground passageway connecting with adjoining streets in either borough or municipality [or township], and extending to any plant or place of business where residents of [such] **the** borough are employed, [such] **the** borough may jointly with each adjoining municipality [or township], construct and maintain any [such] passageway or they may join with other interests in the construction and maintenance [thereof] **of the passageway.**

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

ARTICLE XX  
SANITARY SEWERS

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

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

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

**(2) Boroughs may determine the location and the manner in which sanitary sewer systems shall be constructed.** Sanitary sewers laid and constructed in streets may be located in the center of the street or [on either side of the cartway] **in the right-of-way** or [of] the curb lines [thereof] **of the street** in any street and may be for the service and use of properties on both sides of the street or on only one side of the street in which they are laid, as directed by the borough council[, and the costs and expenses of such sanitary sewers may be assessed against properties benefited, accommodated or improved thereby regardless of the property line location, and regardless of whether any portion of a property so benefited, accommodated or improved shall physically abut upon such sanitary sewer. The term "sanitary sewer,"]. **Boroughs shall have the authority to lay out and construct sanitary sewers in any street, any portion of which is within the limits of the borough, and which forms a portion of the boundary dividing the borough from any other municipal corporation within the same county, in the same manner and to the same extent as if the whole of the street was within the limits of the borough.**

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

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

**(2) Where construction beyond the limits of the borough is entirely within the limits of a State or county highway or the turnpike, a sanitary sewer may be constructed in or under the State or county highway, or turnpike, provided that written notice is given to the Department of Transportation, county commissioners or Pennsylvania Turnpike Commission, respectively,**

and its consent obtained before construction is commenced. Permission shall not be unreasonably withheld.

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

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

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

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

(4) require that property owners provide means other than the public sanitary sewers for disposal of storm, surface and roof water originating or accumulating upon their property. Violations of the ordinance may be enforced by penalties.

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

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

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

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

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

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

[Section 2003. Assessment by Foot-front Rule.--Where a borough constructs sanitary sewers and desires to assess the costs and expenses thereof by the foot-front rule, it may by ordinance provide that the expenses shall be assessed against the property benefited, improved or accommodated by any sanitary sewer, whether or not such property abuts upon such sewer, by the foot-front rule and may provide for equitable assessments and/or adjustments when special conditions exist where an assessment for the full frontage would be unjust. The secretary of the borough shall cause thirty days' notice of the assessment to be given to each party assessed, either by service on the owner or his agent, or left on the assessed premises.]

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

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

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

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

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

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

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

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

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

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

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

Section 2010. Notice of Certain Ordinances.--No ordinance for any construction of sewers or treatment works beyond the limits of the borough, shall be [adopted] **enacted** until notice [thereof] **of the ordinance** has been given, by publication of the proposed ordinance, once a week for four weeks in one newspaper of general circulation [in the borough], and also by serving copies of [such] **the** proposed ordinance upon all land owners through whose land [such] **the** sewer is to pass, or on whose lands any treatment works are to be located, at least ten days before [final action thereon. But no notice, as herein

provided, shall be required where such construction beyond the limits of a borough is entirely within the limits of any street or State highway. In such cases a written notice shall be given to the corporate authorities of the municipality or township having jurisdiction over such street and consent of the State Department of Highways shall be obtained in the case of any State highway, before construction is commenced] **the enactment of the ordinance.**

Section 235. Section 2011 of the act is repealed:

[Section 2011. Security for Damages; Assessments.--Before entry shall be made upon private property without the owner's consent, for the purpose of laying any sewer or constructing any treatment works, security for all damages which may be done shall first be given to such owner in such form and in such amount as the court of common pleas of the county may direct. All damages caused by the construction of any such sewer or works, or by the taking of lands and materials, shall be ascertained in the manner provided in the law governing eminent domain for property taken, injured, or destroyed, and shall be paid out of the borough treasury.]

Section 236. Sections 2012 and 2013 of the act are amended to read:

Section 2012. Unlawful to Build Within Right-of-Way of **Sanitary Sewers.**--It shall be unlawful for any person to erect any building or make any improvement, within the right-of-way of any **sanitary** sewer laid out [or ordained to be laid out], after due notice [thereof;] **of the laying out of the sanitary sewer**, and, if any [such] erection or improvement shall be made, no allowance shall be had [therefor] **for the building or improvement** in the assessment of damages.

Section 2013. Opening **Sanitary Sewers.**--(a) If any borough shall lay out [or ordain] any **sanitary** sewer, over or under private property, located in whole or in part within the limits of [such] **the** borough, and proceedings to open the same and to assess the damage arising therefrom shall not be proceeded with by the borough, within two years from the enactment of the ordinance, the whole proceeding shall be void.

(b) **If any borough has laid out a sanitary sewer without the enactment of an ordinance prior to the effective date of this subsection and shall have not opened the same, the proceedings shall not be deemed to be void but the borough shall have two years from the effective date of this subsection to open the sanitary sewer or the whole proceeding shall be void.**

Section 237. Article XX subdivision (b) heading and section 2021 of the act are amended to read:

(b) Joint **Sanitary** Sewers

Section 2021. [Building Joint Sewers.--(a) Boroughs may jointly with other cities, boroughs or townships build and construct sanitary sewers, including trunk line sewers or drains and sewage treatment works, and may connect into such system existing sanitary sewers, and may assess their respective portions of the cost thereof, or so much thereof as may be legally assessable, upon property benefited, improved, or accommodated by the improvement, either by viewers or by the foot-front rule as provided in this article. Any portion of the cost of such improvement not assessed or not assessable shall be paid by the respective cities, boroughs, and townships joining, as may be agreed upon.] **Joint Sanitary Sewer Systems.**--(a) Pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation), boroughs may contract with other municipal corporations providing for the joint

construction or maintenance of sanitary sewer systems and for the joint construction onto existing sanitary sewer systems. The agreement shall provide for the apportionment of costs among the municipal corporations. The borough council may assess the borough's respective portion of the costs, as may be legally assessable, upon property benefited by the facilities pursuant to Article XXI-A. Any portion of the cost not assessed or assessable shall be paid by the respective municipal corporations under the agreement.

(b) The [boroughs, cities and townships] **municipal corporations** joining or contemplating joining in any [such] improvement, in order to facilitate the building of the [same] **sanitary sewer system** and in securing preliminary surveys and estimates, may by ordinance provide for the appointment of a joint **sanitary** sewer board composed of one representative from each of the [boroughs, cities, and townships] **municipal corporations** joining which shall act generally as the advisory and administrative agency in the construction of [such] **the** improvement[,] and its subsequent operation and maintenance. [The members of such] **Members of the joint sanitary sewer** board shall serve for terms of six years each from the dates of their respective appointments and until their successors are appointed. The **joint sanitary sewer** board shall organize by the election of a [chairman] **chair**, secretary, and treasurer. The secretary and treasurer may be the same person. The [several boroughs, cities, and townships] **municipal corporations** may in the ordinances creating the **joint sanitary sewer** board, authorize the board to appoint an engineer, a solicitor, and [such] other assistants as are deemed necessary, and agree to the share of the compensation of [such] **those** persons each [borough, city, and township,] **municipal corporation** is to pay. The members of the **joint sanitary sewer** board shall receive [such] compensation for attending **board** meetings [of the board] as [shall be fixed] **established** in the budget[,] **that is** prepared by the **joint sanitary sewer** board [for submission to, and adoption by, the several boroughs, cities, and townships, as hereinafter provided,] and **submitted to and adopted by the municipal corporations. The members** shall be entitled to actual expenses to be paid by the respective [boroughs, cities and townships which such] **municipal corporations the** members represent.

(c) The **joint sanitary sewer** board [shall have powers to] **may** adopt rules and regulations **consistent with the requirements of this act** to govern its proceedings, and shall prepare and suggest any practical measures and plans by which the joint improvement may be carried to successful completion[;] and plan the future development of the system, so as to conform to a general plan. It [shall have power to] **may** prepare a joint agreement or agreements for submission to and adoption by the [several boroughs, cities and townships] **municipal corporations** defining the advisory and administrative powers of the **joint sanitary sewer** board[;] and setting forth the consents of the [several boroughs, cities and townships] **municipal corporations** to the proposed improvement; the manner in which preliminary and final plans, specifications and estimates for the proposed improvement shall be prepared and adopted; how proposals for bids shall be advertised and contracts let; the manner in which the costs of the improvement and other incidental and preliminary expenses in connection [therewith] **with the improvement**, and the future cost of operation and maintenance

shall be equitably shared, apportioned and paid; and all [such] other matters, including the preparation and submission of annual and other budgets, as may be deemed necessary or required by law[, to carry] **to complete** the proposed improvement [to completion] and to assure future maintenance and operation thereof. [But nothing herein contained shall authorize the board to make any improvement or expend any public moneys which has not first been authorized by all the boroughs, cities and townships] **The board may not make any improvement or spend any public moneys which have not first been authorized by all of the municipal corporations** proceeding with the improvement.

(d) [In any case where it shall be] **When it is** necessary to acquire, appropriate, injure, or destroy private property[, lands, property, or material] to build [any such] **a joint sanitary sewer system or** improvement[, and the [same] **property** cannot be acquired by purchase or gift, the right of eminent domain shall vest in the [borough, city, or township] **municipal corporation** where [such] **the** property is located. [In any case where it shall be] **When it is** necessary to acquire, injure, or destroy property in any territory not within the limits of any of the [boroughs, cities, or townships] **municipal corporations** joining in the improvement, then the right of eminent domain shall be vested in [any borough, city, or township] **the municipal corporation** adjacent to [such] **the** territory where [such] **the** property is located **subject to 26 Pa.C.S. § 206 (relating to extraterritorial takings)**. Damages for any property taken, injured, or destroyed shall be assessed [as provided by the general laws relating to the boroughs, cities and townships] **under laws relating to the municipal corporation** exercising the right of eminent domain[;] and shall be paid by the [several boroughs, cities and townships] **municipal corporations** joining[, in the same proportion as other costs of the [improvement] **improvements**.

(e) Each of the boroughs joining in [any such] **the** improvement shall have power to incur or increase its indebtedness, not exceeding the constitutional limits, for the purpose of paying its share or portion of the cost of [such] **the** improvement in the manner now provided by law for the incurring of indebtedness.

Section 238. Section 2022 of the act is repealed:

[Section 2022. Approval of Sanitary Water Board.--No such sewer or sewage treatment plant shall be constructed until plans and specifications have been submitted to the Sanitary Water Board, and approved in accordance with provisions of existing laws.]

Section 239. Sections 2023, 2024 and 2025 of the act are amended to read:

Section 2023. Connections with **Sanitary** Sewers of Adjacent Municipalities.--Any borough may connect with an existing **sanitary** sewer, owned by any adjacent municipality [or township,] for sewerage purposes[, in the manner prescribed in [the following sections of this subdivision of this article] **sections 2024, 2025 and 2026**.

Section 2024. Applications to Court.--Whenever any borough shall desire to connect with the existing **sanitary** sewer of any adjacent municipality [or township,] and no agreement, either upon the basis of a rental payment for the use of an existing **sanitary** sewer or a division of the cost of the construction or maintenance [thereof] **of the sanitary sewer**, has been reached between [such] **the** borough and the adjacent municipality [or township], an application shall be made by council to the court

of [quarter sessions] **common pleas** of the county **where the proposed connection is to be located**, setting forth that fact.

Section 2025. Appointment of Viewers.--If the court shall be of the opinion that [such] **the** connection can be made without impairing the usefulness of the existing **sanitary** sewer, it shall appoint three viewers, who shall view the premises and investigate the facts of the case, and shall assess the proportionate part of the expense of building the original **sanitary** sewer upon [such] **the** borough, and shall fix the proportion of the expense for repairs which each municipality [or township] shall thereafter bear, and determine all other questions liable to arise in connection [therewith] **with the sanitary sewer**.

Section 240. Section 2026 of the act, repealed in part June 3, 1971 (P.L.118, No.6), is amended to read:

Section 2026. Report of Viewers; Appeals to Court.--The viewers shall report to the court the result of their investigation, which report shall be confirmed within thirty days unless exceptions [thereto be] **are** filed. After confirmation of [such] **the** report, or the disposal of any exceptions, any party interested may appeal from the decision of the court of [quarter sessions] **common pleas**.

Section 241. Article XX subdivision (c) heading and sections 2031 and 2032 of the act are repealed:

[ (c) Power to Supply Sewerage Service Outside Borough Limits

Section 2031. Power to Supply Service.--Whenever any borough is maintaining and operating a sewerage system and sewage purification or treatment works, it shall be lawful for such borough to supply sewerage service to municipalities, townships, persons and corporations, outside the limits of such borough, and to enter into contracts for such service, at rates not less than those required to be paid by persons and corporations within the limits of such borough; but no such privilege shall conflict with the rights of any sewer company, or the rights of any other borough.

Section 2032. Power to Extend Lines and Condemn Property.--For the purpose of supplying such sewerage facilities, any such borough may extend the necessary sewer mains and pipes beyond the limits of such borough, to the points where such sewage is to be collected and received, and shall have the power to enter upon and condemn such lands, property and materials for the construction of such sewer mains, and pipes, as may be necessary to the furnishing of such sewerage service.]

Section 242. (Reserved).

Section 243. Article XX subdivision (d) heading of the act is amended to read:

(d) Acquisition of [Sewer] **Community Collection or Disposal** Systems

Section 244. Section 2041 of the act is repealed:

[Section 2041. Power to Acquire Sewer Systems.--Any borough, in which any person or persons, firm, or corporation are maintaining sewers and culverts, with the necessary inlets and appliances for surface, under surface and sewage drainage, or in which any person or persons, firm or corporation are maintaining a community sewage collection or disposal system as defined in section 2043 of this act, may become the owner of such sewers, culverts, inlets and appliances, or the owner of such community collection or disposal system, by purchase or by the exercise of the power of eminent domain, or by gift from the owner or owners thereof.]

Section 245. The act is amended by adding a section to read:



**Section 2041.1. Power to Acquire Community Collection or Disposal Systems.--(a)** A borough may, by ordinance, acquire ownership of a community sewage collection or disposal system as defined in section 2043 by purchase or 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 community sewage collection or disposal system 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 246. Section 2042 of the act is repealed:

[Section 2042. Assessment of Damages.--In case of disagreement, the amount to be paid shall be ascertained in the manner provided in the law governing eminent domain. In the same proceeding, the viewers shall assess the costs and expenses of the sewer, culverts, inlets and appliances, or of the sewer collection, or disposal system, acquired by the borough, upon the property benefited, according to benefits, if sufficient can be found; but, if not, then the deficiency when ascertained shall be paid by the borough.]

Section 247. Section 2043 of the act is amended to read:

**Section 2043. Community Sewage Collection or Disposal Systems.--(a)** For the purpose of this subdivision, a community sewage collection or disposal system is all or part of a device or devices installed on any privately or publicly owned parcel of land, intended to treat or dispose of the sewage or equivalent volume of domestic sewage from two or more residences, buildings or occupied parcels of land, or any system of piping used in collection and conveyance of sewage on private or public property.

**(b)** After a community sewage collection or disposal system has been acquired under the provisions of this subdivision by the borough, the council shall have the power to enlarge [such] **the** system if it deems it advisable. In such cases, the cost and expenses of [such] **the** enlargement may be distributed or assessed in the same manner as if the enlargement was a regular sewer constructed by the borough under other provisions of this act.

**(c)** Whenever a community sewage collection or disposal system is [or shall have been] established or constructed within a borough by a private owner or owners, and the borough council is thereafter empowered by ordinance to acquire the ownership of the sewage disposal system so established, or when [any such] **the** system has been enlarged by the borough, [such] **the** acquisition and ownership shall be subject to the following provisions of this subsection:

**(1)** When the person or persons having established or constructed a community sewage collection or disposal system, or when more than one-half the number of the owners of properties which are connected with, have a right to use and are using a community collection or disposal system, enter into an agreement with the borough for the acquisition of the system by the borough, [such] **the** agreement shall be considered a valid agreement by the owners of the sewage collection or disposal system and a transfer of ownership to the borough.

**(2)** The borough shall operate and maintain any sewage collection or disposal system acquired and any enlargement or addition thereto for the use of persons having acquired from the borough or from the former owner or owners the right to use the system, and for the use of other owners of property

accessible thereto up to the capacity of the sewage collection or disposal system.

(3) All persons whose property connects with the sewage collection or disposal system acquired or constructed by the borough shall pay to the borough treasurer, a monthly, quarterly, semi-annual or annual charge prescribed by a resolution of the council. The amount of the charges shall not be in excess of the estimated amount necessary to maintain and operate the system and to establish a reserve fund sufficient for its future replacement.

(4) All sewer rentals or charges imposed by the council against properties connected with a community sewage collection or disposal system under the provisions of this section shall constitute liens against the properties and may be collected in the same manner as other sewer charges.

(5) All moneys received from the sewer charges shall be deposited as a special reserve fund, and shall be used only for the payment of the cost of operating and maintaining the sewage collection or disposal system and the replacement [thereof] **of the collection or disposal system**, if necessary and economically desirable. If at any time after the acquisition or enlargement of the **community** sewage system, a regular sewer system is made available by the borough for connection with the properties using the community sewage collection or disposal system, the owners of [such] **the** properties shall be subject to the other provisions of this act relating to sewers, and all money at that time in the reserve fund which was received from charges for the use of that particular sewage collection or disposal system, and which is over and above the amount expended for the operation and maintenance of that particular sewage collection or disposal system, shall be used towards the payment of any sewer assessments charged against [such] **the** properties under other sections of this act.

**(d) Nothing in this section may be construed to supersede the requirements of the act of January 24, 1966 (1965 P.L.1535, No.537), known as the "Pennsylvania Sewage Facilities Act."**

Section 248. Article XX subdivision (e) heading and section 2051 of the act are amended to read:

(e) Connection and Use of **Sanitary** Sewers

Section 2051. Ordinances to Require **Sanitary** Sewer Connections.--Any borough may, by ordinance, require any owner of property, benefited, improved or accommodated by a sanitary sewer, to make connections with [such] **the** sanitary sewer, in [such] **the** manner as the borough may order, for the purpose of discharge of [such] drainage or waste matter as the borough may specify. **All connections required shall be uniform. The owner shall be given at least forty-five days' notice of any ordinance requiring a sanitary sewer connection and, upon failure of the owner to make the connection, the borough may make the connection and collect the cost from the owner by a municipal claim or by an action of assumpsit.** The borough may by penalties enforce any [regulation] **ordinance** it may [ordain] **enact** with reference to any sanitary sewer connections.

Section 249. Section 2052 of the act is repealed:

[Section 2052. Notice of Ordinances; Failure to Comply With Ordinance.--The owner shall be given at least forty-five days' notice of any ordinance requiring such sewer connection, and, upon failure of such owner to make such connection, the borough may make the same, and collect the cost thereof from the owner by a municipal claim or in an act of assumpsit. All connections required shall be uniform.]

Section 250. Section 2053 of the act is amended to read:

Section 2053. Tapping Fees.--Any borough may by ordinance provide for charging a tapping fee whenever the owner of any property connects [such] **the** property with a sanitary sewer system constructed or acquired by the borough **provided that the tapping fee is calculated in accordance with 53 Pa.C.S. § 5607 (relating to purposes and powers)**, which fee shall be in addition to any charges assessed and collected against [such] **the** property in the construction or acquisition of [such] **the** sanitary sewer by the borough. Whenever a sanitary sewer system or any part or extension [thereof] **of a sanitary sewer system**, owned by a borough, has been constructed by the borough at the expense of a private person or corporation or has been constructed by a private person or corporation under the supervision of the borough at the expense of the private person or corporation, the borough shall have the right to charge a tapping fee **calculated in accordance with 53 Pa.C.S. § 5607** and refund [said] **the** tapping fee or any part [thereof] **of the fee** to the person or corporation who has paid for the construction of [said] **the** sanitary sewer system or any part or extension [thereof] **of the sanitary sewer system in accordance with 53 Pa.C.S. § 5607**. The total of [said] **the** refunds shall never exceed the cost of [said] **the** system or any part or extension [thereof] **of the system** to the person or corporation paying for the construction [thereof] **of the system or any part or extension of the system**. In any case, where the property connected or to be connected with the sanitary sewer system of the borough is not equipped with a water meter the borough may install [such] a meter at its own cost and expense. If the property is supplied with water from the facilities of a public water supply agency, the borough shall not install [such] **a** meter without the consent and approval of the public water supply agency.

Section 251. Section 2054 of the act is repealed:

[Section 2054. Regulations and Restrictions in Use of Sanitary Sewers.--Any borough in which there is any public sanitary sewer or sewer system shall have authority, by ordinance, to make regulations and restrictions pertaining to the use of such sewer or sewer system. Such regulations and restrictions: (i) may specify materials and/or substances which may or may not enter the public sewer or sewer system; (ii) may require that certain types or classes of waste be subjected to treatment or to grinding or other reduction in size before entering into the sewer; (iii) may restrict the quantity of waste material that may enter a sanitary sewer from any premises within any time interval; and (iv) may require that property owners provide means other than the public sanitary sewers for disposal of storm, surface and roof water originating or accumulating upon their property.]

Section 252. Article XX subdivision (f) heading of the act, amended July 13, 1988 (P.L.521, No.91), is reenacted to read:

(f) Monthly, Quarterly or Annual Rentals

Section 253. Sections 2061, 2062 and 2063 of the act, amended July 13, 1988 (P.L.521, No.91), are amended to read:

Section 2061. Ordinance for Monthly, Quarterly or Annual Rental.--Whenever any borough shall have constructed any sanitary sewer, sewer system or sewage treatment works, or shall have acquired wholly or partially the same at public expense, as authorized in this article, the [council of such] borough **council** may provide, by ordinance, for the collection of a monthly, quarterly or annual rental or charge **or a fixed sum**,

for the use of [such] **the** sanitary sewer, sewer system or sewage treatment works, from the owner of property served by it. [The council may, at its discretion, in lieu of such monthly, quarterly or annual rental or charge, provide for the payment by such owner of a fixed sum.]

Section 2062. How Rental Fixed.--[Such] **The** monthly, quarterly or annual rental may include the amount expended monthly, quarterly or annually by the borough in maintenance, repair, alteration, inspection, depreciation, or other expense, of [such] **the sanitary** sewer, sewer system or sewage treatment works, and may include interest on money expended or borrowed by the borough in the construction of the **sanitary** sewer, sewer system or sewage treatment works, or in the acquisition, enlargement or extension of the **sanitary** sewer or sewer system, and may also include an amount sufficient for the amortization of debt incurred by the borough for [any such] **those** purposes, including the construction of sewage treatment works according to law. The [said] monthly, quarterly or annual amount or fixed sum shall be apportioned equitably among the [several] properties served by the [said] **sanitary** sewers, sewer system or sewage treatment works.

Section 2063. Collection of Rental.--[Such] **The** monthly, quarterly or annual rental or charge, or [such] **the** fixed sum, shall be authorized and collected as provided by general ordinances, and, when so levied and charged, shall be a lien on the properties charged[. The collection thereof shall be made and enforced in the manner municipal claims are collected.] **from the date set forth in the ordinance. If the rental, charge or fixed sum is not paid after thirty days' notice, it may be collected by an action of assumpsit, in the name of the borough against the owner of the property charged, or by a lien filed in the nature of a municipal lien.**

The **borough** council [of such borough] shall execute a warrant or warrants, authorizing the collection of [such] **the** monthly, quarterly or annual sewer rentals or charges, or [such] **the** fixed sum, to the officer employed by council to collect the same. [Such] **The** officer shall have the authority now vested by law for the collection of borough taxes.

Section 254. Section 2064 of the act, amended July 13, 1988 (P.L.521, No.91), is repealed:

[Section 2064. Lien.--Such monthly, quarterly or annual sewer rentals or charges, or such fixed sum, shall be a lien on the properties charged with the payment thereof, from the date set forth in the ordinance, and, if not paid after thirty days' notice, may be collected by an action of assumpsit, in the name of the borough against the owner of the property charged, or by distress of personal property on the premises, or by a lien filed in the nature of a municipal lien.]

Section 255. Article XX subdivision (g) heading, sections 2071 and 2072, Article XXI heading and sections 2101, 2102, 2103, 2104 and 2105 of the act are repealed:

[ (g) Sewers on Boundary Streets

Section 2071. Power to Lay and Construct.--Boroughs shall have authority to lay and construct sewers in any street, any portion of which is within the limits of the borough, and which forms a portion of the boundary dividing the borough from any other city, borough, or township within the same county, in the same manner and to the same extent as if the whole of said street was within the limits of the said borough.

Section 2072. Assessment of Benefits.--The property benefited, improved or accommodated, which is located outside

the limits of the borough constructing such sanitary sewers, shall, for a depth of one hundred fifty feet, be assessed for the cost of such sewer, in the same manner as such property would be assessed, under the laws of the Commonwealth, if it were entirely located within the limits of such borough, if such property is given permission to use such sanitary sewer and is not, at the time such sanitary sewer is constructed, provided with sanitary sewer facilities.

#### ARTICLE XXI

#### COLLECTION BY INSTALMENT OF STREET AND SEWER ASSESSMENTS

Section 2101. Authority for Instalment Payments.--Whenever any borough shall authorize the construction or acquisition of any sanitary sewer or system of sanitary sewers, or the improvement of any street or portion thereof, and the entire cost, or any part thereof, shall be assessed against the properties benefited, improved or accommodated by such sewer or system of sewers, or abutting upon such street or portion thereof, such borough may authorize the payment of such assessment in equal annual, or more frequent instalments. Such instalment payments may be authorized by a general ordinance applicable to all sanitary sewers or systems thereof and/or all streets thereafter acquired, constructed or improved, as the case may be, or by one or more specific ordinances applicable to a specific sewer, system of sewers or street or portion thereof. Every such ordinance shall specify the length of time over which such instalments may be extended and whether payments are to be made by annual or more frequent instalments. All such instalments shall bear interest, as provided in the applicable ordinance, at a rate not to exceed six percent, commencing at such time as may be fixed or regulated by ordinance: Provided, That where bonds shall have been issued and sold in the manner provided by law, to provide for the payment of any street improvement, such assessments shall be payable in equal instalments during the term for which such bonds are issued, and the expenditures for such improvements, and interest thereon to the first day when interest is payable on such bonds, shall be taken as the cost of such improvement to be assessed on the property benefited.

Section 2102. Entry of Liens.--Claims to secure the assessments shall be entered in the prothonotary's office of the county at the same time and in the same form and shall be collected in the same manner as municipal claims are filed and collected, notwithstanding the provisions of this article on instalment payments.

Section 2103. Assessments; Where Payable.--Such assessments shall be payable at the office of the borough treasurer, or such other place as the ordinance shall provide, in semi-annual or annual instalments, with interest at the rate provided from the date from which interest is computed on the amount of the assessments.

Section 2104. Default in Payment of Instalment.--In case of default in the payment of any instalment and interest for a period of sixty days after the same shall become due, the entire assessment and accrued interest shall become due; and the borough solicitor shall proceed to collect the same under the general laws relating to the collection of municipal claims.

Section 2105. Payments in Full.--Any owner of property, against whom any such assessment shall have been made, may pay the same in full, at any time, with interest and costs thereon to the due date of the next instalment, and such payment shall discharge the lien.]

Section 256. The act is amended by adding an article to read:

#### ARTICLE XXI-A

##### ASSESSMENTS AND CHARGES FOR PUBLIC IMPROVEMENTS

###### Section 2101-A. Authority to assess.

(a) General rule.--Borough council shall have the power to pay the cost, in whole or in part, of any and all public improvements of all natures and descriptions, including, but not limited to, the grading, building, paving, regrading, rebuilding and repaving of streets as defined in section 1701, the creation, extension, renovation or enlargement of water mains and sewage collection, transmission, treatment and disposal systems and the creation, extension and renovation of storm, surface and subsurface drainage systems, the construction, reconstruction and repair of wharves and docks, the installation of ornamental street lighting or the planting, removal, maintenance and protection of shade trees by any of the following methods:

(1) from general borough funds;

(2) from special borough funds created for that purpose;

or

(3) by assessment of costs against the benefited properties either on the front foot or benefit conferred method of assessment.

Except as provided in subsection (c), the costs and expenses of sanitary sewers may be assessed against properties benefited, accommodated or improved regardless of the property line location and regardless of whether any portion of a property so benefited, accommodated or physically improved abuts upon the sanitary sewer.

(b) Payment of indebtedness.--

(1) If a borough that incurs authorized indebtedness pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) for the purposes of funding the cost and expense of making public improvements for which assessments can be made in accordance with this article, payments made on the assessment must be applied to pay the debt service for the indebtedness incurred for funding the cost and expense of making the public improvement.

(2) Notwithstanding section 2107-A, when bonds are issued in a manner provided by law and an assessment is to be paid in installments, the assessment shall be payable in equal installments during the term for which the bond is issued, and the cost of the improvement plus interest beginning the first day when interest is payable on the bond shall be the cost of the improvement to be assessed on a property.

(c) Property outside borough.--Property benefited, improved or accommodated which is located outside the limits of the borough that constructed a sanitary sewer may, if located no more than 150 feet from the sewer main, be assessed for the cost of the sewer in the same manner as the property would be assessed under the laws of this Commonwealth if it were entirely located within the limits of the borough, if the property is given permission to use the sanitary sewer and is not, at the time the sanitary sewer is constructed, provided with sanitary sewer facilities.

(d) Water mains.--Boroughs shall have power to assess the whole cost or any part of the cost of construction of new water mains built in connection with the establishment or extension of a municipally owned water supply system, even if the mains are located outside the limits of the borough, and that serve

abutting properties, against the properties abutting the boundary line. The borough may provide that the assessment be rebated to the owner of the assessed property out of rates charged for water consumed in serving the assessed property. The borough may also issue a negotiable credit memorandum in the amount of the assessment which may be used for the payment of any water service to the extent of the assessment.

Section 2102-A. Notice of assessments.

The borough secretary shall cause 30 days' personal notice of the assessment to be served upon each property owner assessed. If a certificate is required to be filed with council relating to the public improvement as otherwise provided in this act, then a copy of the certificate shall accompany the notice. "Personal notice" as used in this article shall mean and include notice upon the owner of a property either by personal service upon the owner or by certified mail to the owner at the owner's last known address, or where service, after a reasonable attempt, shall not have been successfully made by either of these two methods, then by leaving notice at or upon the property.

Section 2103-A. Assessment based on front foot basis.

(a) General rule.--If borough council elects to collect the cost, including any administrative fees, of any improvement on the front foot basis, the cost to be collected shall be divided by the total number of linear feet of street frontage of each property benefited and there shall be assessed against each property that portion of the cost which is determined by multiplying the dividend of the prior calculation by the number of linear feet for street frontage of that property.

(b) Certificate of assessment.--Council shall issue a certificate of assessment when assessing on the front foot basis, duly certified under the seal of the borough and attested by the president of council and secretary. The certificate of assessment shall be prima facie evidence in any suit for recovery of the same of the correctness and validity of the assessment.

(c) Adjustments in assessments.--Notwithstanding subsection (a), council may make equitable adjustments for corner lots, lots of irregular shape, or, where special conditions exist, where an assessment for full frontage would be unjust.

Section 2104-A. Assessment of benefits conferred.

(a) General rule.--In lieu of the front foot basis, borough council may elect to have the benefits of public improvements assessed, in whole or in part, upon property benefited, improved or accommodated by assessing an equal assessment on the properties benefited, improved or accommodated in proportion to the total cost of construction of the improvement. The amount of the charge on each property shall be determined by borough council.

(b) Certificate.--Council shall issue a certificate of assessment when assessing benefits upon property benefited, improved or accommodated, duly certified under the seal of the borough and attested by the president of council and secretary. The certificate of assessment shall be prima facie evidence in any suit for recovery of the same of the correctness and validity of the assessment.

Section 2105-A. Assessment awards.

In proceedings to assess benefits, if the land or property is both benefited and damaged by the public improvements, the excess of damages over benefits, or the excess of benefits over damages, or nothing in case the benefits and damages are equal, shall be awarded to or assessed against the owner of land and

property affected thereby. Damages shall be calculated pursuant to 26 Pa.C.S. (relating to eminent domain).

Section 2106-A. Petition for viewers.

(a) Petition.--Taxpayers of the borough whose property is being assessed for benefits for a public improvement may present a petition to the court of common pleas stating that the assessment insufficiently represents the benefits accruing to abutting, benefited or accommodated properties and may include in the petition a request for the appointment of viewers to assess benefits provided that at least 50% of the taxpayers whose parcels are abutting, benefited or accommodated by the public improvement in question join the petition or provided that taxpayers whose property valuation as assessed for taxable purposes within the borough amounts to at least 50% of the total property valuation of the properties being assessed for the public improvement join the petition. The petition must be presented within three months of the adoption of the resolution or enactment of the ordinance levying the assessment.

(b) Viewers.--The court shall appoint three disinterested viewers, none of whom shall be a resident of that portion of the borough that is benefited or accommodated by the public improvement in question, and the viewers shall proceed under this act and 26 Pa.C.S. (relating to eminent domain) for the assessment of damages and benefits by viewers. Upon the filing of the petition by taxpayers for the appointment of viewers, any assessment made by the borough council and any proceedings shall be stayed pending the disposition of the petition by the court.

Section 2107-A. Payment of assessments in installments.

(a) Installments.--Whenever any ordinance is passed providing for a public improvement the expense of which is to be defrayed by an assessment against properties benefited by the improvement, either by the front foot or benefit conferred methods, the ordinance shall specify the length of time over which the installments may be extended and whether payments are to be made by equal annual or more frequent installments. If the provisions of section 2101-A(b)(2) and this subsection conflict, the provisions of section 2101-A(b)(2) shall prevail to the extent of the conflict.

(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.

(b) Payment location.--Assessments, whether paid one time or by installments, shall be payable at the office of the borough treasurer or any other place as the applicable ordinance shall provide.

Section 257. Article XXII heading of the act is reenacted to read:

ARTICLE XXII  
STORM SEWERS AND WATER COURSES

Section 258. Sections 2201, 2202, 2203 and 2204 of the act are amended to read:

Section 2201. Authority of Boroughs.--Any borough may, by ordinance, after [a permit shall have been obtained from the Water and Power Resources Board, and from the Federal Government, where required] **obtaining any required permit from the Department of Environmental Protection, or other Federal or State entity, do the following:**

(1) Widen and deepen any water course running through or within the borough, erecting [such] dykes, retaining walls and embankments along the [same] **water course** as may be necessary to prevent the water from overflowing the banks [thereof];

(2) Confine and pave any water course or portion thereof, other than a navigable stream;

(3) Engage in channel improvement through the construction and maintenance of storm sewers and the accumulation and discharge of water [thereinto] **into storm sewers;**

(4) Vacate or alter the course or channel of any water course, other than a navigable stream;

(5) **Acquire, operate and maintain areas for the infiltration, detention or retention of storm water and for other methods of storm water management authorized by the Department of Environmental Protection.**

For any of [such] **these** purposes, a borough may enter upon and condemn [such] property and materials as may be necessary. No borough may confine and pave, vacate or alter any water course used by any municipality, municipal authority or water company as a source of supply, unless [such] **the** municipality, municipal authority or water company shall first consent to [such] **the** confining and paving, vacation or alteration.

Section 2202. Right of Entry Upon Lands.--Any borough may enter upon any land lying near any water course, and secure such material as may be necessary for the purpose of making and repairing the embankments along [such] **the** water course, when the same cannot be obtained by contract at reasonable price. [Such] **The** boroughs shall cause no unnecessary damage to the owners of [such] **the** land, and shall repair any fences [which they may injure], **structures or damage to the land that is caused by the borough, and shall compensate the owner, either by agreement or in accordance with the law governing eminent domain, for any materials obtained pursuant to this section.**

Section 2203. Manner of Financing Work.--[The costs and expenses of any work authorized under section 2201 of this act may be paid wholly or in part by the borough from any moneys of the borough available for the purpose, with or without the

assistance of the county, State or Federal Government, or the whole or any part of such costs and expenses not thus aided may be assessed, according to benefits as prescribed in article XV of this act, against properties located within the drainage area of such water course and benefited, improved or accommodated thereby.] **A borough may pay for the costs and expenses of any 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) and (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, when the utility bonds mature or at any time prior, the borough may issue and sell utility bonds for the purposes of refunding the outstanding bonds. The refunding bonds shall be issued as utility bonds pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing). The issued bonds shall not be deemed to be the creation of new obligations but be deemed a continuation of the bonds existing or created at the time of the original acquisition of [said waterworks and the appurtenances thereto] the water system.**

[Such] **(b) The** bonds shall not be refunded for a longer period than twenty years, and the refunding lien bonds issued shall not bear interest at a rate exceeding six percent[, and the]. **The** amount of **the issued** refunding lien bonds[, so issued,] shall not exceed, in the aggregate, the amount of the bonds to be refunded[: Provided, That], **provided that** any moneys placed in any fund by the borough or by any commission of [waterworks] **the water system** for the purpose of redeeming or paying [such] **the** bonds at maturity, shall be first applied to the payment, as far as applicable, of the principal of [such] **the** bonds to be refunded, and the balance of [such] **the** bonds only shall be refunded by the issue of new bonds.

Section 262. Section 2405 of the act is repealed:

[Section 2405. Rates in Particular Boroughs.--Whenever the schedule of water rates in any borough, owning or controlling waterworks, shall have been fixed or limited by special act of Assembly, the borough may change the rates schedule or rates from time to time.]

Section 263. Sections 2406, 2407, 2408 and 2409 of the act are amended to read:

Section 2406. Contracts to Supply Water for Municipal Purposes.--Boroughs may receive bids from water companies and municipal authorities, authorized to do business within [such] **the** borough, and from other municipalities operating [waterworks or distributing water] **a water system**, for the supply of water for fire protection and for other municipal purposes, and may contract [therefor] **for the supply of water** with [such] **the** company.

Section 2407. Power to Supply Water Beyond Limits of Borough.--Whenever any borough is maintaining [waterworks] **a water system**, it shall be lawful for [such] **the** borough to supply water to persons and corporations outside the limits of [such] **the** borough[; but no such], **but shall be subject to any applicable approval or regulation imposed by 66 Pa.C.S. Pt. I (relating to Public Utility Code). The** privilege shall not conflict with the corporate rights of any water company, or the rights of any other municipality or municipal authority.

Section 2408. Assessment for Water Mains.--Boroughs shall have power to assess the whole cost, or any part of the cost, of construction of new water mains, built in connection with the establishment or extension of a municipally owned water supply system **in accordance with Article XXI-A**, whether [such mains be] **the mains are** located within or without the limits of the borough[, and serving the properties abutting thereon, against the properties abutting along the line thereof, by the foot-front rule, and to collect such assessments as other

municipal claims are now by law collectible: Provided, That the assessment may be rebated to the owner of the property assessed, out of rates charged for water consumed in serving the property so assessed: And provided further, That the borough may issue negotiable credit memorandum to the amount of the assessment, which may be used for the payment of any water service to the extent of the said assessment].

Section 2409. Sale of [Waterworks.--] **Water System.--(a)**

By ordinance, a borough may sell all or part of its [waterworks and/or water distribution] **water** system to a purchaser at [such] **an agreed upon** price [as the parties may agree upon], and thereafter for all purposes that price shall be deemed to be the purchaser's original cost less accrued depreciation of the plant at the date of purchase[: Provided, That no]. **No** such ordinance, **however**, shall take effect until the expiration of ten days following its enactment and if, within [such] **that** ten-day period, a protest, signed by at least ten percent of the registered electors of the borough [shall be] **is** filed with the borough council, [such] **the** sale shall be stayed pending a referendum on the ordinance.

**(b)** The borough secretary within five days following the filing of [such] **the** protest, shall certify to the county board of elections a copy of the ordinance and the fact of the protest, together with the number of signers [thereof] **of the protest**, and the county board of elections shall direct a referendum to be held on the matter at a special election to be held at the time of the next general or municipal or primary election occurring not less than sixty days from the date of [such] **the** certification by the borough secretary. [Such] **The** referendum shall be conducted by the county board of elections in the manner provided by the Pennsylvania Election Code for the holding of special elections. The ballot used when voting upon the question shall contain a question stating the nature and purpose of the ordinance and providing that a "yes" vote shall be to sustain the ordinance and a "no" vote shall be to reject it. If more electors vote to sustain the ordinance than to reject it, [such] **the** ordinance shall take effect immediately[; if]. **If** more electors shall vote to reject the ordinance than to sustain it, [such] **the** ordinance shall be null and void and shall not take effect.

Section 264. Article XXIV subdivision (a)(2) heading of the act is renumbered to read:

[(2)] **(a.1)** Acquisition by Eminent Domain

Section 265. Sections 2411 and 2412 of the act are amended to read:

Section 2411. Appropriation of Lands and Waters.--Any borough desiring to [erect waterworks,] **build a water system** or to improve its water supply[, ] may appropriate springs, streams, rivers, or creeks and lands, easements and rights of way, within or without its limits[, and, for], **provided that if the appropriation is outside its limits, the appropriation shall be in compliance with 26 Pa.C.S. § 206 (relating to extraterritorial takings)**. **For** the purpose of conducting water obtained outside [the] **its** limits [of the borough,] **a borough** may lay pipes under and over any lands, rivers, streams, bridges, highways and under railroads. No water appropriated under the provisions of this section shall be used in [such] **a** manner as to deprive the owner [thereof] **of the water** of the free use and enjoyment of the same for domestic or farm purposes. **The exercise of the powers in this section shall be**

**subject to any required approvals or permits from the Department of Environmental Protection or other Federal or State entity.**

Section 2412. Agreements as to Damages; Bonds.--Prior to any [such] appropriation **pursuant to section 2411**, the borough shall attempt to agree with the owner as to the damage done, or likely to be done[, and, if]. **If** the parties cannot agree, the borough shall [file its bond in the court of common pleas, conditioned for the payment to the owner of the property of the damages for the taking thereof, when the same shall have been ascertained. Upon the approval of the bond and filing thereof, the borough may enter upon such property.] **proceed pursuant to 26 Pa.C.S. (relating to eminent domain).**

Section 266. Section 2413 of the act is repealed:

[Section 2413. Appointment of Viewers; Proceedings.--Upon petition of either the property owner or borough, at any time thereafter, the court shall appoint three viewers from the county board of viewers, who shall assess the damages for the property or rights appropriated, and shall fix a time for their meeting, of which notice shall be given to all parties interested. The proceedings for the assessment of damages shall be as provided in the law governing eminent domain.]

Section 267. Article XXIV subdivision (a)(3) heading of the act is renumbered to read:

[(3)] **(a.2)** Acquisition by Purchase after Appraisement

Section 268. Sections 2421, 2422 and 2423 of the act are amended to read:

Section 2421. Petition to Court Expressing Desire to Acquire [Waterworks] **a Water System**.--Whenever any person, firm, or corporation [shall own] **owns** any [waterworks or] **water** system, and a borough is desirous of owning and operating [such waterworks or] **the water** system, [such] **a** borough may present its petition to the court of common pleas of the county **where the water system is located**, setting forth that the borough is desirous of owning [such waterworks or] **the water** system, and that it will be necessary to issue bonds, and that a value should be placed upon [such waterworks or] **the water** system, including all property, real and personal, used in connection therewith.

Section 2422. Appointment of Engineers as Appraisers to Make Valuation.--The court shall [thereupon] appoint three civil engineers as appraisers, to value and appraise [such waterworks or] **the water** system, and the property used in connection [therewith] **with the water system**, and the contracts or agreements with municipalities [or townships, who]. **The civil engineers** shall file their report in the court within three months after their appointment, unless [such] **the** time [be] **is** extended by the court.

Section 2423. Powers of Appraisers.--The appraisers shall have access to the books and records of the person, firm, or corporation owning [such waterworks or] **the water** system, to inform themselves as to the income and value [thereof] **of the water system**. They shall have power to administer oaths and are authorized to take the testimony of witnesses. Their report shall be final if not appealed from.

Section 269. Section 2424 of the act, repealed in part June 3, 1971 (P.L.118, No.6), is amended to read:

Section 2424. Appeal from Appraisement.--Within ten days after notice of the filing of any report in court, either party may appeal from [such] **the** appraisement **by filing a petition for a hearing before the court**, alleging an undervaluation or overvaluation of the property[, and praying for a hearing before

the court]. The court shall [thereupon] fix a time when [such] **the** appeal may be heard, [of which time at least ten days' notice shall be given to the parties] **giving at least ten days' notice to the parties**, and, upon such hearing, the court shall have power to affirm or modify [such] **the** report as to it appears just and proper.

Section 270. Sections 2425 and 2426 of the act are amended to read:

Section 2425. Effect of Failure of Owner of Works to Accept Price Fixed.--After the value is finally determined, the borough is authorized to buy [such waterworks or] **the water** system at the valuation so fixed[; and the]. **The** person, firm, or corporation owning the [same] **water system** shall, within ten days after notice, file in court its consent to sell and convey its [waterworks or] **water** system and property to the borough at the valuation fixed[;] and, in default [thereof, such] **of the filing of the consent, the** person, firm, or corporation shall cease to have any exclusive privilege of supplying the borough, or the citizens [thereof] **of the borough**, with water, and the borough may install [such waterworks or] **the water** system as may be necessary for the accommodation of the public.

Section 2426. [Issue of Bonds] **Bond Issue and Limitations**.--For the purpose of [such purchase] **purchasing a water system**, the borough may issue utility bonds in the manner provided by [the Municipal Borrowing Law.] **53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing)**. **The bonds shall not exceed in amount the value fixed by the appraisers or the court. The proceeds of the sale of the bonds shall be used exclusively for the purpose of paying for the property acquired.**

Section 271. Section 2427 of the act is repealed:

[Section 2427. Limit of Bond Issue.--Such bonds shall not exceed in amount the value fixed by the appraisers or the court. The proceeds of the sale of such bonds shall be used exclusively 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 board] **the commission** shall serve for terms of six years each from the dates of their respective appointments and until their successors are appointed. The commission shall organize by the election of a [chairman] **chair,** secretary and treasurer. The secretary and treasurer may be the same person. The [several boroughs, cities and townships] **municipal corporations** may in the ordinances creating the commission authorize it to appoint an engineer, a solicitor and [such] other assistants as are deemed necessary and agree to share the compensation for attending its meetings as shall be fixed in the budget prepared by the commission and submitted to and adopted by the [several boroughs, cities and townships] **joining municipal corporations.** The budget item providing for the compensation to the members for attending meetings shall not exceed five hundred dollars (\$500) per year, but members in addition thereto shall be entitled to actual expenses to be paid by the respective [boroughs, cities and townships which such] **municipal corporations that the** members represent. The fee for each attendance at meetings shall be stipulated and no member shall be paid a fee for any meeting [he] **the member** does not attend.

Section 277. Article XXIV subdivision (a)(6) heading of the act is renumbered to read:

[(6)] **(a.5) Condemnation of Lands for Road Purposes and to Prevent Contamination**



Section 278. Sections 2441 and 2442 of the act are amended to read:

Section 2441. [Overflowing Roads] **Prevention of Contamination of Water Supply**; Acquisition of Lands to Reconstruct Roads.--[Whenever any borough, in supplying water to the public, shall find it necessary, in storing water] **(a) If a borough finds it necessary, when storing water for supply to the public,** to occupy and overflow [with water] portions of any public road **with water,** or whenever any public road leads into or crosses over any reservoir used for the storage of water, the borough shall [cause such road to be reconstructed, at its own expense, on a favorable location, and in as perfect manner as the original road, and, for such purposes is authorized to condemn land, whenever an agreement as to the price cannot be had with the owners.], **at its own expense, reconstruct or build a road in a favorable location and it shall be in the same or better condition as the original road. A borough is authorized to condemn land for these purposes if an agreement as to price cannot be reached with the landowner. A condemnation of land outside the borough limits shall be in conformity with 26 Pa.C.S. § 206 (relating to extraterritorial takings).**

**(b) A borough may acquire, by purchase or condemnation, land along and contiguous to streams of water or reservoirs from which water is taken for public use if necessary to preserve the water from contamination.**

Section 2442. Filing Maps and Plans.--[After such] **If a change is made pursuant to section 2441(a),** the borough shall file in the court of [quarter sessions of the county] **common pleas** a map or plan showing [such] **the** change of road, and **if the road is outside the limits of the borough, it** shall furnish to the [supervisors or other authorities of the township, or municipal corporation] **governing body of the municipal corporation,** a copy of [such] **the** map.

Section 279. Sections 2443 and 2444 of the act are repealed:

[Section 2443. Condemnation of Lands to Prevent Contamination.--Any borough may acquire, by purchase or condemnation, such land along and contiguous to the streams of water or reservoirs from which water is taken for public use, as may be necessary to preserve the same from contamination.

Section 2444. Condemnation Proceedings.--The damages incurred in changing the location of any such public road, and in condemning land to preserve water from contamination, shall be ascertained in the manner provided in the law governing eminent domain, and shall be paid by the borough.]

Section 280. Article XXIV subdivision (a)(7) heading of the act is renumbered and amended to read:

[(7)] **(a.6) Commission of [Waterworks] the Water System**

Section 281. Sections 2451 and 2452 of the act, amended July 11, 1996 (P.L.549, No.97), are amended to read:

Section 2451. Commission May Be Established.--Whenever any borough owns and maintains [waterworks] **a water system,** there may be established in [such] **the** borough, by ordinance, a commission of [waterworks] **the water system,** which shall have the power of a nonprofit corporation, to be composed of either three or five citizens of the borough, appointed by the borough council who shall be known as commissioners of [waterworks] **the water system.** At any time after three years from the first appointment of the commissioners of [waterworks] **the water system,** the borough may abolish [such] **the** commission by repealing the ordinance establishing the same[, and therefore],

**which shall terminate** the terms of the commissioners then in office [shall terminate].

Section 2452. Terms of Commissioners; Compensation.--(a) [It] **If a borough establishes a commission of the water system**, it shall be the duty of the borough council to appoint [such] **the** commissioners of [waterworks] **the water system**. If there are three commissioners, one shall be appointed to serve for one year, one for two years, and one for three years[;], and annually thereafter, the council shall appoint one commissioner of [waterworks] **the water system** to serve a term of three years. If there are five commissioners, one shall be appointed to serve for one year, one for two years, one for three years, one for four years and one for five years[;], and annually thereafter, the council shall appoint one commissioner of [waterworks] **the water system** to serve a term of five years. [The terms of commissioners of waterworks in office on the effective date of this act shall terminate on the effective date of this act.] In case of a vacancy, the council shall fill the same for the unexpired term. [Such] **The** commissioners of [waterworks] **the water system** may receive a salary for their services and shall be reimbursed by the borough for all expenses necessarily incurred in the performance of their [duty] **duties**.

(b) The salary of the commissioners shall not exceed in service areas with fewer than five thousand metered accounts a maximum of one thousand eight hundred seventy-five dollars (\$1875) per year or one hundred fifty-six dollars and twenty-five cents (\$156.25) per month; in service areas with five thousand but fewer than ten thousand metered accounts, a maximum of two thousand five hundred dollars (\$2500) per year or two hundred and eight dollars and thirty-three cents (\$208.33) per month; in service areas with ten thousand but fewer than fifteen thousand metered accounts, a maximum of three thousand two hundred and fifty dollars (\$3250) per year or two hundred and seventy dollars and eighty-three cents (\$270.83) per month; in service areas with fifteen thousand but fewer than twenty-five thousand metered accounts, a maximum of four thousand one hundred and twenty-five dollars (\$4125) per year or three hundred and forty-three dollars and seventy-five cents (\$343.75) per month; in service areas with twenty-five thousand but fewer than thirty-five thousand metered accounts, a maximum of four thousand three hundred seventy-five dollars (\$4375) per year or three hundred sixty-four dollars and fifty-eight cents (\$364.58) per month; and in service areas with thirty-five thousand or more metered accounts, a maximum of five thousand dollars (\$5000) per year or four hundred and sixteen dollars and sixty-seven cents (\$416.67) per month.

Section 282. Sections 2453, 2454, 2455, 2456, 2457 and 2458 of the act are amended to read:

Section 2453. Organization of Commissioners.--It shall be the duty of the commissioners of [waterworks] **the water system** to meet within ten days after their first appointment, and annually thereafter, and organize by electing a president and secretary.

Section 2454. Powers of Commission.--After organization, the commissioners shall take charge and control of the [waterworks] **water system** of [such] **the** borough. The commission shall have power to appoint all necessary officers and agents, and take from [them such] **the officers and agents** security for the faithful performance of their [duty] **duties** as [they] **the commission** shall deem proper[; and], to fix the salaries and wages of [such] **the** officers and agents[;], to provide for the

repair, extension, improvement and maintenance of [such waterworks] **the water system**, and the [erection] **construction** of a new [waterworks;] **water system**, to collect water rents and to make and establish the rates and conditions upon which water will be furnished to applicants [therefor], **subject to any applicable approval, regulation or control imposed by 66 Pa.C.S. Pt. I (relating to Public Utility Code)** and to make bylaws and regulations for the economic and efficient management of [such waterworks] **the water system**, which shall not be inconsistent with any of the laws of the Commonwealth, or the rules and regulations of the [Sanitary Water Board or the Water and Power Resources Board of the Commonwealth] **Department of Environmental Protection**. No such bylaws or regulations shall become effective until they have been approved by the borough council and enacted as ordinances of the borough.

Section 2455. Issue of Bonds.--The borough may, upon the request of the commissioners of [waterworks] **the water system**, issue general obligation or non-debt revenue bonds for the extension of the [waterworks] **water system** or the erection of a new [waterworks. Such] **water system**. The bonds shall be designated ["waterworks] **"water system bonds"** and shall be issued and sold in the manner provided by [the Municipal Borrowing Law] **53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing)**.

Section 2456. Plans and Specifications for the Improvements; Contracts.--The commissioners shall prepare plans and specifications of all work to be performed and materials necessary for the repair, maintenance, and extension of [such waterworks] **the water system**, or the [erection] **construction** of a new [waterworks; and] **water system**. The commissioners shall, after plans and specifications for the extension or the [erection] **construction** of [waterworks have] **a water system has** been submitted to and approved by the [Sanitary Water Board] **Department of Environmental Protection**, and a permit granted [therefor by the board] **as may be required by law**, invite proposals for the performing of [such] **the** work and the furnishing of [such] materials[;], and shall **advertise for bids as required by law, and shall** let contracts [therefor] to the lowest responsible bidder, and shall take adequate security for the performance of all such contracts **and for the payment of all labor and materials**.

Section 2457. Reports by Commission.--The commissioners shall make a monthly report to the borough council of the receipts and disbursements during the preceding month, and annually make a detailed report of the condition of the [waterworks, which shall be published or otherwise made available by the council for the information of the public.] **water system. Both the monthly and annual reports shall be deemed to be public records.**

Section 2458. Care of Funds.--[The commissioners shall cause all moneys collected to be deposited weekly, by the collectors,] **Collectors shall be appointed by the commissioners, pursuant to section 2454, who shall collect all moneys for water rents. The moneys collected shall be deposited weekly** with the borough treasurer, who shall return a receipt [therefor] to the commissioners. All moneys [so] collected shall be kept in a separate fund, and shall be used for the purpose of repairing, maintaining and extending [such waterworks] **the water system**, and the [erection] **construction** of a new [waterworks] **water system**. All moneys remaining after [such] **the** expenditures shall be used **solely** for the payment of any indebtedness on [said

waterworks] **the water system** and any indebtedness incurred by the borough for constructing, maintaining, improving, enlarging or extending [said waterworks] **the water system**. [Said moneys shall be used for no purpose other than as provided in this section.] No money shall be drawn from [such] **the** fund except upon order countersigned by the president and secretary of the commission.

Section 283. Article XXIV subdivision (a)(8) heading of the act is renumbered to read:

[(8)] **(a.7)** Water Connections

Section 284. Sections 2461, 2462 and 2463 of the act are amended to read:

Section 2461. Ordinances to Require Water Connections.--[Any borough supplying water for the use of the public within such borough, in any manner mentioned in section 2401 of this act,]

**(a) Borough council** may, by ordinance, require any owner of property [abutting upon any street in which there is a water main constructed or acquired by the borough, to make connections with such water line, for the purpose of conducting water to such property. The borough may by penalties enforce any regulation it may ordain with reference to such water connections.] **to connect with and use a water system of the borough or municipal authority or a joint water board in either of the following cases:**

(1) Except as provided in subsection (b), if the property owner's principal building is located within one hundred fifty feet of a water system or any part or extension of the system.

(2) If the property owner's principal building has no supply of water which is safe for human consumption.

(b) A property owner who, after the effective date of this subsection, is subject to mandatory connection pursuant to subsection (a)(1) shall not be required to connect to the water system pursuant to that subsection if all of the following conditions exist:

(1) The water system or part or extension of the system that is within one hundred fifty feet of the principal building was in existence on the effective date of this subsection.

(2) The principal building has its own supply of water which is safe for human consumption.

(3) Prior to the effective date of this subsection, the property owner was not required to connect to the existing system.

(c) A borough may also require any owner of property to install and maintain a backflow prevention device based on the degree of potential hazard of the connected property in accordance with the act of November 10, 1999 (P.L.491, No.45), known as the "Pennsylvania Construction Code Act," and regulations promulgated thereunder .

(d) A borough may assess penalties for the violation of ordinances pertaining to water connections or backflow prevention devices.

Section 2462. Notice of Ordinance; Failure to Comply With Ordinance.--The owner shall be given at least forty-five days' notice of any ordinance requiring [such] **a** water connection, and, upon failure of [such] **the** owner to make [such] **the required** connection, the borough may make the [same] **connection**, and collect the cost [thereof] from the owner by a municipal claim or in an action of assumpsit. All connections required shall be uniform.

Section 2463. Water Main Tapping Fees.--Any borough may, by ordinance, provide for charging a tapping fee **calculated in**

accordance with 53 Pa.C.S. § 5607 (relating to purposes and powers) whenever the owner of any property connects [such] the property with a water main constructed or acquired by the borough[, which]. **The tapping** fee shall be in addition to any charges assessed and collected against [such] **the** property in the construction or acquisition of [such] **the** water main by the borough. Whenever a water main or part or extension [thereof] owned by a borough has been constructed by the borough at the expense of a private person or corporation or has been constructed by a private person or corporation under the supervision of the borough at the expense of the private person or corporation, the borough shall have the right to charge a tapping fee **calculated in accordance with 53 Pa.C.S. § 5607** and refund [said] **the** tapping fee or any part [thereof] **of the tapping fee** to the person or corporation who has paid for the construction of [said] **the** water main or any part or extension [thereof]. The total of [said] **the** refunds shall never exceed the cost of [said] **the** system or any part or extension [thereof] to the person or corporation paying for the construction [thereof].

Section 285. Article XXIV subdivision (b) heading of the act is repealed:

[ (b) Manufacture and Supply of Electricity]

Section 286. Section 2471 of the act, amended December 16, 1992 (P.L.1215, No.158), is repealed:

[Section 2471. Manufacture and Purchase of Electricity.--Any borough may manufacture or purchase electricity for the use of the inhabitants of such borough. Any borough owning or operating electric light plants may make contracts for supplying electricity for commercial purposes outside the limits of such borough, with the consent of the municipal and township authorities. Nothing in this section shall conflict with the corporate rights of any corporation empowered to supply electricity in territory adjacent to such boroughs, or with the rights of any other borough. No person, firm, or corporation shall introduce electric current for light, heat, or power purposes, without the consent of the borough authorities, into the limits of any borough which is furnishing electric current to the inhabitants: Provided, however, That this section shall not apply to any person, firm, or corporation manufacturing electricity exclusively for its own use: And provided further, That any borough which constructs an electric light plant, or purchases the property of any person, copartnership, or electric light company, and incurs debt for any of such purposes, shall incur such debt in accordance with and to the extent permitted by the act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act." Nothing in this act shall be construed so as to disallow any borough from operating a cable television system.]

Section 287. Sections 2471.1 and 2471.2 of the act, added December 30, 1982 (P.L.1465, No.333), are repealed:

[Section 2471.1. Operation of Electric Plants.--(a) The following words and phrases when used in this section shall have, unless the context clearly indicates otherwise, the meanings given to them in this subsection:

(1) "Project" means any electric plants, hydroelectric plant works, system, facilities, or real or personal property, together with all parts thereof and appurtenances thereto, used or useful in connection with the generation, production, transmission, purchase, sale, exchange or interchange of electric power or energy, or any interest therein or right to capacity thereof.

(2) "Revenue bond" means an instrument imposing an obligation for the repayment of money borrowed, payable as to both principal and interest exclusively from the income and revenues derived from an interest in an electric light plant or project.

(b) A borough may own, construct, acquire by lease, purchase or otherwise gain an interest as co-owner or tenant in common and operate and manage or cause to be operated and managed an electric light plant or project located within or without this Commonwealth jointly with any other borough, political subdivision, subdivision of the Federal Government, State, 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," or electric cooperative corporation in another state.

(c) A borough which jointly owns, constructs, leases, purchases or otherwise gains an interest in an electric light plant or project shall have the power to do and accomplish all actions reasonably necessary and incident to the administration, operation and management of the plant or project. This power shall be vested in the corporate authorities: Provided, however, That a borough shall not become a stockholder in, obtain or appropriate money for or loan its credit to any corporation, association, institution or individual or otherwise act contrary to the provisions of section 9 of Article IX of the Constitution of Pennsylvania. In addition to the powers enjoyed by all boroughs, a borough which gains an interest in an electric light plant or project under subsection (b) shall have the following powers:

(1) to cooperate with private power companies, other boroughs, electric cooperative corporations and other public or private electric power entities, inside and outside of this Commonwealth, in the development of electric power and energy;

(2) to make such studies as may be necessary to determine the feasibility and cost of any additional sources and supplies of electric power and energy;

(3) to contract for the purchase, sale, exchange, interchange, wheeling, pooling or transmission of electric power and energy or for the right to the capacity thereof, inside and outside of this Commonwealth, to and from any public or private power entities, private power companies, other boroughs and electric cooperative corporations;

(4) to procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as the corporate authorities deem desirable;

(5) to contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from any other source;

(6) to grant the use, by lease or otherwise, and to make charges for the use, of any property or facility owned or controlled by it;

(7) to procure from the United States of America or any agency or instrumentality thereof, or from any state or agency or instrumentality thereof, any consents, authorizations or approvals which may be requisite to enable ownership, operation, construction or repair;

(8) to borrow money and from time to time to issue revenue bonds, and to enter into agreements with the purchasers of such revenue bonds; and

(9) to mortgage any property acquired or owned under subsection (b) to secure the payment of its revenue bonds, or other obligations issued to finance such acquisition, ownership or repair.

(d) In the erection and extension of an electric light plant or project under subsection (b) and for all other purposes authorized by this act, a borough 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 borough 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 the borough.

(e) A borough which gains an interest in an electric light plant or project under subsection (b) may fix, establish, maintain and collect or authorize by contract or otherwise the establishment, levying and collection of such rates, fees, rental or other charges, including connection charges, for the services afforded by or in connection with any properties which it constructs, erects, owns, acquires, operates or manages, and for the sale or transmission of electric energy and power as it may deem necessary, proper, desirable and reasonable.

(f) A borough which gains an interest in an electric light plant or project under subsection (b) may pay all or part of the cost therefor from the revenues derived from the sale of revenue bonds issued in the manner provided by the act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act."

(g) Interest and principal paid on revenue bonds issued by a borough under subsection (f) shall be exempt from all State taxes of whatsoever kind or nature.

Section 2471.2. Municipal Power Agencies.--(a) The following words and phrases when used in this section shall have, unless the context clearly indicates otherwise, the meanings given to them in this subsection:

(1) "Municipal power agency" means a separate body politic and corporate under the laws of the Commonwealth of Pennsylvania created by agreement between or among two or more boroughs pursuant to this section.

(2) "Project" means any electric plant or plants, hydroelectric plant works, system, facilities or real or personal property, together with all parts thereof and appurtenances thereto, used or useful in connection with the generation, production, transmission, purchase, sale, exchange or interchange of electric power or energy, or any interest therein or right to capacity thereof.

(3) "Revenue bond" means an instrument imposing an obligation for the repayment of money borrowed, payable as to both principal and interest exclusively from the income and revenues derived from an interest in an electric light plant or project.

(b) Any two or more boroughs may form a municipal power agency by the execution of any agency agreement authorized by a resolution of the corporate authorities of each borough. Such agency agreement shall state:

(1) The name of the agency, which shall include the words "municipal power agency."

(2) The names of the boroughs which have approved the agency agreement and are initial members of the municipal power agency.

(3) That the municipal power agency is created pursuant to the authority granted by this act.

(4) The names and addresses of the persons initially appointed by the corporate authorities to act as representatives to the municipal power agency from the member boroughs.

(5) The limitations, if any, placed on the powers or terms of representatives appointed by the corporate authorities of the member boroughs.

(6) The names and addresses of the initial board of directors of the municipal power agency, if known by the time of filing, which shall be constituted by not less than five persons who are representatives of the member boroughs, selected by the vote of a majority of such representatives.

(c) The agency agreement referred to in subsection (b) and a certified copy of the resolution of the corporate authorities of each borough shall be filed for record with the Secretary of the Commonwealth. If the agency agreement meets the requirements of this subsection, the Secretary of the Commonwealth shall record it and issue and record a certificate of incorporation which shall be conclusive proof of a substantial compliance with the requirements of this subsection. The certificate shall state the name of the municipal power agency and the fact and date of incorporation. Upon the issuance of the certificate of incorporation the existence of the municipal power agency as a political instrumentality of the Commonwealth shall begin.

(d) The bylaws of the municipal power agency and any amendments thereto, shall be proposed by the board of directors and shall be adopted by a majority vote of the representatives of the member boroughs, unless the agency agreement requires a greater vote, at a meeting held after notice. Subject to the provisions of the agency agreement, the bylaws shall state:

- (1) the qualifications of member boroughs, and limitations, if any, upon their number;
- (2) conditions of membership, if any;
- (3) manner and time of calling regular meeting of representatives of member boroughs;
- (4) manner and conditions of termination of membership; and
- (5) such other provisions for regulating the affairs of the municipal power agency as the representatives of the member boroughs shall determine to be necessary.

(e) Every municipal power agency shall maintain an office in this Commonwealth to be known as its registered office. When a municipal power agency desires to change the location of its registered office, it shall file with the Secretary of the Commonwealth a certificate of change of location of registered office, stating the new location by city, town or other community and effective date of change. When the certificate of change of location has been duly filed, the board of directors may make the change without any further action.

(f) Each of the directors shall hold office for the term for which he has been selected and until a successor has been selected and has qualified. Directors shall discharge their duties in good faith, and with that diligence and care which an ordinary prudent person in a like position would exercise under similar circumstances. The agency agreement, or the bylaws may prescribe the number, term of office, powers, authority and duties of directors, the time and place of their meetings and other regulations concerning directors. Except where the agency agreement or bylaws prescribe otherwise, the term of office of a director shall be for one year. Except where the agency agreement or bylaws prescribe otherwise, a meeting of the board of directors may be held at any place, within the Commonwealth, designated by the board, after notice, and an act of the



majority of the directors present at a meeting at which a quorum is present is the act of the board. Except where the agency agreement or bylaws prescribe otherwise, any vacancy occurring on the board shall be filled by a person nominated by the remaining members of the board and elected by a majority of representatives of the member boroughs.

(g) Except where the agency agreement or bylaws prescribe otherwise, the board of directors shall appoint a president from its membership, and a secretary and treasurer, and any other officers or agents deemed to be necessary, who may but need not be borough representatives or directors. An officer may be removed with or without cause by the board of directors. Officers of the municipal power agency shall have the authority and duties in the management of the business of the municipal power agency that the agency agreement or bylaws prescribe, or, in the absence of such prescription, as the board of directors determines.

(h) Except as otherwise provided in the agency agreement or the bylaws, the duly authorized representatives of each member borough shall act as, and vote on behalf of, such borough. Except where the agency agreement or bylaws provide otherwise, representatives of the member boroughs shall hold at least one meeting each year for the election of directors and for the transaction of any other business. Except where the agency agreement or bylaws prescribe otherwise, special meetings of the representatives may be called for any purpose upon written request to the president or secretary to call the meeting. Such officer shall give notice of the meeting to be held between ten and sixty days after receipt of such request. Unless the agency agreement or bylaws provide for a 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 such board.

(i) 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 resolutions of a majority of the corporate authorities of the member boroughs. Each amendment and the resolutions approving it shall be filed for record with the Secretary of the Commonwealth.

(j) 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.

(k) 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 light plant or project located within or without this Commonwealth jointly with any political subdivision, subdivision of the Federal Government, State, 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," or electric cooperative corporation in another state.

(l) All powers of a municipal power agency shall be exercised by its board of directors, unless otherwise provided by the agency agreement or bylaws. A municipal power agency

shall have the power to do and accomplish all actions reasonably necessary and incident to the ownership, construction, acquisition, administration, operation and management of an electric light plant or project. Among the specific powers of a municipal power agency shall be the following:

- (1) to sue and be sued;
  - (2) to enter into contracts;
  - (3) to cooperate with private power companies, boroughs, electric cooperative corporations and other public or private electric power entities, inside and outside of this Commonwealth, in the development of electric power and energy;
  - (4) to make such studies as may be necessary to determine the feasibility and cost of any additional sources and supplies of electric power and energy;
  - (5) to contract for the purchase, sale, exchange, interchange, wheeling, pooling or transmission of electric power and energy or for the right to the capacity thereof, inside and outside of this Commonwealth, to and from any public or private power entities, private power companies, other boroughs and electric cooperative corporations;
  - (6) to procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as the board of directors deems desirable;
  - (7) to contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from any other source;
  - (8) to acquire, hold, use, operate and dispose of personal property;
  - (9) to acquire, hold, use and dispose of its income, revenues, funds and moneys;
  - (10) to acquire, own, use, lease, operate and dispose of real property and interests in real property and to make improvements thereon;
  - (11) to grant the use, by lease or otherwise, and to make charges for the use, of any property or facility owned or controlled by it;
  - (12) to procure from the United States of America or any agency or instrumentality thereof, or from any state or agency or instrumentality thereof, any consents, authorizations or approvals which may be requisite to enable ownership, operation, construction or repair;
  - (13) to borrow money and from time to time to issue revenue bonds and to enter into agreements with the purchasers of such revenue bonds;
  - (14) to invest funds not required for immediate use, including but not limited to proceeds from the sale of revenue bonds: Provided, however, That the power of a municipal power agency to invest shall be the same as that of a borough, as exercised by the borough council pursuant to clause (6) of section 1005 and section 1316; and
  - (15) to mortgage any property acquired or owned to secure the payment of its revenue bonds or other obligations issued to finance such acquisition, ownership or repair.
- (m) In the erection and extension of an electric light 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.

(n) A municipal power agency which gains an interest in an electric light plant or project may pay all or part of the cost therefor from the revenues derived from the sale of revenue bonds issued in the manner provided by the act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act."

(o) 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.

(p) Interest and principal paid on revenue bonds, issued by a municipal power agency shall be exempt from all State taxes of whatsoever kind or nature.]

Section 288. Section 2471.3 of the act, added October 27, 2010 (P.L.862, No.87), is repealed:

[Section 2471.3. Additional Contracting Authority for Electric Power and Energy.--(a) In addition to the authority provided under section 2471, a borough that, on the effective date of this section, owns or operates electric generation or distribution facilities and a borough that is a member of a non-profit membership corporation may contract with the non-profit membership corporation for the following:

(1) The development of electric power and associated energy, including the conduct of investigations or studies necessary to determine the feasibility and cost of additional sources and supplies of electric power and associated energy.

(2) The purchase, sale, exchange, interchange, wheeling, pooling or transmission of electric power and associated energy or the right to the capacity from sources and projects in this Commonwealth or another state for a period not to exceed fifty years.

(b) A contract under subsection (a)(2) shall include the purpose of the contract, the duration of the contract and available procedures to terminate the contract subsequent to the repayment of all indebtedness secured under the contract.

(c) If a borough is a member of a non-profit membership corporation, a contract under subsection (a)(2) may, if specifically set forth in the contract, obligate the borough to:

(1) take and pay for a minimum quantity of electric power and associated energy if the power and energy is available for delivery;

(2) in connection with a project owned by the non-profit membership corporation or in which the non-profit membership corporation obtains an undivided ownership interest, to take or pay for a minimum amount of electric power and energy; or

(3) pay for electric power and energy only if utilized by the borough.

(d) (1) The authority under subsection (c)(1) shall apply whether or not the borough accepts delivery of the power and energy.

(2) The authority under subsection (c)(2) shall apply notwithstanding the suspension, interruption, interference or reduction or curtailment of the output of the project or the electric power and energy contracted for and whether or not:

(i) the electric power and energy is available for delivery to the borough; or

(ii) the borough accepts delivery of the electric power and energy.

(e) No borough may be obligated under a take-or-pay or take-and-pay arrangement entered into with a non-profit membership corporation in which the borough maintains membership unless that obligation is expressly authorized by an act of the borough council.

(f) A non-profit membership corporation shall not:

(1) condition membership in the non-profit membership corporation on the inclusion of any take-or-pay or take-and-pay obligations in a contract under subsection (a)(2); or

(2) except as set forth in subsection (g), require take-or-pay or take-and-pay obligations in a contract with a borough unless the contract meets the criteria of subsection (c)(1) or (2).

(g) A borough which is a member of a non-profit membership corporation may enter into future power supply contracts, contract renewals or contract extensions with the non-profit membership corporation under subsection (c)(3):

(1) with no take-or-pay or take-and-pay obligations as permitted by subsection (c)(1) and (2); and

(2) without prejudice or discrimination as compared to any other borough which chooses to enter into contracts permitted by subsection (c)(1) and (2) with the non-profit membership corporation.

(h) In order to carry out subsection (g), a non-profit membership corporation which provides or offers electric power and associated energy to a member borough in this Commonwealth under subsection (a)(2) shall offer, to all of its member boroughs in this Commonwealth, future power supply contract terms, contract renewals or contract extensions under subsection (c)(3) on a comparable and nondiscriminatory basis and with similar terms and conditions to future power supply contract terms, contract renewals or contract extensions that would be appropriate under subsection (c)(3) which the non-profit membership corporation contemporaneously offers to its members in other states.

(i) All obligations under a contract under subsection (a)(2) shall be paid from revenues derived from the operation of the borough's electric system, and payments shall be an operating expense of the borough's electric system.

(j) If explicitly set forth in a contract under subsection (a)(2), a borough may agree to assume, prorate or otherwise become liable for the obligations of another borough of this Commonwealth or of a political subdivision of another state that is a member of the non-profit membership corporation if the borough or other political subdivision defaults in the payment of its obligations for the purchase of the electric power and associated energy. The contract may include provisions to permit a borough to succeed to the rights and interests of the defaulting borough or political subdivision to purchase electric power and associated energy. A borough's liability for the obligations of a defaulting borough of this Commonwealth

or a political subdivision of another state shall not exceed twenty-five percent of a borough's initial nominal entitlement to electric power and associated energy under the contract.

(k) None of the obligations under the contract shall constitute a legal or equitable pledge, charge, lien or encumbrance on any property of the borough or on any of its income, receipts or revenues, except revenues of its electric system. The full faith and credit and the taxing power of the borough shall not be pledged for the payment of an obligation under the contract.

(l) The provisions of this section are intended to add to the powers and rights of a borough, and nothing in this section shall be construed to limit either the general or specific powers or rights of a borough set forth in this act.

(m) As used in this section, the term "non-profit membership corporation" means an entity the membership of which:

(1) consists solely of Pennsylvania boroughs, such as a consortium, buying group or municipal power agency under section 2471.2; or

(2) consists of Pennsylvania boroughs and political subdivisions of another state or states.]

Section 289. Sections 2472, 2473, 2474, 2475 and 2476 of the act are repealed:

[Section 2472. May Regulate Use and Prices.--Any borough furnishing electricity may regulate the use of electricity in dwellings, business places, and other places in such borough, and the rate to be charged for the same.

Section 2473. Sale of Electric Light Works.--By ordinance, a borough may sell all or part of its electric light works to a purchaser for such sale price as the parties may agree upon, and thereafter for all purposes that price shall be deemed to be the purchaser's original cost less accrued depreciation of the plant at the date of purchase.

Section 2474. Purchase of Electric Light Works.--Whenever any person, copartnership, or any electric light company organized under the laws of the Commonwealth, is furnishing light to any borough or the public within such borough, such borough may purchase the works of such person, copartnership, or corporation, at such price as may be agreed upon by the borough and such person or copartnership, or a majority in value of the stockholders of such corporation.

Section 2475. Petition for Viewers.--Upon failure so to agree on purchase price the borough may present a petition to the court of common pleas, asking for the appointment of viewers to assess the value of the plant and works so proposed to be purchased whereupon the court shall appoint three viewers from the county board of viewers, neither of whom shall be interested in such works, or be stockholders in such corporation, or taxpayers in such borough, and shall appoint a time for their meeting, of which ten days' notice shall be given to all parties in interest.

Section 2476. Duty of Viewers.--The viewers, having been sworn or affirmed justly and impartially to appraise the property, and having viewed the premises and taken such testimony as may be offered by any party touching the value of the property and franchises, they shall determine the amount of damages that such person, copartnership, or corporation will sustain, and to whom payable, and make report thereof to the court; which report shall be confirmed "nisi" by the court, and if no appeal is taken as hereinafter provided, shall be confirmed absolutely.]

Section 290. Section 2477 of the act, repealed in part June 3, 1971 (P.L.118, No.6), is repealed:

[Section 2477. Appeal from Report; Trial by Jury.--Either party may, at any time within thirty days after the confirmation "nisi" of any such report, appeal therefrom to the court of common pleas of the county. After such appeal, either party may put the cause at issue, in the form directed by the court, and the same shall be tried before a jury.]

Section 291. Sections 2478 and 2479, Article XXIV subdivision (c) heading, section 2481, subdivision (d) heading and sections 2491, 2492 and 2493 of the act are repealed:

[Section 2478. Exceptions to Report.--If any exceptions are filed with any appeal, they shall be speedily disposed of, and, if allowed, a new view shall be ordered; but if disallowed, the appeal shall proceed as before provided.

Section 2479. Notices.--The court shall have power to order what notice shall be given in connection with any part of such proceedings.

(c) Operation of Gas Wells; Gas Works

Section 2481. Authority to Purchase Natural Gas Well.--Any borough shall have authority to purchase, own, use, operate and control any natural gas well, or wells, for the purpose of supplying natural gas for its own municipal purposes.

(d) Airports

Section 2491. Authority to Secure Lands for Airports.--Any borough is hereby authorized and empowered to acquire, by lease or purchase, any land, lying either within or without the limits of such borough, which, in the judgment of the council thereof, may be necessary and desirable for the purpose of establishing and maintaining municipal airport facilities. The proceedings for the condemnation of land under the provisions of this subdivision, and for the assessment of damages for property taken, injured or destroyed, shall be conducted in the manner provided by the law governing eminent domain. The title acquired by the borough exercising the power of condemnation shall be a title in fee simple.

Section 2492. Authority to Establish Airports and Lease the Same.--Any borough, acquiring land under the provisions of this subdivision, is authorized and empowered to establish, equip, condition, operate and maintain the same as a municipal airport, and may lease the same, or any part thereof, to any individual or corporation desiring to use the same for aviation purposes; and any borough may enter into a contract, in the form of a lease, providing for the use of said land, or any part thereof, by the Government of the United States, for the use by said Government of said land for aviation purposes upon nominal rental or without consideration.

Section 2493. Joint Airports.--Any borough, acquiring land under the provisions of this subdivision, is authorized and empowered to acquire, by lease or purchase, land for aviation purposes, as hereinbefore provided, jointly with any county, city, borough, township, or political subdivision of this Commonwealth, and is hereby authorized and empowered to operate and maintain said airport, jointly, with any county, city, borough, township, or other political subdivision of this Commonwealth, upon such terms and conditions as may be agreed upon between the proper authorities of the county, city, borough, township, or other political subdivision of this Commonwealth.]

Section 292. The act is amended by adding an article to read:

**ARTICLE XXIV-A**

## MANUFACTURE AND SUPPLY OF ELECTRICITY

### Section 2401-A. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Municipal power agency." A separate body politic and corporate under the laws of this Commonwealth created by agreement between or among two or more boroughs pursuant to section 2404-A.

"Project." Electric plants, hydroelectric plant works, system, facilities or real or personal property, together with their parts and appurtenances, used or useful in connection with the generation, production, transmission, purchase, sale, exchange or interchange of electric power or energy, or any interest therein or right to capacity thereof.

"Revenue bond." An instrument imposing an obligation for the repayment of money borrowed, payable as to both principal and interest exclusively from the income and revenues derived from an interest in an electric plant or project.

### Section 2402-A. General powers.

(a) Electric plants and projects.--A borough may, either singly or jointly, manufacture or purchase electricity for the use of its inhabitants, own, construct, acquire by lease, purchase or otherwise gain an interest in, operate and manage or cause to be operated and managed, an electric plant or project located within or without this Commonwealth. In the exercise of any of the foregoing powers, a borough may join with any other borough, political subdivision, agency or instrumentality of the Federal Government, State government, political subdivision of another state, private corporation empowered to supply electricity, electric cooperative corporation formed under 15 Pa.C.S. Ch. 73 Subchs. A (relating to preliminary provisions) and B (relating to powers, duties and safeguards), or previously formed under the former act of June 21, 1937 (P.L.1969, No.389), known as the Electric Cooperative Corporation Act, or electric cooperative corporation in another state.

(b) Contracts for supplying electricity.--A borough owning or operating an electric plant may make contracts for supplying electricity for commercial purposes outside the limits of the borough, provided that the borough has received the consent of the other municipal governing body and, if applicable, subject to 66 Pa.C.S. Pt. I (relating to Public Utility Code).

(c) Additional sources.--A borough may conduct studies as necessary to determine the feasibility and cost of any additional sources and supplies of electric power and energy and may cooperate with private power companies, other boroughs, electric cooperative corporations and other public or private electric power entities, within or without this Commonwealth, in the development of electric power and energy.

(d) Consent of borough to supply electricity.--No person, partnership or corporation may introduce electric current for light, heat or power purposes, without the consent of the borough council, into the limits of any borough that is furnishing electric current to its inhabitants, provided, however, that this subsection shall not apply to any person, partnership or corporation manufacturing electricity exclusively for its own use.

(e) Corporate rights.--Nothing in this article may conflict with the corporate rights of any corporation empowered to supply electricity in the territory adjacent to the borough, or with the rights of any other municipality.

(f) Restrictions.--A borough shall not become a stockholder in, obtain or appropriate money for or loan its credit to any corporation, association, institution or individual or otherwise act contrary to the provisions of section 9 of Article IX of the Constitution of Pennsylvania.

(g) General powers.--A borough, through its governing body, shall have the power to do and accomplish all actions reasonably necessary and incident to the administration, operation and management of a plant or project.

Section 2403-A. Specific powers.

(a) Specific powers enumerated.--In addition to exercising its general powers under section 2402-A, a borough, through its governing body, shall have the following powers:

(1) To contract for the purchase, sale, exchange, interchange, wheeling, pooling or transmission of electric power and energy or for the right to the capacity thereof, inside and outside of this Commonwealth, to and from any public or private power entities, private power companies, other boroughs and electric cooperative corporations.

(2) To regulate the use of and the charge for electricity furnished by the borough for use throughout the borough. A borough may fix, establish, maintain and collect or authorize by contract or otherwise, the establishment, levying and collection of the rates, fees, rental or other charges, including connection charges, for the services afforded by or in connection with any properties which the borough constructs, erects, owns, acquires, operates or manages, and for the sale or transmission of electric energy and power as it deems necessary, proper, desirable and reasonable.

(3) To procure insurance against any losses in connection with its property, operations or assets in the amounts and from such insurers as the governing body or bodies deem desirable.

(4) To contract for and to accept any gifts, grants or loans of funds or property, or financial or other aid in any form from the United States of America or any agency or instrumentality of the United States of America, or from any other source.

(5) To lease, or otherwise grant the use of, and to make charges for the use of any property or facility owned or controlled by the borough.

(6) To procure from the United States of America or any agency or instrumentality of the United States of America, or from any state or agency or instrumentality of the State, any consents, authorizations or approvals which may be requisite to enable ownership, operation, construction or repair.

(7) To borrow money and from time to time to issue revenue bonds, and to enter into agreements with the purchasers of the revenue bonds. Any borough that incurs debt for the construction or purchase of an electric plant, or land on which to construct an electric plant, or gains an interest in an electric plant or project under section 2402-A shall incur the debt in accordance with and to the extent permitted by 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing). Interest and principal paid on revenue bonds issued by a borough under this article shall be exempt from all State taxes of whatsoever kind or nature.

(8) To mortgage any property acquired or owned under section 2402-A to secure the payment of its revenue bonds



or other obligations issued to finance the acquisition, ownership or repair.

(9) To sell, by ordinance, all or part of its electric works to a purchaser for the sale price agreed upon by the parties, and thereafter, for all purposes, that price shall be deemed to be the purchaser's original cost less accrued depreciation of the plant at the date of purchase.

(10) To purchase the electric works of any person, partnership, or electric company organized under the laws of this Commonwealth that is furnishing light to the borough or the public within the borough. The borough and the person, partnership or a majority in value of the stockholders of a corporation, may agree upon the purchase price, but upon failure of the parties to agree on the price, the borough may proceed according to the laws of eminent domain.

(b) Eminent domain.--In the erection and extension of an electric plant or project under this article, and for all other purposes authorized by this act, a borough may enter upon, appropriate, injure or destroy private lands, property or material according to the proceedings set forth in 26 Pa.C.S. (relating to eminent domain). A borough, however, 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 the borough.

Section 2404-A. Municipal power agencies.

(a) General rule.--Two or more boroughs may form a municipal power agency by the execution of an agency agreement authorized by an ordinance of the governing bodies of each borough. The agency agreement shall state:

(1) The name of the agency, which shall include the words "municipal power agency."

(2) The names of the boroughs which have approved the agency agreement and are initial members of the municipal power agency.

(3) That the municipal power agency is created pursuant to the authority granted by this act.

(4) The names and addresses of the persons initially appointed by the governing bodies to act as representatives to the municipal power agency from the member boroughs.

(5) The limitations, if any, placed on the powers or terms of representatives appointed by the governing bodies of the member boroughs.

(6) The names and addresses of the initial board of directors of the municipal power agency, if known by the time of filing, which shall be constituted by not less than five persons who are representatives of the member boroughs, selected by the vote of a majority of the representatives.

(b) Certificate of incorporation.--The agency agreement under subsection (a) and a certified copy of the ordinance of the governing body of each borough shall be filed for record with the Secretary of the Commonwealth. If the agency agreement meets the requirements of this section, the Secretary of the Commonwealth shall record the agreement and issue and record a certificate of incorporation which shall be conclusive proof of substantial compliance with the requirements of this section. The certificate shall state the name of the municipal power agency and the fact and date of incorporation. Upon the issuance of the certificate of incorporation, the existence of the municipal power agency as a political instrumentality of the Commonwealth shall begin.

(b.1) Open meetings.--Regular and special meetings of the representatives of member boroughs and the board of directors as provided in this section shall be subject to 65 Pa.C.S. Ch. 7 (relating to open meetings).

(c) Bylaws.--The bylaws of the municipal power agency and any amendments, shall be proposed by the board of directors and shall be adopted by a majority vote of the representatives of the member boroughs, unless the agency agreement requires a greater vote at a meeting held after notice. Subject to the provisions of the agency agreement, the requirements of this act and the laws of this Commonwealth, the bylaws shall state:

- (1) the qualifications of member boroughs, and limitations, if any, upon their number;
- (2) conditions of membership, if any;
- (3) the manner and time of calling regular meetings of representatives of member boroughs;
- (4) the manner and conditions of termination of membership; and
- (5) such other provisions for regulating the affairs of the municipal power agency as the representatives of the member boroughs shall determine to be necessary.

(d) Registered office.--Every municipal power agency shall maintain an office in this Commonwealth to be known as its registered office. When a municipal power agency desires to change the location of its registered office, it shall file with the Secretary of the Commonwealth a certificate of change of location of registered office, stating the new location by address, including street and number, if any, and effective date of change. When the certificate of change of location has been duly filed, the board of directors may make the change without any further action.

(e) Directors.--Each of the directors shall hold office for the term for which the director has been selected and until a successor has been selected and has qualified. Directors shall discharge their duties in good faith, and with that diligence and care which an ordinary prudent person in a like position would exercise under similar circumstances. The agency agreement or the bylaws may prescribe the number, term of office, powers, authority and duties of directors, the time and place of their meetings and other regulations concerning directors, in a manner consistent with law. Except where the agency agreement or bylaws prescribe otherwise, the term of office of a director shall be for one year. Except where the agency agreement or bylaws prescribe otherwise, a meeting of the board of directors may be held at any place within this Commonwealth designated by the board, after notice, and an act of the majority of the directors present at a meeting at which a quorum is present is the act of the board. Except where the agency agreement or bylaws prescribe otherwise, any vacancy occurring on the board shall be filled by a person nominated by the remaining members of the board and elected by a majority of representatives of the member boroughs.

(f) Officers.--Except where the agency agreement or bylaws prescribe otherwise, the board of directors shall appoint a president from its membership, and a secretary, treasurer and any other officers or agents deemed necessary who may, but need not be, borough representatives or directors. An officer may be removed with or without cause by the board of directors. Officers of the municipal power agency shall have the authority and duties in the management of the business of the municipal power agency that the agency agreement or bylaws prescribe or,

in the absence of such prescription, as the board of directors determines.

(g) Representatives of member boroughs.--Except as otherwise provided in the agency agreement or the bylaws, the duly authorized representatives of each member borough shall act as and vote on behalf of that borough. Except where the agency agreement or bylaws provide otherwise, representatives of the member boroughs shall hold at least one meeting each year for the election of directors and for the transaction of any other business. Except where the agency agreement or bylaws prescribe otherwise, special meetings of the representatives may be called for any purpose upon written request to the president or secretary to call the meeting. Such officer shall give notice of the meeting to be held between ten and 60 days after receipt of the request. Unless the agency agreement or bylaws provide for a 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 former act of June 21, 1937 (P.L.1969, No.389), known as the Electric Cooperative Corporation Act, or electric cooperative corporation in another state.

(k) Specific powers.--All powers of a municipal power agency shall be exercised by its board of directors, unless otherwise provided by the agency agreement or bylaws. A municipal power agency shall have the power to do and accomplish all actions reasonably necessary and incident to the ownership, construction, acquisition, administration, operation and management of an electric plant or project. Among the specific powers of a municipal power agency shall be the following:

- (1) to sue and be sued;
- (2) to enter into contracts;
- (3) to cooperate with private power companies, boroughs, electric cooperative corporations and other public or private electric power entities inside and outside of this Commonwealth in the development of electric power and energy;

(4) to make such studies as may be necessary to determine the feasibility and cost of any additional sources and supplies of electric power and energy;

(5) to contract for the purchase, sale, exchange, interchange, wheeling, pooling or transmission of electric power and energy or for the right to the capacity thereof inside and outside of this Commonwealth, to and from any public or private power entities, private power companies, other boroughs and electric cooperative corporations;

(6) to procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as the board of directors deems desirable;

(7) to contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality of the United States of America, or from any other source;

(8) to acquire, hold, use, operate and dispose of personal property;

(9) to acquire, hold, use and dispose of its income, revenues, funds and moneys;

(10) to acquire, own, use, lease, operate and dispose of real property and interests in real property and to make improvements thereon;

(11) to grant the use, by lease or otherwise, and to make charges for the use of any property or facility owned or controlled by it;

(12) to procure from the United States of America or any agency or instrumentality of the United States of America, or from any state or agency or instrumentality of a state, any consents, authorizations or approvals which may be requisite to enable ownership, operation, construction or repair;

(13) to borrow money and from time to time to issue revenue bonds and to enter into agreements with the purchasers of such revenue bonds;

(14) to invest funds not required for immediate use, including, but not limited to, proceeds from the sale of revenue bonds, provided, however, that the power of a municipal power agency to invest shall be the same as that of a borough, as exercised by the borough council pursuant to clause (6) of section 1005 and section 1316; and

(15) to mortgage any property acquired or owned to secure the payment of its revenue bonds or other obligations issued to finance the acquisition, ownership or repair.

(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.

(o) State tax exemptions.--Interest and principal paid on revenue bonds issued by a municipal power agency shall be exempt from all State taxes of whatsoever kind or nature.  
Section 2405-A. Additional contracting authority for electric power and energy.

(a) Additional contracting authority.--In addition to the authority provided under section 2402-A, a borough that, on October 27, 2010, owns or operates electric generation or distribution facilities and a borough that is a member of a nonprofit membership corporation may contract with the nonprofit membership corporation for the following:

(1) The development of electric power and associated energy, including the conduct of investigations or studies necessary to determine the feasibility and cost of additional sources and supplies of electric power and associated energy.

(2) The purchase, sale, exchange, interchange, wheeling, pooling or transmission of electric power and associated energy or the right to the capacity from sources and projects in this Commonwealth or another state for a period not to exceed 50 years.

(b) Contract requirements.--A contract under subsection (a)(2) shall include the purpose of the contract, the duration of the contract and available procedures to terminate the contract subsequent to the repayment of all indebtedness secured under the contract.

(c) Minimum quantity of electric power and energy.--If a borough is a member of a nonprofit membership corporation, a contract under subsection (a)(2) may, if specifically set forth in the contract, obligate the borough to:

(1) take and pay for a minimum quantity of electric power and associated energy if the power and energy is available for delivery;

(2) in connection with a project owned by the nonprofit membership corporation or in which the nonprofit membership corporation obtains an undivided ownership interest, to take or pay for a minimum amount of electric power and energy; or

(3) pay for electric power and energy only if utilized by the borough.

(d) Applicability of minimum requirements.--

(1) The authority under subsection (c)(1) shall apply whether or not the borough accepts delivery of the power and energy.

(2) The authority under subsection (c)(2) shall apply notwithstanding the suspension, interruption, interference or reduction or curtailment of the output of the project or

the electric power and energy contracted for, and whether or not:

(i) the electric power and energy is available for delivery to the borough; or

(ii) the borough accepts delivery of the electric power and energy.

(e) Take-or-pay or take-and-pay arrangements.--No borough may be obligated under a take-or-pay or take-and-pay arrangement entered into with a nonprofit membership corporation in which the borough maintains membership unless that obligation is expressly authorized by an act of the borough council.

(f) Restrictions.--A nonprofit membership corporation shall not:

(1) condition membership in the nonprofit membership corporation on the inclusion of any take-or-pay or take-and-pay obligations in a contract under subsection (a)(2); or

(2) except as set forth in subsection (g), require take-or-pay or take-and-pay obligations in a contract with a borough unless the contract meets the criteria of subsection (c)(1) or (2).

(g) Future contracts.--A borough that is a member of a nonprofit membership corporation may enter into future power supply contracts, contract renewals or contract extensions with the nonprofit membership corporation under subsection (c)(3):

(1) with no take-or-pay or take-and-pay obligations as permitted by subsection (c)(1) and (2); and

(2) without prejudice or discrimination as compared to any other borough which chooses to enter into contracts permitted by subsection (c)(1) and (2) with the nonprofit membership corporation.

(h) Future power supply contract terms.--In order to carry out subsection (g), a nonprofit membership corporation which provides or offers electric power and associated energy to a member borough in this Commonwealth under subsection (a)(2) shall offer, to all of its member boroughs in this Commonwealth, future power supply contract terms, contract renewals or contract extensions under subsection (c)(3) on a comparable and nondiscriminatory basis and with similar terms and conditions to future power supply contract terms, contract renewals or contract extensions that would be appropriate under subsection (c)(3) which the nonprofit membership corporation contemporaneously offers to its members in other states.

(i) Payments.--All obligations under a contract under subsection (a)(2) shall be paid from revenues derived from the operation of the borough's electric system, and payments shall be an operating expense of the borough's electric system.

(j) Obligations of other entities.--If explicitly set forth in a contract under subsection (a)(2), a borough may agree to assume, prorate or otherwise become liable for the obligations of another borough of this Commonwealth or of a political subdivision of another state that is a member of the nonprofit membership corporation if the borough or other political subdivision defaults in the payment of its obligations for the purchase of the electric power and associated energy. The contract may include provisions to permit a borough to succeed to the rights and interests of the defaulting borough or political subdivision to purchase electric power and associated energy. A borough's liability for the obligations of a defaulting borough of this Commonwealth or a political subdivision of another state shall not exceed 25% of a borough's

initial nominal entitlement to electric power and associated energy under the contract.

(k) Pledge of borough property prohibited.--None of the obligations under the contract may constitute a legal or equitable pledge, charge, lien or encumbrance on any property of the borough or on any of its income, receipts or revenues, except revenues of its electric system. The full faith and credit and the taxing power of the borough shall not be pledged for the payment of an obligation under the contract.

(l) Construction.--The provisions of this section are intended to add to the powers and rights of a borough, and nothing in this section may be construed to limit either the general or specific powers or rights of a borough set forth in this act.

(m) Definition.--As used in this section, the term "non-profit membership corporation" means an entity the membership of which:

(1) consists solely of Pennsylvania boroughs, such as a consortium, buying group or municipal power agency under section 2404-A; or

(2) consists of Pennsylvania boroughs and political subdivisions of another state or states.

Section 293. Article XXV and subdivision (a) headings, sections 2501, 2502, 2503, 2504 and 2505, Article XXV subdivision (b) heading and sections 2511 and 2512 of the act are repealed:

#### [ARTICLE XXV

##### PUBLIC BUILDINGS AND WORKS

###### (a) Eminent Domain; General Provisions

Section 2501. Exercise of Eminent Domain.--Any borough may enter upon and appropriate private property, and also land previously granted or dedicated to public use or other use, and which is no longer used for the purpose for which the same was granted or dedicated, and also land where the title may be defective, disputed, or doubtful, for the erection thereon of public auditoriums, public libraries, public memorial buildings and monuments and such other public buildings and works as are necessary for municipal purposes within the limits of such borough.

Section 2502. Lands Excepted.--No land or property used for any cemetery, burying-ground, or place of public worship, shall be taken or appropriated by virtue of any power contained in the preceding section of this article.

Section 2503. Declaration of Intention.--Whenever the borough shall desire to acquire, enter upon, take, use and appropriate any such private property or land, for any such purposes, it shall declare such intention by an ordinance duly enacted.

Section 2504. Proceedings.--The compensation and damages arising from such taking, using and appropriating of private property for the purposes aforesaid, shall be considered, ascertained, determined, awarded and paid in the manner provided in the law governing eminent domain.

Section 2505. Payment of Damages and Costs.--All damages when ascertained, the costs of the viewers, and all court costs incurred in such proceedings, including advertising, printing and posting notices, shall be paid by the borough.

###### (b) Refuse Disposal Facilities

Section 2511. Power to Purchase Real Estate.--Any borough, separately, or jointly, with another borough, city or township, may purchase any real estate within or without the limits of such borough or of any such other boroughs, cities, or

townships, as the case may be, upon which to erect and maintain garbage or incinerating plants, or for sanitary landfill.

Section 2512. Approval of Site.--Boroughs desiring to locate any garbage or incinerating plant or sanitary landfill, shall first apply separately or jointly as the case may be to the court of common pleas for its approval of the location thereof; whereupon the court shall fix a date when objections to the location will be heard and shall prescribe what notice of such hearing shall be given. If at the time fixed for such hearing no objections shall be made to such location, the same shall be approved; but, if objection is made, the court shall proceed to hear the matter and determine whether the location is a detriment to neighboring properties. The finding of the court shall be conclusive, but shall in no way adjudicate any question relating to damages for injury to property.]

Section 294. Section 2513 of the act, amended December 21, 1984 (P.L.1263, No.239), is repealed:

[Section 2513. Authority to Take or Appropriate Real Estate.--In case the borough or boroughs cannot agree with the owner of such property as to the price, the borough or boroughs, separately or jointly, may take and appropriate, for any of such purposes, any real estate, after an ordinance or ordinances shall have been enacted providing for such taking and appropriating. Notwithstanding the provisions of this section, no borough or boroughs, separately or jointly, may take or appropriate any real estate that is located outside the limits of the borough or boroughs and contains or is being utilized as an existing garbage dump or sanitary landfill.]

Section 295. Section 2514 of the act is repealed:

[Section 2514. Proceedings.--The proceedings before the viewers for the assessment of damages for property taken, injured, or destroyed under this subdivision of this article and the proceedings upon their report shall be as provided in the law governing eminent domain.]

Section 296. The act is amended by adding an article to read:

#### **ARTICLE XXV-A AIRPORTS**

**Section 2501-A. Authority to secure lands for airports.**

Any borough is hereby authorized and empowered to acquire, by lease, purchase or condemnation, any land lying either within or without the limits of the borough which, in the judgment of the council, may be necessary and desirable for the purpose of establishing and maintaining municipal airport facilities. The proceedings for the condemnation of land under the provisions of this article and for the assessment of damages for property taken, injured or destroyed, shall be conducted in the manner provided by the law governing eminent domain. The title acquired by the borough exercising the power of condemnation shall be a title in fee simple.

**Section 2502-A. Authority to establish and lease airports.**

Any borough acquiring land under the provisions of this article is authorized and empowered to establish, equip, condition, operate and maintain the land as a municipal airport, and may lease the land, or any part, to any individual or corporation desiring to use the same for aviation purposes. Any borough may enter into a contract, in the form of a lease, providing for the use of the land, or any part, by the Federal Government, for its use of the land for aviation purposes upon nominal rental or without consideration.

**Section 2503-A. Joint airports.**



Pursuant to the powers in this article, any borough may, jointly with another municipality, acquire land for aviation purposes, and may jointly operate and maintain the airport on the terms and conditions as agreed upon by the governing bodies of the borough and other municipality.

Section 297. Article XXVI heading of the act is reenacted to read:

ARTICLE XXVI  
WHARVES AND DOCKS

Section 298. Section 2601 of the act is amended to read:

Section 2601. Power With Regard to Wharves and Docks.--[Any borough may erect and repair wharves and docks, regulate and fix 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 of the viewers, shall be paid by the borough.

Section 301. Sections 2604, 2605 and 2606 of the act are amended to read:

Section 2604. How Damages Assessed.--The damages for the taking or injury of any property for use as a wharf, pier, or bulkhead, shall include full compensation for the value of the property taken or injured[; and if]. **If** the property [so] taken or injured shall constitute a part of a plant used as an entirety, the damage to the owner or tenant shall be assessed by taking the difference in market value of [such] **the** plant as a whole, including buildings and all equipment installed and used in [such] **the** plant, before and after taking or injury, and notwithstanding that part of [such] **the** plant may be separated by a street or highway.

Section 2605. Leases.--Any borough may lease any wharf or part [thereof] and collect rent [therefor] by distress or otherwise. No one term of [any such] **a** lease shall be for a period longer than three years.

Section 2606. Market-Houses and Terminal Sheds.--Boroughs may erect and maintain market-houses and terminal sheds on wharves, for the receipt and distribution of freight and express. Boroughs may also construct railroad and street railway tracks, or other facilities, on wharves, to provide for the convenient hauling of [such] freight or express matter and may collect rents, tolls, or charges for the use of [such] market-houses, terminal sheds, tracks and facilities. No permit other than a license revocable at will shall be granted, and no exclusive permit for the use of such facilities shall be granted.

Section 302. Section 2607 of the act is reenacted to read:

Section 2607. Public Use Preserved.--No structure erected, and no right granted under the powers conferred by any of the preceding sections of this article, shall interfere with the public use of wharves for water-borne commerce.

Section 303. Section 2608 of the act is amended to read:

Section 2608. Saving Clause.--Nothing contained in this article shall be construed as conferring upon boroughs any power conferred by existing law on the Navigation [Commissioners] **Commission** for the Delaware River and its Navigable Tributaries, or to permit boroughs to do any act, or to enact any ordinance, inconsistent with the laws, **rules and regulations** relating to [said board, or the rules and regulations of said board] **the commission**.

Section 304. Article XXVII and subdivision (a) headings of the act are reenacted to read:

#### ARTICLE XXVII

##### RECREATION PLACES, SHADE TREES, FORESTS

###### (a) Parks and Playgrounds, Et Cetera

Section 305. Sections 2701, 2702 and 2703 of the act are amended to read:

Section 2701. Power to Maintain [and Improve], **Improve and Acquire**.--(a) Any borough may provide, improve, maintain and regulate public parks, parkways and playgrounds, playfields, swimming pools, public baths, bathing places, indoor recreation centers and gymnasiums, hereinafter called "recreation places," within the borough limits or in any adjacent [township or in any city or other borough] **municipal corporation** if the other [borough or city] **municipal corporation** shall, by ordinance, signify its consent thereto. [Two or more boroughs may jointly provide, improve, maintain and regulate such recreation places within the limits of any township adjacent to any one of such boroughs. All expenses relative thereto shall be borne by the respective boroughs, in such proportion as may be agreed upon by the councils thereof.]

Section 2702. Power to Acquire.--Any] (b) **Any** borough may enter upon, appropriate and acquire by gift, devise, purchase, lease, or otherwise, private property [within the limits of the borough, or in any adjacent township,] or [any borough] may designate and set apart any lands or buildings, owned by the borough and not dedicated or devoted to other public uses[; and two or more boroughs may jointly appropriate and acquire by gift, devise, purchase, lease, or otherwise, private property within the limits of any township adjacent to any of such boroughs,] for the purpose of making, enlarging and maintaining recreation places. [All the costs and expenses relative to any such property, acquired by two or more boroughs jointly, shall be paid by the respective boroughs in such proportions as may be agreed upon by the councils thereof.]

Any]

(c) Any borough may join with one or more political subdivisions to acquire, create, equip, improve, regulate, maintain and operate any recreation place in accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).

(d) No borough, acting individually or jointly, may [likewise] acquire private property within the limits of another [borough or city,] **municipal corporation** for the purposes designated in this section, [if the other borough or city shall, by ordinance, signify its consent thereto] **without the consent of the governing body of the municipal corporation in which the property is located in accordance with the law governing eminent domain.**

(e) All expenses incurred in the maintenance, improvement, acquisition or operation of recreation places, as provided in this section, shall be payable from the treasury of the borough, or the borough and other political subdivisions as may be provided for by agreement of the governing bodies. The borough council may annually appropriate, and cause to be raised by taxation, an amount necessary for the purpose of maintaining and operating recreation places, or for paying its share of such amount.

Section 2703. Appropriations for Public Purposes.--The appropriation of private property for the purpose of making, enlarging and maintaining recreation places, is declared to be the taking of private property for public use, and for all damage suffered by the owners of any property so taken, the funds of the borough raised by taxation shall be pledged as security. **The proceedings for the taking of private property and the assessment of damages for private property taken, injured or destroyed under this article shall be as provided in the law governing eminent domain.**

Section 306. Sections 2704 and 2705 of the act are repealed:

[Section 2704. Proceedings.--The proceedings before the viewers for the assessment of damages for property taken, injured or destroyed under this article and the proceedings upon their report shall be as provided in the law governing eminent domain.]

Section 2705. Validation of Prior Acquisitions.--Whenever, prior to June 1, 1911, any borough acquired land outside its corporate limits for park purposes, such borough may own and possess such land for park purposes, and is authorized to lay out and maintain the same and to appropriate money to defray expenses incident to such work.]

Section 307. Sections 2708, 2709 and 2710 of the act are amended to read:

Section 2708. Creation of Recreation Board.--(a) The authority to supervise and maintain recreation places, may be vested in any existing body or board, including the borough council, or in a recreation board, as the borough council shall determine. The council of any such borough may equip, operate and maintain the recreation places, as authorized by this article, and may, for the purpose of carrying out the provisions of this article, employ [play leaders, recreation directors, supervisors, superintendents, or] any [other] officers or employes, as it may deem proper.

(b) Notwithstanding subsection (a), a borough council shall not delegate the power to maintain accounts or expend funds from the borough treasury for the purposes authorized by this subdivision to any existing or newly created body or board.

(c) Any borough may join or create, with one or more municipalities, a joint recreation board in accordance with 53

Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation). The composition of the board and its powers and duties shall be as provided by agreement of the governing bodies of the municipalities.

Section 2709. Composition of Board.--[(a)] If the borough council shall determine that the power to equip, operate, and maintain recreation places, shall be exercised by a recreation board, it may, **by ordinance**, establish in [said] **the** borough [such] **a** recreation board, which shall possess [all the powers, and be subject to all the responsibilities, of the respective authorities under this article. Such] **those powers and duties as may be delegated to it by ordinance**. The board shall consist of a minimum of five and a maximum of nine persons. Two of the members may be members or appointees of the school board of the school district in which the borough is located. If the board [consist] **consists** of seven members, three of the members may be members or appointees of [such] **the** school board. The borough members of the board shall be appointed by the borough council, and shall serve no longer than five years and the terms of the members shall be staggered in such a manner that at least one expires annually. Members of [such] **the** board shall serve without pay. Vacancies in [such] **the** board, occurring otherwise than by expiration of term, shall be filled for the unexpired term in the same manner as original appointments.

[(b)] In addition to the establishment of a borough recreation board, the borough council may appoint persons to serve as members of a school district recreation board established by the school district wherein the borough is located.]

Section 2710. Organization of Board; Employees.--The members of a recreation board, established pursuant to this article, shall elect their own [chairman] **chair** and secretary and select all other necessary officers, to serve for a period of one year[, and may employ such persons as may be needed, as authorized by this article. Such]. **The recreation board may, with the approval of council, establish employment positions and hire employees to fill the approved positions**. The board shall have power to adopt rules and regulations for the conduct of all business within its jurisdiction.

Section 308. Sections 2711 and 2712 of the act are repealed:

[Section 2711. Joint Ownership and Maintenance.--Any two or more boroughs, or a borough with any city or township, or a borough with a county, may jointly acquire property for, and operate and maintain, any recreation places. Any borough or boroughs shall have power to join with any school district in equipping, operating and maintaining recreation places, and may appropriate money therefor.

Section 2712. Maintenance and Tax Levy.--All expenses incurred in the operation of such recreation places, established as herein provided, shall be payable from the treasury of such borough, or boroughs, township, city, county or school districts as may be provided for by agreement of the corporate authorities. The borough council may annually appropriate, and cause to be raised by taxation, an amount necessary for the purpose of maintaining and operating recreation places, or for paying its share of such amount.]

Section 309. Section 2713 of the act is amended to read:

Section 2713. Lease for School Athletics.--Any borough maintaining a recreation place, may lease [such] **a** recreation place or [such] **a** portion [thereof] **of a recreation place**, suitable for athletic sports and athletic games, to any school board, or school athletic association organized by a school

board, and organized for the purpose of conducting amateur athletic sports and games among pupils of the public school, and may permit [such] a school board or school athletic association to charge admission to [such] sports and games and to deny persons refusing to pay admission access to the grounds where [such] sports or games are being conducted, if [such] sports and games are not conducted for individual profit.

Section 310. Article XXVII subdivision (b) (1) heading of the act is amended to read:

(b) Shade Trees  
(1) [Shade Tree Commission] **Power of Boroughs  
as to Shade Trees**

Section 311. The act is amended by adding sections to read:

**Section 2720. Care, Custody and Control of Shade Trees.--**(a) Council shall have exclusive care, custody and control of shade trees in the borough. Council may plant, transplant, remove, maintain and protect shade trees on the streets and highways in the borough, employ and pay persons and make and enforce regulations as may be necessary for the care and protection of the shade trees of the borough.

(b) Council may, by ordinance, and with or without the petition of a majority of the property owners upon any public street in the borough, plant, transplant or remove shade trees. Council may, with or without petition, require the planting and replanting of suitable shade trees along and upon the sides of the streets, upon such alignment and at such points as may be designated by ordinance, by the owners of property abutting the street at the points designated. Nothing in this act may authorize council to plant or replant, or require the planting or replanting, of trees at any point which may interfere with the necessary or reasonable use of any street or abutting property or the business conducted on the property. On failure of any owner, after reasonable notice, to comply with the terms of an ordinance requiring the planting or replanting of shade trees, the borough may cause such trees to be planted or replanted and assess the cost against the owner in accordance with section 2720.2.

(c) Council may, upon notice as may be provided by ordinance, require owners of property to cut and remove plants, shrubs and trees afflicted with any disease that threatens to injure or destroy plants, shrubs and shade trees in the borough under regulations prescribed by ordinance. Upon failure of any owner to comply with the notice, the borough may cause the work to be done by the borough, and assess the cost against the owner in accordance with section 2720.2.

**Section 2720.1. Maintenance by Borough; Tax Levy.--**(a) The cost and expenses of caring for shade trees after having been planted or transplanted and the expense of publishing any notice required by this subdivision shall be paid by the borough.

(b) Council may levy a general tax, not to exceed the sum of one-tenth of one mill on the dollar on the assessed valuation of the property in the borough taxable for county purposes, for the purpose of defraying the cost and expenses of caring for the shade trees and the expense of publishing notices; or it may provide for the expense of the caring for trees already planted and of publishing the notice by appropriations.

**Section 2720.2. Payment by Owners; Assessments.--**The cost of planting, transplanting or removing any shade trees or the necessary and suitable guards, curbing or grading for their protection and of the replacing of pavement or sidewalk necessarily disturbed in the execution of the work shall be paid by the owners of the real estate abutting the location of

the work. In the event that the borough undertakes the work described in this section, costs shall be certified, assessed against the abutting owners and collected in accordance with Article XXI-A.

**Section 2720.3. Notice of Work.--**Whenever council proposes to plant, transplant or remove shade trees on any street, notice of the time and place of the meeting at which the work is to be considered shall be given in one newspaper of general circulation once a week for two weeks immediately preceding the time of the meeting. The notice shall specify in detail the streets or portions upon which trees are proposed to be planted, transplanted or removed. In the event that a shade tree commission is to undertake the work, the commission shall provide the notice.

**Section 2720.4. Penalties.--**(a) To the extent provided by ordinance, council may assess penalties for the violation of regulations relating to shade trees or delegate the power to assess such penalties to a shade tree commission. Any penalty so assessed shall be a lien upon the real estate of the offender and may be collected as municipal claims are collected.

(b) All penalties or assessments imposed under this subdivision shall be paid to the borough treasurer, to be kept in a separate fund and utilized only for the purposes authorized by this subdivision.

**Section 312.** Article XXVII subdivision (b) of the act is amended by adding a subdivision to read:

**(2) Shade Tree Commission**

**Section 313.** Section 2721 of the act is amended to read:

**Section 2721. Shade Tree Commission.--**[A borough] **(a)**

**Council** by ordinance may establish a commission to be known as the shade tree commission, [but in boroughs where the council shall not elect by ordinance a shade tree commission council may exercise all the rights and perform the duties and obligations imposed by this subdivision of this article upon the shade tree commission.] **and delegate to the commission the exclusive care, custody and control of shade trees and authorization to plant, transplant, remove, maintain and protect shade trees on the streets and highways in the borough. The commission may make and enforce regulations for the care and protection of shade trees. No regulation may be in force until it has been approved by the council and enacted as an ordinance.**

(b) Whenever in any borough there exists a commission for the care of public parks, the council may, by ordinance, confer on the park commission all the powers and all the duties prescribed by this article for the shade tree commission.

**Section 314.** Section 2722 of the act, amended April 17, 2002 (P.L.243, No.31), is reenacted to read:

**Section 2722. Composition of Commission.--**(a) Except as provided in subsection (b), the commission shall be composed of three residents of the borough, who shall be appointed by the council and shall serve without compensation.

(b) The council, by ordinance, may provide that the commission be composed of five members who shall be residents of the borough, shall be appointed by the council and shall serve without compensation.

(c) Whenever a shade tree commission of three members is established by any borough, the council shall appoint one member for a term of three years, one for a term of four years, and one for a term of five years. On the expiration of the term of

any commissioner, a successor shall be appointed by the council to serve for a term of five years.

(d) Whenever a shade tree commission of five members is established by any borough, the council shall appoint members to staggered terms so that one term expires every year. On the expiration of the term of any commissioner, a successor shall be appointed by the council to serve for a term of five years.

(e) Vacancies in the office of commissioner shall be filled by the council for the unexpired term.

Section 315. Sections 2723 and 2724 of the act are repealed:

[Section 2723. Powers May Be Vested in Park Commission.--Whenever in any borough there exists a commission for the care of public parks, the council may by ordinance, confer on the park commission all the powers and all the duties prescribed by this article for the shade tree commission.

Section 2724. Powers of Commission.--The commission shall have exclusive custody and control of the shade trees in the borough, and is authorized to plant, remove, maintain and protect shade trees on the streets and highways in the borough.

The commission may employ and pay such superintendents, engineers, foresters, tree-wardens, or other assistants, as the proper performance of the duties devolving upon it shall require, and may make, and enforce regulations for the care and protection of the shade trees of the borough. No such regulation shall be in force until it has been approved by the council and enacted as an ordinance.]

Section 316. The act is amended by adding a section to read:

**Section 2724.1. Duties of Commission.--(a) The shade tree commission shall annually report in full to the council its transactions and expenses for the last fiscal year of the borough.**

**(b) Whenever any shade tree commission proposes to plant, transplant or remove shade trees on any street, notice of the time and place of the meeting at which such work is to be considered shall be given by the commission in accordance with section 2720.3.**

**(c) The commission shall each year certify to council an amount needed for the care of shade trees and for the publication of notices required by this subdivision. The commission shall use funds appropriated or raised by taxation in accordance with section 2720.1 for any purpose authorized by council.**

**(d) The commission shall ascertain and certify to council and the borough treasurer the amount of any assessment imposed in accordance with this subdivision for the planting, transplanting or removal of plants, shrubs and trees.**

Section 317. Sections 2725, 2726, 2727, 2728, 2729 and 2730, Article XXVII(b)(2) heading and sections 2741, 2742 and 2743 of the act are repealed:

[Section 2725. Report of Commission.--The shade tree commission shall annually report in full to the council its transactions and expenses for the last fiscal year of the borough.

Section 2726. Notices by Commission.--Whenever any shade tree commission proposes to plant, transplant, or remove shade trees on any street, notice of the time and place of the meeting at which such work is to be considered shall be given in one newspaper of general circulation in the borough once a week for two weeks immediately preceding the time of the meeting. The notice shall specify in detail the streets or portions upon which trees are proposed to be so planted, replanted, or removed.

Section 2727. Payment by Owners.--The cost of planting, transplanting, or removing any shade trees in and along the streets and highways in the borough, of the necessary and suitable guards, curbing or grading for the protection thereof, and of the replacing of any pavement or sidewalk necessarily disturbed in the execution of such work, shall be paid by the owner of the real estate abutting which the work is done.

The amount each owner is to pay shall be ascertained and certified by the commission to council and to the borough treasurer.

Section 2728. Assessments; Liens.--Upon the filing of the certificate with the council, the borough secretary shall cause thirty days' written notice to be given to every person against whose property an assessment has been made. The notice shall state the amount of the assessment, and the time and place of payment, and shall be accompanied with a copy of the certificate.

The amount assessed against the real estate shall be a lien from the time of the filing of the certificate with the council, and if not paid within the time designated in the notice, a claim may be filed and collected by the borough solicitor in the same manner as municipal claims are filed and collected.

Section 2729. Maintenance by Borough; Tax Levy.--The cost and expenses of caring for such trees after having been planted and the expense of publishing the notice hereinbefore provided for shall be paid by the borough.

The needed amount shall each year be certified by the commission to the council and shall be drawn against, as required by the commission, in the same manner as money appropriated for borough purposes.

The council may levy a general tax, not to exceed the sum of one-tenth of one mill on the dollar on the assessed valuation of the property in said borough taxable for county purposes, for the purpose of defraying the cost and expenses of caring for such shade trees and the expense of publishing the notice; or it may provide for the expense of the caring for trees already planted and of publishing the notice by appropriations equal to the amount certified to be required by the commission.

Section 2730. Penalties.--The commission, to the extent as may be provided by ordinance of the borough, may assess penalties for the violation of its regulations and of this article so far as it relates to shade trees. Any penalty so assessed shall be a lien upon the real estate of the offender and may be collected as municipal claims are collected.

All penalties or assessments imposed under this article shall be paid to the borough treasurer, to be placed to the credit of the commission, subject to be drawn upon by the commission for the purposes of the preceding sections of this subdivision of this article.

#### (2) Power of Boroughs as to Shade Trees

Section 2741. Ordinances to Require Planting and Replanting.--Any borough may, by ordinance, upon the petition of a majority of the property owners upon any public street thereof, require the planting and replanting of suitable shade trees along and upon the sides of such streets, upon such alignment and at such points as may be designated by such ordinance, by the owners of property abutting the street at the points designated. This section shall not authorize any borough to require the planting or replanting of trees at any point which may interfere with the necessary or reasonable use of any street or abutting property or unreasonably interfere with any business conducted thereon.



Section 2742. Power of Borough Where Owners Fail to Comply.--On failure of any owner, after reasonable notice, to comply with the terms of any such ordinance, the borough may cause such trees to be planted or replanted at the expense of the borough, and thereupon, in the name of the borough, collect the cost of such work from the owners in default, as debts of like amount are by law collectible.

Section 2743. Removal of Diseased Plants, Shrubs and Trees.--The commission may upon such notice as may be provided by ordinance, require owners of property to cut and remove plants, shrubs and trees, afflicted with the Dutch elm or other disease, which threatens to injure or destroy plants, shrubs and shade trees, in the borough under regulations prescribed by ordinance. Upon failure of any such owner to comply with such notice, the borough may cause the work to be done by the borough, and levy and collect the cost thereof from the owner of the property. The cost of such work shall be a lien upon the premises from the time of the commencement of the work, which date shall be fixed by the borough engineer and shall be filed with the borough secretary. Any such lien may be collected by action in assumpsit or by lien filed in the manner provided by law for the filing and collection of municipal claims.]

Section 318. Article XXVII subdivision (c) heading of the act is reenacted to read:

(c) Forests

Section 319. Section 2751 of the act is amended to read:

Section 2751. Acquisition of Land for Forest Purposes.--Any borough may acquire, by purchase, gift, or lease, and hold tracts of land covered with forest or tree growth or suitable for the growth of trees, and administer the same[, under the direction of the Department of Forests and Waters,] in accordance with the practices and principles of scientific forestry, for the benefit of the borough. Such tracts may be of any size suitable for the purpose and may be located within or without the borough limits.

Section 320. Section 2752 of the act is repealed:

[Section 2752. Approval of Department of Forests and Waters.--Before the passage of any ordinance for the acquisition of land to be used as a municipal forest, the borough shall submit to the Department of Forests and Waters, and secure its approval of, the area and location of such land.]

Section 320.1. Section 2753 of the act is reenacted to read:

Section 2753. Ordinance Declaring Intention.--Whenever the council of any borough deems it expedient to acquire any land for the purposes of municipal forests, it shall so declare in an ordinance wherein shall be set forth all facts and conditions relating to the proposed action.

Section 321. Sections 2754, 2755, 2756 and 2757 of the act are amended to read:

Section 2754. Appropriations of Money.--All moneys necessary for the purchase of such tracts shall be appropriated in the same manner as appropriations for borough purposes, and [such] **the** funds may be provided from the current revenue or by the proceeds of a sale of general obligation bonds in accordance with existing law.

Section 2755. Rules and Regulations.--Upon the acquisition of any municipal forest or land suitable [therefor] **for municipal forests**, the council [shall notify the Department of Forests and Waters, which shall] **may** make [such] rules for the government and proper administration of the same as may be deemed necessary[, and the council shall publish such rules, declare the uses of the forest in accordance with the intent

of this subdivision of this article, and make such provision for its administration, maintenance, protection and development as shall be necessary or expedient]. The rules governing the administration of [such] **the** forest shall have for their main purpose the [producing of a] **production of** continuing borough revenue by the sale of forest products.

Section 2756. Appropriations and Revenues.--All moneys necessary to be expended for the administration, maintenance, protection and development of [such] forests, shall be appropriated and applied as is now done for borough purposes[;]. [all] **All** revenue and emoluments arising from [such] **the** forests shall be paid into the borough treasury to be used for general borough purposes.

Section 2757. Use of Forests.--Municipal forests may be used by the public as general outing or recreation grounds subject to the rules [of the Department of Forests and Waters governing their administration as municipal forests and rules] adopted by the council [of the borough not inconsistent with law or the regulations of the department].

Section 322. Section 2758 of the act is reenacted to read:

Section 2758. Ordinance of Sale.--Whenever the council of any borough deems it expedient to sell or lease any municipal forest or part thereof, or products therefrom, it shall so declare in an ordinance wherein shall be set forth all the facts and conditions relating to the proposed action. No ordinance for the sale of a municipal forest, or part thereof, shall be enacted until the provisions of this act relative to the sale of borough-owned real estate have been complied with.

Section 323. Section 2759 of the act is amended to read:

Section 2759. Pruning or Thinning Out; Sale of Products Thereof.--In order to comply with the practices and principles of scientific forestry, the council, by resolution, shall have the power to prune or thin out any municipal forest or portion [thereof] **of a municipal forest**, and shall have the right to sell the products of [such] **the** pruning or thinning out without complying with the provisions of this act relative to advertising and bidding. In doing so, the borough may either use its own personnel or hire or contract with skilled personnel, and in [such] **the** hiring or contracting, council shall not be required to obtain bids or to advertise.

Section 324. Article XXVIII heading of the act is reenacted to read:

#### ARTICLE XXVIII CEMETERIES

Section 325. The act is amended by adding sections to read:

**Section 2800. Appropriations for Burial Ground Maintenance.--Any borough may appropriate annually, out of the general funds of the borough, a sum for the care, upkeep, maintenance and beautifying of cemeteries, burial grounds and private roads in or leading to those areas, lying wholly or partly within the boundary limits of the borough or in the territory immediately adjacent to the borough.**

**Section 2800.1. Burial of Deceased Persons.--Any borough may prohibit, within the borough limits, or within any described territory within the limits, the burial or interment of deceased persons.**

Section 326. Sections 2801 and 2802 of the act are amended to read:

Section 2801. Management by Commission[; Transfer from Borough to Company].--When the title and management of any cemetery is vested in a borough, the council of [such] **the** borough may [in its discretion], **by ordinance**, vest the care,

management and operation of [such] **the** cemetery in a commission of three citizens to be appointed by the council[, such care, management and operation, and the terms of the commissioners to be as provided in the ordinance establishing such cemetery commission. Upon petition of at least ten lot owners in such cemetery, the council may, in its discretion, transfer such cemetery and the management thereof to an incorporated cemetery company in the manner hereinafter provided]. **The ordinance shall provide for the terms of the cemetery commissioners.**

Section 2802. [Vesting Title.--]**Transfer from Borough to Company.--(a) Upon petition of at least ten per centum of living cemetery lot owners, the council may, in its discretion, transfer the cemetery and the management thereof to an incorporated cemetery company.**

**(b)** Upon the presentation to council of [such] **the** petition, the council may enact an ordinance declaring that, upon the acceptance of the provisions of [such] **the** ordinance by the incorporated cemetery company, filed with the borough secretary, the title and control of [such] **the** cemetery shall vest in [such] **the** incorporated cemetery company.

**(c) A copy of the ordinance and the acceptance thereof, certified by the borough secretary, shall be recorded in the office of the recorder of deeds of the county.**

Section 327. Sections 2803 and 2804 of the act are repealed:

[Section 2803. Recording of Ordinance and Acceptance.--A copy of the ordinance and the acceptance thereof, certified by the borough secretary, shall be recorded in the office of the recorder of deeds of the county.

Section 2804. Orders of Court as to Neglected Cemeteries.--(a) Authority is vested in the court of quarter sessions to make such orders for the regulation of cemeteries, situated in or adjacent to boroughs, as the public good shall require; and when any cemetery shall become so neglected as, in the opinion of the court, to become a public nuisance, the court may direct the removal of the dead therefrom by the borough authorities to some other cemetery.

**(b)** When any cemetery situated in a borough shall become so neglected as, in the opinion of the court of quarter sessions, to become a public nuisance, such court, upon petition of the borough council and after such notice as is required in subsection (c) of this section, may authorize the borough without the removal of any dead from the cemetery to improve and maintain the cemetery by the restoration, improvement or removal of some or all of the gravestones, posts, railings, fences or other structures and improvements. If the court authorizes the removal of gravestones, it shall direct the borough to erect and maintain at a prominent location in the cemetery a suitable memorial of stone, bronze or similar material having inscribed thereon the available names and dates of all persons in the cemetery the gravestones for whom have been authorized to be removed. The petition filed by the council shall include such facts as to the ownership of the cemetery as are known to the borough and shall set forth the proposed plans of the borough for the improvement of the cemetery including, if it proposes to remove the gravestones, a description of the memorial it intends to erect.

**(c)** Whenever the council shall file a petition as hereinbefore provided, the court shall direct such notice of the filing of the petition to be given in such manner as it shall deem appropriate and shall afford the owner or owners of the cemetery or the owners of any burial rights therein, if any appear, an opportunity to be heard before making an order

authorizing the borough to improve and maintain the burial ground.]

Section 328. Section 2805 of the act is amended to read:

Section 2805. Transfer from Company to Borough.--(a) Upon the petition of any incorporated cemetery company and the owners of a majority of the taxable real estate in any borough, the court of [quarter sessions] **common pleas** may authorize the transfer of any cemetery to any borough in which [such] **the** cemetery may be located or [be adjacent thereto.] **which is adjacent to the borough. A copy of the court order authorizing the transfer shall be filed with the recorder of deeds.**

(b) The transfer shall be made without cost to the borough and upon being made the borough shall exercise the powers and privileges of the incorporated company, and may purchase land within or adjacent to the borough limits, not to exceed thirty acres, for the extension of the cemetery, and may raise the means to pay for the same, by the sale of lots or otherwise, but in no event by taxation. The borough may lay out lots so purchased and alter the original plot of the cemetery, and may dispose of such grounds in the same manner as the incorporated company could have done.

(c) A deed for any lot, made by the borough, shall be of the same validity as the deed of the incorporated cemetery company and the borough may make deeds to those who theretofore purchased lots, but had not been furnished with deeds by the cemetery company.

Section 329. The act is amended by adding a section to read:

Section 2805.1. Neglected or Abandoned Cemeteries.--Borough council shall have the power to direct the removal of weeds, refuse and debris from an abandoned or neglected cemetery. To exercise this power, council shall give personal notice to the owner, if known, directing the removal of weeds, refuse and debris from the cemetery within thirty days from the giving of personal notice. Personal notice shall be by any of the following means: (1) personal service on the owner, (2) certified mail, addressee only, return receipt requested, to the owner at the owner's last known address, or (3) posting notice at or upon the property after reasonable attempts to give personal notice pursuant to (1) or (2) has failed. If the removal is not completed within thirty days after personal notice was effected, borough council shall provide for the removal to be done by employees of the borough or persons hired for that purpose at the expense of the borough. The costs of removal shall be assessed against the owner of the cemetery, if known, and collected pursuant to Article XXI-A.

Section 330. Sections 2806 and 2807 of the act are repealed:

[Section 2806. Powers of Borough.--Such transfer shall be made without cost to the borough and upon being made the borough shall exercise the powers and privileges of such incorporated company, and may purchase land within or beyond the borough limits, not to exceed thirty acres, for the extension of such cemetery, and may raise the means to pay for the same, by the sale of lots or otherwise, but in no event by taxation; the borough may lay out lots so purchased and alter the original plot of such cemetery, and may dispose of such grounds in the same manner as such incorporated company could have done.

Section 2807. Deeds to Lots.--A deed for any lot, made by the borough, shall be of the same validity as the deed of such incorporated cemetery company; and the borough is authorized to make deeds to those who theretofore purchased lots, but had not been furnished with deeds by the cemetery company.]

Section 331. Sections 2808 and 2809 of the act are amended to read:

Section 2808. Removing Bodies to Alter Plots.--In altering the plot of any [such] cemetery, the bodies may be removed and reinterred in a suitable place, but without cost to surviving relatives.

Section 2809. Removal of Bodies to Other [Cemeteries.--Whenever any cemetery privately owned and in charge of no person, or any cemetery in charge of any religious society or church, has ceased to be used for interments, or has become so neglected as to become a public nuisance; or when such cemetery hinders the improvement and progressive interests of any borough, or is desired by the borough as a site for any free public library building, or for any other public purpose, the court of quarter sessions of the county, upon petition of the managers of such cemetery; or upon the petition of fifty residents in the vicinity in case such cemetery is not in charge of anyone, setting forth that the improvements and progressive interests of such borough are hampered and the welfare of such borough is injured; or upon the petition of such borough setting forth that such cemetery is desired by the borough for the erection thereon of a free public library building, or for use as a recreation place, or the opening, laying out or extension through said land of any street, or for any other public purpose; and after three successive weeks of advertisement in a newspaper of general circulation in the borough may direct the removal of the remains of the dead from such cemetery.]

**Cemeteries.--(a) The court of common pleas may, upon petition and notice as set forth in this section, direct the removal of the remains of the dead from a privately owned cemetery, borough-owned cemetery, any cemetery affiliated with any religious society or church or with any other organization, when the cemetery has ceased to be used for interments, or has become so neglected as to become a public nuisance, or when the cemetery hinders the improvement and progressive interests of the borough, or is desired by the borough as a site for any public purpose.**

(b) The petition to the court for the removal of the remains of the dead shall be made in accordance with any of the following:

(1) The managers of the cemetery in charge of a religious society or church or any other organization, but only in pursuance of the wishes of a majority of the members of the society or church or any other organization, expressed at a meeting held for that purpose after two weeks' public notice. The managers' petition shall set forth that the cemetery has ceased to be used for interments.

(2) Approval of fifty residents of the borough if the cemetery is not in charge of anyone, setting forth that the improvements and progressive interests of the borough are hampered and the welfare of the borough is injured by the presence of the cemetery.

(3) Borough council setting forth that the cemetery has become so neglected as to become a public nuisance, or that the improvements and progressive interests of the borough are hampered and the welfare of the borough is injured by the presence of the cemetery, or that the land is desired for a public purpose.

(c) Prior to the court authorizing the removal of the remains of the dead from a cemetery, notice shall be given by advertisement in a newspaper of general circulation once a week for three successive weeks.

(d) The removal shall be made by the managers of the cemetery, or by the borough when the cemetery is in charge of no one or is a borough-owned cemetery, in a careful manner, at the expense of the party making the removal, to another cemetery as may be selected, or if so desired by relatives or other interested parties, to some cemetery in the vicinity.

(e) Relatives or other interested parties of the dead may remove the remains, at any time during the proceedings, at their own expense, before removal by the managers or the borough.

(f) All bodies, when so removed, shall be placed in separate caskets and graves, and the markers placed over the remains of the bodies shall be taken by the persons authorized to make the removal, and placed as near as can be in the same relative position as before removal.

(g) After the removal of all dead bodies from any such cemetery, the land shall cease to be a cemetery or burial ground, and may be acquired by the borough as other real estate is acquired for borough purposes.

Section 332. Sections 2810, 2811, 2812, 2813, 2814 and 2815 of the act are repealed:

[Section 2810. Applications for Removal.--No application, as provided in the preceding section, shall be made by the managers of any cemetery, in charge of any society or church, except in pursuance of the wishes of a majority of the members of such society or church, expressed at a meeting held for that purpose after two weeks' public notice.

Section 2811. Removals; How Made.--Such removal shall be made by the managers of such cemetery, or by the borough when such cemetery is in charge of no one, in a careful manner, at the expense of the party making such removal, to such other cemetery as may be selected; or if so desired by relatives or friends, to some cemetery in the vicinity.

Section 2812. Notice of Removal.--The parties making such removal shall publish, for two successive weeks, in a newspaper of general circulation in the borough, a notice declaring their intention to remove such remains.

Section 2813. Removal by Relatives and Friends.--Relatives and friends of such dead may remove such remains, at any time during such proceedings, at their own expense, before removal by the managers.

Section 2814. Care in Removal.--All bodies, when so removed, shall be placed in separate caskets and graves, and the markers placed over the remains of such bodies shall be taken by the persons authorized to make such removal, and placed as near as can be in the same relative position as before removal.

Section 2815. Right to Use Property From Which Bodies Removed.--After the removal of all dead bodies from any such cemetery, the said land shall cease to be a cemetery or burial ground for all and any purpose whatsoever; and may be acquired by the borough as other real estate is acquired for borough purposes.]

Section 333. Section 2816 of the act, amended October 4, 1978 (P.L.962, No.189), is amended to read:

Section 2816. Purchase of Plots for Burial of Deceased Service Persons.--Any borough may purchase plots of ground, in any cemetery or burial ground within its limits, for the interment of [such] deceased members of the armed forces, as have [heretofore] died **before** or shall [hereafter] die **later** within [such] **the** borough, or shall die beyond [such] **the** borough and shall have a legal residence within the borough at the time of their death, and whose bodies are entitled to be buried by the county under the provisions of existing law.

[Such] **The** plots of ground shall be paid for out of the treasury of [such] **the** borough.

Section 334. Article XXIX heading of the act is reenacted to read:

ARTICLE XXIX  
LICENSES AND LICENSE FEES

Section 335. Sections 2901 and 2902 of the act are amended to read:

Section 2901. Licensing Transient Retail Business.--[Every borough shall have power] **(a) Any borough may,** by ordinance, [to] regulate and license [each and every person, firm or corporation] **transient merchants** engaged in any transient retail business[,] within [such] **the** borough[,]. **Transient merchants shall include any person, partnership or corporation engaged in any transient retail business** for the sale of goods, wares, or merchandise, whether [such] **the** business [shall be] **is** conducted from a fixed location within the borough or by any person or persons engaged in peddling, soliciting, or taking of orders from house to house[, and to]. **The ordinance may** prohibit the commencement or doing of any [such] **transient retail** business [or] unless the license required by [such] **the** ordinance has been procured from the proper authorities by the person, firm, or corporation desiring to commence [such] **the** transient retail business[, and to enforce such ordinances]. **The ordinance may provide for enforcement** by penalties or [by] other appropriate means. The amount of any [such] license fee shall bear a reasonable relationship to the cost of administering [such] **the** ordinance and regulating[, investigating,] **and** inspecting [and supervising such] **the** transient retail business.

**(b) No license fee shall be charged under this section to the following transient merchants, unless such transient merchant is also selling other goods, wares and merchandise not excepted:**

(i) [to farmers] **Farmers** selling their own produce[,].

(ii) [for the sale of] **Persons selling** goods, wares and merchandise[, donated by the owners thereof,] **if** the proceeds [whereof] **of the sale** are to be applied to any charitable or philanthropic purpose[, or].

(iii) [to any manufacturer or producer] **Manufacturers or producers** in the sale of bread and bakery products, meat and meat products, or milk [or] **and** milk products, [but the] **provided that milk and milk products shall not include or apply to ice cream or other frozen desserts.**

**(c) The ordinance may require** [any person, partnership, firm or corporation in any or all of these excepted categories to] **that the transient merchants excepted from payment of a license fee in subsection (b) must** register with the borough[, and **otherwise** be subject to all other provisions of the ordinance [except those pertaining to the payment of license fees: Provided, the term "milk or milk products" shall not include or apply to ice cream or other frozen desserts: And provided further, That any transient retail business dealing in one or more of the excepted categories and selling other goods, wares and merchandise not excepted shall be subject to the license fee fixed by the ordinance for its activities in connection with the sale of goods, wares and merchandise not in any of the excepted categories].

Section 2902. Commonwealth Licenses Saved.--Nothing contained in [section 2901 of this act] **this article** shall be construed to relieve any person, partnership, or corporation

from the duty of taking out a license, or from the payment of any license tax **or fee** imposed or authorized by any other statute of this Commonwealth, **nor shall any Commonwealth license tax or fee preempt the registration, license, or regulatory powers of a borough in accordance with this article, unless the preemption is expressly authorized.**

Section 336. Section 2903 of the act, amended October 5, 1979 (P.L.197, No.66), is amended to read:

Section 2903. Licensing Parking Lots **and Parking Garages** Operated for Profit.--Any borough may, by ordinance, regulate the business of operating parking lots **or parking garages** for profit within the borough and may require such lots **or garages** to reserve areas exclusively for parking by handicapped individuals. **Ordinances shall be consistent with 75 Pa.C.S. (relating to vehicles).** Nothing in this section may be construed to limit the protections and prohibitions contained in any law **or regulation relating to the rights of the disabled.** License or permit fees may be charged and collected from the operators of [such] **the parking lots or parking garages.** Any borough adopting such a regulatory plan shall require from each operator of [such] a parking lot **or parking garage** a bond to be approved by council for the protection of the public from loss of or damage to vehicles parked, stored or placed under the jurisdiction of [such] **a parking lot or parking garage** operator[: Provided, That], **provided that** nothing in this section shall apply to parking lots **or parking garages** operated by a municipal authority or a parking authority.

Section 337. Sections 2904 and 2905 of the act are amended to read:

Section 2904. Persons Taking Orders **by Samples.**--It shall be unlawful for any borough to **impose, levy or collect** any license fee **or mercantile tax** upon any persons taking orders for merchandise by sample, from dealers or merchants[, ] for individuals or companies who pay a license **fee** or mercantile tax at their chief places of business. Nothing in this section shall authorize any such person, firm or corporation to sell by retail to others than dealers or merchants without payment of a license or permit fee.

Section 2905. Equality of Residents and Non-Residents.--It shall be unlawful for any borough to impose, by ordinance, [or exact] or collect under the provisions of any ordinance [heretofore or hereafter enacted], any license [tax or] fee upon or from any manufacturer, or the agent, representative or employe of any manufacturer who is a resident of the Commonwealth, for soliciting orders for, or for selling, any goods, merchandise or wares manufactured within this Commonwealth, that is not or cannot legally be imposed upon, [or exacted,] or collected from, any manufacturer or dealer, or the agent, representative, or employe of any manufacturer, who is a non-resident of the Commonwealth, for soliciting orders for or for selling any goods, merchandise, or wares manufactured [without the] **outside this** Commonwealth.

Section 338. Section 2906 of the act is reenacted to read:

Section 2906. Insurance Business.--It shall be unlawful for any borough to impose or collect any license fee upon any insurance company or its agents, or insurance broker, authorized to transact business under the laws of the Commonwealth.

Section 339. The act is amended by adding an article to read:

#### **ARTICLE XXIX-A VETERANS' AFFAIRS**



(a) Pennsylvania National Guard

Section 2901-A. Eminent domain for National Guard purposes.

Borough council may take, by right of eminent domain, for the purpose of appropriating to the borough for the use of the Pennsylvania National Guard, public lands, easements and public property, as may be in its possession or control and used or held by the borough for any other purpose. The right, however, shall not be exercised as to any street or wharf.

Section 2902-A. Lands for armory purposes.

Borough council may acquire, by purchase or by gift or by the right of eminent domain, any land for the use of the Pennsylvania National Guard, to convey the lands so acquired to the Commonwealth in order to assist the State Armory Board in the erection of armories. The power conferred by this section shall not be exercised to take any church property, graveyard, cemetery or any dwelling-house or the curtilage of the same in the actual occupancy of the owner.

Section 2903-A. Appropriation to assist in erection of armories.

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

Section 2911-A. Appropriations to organizations of veterans and American Gold Star Mothers.

Borough council may appropriate annually a sum to be divided in amounts as council deems proper to organizations composed of veterans of any war in which the United States was engaged or the American Gold Star Mothers' Organization, to aid in defraying the expenses of Memorial Day, Veterans' Day or any similar day hereafter provided for by Federal or State law. The payments shall be made to defray actual expenses only. Before any payment is made, the organization receiving the appropriation shall submit verified accounts of its expenditures.

**Section 2912-A. Payment of rent for veterans' organizations.**

Borough council may appropriate annually a sum as council deems proper to incorporated organizations of American veterans of any war in which the United States was engaged, to be used in the payment of the rent of any building or room or rooms in which the post, branch, camp, detachment or lodge has its regular meetings.

**Section 2913-A. Rooms for veterans' and children of veterans' organizations.**

Borough council may furnish without charge to each organization composed of American veterans of any war in which the United States was engaged and children of such veterans, a room or rooms in any public building of the borough.

**Section 2914-A. Care and erection of memorials.**

Borough council may take charge of, care for, maintain and keep in good order and repair, at the expense of the borough, any soldiers' monument, gun or carriage or similar memorial 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.

Section 3003. Access to Public Records.--For the purpose of establishing such registry, the person in charge of the real estate registry of any borough shall have access without charge to any public records wherein the necessary information may be obtainable, and may also cause a search to be made in other places for any muniments or evidences of title, not reported to him as herein provided, and requisite for the completion of such books, maps, or plans.

Section 3004. Keeping of Records.--The registry, books, maps and plans shall be carefully preserved, and shall be so kept, by additions from time to time, as to show the ownership of every lot, or piece of real estate, or subdivision thereof, within the limits of the borough, with the succeeding transmissions of title from the time of the commencement of

such plans, but nothing contained therein shall, at any time, invalidate any municipal or tax claim by reason of the fact that the same is not assessed or levied against the registered owner.

Section 3005. Duties of Owners of Real Estate.--It shall be the duty of all owners of real estate within the limits of the borough, within one month after the date of the enactment of any ordinance establishing such registry, and of every subsequent purchaser, devise, or other owner, within one month after acquiring title in any manner whatsoever to any real estate in such borough, to furnish to the person in charge of the real estate registry, at his office, descriptions of their respective properties upon blanks to be furnished by the borough, and at the same time to present their conveyances to be stamped as evidence of the registry thereof.]

Section 341. Section 3006 of the act, amended October 9, 1967 (P.L.360, No.158), is repealed:

[Section 3006. Registry Required Before Recording.--The sheriffs of the respective counties in which any such borough is situated shall present for registry the deeds of all properties within such borough sold by them at judicial sales; and the recorders of deeds of such counties shall not admit for record any deed of any property in such borough, bearing dates subsequent to the enactment of an ordinance providing for the establishment of such registry, unless the same shall first have been duly stamped as herein provided.]

Section 342. Article XXXI heading of the act is reenacted to read:

#### ARTICLE XXXI HEALTH AND SANITATION

Section 343. Sections 3101 and 3102 of the act are amended to read:

Section 3101. Establishment of Board of Health; Health Officers.--[The administration of the health laws and ordinances in boroughs shall be enforced by a board of health, or by a health officer or officers, as the case may be, appointed by the borough council.

Where the borough council elects to appoint a health officer or officers the said health officer or officers] **(a) Borough council may, by ordinance, appoint a board of health, or a health officer or officers in lieu of a board of health, to administer and enforce the health laws and related ordinances of the borough. Health officers appointed by borough council shall have the same powers and duties, and exercise the same authority, as is prescribed for boards of health in boroughs. All health officers, whether appointed by boards of health pursuant to section 3106(b) or by the borough council, shall have had some experience or training in public health work [in accordance with rules and regulations established by the Advisory Health Board of the State] and shall be, or within six months of taking the oath of office, shall become certified for the office of health officer by the Department of Health. [Such health officers shall not enter upon the performance of their duties until they are certified so to do by the State Department of Health.]**

**(b) All expenses incurred by the board of health, its officers or employees in the performance of the duties required by law or by ordinance, shall be paid by the borough where the duties are performed, in the same manner as other expenses of the borough are paid.**

**(c) A borough may, by ordinance, dissolve a board of health and decide to become subject to the jurisdiction of a county**

department of health or joint county department of health in accordance with the act of August 24, 1951 (P.L.1304, No.315), known as the "Local Health Administration Law."

Section 3102. Members of Board of Health.--(a) Where the borough council decides to appoint a board of health [such], **the board shall be composed of three or five members, appointed by borough council**, at least one of whom shall be a [physician] **professional health care provider** of not less than two years' experience in the practice of [his] **the respective** profession. [The members of the board shall be appointed by the borough council.] **If no professional health care provider can be identified to serve on the board, council may, instead, appoint an individual who has experience in or is knowledgeable of public health issues.** At the first appointment one member shall be appointed to serve for one year, one for two years, one for three years, **and, in the case of boards with five members**, one for four years, and one for five years; and thereafter one member shall, in like manner, be appointed each year to serve for **three years or, in the case of boards with five members**, five years. The members of the board of health shall serve without compensation, but if any member of the board shall be elected to the office of secretary of the board of health, [he] **the member** shall be entitled to receive a salary fixed by the board for that office.

(b) "Professional health care provider" as described in this section shall mean an individual who is approved, licensed, certified or otherwise regulated to practice or operate in the health care field under the laws of this Commonwealth, including, but not limited to, a physician, a dentist, a podiatrist, a chiropractor, an optometrist, a psychologist, a pharmacist, a registered or practical nurse, a physical therapist, a physician's assistant, a paramedic, an administrator of a hospital, nursing or convalescent home or other health care facility or individuals licensed to practice veterinary medicine under the laws of this Commonwealth.

Section 344. Section 3103 of the act, amended June 25, 2001 (P.L.651, No.56), is amended to read:

Section 3103. Oaths of Members, Secretary and Health Officer; Organization; Bonds.--The members of the board shall severally take and subscribe to the oath prescribed for borough members of council [together with such loyalty oath as is prescribed and required by law;] and shall annually organize by electing a president from among the members of the board, a secretary who may or may not be a member of the board, and a health officer. **The secretary and the health officer** shall receive such salary as may be fixed by the board, and ratified by the borough council, and shall serve [for a period] until such time as their successors may be elected and qualified. If the borough council shall so require, they shall severally give bond to the borough in such sums as council shall prescribe for the faithful discharge of their duties. They shall take and subscribe to the oaths required of members of the board.

Section 345. Sections 3104, 3105, 3106, 3107, 3108, 3109, 3110 and 3111 of the act are amended to read:

Section 3104. Duties of Secretary.--The secretary of the board shall [keep]:

(1) **Keep and maintain, in accordance with 53 Pa.C.S. Ch. 13 Subch. F (relating to records)**, the minutes of the proceedings of the board[; shall] **and keep accurate accounts of the expenditures of the board[; shall draw].**

(2) **Draw** all requisitions for the payment of moneys on account of the board of health from appropriations made by the **borough** council [of] **to** the board, and [shall] present the same to the president of the board for [his] **the president's** approval[; shall render].

(3) **Render** statements of the expenditures to the board at each stated meeting, or as frequently as the board may require[; shall prepare,].

(4) **Prepare**, under the directions of the board, the annual report to the borough council together with the estimate of appropriation needed for the ensuing year. [He shall report]

(5) **Report** to the State Department of Health at such intervals as shall be specified by [the State] law or regulation, the cases of communicable disease reported to the board of health, on the form provided for that purpose by [such] **the** department[;] and [shall also] make an annual report to [such] **the** department[; and shall make].

(6) **Make** such other reports and perform such other duties as the board may require.

Section 3105. Powers and Duties of Health Officer.--It shall be the duty of the health officer to attend all [stated] **regular** and special meetings of the board of health, and at all times be ready and available for the prompt performance of [his] **the officer's** official duties[. He shall perform], **including** such duties as are vested in local health officers by State laws and regulations. [He] **The health officer** shall make sanitary inspection and shall execute the orders of the board of health and shall, in the performance of [his] **the health officer's** duties, have the power and authority [of a policeman] **to issue citations for the violation of applicable laws and ordinances.**

Section 3106. Powers of Board of Health.--(a) The board of health shall have the power, and it shall be its duty to [enforce]:

(1) **Enforce** the laws of the Commonwealth, the regulations of the State Department of Health, and all ordinances of the borough enacted to **promote public health and** prevent the introduction and spread of infectious or contagious disease[; to abate].

(2) **Abate** and remove all nuisances [which] **that** the board shall deem [prejudicial] **detrimental** to the public health[;] **and** to mark infected houses or places[; to recommend].

(3) **Recommend** rules [for the construction and maintenance of house-drains, wash-pipes, soil-pipes and cesspools; and to recommend all such other rules] and regulations as shall be deemed necessary for the preservation of the public health **and for carrying into effect the powers and functions of the board.** [Such] **The** rules and regulations shall not become effective until they have been approved by the borough council and enacted as ordinances of the borough. [The board shall also have power, with the consent of council, in case of a prevalence of any contagious or infectious disease to establish one or more emergency hospitals, and to make provisions and regulations for the maintenance and management of the same.]

The board shall also have the power to recommend to council all necessary rules and regulations not inconsistent with law, for carrying into effect the powers and functions with which the board is invested by law, and the power and authority relating to the public health conferred on boroughs. Such rules and regulations shall not become effective until they have been approved by the borough council and enacted as ordinances of the borough.]

**(b) The board of health may appoint a health officer or officers.**

Section 3107. Entry Upon Premises.--**(a)** The board of health as a body, or by committee, as well as the health officer, together with their assistants, subordinates, and [workmen] **employes**, under and by order of the [said] board, shall have the power to enter at [any time] **a reasonable time and in a reasonable manner** upon any premises in the borough upon which there is suspected to be any infectious or contagious disease, or nuisance detrimental to the public health, for the purpose of examining and abating the same.

**(b)** In the event that entry upon any premises is refused by an owner, an agent of an owner or a tenant, the board of health or health officer shall obtain an administrative search warrant from any magisterial district judge within the judicial district where the premises to be inspected is located.

**(c)** It shall be sufficient to support the issuance of a warrant for the board of health or health officer to provide to the magisterial district judge evidence of any of the following:

**(1)** Reasonable standards and an administrative plan for conducting inspections.

**(2)** The condition of the premises or general area and the passage of time since the last inspection.

**(3)** Facts, supported by oath or affirmation, alleging that probable cause exists that a law, regulation or ordinance subject to enforcement by the board of health or health officer has been violated.

Section 3108. Inspections; Abatement of Nuisances.--The board of health [may inspect house-drains, waste and soil-pipes, cesspools, water-closets, slaughter-houses, hog-pens, stable-yards and] **shall have the power to inspect** any conditions or places [whatsoever] in the borough which may constitute a nuisance or a menace to public health[; and whenever]. **Whenever** any condition or place in the borough is found by the board to be a nuisance or a menace to the health of the people of the borough it shall issue a written order of abatement, directed to the owner, or agent of the owner, of the premises, stating that the conditions specified [therein] **in the premises** constitute a nuisance or a menace to health, and ordering an abatement thereof within [such] **reasonable** time as may be specified by the board in [such] **the** order. [In case such] **If the** order of abatement is not obeyed within the time specified [therein], the board shall [thereupon] issue a further written order to the health officer, directing [him] **the health officer** to remove or abate the same[; which]. **The** order shall be executed by [him and his] **the health officer and** subordinates and [workmen] **agents**, and the expense [thereof] **of execution** with a penalty of ten percent [thereof added thereto], shall be recoverable from the owner of the premises upon or from which the nuisance or menace to health is abated or removed, in the same manner as debts of like character are now collected by law[; or the said board of health may proceed to enforce such other remedy, or inflict such penalty, as may be provided by ordinance of the borough]. **In lieu of, or in addition to the above procedure, borough council may seek relief from a nuisance or threatened nuisance by an action at law or in equity. Council may seek the guidance of the board of health or the health officer in determining the nature of the relief requested.**

Section 3109. Estimates of Expenditures; Report.--It shall be the duty of the board of health or of the health officer or officers appointed by borough council to submit annually to the council, before the commencement of the fiscal year, an estimate of the probable expenditures of the board **or the health officer or officers** during the ensuing year; and council shall then proceed to make [such] appropriations as may be deemed necessary. The board of health, or the health officer or officers, shall, in the month of January of each year, submit a report, in writing, to council of its appropriation and expenditures for the preceding year, together with such other information on subjects relative to the sanitary conditions or requirements of the borough as may be necessary.

Section 3110. Cooperation With Other Units.--Any borough may cooperate with the county or counties in which it is located, or 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.

(c) Whenever expenses incurred in accordance with the provisions of subsection (b) shall remain unpaid by a borough for a period over three months after a statement of the expense has been rendered to the borough and demand for payment is made, the Secretary of Health shall, with the approval of the Governor, institute, in the name of the Commonwealth as plaintiff, an action of assumpsit against the borough for the collection of the expense from the borough in the same manner as debts of like amount are collected by law. Upon the trial of the action, the reasonableness of the expenditures made by the secretary shall be submitted to the jury for its determination.

Section 346. Sections 3112, 3113 and 3114 and Article XXXII heading of the act are repealed:

[Section 3112. Expenses of Board or Secretary of Health.--All expenses incurred by any local board of health,

its officers or employees, in the performance of the duties imposed upon it by law, and all expenses incurred by the Secretary of Health or his agents in accordance with the provisions of this article shall be paid by the borough wherein such duties are performed, in the same manner as other expenses of such borough are paid.

Section 3113. Failure to Pay Expenses Incurred by State Secretary.--Whenever expenses incurred by the Secretary of Health or his agents in the administration of health laws in any borough in accordance with the provisions of this article, shall remain unpaid by said borough for a period over three months after a statement of such expense has been rendered by him to such borough and demand for payment by him made, he shall, with the approval of the Governor, institute, in the name of the Commonwealth as plaintiff, an action of assumpsit against such borough for the collection of such expense from the borough in the same manner as debts of like amount are collected by law: Provided, That upon the trial of any such action of assumpsit, the reasonableness of the expenditures made by the Secretary of Health shall be submitted to the jury for its determination.

Section 3114. Disposition of Collected Funds.--All expenses incurred by the Secretary of Health in the administration of health laws in any borough, when paid to him by such borough, or when collected by him, shall be returned by him to the State Treasurer, who shall credit the amount so received to the appropriation made to the Department of Health.

#### ARTICLE XXXII ZONING]

Section 347. The act is amended by adding an article to read:

#### ARTICLE XXXII-A UNIFORM CONSTRUCTION CODE, PROPERTY MAINTENANCE CODE AND RESERVED POWERS

Section 3201-A. Primacy of Uniform Construction Code.

(a) General rule.--The act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act, and the Uniform Construction Code adopted under section 301 of the Pennsylvania Construction Code Act shall apply to the construction, alteration, repair and occupancy of all buildings and structures within a borough .

(b) Primacy.--This section and any ordinance, rule or regulation adopted pursuant to this section shall not supersede or abrogate the Pennsylvania Construction Code Act or the Uniform Construction Code and shall be construed and read in pari materia with them.

Section 3202-A. Changes in Uniform Construction Code.

A borough may propose and enact an ordinance to equal or exceed the minimum requirements of the Uniform Construction Code in accordance with and subject to the requirements of section 503 of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act. Any ordinance exceeding the provisions of the Uniform Construction Code shall be required to meet the standards provided in section 503(j) (2) of the Pennsylvania Construction Code Act.

Section 3203-A. Public nuisance.

Any building, housing or property, or part of any building, housing or property erected, altered, extended, reconstructed, removed or maintained, contrary to any of the provisions of any ordinance passed for any of the purposes specified in this article may be declared, by a court of law, a public nuisance,



and may be abatable as such , provided, however, that a violation of the Uniform Construction Code or any ordinance that equals or exceeds the Uniform Construction Code shall be subject to the provisions of the Pennsylvania Construction Code Act and the regulations adopted thereunder by the Department of Labor and Industry relating to enforcement for noncompliance .

Section 3204-A. Property maintenance code.

(a) Property maintenance codes.--Notwithstanding the primacy of the Uniform Construction Code, a borough may enact a property maintenance ordinance, and it may incorporate any standard or nationally recognized property maintenance code, or any variations or changes or parts of the code, published and printed in book form, without incorporating the text of the code in the ordinance, or a borough may enact any standard or nationally recognized property maintenance code or any changes 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 maintenance code or ordinance incorporating a standard or nationally recognized property maintenance code. Any fees payable to property maintenance inspectors under the ordinance shall be paid by the property maintenance inspectors to the borough treasurer for the use of the borough as promptly as may be.

(c) Legal actions.--In addition to the penalties provided by the property maintenance ordinance, the borough may institute appropriate actions or proceedings at law or in equity to prevent or restrain property maintenance violations.

(d) Construction.--The powers of a borough as provided in this section shall be in addition to, but not limited to, the

powers provided in the act of November 26, 2008 (P.L.1672, No.135), known as the Abandoned and Blighted Property Conservatorship Act, and 53 Pa.C.S. Ch. 61 (relating to neighborhood blight reclamation and revitalization).  
Section 3205-A. Reserved powers.

If, as a result of legislative action or final order of court for which the time for appeal has expired and no appeal has been taken or from which there is no pending appeal, the Uniform Construction Code or any replacement code is no longer applicable in boroughs, a borough may:

(1) Enact and enforce ordinances to govern and regulate the construction, reconstruction, alteration, extension, repair, conversion, maintenance, occupation, sanitation, ventilation, heating, egress, lighting, electrical wiring, water supply, toilet facilities, drainage, plumbing, fire prevention, fireproofing, including prescribing limitations wherein only buildings of noncombustible material and fireproofed roofs are used in construction, erection or substantial reconstruction, use and inspection of all buildings and housing or parts of buildings and housing and the roofs, walls and foundations of buildings and housing, and all facilities and services in or about the buildings or housing constructed, erected, altered, designed or used, in whole or in part, for any use or occupancy, and the sanitation and inspection of land appurtenant to the buildings or housing. The codes may be combined or separately enacted or combined with the property maintenance code. A borough may adopt, amend or incorporate by reference any standard or nationally recognized code or any variations or changes or parts of the code as its ordinance in the manner provided in section 3204-A. The ordinance may provide for reasonable fines and penalties for violations of the ordinance in compliance with Article XXXIII.

(2) Require that before any work of construction, reconstruction, alteration, extension, repair or conversion of any building is begun, approval of the plans and specifications be secured.

(3) Council may appoint building inspectors, housing inspectors, property maintenance inspectors, fire prevention inspectors, electrical inspectors and plumbing inspectors, and fix their compensation. The inspectors 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 adopted codes or ordinances incorporating standard or nationally recognized codes. Any fees payable to inspectors under the ordinances shall be paid by them to the borough treasurer for the use of the borough as promptly as may be.

(4) In addition to the penalties provided by ordinances, the borough may institute appropriate actions or proceedings at law or in equity to prevent or restrain the unlawful construction, reconstruction, alteration, extension, repair, conversion, maintenance, use or occupation of property located within the borough, to restrain, correct or abate the violation and to prevent the use or occupancy of the building, housing or structure.

Section 348. Article XXXIII heading of the act is amended to read:

ARTICLE XXXIII  
[ENFORCEMENT OF] ORDINANCES

Section 349. Section 3301 of the act, amended October 9, 1967 (P.L.399, No.181) and repealed in part April 28, 1978 (P.L.202, No.53), is repealed:

[Section 3301. Prosecution of Ordinance Violators; Disposition of Fines, Penalties and Costs.--Any violation or failure to comply with any provision of any borough ordinance shall constitute a summary offense and prosecution for every such offense shall be according to the practice in the case of summary convictions.]

Section 350. The act is amended by adding subdivisions to read:

(a) General Provisions

**Section 3301.1. Ordinances; resolutions.**

(a) General rule.--Borough council shall enact ordinances in accordance and not inconsistent with the provisions of this act and with the laws of this Commonwealth, in which general or specific powers of the borough shall be exercised as it shall deem beneficial to the borough and to provide for the enforcement of the same. Borough council may amend, repeal or revise existing ordinances by the enactment of subsequent ordinances.

(b) Legislative acts.--Every legislative act of council shall be by ordinance and these legislative acts shall include, but not be limited to, tax ordinances, general appropriation ordinances, capital expenditures not payable out of current funds, and all legislation exercising the police power of the borough, regulating land use, development and subdivision, imposing building, plumbing, electrical, property maintenance, housing and similar standards, and otherwise regulating the conduct of persons or entities within the borough and imposing penalties for the violation thereof.

(c) Resolutions.--Borough council shall adopt resolutions in accordance and not inconsistent with the provisions of this act and the laws of this Commonwealth. The purposes for which resolutions may be adopted shall include, but not be limited to, ceremonial or congratulatory expressions of the good will of the council, statements of public policy of the council, approval of formal agreements of the borough, other than agreements arising under an established purchasing system of the borough, the approval, when required, of administrative rules, regulations and bylaws arising under State statutes or borough ordinances and the filling of borough-appointed positions and of vacancies of elected officials unless otherwise provided.

(d) Real and personal property matters.--Borough council's approval of the acquisition, disposition and leasing of real or personal property shall be by adoption of a resolution in a manner consistent with this act.

**Section 3301.2. Publication of proposed ordinances.**

(a) Publication requirements.--Except where otherwise provided in this act or in other law, borough council shall publish every proposed ordinance once in one newspaper of general circulation no more than 60 days nor fewer than seven days prior to enactment, which the seventh day shall fall on the day prior to the day when council shall vote on the proposed ordinance. Publication of any proposed ordinance shall include either the full text or the title and a brief summary prepared by the borough solicitor setting forth all the provisions in reasonable detail and a reference to a place within the borough where copies of the proposed ordinance may be examined.

(b) Publication of summary.--If the full text is not included in the publication of the proposed ordinance, the following shall apply:

(1) The newspaper in which the proposed ordinance is published shall, upon request, be furnished a copy of the full text.

(2) An attested copy of the full text shall be filed in the county law library or other county office designated by the county commissioners who may impose a fee no greater than that necessary to cover the actual costs of storing the proposed ordinance.

(3) The date of the filing with the county, as provided in paragraph (2), shall not affect the effective date of the ordinance and shall not be deemed a defect in the process of the enactment of the ordinance.

(c) Notice of amendments.--In the event substantial amendments are made in the proposed ordinance, before voting upon enactment, council shall within ten days readvertise in one newspaper of general circulation, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

Section 3301.3. Enactment, approval and veto of ordinances; effective date.

(a) Approval by mayor.--

(1) Every ordinance enacted by council shall be presented to the mayor for the mayor's approval. As a matter of law, presented to the mayor shall be deemed to mean delivery to the mayor by hand delivery or certified mail, addressee only, to the mayor at the mayor's last known address. Delivery shall be deemed complete upon depositing in the mail, postage or charges prepaid, as evidenced by a certificate of mailing.

(2) If the mayor approves the ordinance, he or she shall sign it. If the mayor does not approve the ordinance, the mayor shall return it with his or her objections which shall be entered upon the minutes, to the council at its next scheduled meeting occurring at least ten days after the meeting at which the ordinance was enacted by council. Council shall proceed to a reconsideration of the ordinance either at the meeting at which the vetoed ordinance was returned or no later than ten days thereafter at any other scheduled meeting. If, after reconsideration, a majority of all elected council members plus one votes to override the mayor's veto, the ordinance shall have full force and effect as if it had received the approval of the mayor. The vote shall be determined by yeas and nays, and the names and votes of the members shall be entered upon the minutes. A scheduled meeting, as used in this section, may be either a regular, special or reconvened meeting.

(3) If any ordinance shall not be returned by the mayor at council's next scheduled meeting occurring at least ten days after its presentation to the mayor, the ordinance shall have full force and effect as if it had been approved by the mayor.

(b) Effective date.--The effective date of an enacted ordinance, except as otherwise provided in the ordinance, shall be the date when the mayor shall approve it or the date of enactment by the council over the veto of the mayor, or in the case of any ordinance not returned by the mayor at the next scheduled meeting of council occurring at least ten days after the meeting at which the ordinance was enacted by the council,

the date of enactment shall be the date of the succeeding scheduled meeting of council.

(c) Tax ordinance.--When council shall present the mayor with the annual tax ordinance referred to in section 1310.1, the mayor shall, within ten days of receiving the tax ordinance approve or return the tax ordinance to the borough secretary with a statement setting forth the mayor's objections. Council shall proceed to a reconsideration at any scheduled meeting held no later than ten days after the mayor has returned the tax ordinance to the secretary with the mayor's 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 a majority of all elected council members plus one. After that action, the ordinance shall have full force and effect as if it had received the approval of the mayor. If the mayor neither approves the tax ordinance nor 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 copies. After the ordinances are recorded, notice given, and the certificate of correction made, the ordinances so recorded shall take the place of the original record and shall be the valid and legal ordinances of the borough for the period covered by the new ordinance book.

#### (b) Enforcement

#### Section 3321. Fines and penalties.

An ordinance enacted by borough council pursuant to this act shall prescribe the fines and penalties which may be imposed for its violation and shall, unless otherwise specified in any other law of this Commonwealth, designate the method of its enforcement in accordance with the following:

(1) Except as provided in paragraph (2), when the penalty imposed for the violation of an ordinance enacted pursuant to the provisions of this act is not voluntarily paid to the borough, the borough shall initiate a civil enforcement proceeding before a magisterial district judge.

The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. An ordinance which is to be enforced through a civil enforcement proceeding may prescribe civil penalties not to exceed \$600 per violation. A borough shall be exempt from the payment of costs in any civil case brought by the borough to enforce an ordinance in accordance with this paragraph.

(2) For an ordinance regulating building, housing, property maintenance, health, fire, public safety, parking, solicitation, curfew, water, air or noise pollution, borough council shall provide that its enforcement shall be by action brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The municipal solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa.R.Crim.P. No. 454 (relating to trial in summary cases). Borough council may prescribe criminal fines not to exceed \$1,000 per violation and may prescribe imprisonment to the extent allowed by law for the punishment of summary offenses. Violations of the property maintenance code or ordinance may also be enforced pursuant to section 3204-A(c).

(3) All ordinances enacted prior to the effective date of this clause, other than those regulating building, housing, property maintenance, health, fire, public safety, parking, solicitation, curfew, water, air or noise pollution, shall be deemed automatically amended so that they shall be enforced through a civil enforcement proceeding in accordance with paragraph (1).

(4) In addition to or in lieu of enforcement of an ordinance through a civil action or as a summary offense, as provided in this section, boroughs may enforce ordinances through an action in equity brought in the court of common pleas of the county where the borough is situate.

(5) Ordinances, whether enforced through civil proceedings or as a summary offense, may provide that a separate offense shall arise for each day or portion of a day in which a violation is found to exist or for each section of the ordinance which is found to have been violated. In the event that such claims for fines and penalties exceed the monetary jurisdiction of a magisterial district judge as set forth in 42 Pa.C.S. § 1515(a) (relating to jurisdiction and venue), exclusive of interest, costs or other fees, the borough may bring such action in the court of common pleas or may, pursuant to 42 Pa.C.S. § 1515(a), waive that portion of fines or penalties that exceed the monetary jurisdictional limits so as to bring the matter within the monetary jurisdiction of the magisterial district judge.

(6) Ordinances may provide that any person found guilty of violating an ordinance may be assessed court costs and reasonable attorney fees incurred by the borough in the enforcement proceedings.

(7) All fines, costs, penalties, and fees collected for the violation of any borough ordinance shall be paid to the borough treasurer.

(8) Borough council may delegate the initial determination of ordinance violation and the service of notice of violation to such officers or agents as the borough shall deem qualified for that purpose.

Section 351. Sections 3306 and 3307 of the act are renumbered and amended to read:

Section [3306] **3322.** Commitments Pending Hearings.--Any person arrested for the violation of a borough ordinance **that may be enforced as a summary offense** may be committed to the borough lockup, pending a hearing or trial, but in case there is no suitable lockup in which to detain prisoners the person arrested may be committed to the county jail.

Section [3307] **3323.** Commitments After Hearing.--Upon judgment against any person by summary conviction, or by proceedings by summons on default of the payment of the fine or penalty imposed and the costs, the defendant may be sentenced and committed to the borough lockup for a period not exceeding ten days or to the county jail [or workhouse] for a period not exceeding thirty days.

Section 352. Section 3308 of the act, amended March 2, 1988 (P.L.103, No.18), is repealed:

[Section 3308. Collection of Penalties.--No fine or penalty shall exceed one thousand dollars (\$1,000) for a violation of a building, housing, property maintenance, health, fire or public safety code or ordinance and for water, air and noise pollution violations, and shall not exceed six hundred dollars (\$600) for a violation of any other borough ordinance.]

Section 353. Section 3309 of the act, repealed in part April 28, 1978 (P.L.202, No.53), is renumbered and amended to read:

Section [3309] **3324.** Payment of Costs by Borough.--When a prisoner shall be committed to any county jail [or workhouse], either for the nonpayment of a fine or penalty imposed for the violation of any borough ordinance, or while awaiting a hearing upon any charge for the violation of any borough ordinance **that is enforced as a summary offense**, the expenses of maintaining [such] **the** prisoner during [his] **the prisoner's** confinement shall be paid by the borough, and the county shall not be liable for any such maintenance.

Section 354. Article XXXIV and subdivision (a) headings of the act are repealed:

[ARTICLE XXXIV  
ACTIONS BY AND AGAINST BOROUGHS  
(a) Municipal Claims]

Section 355. Section 3401 of the act, repealed in part April 28, 1978 (P.L.202, No.53), is repealed:

[Section 3401. Collection of Municipal Claims.--In all proceedings for the recovery of municipal claims an attorney's commission of five percent may be included.]

Section 356. Article XXXIV subdivision (b) heading and section 3415 of the act are repealed:

[(b) Defenses by Taxpayers]

Section 3415. Liability in Bond Transfers.--All certificates of loans, issued by a borough, shall be transferable by the legal owner thereof without any liability on the part of the transfer agents of the borough to recognize or see to the execution of any trust, whether expressed, implied, or constructive, to which such loans may be subject, unless such transfer agents of the borough shall have previously received notice in writing signed by or on behalf of the person for whom such loans appear by the certificate thereof to be held in trust, that the proposed transfer would be a violation of such trust.]

Section 357. Article XXXV heading of the act is reenacted to read:

ARTICLE XXXV  
ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE



Section 358. Section 3501 of the act is amended to read:

Section 3501. Acts of Assembly Repealed; Saving Clause.--(a)

**The following acts and parts of acts are hereby repealed as set forth:**

(1) The act of May 4, 1927 [(P.L.519)] (P.L.519, No.336), known as "The Borough Code," and its reenactments and amendments are repealed, except that section 2, act of May 23, 1961 [(P.L.210)] (P.L.210, No.109), shall not be construed to be repealed.

(2) The act of April 14, 1875 (P.L.55, No.58), 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," 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 act to validate certain proceedings for municipal improvements, municipal assessments, municipal claims, and municipal liens, in the several boroughs of this Commonwealth, and validating such improvements, assessments, claims, and liens; providing for the filing of claims and liens therefor; and the proceedings for the collection of such assessments and claims," absolutely.

(9) The act of June 12, 1931 (P.L.559, No.192), entitled "An act to authorize boroughs to sue out writs of scire facias on certain municipal claims, where more than five years have elapsed since said claims were filed, and to reduce such claims to judgment; and providing for the revival and collection of such judgments," absolutely.

(10) The act of March 3, 1933 (P.L.8, No.5), entitled "An act validating, ratifying and confirming acts and municipal functions done, executed and performed, municipal works and improvements instituted and completed, and affairs regulated by boroughs in accordance with general borough laws, where such boroughs were incorporated under local law, and no official record of the acceptance of the general borough law is in existence or can be found," absolutely.

(11) The act of July 12, 1935 (P.L.721, No.282), entitled "An act authorizing boroughs to construct, reconstruct, and repair sidewalks, gutters, curbs, and grass plots, in cases where material is paid by the abutters, and labor is furnished without cost to the borough," absolutely.

(12) The act of July 18, 1935 (P.L.1305, No.408), entitled "An act authorizing boroughs to repay certain surcharges heretofore made against councilmen for the purchase of any fire apparatus where there was no fraud, corruption, or dishonesty, or profit to such councilmen, and where the borough is in possession of and uses such fire apparatus," absolutely.

(b) All other acts or parts of acts of Assembly supplied by, inconsistent with or appertaining to the subject matter covered by this act are hereby repealed. It is the intention that this act shall furnish a complete and exclusive system for the government and regulation of boroughs, except as to the several matters enumerated in section 102 of article I of this act.

(c) Nothing contained in this act shall be construed to repeal:

(1) Any local or special law.

(2) Any of the provisions of the Public Utility [Law] **Code**.

(3) Any of the provisions of any law relating to the Navigation Commission for the Delaware River and its navigable tributaries.

(4) Any of the provisions of any law, **the** enforcement of which is vested in the Department of Health of the Commonwealth or of the [Sanitary Water Board] **Department of Environmental Protection**.

(5) Any of the provisions of any law the enforcement of which is vested in the Department of [Forests and Waters or the Water and Power Resources Board] **Conservation and Natural Resources**.

(6) Any of the provisions of the act of [June 25, 1947 (P.L. 1145), entitled, as amended, "An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class to levy, assess, and collect or to provide for the levying, assessment and collection of certain additional taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers and employees to assess and collect such taxes; and permitting penalties to be imposed and enforced; providing an appeal from the ordinance or resolution levying such taxes to the court of quarter sessions and to the Supreme Court and Superior Court," or of any of the amendments or supplements to the said act.] **December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act."**

(7) The act of February 14, 2008 (P.L.6, No.3), known as the **"Right-to-Know Law."**

(8) Any provision of 45 Pa.C.S. (relating to legal notices).

(9) Any provision of 65 Pa.C.S. (relating to public officers).

(d) Nothing contained in this act shall be construed to revive any act or part of an act heretofore repealed.

Section 359. The addition of section 1104(f) of the act shall apply to officials elected or appointed to fill a vacancy in an elected office after the effective date of this section. A police officer or firefighter holding an elective office in the borough on the effective date of this section shall be

subject to the restrictions in section 1104(f) of the act for any term beginning, or vacancy occurring, after the effective date of this section.

Section 360. This act shall take effect in 60 days.

APPROVED--The 17th day of May, A.D. 2012.

TOM CORBETT