

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1702 Session of
2011INTRODUCED BY GINGRICH, ROSS, CREIGHTON, FREEMAN AND
SANTARSIERO, JUNE 21, 2011AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, NOVEMBER 15, 2011

AN ACT

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

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9 ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE

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 Acts of Assembly Repealed; Saving Clause.

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

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

16 ARTICLE I

17 PRELIMINARY PROVISIONS

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

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

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

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

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

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

30 (4) Conduct of elections.

(5) Public schools.

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

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

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

(9) State highways.

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

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

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

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 The repeal by this act of any act of Assembly, or part thereof, shall not revive any act or part thereof heretofore repealed or superseded, nor affect the corporate existence of any borough heretofore incorporated.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

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

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

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

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

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

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

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

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

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

1 also to]";

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

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

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

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

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

1 provision in the local or special law shall prevail.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(c) Nothing in this act may preclude the publication of notices by means other than in a newspaper to the extent authorized by law.~~

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

1 becomes effective.

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

3 Section 111. Definitions.--As used in this act, unless the
4 context clearly indicates otherwise, the following words and
5 terms shall be construed as follows:

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

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

14 [(3)] (2) "Department of [Highways] Transportation" means
15 the Pennsylvania Department of [Highways] Transportation.

16 [(4)] (3) "Highway" means a State highway of the
17 Commonwealth of Pennsylvania.

18 [(5)] (4) "Latest official census" shall be either the most
19 recent decennial census of the United States or a later census
20 conducted by the United States Bureau of the Census, whichever
21 shall be the later.

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

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

27 ~~[(7) "Newspaper" means a newspaper of general circulation as~~ ←
28 ~~defined in 45 Pa.C.S. § 101 (relating to definitions) and~~
29 ~~circulated in the borough.~~

30 ~~(8)~~ (7) "Pennsylvania Municipalities Planning Code" means ←

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

3 [(6)] ~~(9)~~ (8) "Street" means and includes any street, road, ←
4 lane, court, cul-de-sac, alley, public way and public square.

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

7 ARTICLE II

8 CREATION AND ALTERATION OF BOROUGHES

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

11 (a) Incorporation of Boroughs

12 Section 11. Section 201 of the act, amended December 18,
13 1992 (P.L.1650, No.181), is amended to read:

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

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

27 Section 202. Applications for Incorporation.--(a) The
28 application for incorporation shall be by a petition signed by a
29 majority of the freeholders residing within the limits of the
30 proposed borough and by the freeholders of a majority of the

1 territory within the limits of the proposed borough, when all
2 parts of the proposed borough are in the same township[, and,
3 where]. Where portions of the proposed borough are in different
4 townships, the petition shall be signed by a majority of the
5 freeholders residing in each of [such] the separate portions and
6 by the freeholders of a majority of the territory in each of
7 [such] the separate portions. The signatures must be secured
8 within three months immediately preceding the presentation
9 thereof to the court. [Such] The petition shall be subscribed by
10 and sworn to by at least one of the signers. The number of
11 signers required to sign the petition shall be ascertained as of
12 the date the petition was presented to court.

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

28 (c) Such committee shall, within sixty days of its creation,
29 advise the court in relation to the establishment of the
30 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



1 definitions), if any, once a week for four consecutive weeks
2 immediately following the filing of the petition, during which
3 time exceptions may be filed to the petition by any person
4 interested. The notice shall state when and where the petition
5 was filed and the time during which exceptions may be filed to
6 the petition.

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

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

18 Section 202.1. Borough Advisory Committee.--(a) The court
19 shall establish a Borough Advisory Committee when a petition is
20 received by the court for the creation of a borough. The
21 committee members shall be appointed by and shall serve at the
22 pleasure of the court, and shall consist of two residents of the
23 proposed borough, two residents from each of the existing
24 townships recommended by the respective governing body of the
25 township or townships and not residing within the proposed
26 borough and one resident of the county not residing in either
27 area who shall serve as the chair of the committee. The members
28 shall serve without salary, but the court may entitle each
29 member to reimbursement for the member's actual and necessary
30 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



1 shall hear the parties interested, which shall include, but not
2 be limited to, the holders of any ownership interest in real
3 property within the limits of the proposed borough, and their
4 witnesses. If, after the hearing, the court deems further
5 investigation necessary to determine the advisability of
6 incorporation, it may make an order as is needed to obtain the
7 additional information. When the court has obtained all
8 reasonably necessary information, and has determined that the
9 conditions prescribed by this section have been complied with,
10 the court shall determine the desirability of the proposed
11 incorporation based upon the evidence submitted at the hearing
12 and by the committee, any additional information obtained after
13 the hearing, and any other applicable factors the court deems
14 relevant.

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

27 (c) The petition and the final decree either granting or
28 denying the petition shall be recorded in the recorder of deed's
29 office of the county at the expense of the petitioners, who
30 shall also pay all other expenses and costs in connection with

1 the proceedings.

2 Section 14. Section 203 of the act, amended November 30,
3 1967 (P.L.657, No.304), is repealed:

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

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

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

1 appertain. The petition and the decree shall be recorded in the
2 recorder's office of the county, at the expense of the
3 petitioners, who shall also pay all other expenses and costs in
4 connection therewith.]

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

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

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

18 (1) The corporate name of the borough.

19 (2) The boundaries of the borough.

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

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

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

1 of....."

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

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

6 (1) The corporate name of the borough.

7 (2) The boundaries thereof.]

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

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

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

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

27 Section 211. Existing Government Preserved Temporarily;
28 Organization of Borough; Election of Borough Officers.--(a) The
29 [said] newly incorporated area shall continue to be governed as
30 before [said] the incorporation until the first Monday of

1 January following the municipal election after the issuance of
2 the final decree establishing [such] the new borough, at which
3 time the officers of [said] the borough [chosen] who are
4 elected, in accordance with section 805 [of this act], at [such]
5 the municipal or special election shall enter upon their
6 respective terms of office, and the borough government shall be
7 duly organized under this act.

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

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

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

24 Section 212. Marking Borough Boundaries.--The boundaries of
25 the borough shall, as soon as practicable after its
26 incorporation, be appropriately marked, due notice being first
27 given, as directed by the court, to the [commissioners and
28 supervisors of adjoining townships and to the corporate
29 authorities of adjoining municipalities] governing bodies of
30 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

1 indebtedness was incurred by the township or townships for an
2 improvement located wholly within the territorial limits of the
3 newly incorporated borough, [such] the indebtedness shall be
4 assumed by the borough[, and where any]. Where only part of
5 [such] the improvement is located within the newly incorporated
6 borough, the part of [such] the indebtedness, representing the
7 part of the improvement located within the borough, shall be
8 assumed by the borough and the adjustment and apportionment of
9 any remaining debt [and the public property of the township
10 shall be made as above provided] shall be retained by the
11 township or townships.

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

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

22 Section 214. Judicial Adjustment on Failure of Agreement.--
23 [In case the township] If the governing bodies of the township
24 or townships and the borough [authorities] cannot make an
25 amicable adjustment and apportionment of the property and
26 indebtedness within six months after the government of the newly
27 incorporated borough is established, then the [commissioners or]
28 supervisors of the township or townships or the council of the
29 borough may present a petition to the court of [quarter
30 sessions] common pleas. The court shall then appoint three

1 disinterested commissioners, all residents and taxpayers of the
2 county, but [none residing in or owners of] who do not reside in
3 or own real estate in the township or townships or borough, who,
4 after hearing, notice of which shall be given to the township or
5 townships and borough as the court shall direct, shall make
6 report to the court making an adjustment and apportionment of
7 all the property as well as the indebtedness between the
8 township or townships and the borough. The report shall state
9 the amount that shall be due and payable from either the borough
10 [to] or the township[, or from the township to the borough] or
11 townships, to the other and vice versa, and the amount of
12 indebtedness that shall be assumed by [the borough or the
13 township or both of them] any or all of them.

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

27 Section 23. Section 216 of the act, repealed in part June 3,
28 1971 (P.L.118, No.6), is reenacted to read:

29 Section 216. Exceptions to Report.--In case exceptions are
30 filed to the report of the commissioners, the court shall

1 dispose of the same, taking testimony therein if it deems the
2 same advisable. The court shall enter its decree confirming the
3 award of the commissioners, or modifying the same as to it
4 appears just and proper.

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

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

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

23 Section 219. Bond Issues; Taxation.--In any [such]
24 proceeding to adjust and apportion indebtedness, the township or
25 townships or the borough shall have power to issue and deliver
26 to the borough or township or townships interest-bearing bonds
27 in liquidation of the indebtedness ascertained, to be its
28 proportionate share payable, if [such] the bonds are acceptable
29 to the borough or township or townships entitled to receive the
30 [same] bonds. The court may also make all [needful] necessary

1 orders for the collection and payment by the township or
2 townships or borough of the amount needed to pay its share of
3 any indebtedness apportioned to it by special taxes to be
4 collected in one year, or by annual installments[, the amount
5 needed to pay the share of any indebtedness apportioned to it].

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

8 (b) Consolidation of Boroughs

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

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

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

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

1 petition is filed.

2 Section 232. Filing Petition; Notice of Election; Return.--

3 Upon the presentation of [any such] a petition pursuant to
4 section 231, the court shall determine whether the petition is
5 in due form and properly signed, and if the court so finds, it
6 shall enter an appropriate order and direct that the petition
7 shall be filed with the clerk of the court and that a copy of
8 the petition and order of court shall be filed with the county
9 board of elections. The county board of elections shall frame
10 the proper question to be submitted to the electors at the
11 election ordered by the court. Notice of [such] the time and
12 purpose of the election shall be given in at least one newspaper
13 ~~of general circulation~~ of the proper county once a week for ←
14 four consecutive weeks [of the time of such election and the
15 purpose thereof]. The publication of the notice shall be made on
16 behalf of the petitioners and shall be in the form [as the court
17 may approve] approved by the court.

18 The county board of elections shall make return of the vote
19 cast on the question submitted to the clerk of the court of
20 [quarter sessions] common pleas, which return shall be filed
21 with the petition. If a majority of those voting on the question
22 submitted were in favor of the change of the charter of the city
23 to a borough charter, the court shall order that the record of
24 the proceedings be recorded in the office for the recording of
25 deeds of the county, which record shall constitute the charter
26 of the borough under the name set forth in the petition. The
27 recorder of deeds in each county affected shall certify to the
28 Department of State, the Department of Transportation, the
29 Department of Community and Economic Development and the county
30 planning commission a copy of the record constituting the

1 charter of the borough. If a majority of those voting on the
2 question were against the change of the city charter no further
3 proceedings shall be had, and the same question shall not again
4 be submitted for a period of five years following [such] the
5 election.

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

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

17 Section 234. Property; Assets; Liabilities; Ordinances;
18 Wards; Election Districts and Certain Officers.--Upon the
19 formation of the borough government, all of the property and
20 assets of the city shall become the property of the borough, and
21 [such] the change of government shall not in any way affect any
22 liabilities incurred, rights accrued or vested, obligations[,]
23 issued or contracted, or any suits or prosecutions pending or
24 instituted to enforce any right or penalty accrued, or punish
25 any offense committed prior to [such] the change. All ordinances
26 of the former city shall continue in force in the new borough
27 until altered or repealed in the manner provided by law. The
28 wards and election districts of the city shall become the wards
29 and election districts of the borough until altered or changed
30 as may be provided by law. [And in] In the election of members

1 of council from the several wards, two members of council shall
2 be elected from each ward, unless thereafter changed as provided
3 by law. All constables[, aldermen] and election officers in
4 office in the city, when the borough government is organized,
5 shall remain in office until the expiration of their respective
6 terms of office.

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

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

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

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

18 Section 241. Consolidation or merger.

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

23 Section 242. Change of corporate name.

24 (a) General rule.--Where the corporate name of any borough
25 shall differ from the name in general usage or from the post
26 office designation by reason only of minor discrepancies in
27 spelling, in capitalization or in the manner of compounding the
28 elements of the name, the court of common pleas, upon petition,
29 may change the name of the borough to conform to the name in
30 general usage or to the post office designation. The petition

1 may be presented by council, pursuant to a resolution, or by at
2 least 5% of the registered electors of the borough.

3 (b) Petition.--Upon the presentation of the petition, the
4 court shall fix a day for hearing of which notice shall be given
5 as directed by the court. At the hearing, an inhabitant of the
6 borough may remonstrate against the granting of the petition,
7 and the court may grant or refuse the petition as appears just
8 and proper to the court. If the court grants the petition, the
9 decree of the court shall be recorded in the office for the
10 recording of deeds and the corporate name of the borough from
11 the date of the recording shall be as set forth in the petition.

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

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

24 Section 30. Article III heading, sections 301, 302, 303, 304
25 and 305, Article IV heading, subdivision (a) heading, sections
26 401, 402, 403, 404, 405 and 406, subdivision (b) (1) heading,
27 sections 411, 412, 413 and 414, subdivision (b) (2) heading,
28 sections 416, 417, 418, 419, 420 and 421, subdivision (c)
29 heading, sections 426, 427 and 428 and subdivision (d) heading
30 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

1 given in at least one newspaper of general circulation in the
2 borough once a week for four consecutive weeks of the time of
3 such election and the purpose thereof. The publication of the
4 notice shall be made on behalf of the petitioners in form as the
5 court may approve. The county board of elections shall make
6 return of the vote cast on the question submitted to the clerk
7 of the court of quarter sessions, which return shall be filed
8 with the petition. If a majority of those voting on the question
9 submitted were in favor of the annulment of the charter or the
10 change of the corporate name, as the case may be, the court
11 shall order that the record of the proceedings shall be recorded
12 in the office of the recorder of deeds, otherwise no further
13 proceedings shall be had.

14 Section 303. Territory to Revert to Township; Corporate Name
15 Changed; Indebtedness.--Upon recording of the record as above
16 provided, in case of an annulment of charter, the lands embraced
17 within the limits of such borough, the charter of which is
18 annulled, shall thereupon in accordance with the prayer in the
19 petition, either revert to and become a part of the township
20 from which it was taken, and be under and subject to its
21 government and control or shall become a new township of the
22 second class under the name set forth in the petition. In cases
23 where a borough reverts to the township from which its territory
24 was taken, the government of the borough shall cease and
25 terminate on the first Monday of January next succeeding the
26 election on the question of the annulment of the charter, and
27 the property and assets of the borough, including all
28 uncollected taxes and liens, shall be converted into cash by the
29 township supervisors, and shall be applied only to the payment
30 of the outstanding indebtedness of the borough, but any moneys

1 not needed for such purposes shall revert to the township, and
2 any borough indebtedness not paid as above provided shall be
3 paid from the taxes assessed and collected from that portion of
4 said township formerly included within the limits of such
5 borough. In the case of a change of the corporate name, the
6 corporate name of said borough shall from the date of the
7 recording of the record of the proceeding be as set forth in
8 said petition, but such change shall not in any way affect any
9 liabilities incurred, rights accrued or vested, obligations
10 issued or contracted, or any suits or prosecutions pending or
11 instituted to enforce any right or penalty accrued or punish any
12 offense committed, prior to such change.

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

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

29 Section 305. Change of Corporate Name to Conform to General
30 Usage or to Post Office Designation.--Where the corporate name

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

25 ARTICLE IV

26 CHANGE OF BOROUGH LIMITS

27 (a) Annexation of Townships of First Class or Parts Thereof
28 Section 401. Petition For Annexation of a Township of the
29 First Class or Parts Thereof.--Registered electors equal to at
30 least ten percent of the registered electors in any township of

1 the first class contiguous to a borough, or ten percent of the
2 registered electors residing within any part of a township of
3 the first class contiguous to a borough, may petition the
4 council of such borough for the annexation of the township of
5 the first class, or part thereof, as the case may be, to the
6 contiguous borough, and for a referendum on the question of such
7 annexation. The number of registered electors required to sign a
8 petition shall be determined as of the date the petition is
9 filed. All petitions shall be accompanied by a plot or plots of
10 the territory to be annexed, showing all streets and highways,
11 municipal improvements and public buildings. All petitions for
12 the annexation of a part of a township of the first class shall
13 include a description of the part of the township sought to be
14 annexed.

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

27 Section 403. Result of Election.--If a majority of the
28 persons voting on such question in the entire township and a
29 majority of the persons voting on such question in the borough
30 shall vote in favor of the annexation, then the township of the

1 first class, or part thereof, as the case may be, shall on the
2 first Monday of January next following be and become a part of
3 the borough. If the majority of the votes cast on the question
4 in either the entire township or in the borough was against
5 annexation, then the annexation proceeding shall fail and the
6 question of such annexation shall not again be voted upon for a
7 period of two years from the date of such election.

8 Section 404. Wards.--Until changed in the manner provided by
9 law, the township of the first class, or part thereof annexed to
10 the borough, if not divided into wards, shall constitute a
11 separate new ward of the enlarged borough, if such borough is at
12 the time divided into wards. If the township, or part of the
13 township, at the time of annexation was divided into wards, then
14 each ward of the township, or part of the township, shall
15 constitute a separate ward of the enlarged borough (if divided
16 into wards) and shall be consecutively numbered or otherwise
17 appropriately designated by the council of the borough:
18 Provided, that in any case where a part of a township only is
19 annexed to a borough divided into wards, the court, in the order
20 annexing such part of a township to such borough, may include a
21 provision that such annexed territory shall be attached to an
22 existing ward or wards of such borough.

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

1 terms, unless sooner removed as provided by law.

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

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

11 (1) Where territory is in one county:

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

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

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

1 Section 414. Decree of Court; Costs; Limitation of
2 Subsequent Proceedings.--The court after hearing may make such
3 order on the petition as to right and justice shall appertain.
4 If the court shall confirm the petition, the said petition and
5 decree shall be recorded in the recorder's office of the county,
6 at the expense of the petitioners, who shall pay all other
7 expenses and costs in connection with said petition and decree.
8 Thenceforth the territory so annexed shall be a part of the
9 borough, and shall become a part of the contiguous ward or wards
10 of the borough, or constitute a new ward or wards of the borough
11 as the court in its order may prescribe. If the court shall not
12 confirm the petition, no other proceeding for the annexation of
13 the same territory, or any part thereof, shall be had within
14 five years thereafter.

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

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

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

27 Section 417. Notice of Application.--Notice of the intended
28 application shall be given in one newspaper of general
29 circulation in the territory to be annexed and in the borough
30 immediately before the presentation of the petition to any of

1 the courts by publication once a week for four consecutive
2 weeks.

3 Section 418. Appointment of Commissioners; View; Report.--

4 Upon presentation of the petition, the several courts shall each
5 appoint one person as commissioner, and the commissioners so
6 chosen shall select an additional one who shall be a surveyor or
7 registered engineer.

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

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

28 Section 420. Approval by Court; Compensation of
29 Commissioner; Limitation of Subsequent Proceedings.--If each of
30 the courts shall approve the report of the commissioners, the

1 whole proceeding shall be entered on the record of each court,
2 and the territory annexed shall be part of the borough. Each
3 commissioner shall receive such compensation for his services as
4 the court shall allow to be paid by the original petitioners. If
5 the commissioners shall not favor or if either court shall not
6 approve the annexation, no other proceeding for the annexation
7 of the same territory, or any part thereof, shall be had within
8 five years thereof.

9 Section 421. Government of Territory.--Where territory is so
10 annexed to a borough of an adjoining county, such territory so
11 annexed, shall be governed, for borough purposes, as a part of
12 the borough to which they are annexed, and for county and
13 institution district purposes, as a part of the county and
14 institution district in which actually situated, in the manner
15 provided by law in such cases.

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

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

28 Section 427. Procedure.--A certified copy of any ordinance,
29 adopted together with a description of the land to be annexed
30 and a plot showing the courses and distances of the boundaries

1 of the borough before and after such proposed annexation, shall
2 be filed in the court of quarter sessions of the county, or, in
3 case the land proposed to be annexed is situate in an adjacent
4 county, then in the courts of both counties. A notice of such
5 filing shall also be filed in the office of the county board of
6 elections of the proper county. Thereupon the territory proposed
7 to be annexed shall be a part of the borough; except when any
8 ordinance and plot are filed in the office of the clerk of the
9 court of quarter sessions within two months of any general,
10 municipal, or primary election, in which case the property
11 proposed to be annexed shall not become a part of the borough
12 until the day succeeding such election.

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

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

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

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

1 Affairs.

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

11 Section 32. Article IV subdivision (e) heading, sections
12 431, 432 and 433 and subdivision (f) heading of the act are
13 repealed:

14 [(e) Detachment of Territory

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

27 Section 432. Signing and Contents of Petition.--The petition
28 shall be signed by a majority in number of the freeholders in
29 the territory to be detached. The petition shall contain the
30 names of the contiguous township or borough to which the

1 territory is proposed to be annexed, and shall set forth a
2 description of the territory to be detached, and be accompanied
3 with a plot showing the courses and distances of the boundaries
4 of such township or borough before and after the annexation of
5 the detached territory.

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

22 (f) Adjustment of Indebtedness and Public Property]

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

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

1 well as indebtedness, between the township and the borough.

2 In adjusting property and indebtedness, streets, sewer and
3 utilities shall not be considered except to the extent that
4 current and unpaid indebtedness was incurred for the
5 construction and improvement thereof. In making such adjustment
6 and apportionment, the township shall be entitled a division of
7 the property and indebtedness in proportion that the assessed
8 valuation of the taxable real estate in the annexed portion of
9 the township bears to the assessed valuation of the taxable real
10 estate in the entire township immediately prior to the
11 annexation and the borough shall be entitled to the remainder of
12 such property and indebtedness. Where indebtedness was incurred
13 by the township for an improvement located wholly within the
14 limits of the territory annexed to the borough, such
15 indebtedness shall be assumed by the borough and where any part
16 of such improvement is located partly within the limits of such
17 annexed territory, the part of such indebtedness representing
18 the part of the improvement located within such annexed
19 territory shall be assumed by the borough, and the adjustment
20 and apportionment of any remaining debt and public property of
21 the township shall be made as hereinabove provided. Such
22 adjustment and apportionment shall be reduced to writing, and
23 shall be duly executed and acknowledged by the clerk or
24 secretary of the borough and shall be filed with the clerk of
25 the court of quarter sessions of the county or counties in which
26 the borough and the township are located, and a copy thereof
27 shall also be filed with the Department of Community Affairs of
28 the Commonwealth.]

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

30 [Section 442. Judicial Adjustment on Failure of Agreement.--

1 In case the borough council and the governing body of the
2 township cannot, within six months after an annexation becomes
3 effective, arrive at a determination of the cost of value of
4 certain improvements as required by the act of July 20, 1953
5 (P.L.550), entitled "An act providing for and regulating the
6 annexation of parts of a second class township to boroughs,
7 cities and townships," or of the adjustment of indebtedness and
8 public property as required by section 441 of this act, the
9 borough council or the governing body of the township may appeal
10 to the court of quarter sessions of the county in which the
11 borough is located. The court shall then appoint three
12 disinterested commissioners, all residents and taxpayers of the
13 county, but none residing in or owners of real estate in the
14 township or the borough. Such commissioners, after hearing,
15 notice of which shall be given to the township and the borough
16 as the court shall direct, shall make report to the court,
17 stating the cost and value of improvements and/or making an
18 apportionment and adjustment according to the provisions of this
19 article, of all the property, as well as the indebtedness, if
20 any, to and between the borough and the township. Such report
21 shall state the amount, if any, that shall be due and payable
22 from the borough, or from the township to the borough, as well
23 as the amount of indebtedness, if any, that shall be assumed by
24 the borough or the township, or both of them.

25 Section 443. Proceedings on Judicial Adjustment.--The
26 commissioners shall give the borough and the township at least
27 five days' notice of the filing of their report. Unless
28 exceptions are filed to such report within thirty days after the
29 date of filing, the report shall be confirmed by the court
30 absolutely. Any sum awarded by such report to the township or to

1 the borough shall be a legal and valid claim in its favor
2 against the borough or township charged therewith. Any property,
3 real or personal, given to the borough or to the township shall
4 become its property. Any claim of indebtedness charged against
5 the borough may be collected from it.]

6 Section 35. Section 444 of the act, repealed in part June 3,
7 1971 (P.L.118, No.6), is repealed:

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

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

17 [Section 445. Compensation and Expenses of Commissioners;
18 Costs.--The commissioners shall be allowed such compensation and
19 expenses for their services as the court shall fix. The costs of
20 the proceedings, including the compensation and expenses of the
21 commissioners, shall be apportioned by the court between the
22 borough and the township as it deems proper.

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

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

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

18 (g) When Territory is Detached

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

27 Section 452. Duties of Auditor.--The auditor shall hear all
28 parties in interest, make necessary investigation, and report to
29 the court the total valuation for taxation purposes of the
30 borough and townships affected, the assessed valuation of the

1 portion detached, the amount of indebtedness of the several
2 boroughs and townships, and the value of all property
3 transferred from the borough to a township or borough. The
4 auditor shall also report a form of decree, making such
5 adjustment of the indebtedness of the boroughs and townships
6 affected as he shall deem equitable.

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

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

19 ARTICLE V

20 BOROUGH BOUNDARIES

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

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

1 law providing to the contrary.

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

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

1 established if they cannot be fully designated by natural lines
2 or boundaries. Upon the filing of [any such] the report, the
3 same shall be confirmed [nisi] subject to exceptions filed under
4 section 504, and the court may, by its order, direct publication
5 of the report and require [such] notice to be given by the
6 petitioners to the interested parties [interested] as [it] the
7 court deems proper.

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

25 Section 505. Compensation and Expenses of Commissioners;
26 Costs.--The compensation and expenses of commissioners appointed
27 to [alter or] ascertain and establish borough boundaries shall
28 be in [an] a reasonable amount approved by the court. The court
29 shall by its order provide how the costs and expenses of [such]
30 the proceedings, including the furnishing and placing of

1 monuments, shall be paid, and may assess them against the
2 petitioners, the borough[, township or city interested, or any
3 of them] or any interested municipal corporation, individually
4 or in apportioned amounts as the court deems equitable.

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

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

15 ARTICLE VI

16 BOROUGH WARDS

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

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

1 shall be divided or redivided into more than thirteen wards.

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

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

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

1 provided for by this paragraph.]

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

6 Section 41. Section 602 of the act, amended October 9, 1967
7 (P.L.399, No.181), is amended to read:

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

1 portion of the borough, at least five percent of the registered
2 electors of the ward or wards which would be affected by the
3 proposal may petition council to initiate proceedings under
4 section 601 and may present to council a plot showing the
5 boundaries of the proposed wards of the borough. Council shall,
6 by motion approved by a majority of council and within ninety
7 days of presentment of the petition, determine whether to
8 initiate proceedings under section 601.

9 (b) In the event that council has not approved a motion
10 within ninety days after the presentment of a petition under
11 subsection (a), any ten registered electors may petition the
12 court of common pleas and contest the existing apportionment as
13 violating section 601(b) or (d). The proceedings before the
14 court shall be conducted in accordance with 53 Pa.C.S. §§ 906
15 (relating to contest of reapportionment by governing body) and
16 907 (relating to costs and expenses of contest).

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

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

1 (B) A COPY OF THE ORDINANCE, ALONG WITH A PLOT SHOWING THE
2 BOUNDARIES OF THE WARDS ESTABLISHED, SHALL BE FORWARDED TO THE
3 COUNTY BOARD OF ELECTIONS.

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

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

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

26 SECTION 42.1. THE ACT IS AMENDED BY ADDING A SECTION TO
27 READ:

28 SECTION 606.1. PENNSYLVANIA ELECTION CODE.--NOTHING IN THIS
29 ARTICLE SHALL BE CONSTRUED AS AFFECTING THE POWERS AND DUTIES OF
30 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

1 attending the annual meeting shall submit to the council an
2 itemized account of expenses incurred thereat. The council may
3 authorize borough employes to be compensated at their regular
4 employe rate during their attendance at the annual meeting. The
5 borough council solely may authorize the mayor and any council
6 member who is not employed by the borough to receive total or
7 partial reimbursement for lost wages or salary while attending
8 the annual meeting, provided that sufficient documentation is
9 presented to the borough council to justify the reimbursement.
10 The time spent in attending said meeting shall not be more than
11 four days, including the time employed in traveling thereto and
12 therefrom.] Each borough, becoming a member of the association,
13 shall pay [such] reasonable dues as may be fixed by the
14 association.

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

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

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

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

30 (c) In addition to any compensation allowed under section

1 701.2, council may, for each attending delegate, elected or
2 appointed officer or employee, pay expenses upon receipt of an
3 itemized account of expenses, which shall be limited to the
4 registration fee, mileage for use of personal vehicle or
5 reimbursement of actual transportation expenses going to and
6 returning from the respective annual meeting, conference,
7 educational training or committee meeting of the association
8 plus all other actual expenses that council may have agreed to
9 pay. NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION, AT LEAST ←
10 ONE MEMBER OF COUNCIL SHALL BE ALLOWED EXPENSES WHICH SHALL BE
11 LIMITED TO THE REGISTRATION FEE, LODGING, MEALS, MILEAGE FOR USE
12 OF PERSONAL VEHICLE OR REIMBURSEMENT OF ACTUAL TRANSPORTATION
13 EXPENSES GOING TO AND RETURNING FROM THE MEETING PLUS ALL OTHER
14 ACTUAL EXPENSES THAT THE COUNCIL MAY HAVE AGREED TO PAY.

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

22 (b) Council solely may authorize the mayor and any council
23 member who is not employed by the borough to receive total or
24 partial reimbursement for lost wages or salary, INCLUDING THOSE ←
25 FROM SELF-EMPLOYMENT, while attending the annual meeting or a
26 conference, educational training or committee meeting of the
27 association if sufficient documentation is presented to council
28 to justify the reimbursement.

29 (c) The maximum time for which a borough employee or mayor or
30 council member not employed by the borough shall be reimbursed

1 for lost wages or salary while attending the annual meeting or a
2 conference, educational training or committee meeting of the
3 association shall not be more than four days, including time
4 spent traveling to and from the event.

5 (d) The borough council may authorize a mayor or any council
6 member employed by the borough to be compensated at their
7 regular employe rate and a mayor or council member who is not
8 employed by the borough to receive total or partial
9 reimbursement for lost wages or salary, INCLUDING THOSE FROM
10 SELF-EMPLOYMENT, if they attend a meeting for which the mayor or
11 council member is an officer, a member of the board of
12 directors, a member of the executive committee, a member of a
13 standing committee or a trustee of the association, subject to
14 the following limitations which shall include time spent
15 traveling to and from the event:

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

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

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



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

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

8 Section 702. County and Regional Associations of Boroughs.--
9 The boroughs of any county or of two or more adjoining or nearby
10 counties, may organize a county or regional association of
11 boroughs, composed of elected and appointed borough [officials]
12 officers in [such] the county or counties, organized for the
13 purpose of furthering the interests of the boroughs in the
14 association and their inhabitants. [Any] A borough may annually
15 appropriate a sum of money, not exceeding [seventy-five dollars
16 (\$75)] one hundred dollars (\$100) for the support of [such] the
17 association. For attendance at a meeting of the county or
18 regional association of which [such] the borough is a member,
19 the borough may, for each delegate, pay expenses which shall be
20 limited to the registration fee, mileage for use of personal
21 vehicle or reimbursement of actual transportation expense going
22 to and returning from [such] the meeting plus all other actual
23 expenses that the council may have agreed to pay. Every delegate
24 attending the [annual] meeting shall submit to the council an
25 itemized account of expenses incurred [thereat]. The council may
26 authorize borough employes to be compensated at their regular
27 employe rate during their attendance at the [annual] meeting.
28 The borough council solely may authorize the mayor and any
29 council member who is not employed by the borough to receive
30 total or partial reimbursement for lost wages or salary while

1 attending the [annual] meeting, provided that sufficient
2 documentation is presented to the borough council to justify the
3 reimbursement. [Any such] A county or regional association of
4 boroughs shall have the option of admitting to membership
5 representatives of political subdivisions other than boroughs
6 within [such] the county or counties but representatives of
7 [such] the other political subdivisions shall have no voice or
8 vote in any matter that is or may be of concern solely to
9 boroughs.

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

12 Section 703. Other Associations and Organizations.--[Any]
13 (a) A borough, by motion of council, may:

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

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

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

21 In addition to any compensation allowed by law for each
22 delegate, the borough may, for each delegate, pay expenses which
23 shall be limited to the registration fee, mileage for use of
24 personal vehicle or reimbursement of actual transportation
25 expense going to and returning from [such] the meeting or
26 conference plus all other actual expenses that the council may
27 have agreed to pay. Every delegate attending the annual meeting
28 or conference shall submit to the council an itemized account of
29 expenses incurred [thereat]. The council may authorize borough
30 employes to be compensated at their regular employe rate during

1 their attendance at the annual meeting or conference. The time
2 spent in attending the meeting or [convention] conference shall
3 not be more than four days, including the time employed in
4 traveling [thereto and therefrom] to and from the meeting or
5 conference.

6 [Any] (b) A borough, by motion of council, may authorize any
7 of its officers [and/or] and employees to attend meetings of
8 professional organizations and associations, or [study or]
9 educational training sessions for persons holding the same or
10 similar office or employment, and may pay all or any specified
11 portion of the necessary expenses incident to their attendance
12 at [such] the meetings or sessions.

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

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

20 Section 704. Associations and Organizations for Mayors.--
21 [Any] A mayor may join a mayors' association and borough council
22 shall pay reasonable dues, not to exceed one hundred dollars
23 (\$100), as may be fixed by the association for each mayor
24 belonging to that association. The mayor may attend the annual
25 meeting of the association, which shall be held in [the] this
26 Commonwealth in accordance with the procedure adopted by the
27 association. [Each] A mayor shall be allowed expenses which
28 shall be limited to the registration fee, LODGING, MEALS,
29 mileage for use of personal vehicle or reimbursement of actual
30 transportation expense going to and returning from [such] the





1 meeting plus all other actual expenses that the council may have
2 agreed to pay ~~to the extent that similar expenses are provided~~
3 ~~to the elected or appointed officers of the borough in the same~~
4 ~~year for attendance at an annual meeting of the State~~
5 ~~association as provided under section 701.1.~~ Every mayor
6 attending the annual meeting shall submit to the council an
7 itemized account of expenses incurred at the annual meeting. The
8 time spent in attending [said] the meeting shall not be more
9 than four days, including time in traveling to and from the
10 meeting.

11 Section 50. Section 705 of the act, added June 22, 2000
12 (P.L.325, No.34), is amended to read:

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

30 Section 51. Article VIII and subdivision (a) headings of the

1 act are reenacted to read:

2 ARTICLE VIII

3 ELECTIONS OF OFFICERS

4 (a) General Provisions Relating to Elected Officers

5 Section 52. Section 801 of the act, amended November 29,
6 2004 (P.L.1337, No.170), is amended to read:

7 Section 801. Electors Only to be Eligible;

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

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

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

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

29 Section 803. Certificates of Election.--Certificates of
30 election of all borough officers shall be filed with the borough

1 secretary and be preserved among the records of the borough for
2 a period of six years.

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

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

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

20 Section 55. Sections 805 and 806 of the act, amended June
21 25, 2001 (P.L.651, No.56), are amended to read:

22 Section 805. Election of Borough Officers When Boroughs
23 Created, Etc.--Whenever a borough is incorporated under the
24 provisions of sections 201 to 219 [inclusive of this act], or
25 whenever two or more boroughs are consolidated under the
26 provisions of [sections 221 to 228 of this act] 53 Pa.C.S. Ch. 7
27 Subch. C (relating to consolidation and merger), or whenever a
28 borough is created from a city of the third class under the
29 provisions of sections 231 to 235 [of this act], the officers of
30 the borough, provided for in section 806 [of this act], shall be

1 elected at the appropriate municipal election as provided in
2 [said sections] the law and [such] the officers shall take
3 office on the first Monday of January succeeding [such] the
4 election.

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

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

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

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

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

29 (1) One mayor, who shall be elected at the municipal
30 election in the year 1969, and every four years thereafter, and

1 who shall hold office for a term of four years.

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

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

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

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

19 [(1)] (4) In boroughs not divided into wards, seven members
20 of council[, one mayor, one assessor, except in those boroughs
21 where, under the applicable county assessment law, the office of
22 elected assessor in boroughs shall have been abolished; a tax
23 collector and three auditors or one controller except in such
24 boroughs where there shall be an appointed auditor in lieu of
25 elected auditors or controller]. In [any] a borough with a
26 population, as determined by the latest official census, of less
27 than three thousand, the total number of members of council may
28 be reduced from seven to five or to three upon petition to the
29 court of common pleas, as provided in section 818 [of this act].

30 [(2)] (5) In boroughs divided into wards, at least one, and

1 not more than two members of council in each ward, except in
2 boroughs where prior to the passage of this act three members of
3 council were elected in each ward. In [such] those boroughs, the
4 number of members of council is fixed at three in each ward
5 until [such] the number is reduced in the manner provided by
6 this act. Members of council shall be residents of the ward from
7 which they are elected, and chosen by the electors of the ward[;
8 also a mayor, a tax collector and three auditors or a
9 controller, except in such boroughs where there shall be an
10 appointed auditor in lieu of elected auditors or controller, and
11 an assessor, except in those boroughs where, under the
12 applicable county assessment law, the office of elected assessor
13 shall have been abolished who shall be chosen by the electors of
14 the boroughs at large].

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

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

20 (b) Members of Council

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

23 Section 811. Election of Members of Council.--(a) At the
24 municipal election to be held in the year 1967, there shall be
25 elected in each borough a sufficient number of members of
26 council to equal one-half of the entire number of which [such]
27 the council is legally composed, to serve for a term of four
28 years from the first Monday of January next succeeding[, and,
29 where such] the election. Where the entire number of council is
30 seven, nine, or eleven, then it shall be sufficient to

1 [constitute] elect three, four, or five council members, as the
2 case may be[; the aforesaid members of council, to be]. The
3 members of council elected in the year 1967, being successors to
4 those elected in the year 1963, whose terms, as heretofore
5 provided by law, expire on the first Monday of January, 1968.
6 All members of council whose terms expire on the first Monday of
7 January, 1970 shall continue to hold their office until the
8 first Monday of January, 1970, as now provided, and their
9 successors shall be elected at the municipal election in the
10 year 1969, to serve for a term of four years, from the first
11 Monday of January next succeeding. If for any reason members of
12 council are not elected as [hereinabove] provided under this
13 section, members of council whose terms end on the same date
14 shall cast lots to determine who shall serve for a two-year term
15 and who shall serve for a four-year term. The secretary of the
16 borough shall certify the results to the appropriate county
17 board of elections.

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

24 Section 812. Election of Members of Council Where New Wards
25 Created.--(a) Whenever [the court of common pleas shall]
26 council shall, by ordinance, divide any borough into wards,
27 erect new wards out of two or more wards or parts [thereof,] of
28 wards or divide a ward already erected into two or more wards,
29 [or create a new ward out of annexed territory, and when the
30 report, in such case, is confirmed by the court, it shall, at

1 the same time, decree] the ordinance shall provide for the
2 election of an equal number of members of council, in each of
3 the wards, in [such] a manner as not to interfere with the terms
4 of those [theretofore] previously elected.

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

26 Section 813. Fixing Number of Members of Council When Wards
27 Created.--Whenever upon the division of [any] a borough into
28 wards, or the creation of a new ward or wards, the number of
29 members of council cannot be equally divided among the wards of
30 the boroughs, it shall be lawful for [the court, in decreeing

1 such division or creation,] council to increase the number of
2 council to, and not exceeding, [such number as] a number that
3 will enable [the court to make an] equal apportionment of the
4 same among the several wards of [such] the borough. But where a
5 borough is first divided into wards, the number of members of
6 council provided for a ward shall not exceed two.

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

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

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

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

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

30 (3) a council consisting of an odd number of members instead

1 of an even number;

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

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

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

16 The [court] council shall give notice of the filing of [such]
17 the petition by advertisement in the legal [journal] newspaper
18 of the county, if one is published in the county, and in one
19 newspaper ~~of~~ general circulation [in the borough], and in ←
20 [such] the notice shall fix a day and time for [hearing] a
21 public meeting. After [such hearing, the court may] the public
22 meeting council may, by ordinance, decrease the number of
23 council members elected from each ward from two to one, or from
24 three to two or one, and may also provide for the election at
25 large of a member or members of council. [The court] Council
26 shall, if necessary, establish a schedule for the subsequent at-
27 large election of council members. The schedule may provide that
28 the initial term of one or more of the council members
29 subsequently elected at large shall be reduced to accommodate a
30 schedule of staggered at-large elections to eventually insure

1 that, as [near as may be] nearly as possible, one-half of the
2 members of council elected at large will be elected at each
3 municipal election.

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

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

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

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

27 Section 816. Election of Members of Council Where Wards
28 Abolished.--(a) Whenever [the court of common pleas shall
29 abolish all wards in any borough and when the report in such
30 case is confirmed by the court, it shall, at the same time,

1 decree] council shall, by ordinance, abolish all wards in a
2 borough, the ordinance shall provide for the election of seven
3 members of council at large for the borough in [such] a manner
4 as not to interfere with the terms of those ward members of
5 council [theretofore] previously elected. [In decreeing such
6 election, where] Where there were [theretofore] previously:

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

27 (2) Eight or more members of council, the [decree shall be
28 so made] ordinance shall provide that, at the first municipal
29 election thereafter the electors shall elect a sufficient number
30 of members of council that, when added to the number of members

1 of council already in office whose terms are not about to
2 expire, will bring the membership of the council to seven.
3 [Such] The newly elected members of council shall serve for
4 terms of four years from the first Monday of January next
5 succeeding [such] the first municipal election. At the second
6 municipal election after [such decree] the effective date of the
7 ordinance, the electors shall elect a sufficient number of
8 members of council, that, when added to the number of members of
9 council elected at the previous municipal election, shall bring
10 the membership of council to its full complement of seven, some
11 of [such] the members of council elected at [such] the second
12 municipal election to serve for a four-year term following the
13 first Monday of January next succeeding, the remainder to serve
14 for a two-year term, the number in each case to be that required
15 to bring the number of members of council to be elected in
16 [such] the borough in succeeding municipal elections into
17 conformity with the number elected in the other boroughs of the
18 Commonwealth not divided into wards. In the third and all
19 subsequent municipal elections following [such decree of court]
20 the effective date of the ordinance, the electors shall elect
21 three or four members of council, as the case may be, each to
22 serve for a term of four years from the first Monday of January
23 following [such] the municipal election.

24 In any [such] borough where, under the ward system of
25 electing members of council, the council shall have been so
26 large that there shall be seven or more members of council whose
27 terms shall not expire on the first Monday of January following
28 the first municipal election after [such decree] the effective
29 date of the ordinance, no members of council shall be elected at
30 [such] the first municipal election, and the members of council

1 remaining in office shall constitute [such] the borough council
2 until the first Monday of January following the second municipal
3 election following [such decree] the effective date of the
4 ordinance. At [such] the second municipal election, seven
5 members of council shall be elected in [such] the borough, some
6 to serve for a four-year term of office from the first Monday of
7 January following [such] the second municipal election, the
8 remainder to serve for a two-year term, the number in each case
9 [to be such] as necessary to bring the number of members of
10 council to be elected in [such] the borough in succeeding
11 elections into conformity with the number elected in other
12 boroughs of the Commonwealth not divided into wards. Thereafter,
13 at the third and all subsequent municipal elections following
14 [such decree] the effective date of the ordinance, the electors
15 shall elect three or four members of council, as the case may
16 be, each to serve for a term of four years from the first Monday
17 of January following [such] the subsequent municipal election.

18 (3) Six or fewer members of council, the [decree shall be
19 made so] ordinance shall provide that at the first municipal
20 election thereafter, the electors shall elect a sufficient
21 number of members of council that, when added to the number of
22 members of council already in office whose terms are not about
23 to expire, will bring the membership of council to its full
24 complement of seven. Of [such] the newly elected members of
25 council, either three or four, as necessary to bring the number
26 of members of council to be elected in [such] the borough in
27 succeeding municipal elections into conformity with the number
28 elected in other boroughs of the Commonwealth not divided into
29 wards, shall be elected for four-year terms of office, beginning
30 the first Monday of January following [such] the first municipal


1 election, and the balance shall be elected for two-year terms.
2 Thereafter, at the second municipal election following [such
3 decree] the effective date of the ordinance and at all
4 subsequent municipal elections, the electors shall elect three
5 or four members of council, as the case may be, to serve for a
6 term of four years from the first Monday of January following
7 [such] the subsequent municipal election.

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

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

24 Section 818. Decrease in Number of Members of Council.--The
25 court of common pleas may, upon petition of at least five
26 percent of the registered electors of any borough not divided
27 into wards, which, according to the latest official census, had
28 a population of not more than three thousand, reduce the total
29 number of members of council for [such] the borough from seven
30 to five or to three. The sufficiency of the number of signers to

1 [any such] the petition shall be ascertained as of the date when
2 the petition is presented to court.

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

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

27 At the municipal election following the decrease in the
28 number of members of council in [such] the borough from seven to
29 three, if four members of council would otherwise have been
30 elected there shall instead be elected two members of council;

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

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

22 Section 60. Article VIII subdivision (c) heading, section
23 821, subdivision (d) heading, section 831, subdivision (e)
24 heading, section 841, subdivision (f) heading, section 851,
25 subdivision (g) heading and section 861 of the act are repealed:

26 [(c) Mayor

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

1 next succeeding his election.

2 (d) Auditors

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

9 (e) Controller

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

19 (f) Assessors

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

29 (g) Tax Collector

30 Section 861. Election of Tax Collector.--The qualified

1 electors of every borough shall, at the municipal election in
2 the year 1969, and every four years thereafter, elect one
3 properly qualified person as tax collector of the borough. No
4 justice of the peace shall at the same time hold the office of
5 tax collector.]

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

8 ARTICLE IX

9 VACANCIES IN OFFICE

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

12 Section 901. Filling Vacancies in Elective Borough
13 Offices.--(a) If any vacancy shall occur in the office of the
14 mayor, member of council, auditor, controller, [assessor,] or
15 tax collector, by death, resignation, [removal] termination of
16 residency from the borough, or from a ward in the case of a ward
17 office, or by failure to take the required oath or to give bond
18 as provided by law or ordinance, provide the affidavit required
19 under section 801, or in any other manner whatsoever, the
20 borough council shall fill [such] the vacancy within thirty days
21 by appointing, by resolution, a registered elector of the
22 borough, or of the ward in case of a ward office, to hold [such]
23 the office, if the term [thereof] continues so long, until the
24 first Monday in January after the first municipal election
25 occurring more than sixty days after the vacancy occurs, at
26 which election an eligible person shall be elected to the office
27 for the remainder of the term. [No] Except as provided in
28 section 801(b), no person shall be appointed to fill a vacancy
29 in an elected borough or ward office unless [he or she] the
30 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

1 of the term.

2 (d) If the vacancy is not filled by the vacancy board within
3 fifteen days, the [chairman] chair shall, or in the case of a
4 vacancy in the [chairmanship] chair, the remaining members of
5 the vacancy board shall petition the court of common pleas to
6 fill the vacancy by the appointment of a registered elector of
7 the borough [(], or ward in the case of a ward[)], to hold [such]
8 the office, if the term [thereof] continues so long, until the
9 first Monday in January after the first municipal election
10 occurring more than sixty days after the vacancy occurs, at
11 which election an eligible person shall be elected to the office
12 for the remainder of the term.

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

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

19 Section 902. Collection of Taxes Where Vacancy in Office of
20 Tax Collector Not Filled.--Where a vacancy in the office of tax
21 collector exists and no [resident] registered elector of the
22 borough has, within thirty days, received the appointment to
23 fill [such] the vacancy, the county commissioners, the borough
24 council and the board of school directors of the school district
25 shall collect the tax for the county, the borough, and the
26 school district, respectively, through their respective
27 treasurers, or in the case of school districts at the option of
28 the district through their secretaries, and in the case of
29 boroughs, at the option of the borough council, through their
30 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

1 meetings of the council until the holder thereof shall have been
2 given opportunity of hearing before the remaining members of the
3 council, at which time he shall show cause why he shall not be
4 removed. He shall be given at least ten days' written notice of
5 the time and place of such hearing.]

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

8 Section 905. Temporary Auditor.--If for any reason two or
9 three vacancies exist in the office of borough auditors, the
10 council may temporarily appoint and reasonably compensate a
11 qualified person, who need not be an elector of the borough, who
12 shall have all the powers and duties of the two or three
13 auditors whose offices are vacated.

14 ARTICLE X

15 POWERS AND DUTIES OF ELECTED

16 BOROUGH OFFICIALS

17 (a) Council

18 Section 67. Section 1001 of the act, amended June 25, 2001
19 (P.L.651, No.56), March 22, 2002 (P.L.207, No.17) and April 2,
20 2002 (P.L.236, No.28), is amended to read:

21 Section 1001. Organization of Council; Quorum; Participation
22 by Telecommunication Device; Voting; Compensation;
23 Eligibility.--(a) The borough council shall organize on the
24 first Monday of January of each even-numbered year, by electing
25 one of their number as president and one of their number as
26 vice-president, who shall hold [such] the offices at the
27 pleasure of the council. If the first Monday is a legal holiday,
28 the meeting and organization shall take place the first day
29 following. Any action taken by any borough council at any time
30 between 12:01 o'clock ante meridian on January 1 of an even-

1 numbered year and the organization of council in that year shall
2 be subject to reconsideration by the new council at any time
3 within ten days after [such] organization. The council may at
4 the organization meeting [elect such] appoint other officers as
5 may be provided for by law or ordinance, or as may be deemed
6 necessary for the conduct of affairs of the borough and may
7 transact [such] any other business as may come before the
8 meeting. The president, and during the president's absence or
9 incapacity the vice-president, shall preside over the meetings
10 of council and perform [such] other duties as are prescribed by
11 this act or by ordinance.

12 (b) A majority of the membership of council then in office
13 shall constitute a quorum. ~~Only~~ EXCEPT AS PROVIDED IN SUBSECTION ←
14 (C), ONLY council members physically present at a meeting place
15 within the borough shall be counted in establishing a quorum.

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

21 (1) A majority of the membership of council then in office
22 is physically present at the advertised meeting place within the
23 borough and ~~no council member counting toward the quorum or~~ ←
24 ~~toward the majority of the vote has been disqualified from~~
25 ~~voting as a matter of law.~~ A QUORUM IS ESTABLISHED AT THE ←
26 CONVENING OR RECONVENING OF THE MEETING. IF AFTER THE CONVENING
27 OR RECONVENING OF A MEETING A MEMBER HAS BEEN DISQUALIFIED FROM
28 VOTING AS A MATTER OF LAW, BUT IS STILL PHYSICALLY PRESENT,
29 COUNCIL MEMBERS PARTICIPATING BY TELECOMMUNICATION DEVICE IN
30 ACCORDANCE WITH THIS SECTION SHALL BE COUNTED TO MAINTAIN A

1 QUORUM.

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

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

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

11 (3) The telecommunication device used permits the members of
12 council and the members of the public who are physically present
13 at the meeting to speak to and hear the comments and the vote,
14 if any, of the member or members of council who are not
15 physically present at the meeting.

16 (4) COUNCIL MAY ONLY AUTHORIZE PARTICIPATION BY
17 TELECOMMUNICATION DEVICE FOR ONE OR MORE OF THE FOLLOWING
18 REASONS FOR PHYSICAL ABSENCE:

19 (I) ILLNESS OR DISABILITY OF THE MEMBER OF COUNCIL;

20 (II) CARE FOR THE ILL OR NEWBORN IN THE MEMBER'S IMMEDIATE
21 FAMILY;

22 (III) EMERGENCY; AND

23 (IV) FAMILY OR BUSINESS TRAVEL.

24 ~~(4)~~ (5) Nothing in this subsection shall be construed to
25 limit the protections and prohibitions contained in any law or
26 regulation relating to the rights of the disabled.

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

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

3 (1) In boroughs with a population of less than five
4 thousand, a maximum of eighteen hundred seventy-five dollars
5 (\$1875) a year[; in].

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

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

12 (4) In boroughs with a population of fifteen thousand or
13 more but less than twenty-five thousand, a maximum of four
14 thousand one hundred twenty-five dollars (\$4125) a year[; in].

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

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

21 [Such] The salaries shall be payable monthly or quarterly for
22 the duties imposed by the provisions of this act. Benefits
23 provided to members of council under section [1202(37)] 1202(26)
24 shall not be considered pay, salary or compensation, but payment
25 for all or a part of the premiums or charges for the benefits
26 shall be in accordance with section [1202(37).] 1202(26). Any
27 change in salary, compensation or emoluments of the elected
28 office shall become effective at the beginning of the next term
29 of the member of council.

30 (f) The population shall be determined by the latest

1 available official census figures. In no case shall the
2 compensation for any member of council exceed that of the mayor
3 in any given borough[: Provided, however, That] but wherever the
4 mayor's compensation exceeds that authorized by this section for
5 members of council, the president of council may receive
6 compensation not to exceed that of the office of mayor.

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

9 Section 1002. Oath of Members of Council.--Before entering
10 upon the duties of their office, the members of council shall
11 take and subscribe an oath or affirmation [to support the
12 Constitution of the United States and of the Commonwealth of
13 Pennsylvania and to perform the duties of their office with
14 fidelity, together with such loyalty oath as is prescribed and
15 required by law] of office under 53 Pa.C.S. § 1141 (relating to
16 form of oaths of office). The oath or affirmation may be taken
17 before any judge or [justice of the peace] magisterial district
18 judge of the county, a notary public or before the mayor of the
19 borough when [he] the person has qualified, and shall be filed
20 with the borough secretary and be preserved among the records of
21 the borough for a period of six years.

22 Section 1003. When the Mayor May Preside Over Council and
23 Vote; Attendance of Mayor at Council Meetings; Breaking Tie
24 Votes.--The mayor shall preside over the organization of the
25 council, until it is organized as provided in section 1001, and
26 [he] shall be deemed a member of council at the organization
27 meeting if [his] the mayor's membership becomes necessary to
28 constitute a quorum[, but he]. The mayor, however, shall not
29 vote [thereat] at the meeting unless [his] the mayor's vote
30 shall, for any reason [whatsoever], be required to effect the

1 organization of council, or to elect any officer who is required
2 to be or may be elected at the organization meeting. In case of
3 the absence of the mayor at the organization meeting, one of the
4 members of council[,]
physically present at the meeting and
5 chosen by the members [present] eligible to vote at the meeting,
6 shall preside.

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

30 Section 1004. Failure of Council to Organize.--If the

1 council of any borough shall fail to organize within ten days
2 from the time prescribed in this article, the court of common
3 pleas, upon the petition of at least ten registered electors of
4 the borough verified by the affidavit of one of the petitioners,
5 shall issue a rule upon the delinquent members of council to
6 show cause why their seats should not be declared vacant. The
7 rule shall be returnable not less than five days from the time
8 of its issue and, after hearing, the court may declare the seats
9 of [such] the members of council, as are responsible for [such]
10 the failure to organize, vacant[,] and shall [thereupon] then
11 appoint others in their stead, who shall hold office for the
12 respective unexpired terms.

13 Section 69. Section 1005 of the act, repealed in part July
14 12, 1972 (P.L.781, No.185) and amended November 2, 1979
15 (P.L.458, No.94) and June 25, 2001 (P.L.651, No.56), is amended
16 to read:

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

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

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

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

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

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

1 customary costs.

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

3 (i) make investment of borough sinking funds as authorized

4 by [the act of July 12, 1972 (P.L.781, No.185), known as the

5 "Local Government Unit Debt Act"; (ii)] 53 Pa.C.S. Pt. VII

6 Subpt. B (relating to indebtedness and borrowing);

7 (ii) make investment of moneys in the General Fund and in

8 special funds of the borough other than the sinking funds as

9 authorized by Article XIII of this act; and [(iii) liquidate any

10 such]

11 (iii) liquidate any investment, in whole or in part, by

12 disposing of securities or withdrawing funds on deposit. Any

13 action taken to make or to liquidate any investment shall be

14 made by the officers designated by action of the borough

15 council.

16 (7) To provide by ordinance passed by a two-thirds vote of

17 the entire number of members of council elected, for the

18 appointment of an independent auditor who shall be a certified

19 public accountant, registered in Pennsylvania, a firm of

20 certified public accountants so registered or a competent public

21 accountant or a competent firm of public accountants. Where

22 [such] an ordinance has been [so] adopted, an independent

23 auditor shall be appointed, annually, by resolution before the

24 close of a fiscal year, to make an independent examination of

25 the accounting records of the borough for [such] the fiscal year

26 and [such] the independent auditor shall also perform the other

27 duties and exercise the powers as conferred upon [him by

28 subdivision (k) of article XI of this act] the independent

29 auditor under subdivision (c). When an independent auditor is

30 appointed as [herein] provided in this paragraph, the office of

1 elected borough auditor or controller, as the case may be, is
2 thereby abolished although the borough auditors, or controller,
3 then in office shall continue to hold their office during the
4 term for which elected and the borough auditors or controller
5 shall not audit, settle, or adjust the accounts audited by
6 [such] the independent auditor but shall perform the other
7 duties of their office.

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

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

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

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

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

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

8 (2) To meet statedly at least once a month. Council may
9 adjourn to a stated time for general business or for special
10 businesses. If no quorum is present at a regular, special or
11 [adjourned] reconvened meeting, a majority of those who do meet
12 may agree upon another date for like business [and may continue
13 to so agree until the meeting is held] IN A MANNER CONSISTENT ←
14 WITH 65 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS). Special
15 meetings may be called by the president of council or upon
16 written request of at least one-third of the members [thereof]
17 of council. Members shall have at least twenty-four hours'
18 notice of [such] the special meetings. The notice shall state
19 whether it is for general or special purposes, and, if it is for
20 special purposes, the notice shall contain a general statement
21 of the nature of the business to be transacted. Presence at a
22 meeting constitutes waiver of notice. Council may adopt rules
23 relating to the calling and holding of special meetings, which
24 rules shall supersede the provisions of this section, PROVIDED ←
25 THAT SUCH RULES COMPLY WITH THE PROVISIONS OF 65 PA.C.S. CH. 7.

26 [(2)] (3) To make and preserve records of its proceedings.

27 [(3) To enact, revise, repeal and amend such bylaws, rules,
28 regulations, ordinances and resolutions, not inconsistent with
29 the laws of the Commonwealth, as it shall deem beneficial to the
30 borough and to provide for the enforcement of the same. The

1 legislative powers of boroughs including capital expenditures
2 not payable out of current funds, shall be exercised by or be
3 based on an ordinance. All other powers shall be exercised by
4 vote of the majority of council present at a meeting, unless
5 otherwise provided.]

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

20 [(4) Except where otherwise in this act provided, to publish
21 every proposed ordinance or resolution of a legislative
22 character once in one newspaper of general circulation in the
23 borough not more than sixty days nor less than seven days prior
24 to passage. Publication of any proposed ordinance shall include
25 either the full text thereof or the title and a brief summary
26 prepared by the borough solicitor setting forth all the
27 provisions in reasonable detail and a reference to a place
28 within the borough where copies of the proposed ordinance may be
29 examined. If the full text is not included a copy thereof shall
30 be supplied to a newspaper of general circulation in the borough

1 at the time the public notice is published. If the full text is
2 not included an attested copy thereof shall be filed in the
3 county law library or other county office designated by the
4 county commissioners who may impose a fee no greater than that
5 necessary to cover the actual costs of storing said ordinances.
6 In the event substantial amendments are made in the proposed
7 ordinance or resolution, before voting upon enactment, council
8 shall within ten days readvertise in one newspaper of general
9 circulation in the borough, a brief summary setting forth all
10 the provisions in reasonable detail together with a summary of
11 the amendments.]

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

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

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

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

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

23 (a) Every ordinance and every resolution of legislative
24 character except as herein otherwise provided, passed by the
25 council, shall be presented to the mayor for his approval. If
26 the mayor approves, he shall sign it; but, if he shall not so
27 approve, he shall return it with his objections to the council
28 at its next regular meeting occurring at least ten days after
29 the meeting at which such ordinance was passed by the council,
30 when the objections shall be entered upon the minutes and the

1 council shall proceed to a reconsideration thereof either at the
2 meeting at which the vetoed ordinance was returned or at any
3 other regular, special or adjourned meeting held not later than
4 ten days thereafter. If, after such reconsideration, two-thirds
5 of all the members elected to said council, or a majority of
6 council plus one, when the number composing such council is less
7 than nine, shall vote to pass such ordinance or resolution, it
8 shall become of as full force and effect as if it had received
9 the approval of the mayor; but in such case the vote shall be
10 determined by yeas and nays, and the names and votes of the
11 members shall be entered on the minutes. If any such ordinance
12 or resolution shall not be returned by the mayor at the regular
13 meeting of the council occurring at least ten days next
14 succeeding its presentation to him, it shall likewise have as
15 full force as if it had been approved.

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

24 (c) When council shall present the mayor with the annual tax
25 ordinance referred to in section 1310 of this act, the mayor
26 shall within ten days of receiving the tax ordinance approve the
27 tax ordinance by affixing his signature thereto or return the
28 tax ordinance to the borough secretary with a statement setting
29 forth his objections thereto. Council shall proceed to a
30 reconsideration thereof at any regular, special or adjourned

1 meeting held not later than ten days after the mayor has
2 returned the tax ordinance to the secretary with his objections.
3 The mayor's objections shall be entered upon the minutes of the
4 meeting. A veto of the tax ordinance of the borough may be
5 overridden by a vote of two-thirds of all the members of
6 council, and thereafter such ordinance shall have full force and
7 effect as if it had received the approval of the mayor.]

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

10 [Section 1008. Recording, Advertising and Proof Of
11 Ordinances; Codification of Ordinances.--(a) No ordinance, or
12 resolution of a legislative character, in the nature of an
13 ordinance, shall be considered in force until the same is
14 recorded in the ordinance book of the borough and has been
15 advertised as provided in this article. All ordinances, or
16 resolutions of a legislative character in the nature of an
17 ordinance, may be proved by the certificate of the borough
18 secretary, under the corporate seal, and, when printed or
19 published in book or pamphlet form and purporting to be
20 published by the authority of the borough, shall be read and
21 received as evidence in all courts and places without further
22 proof. All borough ordinances shall, within one month after
23 their enactment, be recorded by the borough secretary in a book
24 provided for that purpose, which shall be at all times open to
25 the inspection of citizens. The entry of the borough ordinance
26 in the ordinance book by the secretary shall be sufficient,
27 without the signature thereto of the president of council, mayor
28 or other person.

29 Any and all borough ordinances or portions thereof, the text
30 of which, prior to the effective date of this act, shall have

1 been attached to the ordinance book, shall be considered in
2 force just as if the ordinances or portions thereof had been
3 recorded directly upon the pages of such ordinance book:
4 Provided, That all other requirements of this act applicable to
5 the enactment, approval, advertising and recording of such
6 ordinances or portions thereof were complied with within the
7 time limits prescribed by this act.

8 (b) Whenever any borough shall have caused to be prepared a
9 consolidation, codification or revision of the general body of
10 borough ordinances, or the ordinances on a particular subject,
11 the borough council may adopt such consolidation, codification
12 or revision as an ordinance of the borough, in the same manner
13 that is now prescribed by law for the adoption of borough
14 ordinances, except as hereinafter provided.

15 Any such consolidation, codification or revision of borough
16 ordinances to be enacted as a single ordinance shall be
17 introduced in the borough council at least thirty days before
18 its final enactment, and at least fifteen days before its final
19 enactment, notice of the introduction of any consolidation,
20 codification or revision, specifying its general nature and
21 listing its table of contents, shall be given by advertisement
22 in a newspaper of general circulation in said borough.

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

30 The procedure set forth in this section for the

1 consolidation, codification or revision of borough ordinances as
2 a single ordinance may also be followed in enacting a complete
3 group or body of ordinances, repealing or amending existing
4 ordinances as may be necessary, in the course of preparing a
5 consolidation, codification or revision of the borough
6 ordinances, except that in such case the advertisement giving
7 notice of the introduction shall list, in lieu of a table of
8 contents, the titles only of each of the ordinances in such
9 complete group or body of ordinances, and the notice following
10 enactment shall simply state that such group or body of
11 ordinances was passed finally.]

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

14 Section 1009. Typewritten, Printed, [Photostated and]
15 Photocopied, Microfilmed and Electronically or Digitally Stored
16 Records Valid; Recording or Transcribing Records.--(a) All
17 borough records, required to be recorded or transcribed, shall
18 be deemed valid if typewritten, printed, [photostated or]
19 photocopied, microfilmed [and where] or electronically or
20 digitally stored or retained by any other process that
21 accurately reproduces the original and forms a durable medium
22 for recording, storing and reproducing in accordance with the
23 act of May 9, 1949 (P.L.908, No.250), entitled "An act relating
24 to public records of political subdivisions other than cities
25 and counties of the first class; authorizing the recording and
26 copying of documents, plats, papers and instruments of writing
27 by digital, photostatic, photographic, microfilm or other
28 process, and the admissibility thereof and enlargements thereof
29 in evidence; providing for the storage of duplicates and sale of
30 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, repealed in part April 28, 1978 (P.L.202, No.53), is repealed:

1 [Section 1010. Appeals from Ordinances.--Complaint as to the
2 legality of any ordinance or resolution may be made to the
3 court. In cases of ordinances laying out streets over private
4 lands, the court shall have jurisdiction to review the propriety
5 as well as the legality of the ordinance.]

6 Section 75. Sections 1011, 1012 and 1013 of the act are
7 repealed:

8 [Section 1011. Lost Ordinance Books to be Replaced;
9 Recording Ordinances.--Whenever any ordinance book or books are
10 lost, destroyed, or become unserviceable, the borough council
11 may provide by ordinance for a new ordinance book or books into
12 which shall be recorded by the secretary all of the ordinances
13 contained in such lost, destroyed or unserviceable ordinance
14 book or books. The secretary, in recording such ordinances,
15 shall make complete copies thereof, including the date of
16 enactment and approval and the names of the officers who signed
17 the same, and, after notice given, as hereinafter provided, and
18 corrections made, shall certify each ordinance as a correct copy
19 of the original.

20 Section 1012. Ordinance Providing for Recording; Notice.--
21 The ordinance providing for the recording of such ordinances
22 shall be recorded in such book, immediately following the
23 ordinances so recorded and it shall provide that the secretary
24 of the borough, upon the completion of such recording, shall
25 publish once, in one newspaper of general circulation in the
26 borough, a notice stating that ordinances of the borough
27 contained in lost, destroyed, or unserviceable ordinance book or
28 books, and that the old books and records of borough ordinances
29 and the new ordinance book are open to public inspection for the
30 purpose of verification and correction for a period of thirty

1 days from the date of the notice.

2 Section 1013. Certificate of Secretary.--The secretary of
3 the borough, at the expiration of such notice, shall make all
4 corrections, and shall then certify that all of the ordinances
5 have been compared with the originals and that they are correct
6 copies thereof. After the ordinances are recorded, notice
7 thereof given, and the certificate of correction made, the
8 ordinances so recorded shall take the place of the original
9 record and shall be the valid and legal ordinances of the
10 borough for the period covered by such new ordinance book.]

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

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

29 Section 1015. Witness Fees and Mileage.--No person residing
30 [without] outside the borough and subpoenaed [as aforesaid,]

1 under section 1014 shall be required to respond to the [same]
2 subpoena until mileage to and from the borough[,] at the rate
3 [of ten cents (10¢) a mile,] established by the borough council
4 under the act of July 20, 1979 (P.L.156, No.51), referred to as
5 the Uniform Mileage Fee Law, and witness fees as required by law
6 relating to witnesses, have been [furnished] paid.

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

13 Section 77. Article X subdivision (b) heading and sections
14 1021, 1022, 1023 and 1024 of the act are repealed:

15 [(b) Mayor

16 Section 1021. Eligibility of Mayor.--No mayor shall hold any
17 other borough office or appointment during the term for which he
18 is elected, except as is permitted by section 1104 of this act.
19 He shall be eligible to succeed himself. He shall not be a
20 member of the council, nor shall he preside over or vote at any
21 meeting of the council, except as provided in section 1003 of
22 this act.

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

28 Section 1023. Oath of Mayor.--The mayor, before exercising
29 the duties of his office, shall take and subscribe an oath or
30 affirmation, to support the Constitution of the United States

1 and of the Commonwealth of Pennsylvania and to perform the
2 duties of his office with fidelity and also any loyalty oath
3 required by any other act. The oath or affirmation may be taken
4 before any judge or justice of the peace of the county, and
5 shall be filed with the borough secretary, and be preserved
6 among the records of the borough for a period of six years.

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

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

15 [Section 1025. Salary of Mayor Limited.--The salary of the
16 mayor shall be established by ordinance and shall not exceed, in
17 boroughs with a population of less than five thousand, a maximum
18 of two thousand five hundred dollars (\$2500) a year; in boroughs
19 with a population of five thousand or more but less than ten
20 thousand, a maximum of five thousand dollars (\$5000) a year; in
21 boroughs with a population of ten thousand or more but less than
22 fifteen thousand, a maximum of seven thousand five hundred
23 dollars (\$7500) a year. In any borough with a population in
24 excess of fifteen thousand, the salary of the mayor shall not
25 exceed five hundred dollars (\$500) per annum per thousand
26 population or fraction thereof, the population to be determined
27 by the latest official census figures. Such salaries shall be
28 payable monthly or quarterly for the duties imposed by the
29 provisions of this act. Benefits provided to the mayor under
30 section 1202(37) shall not be considered pay, salary or

1 compensation, but payment for all or a part of the premiums or
2 charges for the benefits shall be in accordance with section
3 1202(37).]

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

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

16 Section 80. Section 1028 of the act, amended November 29,
17 2004 (P.L.1337, No.170), is repealed:

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

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

22 (b) In addition to the power granted to mayors by Part V of
23 Title 35 of the Pennsylvania Consolidated Statutes (relating to
24 emergency management services) and in order to enable him
25 effectually to preserve the public peace within the borough, all
26 the powers which are devolved by the laws of this Commonwealth
27 upon sheriffs, to prevent and suppress mobs, riots and unlawful
28 and tumultuous assemblies, are hereby conferred upon the mayor.
29 In the event that a state of emergency exists, a mayor shall
30 have the authority to request aid and assistance from law

1 enforcement officers and agencies from a neighboring
2 municipality. In response to a request of a mayor made in
3 accordance with this subsection, a municipal police officer
4 shall, within the borough from which the request was made, have
5 the power and authority to enforce the laws of this Commonwealth
6 or otherwise perform the functions of that office as if
7 enforcing those laws or performing those functions within the
8 territorial limits of his or her primary jurisdiction, subject
9 to the limitations and conditions set forth in 42 Pa.C.S. §
10 8953(b) through (e) (relating to Statewide municipal police
11 jurisdiction). When the mayor considers that a state of
12 emergency exists, he may issue his proclamation, which shall be
13 in writing and the contents of which shall be made available to
14 all news media, declaring a state of emergency for a period not
15 to exceed seven days, unless sooner rescinded, modified or
16 ratified or extended by resolution of council. In his
17 proclamation he may prohibit, for all or any part of the
18 borough:

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

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

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

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

30 (5) Any other such activities as he reasonably believes

1 should be prohibited to help preserve life, health, property or
2 the public peace.

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

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

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

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

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

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

24 (3) To keep correct accounts of all moneys received by him,
25 to render to the council at least once a month an itemized
26 statement of all such moneys so received since the last such
27 statement, with the date at which and the purpose for which and
28 the names of the persons from whom the same was received, and to
29 pay all such moneys into the borough treasury, to report to the
30 council from time to time on the state of the borough and to

1 make recommendations to the council on matters of borough
2 concern. The borough shall furnish the mayor with such books and
3 forms as are necessary for the conduct of his office. Such books
4 and forms shall be and remain the property of the borough and
5 shall be surrendered to his successor in office.]

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

8 [Section 1030. When President or Vice-President of Council
9 to Act as Mayor.--Whenever the mayor is absent or incapacitated,
10 or there is a vacancy in the office, the duties of the office
11 shall be discharged by the president of council, or in the
12 absence or incapacity of the president of council, or where
13 there is a vacancy in the office, by the vice-president of
14 council. While discharging the duties of mayor, the president or
15 vice-president of council shall be entitled to the same salary
16 as the mayor would receive, and, during the time such salary is
17 paid to the president or vice-president of council as acting
18 mayor, the mayor shall not be paid compensation. The president
19 or vice-president of council, when acting as mayor, shall have
20 power to veto any proposed ordinance or to break a tie, but
21 shall not have power to vote as a member of council.]

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

24 (c) Auditors

25 Section 84. Section 1041 of the act, amended February 10,
26 1976 (P.L.9, No.6), is amended to read:

27 Section 1041. Auditors to Meet Yearly, and Audit Accounts[;
28 Uniform Forms].--(a) The auditors of the borough shall meet on
29 the first Tuesday of January of each year, and shall organize by
30 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

1 any surcharge shall not apply to cases involving fraud or
2 collusion on the part of officers, nor to any penalty enuring to
3 the benefit or payable to the Commonwealth.

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

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

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

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

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

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

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

21 Section 86. Section 1043 of the act, amended December 17,
22 1986 (P.L.1691, No.201), is repealed:

23 [Section 1043. Completion of Auditors' Report; Publication
24 of Financial Statement.--The auditors shall complete such audit,
25 adjustment and settlement, as soon as possible. The auditors
26 shall within ten days thereafter publish, by advertisement in at
27 least one newspaper of general circulation in the borough, a
28 concise financial statement setting forth the balance in the
29 treasury at the beginning of the fiscal year, all revenues
30 received during the fiscal year by major classifications, all

1 expenditures made during the fiscal year by major functions, and
2 the current resources and liabilities of the borough at the end
3 of the fiscal year, the gross liability and net debt of the
4 borough, the amount of the assessed valuation of the borough,
5 the assets of the borough with the character and value thereof,
6 the date of the last maturity of the respective forms of funded
7 debt, and the assets in each sinking fund.]

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

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

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

29 Section 1047. Procedure on Appeals.--Any person interested
30 may order the appeal upon the argument list, and evidence may be

1 taken before any person authorized to administer oaths, upon
2 rule for that purpose served upon the opposite party. In any
3 proceeding upon an appeal from a report of auditors, the
4 accounts of the office or officers, or the person, corporation,
5 association, organization, committee or commission in question
6 may be investigated de novo, and the burden shall be upon each
7 officer, person, corporation, association, organization,
8 committee or commission, whose accounts are involved in the
9 appeal, of establishing his right to credits claimed by him or
10 it, but the opposing party in such appeal may use any facts,
11 figures, or findings of the report of audit as prima facie
12 evidence against any officer or other entity.

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

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

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

27 Section 88. Section 1050 of the act, repealed in part June
28 3, 1971 (P.L.118, No.6), is repealed:

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

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

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

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

29 The compensation of such attorney shall be fixed by the
30 auditors, and shall not exceed the sum payable to one auditor

1 for the making of the annual audit, unless a larger compensation
2 shall be allowed by council, or shall be specially allowed by a
3 court in connection with any proceeding before such court, and
4 shall be payable by the borough out of the general fund of the
5 borough.]

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

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

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

21 (c) Each auditor shall be reimbursed for travel costs
22 incurred in the performance of the auditing duties at the rate
23 established by the borough council under the act of July 20,
24 1979 (P.L.156, No.51), referred to as the Uniform Mileage Fee
25 Law, and for other actual expenses, including postage, notary
26 fees or publication costs, necessarily incurred during the
27 audit.

28 Section 91. Section 1054 of the act is repealed:

29 [Section 1054. Penalty for Failure to Comply with Law.--In
30 case of any neglect or refusal to comply with the provisions of

1 the preceding sections of this article, any auditor so
2 neglecting or refusing shall upon conviction thereof in a
3 summary proceeding, be sentenced to pay a fine of not more than
4 one hundred dollars (\$100), and in default of the payment of the
5 fine and costs, shall be imprisoned for not more than ten days.]

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

7 Section 1055. [Auditors May Compel Attendance of
8 Witnesses.--The] Subpoenas; Oath; Perjury.--(a) A majority of
9 the auditors of any borough[, or a majority of them,] shall have
10 the power to issue subpoenas to obtain the attendance of the
11 [officers] persons whose accounts they are required to adjust,
12 their executors, and administrators, and of any persons whom it
13 may be necessary to examine as witnesses, and to compel their
14 attendance, and may also compel the production of all documents,
15 including books, vouchers and papers relative to borough
16 accounts. If any person shall refuse or neglect to appear [or],
17 to produce documents or to testify, the auditors shall petition
18 the court of common pleas of the county to issue a subpoena to
19 [such] the person and to require [him] the person to produce
20 documents or to appear and to testify before the court. The
21 court shall issue [such] the subpoena if it deems the documents
22 or testimony relevant to the issue.

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

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

29 [Section 1056. Auditors May Administer Oaths; Penalty.--The
30 auditors of any borough, or a majority of them, shall have power

1 to administer oaths and affirmations to all persons brought or
2 appearing before them, whether accountants, witnesses, or
3 otherwise; and all persons guilty of swearing or affirming
4 falsely on such examination shall be liable to indictment and
5 punishment for perjury.

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

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

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

1 officer shall be repaid into the borough treasury.

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

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

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

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

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

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

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

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

30 (6) the assets of the borough with their character and

1 value;

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

4 (8) the assets in each sinking fund.

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

9 (1) the actual indebtedness;

10 (2) the amount of ~~unfunded~~ FUNDED debt;

11 (3) the amount of floating debt;

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

13 (5) the assets of the borough with their character and
14 value; and

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

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



1 (c) The secretary of the auditors shall serve, by registered
2 or certified mail, notice to every elected or appointed official
3 against whom a balance or shortage appears in the report
4 required under subsection (b). The notice shall be served prior
5 to the filing of the report and shall indicate the amount of the
6 balance or shortage and a brief description of how the balance
7 or shortage was derived. The notice shall also indicate that the
8 balance or shortage is deemed a surcharge pursuant to section
9 1059.3 and shall apprise the officer served of the right to
10 appeal pursuant to section 1059.4. Service of notice is complete
11 when the notice is properly addressed, postage prepaid and
12 mailed. Failure to receive the notice required by this
13 subsection shall not constitute grounds for relief from any
14 judgment entered pursuant to this article.

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

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

27 Section 1059.3. Surcharge by Auditors.--(a) The amount of
28 any balance or shortage or of any expenditure of a kind, or made
29 in a manner prohibited or not authorized by statute which causes
30 a financial loss to the borough, shall be a surcharge against

1 any officer against whom the balance or shortage shall appear,
2 or who by vote, act or neglect has permitted or approved the
3 expenditure. No elected or appointed official of a borough may
4 be surcharged for any act, error or omission in excess of the
5 actual financial loss sustained by the borough, and any
6 surcharge shall take into consideration as its basis the results
7 of the act, error or omission and the results had the procedure
8 been strictly in accordance with law. The provisions limiting
9 the amount of any surcharge shall not apply to cases involving
10 fraud or collusion on the part of officers, nor to any penalty
11 enuring to the benefit of or payable to the Commonwealth.
12 Notwithstanding this section, the procedures in the act of May
13 25, 1945 (P.L.1050, No.394), known as the "Local Tax Collection
14 Law," shall apply to balances and shortages in the tax accounts
15 of the tax collector.

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

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

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

1 surety, to prosecute the appeal and to pay all costs of appeal,
2 in case, if the appellant is a taxpayer, the appellant fails to
3 obtain a final decision more favorable to the borough than that
4 awarded by the auditors, or, in case, if the appellant is an
5 accounting officer, the appellant fails to obtain a final
6 decision more favorable to the officer than that awarded by the
7 auditors. Unless the bond is filed as provided in this section,
8 the court of common pleas, upon application, shall set aside the
9 appeal.

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

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

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

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

5 (1) If in the opinion of the court the final determination
6 is more favorable to the borough officer involved than that
7 awarded by the auditors, the borough shall pay reasonable
8 attorney fees or, under subsection (c), a portion of reasonable
9 attorney fees incurred by the officer in connection with the
10 surcharge proceeding.

11 (2) In the case of an appeal taken by the borough or a
12 taxpayer, if in the opinion of the court the final determination
13 is more favorable to the borough than that awarded by the
14 auditors, the borough officer who is the subject of the
15 surcharge proceeding shall pay reasonable attorney fees or,
16 under subsection (c), a portion of reasonable attorney fees
17 incurred by the borough, elector or taxpayer in connection with
18 the surcharge proceeding.

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

29 (b) The counsel fees in case of appeals involving accounts
30 other than those of borough officers shall be allocated in the

1 court's discretion.

2 Section 1059.9. Balances Due to be Entered as Judgments.--A
3 balance in a report of the auditors against an officer of the
4 borough shall constitute a surcharge against the officer as
5 fully as if expressly stated in the report to be a surcharge.
6 The amount of a balance and of any express surcharge shall, if
7 no appeal is taken, or after an appeal has been finally
8 determined in favor of the borough, be entered by the
9 prothonotary as a judgment against the officer. The clerk of the
10 court of common pleas shall certify the amount of every balance
11 or surcharge contained in a report from which no appeal has been
12 taken within the time provided under this article to the court
13 of common pleas for entry by the prothonotary as a judgment. Any
14 taxpayer of the borough may enforce the collection of the
15 balance or surcharge for the benefit of the borough, by action
16 or execution, upon filing in the court of common pleas a bond,
17 in the sum of one thousand dollars (\$1,000) with one or more
18 sureties, conditioned to indemnify the borough from all costs of
19 the proceedings undertaken by the taxpayer, subject, however, to
20 all rights of appeal from the report of auditors granted by this
21 act. If a person has been or shall be surcharged for an illegal
22 purchase, and no fraud or collusion is shown and the surcharge
23 is paid to the borough, then the article purchased shall become
24 the property of the person surcharged.

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

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

30 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 ~~unfunded~~ 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

1 during the course of the examination and which, in the
2 independent auditor's opinion, causes a financial loss to the
3 borough as provided in section 1059.3, shall be a surcharge
4 against an officer against whom the balance or shortage shall
5 appear, subject to appeal, entry as judgment, certification and
6 enforcement as provided in this article.

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

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

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

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

16 (d) Controller

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

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

1 protect the borough from any illegal or unfaithful action by the
2 controller. The cost of [such] the bond shall be paid by the
3 borough.

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

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

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

29 The borough controller shall have supervision and control of
30 the accounts of all departments, bureaus, and officers of the

1 borough, authorized to collect, receive, or disburse the public
2 moneys, or who are charged with the management or custody
3 [thereof. He] of the accounts. The controller shall audit their
4 respective accounts, and may at any time require from any of
5 them a statement in writing of any moneys or property of the
6 borough in their possession, or under their control, showing the
7 amount of cash on hand and the amount deposited in banks and
8 banking institutions together with the names of [such] the
9 institutions. [He] The controller shall have power to examine
10 every [such] account of a borough officer in any bank or banking
11 institution to verify the accuracy of the statement of [such]
12 the borough, department, bureau or officer and it shall be the
13 duty of every [such] department, bureau or officer, and [it
14 shall be the duty] of every [such] bank and banking institution,
15 its officers and agents, to furnish full information to the
16 controller in relation to [such] the account. No banker or
17 banking institution, its officers or agents, shall be subject to
18 prosecution under other laws of this Commonwealth for disclosing
19 [any such] information with respect to [any such] an account.
20 [He] The controller shall, immediately upon the discovery of any
21 default, irregularity, or delinquency, report the same to the
22 borough council. [He] The controller shall also audit and report
23 upon the accounts of [any such] an officer upon the death,
24 resignation, removal, or expiration of the term of the [said]
25 officer.

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

27 [Section 1064. Controller May Require Attendance of
28 Witnesses; Penalty.--In the making of any audit or settlement,
29 and in the authentication of any account or claim or demand
30 against the borough, the controller shall have the same power

1 and authority to obtain the attendance before him of parties and
2 witnesses, and the production of books and papers, and to
3 administer oaths and affirmations, as are given by law to the
4 borough auditors. All persons guilty of swearing or affirming
5 falsely before him shall be liable to indictment and punishment
6 for perjury.]

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

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

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

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

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

30 Section 1067. Amount of Contracts to be Charged Against

1 Appropriations.--[Every] A contract involving appropriation of
2 money shall designate the item of appropriation on which it is
3 founded, and the estimated amount of the expenditure
4 [thereunder] shall be charged against [such] the item, and [so]
5 certified by the borough controller on the contract, before it
6 shall take effect as a contract, and the payment required by
7 [such] the contract shall be made from the fund appropriated
8 [therefor]. If the controller shall certify [any] a contract in
9 excess of the appropriation made [therefor], the borough shall
10 not be liable for [such] the excess, but the controller and
11 [his] the controller's sureties shall be liable for the same,
12 which may be recovered in an action at law by the aggrieved
13 contracting party [aggrieved]. It shall be the duty of the
14 controller to certify contracts for the payment of which
15 sufficient appropriations have been made.

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

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

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

1 appropriations made by council and the sums under the same,
2 respectively.

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

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

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

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

29 A borough may discontinue the office of controller and either
30 reestablish the office of elected auditors, or the position of

1 appointed auditor, by repealing the ordinance under which the
2 office of controller was created. In any such case, the
3 controller in office at the time of [such] the repeal shall
4 continue in [such] office until the end of [his] the
5 controller's term.

6 Section 102. Article X subdivision (e) heading and section
7 1081 of the act are repealed:

8 [(e) Assessors

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

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

15 (f) Tax Collector

16 Section 104. Section 1086 of the act, amended October 9,
17 1967 (P.L.399, No.181), is amended to read:

18 Section 1086. Powers and Duties of Tax Collector.--The tax
19 collector shall be the collector of all State, county, borough,
20 school, institution district and other taxes, levied within the
21 borough by the authorities empowered to levy taxes[, but he].
22 The tax collector shall not collect any tax levied and imposed
23 under the act of December 31, 1965 [(P.L.1257),] (P.L.1257,
24 No.511), known as "The Local Tax Enabling Act," unless the
25 ordinance imposing [such] the tax shall provide that [he] the
26 tax collector shall be the collector of the [said] tax. [He] No
27 ordinance, however, may authorize the collection of income taxes
28 in a manner other than that provided in Chapter 5 of "The Local
29 Tax Enabling Act." The tax collector shall, in addition to the
30 powers, authority, duties and responsibilities provided for by

1 this act, have all the powers, perform all the duties, and be
2 subject to all the obligations and responsibilities, for the
3 collection of [such] taxes, as are now vested in, conferred
4 upon, or imposed upon tax collectors by law.

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

7 ARTICLE X-A

8 MAYOR

9 Section 1001-A. Eligibility of mayor.

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

16 Section 1002-A. Incompatible offices.

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

22 Section 1003-A. Oath of mayor.

23 The mayor, before exercising the duties of office, shall take
24 and subscribe an oath or affirmation of office under 53 Pa.C.S.
25 § 1141 (relating to form of oaths of office). The oath or
26 affirmation may be taken before a judge or magisterial district
27 judge of the county or a notary public and shall be filed with
28 the borough secretary and be preserved among the records of the
29 borough for a period of six years.

30 Section 1004-A. Salary of mayor.

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

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

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

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

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

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

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

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

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

25 (b) Marriage ceremony fees.--Nothing in this act shall be
26 construed to prevent a mayor from receiving a monetary fee for
27 the performance of a marriage ceremony in this Commonwealth
28 provided the fee does not exceed \$150 for each ceremony
29 performed. Prior to performing these ceremonies, the mayor shall
30 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

1 office as if enforcing those laws or performing those functions
2 within the territorial limits of his or her primary
3 jurisdiction, subject to the limitations and conditions set
4 forth in 42 Pa.C.S. § 8953(b), (c), (d) and (e) (relating to
5 Statewide municipal police jurisdiction). When the mayor
6 considers that a state of emergency exists, the mayor may issue
7 a proclamation, which shall be in writing and posted in one or
8 more conspicuous places and the contents of which shall be made
9 available to all news media, declaring a state of emergency for
10 a period not to exceed seven days, unless sooner rescinded,
11 modified or ratified or extended by resolution of council. The
12 mayor may prohibit in the proclamation, for all or part of the
13 borough:

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

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

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

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

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

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

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

5 Section 1007-A. Duties of mayor.

6 It shall be the duty of the mayor:

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

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

15 (3) To collect any costs and fees received and to pay
16 the money into the treasury, except as provided in section
17 1005-A(b), to report to the council from time to time on the
18 state of the borough and to make recommendations to the
19 council on matters of borough concern. The borough shall
20 furnish the mayor with the necessary dockets, books, forms
21 and files as are necessary for the conduct of the mayor's
22 office, and which shall be and remain the property of the
23 borough and shall be surrendered to the mayor's successor in
24 office.

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

27 When the mayor is absent or incapacitated or there is a
28 vacancy in the office, the duties of the office shall be
29 discharged by the president of council, or in the absence or
30 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 employes 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 employes or any class or category thereof.

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

Section 1102. Accounts.--All officers and employes 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
employe of any borough, is required by law or by action of

1 council to give bond, for the faithful performance of his
2 duties, the borough may pay the premium [thereon] on the bond.
3 All bonds required to be given by borough officials or employees
4 shall be with a surety company authorized by law to act as
5 surety. The borough shall pay a proportionate share of the cost
6 of the bond of an appointed tax collector in the same ratio as
7 provided in section 804 for elected tax collectors.

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

10 Section 1104. Appointments; Incompatible Offices.--(a)
11 Unless there is incompatibility in fact, any elective or
12 appointive officer of the borough shall be eligible to serve on
13 any board, commission, bureau or other agency created by or for
14 the borough, or any borough office created or authorized by
15 statute and may accept appointments thereunder, but no mayor or
16 member of council shall receive compensation therefor.

17 ~~(b) No elected borough official of a borough with a~~ ←
18 ~~population of 3,000 or more may serve as an employee of that~~
19 ~~borough.~~

20 [NO] (B) THE FOLLOWING APPLY TO EMPLOYMENT: ←

21 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), NO ELECTED BOROUGH
22 OFFICIAL OF A BOROUGH WITH A POPULATION OF 3,000 OR MORE MAY
23 SERVE AS AN EMPLOYEE OF THAT BOROUGH.

24 (2) THIS SUBSECTION SHALL NOT APPLY TO A BOROUGH OFFICIAL
25 SERVING AS AN EMPLOYEE OF THAT BOROUGH PRIOR TO THE CERTIFICATION
26 OF A DECENNIAL CENSUS WHICH INDICATES AN INCREASE IN THE
27 POPULATION OF THAT BOROUGH TO 3,000 OR MORE.

28 (c) Where there is no incompatibility in fact, and subject
29 to [the foregoing provisions] subsection (a) as to compensation,
30 appointees of council may hold two or more appointive borough

1 offices, but no mayor or member of council may serve as borough
2 manager ~~for~~, as secretary or treasurer, ~~or as a borough police~~
3 ~~officer.~~

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

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

9 (F) A POLICE OFFICER OR FIREFIGHTER MAY NOT HOLD AN ELECTIVE
10 OFFICE OF THE BOROUGH THAT EMPLOYS THE POLICE OFFICER OR
11 FIREFIGHTER. A POLICE OFFICER OR FIREFIGHTER WHO IS EMPLOYED BY
12 A REGIONAL DEPARTMENT, COUNCIL OF GOVERNMENT OR OTHER
13 COOPERATIVE VENTURE MAY NOT HOLD AN ELECTIVE OFFICE OF ANY
14 MUNICIPALITY THAT PARTICIPATES IN THE REGIONAL DEPARTMENT,
15 COUNCIL OF GOVERNMENT OR OTHER COOPERATIVE VENTURE.

16 ~~(f)~~ (G) Nothing [herein] contained in this section shall
17 affect the eligibility of any borough official to hold any other
18 public office or receive compensation therefor. ~~All appointments~~
19 ~~to be~~

20 (H) ALL APPOINTMENTS TO BE made by the council [or the
21 corporate authorities] shall be made by a majority of the
22 members of council [attending the meeting at which the
23 appointment is made], unless a different vote is required by
24 statute.

25 Section 111. Section 1105 of the act, amended December 16,
26 1992 (P.L.1215, No.158), is amended to read:

27 Section 1105. Compensation to Aged Employees.--[By ordinance
28 a] A borough may provide, by ordinance, for compensation to
29 appointees and employes of not less than ten years of
30 satisfactory service, and who are not less than sixty years of

1 age, upon termination of active employment with the borough a
2 proportion of the compensation last paid to them but not in
3 excess of fifty percent thereof, including benefits received
4 under the social security act, if any, as fixed in [said] the
5 ordinance or amendment thereto. Any arrangement to provide post-
6 retirement compensation to aged appointees and employes pursuant
7 to this section shall be a pension plan within the meaning of
8 that term pursuant to the act of December 18, 1984 (P.L.1005,
9 No.205), known as the "Municipal Pension Plan Funding Standard
10 and Recovery Act," and the borough establishing that plan shall
11 provide funding of that pension plan in an amount sufficient to
12 meet the minimum obligation of the municipality with respect to
13 the pension plan pursuant to that act. The expenditures herein
14 authorized shall be paid out of the general tax levy for the
15 current expenditures of the year, and not by any special tax
16 therefor. Nothing [herein] in this section shall preclude any
17 appointee or employe of the borough from joining in any pension
18 system or municipal retirement system that the borough may
19 adopt. [The true intent and purpose hereof is to permit
20 boroughs, without exceeding the present general tax limitation,
21 to pay to servants in their employ who are too old to
22 advantageously join any pensioning or retirement system, a
23 reasonable annuity in lieu of joining a pensioning or retirement
24 system.]

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

27 Section 1105.1. Retirement Benefits of Employes Transferred
28 to Wastewater Authorities--(a) (1) An employe of a wastewater
29 authority created by a borough and one or more townships
30 pursuant to 53 Pa.C.S. Ch. 56 (relating to municipal

1 authorities) that commenced operations after December 1, 2001,
2 who satisfies the requirements of paragraph (2) and has past
3 service credits under the borough retirement plan may file a
4 written election with the borough council and the wastewater
5 authority to be a member of the borough retirement system. The
6 qualified employee shall file the written election within one
7 year after the effective date of this section.

8 (2) In order to qualify for the option under paragraph (1),
9 the employee must satisfy both of the following requirements:

10 (i) Immediately prior to the date of transfer of employment
11 to the wastewater authority, be an employee of the borough that,
12 together with one or more townships, established the wastewater
13 authority.

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

17 (3) For an employee who files an election under paragraph
18 (1), the affected wastewater authority shall:

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

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

(b) 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

1 treasurer's duties, and, in case of absence or disability of the
2 treasurer, shall perform the duties and may exercise the powers
3 of the treasurer.

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

6 (c) Secretary

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

9 Section 1111. Duties.--(a) The secretary shall attend all
10 meetings of the borough council and shall keep full minutes of
11 its proceedings[; he shall transcribe the bylaws, rules,
12 regulations and ordinances adopted into a book kept for that
13 purpose; he shall preserve the records and documents of the
14 borough, and shall have custody of the corporate seal. He shall
15 certify copies of any book, paper, record, bylaw, rule,
16 regulation, resolution, ordinance or proceeding of the borough,
17 under the seal thereof which copies, when so certified, shall be
18 admissible in evidence in any court of the Commonwealth. He
19 shall attest the execution of all instruments, record all
20 ordinances and attest the same by his signature. He shall file
21 of record proof of service of all notices required by law, and
22 his certificate thereof shall be good evidence of such notice.
23 The borough shall furnish the secretary with such dockets,
24 books, forms and files as are necessary for the conduct of his
25 office, such dockets, books, forms and files to be and remain
26 the property of the borough. He shall deliver to his successor
27 the seal and all books, papers and other records and things
28 belonging to the borough].

29 (b) The secretary shall:

30 (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

1 of the secretary. The assistant secretary may be appointed from
2 the membership of the borough council, but shall not be any
3 other officer thereof. Council may appoint the assistant
4 secretary as the assistant treasurer provided that the assistant
5 secretary is not a member of council.

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

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

14 (d) Solicitor

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

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

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

30 Section 1117. Duties of Solicitor; Outside Counsel.--(a)

1 The borough solicitor[, when directed or requested so to do by
2 council or the mayor, shall prepare or approve such bonds,
3 obligations, contracts, leases, conveyances, ordinances and
4 assurances to which the borough or any department thereof may be
5 a party; he shall commence and prosecute all actions brought by
6 the borough for or on account of any of the estates, rights,
7 trusts, privileges, claims, or demands, as well as defend all
8 actions or suits against the borough, or any officer thereof,
9 wherein or whereby any of the estates, rights, privileges,
10 trusts, ordinances, or accounts, of the borough, or any
11 department thereof, may be brought in question before any court
12 in the Commonwealth; and shall do every professional act
13 incident to the office which he may be authorized or required to
14 do by the council or the mayor. He shall, whenever required,
15 furnish the council, or committees thereof, the mayor, or the
16 head of department, with his opinion in writing upon any
17 question of law which may be submitted by any of them in their
18 official capacities.] shall:

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

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

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

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

8 (b) In the case of a legal dispute between the mayor and
9 council, or in any other case where representation of the mayor
10 and council by the borough solicitor would create a conflict of
11 interest for the borough solicitor, the mayor is authorized to
12 employ outside counsel at borough expense, not to exceed [two
13 thousand five hundred dollars (\$2,500)] four thousand dollars
14 (\$4,000) in any twelve-month period, to perform necessary legal
15 services.

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

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

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

24 (e) Police

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

27 Section 1121. [Appointment, Suspension, Reduction,
28 Discharge, Powers; Mayor to Have Control.--Borough council may,
29 subject to the civil service provisions of this act, if they be
30 in effect at the time, appoint and remove, or suspend, or reduce

1 in rank, one or more suitable persons, citizens of the United
2 States of America, as borough policemen, who shall be ex officio
3 constables of the borough, and shall and may, within the borough
4 or upon property owned or controlled by the borough or by a
5 municipal authority of the borough whether such property is
6 within or outside the limits of the borough, without warrant and
7 upon view, arrest, and commit for hearing any and all persons
8 guilty of breach of the peace, vagrancy, riotous or disorderly
9 conduct or drunkenness, or who may be engaged in the commission
10 of any unlawful act tending to imperil the personal security or
11 endanger the property of the citizens, or for violating any
12 ordinance of the borough for the violation of which a fine or
13 penalty is imposed, and notwithstanding any statute pertaining
14 to the same or similar offenses. Any person so arrested shall be
15 received for confinement by the keepers of the jails, lockups,
16 or station houses within the county.

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

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

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

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

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

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

28 (i) in accordance with the act of June 15, 1951 (P.L.586,
29 No.144), entitled "An act regulating the suspension, removal,
30 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 engage in political activity while on duty or on borough owned property PARTICIPATE IN ANY



1 POLITICAL OR ELECTION CAMPAIGN WHILE ON DUTY OR IN UNIFORM OR
2 WHILE USING BOROUGH PROPERTY OTHERWISE THAN TO EXERCISE THE
3 OFFICER'S RIGHT OF SUFFRAGE.

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

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

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

29 Section 1123.1. Mayor's Powers; Police.--(a) The mayor
30 shall have FULL CHARGE AND control of the chief of police and



1 the police force.

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

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

8 (D) THE MAYOR MAY APPOINT SPECIAL POLICE DURING AN EMERGENCY ←
9 IN WHICH THE SAFETY AND WELFARE OF THE BOROUGH AND THE PUBLIC IS
10 ENDANGERED.

11 ~~(d)~~ (E) The mayor may activate auxiliary police in ←
12 accordance with general law, and notwithstanding any other
13 provision of law, the mayor may also activate auxiliary police
14 for purposes of crowd and traffic control for limited periods
15 during events where, in the mayor's discretion, public safety is
16 promoted by the activation of the auxiliary police.

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

19 Section 1124. Suspension by Mayor.--In addition to the
20 powers of council to suspend [policemen] police officers, the
21 mayor may, for cause and without pay, suspend any [policemen]
22 police officers until the succeeding regular meeting of the
23 council, at which time or [thereafter] later the council may,
24 subject to the civil service provisions of this act, if they be
25 in effect at the time, suspend, discharge, reduce in rank or
26 reinstate with pay, [such policemen: Provided, however, That a
27 policeman] the police officers. A police officer suspended by
28 the mayor may not be reinstated by council at a date earlier
29 than ten working days from the date fixed by the mayor for the
30 suspension to commence. In any case where the council has

1 reinstated a [policeman] police officer, after having been
2 suspended by the mayor, the mayor shall not thereafter suspend
3 [such policeman] the police officer for reasons arising from the
4 same act for which the first suspension was made, or for reasons
5 that the council, in reinstating [such policeman] the police
6 officer, shall have determined not to be grounds for suspension.

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

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

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

13 Section 1127. School Crossing Guards.--(a) Upon request of
14 the board of school directors of the school district in which a
15 borough is wholly or partially located, the borough council may
16 appoint school crossing guards who shall have the duty of
17 controlling and directing traffic and pedestrians at or near
18 schools and who shall be in suitable and distinctive uniform.
19 While on duty, these crossing guards shall be under and subject
20 to the direction of the mayor. They shall serve at the pleasure
21 of the borough council, except as noted in subsection (b), and
22 shall not come within the civil service provisions of this act
23 and shall not be entitled to participate in any borough pension
24 plan or plans now in effect or hereafter effective. The
25 compensation of the school crossing guards, if any, shall be
26 fixed by the borough council and shall be jointly paid by the
27 borough council and the board of school directors, in a ratio to
28 be determined by the borough council and board of school
29 directors. If the borough council and board of school directors
30 are unable to determine the ratio of compensation of the

1 crossing guards to be paid by the council and the board, each
2 shall pay one-half of the compensation of [such] the crossing
3 guards. [Auxiliary policemen] Notwithstanding any other
4 provision of law, auxiliary police officers, appointed as
5 prescribed by general law, may be designated to serve as
6 crossing guards.

7 (b) The borough council may [approve] enact an ordinance
8 allowing a board of school directors to assume hiring and
9 oversight of school crossing guards. Before the borough council
10 may [approve such an] enact the ordinance, the board of
11 directors of the school district shall [approve] adopt a
12 resolution requesting the authority to assume the hiring and
13 oversight of school crossing guards. The ordinance enacted by
14 the borough council shall outline how the police department will
15 provide any necessary training and assistance of the school
16 crossing guards while on duty. [Such] The school crossing guards
17 shall be authorized only in the management of traffic and
18 pedestrians in and around areas identified by the police
19 department and the school district superintendent or his or her
20 designees. The school crossing guards shall not come within the
21 civil service provisions of this act, nor shall they fall under
22 the bargaining unit of the school district nor be considered an
23 employe as defined under section 1101-A of the act of March 10,
24 1949 (P.L.30, No.14), known as the "Public School Code of 1949,"
25 or a school employee as defined under 24 Pa.C.S. § 8102
26 (relating to definitions), or under any plans hereafter
27 effective. [Once] After the ordinance [receives approval] is
28 enacted by the borough council, the school district shall assume
29 the cost of compensation, including fixing [such] compensation,
30 if any, of the school crossing guards. [Auxiliary policemen]

1 Notwithstanding any other provision of law, auxiliary police
2 officers, appointed as prescribed by general law, may be hired
3 by the school district to serve as school crossing guards. The
4 board of school directors shall notify the borough council of
5 those hired to serve as school crossing guards and request the
6 necessary training or assistance be provided as outlined by the
7 ordinance.

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

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

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

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

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

1 (c) All pension funds or investment or insurance instruments
2 established under the provisions of this section shall be under
3 the direction of the borough council, or [such] a committee as
4 it may designate, and shall be applied under [such] regulations
5 as the council may by ordinance prescribe for the benefit of
6 [such] the members of the police force as shall receive
7 honorable discharge therefrom by reason of age or disability and
8 the families of [such as] members of the police force that may
9 be injured or killed in the service. Council shall appoint, by
10 resolution, a chief administrative officer who shall have the
11 primary responsibility for the execution of the administrative
12 affairs of the pension plan, subject to the direction of
13 council. Any allowances made to those who are retired by reason
14 of disability or age shall be in conformity with a uniform
15 scale.

16 (d) The ordinance establishing the police pension fund shall
17 prescribe a minimum period of total service, a minimum age, or
18 both, after which members of the force may be eligible for
19 retirement from active duty. Borough police officers so retired ←
20 shall be subject to service as police reserve, until unfit for
21 service by reason of age or disability, when they may be finally
22 discharged.

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

26 (f) A borough establishing a police pension fund by
27 ordinance pursuant to this section shall provide, from any
28 available borough revenue source, funding of that police pension
29 fund in an amount sufficient to meet the minimum obligation of
30 the borough with respect to the pension fund pursuant to the act

1 of December 18, 1984 (P.L.1005, No.205), known as the "Municipal
2 Pension Plan Funding Standard and Recovery Act."

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

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

16 (i) The act of May 29, 1956 (1955 P.L.1804, No.600), referred
17 to as the "Municipal Police Pension Law," AND THE ACT OF
18 FEBRUARY 1, 1974 (P.L.34, NO.15), KNOWN AS THE "PENNSYLVANIA
19 MUNICIPAL RETIREMENT LAW," shall govern any borough police
20 pension fund not established under the provisions of this
21 section.

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

1 established by this act.

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

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

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

24 Section 130. Section 1134 of the act, amended December 16,
25 1992 (P.L.1215, No.158), is repealed:

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

1 reenacted to read:

2 (g) Borough Manager

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

5 ~~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[, subject to removal by the council at any time by a vote of the majority of all the members]. 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 into in accordance with section 1142.~~

17 ~~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 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. 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 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

1 THE TERM OF THE AGREEMENT OR CONFER UPON THE BOROUGH MANAGER ANY
2 LEGAL REMEDY BASED ON SPECIFIC PERFORMANCE. ANY EMPLOYMENT
3 AGREEMENT WITH A BOROUGH MANAGER EXECUTED ON OR AFTER A
4 MUNICIPAL ELECTION BUT BEFORE THE FIRST MEETING IN JANUARY THE
5 YEAR AFTER THE MUNICIPAL ELECTION SHALL BE VOID. THE COUNCIL, BY
6 ORDINANCE, MAY DELEGATE, SUBJECT TO RECALL, ANY OF THE
7 NONLEGISLATIVE AND NONJUDICIAL POWERS AND DUTIES OF THE COUNCIL,
8 THE PLANNING COMMISSION AND THE SHADE TREE COMMISSION, TO THE
9 BOROUGH MANAGER. WITH APPROVAL OF BOROUGH COUNCIL, THE MAYOR MAY
10 DELEGATE TO THE BOROUGH MANAGER ANY OF [HIS] THE MAYOR'S
11 NONLEGISLATIVE AND NONJUDICIAL POWERS AND DUTIES.

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

13 Section 1143. Other Offices Not Incompatible.--The offices
14 of borough manager, street commissioner, secretary, treasurer
15 and chief of police, shall not be incompatible, and any two or
16 more or all of the said offices may be held by one person.

17 Neither the mayor nor any member of the borough council shall be
18 eligible to hold the office of borough manager.

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

22 [(h) Borough Planning Commission

23 (i) Mine and Quarry Inspection and Surface Support

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

27 Section 1162. Engineer and Other Personnel.--In any such
28 borough an engineer, to be appointed by the council, and such
29 assistants, clerks and employes as the council may provide, to
30 receive such compensation as may be prescribed by council, may

1 be appointed to supervise and administer the work of mine and
2 quarry inspection and surface support.

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

13 Section 1164. Maps and Drawings.--The owner, operator, or
14 superintendent of every mine, colliery or quarry, within three
15 months after the passage of an ordinance by any borough
16 regulating mine or quarry inspection and surface support, shall
17 make or cause to be made and furnish to the borough such map,
18 plans and/or drawings of the workings, excavations and surface
19 support as the council may require. In the case of coal mines
20 and collieries, the map or plan shall exhibit the workings or
21 excavations in every seam of coal on a separate sheet, and the
22 tunnels and passages connecting with such workings or
23 excavations. It shall show in degrees the general inclination of
24 the strata, with any material deflection therein in the workings
25 or excavations, and shall also show the tidal elevations of the
26 bottom of every shaft, slope, tunnel and gangway, and of any
27 other point in the mine or on the surface where such elevation
28 shall be deemed necessary by the bureau. The map or plan shall
29 show the number of the last survey on the gangways or the most
30 advanced workings.

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

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

19 Section 1167. Penalty.--Any person being the general
20 manager, superintendent, or person in charge of the work of any
21 corporation, copartnership, or association, violating any of the
22 provisions of this subdivision, shall be guilty of a
23 misdemeanor, and upon conviction thereof shall be sentenced, for
24 such offense, to pay a fine not exceeding one thousand dollars
25 (\$1000) or to undergo imprisonment in the county jail for a
26 period not exceeding ninety days, or both. All fines imposed
27 under this section shall be paid into the treasury of the
28 borough.

29 Section 1168. Enactment of Ordinances.--Borough councils may
30 enact such ordinances as may be necessary for the enforcement of

1 the provisions of this subdivision.]

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

4 (j) Civil Service for Police and [Firemen]

5 Fire Apparatus Operators

6 Section 136. Section 1171 of the act, amended October 4,
7 1978 (P.L.1000, No.210), is amended to read:

8 Section 1171. Appointments of Police and [Firemen] Fire

9 Apparatus Operators.--~~(a)~~ This subdivision [(j) of this



10 article] shall not apply to any borough having a police force of
11 less than three members or to those having three or more members
12 if those members in excess of two are appointed on a temporary
13 basis through a Federally funded program or to volunteer fire
14 departments or companies employing their own operators, or to
15 boroughs having less than three salaried operators of fire
16 apparatus. This subdivision [(j) of this article] is subject [as
17 heretofore] to the power of council to determine compensation.

18 [Hereafter each and every] Every full-time appointment to and



19 promotion in the police force or as fire apparatus operators
20 paid directly by the borough in every borough shall be made only
21 according to qualifications and fitness, to be ascertained by
22 examinations which shall be competitive as hereinafter provided.
23 No person shall [hereafter] be suspended, removed or reduced
24 in rank as a paid employe in any police force or as a paid
25 operator of fire apparatus of any borough, except in accordance
26 with the provisions of this subdivision. However, nothing in
27 this subdivision [(j)] shall apply to retirement nor shall
28 anything herein prevent any borough from adopting a compulsory
29 retirement age for its employes or for any class or classes
30 thereof and from retiring all [such] employes automatically when

1 they reach such age.

2 ~~(b) For purposes of determining whether a borough is subject~~ ←
3 ~~to the provisions of this subdivision, the term "members" shall~~
4 ~~include part time and full time officers within the police~~
5 ~~force.~~

6 ~~(c) The provisions of this subdivision shall not apply to~~
7 ~~any member of the department who shall work part time for the~~
8 ~~police force. A part time employe shall be a member of the~~
9 ~~police force who regularly works less than thirty seven hours~~
10 ~~per week, except in the case of emergency in which case a part~~
11 ~~time member may work in excess of thirty seven hours per week.~~

12 ~~(d) "Police force" as used in this subdivision shall mean~~
13 ~~the members of a police force organized and operating as~~
14 ~~prescribed by law who devote working hours to police duty or~~
15 ~~duty in connection with the department, agencies and services~~
16 ~~connected with police protection work, and who are paid a stated~~
17 ~~salary or compensation for the work by the borough, but shall~~
18 ~~not include:~~

19 ~~(1) Special police appointed by the mayor to act in~~
20 ~~emergencies.~~

21 ~~(2) Persons appointed solely for parking meter enforcement~~
22 ~~duties.~~

23 ~~(3) School crossing guards.~~

24 ~~(4) Extra police serving from time to time or on an hourly~~
25 ~~or daily basis, without a regularly established full time or~~
26 ~~part time schedule.~~

27 ~~(5) Auxiliary police officer appointed under the act of~~
28 ~~January 14, 1952 (1951 P.L.2016, No.561), entitled "An act~~
29 ~~providing for supplementing the police forces of cities,~~
30 ~~boroughs, towns and townships, for the appointment, powers and~~

~~control of auxiliary police therein, and for the transfer during
disasters and emergencies of such auxiliary police, members of
the regular police forces, and police equipment thereof."~~

~~(e) "Fire apparatus operator" as used in this subdivision
shall mean a person who operates fire apparatus and devotes
normal working hours to operating any piece of fire apparatus or
other services connected with fire protection work and who is
paid a salary or compensation for work done by the borough.~~

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

1 provided by law for commission members, including specifically
2 the right to cast a vote as a voting member during the
3 proceedings, and shall have all the powers and duties set forth
4 in this act and as otherwise provided by law. Alternates shall
5 hold no other office in the borough. An alternate may
6 participate in any proceeding or discussion of the commission
7 but shall not be entitled to vote as a member of the commission
8 unless designated as a voting alternate member pursuant to
9 section 1174.

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

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

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

1 even-numbered year. [The secretary of the commission shall give
2 each commissioner twenty-four hours' notice] Each commissioner
3 shall be notified in writing of each and every meeting [of the
4 commission. Two]. Three members of the commission shall
5 constitute a quorum [and no action of the commission shall be
6 valid unless it shall have the concurrence of at least two
7 members]. If, by reason of absence or disqualification of a
8 member a quorum is not reached, the chair shall designate as
9 many alternate members of the commission to sit on the
10 commission as may be needed to provide a quorum. An alternate
11 member of the commission shall continue to serve on the
12 commission in all proceedings involving the matter or case for
13 which the alternate was initially designated until the
14 commission has made a final determination of the matter or case.
15 Designation of an alternate member pursuant to this section
16 shall be made on a case-by-case basis in rotation according to
17 declining seniority among the alternates. No action of the
18 commission may be valid unless it shall have the concurrence of
19 at least two members.

20 Section 1175. Clerks and Supplies, Etc.; Solicitor.--The
21 borough shall furnish to the commission, on its requisition,
22 [such] clerical assistance [as] that may be necessary for the
23 work of the commission. The borough shall provide a suitable and
24 convenient room for the use of the commission. The commission
25 shall order from the borough the necessary stationery, postage,
26 printing and supplies[, and the]. The borough shall also provide
27 the services of a solicitor for the commission to be appointed
28 by the commission and paid by the borough. The borough shall
29 have the authority to place a reasonable limit on the amount
30 allowed each year for the services of the commission solicitor.

1 The elected and appointed officials of every [such] borough
2 shall aid the commission in all proper ways in carrying out the
3 provisions of this subdivision relating to civil service.

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

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

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

30 Section 1179. Subpoenas.--The commission shall have power to

1 issue subpoenas over the signature of the [chairman] chair, to
2 require the attendance of witnesses and the production of
3 records and papers pertaining to any investigation or inquiry.
4 The fees of [such] witnesses for attendance and travel shall be
5 the same as for witnesses appearing in the courts and shall be
6 paid from appropriations for the incidental expenses of the
7 commission.

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

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

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

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

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

28 Section 139. Section 1181 of the act, amended October 27,
29 2010 (P.L.884, No.91), is amended to read:

30 Section 1181. General Provisions Relating to Examinations.--

1 (a) The commission shall make rules and regulations, to be
2 approved as provided in section 1176 [hereof], providing for the
3 examination of applicants for positions in the police force and
4 as paid operators of fire apparatus and for promotions, which
5 rules and regulations shall prescribe the minimum qualifications
6 of all applicants to be examined and the passing grades. All
7 examinations for positions or promotions shall be practical in
8 character and shall relate to [such] matters and include [such]
9 inquiries as will fairly test the merit and fitness of the
10 persons examined to discharge the duties of the employment
11 sought by them. All examinations shall be open to all applicants
12 who have the minimum qualifications required by the rules and
13 regulations. Each applicant for an original position shall:

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

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

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

22 (4) be subject to a background investigation. Background
23 investigations may be restricted to those candidates on an
24 eligibility list or those to be certified to borough council for
25 appointment in accordance with section 1184.

26 (a.1) Each applicant for promotion shall be subject to the
27 regulations adopted by the commission and to examination and
28 selection in accordance with section 1188. Physical fitness or
29 agility examinations that are job-related and consistent with
30 business necessity and physical and psychological medical

1 examinations may be, but need not be, required for promotions.

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

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

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

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

22 (1) full name and residence or post office address;

23 (2) citizenship, place and date of birth;

24 (3) condition of health and physical capacity for public
25 service;

26 (4) business or employment and his residence for the past
27 five years; and

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

Section 141. Sections 1183 and 1184 of the act, amended October 27, 2010 (P.L.884, No.91), are 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

1 aggrieved may appear with or without counsel, and the commission
2 shall take testimony and review its refusal to provide
3 examination or certification. The decision of the commission
4 shall be final.

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

26 (b) Except as provided in subsection (c), every original
27 position or employment in the police force or as paid operators
28 of fire apparatus, except that of chief of police or chief of
29 the fire department, or equivalent, shall be filled only in the
30 following manner: the council shall notify the commission of any

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

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

29 (d) In the case of a vacancy in the office of chief of
30 police or chief of the fire department, or equivalent official,

1 the appointive power may nominate a person to the commission. It
2 shall [thereupon] then become the duty of the commission to
3 subject the person to a non-competitive examination, and if the
4 person shall be certified by the commission as qualified, he may
5 then be appointed to the position, and [thereafter] shall be
6 subject to all the provisions of this subdivision.

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

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

17 Section 143. Section 1186 of the act, amended October 27,
18 2010 (P.L.884, No.91), is amended to read:

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

1 or dismissed in accordance with this section, [his] the
2 probationer's retention shall be equivalent to a permanent
3 appointment. The decision of a borough to suspend or discharge a
4 probationer shall be final and shall not be subject to the
5 hearing provisions of section 1191.

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

7 Section 1187. Provisional Appointments.--Whenever there are
8 urgent reasons for the filling of a vacancy in any position in
9 the police force and there are no names on the [eligible]

10 eligibility list for [such] the appointment, the council may
11 nominate a person to the commission for noncompetitive
12 examination, and if [such] the nominee shall be certified by the
13 commission as qualified after [such] noncompetitive examination,
14 [he] the nominee may be appointed provisionally to fill [such]
15 the vacancy. [It shall thereupon become the duty of the

16 commissioner within three weeks to] Within three weeks of the
17 provisional appointment, the commission shall hold a competitive
18 examination and certify [a list of eligibles] an eligibility
19 list and a regular appointment shall then be made from the name
20 or names submitted by the commission[: Provided, That], provided
21 that nothing [herein contained] in this section shall prevent
22 the appointment, without examination, of persons, temporarily as
23 police officers in cases of riot or other emergency or as
24 operators of fire apparatus in emergency cases.

25 Section 145. Section 1188 of the act, amended October 27,
26 2010 (P.L.884, No.91), is amended to read:

27 Section 1188. Promotions.--Promotions shall be based on
28 merit to be ascertained by examinations to be prescribed by the
29 commission. All questions relative to promotions shall be
30 practical in character and [such as] will fairly test the merit

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

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

18 Section 145.1. Section 1189 of the act, amended October 27,
19 2010 (P.L.884, No.91), is reenacted to read:

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

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

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

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

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

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

26 "Medical examination" shall mean any examination, procedure,
27 inquiry or test designed to obtain information about medical
28 history or a physical or mental condition which might disqualify
29 an applicant if it would prevent the applicant from performing,
30 with or without a reasonable accommodation, all of the essential

1 functions of the position.

2 "Physician" shall have the meaning given to it in 1 Pa.C.S. §
3 1991 (relating to definitions).

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

7 (1) as a physician assistant pursuant to the act of December
8 20, 1985 (P.L.457, No.112), known as the "Medical Practice Act
9 of 1985," or the act of October 5, 1978 (P.L.1109, No.261),
10 known as the "Osteopathic Medical Practice Act"; or

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

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

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

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

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

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

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

27 (5) Intoxication while on duty.

28 (6) Engaging or participating in conducting of any political
29 or election campaign WHILE ON DUTY OR IN UNIFORM OR WHILE USING
30 BOROUGH PROPERTY otherwise than to exercise [his] the person's



1 own right of suffrage.

2 (7) ENGAGING OR PARTICIPATING IN THE CONDUCT OF A POLITICAL
3 OR ELECTION CAMPAIGN FOR AN INCOMPATIBLE OFFICE AS PROVIDED IN
4 SECTION 1104(F).

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

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

1 reduction shall have been accomplished.] ~~For purposes of this~~ ←
2 ~~section, a borough shall not be obligated to first furlough~~
3 ~~part time employes of the police or fire force who were not~~
4 ~~appointed through the civil service process prior to furloughing~~
5 ~~civil service employes of the police or fire force.~~ In the event
6 the said police force or fire force shall again be increased the
7 employes furloughed shall be reinstated in the order of their
8 seniority in the service. The provisions of this paragraph as to
9 reductions in force are not applicable to a chief of police.

10 Section 147. Section 1191 of the act, repealed in part June
11 3, 1971 (P.L.118, No.6), is amended to read:


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

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

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

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

24 (d) The council and the person sought to be suspended,
25 removed or [demoted] REDUCED IN RANK shall at all times have the ←
26 right to employ counsel before the commission and upon appeal to
27 the court of common pleas. Unless otherwise directed by the ←
28 commission in its discretion, the proceedings before the
29 commission pursuant to this section, including the deliberations
30 by the commission following the completion of the hearing, shall

1 ~~be held in executive session and shall not be open to the~~
2 ~~public.~~ UNLESS THE COUNCIL OR THE PERSON SOUGHT TO BE SUSPENDED, 
3 REMOVED OR REDUCED IN RANK REQUESTS THAT THE PROCEEDINGS BEFORE
4 THE COMMISSION BE OPEN TO THE PUBLIC, THE PROCEEDINGS BEFORE THE
5 COMMISSION PURSUANT TO THIS SECTION SHALL BE HELD IN THE NATURE
6 OF A CLOSED EXECUTIVE SESSION THAT SHALL NOT BE OPEN TO THE
7 PUBLIC. ANY SUCH REQUEST SHALL BE PRESENTED TO THE COMMISSION
8 BEFORE THE CIVIL SERVICE HEARING COMMENCES. THE DELIBERATIONS OF
9 THE COMMISSION, INCLUDING INTERIM RULINGS ON EVIDENTIARY OR
10 PROCEDURAL ISSUES, MAY BE HELD IN PRIVATE AND SHALL NOT BE
11 SUBJECT TO A REQUEST FOR BEING OPEN TO THE PUBLIC, THE COUNCIL
12 OR TO THE PERSON SOUGHT TO BE SUSPENDED, REMOVED OR REDUCED IN
13 RANK. THE COMMISSION'S DISPOSITION OF THE DISCIPLINARY ACTION
14 SHALL CONSTITUTE OFFICIAL ACTION WHICH SHALL OCCUR AT A PUBLIC
15 MEETING HELD PURSUANT TO 65 PA.C.S. CH. 7 (RELATING TO OPEN
16 MEETINGS).

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

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

28 Section 1193. Discrimination on Account of Political or
29 Religious Affiliations.--No question in any form of application
30 for examination or in any examination shall be so framed as to

1 elicit information concerning the political or religious
2 opinions or affiliations of any applicant, nor shall inquiry be
3 made concerning [such] the opinion or affiliations and all
4 disclosures [thereof] of opinion or affiliation shall be
5 [discountenanced] ignored.

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

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

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

25 Section 150. Section 1195 ~~and Article XI subdivision (k)~~ ←
26 ~~heading of the act are repealed~~ OF THE ACT IS REENACTED TO READ: ←

27 †Section 1195. Police Force and Fire Apparatus Operators ←
28 Defined.--Police force as used in subdivision (j) of this
29 article shall mean a police force organized and operating as
30 prescribed by law, the members of which devote their normal

1 working hours to police duty or duty in connection with the
2 bureau, agencies and services connected with police protection
3 work, and who are paid a stated salary or compensation for such
4 work by the borough. Police force as used in this subdivision
5 shall not include:

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

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

10 (3) Any special school police,

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

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

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

21 SECTION 150.1. ARTICLE XI SUBDIVISION (K) HEADING OF THE ACT
22 IS REPEALED: ←

23 [(k) Independent Auditor] ←

24 Section 151. Section 1196 of the act, amended December 17,
25 1986 (P.L.1691, No.201), is repealed:

26 [Section 1196. General Powers and Duties of Independent
27 Auditor.--(a) The independent auditor shall annually examine,
28 audit and settle all accounts whatsoever in which the borough is
29 concerned and the audit shall consist of an examination in
30 accordance with generally accepted auditing standards and shall

1 include such tests of the accounting records and such other
2 auditing procedures as he considers necessary in the
3 circumstances.

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

7 (1) The scope of his examination,

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

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

24 (c) The amount of any balance or shortage, or of any
25 expenditure of a kind, or made in a manner, prohibited or not
26 authorized by statute, which causes a financial loss to the
27 borough, shall be a surcharge against any officer against whom
28 such balance or shortage shall appear, or who by vote, act, or
29 neglect, has permitted or approved such expenditure, but no
30 elected or appointed official of a borough shall be surcharged

1 for any act, error or omission in excess of the actual financial
2 loss sustained by the borough, and any surcharge shall take into
3 consideration as its basis the results of such act, error or
4 omission and the results had the procedure been strictly
5 according to law. The provisions hereof limiting the amount of
6 any surcharge shall not apply to cases involving fraud or
7 collusion on the part of officers, nor to any penalty enuring to
8 the benefit or payable to the Commonwealth.

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

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

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

21 (2) To publish within ten days thereafter, by advertisement
22 in at least one newspaper of general circulation in the borough,
23 a concise financial statement setting forth the balance in the
24 treasury at the beginning of the fiscal year, all revenues
25 received during the fiscal year by major classifications, all
26 expenditures made during the fiscal year by major functions, and
27 the current resources and liabilities of the borough at the end
28 of the fiscal year, the gross liability and net debt of the
29 borough, the amount of the assessed valuation of the borough,
30 the assets of the borough with the character and value thereof,

1 the date of the last maturity of the respective forms of funded
2 debt, and the assets in each sinking fund. The independent
3 auditor shall make his report on the uniform form prepared
4 pursuant to article XIII of this act.

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

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

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

17 Section 1198. Balances Due to be Entered as Judgments.--Any
18 balance, in any report of the independent auditor, against any
19 officer of the borough, shall constitute a surcharge against
20 such officer, as fully as if expressly stated in said report to
21 be a surcharge, and the amount of any such balance, and of any
22 express surcharge, shall, if no appeal is taken, or after an
23 appeal has been finally determined, be entered by the
24 prothonotary as a judgment, against such officer and in favor of
25 the borough, the clerk of the court of quarter sessions shall
26 certify the amount of every balance or surcharge, contained in
27 any such report, from which no appeal has been taken within time
28 herein provided, to the court of common pleas, for entry thereof
29 by the prothonotary as a judgment. Any taxpayer of the borough
30 may enforce the collection thereof, for the benefit of the

1 borough, by action or execution, upon filing in the court of
2 common pleas a bond, in the sum of five hundred dollars (\$500)
3 with one or more sureties, conditioned to indemnify the borough
4 from all costs which may accrue in the proceedings undertaken by
5 such taxpayer, subject, however, to all rights of appeal from
6 the report of independent auditors granted by this act. If any
7 person or persons have been, or shall be, surcharged for an
8 illegal purchase, and no fraud or collusion is shown and the
9 surcharge is paid to the borough, then the articles purchased
10 shall become the property of the person or persons surcharged.

11 Section 1199. Employment of Attorney, Compelling Attendance
12 of Witnesses, Administration of Oath, Penalties and Settlement
13 of Accounts.--(a) The independent auditor, with the consent of
14 the borough council, may employ an attorney whenever the same is
15 deemed advisable by him and the compensation of such attorney
16 shall be determined by the borough council and shall be payable
17 by the borough out of the general funds of the borough.

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

28 (c) The independent auditor shall have power to administer
29 oaths and affirmations to all persons brought or appearing
30 before him, whether accountants, witnesses, or otherwise. All

1 persons guilty of swearing or affirming falsely on such
2 examination shall be liable to the pains and penalties of
3 perjury.

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

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

24 (f) If any person in possession of books, vouchers, or
25 papers, relative to public accounts before independent auditor,
26 shall refuse to produce the same or, if any officer whose
27 accounts are to be settled and adjusted by such independent
28 auditor refuses to attend or submit to examination as is
29 hereinbefore directed, the independent auditor may proceed, by
30 the examination of witnesses and other evidence, to ascertain

1 and settle as near as may be, the amount of public money
2 received by such officer and its application to public purposes
3 or otherwise.]

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

6 ARTICLE XII

7 CORPORATE POWERS

8 Section 154. Section 1201 of the act, amended ~~November 29,~~ ←
9 ~~2004 (P.L.1337, No.170) and June 30, 2007 (P.L.47, No.15)~~ ← JUNE
10 28, 2011 (P.L.66, NO.12), is renumbered and amended to read:

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

12 (1) Have succession perpetually by its corporate name.

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

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

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

22 (i)] as set forth in this article. PROPERTY MAY BE ACQUIRED ←
23 FOR ANY PUBLIC PURPOSE, INCLUDING, BUT NOT LIMITED TO,
24 GREENWAYS, GREENBELTS, RECREATIONAL TRAILS, BUFFER ZONES AND
25 NATURAL AREAS, IN ADDITION TO ANY RECREATION PURPOSE AUTHORIZED
26 BY THIS ACT.

27 Section 1201.1. Real Property.--(a) No real estate owned by
28 the borough [shall] may be sold except upon approval of council
29 by resolution. Additionally, no real estate owned by the borough
30 shall be sold for a consideration in excess of fifteen hundred

1 dollars (\$1500), except to the highest bidder after due notice
2 by advertisement for bids or advertisement of a public auction
3 in one newspaper ~~of~~ general circulation [in the borough. Such]._ ←
4 The advertisement shall be published once not less than ten days
5 prior to the date fixed for the opening of bids or public
6 auction, and [such] the date for opening bids or public auction
7 shall be announced in [such] the advertisement. The award of
8 contracts shall be made only by public announcement at a regular
9 or special meeting of council or at the public auction. All bids
10 shall be accepted on the condition that payment of the purchase
11 price in full shall be made within sixty days of the acceptance
12 of bids. If no COMPLIANT bids are received after advertisement, ←
13 the applicable procedures in the act of October 27, 1979
14 (P.L.241, No.78), entitled, as amended, "An act authorizing
15 political subdivisions, municipality authorities and
16 transportation authorities to enter into contracts for the
17 purchase of goods and the sale of real and personal property
18 where no bids are received," shall be followed.

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

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

29 [(ii)] (d) (1) Notwithstanding the foregoing provisions of
30 this section, borough council shall have the authority to

1 exchange real property for real property of equal or greater
2 value without complying with the foregoing provisions of this
3 section, provided that the property being acquired by the
4 borough is to be used for municipal purposes. Municipal purposes
5 as used in this subsection ~~includes~~ INCLUDE a subsequent sale or ←
6 lease of the property to any of the delineated entities listed
7 in section 1201.3.

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

12 (3) If borough council chooses to exercise its power of real
13 property exchange pursuant to this section, it shall be by
14 resolution adopted by council. NOTICE OF THE RESOLUTION, ←
15 INCLUDING A DESCRIPTION OF THE PROPERTIES TO BE EXCHANGED, SHALL
16 BE PUBLISHED ONCE IN ONE NEWSPAPER OF GENERAL CIRCULATION NOT
17 MORE THAN SIXTY DAYS NOR FEWER THAN SEVEN DAYS PRIOR TO
18 ADOPTION.

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

23 Section 1201.2. Personal Property.--(a) (1) Except as
24 otherwise hereinafter provided in the case of personal property
25 of an estimated fair market value of less than one thousand
26 dollars (\$1,000), no borough personal property shall be disposed
27 of, by sale or otherwise, except upon approval of council, by
28 [ordinance or] resolution. In cases where council shall approve
29 a sale of [such] the property, it shall estimate the fair market
30 value of the entire lot to be disposed of. If council shall

1 estimate the fair market value to be one thousand dollars
2 (\$1,000) or more, the entire lot shall be advertised for sale
3 once, in at least one newspaper [of general circulation [in the
4 borough], not less than ten days prior to the date fixed for the
5 opening of bids or public auction, and [such] the date of
6 opening of bids or public auction, shall be announced in [such]
7 the advertisement, and sale of the property so advertised shall
8 be made to the best responsible bidder.

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

29 (2) A PUBLIC AUCTION OF PERSONAL PROPERTY MAY BE CONDUCTED
30 BY MEANS OF AN ONLINE OR ELECTRONIC AUCTION SALE. DURING AN

1 ELECTRONIC AUCTION SALE, BIDS SHALL BE ACCEPTED ELECTRONICALLY
2 AT THE TIME AND IN THE MANNER DESIGNATED IN THE ADVERTISEMENT.
3 DURING THE ELECTRONIC AUCTION, EACH BIDDER SHALL HAVE THE
4 CAPABILITY TO VIEW THE BIDDER'S BID RANK OR THE HIGH BID PRICE.
5 BIDDERS MAY INCREASE THEIR BID PRICES DURING THE ELECTRONIC
6 AUCTION. THE RECORD OF THE ELECTRONIC AUCTION SHALL BE
7 ACCESSIBLE FOR PUBLIC INSPECTION. THE PURCHASE PRICE SHALL BE
8 PAID BY THE HIGH BIDDER IMMEDIATELY OR AT A REASONABLE TIME
9 AFTER THE CONCLUSION OF THE ELECTRONIC AUCTION AS DETERMINED BY
10 COUNCIL. IN THE EVENT THAT SHIPPING COSTS ARE INCURRED, THEY
11 SHALL BE PAID BY THE HIGH BIDDER. A BOROUGH THAT HAS COMPLIED
12 WITH THE ADVERTISING REQUIREMENTS OF THIS SECTION MAY PROVIDE
13 ADDITIONAL PUBLIC NOTICE OF THE SALE BY BIDS OR PUBLIC AUCTION
14 IN ANY MANNER DEEMED APPROPRIATE BY COUNCIL. THE ADVERTISEMENT
15 FOR ELECTRONIC AUCTION SALES AUTHORIZED IN THIS [SUBCLAUSE]
16 PARAGRAPH SHALL INCLUDE THE INTERNET ADDRESS OR MEANS OF
17 ACCESSING THE ELECTRONIC AUCTION AND THE DATE, TIME AND DURATION
18 OF THE ELECTRONIC AUCTION.

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

28 (b) Council shall, by resolution, adopt a procedure for the
29 sale of surplus personal property, either individual items or
30 lots of items, of an estimated fair market value of less than

1 one thousand dollars (\$1,000) and the approval of council shall
2 not be required for any individual sale that shall be made in
3 conformity to [such] the procedure.

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

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

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

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

20 ~~[(B) a municipal authority pursuant to the Municipality~~ ←
21 ~~Authorities Act of 1945] (3) an authority as defined in 53~~
22 ~~Pa.C.S. § 5602 (relating to definitions);~~

23 [(B)] (3) AN AUTHORITY AS DEFINED IN 53 PA.C.S. § 5602 ←
24 (RELATING TO DEFINITIONS);

25 [(C)] (4) a non-profit corporation engaged in community
26 development or reuse only upon entering into a written agreement
27 with the non-profit corporation that requires the property to be
28 used for industrial, commercial or affordable housing purposes.
29 This exemption shall not apply to property on which existing
30 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

1 subject to the condition that when the property is not used for
2 the purposes of the company, service, squad or the corporation
3 the property shall revert to the borough.

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

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

15 Section 155. Section 1202 of the act, amended or added
16 October 9, 1967 (P.L.399, No.181), November 24, 1967 (P.L.621,
17 No.283), December 14, 1967 (P.L.727, No.336), June 30, 1969
18 (P.L.111, No.43), June 27, 1974 (P.L.412, No.145), December 19,
19 1975 (P.L.561, No.158), June 23, 1978 (P.L.530, No.89), October
20 4, 1978 (P.L.962, No.189), October 5, 1979 (P.L.197, No.66),
21 November 1, 1979 (P.L.453, No.90), May 9, 1980 (P.L.119, No.46),
22 December 11, 1986 (P.L.1499, No.158), March 30, 1988 (P.L.309,
23 No.40), July 10, 1990 (P.L.383, No.90), December 16, 1992
24 (P.L.1215, No.158), December 14, 1995 (P.L.652, No.71), December
25 18, 1996 (P.L.1156, No.176), June 22, 2000 (P.L.325, No.34),
26 June 25, 2001 (P.L.699, No.67), July 5, 2005 (P.L.44, No.13) and
27 March 17, 2008 (P.L.48, No.8) and repealed in part November 26,
28 1978 (P.L.1399, No.330), is amended to read:

29 Section 1202. Specific Powers.--The powers of the borough
30 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 ~~certain~~ officers ~~and emergency responders~~. To prescribe reasonable fees for the services of their officers and to enforce the payment of the same. ~~The borough may also prescribe reasonable fees for costs associated with services of emergency service, fire or traffic control personnel rendered in response to vehicle accidents, and may claim the costs against insurance policies or otherwise provide for the collection or payment of the fees.~~ 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

1 borough.

2 (5) Nuisances and dangerous structures.] To prohibit and
3 remove any nuisance or dangerous structure on public or private
4 grounds, including but not limited to accumulations of garbage
5 and rubbish [and] the storage of abandoned or junked
6 automobiles [and to prohibit and remove any dangerous structure
7 on public or private grounds, or to] and obstructions or
8 nuisances in the streets of the borough. The borough may require
9 the removal of any [such] nuisance or dangerous structure by the
10 owner or occupier of [such] the grounds, in default of which the
11 borough may cause the same to be done, and collect the cost
12 [thereof] of removal, together with a penalty of ten percent of
13 [such] the cost, in the manner provided by law for the
14 collection of municipal claims, or by action of assumpsit, or
15 may seek relief by bill in equity.

16 [(6)] (5) Health and cleanliness regulations. To make such
17 regulations as may be necessary for the health, safety, morals,
18 general welfare and cleanliness and the beauty, convenience,
19 comfort and safety of the borough.

20 [(7) Burial of deceased persons. To prohibit, within the
21 borough limits, or within any described territory within such
22 limits, the burial or interment of deceased persons.

23 (8)] (6) Regulation of vaults, cesspools and drains. To make
24 regulations respecting vaults, cesspools and drains.

25 [(9)] (7) Manure and compost regulations. To make
26 regulations relative to the accumulation of manure, compost and
27 the like to the extent authorized by 3 Pa.C.S. Ch. 5 (relating
28 to nutrient management and odor management).

29 [(10) Accumulations of garbage] (8) Garbage and other
30 refuse material. (i) To individually or jointly with other

1 municipal corporations pursuant to an agreement, prohibit
2 accumulations of garbage or other refuse material upon public
3 and private property and to [provide] make regulations for the
4 care, removal [of prohibited accumulations] and collection of
5 garbage or other refuse material[.], including:

6 (A) To provide for the collection and imposition of
7 reasonable fees and charges for the collection of garbage and
8 other refuse material.

9 (B) To erect, operate and maintain refuse disposal or
10 incineration facilities or sanitary landfills, either within or
11 without the limits of the borough, or provide other means for
12 the collection, destruction or removal of garbage and other
13 refuse material, and provide for the payment of the cost or
14 expense thereof, either in whole or in part, out of the funds of
15 the borough.

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

30 (D) To take and appropriate real estate for purposes of

1 refuse disposals or incineration facilities or sanitary
2 landfills in accordance with Article XV if a purchase price
3 cannot first be agreed upon, provided, however, that no real
4 estate located outside the limits of the borough, or outside the
5 limits of the joint municipal corporations in the case of a
6 joint effort, shall be taken and appropriated if the real estate
7 currently contains or is being used for a refuse disposal or
8 incineration facility or a sanitary landfill.

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

15 [(11) Removal of garbage and other refuse material. To make
16 regulations for the care and removal of garbage and other refuse
17 material, including the imposition and collection of reasonable
18 fees and charges therefor.

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

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

1 [thereof] of the pet by their owners.

2 [(14)] (10) Livestock, fowls and [certain] all other
3 animals. To [prohibit and regulate, by ordinance,] enact
4 ordinances prohibiting or regulating the keeping or running at
5 large of livestock and fowls and any other animals not covered
6 in clause [(13) hereof] (9), and [to authorize] authorizing
7 their seizure [and], detention, [prescribing] or, in the case of
8 unowned pigeons, humane destruction. The borough may prescribe
9 reasonable charges [therefor, and to] for the seizure and
10 detention of the animals and provide for their sale for the
11 benefit of the borough, in default of the redemption [thereof]
12 of the animals by their owners. Ordinances enacted pursuant to
13 this clause shall not unreasonably interfere with any
14 agricultural operation to the extent prohibited by applicable
15 State law.

16 [(15)] Pigeons. To authorize or provide for the destruction
17 or killing of unowned pigeons within the geographical limits of
18 the borough by any humane means.

19 (16)] (11) Smoke regulations. To regulate the emission of
20 smoke from chimneys, smokestacks and other sources to the extent
21 the regulation is not otherwise prohibited by applicable Federal
22 or State law. This clause shall not apply to locomotive
23 smokestacks.

24 [(17)] (12) Street and sewer regulations; obstructions. To
25 regulate the streets, sewers, public squares, common grounds,
26 sidewalks, curbs, gutters, culverts and drains, and the heights,
27 grades, widths, slopes and their construction [thereof;] and to
28 prohibit the erection or construction of any building or other
29 obstruction to the convenient use of the same.

30 [(18)] (13) Riding or driving on sidewalks. To prohibit or

1 regulate the riding [or], driving, parking or other passage of
2 [animals, or the passage of] any animal or vehicle, over, along
3 and across sidewalks. As used in this paragraph, the word
4 "vehicle" shall include any device in, upon or by which any
5 person or property may be transported, but not a self-propelled
6 wheelchair or an electrical mobility device operated by and
7 designed for the exclusive use of a person with a mobility-
8 related disability.

9 [(19) Stands for cabs and other vehicles for hire. To
10 establish stands for cabs and other vehicles for hire, to
11 establish charges therefor, and to enforce the observance and
12 use thereof.

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

22 (15) Construction code, property maintenance code, fire
23 prevention code and reserved powers. To adopt and enforce a
24 construction code, a property maintenance code, a fire
25 prevention code and exercise any additional reserved powers
26 pursuant to Article XXXII-A.

27 [(21) Fire regulations; fire prevention codes by reference.
28 To make regulations, within the borough, or within such limits
29 thereof as may be deemed proper, relative to the cause and
30 management of fires and the prevention thereof. To enact and

1 enforce suitable fire prevention codes, and to provide for the
2 enforcement thereof by a suitable fine, and by instituting
3 appropriate actions or proceedings, at law or in equity, to
4 effect the purposes of this provision and ordinances thereunder.
5 Such fire prevention code shall not be advertised by publication
6 of the full text thereof, and, in place of such complete
7 advertisement, an informative notice of intention to consider
8 such proposed fire prevention code, and a brief summary, setting
9 forth the principal provisions of such proposed fire prevention
10 code in such reasonable detail as will give adequate notice of
11 its contents and a reference to the place or places within the
12 borough where copies of such proposed fire prevention code may
13 be examined or obtained shall be published once in one newspaper
14 of general circulation in the borough at least one week and not
15 more than three weeks prior to the presentation of the proposed
16 fire prevention code to council. No further advertisement or
17 notice need be published following enactment of the fire
18 prevention code.

19 The fire prevention code may be adopted by reference to a
20 standard fire prevention code, or to parts thereof, determined
21 by council, or the provisions of the code may be supplied by
22 reference to a typed or printed fire prevention code, prepared
23 under the direction of or accepted by the council, or the
24 provisions may consist of a standard code, or parts thereof, and
25 also further provisions typed or printed as aforesaid. Copies of
26 the fire prevention code thus adopted by reference shall be made
27 available to any interested party at the cost thereof, or may be
28 furnished or loaned without charge. Such fire prevention code
29 need not be recorded in or attached to the ordinance book, but
30 it shall be deemed to have been legally recorded if the

1 ordinance by which such fire prevention code was adopted by
2 reference shall have been recorded, with an accompanying
3 notation stating where the full text of the fire prevention code
4 shall have been filed.

5 (22)] (16) Prohibition of fire producing devices [in certain
6 retail stores] and smoking. To prohibit and regulate the smoking
7 or carrying of lighted cigarettes, cigars, pipes or matches, and
8 the use of matches or fire-producing devices[, in retail stores
9 arranged to accommodate one hundred persons or more or which
10 employ ten or more persons]. Any ordinance enacted or regulation
11 or resolution adopted under this clause shall not [prohibit]
12 regulate smoking in [any restaurant, rest room, beauty parlor,
13 executive office or any room designated for smoking in such
14 store.] a manner that conflicts with the act of June 13, 2008
15 (P.L.182, No.27), known as the "Clean Indoor Air Act."

16 [(23)] ~~(17)~~ Dangerous and inflammable articles, substances ←
17 and materials. To ~~the extent not otherwise prohibited by Federal~~ ←
18 ~~or State law or regulation, to~~ prohibit the manufacture, sale or
19 storage of ~~fireworks and~~ inflammable or otherwise dangerous ←
20 articles, substances or materials; to prescribe the quantities
21 of {any such} ~~inflammable or dangerous~~ articles, substances or ←
22 materials that may be kept in any location {and/or} ~~or~~ building; ←
23 ~~to grant permits for the supervised public displays of fireworks~~ ←
24 ~~and adopt rules and regulations governing the displays;~~ and to
25 {prescribe such} ~~impose~~ other safeguards ~~concerning inflammable~~ ←
26 ~~articles~~ as may be necessary.] ←

27 (17) FIREWORKS AND INFLAMMABLE ARTICLES.

28 (I) TO, BY ORDINANCE, REGULATE AND PROHIBIT THE MANUFACTURE
29 OF FIREWORKS OR INFLAMMABLE OR DANGEROUS ARTICLES.

30 (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

1 building code, housing code or other standard codes, or to parts
2 thereof, determined by council, or the provisions of the
3 ordinance may be supplied by reference to a typed or printed
4 building code, housing code or other standard codes, prepared
5 under the direction of or accepted by council, or the provisions
6 may consist of a standard building code, housing code or other
7 standard codes, or parts thereof, and also further provisions
8 typed or printed as aforesaid. Such building code, housing code
9 or other standard codes shall not be advertised either in
10 advance of or following enactment, by publication of the full
11 text thereof, and, in place of such complete advertisement, an
12 informative notice of intention to consider such proposed
13 building code, housing code or other standard codes, and a brief
14 summary, setting forth the principal provisions of such proposed
15 building code, housing code or other standard codes in such
16 reasonable detail as will give adequate notice of its contents
17 and a reference to the place or places within the borough where
18 copies of such proposed building code, housing code or other
19 standard codes may be examined or obtained shall be published
20 once in one newspaper of general circulation in the borough at
21 least one week and not more than three weeks prior to the
22 presentation of the proposed building code, housing code or
23 other standard codes to council. No further advertisement or
24 notice need be published following enactment of the building
25 code, housing code or other standard codes. Copies of the
26 building code, housing code or other standard codes thus adopted
27 by reference shall be made available to any interested party at
28 the cost thereof, or may be furnished or loaned without charge.
29 Such building code, housing code or other standard codes need
30 not be recorded in or attached to the ordinance book, but it

1 shall be deemed to have been legally recorded if the ordinance
2 by which such building code, housing code or other standard
3 codes were adopted by reference shall have been recorded, with
4 an accompanying notation stating where the full text of such
5 building code, housing code or other standard codes shall have
6 been filed. The procedure set forth relating to the adoption of
7 the building code, housing code or other standard codes, by
8 reference, may likewise be adopted in amending, supplementing or
9 repealing any of the provisions of the building code, housing
10 code or other standard codes.

11 To enact suitable ordinances relating to property maintenance
12 and plumbing, in the same manner and to the same effect as
13 herein provided for building codes, housing codes or other
14 standard codes. The building code, the property maintenance
15 code, the housing code and the plumbing code may be combined or
16 separately enacted or combined with other standard codes.

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

19 (25)] (18) Numbering buildings. To require and regulate the
20 numbering of buildings and lots.

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

23 (27)] (19) Party wall and fence regulations. To make
24 regulations respecting partition fences and the foundations and
25 party walls of buildings.

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

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

30 (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.

1 (21) Zoning and land use regulations; building lines. To
2 plan for and regulate the development of the borough by:
3 (i) establishing and maintaining uniform building lines upon
4 any or all borough streets pursuant to applicable law; and
5 (ii) utilizing powers delegated by the Pennsylvania
6 Municipalities Planning Code, and other applicable laws by
7 adopting zoning, subdivision and land use and development
8 regulations.

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

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

16 (30) Regulating and prohibiting amusements. To regulate,
17 license, fix the time of opening and closing, or prohibit
18 theatrical exhibitions, amusements and dances, at which an
19 admission or other fee is charged, and other exhibitions; to
20 regulate, license and fix the time of opening and closing of
21 pool-rooms, billiard-rooms, shooting galleries, skating rinks
22 and bowling alleys.

23 (31) Markets, market houses and peddling. To regulate
24 markets and peddling, whether for individual use or for resale;
25 and to purchase and own ground for and to erect, establish and
26 maintain market houses and market places, for which latter
27 purposes, parts of any streets or sidewalks may be temporarily
28 used; to contract with any person or persons, or association of
29 persons, companies, or corporations, for the erection,
30 maintenance and regulation of market houses and market places,

1 on such terms and conditions, and in such manner, as the council
2 may prescribe; to provide and enforce suitable regulations
3 respecting said market houses and market places and to provide
4 for the payment of the cost or expense thereof, either in whole
5 or in part, out of the funds of the borough; and to levy and
6 collect a suitable license fee from every person who may be
7 authorized by council to occupy any portion of said market
8 houses or market places, or any portion of the streets or
9 sidewalks for temporary market purposes.

10 (32) Creation of special funds; investments. To set aside in
11 a separate fund any moneys received out of or from the sale,
12 lease, or other disposition of any borough property or received
13 from any source other than taxation, unless such money was
14 received or acquired for a particular purpose. Such fund shall
15 be controlled, invested and administered, and the income arising
16 therefrom expended, in such manner as may be determined by
17 action of the council pursuant to the ordinance creating the
18 fund. Such ordinance may provide that only the income from such
19 fund may be used or expended, and that neither principal, not
20 any part thereof, may be used or expended unless upon
21 authorization of a majority vote of the qualified electors of
22 the borough. All ordinances heretofore enacted and ordained by
23 any borough, creating and establishing such a separate fund as
24 is authorized by this clause, shall be deemed and taken as valid
25 and effectual for all purposes: Provided, That all other
26 requirements of law concerning the enactment of the same have
27 been complied with.

28 (33)] (22) Creation of capital reserve fund for anticipated
29 capital expenditures. To create and maintain a separate capital
30 reserve fund for anticipated legal capital expenditures. The

1 money in the fund shall be used, from time to time, for the
2 construction, purchase or replacement of or addition to
3 municipal buildings, equipment, machinery, motor vehicles or
4 other capital assets of the borough and for no other purpose.

5 Council may appropriate moneys from the general borough funds
6 to be paid into the capital reserve fund or place in the fund
7 any moneys received from the sale, lease or other disposition of
8 any borough property or from any other source, unless received
9 or acquired for a particular purpose. The fund shall be
10 controlled, invested, reinvested and administered and the moneys
11 expended for any of the purposes for which the fund is created
12 in [such] a manner as may be determined by council. The money in
13 the fund, when invested, shall be invested in securities
14 designated by [law] 53 Pa.C.S. Pt. VII Subpt. B (relating to
15 indebtedness and borrowing) as legal investments for sinking
16 funds of municipalities.

17 This clause shall not be construed to limit the powers of the
18 borough to the use of moneys in the capital reserve fund in
19 making lawful capital expenditures.

20 (23) Operating Reserve Fund. To create and maintain a
21 separate operating reserve fund from which appropriations may be
22 made to meet emergencies involving the health, safety and
23 welfare of the residents of the borough, to counterbalance
24 potential budget deficits resulting from shortfalls in
25 anticipated revenues or program receipts from whatever source,
26 or to provide anticipated operating expenditures related either
27 to the planned growth of existing projects or programs or to the
28 establishment of new projects or programs if for a project or
29 program appropriations have been made and allocated to a
30 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

1 "Workers' Compensation Act," for:

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

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

8 (ii) Life and health insurance. To make contracts of
9 insurance with any insurance company, association or exchange,
10 authorized to transact business in the Commonwealth, insuring
11 borough employes, or any class or classes of employes, or mayor
12 and council, [or any class, or classes thereof,] or their
13 dependents, under a policy or policies of insurance covering
14 life, health, hospitalization, medical and surgical service
15 [and/or] or accident insurance[, and to].

16 (iii) Pension contracts. To contract with [any such] an
17 insurance company, granting annuities or pensions, for the
18 pensioning of borough employes, or any class, or classes
19 [thereof] of employes, and to agree to pay part or all of the
20 premiums or charges for carrying [such] the contracts, and to
21 appropriate moneys from the borough treasury for such purposes.

22 (iv) Liability insurance. To make contracts with any
23 insurance company, association or exchange, authorized to
24 transact business in this Commonwealth, insuring any public
25 liability of the borough, and to appropriate moneys from the
26 borough treasury for such purpose.

27 (v) Nothing in this clause shall affect any contract, right
28 or coverage of insurance vested or existing on the effective
29 date of this clause. Contract, as used in this clause, includes
30 an annuity contract, provided that the option to renew continues

1 to provide the same rights to the annuitant that existed on the
2 effective date of this clause.

3 [(38) Contract with railways. To enter into contract with
4 any person or company, operating a street passenger railway,
5 surface, elevated, or underground, or furnishing motor
6 transportation, or leasing and operating the franchise and
7 property of such person or company, within the limits of the
8 borough, regulating the franchises, powers, duties and
9 liabilities of such persons or companies, and the respective
10 rights of the contracting parties. Such contracts may, inter
11 alia, provide for payments by the persons or companies to the
12 borough, in lieu of the performance of certain duties, or the
13 payment of license fees or charges imposed in favor of such
14 borough, or by the charters of any such companies, or by any
15 general law, or ordinances; for the appointment by the borough
16 of a certain number of persons to act as director of any such
17 company, in conjunction with the directors elected by the
18 stockholders of such company; and may further provide for the
19 ultimate acquisition by the borough, upon terms mutually
20 satisfactory, of the leaseholds, property and franchises of the
21 contracting persons or companies.

22 Subject to the approval of the Public Utility Commission, and
23 in order to secure the removal of any street railway tracks, or
24 to prevent the laying of any tracks authorized to be laid, or to
25 change the route of any street railway on any street to enter
26 into a contract with a street railway or motor power company,
27 owning, leasing, or operating such tracks, for a period not to
28 exceed fifty years, for such considerations and upon such
29 conditions as may be agreed upon.

30 Such contract may include a covenant providing that, during

1 the continuance thereof, municipal consent shall not be granted
2 to any other company to use, for street railway or passenger
3 transportation purposes, any streets covered by such contract.
4 Such covenant may be enforced by bill in equity against the
5 borough. The contract may also provide for the laying or
6 relaying of tracks, upon such terms and upon such conditions as
7 may be agreed upon.]

8 (27) Public transportation. To contract with a company
9 owning, leasing or operating a light rail or similar
10 transportation system, whether surface, elevated or underground,
11 within the limits of the borough, for the acquisition, leasing
12 or regulation of the franchises, property, powers, duties and
13 liabilities of the company for the purpose of providing public
14 transportation. A contract may provide that the companies may
15 make payments to the borough in lieu of the performance of
16 certain duties or may include a provision that municipal consent
17 shall not be granted to any other company for the same services
18 covered by the contract. A contract may also provide, subject to
19 any required approval by the Public Utility Commission and
20 consistent with the jurisdictional limits established under 49
21 U.S.C. (relating to transportation), for the laying,
22 installation or removal of tracks or lines, to prevent the
23 laying or installation of otherwise authorized tracks or lines,
24 or to change the route of any tracks or lines, for the
25 considerations and upon conditions as may be agreed upon.
26 Borough council may acquire, maintain and operate any existing
27 inclined plane passenger transportation facilities and may
28 acquire or may establish vehicular feeder lines for those
29 facilities.

30 [(39) Water supply. To provide a supply of water and to make

1 regulations for the protection of the pipes, reservoirs and
2 other constructions or apparatus; to prevent the waste of water
3 so supplied, and to regulate the drilling of wells within the
4 borough.

5 (40)] (28) Community buildings and public facilities. To
6 acquire land or buildings by purchase [and own ground for, and],
7 gift, exchange or eminent domain, to erect[, establish, or
8 purchase] a building[, to be used] or to lease land or
9 buildings, within the borough limits, for community purposes, or
10 for public facilities such as comfort and waiting stations and
11 drinking fountains, and to erect watering troughs, and to
12 maintain the [same] public facilities; to provide for the
13 payment of [the] their cost [thereof], and the expense of [such]
14 their maintenance either in whole or in part out of the funds of
15 the borough.

16 [(41)] (29) Lockup. To provide a lockup for the temporary
17 detention of persons.

18 [(42)] (30) Flags. To display the flag of the United States
19 of America, of the Commonwealth of Pennsylvania, the official
20 POW/MIA flag or the flag of any county, city, borough or other
21 municipality in the State, on the public buildings or grounds
22 and in public places of the borough.

23 [(43) Comfort stations. To use land owned by the borough and
24 to acquire or lease land or land and buildings within the
25 borough limits, for the purposes of construction or of providing
26 comfort and waiting stations and drinking fountains and to
27 maintain such public facilities; to contribute to the
28 maintenance of any such public facilities which may be located
29 in or upon property not owned or leased by the borough. The
30 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

1 traffic transportation facilities, and to maintain and operate
2 the same in the transportation of passengers and vehicles for
3 hire, and for the accommodation of the public, and in like
4 manner to acquire or to establish bus feeder lines, and to
5 maintain and operate the same in connection with such inclined
6 plane passenger and vehicular traffic transportation facilities.

7 (48)] (32) Historical property. To acquire by purchase, or
8 by gift, and to repair, supervise, operate and maintain ancient
9 landmarks, and other property of historical or antiquarian
10 interest and to make appropriations to nonprofit associations or
11 corporations organized for the purpose of acquiring and
12 maintaining historical properties. [Such] The appropriations
13 shall only be used by the association or corporation for the
14 acquisition, restoration and maintenance of the historical
15 properties.

16 [(49)] (33) Provisions against hazards of war, terrorism and
17 disasters. To [build or establish bomb shelters or assist in so
18 doing to] provide against all hazards of war, terrorism and
19 other disasters and their consequences; and for [all such] those
20 purposes, to have the power of eminent domain, to cooperate with
21 any other unit and agency of government, Federal, State or
22 local, in every lawful way, for purposes of defense against the
23 hazards of war and terrorism and to further provide against the
24 hazards of manmade or natural disasters in conjunction with the
25 powers applicable to boroughs in 35 Pa.C.S. Pt. V (relating to
26 Emergency Management Services).

27 [(50) Street lighting. To provide street lights and to make
28 regulations for the protection thereof; and, upon the petition
29 of a majority of abutting property owners of the section
30 affected, to provide for the ornamental illumination of any

1 section of the borough and to collect the cost of the
2 installation of such illumination from the owners of property
3 fronting the streets upon which the same is installed by the
4 foot-front rule.

5 (51)] (34) Towing [equipment]. To purchase vehicles and
6 other equipment necessary for the towing of motor vehicles,
7 tractors, trailers, recreational trailers and other vehicles
8 from highways, roads, streets, and public property of the
9 borough and to impose fees [therefor] for towing whenever [such]
10 the towing equipment is used for the lawful removal of motor
11 vehicles, tractors, trailers, recreational trailers and other
12 vehicles from highways, roads, streets, and public property of
13 the borough [and/or] and to authorize or contract with [one or
14 more] commercial towers that agree to tow vehicles for a
15 negotiated price as the official towers for the borough for the
16 lawful removal of motor vehicles, tractors, trailers,
17 recreational trailers and other vehicles from highways, roads,
18 streets and public property of the borough in accordance with
19 Federal and State law and to impose fees in the same manner as
20 hereby authorized when the towing is performed with borough
21 vehicles and equipment. A commercial tower that agrees not to
22 charge in excess of the negotiated price and is otherwise
23 lawfully authorized to tow vehicles in accordance with Federal
24 and State law, shall be put on an official rotation list for the
25 borough if borough council provides for a list. This clause
26 shall apply only when the borough is requesting a vehicle to be
27 towed. In all other cases, the owner or operator of a vehicle
28 shall be permitted to select and pay for the tower.

29 [(52)] (35) Fire, rescue and life saving apparatus and
30 [houses] buildings. To purchase, or contribute to the purchase

1 of fire engines and fire apparatus, boats, rescue and life
2 saving equipment and supplies for the use of the borough[, and
3 to appropriate money to fire companies, rescue units and for the
4 construction, repair and maintenance of fire company and rescue
5 units houses, including the acquisition of land for such
6 purposes and, as set forth in this clause, for fire training
7 schools and centers.

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

1 community ambulance service.

2 [(53) Eminent domain for national guard purposes. To take,
3 by right of eminent domain, for the purpose of appropriating to
4 themselves for the use of the National Guard of Pennsylvania,
5 such public lands, easements, and public property, as may be in
6 their possession or control and used or held by them for any
7 other purpose. Such right, however, shall not be exercised as to
8 any street or wharf.

9 (54) Lands for armory purposes. To acquire, by purchase or
10 by gift or by the right of eminent domain, any land for the use
11 of the National Guard of Pennsylvania; to convey such lands so
12 acquired to the Commonwealth of Pennsylvania in order to assist
13 the Armory Board in the erection of armories. The power
14 conferred by this clause shall not be exercised to take any
15 church property, graveyard, cemetery, or any dwelling-house or
16 the curtilage of the same in the actual occupancy of the owner.

17 (55) Appropriation of money, et cetera, to assist in
18 erection of armories. To appropriate money or convey land,
19 either independently or in conjunction with any county, city,
20 town, borough, or other municipal division of the Commonwealth
21 of Pennsylvania for the purpose of assisting the Armory Board of
22 the Commonwealth in the erection of armories for the use of the
23 national guard; and to furnish water, sewer service, light, or
24 fuel, free of cost, to the Commonwealth for use in any armory of
25 the national guard; and to do all things necessary to accomplish
26 the purpose of this clause.

27 (56) Support of national guard units. To appropriate
28 annually a sum not exceeding seven hundred and fifty dollars
29 (\$750) for the support and maintenance, discipline and training
30 of any dismounted company or similar unit of the national guard,

1 and a sum not to exceed fifteen hundred dollars (\$1500) for the
2 support and maintenance of any mounted or motorized troop or
3 similar unit of the national guard. Where such units are
4 organized as a battalion, regiment or similar organization, the
5 total amount due may be paid to the commanding officer of the
6 battalion, regiment or similar organization. Any moneys so
7 appropriated shall be paid by warrant drawn to the order of the
8 commanding officer of such company, battalion, regiment or
9 similar organization, only when it shall be certified to the
10 borough, by the Adjutant General of the State, that the said
11 company or companies have satisfactorily passed the annual
12 inspection provided by law. The moneys so appropriated shall be
13 used and expended solely and exclusively for the support and
14 maintenance, discipline and training of the said company,
15 battalion, regiment, or similar organization; and the commanding
16 officer shall account, by proper vouchers to the said borough
17 each year, for the expenditure of the money so appropriated, and
18 no appropriation shall be made for any subsequent year until the
19 expenditure of the previous year is duly and satisfactorily
20 accounted for.

21 The accounts of such expenditures shall be subject to the
22 inspection of the Department of Military Affairs, and shall be
23 audited by the Auditor General in the manner provided by law for
24 the audit of accounts of State moneys.

25 (57) Appropriations to organizations of veterans and
26 American Gold Star Mothers. To appropriate annually a sum not
27 exceeding five hundred dollars (\$500) to be divided in such
28 amounts as council deems proper to organizations composed of
29 veterans of any war in which the United States was engaged or
30 the American Gold Star Mothers' Organization, to aid in

1 defraying the expenses of Memorial Day, Veterans' Day or any
2 similar day hereafter provided for by State or Federal law. Such
3 payments shall be made to defray actual expenses only. Before
4 any payment is made the organization receiving the same shall
5 submit verified accounts of its expenditures.

6 (58) Payment of rent for veterans' organizations. By a two-
7 thirds vote of the council, to appropriate annually a sum not
8 exceeding five hundred dollars (\$500) to be divided in such
9 amounts as council deems proper to incorporated organizations of
10 American veterans of any war in which the United States was
11 engaged, to be used in the payment of the rent of any building
12 or room or rooms in which such camps or post have their regular
13 meetings.

14 (59) Rooms for veterans' and children of veterans'
15 organizations. Upon application therefor, to furnish to each
16 organization composed of American veterans of any war in which
17 the United States was engaged and children of such veterans, a
18 room or rooms in any public building of such borough, sufficient
19 for the meeting of each of such organizations at least once each
20 month; and in the case of municipally owned utilities, to
21 furnish service without charge to such rooms, and also to
22 buildings occupied by organizations of veterans of any war in
23 which the United States was engaged.

24 (60) Care and erection of memorials. To take charge of, care
25 for, maintain and keep in good order and repair, at the expense
26 of the borough, any soldiers monument, gun, or carriage, or
27 similar memorial situated in the borough, and not in the charge
28 or care of any person, body, or organization, and not put up or
29 placed by the Government of the United States, the Commonwealth
30 of Pennsylvania, or the commissioners of the county, or by the

1 direction or authority of any other State of the Union, and to
2 receive from any person or organization any moneys or funds
3 which can be used for the maintenance of such memorials, and to
4 expend the same; and to erect or contribute to the erection of,
5 memorials in honor of those who served in any war in which the
6 United States was engaged and thereafter to properly and
7 adequately maintain the same.

8 (61) Appropriations for burial ground maintenance. To
9 appropriate annually, out of the general funds of the borough, a
10 sum not exceeding three thousand dollars (\$3000) for the care,
11 upkeep, maintenance and beautifying of cemeteries, burial
12 grounds and private roads therein or leading thereto, lying
13 wholly or partly within the boundary limits of such borough, or
14 in the territory immediately adjacent to the borough.

15 (62)] (36) Municipal music. To appropriate money for the
16 expense of municipal music.

17 [(63)] (37) Purchase and planting of trees. To accept,
18 purchase and plant, or contribute to the purchasing and planting
19 of shade trees along the streets and sidewalks of the borough
20 and to have the care, custody and control of shade trees
21 pursuant to subdivision (d) of Article XXVII.

22 [(64)] (38) Hospital appropriations. To appropriate moneys
23 for the support of any incorporated hospital which is engaged in
24 charitable work and extends treatment and medical attention to
25 residents of [such] the borough, but no [such] appropriation
26 shall exceed in any year the cost of free service extended to
27 residents of the borough which is in excess of any amount paid
28 by the Commonwealth towards [such] free service.

29 [(64.1)] (39) Building hospitals. To appropriate [not
30 exceeding one dollar (\$1) per borough resident per year] moneys

1 toward the maintenance [and/or] and support of any medical
2 center or hospital building and further appropriate from [such]
3 the funds toward the purchase [and/or] and erection of medical
4 or hospital facilities. Where the total cost of [such] the
5 purchase or erection exceeds one hundred thousand dollars
6 (\$100,000), it will necessitate approval by the appropriate
7 health planning agency. [The number of residents shall be
8 determined from the latest decennial Federal census.]

9 [(65)] (40) Community nurse services. To appropriate money
10 annually for the expense of community nurse services to any
11 nonprofit associations or corporations which provide community
12 nursing services for the elderly and other needy persons, the
13 control of communicable disease, the immunization of children,
14 the operation of child health centers (Well-Baby Clinics),
15 instructive visits to parents of new babies, beginning in the
16 prenatal period, and family health guidance, including
17 nutrition, detection and correction of defects all of which
18 relate to the responsibilities of local boards of health.

19 [(66)] Community ambulance service. To appropriate money
20 annually towards ambulance service and to enter into contracts
21 relating thereto. All appropriations of money heretofore made
22 and contracts heretofore entered into by any borough for
23 ambulance service are hereby validated and confirmed.

24 [(67)] (41) Appropriation for civic purposes. To appropriate,
25 in any year out of the general funds of the borough for the
26 observance of holidays or centennials or other anniversaries or
27 for borough celebrations or other civic projects or programs.

28 [(68)] (42) Appropriations for handling, storage and
29 distribution of surplus foods. To appropriate from borough funds
30 moneys for the handling, storage and distribution of surplus

1 foods obtained through either a local, State or Federal agency.
2 All appropriations of moneys heretofore made by any borough for
3 the handling, storage and distribution of surplus foods obtained
4 through either a local, State or Federal agency are hereby
5 validated.

6 [(69)] (43) Appropriations for industrial promotions. To
7 make appropriations to an industrial development agency.

8 [(70)] (44) Appropriations to tourist promotion agencies. To
9 appropriate money annually[, such amount of money but not in
10 excess of ten cents (10¢) for each resident of the borough, as
11 determined by the latest official census, which may be deemed
12 necessary], to any "tourist promotion agency," as defined in the
13 act of [April 28, 1961 (P.L.111), known as the "Tourist
14 Promotion Law,"] July 4, 2008 (P.L.621, No.50), known as the
15 "Tourism Promotion Act," to assist [such] the agencies in
16 carrying out tourist promotional activities.

17 [(71)] (45) Appropriating money to assist [political
18 subdivisions and municipality] municipalities and municipal
19 authorities for airports. To appropriate moneys to assist any
20 [city, borough, town, township or other political subdivision or
21 municipality] municipality or municipal airport authority to
22 acquire, establish, operate and maintain any and all air
23 navigation facilities lying either within or without the limits
24 of [such] the borough.

25 [(72)] (46) Non-Debt revenue bonds. To issue non-debt
26 revenue bonds pursuant to provisions of [the Act of June 25,
27 1941 (P.L.159), known as the "Municipal Borrowing Law," and its
28 amendments,] 53 Pa.C.S. Pt. VII Subpt. B (relating to
29 indebtedness and borrowing) to provide sufficient moneys for and
30 toward the acquisition, construction, reconstruction, extension

1 or improvement of municipal facilities, including water systems
2 or facilities, sewers, sewer systems and sewage disposal systems
3 or facilities, systems for the treatment or disposal of garbage
4 and refuse, gas plants or gas distribution systems for its own
5 municipal purposes, electric light or power plants or power
6 distribution systems, aeronautical facilities including but not
7 limited to airports, terminals and hangars and park and
8 recreational facilities and parking lots and facilities to be
9 secured solely by the pledge of the whole or part of the rent,
10 toll or charge for the use or services of [such] the facilities.

11 Included in the cost of the issue may be any costs and
12 expenses incident to construction and financing the facilities
13 and selling and distributing the bonds.

14 [(73)] (47) Rewards for apprehension of certain criminals.
15 To offer rewards for the arrest and conviction of persons guilty
16 of capital or other crimes within the borough.

17 [(73.1)] (48) Appropriations for Urban Common Carrier Mass
18 Transportation. To appropriate funds for urban common carrier
19 mass transportation purposes from current revenues and to make
20 annual contributions to county departments of transportation or
21 to urban common carrier mass transportation authorities to
22 assist the departments or the authorities to meet costs of
23 operation, maintenance, capital improvements, and debt service,
24 and to enter into long-term agreements providing for the payment
25 of the [said] contributions.

26 [(74) General powers. To make and adopt all such ordinances,
27 bylaws, rules and regulations not inconsistent with or
28 restrained by the Constitution and laws of this Commonwealth, as
29 may be expedient or necessary for the proper management, care
30 and control of the borough and its finances, and the maintenance

1 of peace, good government, safety and welfare of the borough and
2 its trade, commerce and manufactures.

3 (75)] (49) To undertake community development programs,
4 including but not limited to urban renewal, public housing,
5 model cities programs and neighborhood development projects.

6 [(76)] (50) Sale of real or personal property to non-profit
7 medical service corporation. To sell to a non-profit medical
8 service corporation borough-owned:

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

12 (ii) personal property for use at the medical service
13 facility.

14 [(77)] (51) Sale of real or personal property to non-profit
15 housing corporation. To sell to a non-profit housing corporation
16 borough-owned:

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

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

21 [(78)] (52) Grants to nonprofit art corporations. To make
22 grants annually[, not exceeding an amount equal to one mill of
23 the real estate tax] to nonprofit art corporations for the
24 conduct of their artistic and cultural activities. For the
25 purposes of this section nonprofit art corporation shall mean a
26 local arts council, commission or coordinating agency, or any
27 other nonprofit corporation engaged in the production or display
28 of works of art, including the visual, written or performing
29 arts. Artistic and cultural activities shall include the display
30 or production of theater, music, dance, painting, architecture,

1 sculpture, arts and crafts, photography, film, graphic arts and
2 design and creative writing.

3 [(79)] (53) Appropriations for neighborhood crime watch
4 programs. To appropriate annually[, solely at the discretion of
5 the borough officials,] an amount toward a neighborhood crime
6 watch program. Notwithstanding any other provision of law, no
7 borough or official thereof shall become subject to contractual,
8 tort or other liability as a result of having made an
9 appropriation pursuant to this clause.

10 [(80)] (54) Appropriations to Senior Citizens Organizations.
11 To appropriate funds for programs which benefit senior citizens,
12 or make grants to civic organizations which represent senior
13 citizens, provide services to senior citizens, or of which its
14 members are senior citizens.

15 [(81)] (55) Appropriations to watershed associations. To
16 appropriate money to nonprofit watershed associations for
17 watersheds serving the borough. [Such appropriations]
18 Appropriations may not be used to undertake litigation against
19 any [municipal corporation] municipality or to seek redress
20 against any individual landowner.

21 [(82)] (56) Emergency services. The borough shall be
22 responsible for ensuring that fire and emergency medical
23 services are provided within the borough by the means and to the
24 extent determined by the borough, including the appropriate
25 financial and administrative assistance for these services. The
26 borough shall consult with fire and emergency medical services
27 providers to discuss the emergency services needs of the
28 borough. The borough shall require any emergency services
29 organization receiving borough funds to provide to the borough
30 an annual itemized listing of all expenditures of these funds

1 before the borough may consider budgeting additional funding to
2 the organization.

3 (57) Appropriations to conservation district. To appropriate
4 money to the conservation district, as defined in the act of May
5 15, 1945 (P.L.547, No.217), known as the "Conservation District
6 Law," in which the borough is located.

7 (58) Mines and quarries. To require the owner, operator or
8 superintendent of every mine, colliery or quarry located wholly
9 or partially within the limits of the borough, to furnish to the
10 borough maps, plans and drawings of workings, excavations and
11 surface support as the council may require. In the case of coal
12 mines and collieries, the map or plan shall exhibit the workings
13 or excavations in every seam of coal on a separate sheet, and
14 the tunnels and passages connecting with the workings or
15 excavations. It shall show in degrees the general inclination of
16 the strata, with any material deflection in the strata in the
17 workings or excavations, and shall also show the tidal
18 elevations of the bottom of every shaft, slope, tunnel and
19 gangway, and of any other point in the mine or on the surface
20 where the elevation shall be deemed necessary by the borough.
21 The map or plan shall show the number of the last survey on the
22 gangways or the most advanced workings. Every owner, operator,
23 or superintendent, of a mine, colliery or quarry, shall update,
24 at least once every three months, the pertinent maps, plans and
25 drawings to reflect any extensions made in any mine, colliery or
26 quarry during the three preceding months, except those made
27 within thirty days immediately preceding the time of placing the
28 extensions upon the map or drawing. A borough engineer,
29 assistant or other person authorized by council may enter and
30 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 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. ~~General~~ 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 employes, 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;

1 (6) For the purchase of fire engines, fire apparatus and
2 fire hose for the use of the borough, or for assisting any fire
3 company in the borough in the purchase, renewal or repair of any
4 of its fire engines, fire apparatus or fire hose, for the
5 purposes of making appropriations to fire companies both within
6 and without the borough and of contracting with adjacent
7 municipalities or volunteer fire companies therein for fire
8 protection, for the training of fire personnel and payments to
9 fire training schools and centers or for the purchase of land
10 upon which to erect a fire house, or for the erection and
11 maintenance of a fire house or fire training school and center
12 or fire houses, not exceeding three mills.

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

18 (ii) If an annual tax for the purposes specified in this
19 clause is proposed to be set at a level higher than three mills,
20 the question shall be submitted to the voters of the borough,
21 and the county board of elections shall frame the question in
22 accordance with the election laws of the Commonwealth for
23 submission to the voters of the borough;

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

30 (8) To establish [and/or] and maintain a local library or to

1 maintain or aid in the maintenance of a local library
2 established by deed, gift or testamentary provision, for the use
3 of the residents of the borough, in accordance with the act of
4 June 14, 1961 (P.L.324, No.188), known as The Library Code.

5 (9) For the purpose of supporting ambulance, rescue and
6 other emergency services serving the borough, not to exceed one-
7 half mill, except as provided in subsection (e). The borough may
8 appropriate up to one-half of the revenue generated from a tax
9 under this clause for the purpose of paying salaries, benefits
10 or other compensation of employees of the ambulance, rescue or
11 other emergency service.

12 (b) The [said] taxes shall be levied on the dollar on the
13 valuation assessed for county purposes, as now is or may be
14 provided by law. All real property, offices, professions and
15 persons, made taxable by the laws of this Commonwealth for
16 county rates and levies, may, in the discretion of council, be
17 taxed after the same manner for such purposes. No action on the
18 part of the borough authorities fixing the tax rate for any year
19 at a mill rate need include a statement expressing the rate of
20 taxation in dollars and cents on each one hundred dollars (\$100)
21 of assessed valuation of taxable property.

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

26 (d) The proceeds of all taxes for which additional millage
27 is hereby authorized shall be kept in a separate fund and used
28 only for the purposes hereby provided [therefor: Provided,
29 That], provided that the additional taxes authorized by
30 referendum shall continue to be levied annually for so long a

1 period as provided in the question submitted in [such] the
2 referendum, and, in the case of any [such] taxes for which the
3 question voted upon shall not have stated the duration of [such]
4 the tax, until [such] the tax shall be abolished by vote of the
5 electors in a subsequent referendum.

6 (e) The tax for supporting ambulance and rescue squads
7 serving the borough shall not exceed the rate specified in
8 subsection (a) (9) except when the question is submitted to the
9 voters of the borough in the form of a referendum which will
10 appear on the ballot in accordance with the election laws of the
11 Commonwealth, in which case the rate shall not exceed two mills.
12 The county board of elections shall frame the question to be
13 submitted to the voters of the borough in accordance with the
14 election laws of the Commonwealth.

15 Section 159. Section 1302.1 of the act, added November 24,
16 1998 (P.L.827, No.108), is amended to read:

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

23 (1) The rates shall be determined by the requirements of the
24 borough budget.

25 (2) A higher rate may be levied on real estate classified as
26 nonfarmland than on real estate classified as either buildings
27 on land or farmland if the respective rates on nonfarmland and
28 on buildings or farmland are so fixed as not to constitute a
29 greater levy in the aggregate than the levy to result from the
30 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

1 to read:

2 Section 1304. Special Road Fund Tax.--Any borough shall be
3 empowered, within its general power to levy taxes, to collect
4 annually a tax upon all property taxable for borough purposes
5 not to exceed five mills on the dollar in any one year, for the
6 purpose of creating and maintaining a special fund, to be used
7 by its borough in making permanent street improvements, and to
8 pay contract prices for paving and other permanent street
9 improvements, prior to the collection of the cost and expense or
10 any part thereof from the property owners adjoining or abutting
11 thereon by the borough under existing laws.

12 When the cost and expense, or any part [thereof,] of the cost
13 and expense of the construction of any permanent street
14 improvement, which has been made under existing laws, and which
15 has been aided in its construction from the [said] special fund
16 [hereby provided for] provided for under this section, shall
17 have been assessed and collected from the owners of the property
18 adjoining or abutting upon [such] the improvement, it shall be
19 applied to the credit of the [said] special fund, to the extent
20 of the withdrawal [therefrom for such] from the special fund for
21 that purpose.

22 Section 1305. Date Tax Duplicate to Issue.--[The corporate
23 authorities of the borough] Borough council shall, within thirty
24 days after adoption of the budget or within thirty days after
25 receipt of the assessment roll from the county, whichever is
26 later, issue their duplicate of taxes assessed to the collector
27 of taxes of the borough.

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

30 Section 1306. Additions and Revisions to Duplicates.--

1 Whenever in any borough, there is any construction of a building
2 or buildings not otherwise exempt as a dwelling after the
3 borough council has prepared a duplicate of the assessment of
4 borough taxes and the building is not included in the tax
5 duplicate of the borough, the [authority responsible for
6 assessments in the borough] county assessment office shall, upon
7 the request of the borough council, direct the assessor in the
8 [borough] county assessment office to inspect and reassess,
9 subject to the right of appeal and adjustment provided by the
10 act of assembly under which assessments are made, all taxable
11 property in the borough to which major improvements have been
12 made after the original duplicates were prepared, and to give
13 notice of such reassessments within ten days to the authority
14 responsible for assessments, the borough and the property owner.
15 The property shall then be added to the duplicate and shall be
16 taxable for borough purposes at the reassessed valuation for
17 that proportionate part of the fiscal year of the borough
18 remaining after the property was improved. Any improvement made
19 during the month shall be computed as having been made on the
20 first of the month. A certified copy of the additions or
21 revisions to the duplicate shall be furnished by the borough
22 council to the borough tax collector, together with their
23 warrant for collection of the same, and within ten days
24 thereafter, the borough tax collector shall notify the owner of
25 the property of the taxes due the borough.

26 Section 163. Sections 1307 and 1308 of the act are amended
27 to read:

28 Section 1307. Preparation of Budget.--Beginning at least
29 thirty days prior to the adoption of the budget a proposed
30 budget or annual estimate of revenues and expenditures for the

1 ensuing year shall be prepared in a manner designated by the
2 council. [The budget shall be prepared on a uniform form
3 prepared and furnished as hereinafter provided.] The proposed
4 budget shall be kept on file with the borough secretary and [by
5 him] be made available for public inspection by the borough
6 secretary for a period of ten days.

7 Section 1308. Notice of Proposed Budget; Penalty.--(a)
8 Notice that the proposed budget is available for inspection
9 shall be published by the borough secretary in a newspaper ~~to~~ ←
10 general circulation [in the borough], except in boroughs where ←
11 the estimated budget receipts are less than [five thousand
12 dollars (\$5000)] fifty thousand dollars (\$50,000) in the year in
13 which this amendment is enacted, where in lieu of such newspaper
14 publications, notice may be conspicuously posted during the ten
15 day period, in a place readily viewable by the public at the
16 office of the borough secretary and with such further notice as
17 shall be prescribed by council.

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

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

26 Section 1309. Revision and Completion of Budget.--After the
27 expiration of the said ten days, council shall make such
28 revision in the budget as shall be deemed advisable. The budget
29 shall be as comprehensive and exact as the information available
30 will admit. In addition to expenditures proposed for the current

1 fiscal year, council may include as proposed expenditures a sum
2 sufficient to pay any existing indebtedness and to pay the
3 ordinary operating expenses for the subsequent year until the
4 taxes of the subsequent year are received therefor, and may also
5 include a sum to provide in whole or in part for any deferred
6 maintenance, depreciation and replacements. Within the tax levy
7 and debt limitations, council may also include, in whole or in
8 part, expenditures for capital investments and purchases.

9 Expenditures of a legislative character shall be made,
10 authorized or ratified by ordinance. Other expenditures allowed
11 by law may be made or ratified by motion in council. Such
12 expenditures, whether by ordinance or motion, shall then be
13 considered as appropriations affecting the budget. Any balance
14 of revenues over expenditures may be expended in any subsequent
15 year for any lawful purpose.

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

18 Section 1310. Adoption of Budget[; Tax Ordinance].--Upon
19 completion of the budget, containing the estimated receipts and
20 expenditures, [and its adoption] the borough council shall adopt
21 the budget by motion [in] of the borough council, which shall
22 not be later than December thirty-first[, it shall be the duty
23 of the council to adopt an ordinance levying the taxes referred
24 to in this act for the fiscal year for approval of the mayor or
25 passage over his veto].

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

27 Section 1310.1. Tax Ordinance.--After borough council has
28 adopted the budget, it shall be the duty of the borough council
29 to enact an ordinance levying the taxes referred to in this act
30 for the fiscal year subject to approval of the mayor or

1 enactment over the mayor's veto pursuant to the procedure
2 established in section 3301.3(c).

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

5 Section 1311. Amending Budget; Notice.--During the month of
6 January next following any municipal election the council of any
7 borough may amend the budget and the levy and tax rate to
8 conform with its amended budget. A period of ten days' public
9 inspection at the office of the borough secretary of the
10 proposed amended budget after notice by the borough secretary to
11 that effect is published once in a newspaper [as provided in
12 section 109 of this act] OF GENERAL CIRCULATION, shall intervene ←
13 between the proposed amended budget and the adoption thereof.
14 Any amended budget must be adopted by council on or before the
15 fifteenth day of February.

16 Section 168. Sections 1312 and 1313 of the act are reenacted
17 to read:

18 Section 1312. Modification of Budget; Supplemental
19 Appropriations and Transfers.--The council in its reasonable
20 discretion may, in any year, by motion, modify the budget after
21 its final adoption. New appropriations, supplementary
22 appropriations and transfers from one appropriation to another
23 may be made during the fiscal year, either before or after the
24 expenditure is authorized or ratified after the expenditure is
25 made, provided it is within the current year's revenues, or the
26 money therefor promptly made available through borrowing as
27 allowed by law.

28 Section 1313. Payment from Borough Funds.--All payments made
29 by the council of any borough from the borough funds shall be
30 made by proper borough orders, drawn upon the treasurer; no

1 borough order shall be authorized by council or signed by the
2 president or secretary of any council unless there are
3 sufficient funds in the treasury of the borough to pay the same,
4 and no orders shall be made payable at any time in the future or
5 draw interest. A separate borough order shall be drawn for each
6 account or payment.

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

8 Section 1313.1. Creation of Special Funds; Investments.--

9 Borough council may set aside in a separate fund any moneys
10 received out of or from the sale, lease or other disposition of
11 any borough property or received from any source unless such
12 money was received or acquired for a particular purpose. The
13 fund shall be controlled, invested and administered, and the
14 income arising therefrom expended, in the manner as may be
15 determined by action of the council pursuant to the ordinance
16 creating the fund. The ordinance may provide that only the
17 income from the fund may be used or expended, and that neither
18 principal, nor any part thereof, may be used or expended unless
19 upon authorization of a majority vote of the qualified electors
20 of the borough. All ordinances previously enacted by any
21 borough, creating and establishing a separate fund as is
22 authorized by this section, shall be deemed and taken as valid
23 and effectual for all purposes provided that all other
24 requirements of law concerning the enactment of the same have
25 been complied with.

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

28 Section 1314. Uniform Financial Report; Forms.--The uniform
29 forms for the annual financial statement required to be made by
30 the auditors or the controller shall be prepared by a committee

1 consisting of four representatives from the Pennsylvania State
2 Association of Boroughs, [and] the Secretary of Community and
3 Economic Development, or [his agent] the secretary's designee
4 and any additional members appointed pursuant to statute.

5 [Such] The representatives of boroughs shall be appointed by
6 the president of the [organization. Such] Pennsylvania State
7 Association of Boroughs. The representatives shall be chosen
8 from among the finance officers or other officers of the borough
9 who have knowledge of their fiscal procedures. As far as
10 possible, they shall be chosen to represent boroughs in the
11 various population groups. The president of the organization
12 shall supply to the Department of Community and Economic
13 Development the names and addresses of [such] the
14 representatives immediately upon their appointment.

15 [Such] The representatives shall serve without compensation,
16 but shall be reimbursed by the Commonwealth for all necessary
17 expenses incurred in attending meetings of the committee. The
18 committee shall meet from time to time as conditions may warrant
19 at the call of Secretary of Community and Economic Development,
20 or [his agent] the secretary's designee, who shall serve as
21 [chairman] chair of the committee.

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

1 needed to the proper officers of each borough.

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

3 Section 1315. Capital Improvements to Certain Public Service
4 Facilities.--(a) For the purpose of financing the cost and
5 expense or its share of the cost and expense of capital
6 improvements by altering, improving or enlarging (i) its sewer,
7 sewer system or sewage treatment works, either singly or
8 jointly, with other municipalities [or townships, or both], or
9 (ii) its water works, either singly or jointly, with other
10 municipalities [or townships, or both], or (iii) its electric
11 light or power plant or power distribution system, or (iv) its
12 gas plant or gas distribution system for its own municipal
13 purposes, including the purchase and installation of machinery
14 and equipment, any borough owning any such plant or facility may
15 issue non-debt revenue bonds as provided in clause [(72)] (46)
16 of section 1202 of this act.

17 (b) Any borough issuing non-debt revenue bonds under the
18 authority of this section shall adjust and, where necessary,
19 increase the rates of rentals or charges pledged as security for
20 the bonds, in order to provide sufficient revenue which shall be
21 set aside as reserve funds to cover depreciation of the
22 properties involved, and for future improvements to the plant or
23 facility involved, as well as for the payment of the interest on
24 the bonds and the principal at the time of maturity.

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

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

30 (b) Council shall provide for an investment program subject

1 to restrictions contained in this act and in any other
2 applicable statute and any rules and regulations adopted by
3 council.

4 (c) Authorized types of investments for borough funds shall
5 be:

6 (i) United States Treasury bills.

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

9 (iii) Deposits in savings accounts or time deposits, other
10 than certificates of deposit, or share accounts of institutions
11 insured by the Federal Deposit Insurance Corporation [or the
12 Federal Savings and Loan Insurance Corporation] or the National
13 Credit Union Share Insurance Fund [or the Pennsylvania Deposit
14 Insurance Corporation or the Pennsylvania Savings Association
15 Insurance Corporation] to the extent that such accounts are so
16 insured, and, for any amounts above the insured maximum,
17 provided that approved collateral as provided by law therefore
18 shall be pledged by the depository.

19 (iv) Obligations of the United States of America or any of
20 its agencies or instrumentalities backed by the full faith and
21 credit of the United States of America, the Commonwealth of
22 Pennsylvania or any of its agencies or instrumentalities backed
23 by the full faith and credit of the Commonwealth, or of any
24 political subdivision of the Commonwealth of Pennsylvania or any
25 of its agencies or instrumentalities backed by the full faith
26 and credit of the political subdivision.

27 (v) Shares of an investment company registered under the
28 Investment Company Act of 1940, whose shares are registered
29 under the Securities Act of 1933, provided that the only
30 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

1 Section 175. Section 1401 of the act is amended to read:

2 Section 1401. Power to Make Contracts.--(a) Each borough
3 may make contracts for lawful purposes and for the purposes of
4 carrying into execution the provisions of this act and laws of
5 the Commonwealth.

6 (b) Except as otherwise specifically provided in this act,
7 all contracts and purchases shall be made with and from the
8 lowest qualified and responsible bidder. In awarding contracts
9 and making purchases, council shall have the right to take into
10 consideration such factors as the availability, cost and quality
11 of service, and may establish pre-qualification standards for
12 contracts and purchases. Any pre-qualification standards shall
13 be reasonably designed to assist council in determining the
14 ability of a bidder to successfully complete a contract or
15 purchase.

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

20 Section 176. Section 1402 of the act, amended or added
21 October 4, 1978 (P.L.1022, No.226), April 6, 1980 (P.L.95,
22 No.34), ~~July 10, 1990 (P.L.383, No.90),~~ June 26, 1995 (P.L.63, ←
23 No.12), ~~December 18, 1996 (P.L.1141, No.171),~~ December 18, 1996 ←
24 ~~(P.L.1156, No.175),~~ December 20, 1996 (P.L.1497, No.193) and
25 ~~October 27, 2010 (P.L.862, No.87)~~ NOVEMBER 3, 2011 (P.L.381, ←
26 NO.92), is amended to read:

27 Section 1402. Regulation of Contracts.--(a) All contracts
28 or purchases in excess of ~~ten thousand dollars (\$10,000)~~ THE ←
29 BASE AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED DOLLARS (\$18,500)
30 SUBJECT TO ADJUSTMENT UNDER SUBSECTION (A.2), except those

1 [hereinafter] mentioned[,] in this section and except as
2 provided by the act of October 27, 1979 (P.L.241, No.78),
3 entitled "An act authorizing political subdivisions,
4 municipality authorities and transportation authorities to enter
5 into contracts for the purchase of goods and the sale of real
6 and personal property where no bids are received," shall not be
7 made except with and from the lowest qualified and responsible
8 bidder after due notice in one newspaper ~~of~~ general circulation ←
9 [in the borough], at least two times at intervals of not less ←
10 than three days where daily newspapers of general circulation
11 are available for [such] publication, in case of weekly
12 newspapers, [such] notice once a week for two successive weeks.
13 The first advertisement shall be published not more than forty-
14 five days and the second advertisement not less than ten days
15 prior to the date fixed for the opening of bids. Advertisements
16 for contracts or purchases shall also be posted in a conspicuous
17 place within the borough. Advertisements for contracts and
18 purchases shall contain the date, time and location for opening
19 of bids and shall state the amount of the performance bond
20 determined under subsection (c). The amount of the contract
21 shall in all cases, whether of straight sale price, conditional
22 sale, [bailment] lease, lease purchase or otherwise, be the
23 entire amount which the borough pays to the successful bidder or
24 his assigns in order to obtain the services or property, or
25 both, and shall not be construed to mean only the amount which
26 is paid to acquire title or to receive any other particular
27 benefit or benefits of the whole bargain. [In awarding
28 contracts, council shall have the right to take into
29 consideration such other factors as the availability, cost and
30 quality of service.]

1 (a.1) Written or telephonic price quotations from at least
2 three qualified and responsible contractors shall be requested
3 for all contracts ~~that exceed four thousand dollars (\$4,000)~~ IN ←
4 EXCESS OF THE BASE AMOUNT OF TEN THOUSAND DOLLARS (\$10,000)
5 SUBJECT TO ADJUSTMENT UNDER SUBSECTION (A.2) but are less than
6 the amount requiring advertisement and competitive bidding or,
7 in lieu of price quotations, a memorandum shall be kept on file
8 showing that fewer than three qualified contractors exist in the
9 market area within which it is practicable to obtain quotations.
10 A written record of telephonic price quotations shall be made
11 and shall contain at least the date of the quotation, the name
12 of the contractor and the contractor's representative, the
13 construction, reconstruction, repair, maintenance or work which
14 was the subject of the quotation and the price. Written price
15 quotations, written records of telephonic price quotations and
16 memoranda shall be retained for a period of three years. Written
17 price quotations as used throughout this section shall include
18 electronic mail.

19 (A.2) ADJUSTMENTS TO THE BASE AMOUNTS SPECIFIED UNDER ←
20 SUBSECTIONS (A) AND (A.1) SHALL BE MADE AS FOLLOWS:

21 (1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DETERMINE THE
22 PERCENTAGE CHANGE IN THE ALL ITEMS CONSUMER PRICE INDEX FOR ALL
23 URBAN CONSUMERS (CPI-U) FOR THE UNITED STATES CITY AVERAGE AS
24 PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF
25 LABOR STATISTICS FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER
26 30, 2012, AND FOR EACH SUCCESSIVE TWELVE-MONTH PERIOD
27 THEREAFTER.

28 (2) IF THE DEPARTMENT DETERMINES THAT THERE IS NO POSITIVE
29 PERCENTAGE CHANGE, THEN NO ADJUSTMENT TO THE BASE AMOUNTS SHALL
30 OCCUR FOR THE RELEVANT TIME PERIOD PROVIDED FOR IN THIS

1 SUBSECTION.

2 (3) (I) IF THE DEPARTMENT DETERMINES THAT THERE IS A
3 POSITIVE PERCENTAGE CHANGE IN THE FIRST YEAR THAT THE
4 DETERMINATION IS MADE UNDER PARAGRAPH (1), THE POSITIVE
5 PERCENTAGE CHANGE SHALL BE MULTIPLIED BY EACH BASE AMOUNT AND
6 THE PRODUCTS SHALL BE ADDED TO THE BASE AMOUNTS, RESPECTIVELY,
7 AND THE SUMS SHALL BE PRELIMINARY ADJUSTED AMOUNTS.

8 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO
9 THE NEAREST ONE HUNDRED DOLLARS (\$100), TO DETERMINE THE FINAL
10 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND (A.1).

11 (4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE
12 PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY
13 AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED BY
14 THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE PRODUCTS
15 SHALL BE ADDED TO THE PRELIMINARY ADJUSTED AMOUNT OF THE PRIOR
16 YEAR TO CALCULATE THE PRELIMINARY ADJUSTED AMOUNTS FOR THE
17 CURRENT YEAR. THE SUMS THEREOF SHALL BE ROUNDED TO THE NEAREST
18 ONE HUNDRED DOLLARS (\$100) TO DETERMINE THE NEW FINAL ADJUSTED
19 BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND (A.1).

20 (5) THE DETERMINATIONS AND ADJUSTMENTS REQUIRED UNDER THIS
21 SUBSECTION SHALL BE MADE IN THE PERIOD BETWEEN OCTOBER 1 AND
22 NOVEMBER 15 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS
23 SUBSECTION, AND ANNUALLY BETWEEN OCTOBER 1 AND NOVEMBER 15 OF
24 EACH YEAR THEREAFTER.

25 (6) THE FINAL ADJUSTED BASE AMOUNTS AND NEW FINAL ADJUSTED
26 BASE AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4) SHALL BECOME
27 EFFECTIVE JANUARY 1 FOR THE CALENDAR YEAR FOLLOWING THE YEAR IN
28 WHICH THE DETERMINATION REQUIRED UNDER PARAGRAPH (1) IS MADE.

29 (7) THE DEPARTMENT SHALL PUBLISH NOTICE IN THE PENNSYLVANIA
30 BULLETIN PRIOR TO JANUARY 1 OF EACH CALENDAR YEAR OF THE ANNUAL

1 PERCENTAGE CHANGE DETERMINED UNDER PARAGRAPH (1) AND THE
2 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS DETERMINED UNDER
3 PARAGRAPHS (3) AND (4) AT WHICH COMPETITIVE BIDDING IS REQUIRED
4 UNDER SUBSECTION (A) AND WRITTEN OR TELEPHONIC PRICE QUOTATIONS
5 ARE REQUIRED UNDER SUBSECTION (A.1), RESPECTIVELY, FOR THE
6 CALENDAR YEAR BEGINNING THE FIRST DAY OF JANUARY AFTER
7 PUBLICATION OF THE NOTICE. THE NOTICE SHALL INCLUDE A WRITTEN
8 AND ILLUSTRATIVE EXPLANATION OF THE CALCULATIONS PERFORMED BY
9 THE DEPARTMENT IN ESTABLISHING THE UNADJUSTED OR FINAL ADJUSTED
10 BASE AMOUNTS UNDER THIS SUBSECTION FOR THE ENSUING CALENDAR
11 YEAR.

12 (8) THE ANNUAL INCREASE IN THE PRELIMINARY ADJUSTED BASE
13 AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4) SHALL NOT EXCEED
14 THREE PERCENT.

15 (b) (1) The award of contracts shall only be made by public
16 announcement at the meeting at which bids are received, or at a
17 subsequent meeting, the time and place of which shall be
18 publicly announced when bids are received. If for any reason one
19 or both of the above meetings shall not be held, the same
20 business may be transacted at any subsequent meeting if at least
21 five days' notice thereof shall be published in the newspaper OF ←
22 GENERAL CIRCULATION aforesaid. At council's request, all bids
23 advertised for shall be accompanied by cash, money order, a
24 certified or cashier's good faith check, or other irrevocable
25 letter of credit drawn upon a bank authorized to do business in
26 this Commonwealth or by a bond with corporate surety in such
27 amount as council shall determine, and, when requested, no bid
28 shall be considered unless so accompanied.

29 (2) Notwithstanding clause (1), council may direct that a
30 committee of council, a member of council or a member of the

1 borough staff receive, open and review bids during normal
2 business hours and forward the information to council for
3 subsequent award at a public meeting. Bidders shall be notified
4 and other interested parties, upon request, shall be notified of
5 the date, time and location of the opening of bids and may be
6 present when the bids are opened.

7 (c) The successful bidder when advertising as required
8 herein may, at the discretion of council, be required to furnish
9 a bond or irrevocable letter of credit or other security with
10 suitable reasonable requirements guaranteeing the work to be
11 done with sufficient surety in an amount as determined by
12 council which shall be not less than ten percent nor more than
13 one hundred percent of the amount of the liability under the
14 contract within twenty days after the contract has been awarded,
15 unless council shall prescribe a shorter period of not less than
16 ten days, and upon failure to furnish such [bond] security
17 within such time the previous award shall be void. Deliveries,
18 accomplishment and guarantees may be required in all cases of
19 expenditures.

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

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

28 (2) Those made for improvements, repairs and maintenance of
29 any kind, made or provided by any borough, through its own
30 [employees: Provided, That] employees, provided that all materials

1 used for street improvement, maintenance [and/or] or
2 construction in excess of ~~{four thousand dollars (\$4,000)}~~ the
3 ~~amount specified or adjusted under subsection (a.1)~~ THE AMOUNT
4 SPECIFIED OR ADJUSTED UNDER SUBSECTION (A.1) be subject to the
5 relevant price quotation or advertising requirements contained
6 [herein] in this section;

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

11 (3.1) Those for used equipment, articles, apparatus,
12 appliances, vehicles or parts thereof being purchased from a
13 public utility[.];

14 (4) Those involving any policies of insurance or surety
15 company bonds; those made for [public] utility service [under
16 tariffs on file with the Pennsylvania Public Utility Commission]
17 for borough purposes, including, but not limited to, those made
18 for natural gas or telecommunications services; those made for
19 electricity with the entities set forth in clause 6(i), (ii),
20 (iii), (iv), (v), (vi) and (vii)(A); those made with another
21 political subdivision, or a county, or council of government,
22 consortium, cooperative or other similar entity created pursuant
23 to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
24 cooperation) or the Commonwealth of Pennsylvania, the Federal
25 Government, any agency of the Commonwealth or the Federal
26 Government, or any municipal authority, including the sale,
27 leasing or loan of any supplies or materials by the Commonwealth
28 or the Federal Government or their agencies. The price thereof
29 shall not be in excess of that fixed by the Commonwealth, the
30 Federal Government, or their agencies;

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

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

(i) A political subdivision.

(ii) Another state.

(iii) The Commonwealth or an agency thereof.

(iv) The Federal Government.

(v) A private corporation.

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

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

(A) consists solely of Pennsylvania boroughs, such as a consortium, buying group or municipal power agency under section 2471.2; or

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

(viii) An electric cooperative of another state.

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,

1 and may exercise any powers granted by, the following acts to
2 the extent applicable: the act of March 3, 1978 (P.L.6, No.3),
3 known as the "Steel Products Procurement Act," the act of
4 December 20, 1967 (P.L.869, No.385), known as the "Public Works
5 Contractors' Bond Law of 1967," the act of August 15, 1961
6 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage
7 Act," the act of January 17, 1968 (P.L.11, No.5), known as "The
8 Minimum Wage Act of 1968," the act of February 17, 1994 (P.L.73,
9 No.7), known as the "Contractor and Subcontractor Payment Act,"
10 the act of January 23, 1974 (P.L.9, No.4), referred to as the
11 Public Contract Bid Withdrawal Law, AND 62 Pa.C.S. Pt. II
12 (relating to general procurement provisions), and any other
13 applicable act enacted before or after this act.

14 (f) No person, consultant, firm or corporation contracting
15 with the borough for purposes of rendering personal or
16 professional services to the borough shall share with any
17 borough officer or employee, and no borough officer or employee
18 shall accept, any portion of the compensation or fees paid by
19 the borough for the contracted services provided to the borough
20 except under the following terms or conditions:

21 (1) Full disclosure of all relevant information regarding
22 the sharing of the compensation or fees shall be made to the
23 council of the borough.

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

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

29 (4) No shared fee or compensation for personal or
30 professional services may be paid at a rate in excess of that

1 commensurate for similar personal or professional services.

2 Section 177. Section 1403 of the act, amended July 10, 1990
3 (P.L.383, No.90) AND NOVEMBER 3, 2011 (P.L.381, NO.92), is ←
4 amended to read:

5 Section 1403. Evasion of Advertising Requirements.--(a) No
6 member or members of council shall evade the provisions of
7 section 1402 hereof as to advertising for bids, by purchasing or
8 contracting for services and personal properties piecemeal for
9 the purpose of obtaining prices under ~~ten thousand dollars~~ ←
10 ~~(\$10,000)~~ THE AMOUNT SPECIFIED OR ADJUSTED UNDER SECTION 1402 (A) ←
11 upon transactions, which transactions should, in the exercise of
12 reasonable discretion and prudence, be conducted as one
13 transaction amounting to more than ~~ten thousand dollars~~ ←
14 ~~(\$10,000)~~ THE AMOUNT SPECIFIED OR ADJUSTED UNDER SECTION ←
15 1402(A). This provision is intended to make unlawful the evading
16 of advertising requirements by making a series of purchases or
17 contracts, each for less than the advertising requirement price,
18 or by making several simultaneous purchases or contracts, each
19 below said price, when, in either case, the transactions
20 involved should have been made as one transaction for one price.
21 Any members of council who so vote in violation of this
22 provision and who know that the transaction upon which they so
23 vote is or ought to be a part of a larger transaction and that
24 it is being divided in order to evade the requirements as to
25 advertising for bids, shall be jointly and severally subject to
26 surcharge for ten percent of the full amount of the contract or
27 purchase. Whenever it shall appear that a member of council may
28 have voted in violation of this section but the purchase or
29 contract on which [he so] the member of council voted was not
30 approved by council, this section shall be inapplicable.

1 (b) Any council member who votes to unlawfully evade the
2 provisions of section 1402 and who knows that the transaction
3 upon which he so votes is or ought to be a part of a larger
4 transaction and that it is being divided in order to evade the
5 requirements as to advertising for bids commits a misdemeanor of
6 the third degree for each contract entered into as a direct
7 result of that vote. This penalty shall be in addition to any
8 surcharge which may be assessed pursuant to subsection (a).

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

11 Section 1404. [Penalty for] Personal Interest in Contracts
12 or Purchases.--[Except as otherwise provided in this act, no
13 borough official either elected or appointed, who knows or who
14 by the exercise of reasonable diligence could know, shall be
15 interested to any appreciable degree either directly or
16 indirectly in any purchase made or contract entered into or
17 expenditure of money made by the borough or relating to the
18 business of the borough, involving the expenditure by the
19 borough of more than one thousand dollars (\$1000) in any
20 calendar year, but this limitation shall not apply to cases
21 where such officer or appointee of the borough is an employe of
22 the person, firm or corporation to which the money is to be paid
23 in a capacity with no possible influence on the transaction, and
24 in which he cannot be possibly benefited thereby either
25 financially or otherwise. But in the case of a member of council
26 or mayor, if he knows that he is within the exception just
27 mentioned he shall so inform council and shall refrain from
28 voting on the expenditure or any ordinance relating thereto, and
29 shall in no manner participate therein. Any official or
30 appointee who shall knowingly violate the provisions of this

1 section shall be subject to surcharge to the extent of the
2 damage shown to be thereby sustained by the borough and to
3 ouster from office, and shall be guilty of a misdemeanor, and
4 upon conviction thereof shall be sentenced to pay a fine not
5 exceeding one thousand dollars (\$1000), or not exceeding one
6 hundred eighty days' imprisonment, or both] Elected and
7 appointed borough officials and borough employees shall be
8 restricted from any interest in borough contracts and purchases
9 to the extent provided in 65 Pa.C.S. Ch. 11 (relating to ethics
10 standards and financial disclosure).

11 Section 179. Section 1404.1 of the act, added December 1,
12 1977 (P.L.245, No.80), is amended to read:

13 Section 1404.1. Purchase Contracts for Petroleum Products;
14 Fire Company, Etc., Participation.--The council of each borough
15 shall have power to permit, subject to such terms and conditions
16 as it may, and as hereinafter specifically provided, shall,
17 prescribe any paid or volunteer fire company, paid or volunteer
18 rescue company and paid or volunteer ambulance company in the
19 borough to participate in purchase contracts for petroleum
20 products entered into by the borough. Any such company desiring
21 to participate in [such] purchase contracts shall file with the
22 borough secretary a request that it be authorized to participate
23 in contracts for the purchase of petroleum products of the
24 borough and agreeing that it will be bound by [such] the terms
25 and conditions as the borough may, and as hereinafter
26 specifically provided, shall, prescribe and that it will be
27 responsible for payment directly to the vendor under each
28 purchase contract. Among [such] the terms and conditions, the
29 borough shall prescribe that all prices shall be F.O.B.
30 destination.

1 Section 180. Section 1405 of the act, amended ~~July 10, 1990~~
2 ~~(P.L.383, No.90)~~ NOVEMBER 3, 2011 (P.L.381, NO.92), is amended
3 to read:

4 Section 1405. Separate Bids for Plumbing, Heating,
5 Ventilating and Electrical Work.--In the preparation for the
6 erection, construction and alteration of any public building,
7 when the entire cost of [such] the work shall exceed ~~ten~~
8 ~~thousand dollars (\$10,000)~~ THE AMOUNT SPECIFIED OR ADJUSTED
9 UNDER SECTION 1402(A), the architect, engineer, or other person
10 preparing [such] the specifications may, if so requested by the
11 borough council, prepare separate specifications for the
12 plumbing, heating, ventilating and electrical work. The person
13 or persons authorized to enter into contracts for the erection,
14 construction or alteration of [such] the public buildings may,
15 if [such] the separate specifications shall have been proposed,
16 receive separate bids upon each of the [said] branches of work
17 and shall [thereupon] award the contract [for the same] to the
18 lowest responsible bidder for each of [said] the branches.

19 Section 181. Section 1406 of the act, amended October 9,
20 1967 (P.L.380, No.171), is amended to read:

21 Section 1406. Bonds for the Protection of Labor and
22 [Materialmen] Materials.--[It shall be the duty of every borough
23 to require any person, copartnership, association, or
24 corporation, entering into a contract with such borough for the
25 construction, erection, installation, completion, alteration,
26 repair of, or addition to, any public work or improvement of any
27 kind whatsoever, where the amount of such contract is in excess
28 of one thousand five hundred dollars (\$1,500), before commencing
29 work under such contract, to execute and deliver to such
30 borough, in addition to any other bond which may now or

1 hereafter be required by law to be given in connection with such
2 contract, an additional bond for the use of any and every
3 person, copartnership, association, or corporation interested,
4 in a sum not less than fifty percent and not more than one
5 hundred percent of the contract price, as such borough may
6 prescribe, having as surety thereon one or more surety companies
7 legally authorized to do business in this Commonwealth,
8 conditioned for the prompt payment of all material furnished and
9 labor supplied or performed in the prosecution of the work,
10 whether or not the said material or labor enter into and become
11 component parts of the work or improvement contemplated. Such
12 additional bond shall be deposited with and held by the borough
13 for the use of any party interested therein. Every such
14 additional bond shall provide that every person, copartnership,
15 association, or corporation, who, whether as subcontractor or
16 otherwise, has furnished material or supplied or performed labor
17 in the prosecution of the work as above provided, and who has
18 not been paid therefor, may sue in assumpsit on said additional
19 bond, in the name of the borough, for his, their or its use and
20 prosecute the same to final judgment for such sum or sums as may
21 be justly due him, them, or it and have execution thereof;
22 provided, the borough shall not be liable for the payment of any
23 costs or expense of any suit.] Before any contract exceeding ten
24 thousand dollars (\$10,000) is awarded to any prime contractor or
25 construction manager for the construction, erection,
26 installation, completion, alteration, repair of or addition to
27 any public work or improvement of any kind, the contractor shall
28 furnish to the borough a payment bond for the protection of
29 claimants supplying labor or materials to the prime contractor
30 to whom the contract is awarded, at one hundred percent of the

1 contract amount, conditioned for the prompt payment of all
2 materials furnished or labor supplied or performed in the
3 prosecution of the contract under the act of December 20, 1967
4 (P.L.869, No.385), known as the "Public Works Contractors' Bond
5 Law of 1967." This bond requirement shall be in addition to any
6 other bond requirement that may now or hereafter be required by
7 law to be given in connection with the contract.

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

9 [Section 1407. Minimum Wage Specifications in Contracts.--

10 The specifications upon which contracts are entered into by any
11 borough for the construction, alteration or repair of any public
12 work or improvement may, at the option of the borough council,
13 contain the minimum wage or wages which may be paid by the
14 contractor or his subcontractors for the work performed by
15 laborers and mechanics employed on such public work or
16 improvement, and such laborers and mechanics shall in such cases
17 be paid not less than such minimum wage or wages.

18 Every contract for the construction, alteration or repair of
19 any public work or improvement, founded on specifications
20 containing any such stipulation for minimum wage or wages, shall
21 stipulate a penalty of an amount equal to twice the difference
22 between the minimum wage contained in said specifications and
23 the wage actually paid to each laborer or mechanic for each day
24 during which he shall have been employed at a wage less than
25 that prescribed in said specifications.

26 Every officer or person designated as an inspector of or
27 having supervision over the work to be performed under any such
28 contract, in order to aid in enforcing the fulfillment thereof,
29 shall, upon observation or investigation, report to the borough
30 council or agency which let the contract, all violations of

1 minimum wage stipulations, together with the name of each
2 laborer or mechanic who has been paid a wage less than
3 prescribed by the specifications, and the day or days of such
4 violation.

5 All such penalties shall be withheld and deducted for the use
6 of the borough from any moneys due the contractor by the officer
7 or person whose duty it shall be to authorize the payment of
8 moneys due such contractor, whether the violation of the minimum
9 stipulation of the specifications was by the contractor or by
10 any of his subcontractors. If any such contractor or
11 subcontractor subsequently pays to all laborers and mechanics
12 the balance of the amounts stipulated in such contract, the
13 borough shall pay to the contractor the amounts so withheld as
14 penalties.]

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

16 Section 1410. Acceptance by Contractor of [Workmen's]
17 Workers' Compensation Act.--All contracts executed by any
18 borough, or any officer [thereof] of a borough, which involves
19 the construction or doing of any work involving the employment
20 of labor, shall contain a provision that the contractor shall
21 accept, insofar as the work covered by [any such] the contract
22 is concerned, the provisions of the [Workmen's Compensation Act
23 of 1915,] act of June 2, 1915 (P.L.736, No.338), known as the
24 "Workers' Compensation Act," and the supplements and amendments
25 [thereto] to the act, and that the [said] contractor will insure
26 his or her liability [thereunder] under the act and will file
27 with the borough with which the contract is made a certificate
28 of insurance providing evidence of such coverage, or file with
29 the borough with which the contract is made a certificate of
30 exemption from insurance from the Bureau of [Workmen's] Workers'

1 Compensation of the Department of Labor and Industry. The
2 certificate of exemption from insurance may be issued on the
3 basis of either individual self-insurance or group self-
4 insurance. Additionally, a contractor shall file with the
5 borough with which the contract is made any applications to be
6 excepted by the provisions of the "Workers' Compensation Act" in
7 respect to certain employees on religious grounds if the
8 applications have been accepted by the Department of Labor and
9 Industry.

10 Any contract executed in violation of this section shall be
11 null and void.

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

14 [Section 1411. Architects and Engineers Employed Prohibited
15 From Bidding on Public Works; Penalty.--It shall be unlawful for
16 any architect or engineer, in the employ of any borough, and
17 engaged in the preparation of plans, specifications or
18 estimates, to bid or negotiate on any public work at any letting
19 of such work by the borough, except that any such architect or
20 engineer who shall have prepared preliminary plans only shall
21 not be prohibited from bidding or negotiating on the final
22 contract for such work.

23 It shall be unlawful for the officers of any borough charged
24 with the duty of letting any public work, to award a contract to
25 any such architect or engineer, in the employ of the borough to
26 be in any way interested in any contract for public work for the
27 borough or to receive any remuneration or gratuity from any
28 person interested in such contract except under the terms and
29 conditions as provided in section 1402(f).

30 Any person violating any of the provisions of this section

1 shall forfeit his office, and shall be guilty of a misdemeanor,
2 and on conviction thereof, shall be sentenced to pay a fine not
3 exceeding five hundred dollars (\$500), or to undergo
4 imprisonment for not more than six months, or both.]

5 Section 185. Article XV heading of the act is amended to
6 read:

7 ARTICLE XV

8 EMINENT DOMAIN; ASSESSMENT OF DAMAGES [AND
9 BENEFITS]; DAMAGES FOR INJURY TO PROPERTY

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

12 (a) General Provisions Relating to Eminent Domain

13 Section 187. Sections 1501 and 1502 of the act are amended
14 to read:

15 Section 1501. Exercise of Eminent Domain.--In the laying
16 out, opening, widening, extending, vacating, grading, or
17 changing the grades or lines of streets; the construction of
18 bridges, and the piers and abutments therefor; the construction
19 of slopes, embankments, and sewers; the erection and extension
20 of [waterworks] water systems, wharves, and docks, public
21 buildings, public auditoriums, memorials, monuments, public
22 works, filtration plants, sewerage systems, sewage treatment
23 works, [garbage] refuse disposal or incineration plants,
24 sanitary landfills, gas plants, electric light plants and
25 libraries; the establishing of parks, playgrounds and recreation
26 places; the changing of watercourses; and for all other purposes
27 authorized by this act, a borough may enter upon, appropriate,
28 injure, or destroy, private lands, property or material, or
29 lands previously granted or dedicated to public use and which
30 are no longer used for the purpose for which the lands were

1 granted, according to the proceedings set forth in the law
2 governing eminent domain.

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

19 (b) No land or property used for a cemetery, burying ground
20 or place of public worship may be taken or appropriated by
21 virtue of any power contained in this article.

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

23 Section 1502.1. Declaration of Intention.--A borough shall
24 declare its intention to acquire, enter upon, take, use and
25 appropriate any private property or land for any of the purposes
26 authorized by this article through a duly enacted ordinance.

27 Section 189. Section 1503 of the act, added October 9, 1967
28 (P.L.399, No.181), is amended to read:

29 Section 1503. Application of [the Act of June 22, 1964 (P.L.
30 84)] 26 Pa.C.S.--[Notwithstanding any of the provisions of this

1 act, all] All eminent domain proceedings shall conform to the
2 provisions of [the act of June 22, 1964 (P.L.84), known as the
3 "Eminent Domain Code."] 26 Pa.C.S. (relating to eminent domain),
4 including, but not limited to, payment of damages and costs.

5 Section 190. Article XV subdivision (b) heading and section
6 1525 of the act, repealed in part April 28, 1978 (P.L.202,
7 No.53), are repealed:

8 [(b) Procedure for the Assessment of Benefits by Viewers

9 Section 1525. Assessment of Benefits.--The viewers shall
10 assess the total cost of the improvement, or so much thereof as
11 may be just and reasonable, upon the lands or properties
12 peculiarly benefited.]

13 Section 191. Section 1547 of the act is repealed:

14 [Section 1547. Assessments to Bear Interest.--All
15 assessments for benefits, costs, and expenses shall bear
16 interest at six percent per annum from the expiration of thirty
17 days after they shall have been finally ascertained, and shall
18 be payable to the treasurer of the borough.]

19 Section 192. Article XV subdivision (c) heading of the act
20 is reenacted to read:

21 (c) Damages for Injury to Property

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

23 Section 1561. Right to Damage Given in Certain Cases.--The
24 right to damage against boroughs is given to all owners or
25 tenants of lands, property, or material, abutting on, or through
26 which pass, streets, injured by the vacating of [such] the
27 streets, or the vacation of bridges and piers, abutments and
28 approaches therefor.

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

1 [Section 1562. Juries of View to Assess Damages and
2 Benefits.--All juries of view for assessing damages for taking,
3 using, occupying, or injuring land, property, or material, are
4 directed to assess the damages, provided for in the preceding
5 section, against boroughs, and the benefits in connection
6 therewith, and make a report thereof to the court.

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

11 Section 1565. Damages for Vacations.--Whenever viewers are
12 appointed to vacate any street, and the vacation of the same
13 takes no land from the owner abutting thereon, if, in the
14 opinion of the viewers, such vacation damages the property of
15 the abutting owner, they may award damages to such owner as
16 though land has been actually taken, and such damages shall be
17 ascertained as provided in the law governing eminent domain.

18 ARTICLE XVI

19 LAND SUBDIVISION]

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

22 ARTICLE XVII

23 STREETS

24 (a) General Provisions Relating to Streets

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

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

28 (1) "Street" shall mean and include any street, [as defined
29 in section 111 of this act] road, lane, court, cul-de-sac,
30 alley, public way and public square, either for or intended for

1 public use, and shall include the cartway, sidewalk, gutter,
2 [and/or] and the right-of-way area, whether or not [such] the
3 street, or any part [thereof] of the street, is owned in fee by
4 others than the borough. Streets shall be of two classes, opened
5 and unopened.

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

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

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

16 (ii) an ordinance laying out the street in accordance with
17 this article;

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

19 (iv) an individual deed.

20 (4) "Laying out" shall mean and include the plotting of an
21 unopened street or portion [thereof] of the street on [the] a
22 borough plan [or on the plan of a real estate development] or
23 official map adopted in accordance with the "Pennsylvania
24 Municipalities Planning Code," on a subdivision or land
25 development plan or by the enactment of an ordinance adopted in
26 accordance with this article, and shall include the plotting of
27 an unopened street in any case where any of the lines of the
28 same are proposed to be revised, or in any case where the same
29 was never previously laid out, although [such] the street may
30 have been opened and used.

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

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

13 (7) "Portion [thereof]" shall mean and include a portion
14 either of the width or of the length of a street and, therefore,
15 opening a portion of a street may mean extending or widening a
16 street, and vacating a portion of a street may mean closing or
17 narrowing a street.

18 (8) "Personal notice" shall mean and include notice upon the
19 owner of a premises either by personal service upon [such] the
20 owner or by certified mail to [such] the owner at [his] the
21 owner's last known address, or where service shall not have been
22 successfully made by either of the two methods first mentioned
23 herein, then by leaving such notice at or upon [such] the
24 premises.

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

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

28 [Section 1702. Right of Borough to Take Over Streets.--Any
29 borough shall have the right at any time to take over, by laying
30 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

1 Monuments.--The borough council, its agents and employes, may
2 enter upon any land or property, and maintain marks and
3 monuments, so far as the council may deem necessary, in carrying
4 out its powers and duties under this article.

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

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

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

16 Section 1708. Street Lighting, Ornamental Lighting and
17 Traffic Control Signals and Devices.--Council may provide street
18 lights and ornamental lighting and make regulations for the
19 protection of lighting. Council may assess the costs for the
20 erection of lighting in accordance with Article XXI-A. Council
21 may provide for the erection, maintenance and operation of
22 traffic control signals and devices in accordance with 75
23 Pa.C.S. (relating to vehicles).

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

26 (b) Plan of Streets

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

28 Section 1712. Borough Street Plan.--(a) A borough that has
29 not maintained an accurate plan of borough streets adopted in
30 accordance with this act prior to the effective date of this

1 section may only adopt a plan of streets pursuant to the
2 "Pennsylvania Municipalities Planning Code," governing the
3 adoption of an official map.

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

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

19 Section 203. Article XVII subdivision (c) heading of the act
20 is reenacted to read:

21 (c) Laying Out Streets

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

23 Section 1721.1. Power to Lay Out, Open, Etc.--(a) In
24 accordance with the provisions of this article, boroughs may,
25 with or without petition of abutting property owners, lay out,
26 open, widen, straighten, alter, extend and improve, and may
27 establish or reestablish the grades of, and keep in order and
28 repair and in safe passable condition, any street or portion of
29 a street within the borough limits, or may vacate the same
30 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

1 as provided in this section, the owner or subsequent owner shall
2 have no right to damages for buildings or improvements placed on
3 streets after the date of enactment, and the buildings or
4 improvements shall be removed at the expense of the landowner
5 after the opening of the street in accordance with this act.

6 (f) The laying out of a street, without opening the street,
7 shall create no right to public use of the street and shall not
8 constitute the taking or acceptance of any property or obligate
9 the borough to improve or maintain the street or the property on
10 which the street has been laid out.

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

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

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

18 Section 206. Section 1724 of the act, amended April 28, 1978
19 (P.L.76, No.36) and repealed in part October 5, 1980 (P.L.693,
20 No.142), is amended to read:

21 Section 1724. Effect of [Failure to Open Street After its]
22 Laying Out Street.--(a) At any time after any street or portion
23 thereof shall have remained laid out but not opened for a period
24 of ten years or longer, any owner or owners of fifty percent of
25 the front feet of the land over which [such] the street or
26 portion thereof was laid out may petition the borough council to
27 [remove such street from the plan of streets and to] cancel the
28 laying out [thereof] of the street. Council shall thereupon,
29 following at least fifteen days' notice in a newspaper {of
30 general circulation [in the borough], and at least fifteen days'

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1 personal notice to the owners of all real estate abutting upon
2 the land over which [such] the street or portion [thereof] of
3 the street was laid out, hold a public hearing on the matter.
4 Council may, on motion, deny the petition, or, by ordinance,
5 grant [such] the petition and [remove such street or portion
6 thereof from the borough plan and] cancel the laying out
7 thereof. Any person aggrieved by the decision of the council,
8 either granting or denying [such] the petition, may appeal
9 therefrom. The ordinance providing for the cancellation of the
10 laying out of a street shall be filed with the recorder of deeds
11 in accordance with section 1721.2(d).

12 (b) Whenever any street shall have been laid out and shall
13 not have been opened to, or used by the public for a period of
14 twenty-one years, [such] the street shall not thereafter be
15 opened without the consent of at least fifty-one percent of the
16 number of owners of the abutting real estate and without the
17 consent of the owners of at least fifty-one percent of the
18 property abutting [such] the street, based on a front foot
19 basis.

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

23 (d) Opening [and Acceptance of Streets]; Acceptance
24 and Vacation of Streets

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

28 (1) Open any street or portion thereof previously laid
29 out[;] or [(ii)] simultaneously to lay out and open any street
30 or portion thereof. Any street or portion [thereof] of a street

1 so opened shall be a public street of the borough. [No such
2 ordinance shall become effective until thirty days after the
3 enactment thereof. Within ten days after the enactment of any
4 such ordinance, the borough shall give personal notice to the
5 owners of all property abutting the street so proposed to be
6 opened. During such thirty-day period between the enactment and
7 taking effect of such ordinance, any interested party may
8 petition council for a hearing, which council shall hold within
9 thirty days after the date of such petition, and of which the
10 borough shall give at least fifteen days' notice in a newspaper
11 of general circulation in the borough. Any such petition shall
12 serve to stay the effective date of such ordinance, until
13 council shall have held such hearing and shall have acted upon
14 such petition by motion, or, in case of further appeal, until
15 the court shall have finally disposed of the matter. After such
16 hearing and within thirty days after action by council upon such
17 petition, any party aggrieved by council's action thereupon may
18 appeal to the court of quarter sessions.]

19 (2) Vacate or close any street or portion of a street
20 previously opened or laid out, provided that no street or
21 portion of a street providing the sole means of access to any
22 tract of land shall be vacated without the consent of those to
23 whom access would be denied. Vacation of a street shall
24 terminate all public right in or to the street but shall not
25 affect any private rights acquired by any of the owners of
26 abutting property.

27 (b) The proposed ordinance, opening or vacating any street
28 or portion of a street shall be advertised in a newspaper OF
29 GENERAL CIRCULATION once a week for two successive weeks. On or
30 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),



1 following at least fifteen days' personal notice to all owners
2 of abutting real estate not joining in [such] the petition, and
3 following at least fifteen days' notice thereof in a newspaper
4 ~~of~~ of general circulation [in the borough]. Following such
5 hearing, council shall either by motion deny [such] the petition
6 or by ordinance open, [or] lay out and open [such] or vacate the
7 street or portion [thereof] of the street. All provisions of
8 section 1731 [hereof] applicable to ordinances enacted by
9 authority of that section shall apply to ordinances enacted by
10 authority of this section.

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

19 Section 1733. [Procedure for Opening Street;] Action for
20 Damages and Benefits; Award [Thereof].--(a) Upon the effective
21 date of an ordinance enacted to open a street or portion of a
22 street by authority of section 1731 or 1732 [hereof], the
23 borough shall have authority to enter upon and take possession
24 of the street or portion thereof opened by [such] the ordinance,
25 if no structures are upon [such] the street. If any structure
26 shall have been located upon [such] the street or portion
27 [thereof] of the street so opened, prior to the laying out of
28 [such] the street or prior to the simultaneous laying out and
29 opening [thereof, such] of the street, the street shall not be
30 opened until the owner of [such] the structure shall have been

1 given sixty days' personal notice to vacate the same. [If any of
2 the parties cannot agree upon damages sustained by reason of the
3 opening of any street or portion thereof, such damages shall be
4 assessed by a jury of view under the provisions of the law
5 governing eminent domain.] Council shall not be required to file
6 any bond or security for the exercise of the right granted by
7 this section.

8 (b) All parties whose ground is taken in the opening of a
9 street or portion [thereof] of the street shall have three years
10 from and after the effective date of the ordinance opening
11 [such] the street or portion [thereof] of the street in which to
12 bring an action for damages resulting [therefrom] from the
13 opening of the street or portion of the street. In case of the
14 assessment of damages for the opening of any street or portion
15 [thereof] of the street, the award of damages, if any, shall
16 include all damages resulting from the grade at which [such] the
17 street or portion [thereof] of the street is to be opened; the
18 plan attached to the report of the viewers awarding the damages
19 shall [have therein] include a profile plan showing the existing
20 grade as well as the grade to which [such] the street or portion
21 [thereof] of the street is to be opened. Any costs and expenses
22 which cannot be assessed upon property benefited shall be paid
23 by the borough.

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

28 Section 1734. Acceptance and Dedication of Streets.--(a)
29 Any borough may, by ordinance, accept any opened street not
30 previously dedicated to or laid out by the borough, by following

1 the procedure set forth in section 1731 or 1732 [hereof], and
2 the effect of [such] the acceptance shall be the same as of
3 opening [such street: Provided, That no] the street. No street
4 may be accepted unless [such] the street connects with at least
5 one other previously opened street or State highway.

6 (b) No borough shall acquire any right in or responsibility
7 for any street privately constructed until dedication of the
8 street shall have been presented to and accepted by the borough
9 and until the dedication shall have been recorded in the county
10 office for the recording of deeds.

11 Section 1735. Streets Not to Be Constructed, or Dedicated or
12 Opened to Travel Without the Approval of Council.--(a) No
13 person shall construct, dedicate, or open to travel any street,
14 or any drainage facilities in connection [therewith] with the
15 street, for public use or travel or for the common use of
16 occupants of buildings abutting thereon in any borough, without
17 first submitting suitable plans [thereof] to the council [for
18 its approval. Such] and obtaining its approval. The plans shall
19 be prepared in accordance with [such] rules and regulations as
20 may be prescribed by the council, and shall show the profiles of
21 [such] the street, the course, structure and capacity of any
22 drainage facilities, and the method of drainage of the adjacent
23 or contiguous territory, and also any other or further details
24 that may be required under the rules or regulations adopted by
25 the council.

26 (b) The provisions of the "Pennsylvania Municipalities
27 Planning Code" shall govern the construction, security
28 requirements and dedication of streets and connected drainage
29 facilities when the streets proposed to be constructed are part
30 of a plan required by an ordinance adopted pursuant to the

1 "Pennsylvania Municipalities Planning Code."

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

19 In any case where council has heretofore required or shall
20 hereafter require the construction or improvement of streets or
21 parts of streets, or of any drainage facilities in connection
22 therewith, or the posting of a bond or other security for so
23 doing, within any parts or subdivisions of a borough, as a
24 condition to approval of any plan thereof, and the materials or
25 other specifications for such construction or improvements are
26 required by the borough to be of better quality or type or
27 otherwise superior to and more costly than those of most of the
28 already existing streets and drainage facilities in connection
29 therewith of the borough, or of the particular zone of the
30 borough, in case it has a zoning ordinance, the cost of such

1 construction or improvement shall be allocated and paid in
2 accordance with the provisions of section 1761 of this act, and
3 the submission of a plan shall not be deemed a petition for the
4 construction or improvements so required, but if the borough
5 shall require substantially the same quality or type and
6 specifications of street and drainage facilities as generally
7 exists either in the borough, or, if the borough has a zoning
8 ordinance, in the particular zone involved, the submission of a
9 plan shall be deemed a petition therefor by a majority in the
10 number of feet assessable, properties abutting thereon, and the
11 cost of such constructions and improvements shall be paid in
12 accordance with the provisions of section 1761 of this act under
13 such circumstances: Provided, That council and the person or
14 persons submitting a plan may in all cases, by agreement,
15 provided otherwise as to such costs: And provided further, That
16 this section shall not authorize the recovery or avoidance of
17 any such costs heretofore agreed to or paid. Whenever council
18 requires the construction or improvement of streets or parts
19 thereof, it shall establish or cause to be established the
20 grades of such streets or parts, or shall approve the grades
21 indicated upon the plan submitted before such streets or parts
22 are improved or constructed. Council's approval of plans,
23 whether or not such plans are subject to any such conditions as
24 to streets, parts of streets, or drainage facilities in
25 connection therewith, shall constitute the streets as shown upon
26 the plans so approved as streets of the borough, any plan so
27 approved as filed and as recorded, indicate clearly all such
28 constructions and improvements required to be made, the grades
29 thereof, the materials and other specifications required, and
30 the allocation of cost thereof, as provided by law or as agreed

1 upon.] No approval of plans by council may obligate or require
2 the borough to construct, reconstruct, maintain, repair or grade
3 any street or drainage facilities associated therewith.

4 (d) In any case where the borough council shall refuse to
5 approve any plans submitted to it, any person aggrieved by the
6 action of council may, within thirty days after the action,
7 appeal from the action, by petition to the court of common pleas
8 of the county which court shall hear the matter de novo, and,
9 after hearing, may enter decree affirming, reversing or
10 modifying the action of the council as may appear just. The
11 court shall designate the manner in which notice of the hearing
12 of an appeal shall be given to all parties interested. The
13 decision of the court shall be final.

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

17 (e) If any street, or any drainage facilities in connection
18 with the street, shall be opened, constructed or dedicated for
19 public use or travel, except in strict accordance with plans
20 approved by the council, or the court on appeal, as provided in
21 this article, neither the borough council nor any other public
22 authority shall place, construct or operate any sewer, drain,
23 water pipe or other facilities, or do any work of any kind in or
24 upon the street; and neither borough council nor any other
25 public authorities shall have any responsibility of any kind
26 with respect to any such street, or drainage facilities,
27 notwithstanding any use of the same by the public, provided that
28 nothing in this article shall prevent the laying of trunk
29 sewers, drains, water or gas mains, if required by engineering
30 necessity for the accommodation of other territory.

1 (f) Any person who constructs, opens or dedicates any street
2 or any drainage facilities in connection with a street, for
3 public use or travel in any borough, without having first
4 complied with the provisions of this article shall be guilty of
5 a misdemeanor of the third degree and shall be subject to a suit
6 for all costs and damages incurred by the borough or property
7 owners in the course of correcting all substantive violations of
8 State law or borough ordinance resulting from or arising out of
9 the unlawfully constructed street or facilities. Nothing in this
10 section shall be construed to apply to the Department of
11 Transportation.

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

14 [Section 1736. Appeal From Refusal of Council.--In any case
15 where the borough council shall refuse to approve any plans
16 submitted to it, any person aggrieved by the action of such
17 council may, within thirty days after such action, appeal from
18 such action, by petition to the court of quarter sessions of the
19 county which court shall hear the matter de novo, and, after
20 hearing, may enter decree affirming, reversing or modifying the
21 action of the council as may appear just in the premises. The
22 court shall designate the manner in which notice of the hearing
23 of any such appeal shall be given to all parties interested. The
24 decision of the court shall be final.

25 The action of the borough council, or the court on appeal, in
26 approving any such plan, and such approved plan, shall be
27 recorded by the person applying for such approval in the office
28 of the recorder of deeds in the county.

29 Section 1737. Streets Opened Without Approval; Penalty.--If
30 any street, or any drainage facilities in connection therewith,

1 shall be opened, constructed or dedicated for public use or
2 travel, except in strict accordance with plans approved by the
3 council, or the court on appeal, as provided in this
4 subdivision, neither the borough council nor any other public
5 authority shall place, construct or operate any sewer, drain,
6 water pipe or other facilities, or do any work of any kind in or
7 upon such street; and neither borough council nor any other
8 public authorities shall have any responsibility of any kind
9 with respect to any such street, or drainage facilities,
10 notwithstanding any use of the same by the public: Provided,
11 however, That nothing herein contained shall prevent the laying
12 of trunk sewers, drains, water or gas mains, if required by
13 engineering necessity for the accommodation of other territory.

14 Any person who shall construct, open or dedicate any street
15 or any drainage facilities in connection therewith, for public
16 use or travel in any borough, without having first complied with
17 the provisions of sections 1735 and 1736 of this act, or of any
18 borough ordinance adopted pursuant thereto, shall be guilty of a
19 misdemeanor, and, upon conviction thereof, shall be sentenced to
20 pay a fine not exceeding one thousand dollars (\$1000), or suffer
21 imprisonment not exceeding two years, or both, in the discretion
22 of the court. Nothing herein contained shall be construed to
23 apply to the Department of Highways of the Commonwealth.

24 (e) Vacating Streets]

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

27 [Section 1741. Authority to Vacate Streets; Procedure.--Any
28 borough shall have authority, by ordinance, to vacate or close
29 any street or portion thereof previously opened or laid out, but
30 no street or portion thereof providing the sole means of access

1 to any lot or tract of land shall be vacated unless those to
2 whom access would be denied shall consent. No such ordinance
3 shall become effective until forty days after the enactment
4 thereof. Within ten days after the enactment of any such
5 ordinance, the borough shall give written notice by United
6 States certified mail return receipt requested to the personal
7 address to the owners of all property abutting on the street or
8 portion thereof so proposed to be vacated. If any street or
9 portion thereof proposed to be vacated shall be on a recorded
10 plan, the borough shall also give thirty days notice in a
11 newspaper of general circulation in the borough of the proposed
12 vacation directed to all the owners of property abutting on the
13 street or portion thereof proposed to be vacated by name and
14 directed generally to all other owners of property appearing on
15 such plan. In the event any owners of property abutting on the
16 street or portion thereof so proposed to be vacated cannot be
17 found a copy of the ordinance shall be posted on the premises of
18 such property owner within ten days after the enactment of any
19 such ordinance. During such forty-day period between the
20 enactment and taking effect of such ordinance, any interested
21 party may petition council for a hearing, which council shall
22 hold within thirty days after the date of such petition, and of
23 which the borough shall give at least fifteen days' notice in a
24 newspaper of general circulation in the borough. Any such
25 petition shall serve to stay the effective date of such
26 ordinance, until council shall have held such hearing and shall
27 have acted upon such petition by motion, or, in case of further
28 appeal, until the court shall have finally disposed of the
29 matter. After such hearing and within thirty days after action
30 by council upon such petition, any party aggrieved by council's

1 action thereupon may appeal to the court of common pleas.]

2 Section 210. Sections 1742, 1743 and 1744 of the act are
3 repealed:

4 [Section 1742. Petition for Vacating Street; Action
5 Thereon.--Any person or persons constituting a majority in
6 number and interest of the owners of the real estate abutting
7 upon any street or portion thereof may petition the council to
8 vacate such street or portion thereof. Council shall hold a
9 hearing upon such petition, following at least fifteen days'
10 personal notice to all owners of abutting real estate not
11 joining in such petition, and following at least fifteen days'
12 notice thereof in a newspaper of general circulation in the
13 borough. Following such hearing the council shall either by
14 motion deny such petition or by ordinance vacate such street or
15 portion thereof. All provisions of section 1741 hereof
16 applicable to ordinances enacted by authority of that section
17 shall apply to ordinances enacted by authority of this section:
18 Provided, That any petition for the vacation of any street or
19 portion thereof may release the borough from all damages
20 sustained as a result of such vacation, if such petition is
21 signed by the owners of all the property abutting upon such
22 street or portion thereof, and, where any such release shall
23 have been included in such petition, no proceedings for award of
24 damages shall be had and no damages as a result of such vacation
25 shall under any conditions be awarded to any abutting property
26 owner.

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

1 Section 1744. Effect of Vacation.--When a street or portion
2 thereof shall have been vacated, all public right in or to such
3 street or portion thereof shall cease, but such vacation shall
4 not affect any private rights acquired by any of the owners of
5 abutting property.]

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

8 (f) Straightening and Relocating Streets

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

10 Section 1751. Authority to Straighten and Relocate Streets;
11 Procedure.--[Any borough] Council may, by ordinance, provide for
12 straightening [and/or] or relocating any street previously
13 opened, involving the opening of a portion of [such] the
14 straightened [and/or relocate] or relocated street over land not
15 previously a portion of [such] the street [and/or] or the
16 vacation of a portion of such previously opened street no longer
17 to be used for street purposes. [In such cases, such] The
18 straightening [and/or] or relocation shall be considered as an
19 opening [and/or] or vacation and shall be effected in the same
20 manner and by the same procedure as provided in [prior sections
21 of this article for opening or vacation of streets, as the case
22 may be, but such opening and/or vacation] section 1731 but may
23 be considered as a single proceeding, to be effected by
24 enactment of a single ordinance[, and it shall not be necessary
25 to enact one ordinance for vacation and another for opening].

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

28 (g) Improvement of Borough Streets

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

30 Section 1761. Proceedings With or Without Petition.--

1 Boroughs with petition or without petition may improve streets,
2 or parts [thereof] of streets, or a particular width, or
3 additional widths [thereof] of streets, with or without the
4 assistance or contribution of the United States of America, the
5 [State] Commonwealth, the county, or a corporation occupying the
6 thoroughfare and may assess and collect the whole cost [thereof]
7 of improvement, or the whole cost not thus aided or contributed,
8 or any part [thereof] of the cost, from the owners of real
9 estate abutting on the improvement [by an equal assessment on
10 the foot-front basis or according to benefits as provided in
11 article XV of this act including the expenses of the necessary
12 drainage. The council may make equitable adjustments for corner
13 lots or lots of irregular shape where an assessment for full
14 frontage might be unjust. Property not otherwise assessable
15 shall become assessable by the petition of the owner or the
16 owners' representative. In all cases where the whole width of
17 the highway is being paved without State or County aid and more
18 than two-thirds of the total cost is proposed to be assessed on
19 abutters the borough shall for this purpose be considered as
20 owner of non-assessable property, of street intersections and of
21 the deducted frontage on equitable adjustment. At the discretion
22 of the borough council, the total cost of the improvement or a
23 lesser amount, if the borough desires, may be assessed on the
24 assessable properties abutting without any deduction for non-
25 assessable property or street intersections, or for the
26 equitable adjustments aforesaid, if the petition states that the
27 total cost may be assessed on the abutters: Provided, if in
28 connection with such proceedings any street or sidewalk is so
29 graded or changed in grade that private property is damaged
30 thereby and the damages have not been released or agreed upon,

1 then the damages shall be awarded as provided in the law
2 governing eminent domain, and benefits, costs, and expenses in
3 connection with the improvement shall be assessed as provided in
4 article XV: Provided further, That owners of all real estate
5 abutting upon any such improvement shall be assessable for the
6 cost thereof, whether such property owner be a natural person,
7 partnership, association, firm or corporation, including but not
8 limited to any nonprofit corporation or association, and any
9 public utility corporation, or political subdivision, but not
10 including the Commonwealth of Pennsylvania or the United States
11 of America] in accordance with Article XXI-A.

12 Section 215. Sections 1762 and 1763 of the act are repealed:
13 [Section 1762. Notice of Assessments.--The borough secretary
14 of the borough shall cause thirty days' personal notice of the
15 assessment to be given to each party assessed.

16 Section 1763. Collection of Assessments.--If any assessment
17 shall remain unpaid at the expiration of the notice, it shall be
18 the duty of the borough solicitor to collect the same, with
19 interest from the time of completion of the improvement, by
20 action of assumpsit, or by a lien to be filed and collected in
21 the same manner as municipal claims. When an owner has two or
22 more lots, against which there is an assessment for the same
23 improvement, all of such lots may be embraced in one claim.]

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

26 (h) Improvement of Streets Outside or Partly
27 Outside Borough Limits

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

29 Section 1771. [Agreements to Improve Boundary Streets.--]
30 Improvement of Streets Outside or Partly Outside Borough

1 Limits.--(a) Any borough may enter into a written agreement,
2 with any adjoining municipality [and/or township] for improving
3 streets which may be boundaries between [such] the borough and
4 municipality [or township], and may provide in [such] the
5 contract [that] for the division of the damages, costs, and
6 expenses of [such] the improvement [shall be divided between
7 such borough, municipality, and/or township in the proportion
8 agreed upon]. The borough may assess its share of [such] the
9 costs against the owner of property abutting upon the borough's
10 side of [such] the improvement, in the manner provided in
11 [sections 1761, 1762 and 1763 of this act] Article XXI-A or may
12 agree to pay any part of the costs, damages and expenses of the
13 improvements out of the general funds.

14 The portion of the damages, costs, and expenses agreed to be
15 paid by the borough, shall be ascertained as provided in the law
16 governing eminent domain[, and the benefits incident thereto
17 shall be assessed and collected in the manner provided in
18 article XV of this act; but the borough may agree to pay any
19 part of the costs, damages, and expenses of such improvements
20 out of the general funds].

21 (b) Whenever the center line of any street constitutes the
22 dividing line between any borough and a township located in the
23 same county, any agreement to improve and maintain the street
24 shall be made with the governing bodies of the township and, if
25 necessary, the county. The improvement shall be constructed and
26 subsequent repairs shall be made under the supervision of the
27 borough, and in compliance with plans to be agreed upon, in
28 writing, by the parties. One-half of the cost of the repairs
29 shall be borne by the borough. The borough may assess its share
30 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

1 borne by the borough. The borough may assess its share of such
2 costs against the owners of property abutting on the borough's
3 side of such improvement, in the manner provided in section
4 1761, 1762 and 1763 of this act.

5 Section 1773. Streets More Than One-Half the Width of Which
6 Are Within the Borough.--Whenever any street, more than one-half
7 the width of which is within the limits of any borough, shall
8 divide such borough from any other municipality or township,
9 such street may be improved by the borough within which the
10 greater width is located, in the same manner as if such street
11 were entirely located within the limits of said borough. The
12 property abutting on the side of such street, which is located
13 outside the limits of the borough making such improvements,
14 shall, for a depth of one hundred and fifty feet, plus one-half
15 the width of such street, from its center line, be assessed for
16 any and all municipal improvements to or on the said street in
17 the same manner as such property would be assessed under the
18 laws of the Commonwealth if it were entirely located within the
19 limits of such borough.

20 Section 1774. Assessment on Property Outside Limits Where
21 Boundary Line Street Entirely Within Borough.--Wherever any
22 street, entirely within the limits of any borough, shall divide
23 such borough from any other municipality or township, located in
24 the same county, the property on the side of the street opposite
25 the line of the borough shall, for the depth of one hundred and
26 fifty feet, be assessed for municipal improvements on such
27 streets on which such property shall abut, in the manner
28 provided by this article for assessments by the foot-front rule;
29 and such improvements may be made, assessed, and collected in
30 accordance with the provisions of this article for assessments

1 by the foot-front rule.

2 Section 1775. Streets Outside Limits; Appropriations to
3 Improve Connecting Links.--Any borough may, singly, or jointly
4 with any other borough, city, township and/or county,
5 appropriate and expend moneys for the improvement of streets
6 outside the limits of such borough, for the purpose of
7 connecting improved streets in such borough with State highways.
8 No such street shall be improved which shall be more than one
9 mile in length.]

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

12 (i) Acquisition [and/or] or Use of Abutting
13 Lands [for Embankments, Slopes, Fills and
14 Culverts, or for Unobstructed View]

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

16 [Section 1781. Use of Abutting Lands for Embankments,
17 Slopes, Fills, and Culverts.--In the improvement of any street
18 or portion thereof, any borough may use as much of the land
19 abutting on the same for the construction of embankments,
20 slopes, fills and culverts, as may be necessary and proper for
21 the completion of the improvement; and the assessment of
22 damages, costs, and expenses, resulting thereby, shall be
23 regarded as other assessments of damages, costs, and expenses,
24 caused by the improvement of streets, in said borough, and shall
25 be assessed and paid, as is provided by the law governing
26 eminent domain.]

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

28 Section 1782. Acquisition of Property for Unobstructed
29 View.--(a) Any borough may, singly or jointly with another
30 [borough, city, county or township] municipality, acquire, by

1 purchase or by the right of eminent domain, a free and
2 unobstructed view down and across [such] lands located at or
3 near the intersection of any two streets or highways or a street
4 or highway and a railroad or railway or at a curve in any street
5 or highway as may be necessary to assure a free and unobstructed
6 view in all directions at such crossings, and to so prevent the
7 use of [such] the lands for any purpose or in any manner which
8 may interfere with or obstruct the view of persons traveling
9 upon any such street or highway.

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

15 (c) The proceedings for the condemnation of [such] the view
16 over and across [such] lands and for the assessment of damages
17 for property taken, injured or destroyed, or the portion thereof
18 agreed to be paid by the borough if the taking is jointly with
19 another [borough, city, county or township] municipality, shall
20 be taken in the manner provided in the law governing eminent
21 domain.

22 (d) Upon the purchase or condemnation of a view, the owner
23 of [such] the lands may make every [such use thereof] use of the
24 lands as will not interfere with a free and unobstructed view at
25 the dangerous crossing or curve [and, unless specially provided
26 for in such purchase or condemnation proceedings, such purchase
27 or condemnation shall be constructed to prevent the owner
28 thereof from using the land for pasture or the growing of grass,
29 oats, wheat or other crops which will not obstruct the vision
30 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

1 to read:

2 Section 1803. Establishment of Grades.--Any borough may
3 establish a grade or grades for sidewalks, which grade or grades
4 may be separate and apart from the grade or grades established
5 for the cartway or roadway.

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

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

10 Section 1805. Borough May Do Work; Collection of Cost.--Upon
11 the [neglect] failure of any property owner to comply with any
12 of the requirements provided in the preceding sections of this
13 article, the borough may, after notice, cause the grading,
14 paving, repairing, curbing, [and/or] and guttering to be done at
15 the cost of [such] the owner, and may collect the cost [thereof]
16 of the work and ten percent additional, together with all
17 charges and expenses, from [such] the owner, and may file a
18 municipal claim [therefor] for the amounts or collect the [same]
19 amounts by action in assumpsit.

20 All [such] notices shall be served upon the owner of the
21 premises to which the notice refers, if [such] the owner is a
22 resident of the borough. If the owner is not a resident, then
23 the notice may be served upon the agent or tenant of the owner,
24 or upon the occupant of [such] the premises[, after such
25 premises, if]. If the owner has no agent or tenant or there is
26 no occupier of [such] the premises, then service shall be by
27 notice posted upon the premises. The notice required by this
28 section shall specify a period of time of not less than thirty
29 days for the owner to complete the specified work. If the work
30 has not been completed after the specified time has elapsed, the

1 owner shall be deemed to have failed to comply.

2 Section 226. Section 1806 of the act, amended December 21,
3 1988 (P.L.1413, No.171), is amended to read:

4 Section 1806. Emergency Repairs to Sidewalks.--In addition
5 to the remedies now vested in boroughs to make repairs to
6 sidewalks, any borough shall have power to make emergency
7 repairs to any sidewalks [thereon, where, in the opinion of the
8 officer or head of the department or committee lawfully having
9 charge of sidewalk repairs, a dangerous condition exists that
10 can be repaired by an expenditure of not more than five hundred
11 dollars (\$500)] within the borough if an inspection of the
12 sidewalk discloses that, and a certificate made by the officer
13 or head of the department or committee lawfully having charge of
14 sidewalk repairs specifies that, a dangerous condition exists
15 that can be repaired by an expenditure of not more than one
16 thousand dollars (\$1,000). Before [any such] repairs are made, a
17 notice to make the repairs within forty-eight hours shall be
18 served upon the owner of the [said] property. If the owner
19 cannot be served within the county, notice may be served upon
20 the agent of the owner or the party in possession, or if there
21 is no agent or party in possession, the notice may be served by
22 posting the same upon [such] the premises.

23 Upon the completion of the work, the cost [thereof] shall be
24 a charge against the owner of the property, and shall be a lien,
25 until paid, upon the abutting property, provided a claim is
26 filed [therefor] in accordance with the law providing for the
27 filing and collection of municipal claims. [Any such] The charge
28 may also be collected by action of assumpsit. This section is
29 intended to provide an additional remedy for boroughs in
30 connection with emergency repairs, where the actual cost of

1 doing the work does not exceed [five hundred dollars (\$500)] one
2 thousand dollars (\$1,000), and the certificate of the officer or
3 head of the department or committee in charge of repairs to
4 sidewalks shall be conclusive evidence of the existence of the
5 emergency justifying the repair under the terms of this section.

6 Section 227. Article XIX heading of the act is reenacted to
7 read:

8 ARTICLE XIX

9 BRIDGES, VIADUCTS AND UNDERGROUND

10 PASSAGEWAYS

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

13 Section 1901. Construction or Acquisition and Maintenance of
14 Bridges and Viaducts.--Any borough may locate and build, or
15 acquire by purchase, condemnation or otherwise, any bridge or
16 viaduct and the piers, approaches and abutments therefor, to be
17 used and thereafter improved and maintained as a street, over
18 any river, creek, stream, railroad or public or private property
19 or over and across a combination of any of them, whether [such]
20 the bridge or viaduct shall be wholly or partly within[, or
21 partly within and partly without] the borough limits. The
22 proceedings for laying out and opening [any such] a bridge or
23 viaduct shall be the same as provided by this act for the laying
24 out and opening of streets, and [any such] the bridge or viaduct
25 or portion [thereof] of the bridge or viaduct may thereafter be
26 vacated under the same procedure as provided in this act for the
27 relocation or vacation of streets or portions thereof.

28 Section 1902. Right to Appropriate Property; Assessment of
29 Damages.--In any case where the borough shall not have agreed
30 with the owner or owners for damages done, or likely to be done,

1 by the erection of [any such] a bridge or viaduct, the borough
2 may take and appropriate the land and property necessary, over
3 and across which to erect [such] the bridge or viaduct and the
4 damages caused by [such] the taking and appropriation shall be
5 assessed according to the law governing eminent domain.

6 Section 1903. Boundary Bridges.--Whenever a bridge or
7 viaduct shall cross the boundary line of a borough and another
8 municipality [or township], the borough may [unite] enter into
9 an intergovernmental cooperation agreement in accordance with 53
10 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
11 cooperation) with [such] the municipality [or township] in the
12 construction and maintenance of [such] the bridge, and shall
13 [pay an equal share of the expenses incident thereto] apportion
14 the costs as per the intergovernmental agreement.

15 Section 1904. Contracts With Railroads and Other Companies
16 and With Counties.--The borough may also enter into a contract
17 with the county commissioners, and also with railroads, street
18 railways, and other companies, or parties interested, for the
19 building and maintenance of [such] bridges or viaducts, and for
20 the payment of any damages caused by the location or erection
21 thereof. [Such] The contracts may stipulate that the borough,
22 county, railroad company, street railway, or other company or
23 party interested, shall pay a certain part of the contract price
24 of the work, including damages; or may stipulate that each shall
25 construct a certain portion of the work, and may provide
26 otherwise for the payment of damages.

27 When any railroad company, street railway, or other company
28 or party interested, shall agree to pay a certain portion of the
29 cost of [such] the work, it shall pay the same into the borough
30 treasury; and the borough treasurer shall pay the same over to

1 the contractor, as may be provided in the contract; but the
2 amount to be paid by the county shall be paid directly to the
3 contractor. The agreement may provide for the maintenance of the
4 bridges and viaducts after their erection. Nothing [herein
5 contained] in this section shall authorize any borough to
6 contract with a county for the maintenance of any bridge or
7 viaduct which does not cross a place over which the county is
8 authorized to build bridges; but [such] the bridge or viaduct
9 shall be maintained as a borough structure, and the borough may
10 contract with any party interested, except the county, for the
11 maintenance of the [same.] bridge or viaduct. Nothing in this
12 section shall affect the powers or duties of the Public Utility
13 Commission to the extent otherwise provided by law.

14 Section 1905. Overhead and Underground Passageways.--
15 Whenever the comfort and safety of the residents of any borough
16 and any adjoining municipality [or township] be enhanced by any
17 overhead or underground passageway connecting with adjoining
18 streets in either borough or municipality [or township], and
19 extending to any plant or place of business where residents of
20 [such] the borough are employed, [such] the borough may jointly
21 with each adjoining municipality [or township], construct and
22 maintain any [such] passageway or they may join with other
23 interests in the construction and maintenance [thereof] of the
24 passageway.

25 Section 229. Article XX heading of the act is reenacted to
26 read:

27 ARTICLE XX

28 SANITARY SEWERS

29 Section 230. Article XX subdivision (a) heading and sections
30 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 (1) specify materials and substances which may or may not
2 enter the public sewer or sewer system;

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

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

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

11 Violations of the ordinance may be enforced by penalties.

12 (d) (1) "Sanitary sewer" or "sanitary sewer system," as
13 used in this article, shall mean [and include] a sewer or sewers
14 used for receiving and collecting sewage matter and liquid waste
15 from the inside of buildings and structures[, and, in those
16 boroughs where there shall be what is known as "combined
17 sewers," receiving, in addition to such]. Storm water shall not
18 be permitted to enter into a sanitary sewer. A sanitary sewer or
19 sanitary sewer system shall not include a combined sewer.

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

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

29 Section 2002. [Assessment According to Benefits.--Where a
30 borough constructs sanitary sewers and desires to assess the

1 costs and expenses upon property benefited, whether or not such
2 property abuts upon such sewer, then on petition, viewers shall
3 be appointed, as provided in article XV of this act, who shall
4 assess the damages, costs, and expenses of the sanitary sewer
5 upon the property benefited, accommodated or improved according
6 to benefits, if sufficient can be found, but if not, then the
7 deficiency when finally ascertained shall be paid by the
8 borough. The proceedings of the viewers and the proceedings of
9 their report shall be as provided in article XV of this act.]

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

13 Section 231. Sections 2003, 2004 and 2005 of the act are
14 repealed:

15 [Section 2003. Assessment by Foot-front Rule.--Where a
16 borough constructs sanitary sewers and desires to assess the
17 costs and expenses thereof by the foot-front rule, it may by
18 ordinance provide that the expenses shall be assessed against
19 the property benefited, improved or accommodated by any sanitary
20 sewer, whether or not such property abuts upon such sewer, by
21 the foot-front rule and may provide for equitable assessments
22 and/or adjustments when special conditions exist where an
23 assessment for the full frontage would be unjust. The secretary
24 of the borough shall cause thirty days' notice of the assessment
25 to be given to each party assessed, either by service on the
26 owner or his agent, or left on the assessed premises.

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

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

5 Section 232. Section 2006 of the act, amended October 9,
6 1967 (P.L.399, No.181), is repealed:

7 [Section 2006. Assessments of Cost.--Whenever any borough
8 shall construct any sanitary sewer and assess the cost thereof
9 by the foot-front rule, the assessment, duly certified under the
10 seal of the borough, attested by the president of council and
11 secretary, shall be collectible from the owner of property
12 benefited, improved or accommodated thereby.

13 Such certificate of assessment shall be prima facie evidence,
14 in any suit for the recovery of same, of the correctness and
15 validity of such assessment.

16 The assessment herein referred to shall be computed under the
17 terms of the ordinance, but the individual assessments need not
18 be expressed therein.]

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

20 [Section 2007. Collections of Assessments.--If the owners of
21 property against which a foot-front assessment has been made
22 shall refuse to pay such assessment within thirty days after
23 notice of the same, it shall be the duty of the borough
24 solicitor to collect the same, with interest from the time of
25 completion of the improvement, by action of assumpsit, or by
26 lien to be filed and collected in the same manner as municipal
27 claims. When an owner has two or more lots against which there
28 is an assessment for the same improvement, all of such lots may
29 be embraced in one claim.

30 Section 2008. Regulations of Borough.--The borough may

1 enforce by penalties, such regulations as it may ordain with
2 reference to the use and maintenance of such sanitary sewerage
3 system and treatment works.]

4 Section 234. Sections 2009 and 2010 of the act are amended
5 to read:

6 Section 2009. Extensions Beyond Borough Limits; Eminent
7 Domain.--The borough may extend the necessary sewer mains, pipes
8 and outlets beyond the limits of [such] the borough, to a point
9 where [such] the sewage is to be disposed[;] or collected and
10 received and shall have power to enter upon and condemn [such
11 lands, property and materials] land for the construction of all
12 [such] sewer mains, outlets, and treatment works as may be
13 necessary for the disposal or the collection of [such] the
14 sewage provided that the extension is in conformity with 26
15 Pa.C.S. § 206 (relating to extraterritorial takings) and any
16 other applicable requirement of 26 Pa.C.S. (relating to eminent
17 domain).

18 Section 2010. Notice of Certain Ordinances.--No ordinance
19 for any construction of sewers or treatment works beyond the
20 limits of the borough, shall be [adopted] enacted until notice
21 [thereof] of the ordinance has been given, by publication of the
22 proposed ordinance, once a week for four weeks in one newspaper
23 ~~of~~ general circulation [in the borough], and also by serving ←
24 copies of [such] the proposed ordinance upon all land owners
25 through whose land [such] the sewer is to pass, or on whose
26 lands any treatment works are to be located, at least ten days
27 before [final action thereon. But no notice, as herein provided,
28 shall be required where such construction beyond the limits of a
29 borough is entirely within the limits of any street or State
30 highway. In such cases a written notice shall be given to the

1 corporate authorities of the municipality or township having
2 jurisdiction over such street and consent of the State
3 Department of Highways shall be obtained in the case of any
4 State highway, before construction is commenced] the enactment
5 of the ordinance.

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

7 [Section 2011. Security for Damages; Assessments.--Before
8 entry shall be made upon private property without the owner's
9 consent, for the purpose of laying any sewer or constructing any
10 treatment works, security for all damages which may be done
11 shall first be given to such owner in such form and in such
12 amount as the court of common pleas of the county may direct.
13 All damages caused by the construction of any such sewer or
14 works, or by the taking of lands and materials, shall be
15 ascertained in the manner provided in the law governing eminent
16 domain for property taken, injured, or destroyed, and shall be
17 paid out of the borough treasury.]

18 Section 236. Sections 2012 and 2013 of the act are amended
19 to read:

20 Section 2012. Unlawful to Build Within Right-of-Way of
21 Sanitary Sewers.--It shall be unlawful for any person to erect
22 any building or make any improvement, within the right-of-way of
23 any sanitary sewer laid out [or ordained to be laid out], after
24 due notice [thereof;] of the laying out of the sanitary sewer,
25 and, if any [such] erection or improvement shall be made, no
26 allowance shall be had [therefor] for the building or
27 improvement in the assessment of damages.

28 Section 2013. Opening Sanitary Sewers.--(a) If any borough
29 shall lay out [or ordain] any sanitary sewer, over or under
30 private property, located in whole or in part within the limits

1 of [such] the borough, and proceedings to open the same and to
2 assess the damage arising therefrom shall not be proceeded with
3 by the borough, within two years from the enactment of the
4 ordinance, the whole proceeding shall be void.

5 (b) If any borough has laid out a sanitary sewer without the
6 enactment of an ordinance prior to the effective date of this
7 subsection and shall have not opened the same, the proceedings
8 shall not be deemed to be void but the borough shall have two
9 years from the effective date of this subsection to open the
10 sanitary sewer or the whole proceeding shall be void.

11 Section 237. Article XX subdivision (b) heading and section
12 2021 of the act are amended to read:

13 (b) Joint Sanitary Sewers

14 Section 2021. [Building Joint Sewers.--(a) Boroughs may
15 jointly with other cities, boroughs or townships build and
16 construct sanitary sewers, including trunk line sewers or drains
17 and sewage treatment works, and may connect into such system
18 existing sanitary sewers, and may assess their respective
19 portions of the cost thereof, or so much thereof as may be
20 legally assessable, upon property benefited, improved, or
21 accommodated by the improvement, either by viewers or by the
22 foot-front rule as provided in this article. Any portion of the
23 cost of such improvement not assessed or not assessable shall be
24 paid by the respective cities, boroughs, and townships joining,
25 as may be agreed upon.] Joint Sanitary Sewer Systems.--(a)
26 Pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to
27 intergovernmental cooperation), boroughs may contract with other
28 municipal corporations providing for the joint construction or
29 maintenance of sanitary sewer systems and for the joint
30 construction onto existing sanitary sewer systems. The agreement

1 shall provide for the apportionment of costs among the municipal
2 corporations. The borough council may assess the borough's
3 respective portion of the costs, as may be legally assessable,
4 upon property benefited by the facilities pursuant to Article
5 XXI-A. Any portion of the cost not assessed or assessable shall
6 be paid by the respective municipal corporations under the
7 agreement.

8 (b) The [boroughs, cities and townships] municipal
9 corporations joining or contemplating joining in any [such]
10 improvement, in order to facilitate the building of the [same]
11 sanitary sewer system and in securing preliminary surveys and
12 estimates, may by ordinance provide for the appointment of a
13 joint sanitary sewer board composed of one representative from
14 each of the [boroughs, cities, and townships] municipal
15 corporations joining which shall act generally as the advisory
16 and administrative agency in the construction of [such] the
17 improvement[,] and its subsequent operation and maintenance.
18 [The members of such] Members of the joint sanitary sewer board
19 shall serve for terms of six years each from the dates of their
20 respective appointments and until their successors are
21 appointed. The joint sanitary sewer board shall organize by the
22 election of a [chairman] chair, secretary, and treasurer. The
23 secretary and treasurer may be the same person. The [several
24 boroughs, cities, and townships] municipal corporations may in
25 the ordinances creating the joint sanitary sewer board,
26 authorize the board to appoint an engineer, a solicitor, and
27 [such] other assistants as are deemed necessary, and agree to
28 the share of the compensation of [such] those persons each
29 [borough, city, and township,] municipal corporation is to pay.
30 The members of the joint sanitary sewer board shall receive

1 [such] compensation for attending board meetings [of the board]
2 as [shall be fixed] established in the budget[,]
3 prepared by the joint sanitary sewer board [for submission to,
4 and adoption by, the several boroughs, cities, and townships, as
5 hereinafter provided,] and submitted to and adopted by the
6 municipal corporations. The members shall be entitled to actual
7 expenses to be paid by the respective [boroughs, cities and
8 townships which such] municipal corporations the members
9 represent.

10 (c) The joint sanitary sewer board [shall have powers to]
11 may adopt rules and regulations CONSISTENT WITH THE REQUIREMENTS ←
12 OF THIS ACT to govern its proceedings, and shall prepare and
13 suggest any practical measures and plans by which the joint
14 improvement may be carried to successful completion[;] and plan
15 the future development of the system, so as to conform to a
16 general plan. It [shall have power to] may prepare a joint
17 agreement or agreements for submission to and adoption by the
18 [several boroughs, cities and townships] municipal corporations
19 defining the advisory and administrative powers of the joint
20 sanitary sewer board[;] and setting forth the consents of the
21 [several boroughs, cities and townships] municipal corporations
22 to the proposed improvement; the manner in which preliminary and
23 final plans, specifications and estimates for the proposed
24 improvement shall be prepared and adopted; how proposals for
25 bids shall be advertised and contracts let; the manner in which
26 the costs of the improvement and other incidental and
27 preliminary expenses in connection [therewith] with the
28 improvement, and the future cost of operation and maintenance
29 shall be equitably shared, apportioned and paid; and all [such]
30 other matters, including the preparation and submission of

1 annual and other budgets, as may be deemed necessary or required
2 by law[, to carry] to complete the proposed improvement [to
3 completion] and to assure future maintenance and operation
4 thereof. [But nothing herein contained shall authorize the board
5 to make any improvement or expend any public moneys which has
6 not first been authorized by all the boroughs, cities and
7 townships] The board may not make any improvement or spend any
8 public moneys which have not first been authorized by all of the
9 municipal corporations proceeding with the improvement.

10 (d) [In any case where it shall be] When it is necessary to
11 acquire, appropriate, injure, or destroy private property[,
12 lands, property, or material] to build [any such] a joint
13 sanitary sewer system or improvement[,] and the [same] property
14 cannot be acquired by purchase or gift, the right of eminent
15 domain shall vest in the [borough, city, or township] municipal
16 corporation where [such] the property is located. [In any case
17 where it shall be] When it is necessary to acquire, injure, or
18 destroy property in any territory not within the limits of any
19 of the [boroughs, cities, or townships] municipal corporations
20 joining in the improvement, then the right of eminent domain
21 shall be vested in [any borough, city, or township] the
22 municipal corporation adjacent to [such] the territory where
23 [such] the property is located subject to 26 Pa.C.S. § 206
24 (relating to extraterritorial takings). Damages for any property
25 taken, injured, or destroyed shall be assessed [as provided by
26 the general laws relating to the boroughs, cities and townships]
27 under laws relating to the municipal corporation exercising the
28 right of eminent domain[;] and shall be paid by the [several
29 boroughs, cities and townships] municipal corporations
30 joining[,] in the same proportion as other costs of the

1 [improvement] improvements.

2 (e) Each of the boroughs joining in [any such] the
3 improvement shall have power to incur or increase its
4 indebtedness, not exceeding the constitutional limits, for the
5 purpose of paying its share or portion of the cost of [such] the
6 improvement in the manner now provided by law for the incurring
7 of indebtedness.

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

9 [Section 2022. Approval of Sanitary Water Board.--No such
10 sewer or sewage treatment plant shall be constructed until plans
11 and specifications have been submitted to the Sanitary Water
12 Board, and approved in accordance with provisions of existing
13 laws.]

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

16 Section 2023. Connections with Sanitary Sewers of Adjacent
17 Municipalities.--Any borough may connect with an existing
18 sanitary sewer, owned by any adjacent municipality [or
19 township,] for sewerage purposes[,] in the manner prescribed in
20 [the following sections of this subdivision of this article]
21 sections 2024, 2025 and 2026.

22 Section 2024. Applications to Court.--Whenever any borough
23 shall desire to connect with the existing sanitary sewer of any
24 adjacent municipality [or township,] and no agreement, either
25 upon the basis of a rental payment for the use of an existing
26 sanitary sewer or a division of the cost of the construction or
27 maintenance [thereof] of the sanitary sewer, has been reached
28 between [such] the borough and the adjacent municipality [or
29 township], an application shall be made by council to the court
30 of [quarter sessions] common pleas of the county where the

1 proposed connection is to be located, setting forth that fact.

2 Section 2025. Appointment of Viewers.--If the court shall be
3 of the opinion that [such] the connection can be made without
4 impairing the usefulness of the existing sanitary sewer, it
5 shall appoint three viewers, who shall view the premises and
6 investigate the facts of the case, and shall assess the
7 proportionate part of the expense of building the original
8 sanitary sewer upon [such] the borough, and shall fix the
9 proportion of the expense for repairs which each municipality
10 [or township] shall thereafter bear, and determine all other
11 questions liable to arise in connection [therewith] with the
12 sanitary sewer.

13 Section 240. Section 2026 of the act, repealed in part June
14 3, 1971 (P.L.118, No.6), is amended to read:

15 Section 2026. Report of Viewers; Appeals to Court.--The
16 viewers shall report to the court the result of their
17 investigation, which report shall be confirmed within thirty
18 days unless exceptions [thereto be] are filed. After
19 confirmation of [such] the report, or the disposal of any
20 exceptions, any party interested may appeal from the decision of
21 the court of [quarter sessions] common pleas.

22 Section 241. Article XX subdivision (c) heading and sections
23 2031 and 2032 of the act are repealed:

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

25 Section 2031. Power to Supply Service.--Whenever any borough
26 is maintaining and operating a sewerage system and sewage
27 purification or treatment works, it shall be lawful for such
28 borough to supply sewerage service to municipalities, townships,
29 persons and corporations, outside the limits of such borough,
30 and to enter into contracts for such service, at rates not less

1 than those required to be paid by persons and corporations
2 within the limits of such borough; but no such privilege shall
3 conflict with the rights of any sewer company, or the rights of
4 any other borough.

5 Section 2032. Power to Extend Lines and Condemn Property.--
6 For the purpose of supplying such sewerage facilities, any such
7 borough may extend the necessary sewer mains and pipes beyond
8 the limits of such borough, to the points where such sewage is
9 to be collected and received, and shall have the power to enter
10 upon and condemn such lands, property and materials for the
11 construction of such sewer mains, and pipes, as may be necessary
12 to the furnishing of such sewerage service.]

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

15 (d) Acquisition of [Sewer] Community Collection
16 or Disposal Systems

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

18 [Section 2041. Power to Acquire Sewer Systems.--Any borough,
19 in which any person or persons, firm, or corporation are
20 maintaining sewers and culverts, with the necessary inlets and
21 appliances for surface, under surface and sewage drainage, or in
22 which any person or persons, firm or corporation are maintaining
23 a community sewage collection or disposal system as defined in
24 section 2043 of this act, may become the owner of such sewers,
25 culverts, inlets and appliances, or the owner of such community
26 collection or disposal system, by purchase or by the exercise of
27 the power of eminent domain, or by gift from the owner or owners
28 thereof.]

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

30 Section 2041.1. Power to Acquire Community Collection or

1 Disposal Systems.--(a) A borough may, by ordinance, acquire
2 ownership of a community sewage collection or disposal system as
3 defined in section 2043 by purchase or by the exercise of
4 eminent domain pursuant to 26 Pa.C.S. (relating to eminent
5 domain), or by gift from the owner or owners.

6 (b) In eminent domain proceedings, the viewers shall assess
7 the costs and expenses of the community sewage collection or
8 disposal system acquired by the borough upon the property or
9 properties benefited according to benefits. Any deficiency that
10 is not assessed upon the benefited property or properties shall
11 be paid by the borough.

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

13 [Section 2042. Assessment of Damages.--In case of
14 disagreement, the amount to be paid shall be ascertained in the
15 manner provided in the law governing eminent domain. In the same
16 proceeding, the viewers shall assess the costs and expenses of
17 the sewer, culverts, inlets and appliances, or of the sewer
18 collection, or disposal system, acquired by the borough, upon
19 the property benefited, according to benefits, if sufficient can
20 be found; but, if not, then the deficiency when ascertained
21 shall be paid by the borough.]

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

23 Section 2043. Community Sewage Collection or Disposal
24 Systems.--(a) For the purpose of this subdivision, a community
25 sewage collection or disposal system is all or part of a device
26 or devices installed on any privately or publicly owned parcel
27 of land, intended to treat or dispose of the sewage or
28 equivalent volume of domestic sewage from two or more
29 residences, buildings or occupied parcels of land, or any system
30 of piping used in collection and conveyance of sewage on private

1 or public property.

2 (b) After a community sewage collection or disposal system
3 has been acquired under the provisions of this subdivision by
4 the borough, the council shall have the power to enlarge [such]
5 the system if it deems it advisable. In such cases, the cost and
6 expenses of [such] the enlargement may be distributed or
7 assessed in the same manner as if the enlargement was a regular
8 sewer constructed by the borough under other provisions of this
9 act.

10 (c) Whenever a community sewage collection or disposal
11 system is [or shall have been] established or constructed within
12 a borough by a private owner or owners, and the borough council
13 is thereafter empowered by ordinance to acquire the ownership of
14 the sewage disposal system so established, or when [any such]
15 the system has been enlarged by the borough, [such] the
16 acquisition and ownership shall be subject to the following
17 provisions of this subsection:

18 (1) When the person or persons having established or
19 constructed a community sewage collection or disposal system, or
20 when more than one-half the number of the owners of properties
21 which are connected with, have a right to use and are using a
22 community collection or disposal system, enter into an agreement
23 with the borough for the acquisition of the system by the
24 borough, [such] the agreement shall be considered a valid
25 agreement by the owners of the sewage collection or disposal
26 system and a transfer of ownership to the borough.

27 (2) The borough shall operate and maintain any sewage
28 collection or disposal system acquired and any enlargement or
29 addition thereto for the use of persons having acquired from the
30 borough or from the former owner or owners the right to use the

1 system, and for the use of other owners of property accessible
2 thereto up to the capacity of the sewage collection or disposal
3 system.

4 (3) All persons whose property connects with the sewage
5 collection or disposal system acquired or constructed by the
6 borough shall pay to the borough treasurer, a monthly,
7 quarterly, semi-annual or annual charge prescribed by a
8 resolution of the council. The amount of the charges shall not
9 be in excess of the estimated amount necessary to maintain and
10 operate the system and to establish a reserve fund sufficient
11 for its future replacement.

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

17 (5) All moneys received from the sewer charges shall be
18 deposited as a special reserve fund, and shall be used only for
19 the payment of the cost of operating and maintaining the sewage
20 collection or disposal system and the replacement [thereof] of
21 the collection or disposal system, if necessary and economically
22 desirable. If at any time after the acquisition or enlargement
23 of the community sewage system, a regular sewer system is made
24 available by the borough for connection with the properties
25 using the community sewage collection or disposal system, the
26 owners of [such] the properties shall be subject to the other
27 provisions of this act relating to sewers, and all money at that
28 time in the reserve fund which was received from charges for the
29 use of that particular sewage collection or disposal system, and
30 which is over and above the amount expended for the operation

1 and maintenance of that particular sewage collection or disposal
2 system, shall be used towards the payment of any sewer
3 assessments charged against [such] the properties under other
4 sections of this act.

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

8 Section 248. Article XX subdivision (e) heading and section
9 2051 of the act are amended to read:

10 (e) Connection and Use of Sanitary Sewers

11 Section 2051. Ordinances to Require Sanitary Sewer
12 Connections.--Any borough may, by ordinance, require any owner
13 of property, benefited, improved or accommodated by a sanitary
14 sewer, to make connections with [such] the sanitary sewer, in
15 [such] the manner as the borough may order, for the purpose of
16 discharge of [such] drainage or waste matter as the borough may
17 specify. All connections required shall be uniform. The owner
18 shall be given at least forty-five days' notice of any ordinance
19 requiring a sanitary sewer connection and, upon failure of the
20 owner to make the connection, the borough may make the
21 connection and collect the cost from the owner by a municipal
22 claim or by an action of assumpsit. The borough may by penalties
23 enforce any [regulation] ordinance it may [ordain] enact with
24 reference to any sanitary sewer connections.

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

26 [Section 2052. Notice of Ordinances; Failure to Comply With
27 Ordinance.--The owner shall be given at least forty-five days'
28 notice of any ordinance requiring such sewer connection, and,
29 upon failure of such owner to make such connection, the borough
30 may make the same, and collect the cost thereof from the owner

1 by a municipal claim or in an act of assumpsit. All connections
2 required shall be uniform.]

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

4 Section 2053. Tapping Fees.--Any borough may by ordinance
5 provide for charging a tapping fee whenever the owner of any
6 property connects [such] the property with a sanitary sewer
7 system constructed or acquired by the borough provided that the
8 tapping fee is calculated in accordance with 53 Pa.C.S. § 5607
9 (relating to purposes and powers), which fee shall be in
10 addition to any charges assessed and collected against [such]
11 the property in the construction or acquisition of [such] the
12 sanitary sewer by the borough. Whenever a sanitary sewer system
13 or any part or extension [thereof] of a sanitary sewer system,
14 owned by a borough, has been constructed by the borough at the
15 expense of a private person or corporation or has been
16 constructed by a private person or corporation under the
17 supervision of the borough at the expense of the private person
18 or corporation, the borough shall have the right to charge a
19 tapping fee calculated in accordance with 53 Pa.C.S. § 5607 and
20 refund [said] the tapping fee or any part [thereof] of the fee
21 to the person or corporation who has paid for the construction
22 of [said] the sanitary sewer system or any part or extension
23 [thereof] of the sanitary sewer system in accordance with 53
24 Pa.C.S. § 5607. The total of [said] the refunds shall never
25 exceed the cost of [said] the system or any part or extension
26 [thereof] of the system to the person or corporation paying for
27 the construction [thereof] of the system or any part or
28 extension of the system. In any case, where the property
29 connected or to be connected with the sanitary sewer system of
30 the borough is not equipped with a water meter the borough may

1 install [such] a meter at its own cost and expense. If the
2 property is supplied with water from the facilities of a public
3 water supply agency, the borough shall not install [such] a
4 meter without the consent and approval of the public water
5 supply agency.

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

7 [Section 2054. Regulations and Restrictions in Use of
8 Sanitary Sewers.--Any borough in which there is any public
9 sanitary sewer or sewer system shall have authority, by
10 ordinance, to make regulations and restrictions pertaining to
11 the use of such sewer or sewer system. Such regulations and
12 restrictions: (i) may specify materials and/or substances which
13 may or may not enter the public sewer or sewer system; (ii) may
14 require that certain types or classes of waste be subjected to
15 treatment or to grinding or other reduction in size before
16 entering into the sewer; (iii) may restrict the quantity of
17 waste material that may enter a sanitary sewer from any premises
18 within any time interval; and (iv) may require that property
19 owners provide means other than the public sanitary sewers for
20 disposal of storm, surface and roof water originating or
21 accumulating upon their property.]

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

24 (f) Monthly, Quarterly or Annual Rentals

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

27 Section 2061. Ordinance for Monthly, Quarterly or Annual
28 Rental.--Whenever any borough shall have constructed any
29 sanitary sewer, sewer system or sewage treatment works, or shall
30 have acquired wholly or partially the same at public expense, as

1 authorized in this article, the [council of such] borough
2 council may provide, by ordinance, for the collection of a
3 monthly, quarterly or annual rental or charge or a fixed sum,
4 for the use of [such] the sanitary sewer, sewer system or sewage
5 treatment works, from the owner of property served by it. [The
6 council may, at its discretion, in lieu of such monthly,
7 quarterly or annual rental or charge, provide for the payment by
8 such owner of a fixed sum.]

9 Section 2062. How Rental Fixed.--[Such] The monthly,
10 quarterly or annual rental may include the amount expended
11 monthly, quarterly or annually by the borough in maintenance,
12 repair, alteration, inspection, depreciation, or other expense,
13 of [such] the sanitary sewer, sewer system or sewage treatment
14 works, and may include interest on money expended or borrowed by
15 the borough in the construction of the sanitary sewer, sewer
16 system or sewage treatment works, or in the acquisition,
17 enlargement or extension of the sanitary sewer or sewer system,
18 and may also include an amount sufficient for the amortization
19 of debt incurred by the borough for [any such] those purposes,
20 including the construction of sewage treatment works according
21 to law. The [said] monthly, quarterly or annual amount or fixed
22 sum shall be apportioned equitably among the [several]
23 properties served by the [said] sanitary sewers, sewer system or
24 sewage treatment works.

25 Section 2063. Collection of Rental.--[Such] The monthly,
26 quarterly or annual rental or charge, or [such] the fixed sum,
27 shall be authorized and collected as provided by general
28 ordinances, and, when so levied and charged, shall be a lien on
29 the properties charged[. The collection thereof shall be made
30 and enforced in the manner municipal claims are collected.] from

1 the date set forth in the ordinance. If the rental, charge or
2 fixed sum is not paid after thirty days' notice, it may be
3 collected by an action of assumpsit, in the name of the borough
4 against the owner of the property charged, or by a lien filed in
5 the nature of a municipal lien.

6 The borough council [of such borough] shall execute a warrant
7 or warrants, authorizing the collection of [such] the monthly,
8 quarterly or annual sewer rentals or charges, or [such] the
9 fixed sum, to the officer employed by council to collect the
10 same. [Such] The officer shall have the authority now vested by
11 law for the collection of borough taxes.

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

14 [Section 2064. Lien.--Such monthly, quarterly or annual
15 sewer rentals or charges, or such fixed sum, shall be a lien on
16 the properties charged with the payment thereof, from the date
17 set forth in the ordinance, and, if not paid after thirty days'
18 notice, may be collected by an action of assumpsit, in the name
19 of the borough against the owner of the property charged, or by
20 distress of personal property on the premises, or by a lien
21 filed in the nature of a municipal lien.]

22 Section 255. Article XX subdivision (g) heading, sections
23 2071 and 2072, Article XXI heading and sections 2101, 2102,
24 2103, 2104 and 2105 of the act are repealed:

25 [(g) Sewers on Boundary Streets

26 Section 2071. Power to Lay and Construct.--Boroughs shall
27 have authority to lay and construct sewers in any street, any
28 portion of which is within the limits of the borough, and which
29 forms a portion of the boundary dividing the borough from any
30 other city, borough, or township within the same county, in the

1 same manner and to the same extent as if the whole of said
2 street was within the limits of the said borough.

3 Section 2072. Assessment of Benefits.--The property
4 benefited, improved or accommodated, which is located outside
5 the limits of the borough constructing such sanitary sewers,
6 shall, for a depth of one hundred fifty feet, be assessed for
7 the cost of such sewer, in the same manner as such property
8 would be assessed, under the laws of the Commonwealth, if it
9 were entirely located within the limits of such borough, if such
10 property is given permission to use such sanitary sewer and is
11 not, at the time such sanitary sewer is constructed, provided
12 with sanitary sewer facilities.

13 ARTICLE XXI

14 COLLECTION BY INSTALMENT OF STREET

15 AND SEWER ASSESSMENTS

16 Section 2101. Authority for Instalment Payments.--Whenever
17 any borough shall authorize the construction or acquisition of
18 any sanitary sewer or system of sanitary sewers, or the
19 improvement of any street or portion thereof, and the entire
20 cost, or any part thereof, shall be assessed against the
21 properties benefited, improved or accommodated by such sewer or
22 system of sewers, or abutting upon such street or portion
23 thereof, such borough may authorize the payment of such
24 assessment in equal annual, or more frequent instalments. Such
25 instalment payments may be authorized by a general ordinance
26 applicable to all sanitary sewers or systems thereof and/or all
27 streets thereafter acquired, constructed or improved, as the
28 case may be, or by one or more specific ordinances applicable to
29 a specific sewer, system of sewers or street or portion thereof.
30 Every such ordinance shall specify the length of time over which

1 such instalments may be extended and whether payments are to be
2 made by annual or more frequent instalments. All such
3 instalments shall bear interest, as provided in the applicable
4 ordinance, at a rate not to exceed six percent, commencing at
5 such time as may be fixed or regulated by ordinance: Provided,
6 That where bonds shall have been issued and sold in the manner
7 provided by law, to provide for the payment of any street
8 improvement, such assessments shall be payable in equal
9 instalments during the term for which such bonds are issued, and
10 the expenditures for such improvements, and interest thereon to
11 the first day when interest is payable on such bonds, shall be
12 taken as the cost of such improvement to be assessed on the
13 property benefited.

14 Section 2102. Entry of Liens.--Claims to secure the
15 assessments shall be entered in the prothonotary's office of the
16 county at the same time and in the same form and shall be
17 collected in the same manner as municipal claims are filed and
18 collected, notwithstanding the provisions of this article on
19 instalment payments.

20 Section 2103. Assessments; Where Payable.--Such assessments
21 shall be payable at the office of the borough treasurer, or such
22 other place as the ordinance shall provide, in semi-annual or
23 annual instalments, with interest at the rate provided from the
24 date from which interest is computed on the amount of the
25 assessments.

26 Section 2104. Default in Payment of Instalment.--In case of
27 default in the payment of any instalment and interest for a
28 period of sixty days after the same shall become due, the entire
29 assessment and accrued interest shall become due; and the
30 borough solicitor shall proceed to collect the same under the

1 general laws relating to the collection of municipal claims.

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

7 Section 256. The act is amended by adding an article to
8 read:

9 ARTICLE XXI-A

10 ASSESSMENTS AND CHARGES FOR PUBLIC IMPROVEMENTS

11 Section 2101-A. Authority to assess.

12 (a) General rule.--Borough council shall have the power to
13 pay the cost, in whole or in part, of any and all public
14 improvements of all natures and descriptions, including, but not
15 limited to, the grading, building, paving, regrading, rebuilding
16 and repaving of streets as defined in section 1701, the
17 creation, extension, renovation or enlargement of water mains
18 and sewage collection, transmission, treatment and disposal
19 systems and the creation, extension and renovation of storm,
20 surface and subsurface drainage systems, the construction,
21 reconstruction and repair of wharves and docks, the installation
22 of ornamental street lighting, or the planting, removal,
23 maintenance and protection of shade trees by any of the
24 following methods:

25 (1) from general borough funds;

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

27 or

28 (3) by assessment of costs against the benefited
29 properties either on the front foot or benefit conferred
30 method of assessment.

1 Except as provided in subsection (c), the costs and expenses of
2 sanitary sewers may be assessed against properties benefited,
3 accommodated or improved regardless of the property line
4 location and regardless of whether any portion of a property so
5 benefited, accommodated or physically improved abuts upon the
6 sanitary sewer.

7 (b) Payment of indebtedness.--

8 (1) If a borough that incurs authorized indebtedness
9 pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to
10 indebtedness and borrowing) for the purposes of funding the
11 cost and expense of making public improvements for which
12 assessments can be made in accordance with this article,
13 payments made on the assessment must be applied to pay the
14 debt service for the indebtedness incurred for funding the
15 cost and expense of making the public improvement.

16 (2) Notwithstanding section 2107-A, when bonds are
17 issued in a manner provided by law and an assessment is to be
18 paid in installments, the assessment shall be payable in
19 equal installments during the term for which the bond is
20 issued, and the cost of the improvement plus interest
21 beginning the first day when interest is payable on the bond
22 shall be the cost of the improvement to be assessed on a
23 property.

24 (c) Property outside borough.--Property benefited, improved
25 or accommodated which is located outside the limits of the
26 borough that constructed a sanitary sewer may, if located no
27 more than 150 feet from the sewer main, be assessed for the cost
28 of the sewer in the same manner as the property would be
29 assessed under the laws of this Commonwealth if it were entirely
30 located within the limits of the borough, if the property is

1 given permission to use the sanitary sewer and is not, at the
2 time the sanitary sewer is constructed, provided with sanitary
3 sewer facilities.

4 (d) Water mains.--Boroughs shall have power to assess the
5 whole cost or any part of the cost of construction of new water
6 mains built in connection with the establishment or extension of
7 a municipally owned water supply system, even if the mains are
8 located outside the limits of the borough, and that serve
9 abutting properties, against the properties abutting the
10 boundary line. The borough may provide that the assessment be
11 rebated to the owner of the assessed property out of rates
12 charged for water consumed in serving the assessed property. The
13 borough may also issue a negotiable credit memorandum in the
14 amount of the assessment which may be used for the payment of
15 any water service to the extent of the assessment.

16 Section 2102-A. Notice of assessments.

17 The borough secretary shall cause 30 days' personal notice of
18 the assessment to be served upon each property owner assessed.
19 If a certificate is required to be filed with council relating
20 to the public improvement as otherwise provided in this act,
21 then a copy of the certificate shall accompany the notice.

22 "Personal notice" as used in this article shall mean and include
23 notice upon the owner of a property either by personal service
24 upon the owner or by certified mail to the owner at the owner's
25 last known address, or where service, after a reasonable
26 attempt, shall not have been successfully made by either of
27 these two methods, then by leaving notice at or upon the
28 property.

29 Section 2103-A. Assessment based on front foot basis.

30 (a) General rule.--If borough council elects to collect the

1 cost, including any administrative fees, of any improvement on
2 the front foot basis, the cost to be collected shall be divided
3 by the total number of linear feet of street frontage of each
4 property benefited and there shall be assessed against each
5 property that portion of the cost which is determined by
6 multiplying the dividend of the prior calculation by the number
7 of linear feet for street frontage of that property.

8 (b) Certificate of assessment.--Council shall issue a
9 certificate of assessment when assessing on the front foot
10 basis, duly certified under the seal of the borough and attested
11 by the president of council and secretary. The certificate of
12 assessment shall be prima facie evidence in any suit for
13 recovery of the same of the correctness and validity of the
14 assessment.

15 (c) Adjustments in assessments.--Notwithstanding subsection
16 (a), council may make equitable adjustments for corner lots,
17 lots of irregular shape, or, where special conditions exist,
18 where an assessment for full frontage would be unjust.

19 Section 2104-A. Assessment of benefits conferred.

20 (a) General rule.--In lieu of the front foot basis, borough
21 council may elect to have the benefits of public improvements
22 assessed, in whole or in part, upon property benefited, improved
23 or accommodated by assessing an equal assessment on the
24 properties benefited, improved or accommodated in proportion to
25 the total cost of construction of the improvement. The amount of
26 the charge on each property shall be determined by borough
27 council.

28 (b) Certificate.--Council shall issue a certificate of
29 assessment when assessing benefits upon property benefited,
30 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

1 solicitor shall proceed to collect the same by filing a lien in
2 the same manner as municipal claims are filed or by action in
3 assumpsit.

4 (e) Prepayment.--A property owner upon whom an assessment
5 has been made may pay all or as many of the installments before
6 the same are due, with interest and costs to the due date of the
7 next installment.

8 Section 2108-A. Collection of assessments.

9 (a) Collection methods.--If any assessment remains unpaid at
10 the expiration of the 30-day personal notice, and an installment
11 agreement has not been entered into pursuant to section 2106-A,
12 the borough solicitor shall collect the unpaid assessment, with
13 interest from the time of completion of the improvement, or from
14 the time of filing a certificate of assessment with council,
15 plus costs, by filing a lien to be collected in the same manner
16 as municipal claims or by action in assumpsit. When a property
17 owner has two or more lots, against which there is an assessment
18 for the same improvement, all of the lots may be embraced in one
19 claim.

20 (b) Payment location.--Assessments, whether paid one time or
21 by installments, shall be payable at the office of the borough
22 treasurer or any other place as the applicable ordinance shall
23 provide.

24 Section 257. Article XXII heading of the act is reenacted to
25 read:

26 ARTICLE XXII

27 STORM SEWERS AND WATER COURSES

28 Section 258. Sections 2201, 2202, 2203 and 2204 of the act
29 are amended to read:

30 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



1 repairing the embankments along [such] the water course, when
2 the same cannot be obtained by contract at reasonable price.
3 [Such] The boroughs shall cause no unnecessary damage to the
4 owners of [such] the land, and shall repair any fences [which
5 they may injure], structures or damage to the land that is
6 caused by the borough, and shall compensate the owner, either by
7 agreement or in accordance with the law governing eminent
8 domain, for any materials obtained pursuant to this section.

9 Section 2203. Manner of Financing Work.--[The costs and
10 expenses of any work authorized under section 2201 of this act
11 may be paid wholly or in part by the borough from any moneys of
12 the borough available for the purpose, with or without the
13 assistance of the county, State or Federal Government, or the
14 whole or any part of such costs and expenses not thus aided may
15 be assessed, according to benefits as prescribed in article XV
16 of this act, against properties located within the drainage area
17 of such water course and benefited, improved or accommodated
18 thereby.] A borough may pay for the costs and expenses of any
19 work authorized under section 2201 wholly or in part from any
20 moneys of the borough available for the purpose. To the extent
21 that a borough does not receive assistance from the Federal,
22 State or county government for the costs and expenses of the
23 work, the borough may assess the benefited properties located
24 within the drainage area of the water course in accordance with
25 Article XXI-A.

26 Section 2204. Proceedings to Assess Damages.--Any person
27 aggrieved by [reason of] any ordinance [passed] enacted or
28 action taken pursuant to the preceding sections of this article
29 may [complain to] file a complaint with the court of common
30 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

1 either by the borough or by corporations owning such wires, or
2 by corporations organized for the purpose of laying such
3 conduits and renting space therein.

4 Section 2302. Borough Regulations.--Whenever conduits are
5 owned by any person, firm, or corporation, the borough may
6 regulate, by ordinance, the manner in which conduits shall be
7 used, and the terms and conditions of such use.

8 Section 2303. Acquisition of Conduits; Assessment of
9 Damages.--Any borough may acquire existing conduits by purchase
10 or by condemnation, and, in the latter case, the proceedings for
11 the assessment of damages shall be the same as provided in the
12 law governing eminent domain.

13 Section 2304. Borough Not to Surrender Rights.--The borough
14 authorities shall not surrender or barter away the rights
15 reserved in this article.]

16 Section 261. Article XXIV and subdivision (a) (1) headings
17 and sections 2401, 2402, 2403 and 2404 of the act are amended to
18 read:

19 ARTICLE XXIV

20 [PUBLIC SERVICE] WATER SYSTEM

21 (a) [Water Supply and Waterworks

22 (1)] General Powers to Supply Water

23 Section 2401. Power to Supply Water and Make Regulations.--

24 (a) Boroughs may [provide a] supply [of] water for the use of
25 the public within [such] the borough, by [erecting] constructing
26 or purchasing and operating [waterworks, by purchasing and
27 operating waterworks] a water system, by entering into contract
28 with persons or corporations authorized to supply water within
29 the limits of [such] the borough, or partly by [the erection or
30 purchase and operation of waterworks] constructing or purchasing

1 and operating a water system, and partly by entering into a
2 contract.

3 (b) Borough council may make regulations for the protection
4 of water pipes, reservoirs and other apparatus used in the
5 supplying or storing of water, for the prevention of the waste
6 of water supplied and for the drilling of water wells within the
7 borough.

8 (c) Borough council shall fix the rates to be charged for
9 the water furnished to individuals, partnerships, associations
10 or corporations and shall provide for the collection of water
11 rents from users of water supplied by the borough. The borough's
12 provision of water to users outside the borough limits, as to
13 character of service, extensions and rates, shall be subject to
14 any applicable approval, regulation, or control imposed by 66
15 Pa.C.S. Pt. I (relating to Public Utility Code).

16 Section 2402. Contracts Not to Abridge Powers.--[No contract
17 for the supply of water hereafter entered into by any borough
18 with any person or corporation shall, in anywise, abridge the
19 power of the borough to construct and operate waterworks as
20 provided in the preceding section of this article, but such] A
21 borough's power to construct and operate a water system as
22 provided in section 2401 shall not be abridged by the borough
23 entering into a contract with a person or corporation for the
24 supply of water, but the power shall remain in force as though
25 [such] the contract had not been made.

26 Section 2403. Issue of Bonds Where [Waterworks] Water System
27 Acquired.--Where the price and terms are agreed upon, a borough
28 may become the owner of and operate any water system owned and
29 operated by a corporation furnishing water within the acquiring
30 borough, and in nearby [townships or boroughs] municipal

1 corporations, and may pay [therefor] for the water system from
2 the revenues derived from general obligation bonds or utility
3 bonds issued in the manner provided by [the Municipal Borrowing
4 Law] 53 Pa.C.S. Pt. VII Subpt.B (relating to indebtedness and
5 borrowing).

6 Section 2404. Refunding Bonds.--[Where any borough has
7 heretofore acquired or shall hereafter acquire any waterworks
8 and the appurtenances thereto, subject to any existing lien or
9 liens, and at the time of such acquisition issues utility bonds
10 secured solely by liens on the property of such waterworks and
11 imposing no municipal liability; then the borough may, at the
12 time such utility bonds mature, or at any time prior thereto,
13 issue and sell utility bonds for the purpose of refunding such
14 outstanding bonds, which refunding bonds shall be issued as
15 utility bonds in the manner provided by the Municipal Borrowing
16 Law. Such bonds so issued,] (a) If a borough acquires a water
17 system, subject to any existing lien or liens and, at the time
18 of acquisition, issues utility bonds secured by the liens on the
19 water system and which imposes no municipal liability, then,
20 when the utility bonds mature or at any time prior, the borough
21 may issue and sell utility bonds for the purposes of refunding
22 the outstanding bonds. The refunding bonds shall be issued as
23 utility bonds pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating
24 to indebtedness and borrowing). The issued bonds shall not be
25 deemed to be the creation of new obligations but be deemed a
26 continuation of the bonds existing or created at the time of the
27 original acquisition of [said waterworks and the appurtenances
28 thereto] the water system.

29 [Such] (b) The bonds shall not be refunded for a longer
30 period than twenty years, and the refunding lien bonds issued

1 shall not bear interest at a rate exceeding six percent[, and
2 the]. The amount of the issued refunding lien bonds[, so
3 issued,] shall not exceed, in the aggregate, the amount of the
4 bonds to be refunded[: Provided, That], provided that any moneys
5 placed in any fund by the borough or by any commission of
6 [waterworks] the water system for the purpose of redeeming or
7 paying [such] the bonds at maturity, shall be first applied to
8 the payment, as far as applicable, of the principal of [such]
9 the bonds to be refunded, and the balance of [such] the bonds
10 only shall be refunded by the issue of new bonds.

11 Section 262. Section 2405 of the act is repealed:

12 [Section 2405. Rates in Particular Boroughs.--Whenever the
13 schedule of water rates in any borough, owning or controlling
14 waterworks, shall have been fixed or limited by special act of
15 Assembly, the borough may change the rates schedule or rates
16 from time to time.]

17 Section 263. Sections 2406, 2407, 2408 and 2409 of the act
18 are amended to read:

19 Section 2406. Contracts to Supply Water for Municipal
20 Purposes.--Boroughs may receive bids from water companies and
21 municipal authorities, authorized to do business within [such]
22 the borough, and from other municipalities operating [waterworks
23 or distributing water] a water system, for the supply of water
24 for fire protection and for other municipal purposes, and may
25 contract [therefor] for the supply of water with [such] the
26 company.

27 Section 2407. Power to Supply Water Beyond Limits of
28 Borough.--Whenever any borough is maintaining [waterworks] a
29 water system, it shall be lawful for [such] the borough to
30 supply water to persons and corporations outside the limits of

1 [such] the borough[; but no such], but shall be subject to any
2 applicable approval or regulation imposed by 66 Pa.C.S. Pt. I
3 (relating to Public Utility Code). The privilege shall not
4 conflict with the corporate rights of any water company, or the
5 rights of any other municipality or municipal authority.

6 Section 2408. Assessment for Water Mains.--Boroughs shall
7 have power to assess the whole cost, or any part of the cost, of
8 construction of new water mains, built in connection with the
9 establishment or extension of a municipally owned water supply
10 system in accordance with Article XXI-A, whether [such mains be]
11 the mains are located within or without the limits of the
12 borough[, and serving the properties abutting thereon, against
13 the properties abutting along the line thereof, by the foot-
14 front rule, and to collect such assessments as other municipal
15 claims are now by law collectible: Provided, That the assessment
16 may be rebated to the owner of the property assessed, out of
17 rates charged for water consumed in serving the property so
18 assessed: And provided further, That the borough may issue
19 negotiable credit memorandum to the amount of the assessment,
20 which may be used for the payment of any water service to the
21 extent of the said assessment].

22 Section 2409. Sale of [Waterworks.--] Water System.--(a) By
23 ordinance, a borough may sell all or part of its [waterworks
24 and/or water distribution] water system to a purchaser at [such]
25 an agreed upon price [as the parties may agree upon], and
26 thereafter for all purposes that price shall be deemed to be the
27 purchaser's original cost less accrued depreciation of the plant
28 at the date of purchase[: Provided, That no]. No such ordinance,
29 however, shall take effect until the expiration of ten days
30 following its enactment and if, within [such] that ten-day

1 period, a protest, signed by at least ten percent of the
2 registered electors of the borough [shall be] is filed with the
3 borough council, [such] the sale shall be stayed pending a
4 referendum on the ordinance.

5 (b) The borough secretary within five days following the
6 filing of [such] the protest, shall certify to the county board
7 of elections a copy of the ordinance and the fact of the
8 protest, together with the number of signers [thereof] of the
9 protest, and the county board of elections shall direct a
10 referendum to be held on the matter at a special election to be
11 held at the time of the next general or municipal or primary
12 election occurring not less than sixty days from the date of
13 [such] the certification by the borough secretary. [Such] The
14 referendum shall be conducted by the county board of elections
15 in the manner provided by the Pennsylvania Election Code for the
16 holding of special elections. The ballot used when voting upon
17 the question shall contain a question stating the nature and
18 purpose of the ordinance and providing that a "yes" vote shall
19 be to sustain the ordinance and a "no" vote shall be to reject
20 it. If more electors vote to sustain the ordinance than to
21 reject it, [such] the ordinance shall take effect immediately[;
22 if]. If more electors shall vote to reject the ordinance than to
23 sustain it, [such] the ordinance shall be null and void and
24 shall not take effect.

25 Section 264. Article XXIV subdivision (a)(2) heading of the
26 act is renumbered and amended to read:

27 [(2)] (a.1) Acquisition by Eminent Domain

28 Section 265. Sections 2411 and 2412 of the act are amended
29 to read:

30 Section 2411. Appropriation of Lands and Waters.--Any

1 borough desiring to [erect waterworks,] build a water system or
2 to improve its water supply[,] may appropriate springs, streams,
3 rivers, or creeks and lands, easements and rights of way, within
4 or without its limits[, and, for], provided that if the
5 appropriation is outside its limits, the appropriation shall be
6 in compliance with 26 Pa.C.S. § 206 (relating to
7 extraterritorial takings). For the purpose of conducting water
8 obtained outside [the] its limits [of the borough,] a borough
9 may lay pipes under and over any lands, rivers, streams,
10 bridges, highways and under railroads. No water appropriated
11 under the provisions of this section shall be used in [such] a
12 manner as to deprive the owner [thereof] of the water of the
13 free use and enjoyment of the same for domestic or farm
14 purposes. The exercise of the powers in this section shall be
15 subject to any required approvals or permits from the Department
16 of Environmental Protection or other Federal or State entity.

17 Section 2412. Agreements as to Damages; Bonds.--Prior to any
18 [such] appropriation pursuant to section 2411, the borough shall
19 attempt to agree with the owner as to the damage done, or likely
20 to be done[, and, if]. If the parties cannot agree, the borough
21 shall [file its bond in the court of common pleas, conditioned
22 for the payment to the owner of the property of the damages for
23 the taking thereof, when the same shall have been ascertained.
24 Upon the approval of the bond and filing thereof, the borough
25 may enter upon such property.] proceed pursuant to 26 Pa.C.S.
26 (relating to eminent domain).

27 Section 266. Section 2413 of the act is repealed:

28 [Section 2413. Appointment of Viewers; Proceedings.--Upon
29 petition of either the property owner or borough, at any time
30 thereafter, the court shall appoint three viewers from the

1 county board of viewers, who shall assess the damages for the
2 property or rights appropriated, and shall fix a time for their
3 meeting, of which notice shall be given to all parties
4 interested. The proceedings for the assessment of damages shall
5 be as provided in the law governing eminent domain.]

6 Section 267. Article XXIV subdivision (a)(3) heading of the
7 act is renumbered and amended to read:

8 [(3)] (a.2) Acquisition by Purchase after Appraisement

9 Section 268. Sections 2421, 2422 and 2423 of the act are
10 amended to read:

11 Section 2421. Petition to Court Expressing Desire to Acquire
12 [Waterworks] a Water System.--Whenever any person, firm, or
13 corporation [shall own] owns any [waterworks or] water system,
14 and a borough is desirous of owning and operating [such
15 waterworks or] the water system, [such] a borough may present
16 its petition to the court of common pleas of the county where
17 the water system is located, setting forth that the borough is
18 desirous of owning [such waterworks or] the water system, and
19 that it will be necessary to issue bonds, and that a value
20 should be placed upon [such waterworks or] the water system,
21 including all property, real and personal, used in connection
22 therewith.

23 Section 2422. Appointment of Engineers as Appraisers to Make
24 Valuation.--The court shall [thereupon] appoint three civil
25 engineers as appraisers, to value and appraise [such waterworks
26 or] the water system, and the property used in connection
27 [therewith] with the water system, and the contracts or
28 agreements with municipalities [or townships, who]. The civil
29 engineers shall file their report in the court within three
30 months after their appointment, unless [such] the time [be] is

1 extended by the court.

2 Section 2423. Powers of Appraisers.--The appraisers shall
3 have access to the books and records of the person, firm, or
4 corporation owning [such waterworks or] the water system, to
5 inform themselves as to the income and value [thereof] of the
6 water system. They shall have power to administer oaths and are
7 authorized to take the testimony of witnesses. Their report
8 shall be final if not appealed from.

9 Section 269. Section 2424 of the act, repealed in part June
10 3, 1971 (P.L.118, No.6), is amended to read:

11 Section 2424. Appeal from Appraisalment.--Within ten days
12 after notice of the filing of any report in court, either party
13 may appeal from [such] the appraisalment by filing a petition for
14 a hearing before the court, alleging an undervaluation or
15 overvaluation of the property[, and praying for a hearing before
16 the court]. The court shall [thereupon] fix a time when [such]
17 the appeal may be heard, [of which time at least ten days'
18 notice shall be given to the parties] giving at least ten days'
19 notice to the parties, and, upon such hearing, the court shall
20 have power to affirm or modify [such] the report as to it
21 appears just and proper.

22 Section 270. Sections 2425 and 2426 of the act are amended
23 to read:

24 Section 2425. Effect of Failure of Owner of Works to Accept
25 Price Fixed.--After the value is finally determined, the borough
26 is authorized to buy [such waterworks or] the water system at
27 the valuation so fixed[; and the]. The person, firm, or
28 corporation owning the [same] water system shall, within ten
29 days after notice, file in court its consent to sell and convey
30 its [waterworks or] water system and property to the borough at

1 the valuation fixed[;] and, in default [thereof, such] of the
2 filing of the consent, the person, firm, or corporation shall
3 cease to have any exclusive privilege of supplying the borough,
4 or the citizens [thereof] of the borough, with water, and the
5 borough may install [such waterworks or] the water system as may
6 be necessary for the accommodation of the public.

7 Section 2426. [Issue of Bonds] Bond Issue and Limitations.--

8 For the purpose of [such purchase] purchasing a water system,
9 the borough may issue utility bonds in the manner provided by
10 [the Municipal Borrowing Law.] 53 Pa.C.S. Pt. VII Subpt. B
11 (relating to indebtedness and borrowing). The bonds shall not
12 exceed in amount the value fixed by the appraisers or the court.
13 The proceeds of the sale of the bonds shall be used exclusively
14 for the purpose of paying for the property acquired.

15 Section 271. Section 2427 of the act is repealed:

16 [Section 2427. Limit of Bond Issue.--Such bonds shall not
17 exceed in amount the value fixed by the appraisers or the court.
18 The proceeds of the sale of such bonds shall be used exclusively
19 for the purpose of paying for the property acquired.]

20 Section 272. Article XXIV subdivision (a)(4) heading of the
21 act is renumbered and amended to read:

22 [(4)] (a.3) Power to Lease [Waterworks] a Water System

23 Section 273. Sections 2431, 2432 and 2433 of the act are
24 amended to read:

25 Section 2431. Lease of [Waterworks] a Water System.--The
26 council of any borough may enter into a contract with any
27 individual, [copartnership] partnership, association, or
28 corporation, for the leasing of any water [supply, works,
29 systems, and property, or both of such] system of the
30 individual, [copartnership] partnership, association, or

1 corporation.

2 Section 2432. Term of Lease; Rental.--[Such leasing] The
3 lease term may be for [such] a term of years and at [such] a
4 rental price, as shall be agreed upon by the borough and the
5 individual, copartnership, association, or corporation.

6 Section 2433. Operation of Property.--[The property, so
7 acquired, shall be operated in the same manner as if the same
8 had been acquired by such borough by purchase or condemnation
9 proceedings] A borough shall have the same powers in operating a
10 leased water system as it would have in operating a purchased or
11 condemned water system.

12 Section 274. Section 2434 of the act is repealed:

13 [Section 2434. Rates.--The council of the borough shall fix
14 the rates to be charged for the water furnished without the
15 limits of such borough to individuals, copartnerships,
16 associations, or corporations.]

17 Section 275. Article XXIV subdivision (a)(5) heading of the
18 act is renumbered and amended to read:

19 [(5)] (a.4) Joint [Waterworks] Water System

20 Section 276. Sections 2436, 2437 and 2438 of the act are
21 amended to read:

22 Section 2436. Joint Acquisitions and Constructions.--[Two or
23 more boroughs may unite, or any borough may unite with a city or
24 township] A borough may join with one or more municipal
25 corporations in the construction or acquisition and maintenance
26 of [waterworks] a water system.

27 Section 2437. Permit of [Sanitary Water Board] Department of
28 Environmental Protection.--The construction of [such waterworks]
29 a water system shall be commenced only after plans for [such
30 waterworks have] the water system has been filed with the

1 Department of [Health and the Water and Power Resources Board]
2 Environmental Protection and, if required by law, other Federal
3 or State entities, and permits issued in accordance with law.

4 Section 2438. Joint Commission of [Waterworks] a Water
5 System.--The [boroughs, cities and townships] municipal
6 corporations joining in [any such] the construction or
7 acquisition and maintenance of [waterworks, in order to
8 facilitate the building, operation and maintenance of the same,
9 and in securing preliminary surveys and estimates,] a water
10 system may, by ordinance, provide for the appointment of a joint
11 commission of [waterworks, composed of one representative from
12 each of the boroughs, cities and townships joining, which] a
13 water system in order to facilitate the construction, operation
14 and maintenance of the water system and to secure preliminary
15 surveys and estimates. The joint commission shall act generally
16 as the advisory and administrative agency in the construction of
17 [such] the improvement and its subsequent operation and
18 maintenance and shall be composed of one representative from
19 each of the joining municipal corporations. The members of [such
20 board] the commission shall serve for terms of six years each
21 from the dates of their respective appointments and until their
22 successors are appointed. The commission shall organize by the
23 election of a [chairman] chair, secretary and treasurer. The
24 secretary and treasurer may be the same person. The [several
25 boroughs, cities and townships] municipal corporations may in
26 the ordinances creating the commission authorize it to appoint
27 an engineer, a solicitor and [such] other assistants as are
28 deemed necessary and agree to share the compensation for
29 attending its meetings as shall be fixed in the budget prepared
30 by the commission and submitted to and adopted by the [several

1 boroughs, cities and townships] joining municipal corporations.

2 The budget item providing for the compensation to the members
3 for attending meetings shall not exceed five hundred dollars
4 (\$500) per year, but members in addition thereto shall be
5 entitled to actual expenses to be paid by the respective
6 [boroughs, cities and townships which such] municipal
7 corporations that the members represent. The fee for each
8 attendance at meetings shall be stipulated and no member shall
9 be paid a fee for any meeting [he] the member does not attend.

10 Section 277. Article XXIV subdivision (a)(6) heading of the
11 act is renumbered and amended to read:

12 [(6)] (a.5) Condemnation of Lands for Road Purposes
13 and to Prevent Contamination

14 Section 278. Sections 2441 and 2442 of the act are amended
15 to read:

16 Section 2441. [Overflowing Roads] Prevention of
17 Contamination of Water Supply; Acquisition of Lands to
18 Reconstruct Roads.--[Whenever any borough, in supplying water to
19 the public, shall find it necessary, in storing water] (a) If a
20 borough finds it necessary, when storing water for supply to the
21 public, to occupy and overflow [with water] portions of any
22 public road with water, or whenever any public road leads into
23 or crosses over any reservoir used for the storage of water, the
24 borough shall [cause such road to be reconstructed, at its own
25 expense, on a favorable location, and in as perfect manner as
26 the original road, and, for such purposes is authorized to
27 condemn land, whenever an agreement as to the price cannot be
28 had with the owners.], at its own expense, reconstruct or build
29 a road in a favorable location and it shall be in the same or
30 better condition as the original road. A borough is authorized

1 to condemn land for these purposes if an agreement as to price
2 cannot be reached with the landowner. A condemnation of land
3 outside the borough limits shall be in conformity with 26
4 Pa.C.S. § 206 (relating to extraterritorial takings).

5 (b) A borough may acquire, by purchase or condemnation, land
6 along and contiguous to streams of water or reservoirs from
7 which water is taken for public use if necessary to preserve the
8 water from contamination.

9 Section 2442. Filing Maps and Plans.--[After such] If a
10 change is made pursuant to section 2441(a), the borough shall
11 file in the court of [quarter sessions of the county] common
12 pleas a map or plan showing [such] the change of road, and if
13 the road is outside the limits of the borough, it shall furnish
14 to the [supervisors or other authorities of the township, or
15 municipal corporation] governing body of the municipal
16 corporation, a copy of [such] the map.

17 Section 279. Sections 2443 and 2444 of the act are repealed:

18 [Section 2443. Condemnation of Lands to Prevent
19 Contamination.--Any borough may acquire, by purchase or
20 condemnation, such land along and contiguous to the streams of
21 water or reservoirs from which water is taken for public use, as
22 may be necessary to preserve the same from contamination.

23 Section 2444. Condemnation Proceedings.--The damages
24 incurred in changing the location of any such public road, and
25 in condemning land to preserve water from contamination, shall
26 be ascertained in the manner provided in the law governing
27 eminent domain, and shall be paid by the borough.]

28 Section 280. Article XXIV subdivision(a)(7) heading of the
29 act is renumbered and amended to read:

30 [(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

1 case of a vacancy, the council shall fill the same for the
2 unexpired term. [Such] The commissioners of [waterworks] the
3 water system may receive a salary for their services and shall
4 be reimbursed by the borough for all expenses necessarily
5 incurred in the performance of their [duty] duties.

6 (b) The salary of the commissioners shall not exceed in
7 service areas with fewer than five thousand metered accounts a
8 maximum of one thousand eight hundred seventy-five dollars
9 (\$1875) per year or one hundred fifty-six dollars and twenty-
10 five cents (\$156.25) per month; in service areas with five
11 thousand but fewer than ten thousand metered accounts, a maximum
12 of two thousand five hundred dollars (\$2500) per year or two
13 hundred and eight dollars and thirty-three cents (\$208.33) per
14 month; in service areas with ten thousand but fewer than fifteen
15 thousand metered accounts, a maximum of three thousand two
16 hundred and fifty dollars (\$3250) per year or two hundred and
17 seventy dollars and eighty-three cents (\$270.83) per month; in
18 service areas with fifteen thousand but fewer than twenty-five
19 thousand metered accounts, a maximum of four thousand one
20 hundred and twenty-five dollars (\$4125) per year or three
21 hundred and forty-three dollars and seventy-five cents (\$343.75)
22 per month; in service areas with twenty-five thousand but fewer
23 than thirty-five thousand metered accounts, a maximum of four
24 thousand three hundred seventy-five dollars (\$4375) per year or
25 three hundred sixty-four dollars and fifty-eight cents (\$364.58)
26 per month; and in service areas with thirty-five thousand or
27 more metered accounts, a maximum of five thousand dollars
28 (\$5000) per year or four hundred and sixteen dollars and sixty-
29 seven cents (\$416.67) per month.

30 Section 282. Sections 2453, 2454, 2455, 2456, 2457 and 2458

1 of the act are amended to read:

2 Section 2453. Organization of Commissioners.--It shall be
3 the duty of the commissioners of [waterworks] the water system
4 to meet within ten days after their first appointment, and
5 annually thereafter, and organize by electing a president and
6 secretary.

7 Section 2454. Powers of Commission.--After organization, the
8 commissioners shall take charge and control of the [waterworks]
9 water system of [such] the borough. The commission shall have
10 power to appoint all necessary officers and agents, and take
11 from [them such] the officers and agents security for the
12 faithful performance of their [duty] duties as [they] the
13 commission shall deem proper[; and], to fix the salaries and
14 wages of [such] the officers and agents[;], to provide for the
15 repair, extension, improvement and maintenance of [such
16 waterworks] the water system, and the [erection] construction of
17 a new [waterworks;] water system, to collect water rents and to
18 make and establish the rates and conditions upon which water
19 will be furnished to applicants [therefor], subject to any
20 applicable approval, regulation or control imposed by 66 Pa.C.S.
21 Pt. I (relating to Public Utility Code) and to make bylaws and
22 regulations for the economic and efficient management of [such
23 waterworks] the water system, which shall not be inconsistent
24 with any of the laws of the Commonwealth, or the rules and
25 regulations of the [Sanitary Water Board or the Water and Power
26 Resources Board of the Commonwealth] Department of Environmental
27 Protection. No such bylaws or regulations shall become effective
28 until they have been approved by the borough council and enacted
29 as ordinances of the borough.

30 Section 2455. Issue of Bonds.--The borough may, upon the

1 request of the commissioners of [waterworks] the water system,
2 issue general obligation or non-debt revenue bonds for the
3 extension of the [waterworks] water system or the erection of a
4 new [waterworks. Such] water system. The bonds shall be
5 designated ["waterworks] "water system bonds" and shall be
6 issued and sold in the manner provided by [the Municipal
7 Borrowing Law] 53 Pa.C.S. Pt. VII Subpt. B (relating to
8 indebtedness and borrowing).

9 Section 2456. Plans and Specifications for the Improvements;
10 Contracts.--The commissioners shall prepare plans and
11 specifications of all work to be performed and materials
12 necessary for the repair, maintenance, and extension of [such
13 waterworks] the water system, or the [erection] construction of
14 a new [waterworks; and] water system. The commissioners shall,
15 after plans and specifications for the extension or the
16 [erection] construction of [waterworks have] a water system has
17 been submitted to and approved by the [Sanitary Water Board]
18 Department of Environmental Protection, and a permit granted
19 [therefor by the board] as may be required by law, invite
20 proposals for the performing of [such] the work and the
21 furnishing of [such] materials[;], and shall ADVERTISE FOR BIDS ←
22 AS REQUIRED BY LAW, AND SHALL let contracts [therefor] to the
23 lowest responsible bidder, and shall take adequate security for
24 the performance of all such contracts and for the payment of all
25 labor and materials.

26 Section 2457. Reports by Commission.--The commissioners
27 shall make a monthly report to the borough council of the
28 receipts and disbursements during the preceding month, and
29 annually make a detailed report of the condition of the
30 [waterworks, which shall be published or otherwise made

1 available by the council for the information of the public.]
2 water system. Both the monthly and annual reports shall be
3 deemed to be public records.

4 Section 2458. Care of Funds.--[The commissioners shall cause
5 all moneys collected to be deposited weekly, by the collectors,]
6 Collectors shall be appointed by the commissioners, pursuant to
7 section 2454, who shall collect all moneys for water rents. The
8 moneys collected shall be deposited weekly with the borough
9 treasurer, who shall return a receipt [therefor] to the
10 commissioners. All moneys [so] collected shall be kept in a
11 separate fund, and shall be used for the purpose of repairing,
12 maintaining and extending [such waterworks] the water system,
13 and the [erection] construction of a new [waterworks] water
14 system. All moneys remaining after [such] the expenditures shall
15 be used solely for the payment of any indebtedness on [said
16 waterworks] the water system and any indebtedness incurred by
17 the borough for constructing, maintaining, improving, enlarging
18 or extending [said waterworks] the water system. [Said moneys
19 shall be used for no purpose other than as provided in this
20 section.] No money shall be drawn from [such] the fund except
21 upon order countersigned by the president and secretary of the
22 commission.

23 Section 283. Article XXIV subdivision (a)(8) heading of the
24 act is renumbered and amended to read:

25 [(8)] (a.7) Water Connections

26 Section 284. Sections 2461, 2462 and 2463 of the act are
27 amended to read:

28 Section 2461. Ordinances to Require Water Connections.--[Any
29 borough supplying water for the use of the public within such
30 borough, in any manner mentioned in section 2401 of this act,]

1 (a) Borough council may, by ordinance, require any owner of
2 property [abutting upon any street in which there is a water
3 main constructed or acquired by the borough, to make connections
4 with such water line, for the purpose of conducting water to
5 such property. The borough may by penalties enforce any
6 regulation it may ordain with reference to such water
7 connections.] to connect with and use a water system of the
8 borough or municipal authority or a joint water board in either
9 of the following cases:

10 (1) Except as provided in subsection (b), if the property
11 owner's principal building is located within one hundred fifty
12 feet of a water system or any part or extension of the system.

13 (2) If the property owner's principal building has no supply
14 of water which is safe for human consumption.

15 (b) A property owner who, after the effective date of this
16 subsection, is subject to mandatory connection pursuant to
17 subsection (a)(1) shall not be required to connect to the water
18 system pursuant to that subsection if all of the following
19 conditions exist:

20 (1) The water system or part or extension of the system that
21 is within one hundred fifty feet of the principal building was
22 in existence on the effective date of this subsection.

23 (2) The principal building has its own supply of water which
24 is safe for human consumption.

25 (3) Prior to the effective date of this subsection, the
26 property owner was not required to connect to the existing
27 system.

28 (c) A borough may also require any owner of property to
29 install and maintain a backflow prevention device based on the
30 degree of potential hazard of the connected property IN



1 ACCORDANCE WITH THE ACT OF NOVEMBER 10, 1999 (P.L.491, NO.45),
2 KNOWN AS THE "PENNSYLVANIA CONSTRUCTION CODE ACT," AND
3 REGULATIONS PROMULGATED THEREUNDER.

4 (d) A borough may assess penalties for the violation of
5 ordinances pertaining to water connections or backflow
6 prevention devices.

7 Section 2462. Notice of Ordinance; Failure to Comply With
8 Ordinance.--The owner shall be given at least forty-five days'
9 notice of any ordinance requiring [such] a water connection,
10 and, upon failure of [such] the owner to make [such] the
11 required connection, the borough may make the [same] connection,
12 and collect the cost [thereof] from the owner by a municipal
13 claim or in an action of assumpsit. All connections required
14 shall be uniform.

15 Section 2463. Water Main Tapping Fees.--Any borough may, by
16 ordinance, provide for charging a tapping fee calculated in
17 accordance with 53 Pa.C.S. § 5607 (relating to purposes and
18 powers) whenever the owner of any property connects [such] the
19 property with a water main constructed or acquired by the
20 borough[, which]. The tapping fee shall be in addition to any
21 charges assessed and collected against [such] the property in
22 the construction or acquisition of [such] the water main by the
23 borough. Whenever a water main or part or extension [thereof]
24 owned by a borough has been constructed by the borough at the
25 expense of a private person or corporation or has been
26 constructed by a private person or corporation under the
27 supervision of the borough at the expense of the private person
28 or corporation, the borough shall have the right to charge a
29 tapping fee calculated in accordance with 53 Pa.C.S. § 5607 and
30 refund [said] the tapping fee or any part [thereof] of the

1 tapping fee to the person or corporation who has paid for the
2 construction of [said] the water main or any part or extension
3 [thereof]. The total of [said] the refunds shall never exceed
4 the cost of [said] the system or any part or extension [thereof]
5 to the person or corporation paying for the construction
6 [thereof].

7 Section 285. Article XXIV subdivision (b) heading of the act
8 is repealed:

9 [(b) Manufacture and Supply of Electricity]

10 Section 286. Section 2471 of the act, amended December 16,
11 1992 (P.L.1215, No.158), is repealed:

12 [Section 2471. Manufacture and Purchase of Electricity.--Any
13 borough may manufacture or purchase electricity for the use of
14 the inhabitants of such borough. Any borough owning or operating
15 electric light plants may make contracts for supplying
16 electricity for commercial purposes outside the limits of such
17 borough, with the consent of the municipal and township
18 authorities. Nothing in this section shall conflict with the
19 corporate rights of any corporation empowered to supply
20 electricity in territory adjacent to such boroughs, or with the
21 rights of any other borough. No person, firm, or corporation
22 shall introduce electric current for light, heat, or power
23 purposes, without the consent of the borough authorities, into
24 the limits of any borough which is furnishing electric current
25 to the inhabitants: Provided, however, That this section shall
26 not apply to any person, firm, or corporation manufacturing
27 electricity exclusively for its own use: And provided further,
28 That any borough which constructs an electric light plant, or
29 purchases the property of any person, copartnership, or electric
30 light company, and incurs debt for any of such purposes, shall

1 incur such debt in accordance with and to the extent permitted
2 by the act of July 12, 1972 (P.L.781, No.185), known as the
3 "Local Government Unit Debt Act." Nothing in this act shall be
4 construed so as to disallow any borough from operating a cable
5 television system.]

6 Section 287. Sections 2471.1 and 2471.2 of the act, added
7 December 30, 1982 (P.L.1465, No.333), are repealed:

8 [Section 2471.1. Operation of Electric Plants.--(a) The
9 following words and phrases when used in this section shall
10 have, unless the context clearly indicates otherwise, the
11 meanings given to them in this subsection:

12 (1) "Project" means any electric plants, hydroelectric plant
13 works, system, facilities, or real or personal property,
14 together with all parts thereof and appurtenances thereto, used
15 or useful in connection with the generation, production,
16 transmission, purchase, sale, exchange or interchange of
17 electric power or energy, or any interest therein or right to
18 capacity thereof.

19 (2) "Revenue bond" means an instrument imposing an
20 obligation for the repayment of money borrowed, payable as to
21 both principal and interest exclusively from the income and
22 revenues derived from an interest in an electric light plant or
23 project.

24 (b) A borough may own, construct, acquire by lease, purchase
25 or otherwise gain an interest as co-owner or tenant in common
26 and operate and manage or cause to be operated and managed an
27 electric light plant or project located within or without this
28 Commonwealth jointly with any other borough, political
29 subdivision, subdivision of the Federal Government, State,
30 political subdivision of another state, private corporation

1 empowered to supply electricity, electric cooperative
2 corporation formed under the act of June 21, 1937 (P.L.1969,
3 No.389), known as the "Electric Cooperative Corporation Act," or
4 electric cooperative corporation in another state.

5 (c) A borough which jointly owns, constructs, leases,
6 purchases or otherwise gains an interest in an electric light
7 plant or project shall have the power to do and accomplish all
8 actions reasonably necessary and incident to the administration,
9 operation and management of the plant or project. This power
10 shall be vested in the corporate authorities: Provided, however,
11 That a borough shall not become a stockholder in, obtain or
12 appropriate money for or loan its credit to any corporation,
13 association, institution or individual or otherwise act contrary
14 to the provisions of section 9 of Article IX of the Constitution
15 of Pennsylvania. In addition to the powers enjoyed by all
16 boroughs, a borough which gains an interest in an electric light
17 plant or project under subsection (b) shall have the following
18 powers:

19 (1) to cooperate with private power companies, other
20 boroughs, electric cooperative corporations and other public or
21 private electric power entities, inside and outside of this
22 Commonwealth, in the development of electric power and energy;

23 (2) to make such studies as may be necessary to determine
24 the feasibility and cost of any additional sources and supplies
25 of electric power and energy;

26 (3) to contract for the purchase, sale, exchange,
27 interchange, wheeling, pooling or transmission of electric power
28 and energy or for the right to the capacity thereof, inside and
29 outside of this Commonwealth, to and from any public or private
30 power entities, private power companies, other boroughs and

1 electric cooperative corporations;

2 (4) to procure insurance against any losses in connection
3 with its property, operations or assets in such amounts and from
4 such insurers as the corporate authorities deem desirable;

5 (5) to contract for and to accept any gifts or grants or
6 loans of funds or property or financial or other aid in any form
7 from the United States of America or any agency or
8 instrumentality thereof, or from any other source;

9 (6) to grant the use, by lease or otherwise, and to make
10 charges for the use, of any property or facility owned or
11 controlled by it;

12 (7) to procure from the United States of America or any
13 agency or instrumentality thereof, or from any state or agency
14 or instrumentality thereof, any consents, authorizations or
15 approvals which may be requisite to enable ownership, operation,
16 construction or repair;

17 (8) to borrow money and from time to time to issue revenue
18 bonds, and to enter into agreements with the purchasers of such
19 revenue bonds; and

20 (9) to mortgage any property acquired or owned under
21 subsection (b) to secure the payment of its revenue bonds, or
22 other obligations issued to finance such acquisition, ownership
23 or repair.

24 (d) In the erection and extension of an electric light plant
25 or project under subsection (b) and for all other purposes
26 authorized by this act, a borough may enter upon, appropriate,
27 injure, or destroy private lands, property or material according
28 to the proceedings set forth in the law governing eminent
29 domain: Provided, however, That a borough shall not have the
30 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

1 personal property, together with all parts thereof and
2 appurtenances thereto, used or useful in connection with the
3 generation, production, transmission, purchase, sale, exchange
4 or interchange of electric power or energy, or any interest
5 therein or right to capacity thereof.

6 (3) "Revenue bond" means an instrument imposing an
7 obligation for the repayment of money borrowed, payable as to
8 both principal and interest exclusively from the income and
9 revenues derived from an interest in an electric light plant or
10 project.

11 (b) Any two or more boroughs may form a municipal power
12 agency by the execution of any agency agreement authorized by a
13 resolution of the corporate authorities of each borough. Such
14 agency agreement shall state:

15 (1) The name of the agency, which shall include the words
16 "municipal power agency."

17 (2) The names of the boroughs which have approved the agency
18 agreement and are initial members of the municipal power agency.

19 (3) That the municipal power agency is created pursuant to
20 the authority granted by this act.

21 (4) The names and addresses of the persons initially
22 appointed by the corporate authorities to act as representatives
23 to the municipal power agency from the member boroughs.

24 (5) The limitations, if any, placed on the powers or terms
25 of representatives appointed by the corporate authorities of the
26 member boroughs.

27 (6) The names and addresses of the initial board of
28 directors of the municipal power agency, if known by the time of
29 filing, which shall be constituted by not less than five persons
30 who are representatives of the member boroughs, selected by the

1 vote of a majority of such representatives.

2 (c) The agency agreement referred to in subsection (b) and a
3 certified copy of the resolution of the corporate authorities of
4 each borough shall be filed for record with the Secretary of the
5 Commonwealth. If the agency agreement meets the requirements of
6 this subsection, the Secretary of the Commonwealth shall record
7 it and issue and record a certificate of incorporation which
8 shall be conclusive proof of a substantial compliance with the
9 requirements of this subsection. The certificate shall state the
10 name of the municipal power agency and the fact and date of
11 incorporation. Upon the issuance of the certificate of
12 incorporation the existence of the municipal power agency as a
13 political instrumentality of the Commonwealth shall begin.

14 (d) The bylaws of the municipal power agency and any
15 amendments thereto, shall be proposed by the board of directors
16 and shall be adopted by a majority vote of the representatives
17 of the member boroughs, unless the agency agreement requires a
18 greater vote, at a meeting held after notice. Subject to the
19 provisions of the agency agreement, the bylaws shall state:

20 (1) the qualifications of member boroughs, and limitations,
21 if any, upon their number;

22 (2) conditions of membership, if any;

23 (3) manner and time of calling regular meeting of
24 representatives of member boroughs;

25 (4) manner and conditions of termination of membership; and

26 (5) such other provisions for regulating the affairs of the
27 municipal power agency as the representatives of the member
28 boroughs shall determine to be necessary.

29 (e) Every municipal power agency shall maintain an office in
30 this Commonwealth to be known as its registered office. When a

1 municipal power agency desires to change the location of its
2 registered office, it shall file with the Secretary of the
3 Commonwealth a certificate of change of location of registered
4 office, stating the new location by city, town or other
5 community and effective date of change. When the certificate of
6 change of location has been duly filed, the board of directors
7 may make the change without any further action.

8 (f) Each of the directors shall hold office for the term for
9 which he has been selected and until a successor has been
10 selected and has qualified. Directors shall discharge their
11 duties in good faith, and with that diligence and care which an
12 ordinary prudent person in a like position would exercise under
13 similar circumstances. The agency agreement, or the bylaws may
14 prescribe the number, term of office, powers, authority and
15 duties of directors, the time and place of their meetings and
16 other regulations concerning directors. Except where the agency
17 agreement or bylaws prescribe otherwise, the term of office of a
18 director shall be for one year. Except where the agency
19 agreement or bylaws prescribe otherwise, a meeting of the board
20 of directors may be held at any place, within the Commonwealth,
21 designated by the board, after notice, and an act of the
22 majority of the directors present at a meeting at which a quorum
23 is present is the act of the board. Except where the agency
24 agreement or bylaws prescribe otherwise, any vacancy occurring
25 on the board shall be filled by a person nominated by the
26 remaining members of the board and elected by a majority of
27 representatives of the member boroughs.

28 (g) Except where the agency agreement or bylaws prescribe
29 otherwise, the board of directors shall appoint a president from
30 its membership, and a secretary and treasurer, and any other

1 officers or agents deemed to be necessary, who may but need not
2 be borough representatives or directors. An officer may be
3 removed with or without cause by the board of directors.
4 Officers of the municipal power agency shall have the authority
5 and duties in the management of the business of the municipal
6 power agency that the agency agreement or bylaws prescribe, or,
7 in the absence of such prescription, as the board of directors
8 determines.

9 (h) Except as otherwise provided in the agency agreement or
10 the bylaws, the duly authorized representatives of each member
11 borough shall act as, and vote on behalf of, such borough.
12 Except where the agency agreement or bylaws provide otherwise,
13 representatives of the member boroughs shall hold at least one
14 meeting each year for the election of directors and for the
15 transaction of any other business. Except where the agency
16 agreement or bylaws prescribe otherwise, special meetings of the
17 representatives may be called for any purpose upon written
18 request to the president or secretary to call the meeting. Such
19 officer shall give notice of the meeting to be held between ten
20 and sixty days after receipt of such request. Unless the agency
21 agreement or bylaws provide for a different percentage, a quorum
22 for a meeting of the representatives of the member boroughs is a
23 majority of the total members and a quorum for meetings of the
24 board of directors is a majority of the membership of such
25 board.

26 (i) The agency agreement may be amended as proposed at any
27 meeting of the representatives of the members for which notice,
28 stating the purpose, shall be given to each representative and,
29 unless the agency agreement or bylaws require otherwise, shall
30 become effective when ratified by resolutions of a majority of

1 the corporate authorities of the member boroughs. Each amendment
2 and the resolutions approving it shall be filed for record with
3 the Secretary of the Commonwealth.

4 (j) Each member borough shall have full power and authority,
5 within budgetary limits applicable to it, to appropriate money
6 for the payment of expenses of the formation of the municipal
7 power agency and of its representative in exercising its
8 functions as a member of the agency.

9 (k) A municipal power agency may own, construct, acquire by
10 lease, purchase or otherwise gain an interest by itself or as
11 co-owner or tenant in common and operate and manage or cause to
12 be operated and managed an electric light plant or project
13 located within or without this Commonwealth jointly with any
14 political subdivision, subdivision of the Federal Government,
15 State, political subdivision of another state, private
16 corporation empowered to supply electricity, electric
17 cooperative corporation formed under the act of June 21, 1937
18 (P.L.1969, No.389), known as the "Electric Cooperative
19 Corporation Act," or electric cooperative corporation in another
20 state.

21 (l) All powers of a municipal power agency shall be
22 exercised by its board of directors, unless otherwise provided
23 by the agency agreement or bylaws. A municipal power agency
24 shall have the power to do and accomplish all actions reasonably
25 necessary and incident to the ownership, construction,
26 acquisition, administration, operation and management of an
27 electric light plant or project. Among the specific powers of a
28 municipal power agency shall be the following:

29 (1) to sue and be sued;

30 (2) to enter into contracts;

1 (3) to cooperate with private power companies, boroughs,
2 electric cooperative corporations and other public or private
3 electric power entities, inside and outside of this
4 Commonwealth, in the development of electric power and energy;

5 (4) to make such studies as may be necessary to determine
6 the feasibility and cost of any additional sources and supplies
7 of electric power and energy;

8 (5) to contract for the purchase, sale, exchange,
9 interchange, wheeling, pooling or transmission of electric power
10 and energy or for the right to the capacity thereof, inside and
11 outside of this Commonwealth, to and from any public or private
12 power entities, private power companies, other boroughs and
13 electric cooperative corporations;

14 (6) to procure insurance against any losses in connection
15 with its property, operations or assets in such amounts and from
16 such insurers as the board of directors deems desirable;

17 (7) to contract for and to accept any gifts or grants or
18 loans of funds or property or financial or other aid in any form
19 from the United States of America or any agency or
20 instrumentality thereof, or from any other source;

21 (8) to acquire, hold, use, operate and dispose of personal
22 property;

23 (9) to acquire, hold, use and dispose of its income,
24 revenues, funds and moneys;

25 (10) to acquire, own, use, lease, operate and dispose of
26 real property and interests in real property and to make
27 improvements thereon;

28 (11) to grant the use, by lease or otherwise, and to make
29 charges for the use, of any property or facility owned or
30 controlled by it;

1 (12) to procure from the United States of America or any
2 agency or instrumentality thereof, or from any state or agency
3 or instrumentality thereof, any consents, authorizations or
4 approvals which may be requisite to enable ownership, operation,
5 construction or repair;

6 (13) to borrow money and from time to time to issue revenue
7 bonds and to enter into agreements with the purchasers of such
8 revenue bonds;

9 (14) to invest funds not required for immediate use,
10 including but not limited to proceeds from the sale of revenue
11 bonds: Provided, however, That the power of a municipal power
12 agency to invest shall be the same as that of a borough, as
13 exercised by the borough council pursuant to clause (6) of
14 section 1005 and section 1316; and

15 (15) to mortgage any property acquired or owned to secure
16 the payment of its revenue bonds or other obligations issued to
17 finance such acquisition, ownership or repair.

18 (m) In the erection and extension of an electric light plant
19 or project, and for all other purposes authorized by this act, a
20 municipal power agency may enter upon, appropriate, injure or
21 destroy private lands, property or material according to the
22 proceedings set forth in the law governing eminent domain:

23 Provided, however, That a municipal power agency shall not have
24 the power of condemnation with regard to any property of a
25 private or public retail electric supplier which geographically
26 lies beyond the boundaries of the corporate limits of its member
27 boroughs.

28 (n) A municipal power agency which gains an interest in an
29 electric light plant or project may pay all or part of the cost
30 therefor from the revenues derived from the sale of revenue

1 bonds issued in the manner provided by the act of July 12, 1972
2 (P.L.781, No.185), known as the "Local Government Unit Debt
3 Act."

4 (o) A municipal power agency may make and enforce bylaws or
5 rules which it deems necessary or desirable and may establish,
6 fix, levy and collect or may authorize, by contract, franchise,
7 lease or otherwise, the establishment, levying and collection
8 of, rents, rates and other charges for the services afforded by
9 the municipal power agency, including connection for the
10 services afforded by the municipal power agency, including
11 connection charges or by or in connection with any project or
12 properties which it may construct, erect, acquire, own, operate
13 or control, or with respect to which it may have any interest or
14 any right to capacity thereof and for the sale of electric
15 energy or of generation or transmission capacity or services as
16 it may deem necessary, proper, desirable and reasonable. Rents,
17 rates and other charges shall be at least sufficient to meet
18 expenses thereof, including reasonable reserves, interest and
19 principal payments.

20 (p) Interest and principal paid on revenue bonds, issued by
21 a municipal power agency shall be exempt from all State taxes of
22 whatsoever kind or nature.]

23 Section 288. Section 2471.3 of the act, added October 27,
24 2010 (P.L.862, No.87), is repealed:

25 [Section 2471.3. Additional Contracting Authority for
26 Electric Power and Energy.--(a) In addition to the authority
27 provided under section 2471, a borough that, on the effective
28 date of this section, owns or operates electric generation or
29 distribution facilities and a borough that is a member of a non-
30 profit membership corporation may contract with the non-profit

1 membership corporation for the following:

2 (1) The development of electric power and associated energy,
3 including the conduct of investigations or studies necessary to
4 determine the feasibility and cost of additional sources and
5 supplies of electric power and associated energy.

6 (2) The purchase, sale, exchange, interchange, wheeling,
7 pooling or transmission of electric power and associated energy
8 or the right to the capacity from sources and projects in this
9 Commonwealth or another state for a period not to exceed fifty
10 years.

11 (b) A contract under subsection (a)(2) shall include the
12 purpose of the contract, the duration of the contract and
13 available procedures to terminate the contract subsequent to the
14 repayment of all indebtedness secured under the contract.

15 (c) If a borough is a member of a non-profit membership
16 corporation, a contract under subsection (a)(2) may, if
17 specifically set forth in the contract, obligate the borough to:

18 (1) take and pay for a minimum quantity of electric power
19 and associated energy if the power and energy is available for
20 delivery;

21 (2) in connection with a project owned by the non-profit
22 membership corporation or in which the non-profit membership
23 corporation obtains an undivided ownership interest, to take or
24 pay for a minimum amount of electric power and energy; or

25 (3) pay for electric power and energy only if utilized by
26 the borough.

27 (d) (1) The authority under subsection (c)(1) shall apply
28 whether or not the borough accepts delivery of the power and
29 energy.

30 (2) The authority under subsection (c)(2) shall apply

1 notwithstanding the suspension, interruption, interference or
2 reduction or curtailment of the output of the project or the
3 electric power and energy contracted for and whether or not:

4 (i) the electric power and energy is available for delivery
5 to the borough; or

6 (ii) the borough accepts delivery of the electric power and
7 energy.

8 (e) No borough may be obligated under a take-or-pay or take-
9 and-pay arrangement entered into with a non-profit membership
10 corporation in which the borough maintains membership unless
11 that obligation is expressly authorized by an act of the borough
12 council.

13 (f) A non-profit membership corporation shall not:

14 (1) condition membership in the non-profit membership
15 corporation on the inclusion of any take-or-pay or take-and-pay
16 obligations in a contract under subsection (a)(2); or

17 (2) except as set forth in subsection (g), require take-or-
18 pay or take-and-pay obligations in a contract with a borough
19 unless the contract meets the criteria of subsection (c)(1) or
20 (2).

21 (g) A borough which is a member of a non-profit membership
22 corporation may enter into future power supply contracts,
23 contract renewals or contract extensions with the non-profit
24 membership corporation under subsection (c)(3):

25 (1) with no take-or-pay or take-and-pay obligations as
26 permitted by subsection (c)(1) and (2); and

27 (2) without prejudice or discrimination as compared to any
28 other borough which chooses to enter into contracts permitted by
29 subsection (c)(1) and (2) with the non-profit membership
30 corporation.

1 (h) In order to carry out subsection (g), a non-profit
2 membership corporation which provides or offers electric power
3 and associated energy to a member borough in this Commonwealth
4 under subsection (a)(2) shall offer, to all of its member
5 boroughs in this Commonwealth, future power supply contract
6 terms, contract renewals or contract extensions under subsection
7 (c)(3) on a comparable and nondiscriminatory basis and with
8 similar terms and conditions to future power supply contract
9 terms, contract renewals or contract extensions that would be
10 appropriate under subsection (c)(3) which the non-profit
11 membership corporation contemporaneously offers to its members
12 in other states.

13 (i) All obligations under a contract under subsection (a)(2)
14 shall be paid from revenues derived from the operation of the
15 borough's electric system, and payments shall be an operating
16 expense of the borough's electric system.

17 (j) If explicitly set forth in a contract under subsection
18 (a)(2), a borough may agree to assume, prorate or otherwise
19 become liable for the obligations of another borough of this
20 Commonwealth or of a political subdivision of another state that
21 is a member of the non-profit membership corporation if the
22 borough or other political subdivision defaults in the payment
23 of its obligations for the purchase of the electric power and
24 associated energy. The contract may include provisions to permit
25 a borough to succeed to the rights and interests of the
26 defaulting borough or political subdivision to purchase electric
27 power and associated energy. A borough's liability for the
28 obligations of a defaulting borough of this Commonwealth or a
29 political subdivision of another state shall not exceed twenty-
30 five percent of a borough's initial nominal entitlement to

1 electric power and associated energy under the contract.

2 (k) None of the obligations under the contract shall
3 constitute a legal or equitable pledge, charge, lien or
4 encumbrance on any property of the borough or on any of its
5 income, receipts or revenues, except revenues of its electric
6 system. The full faith and credit and the taxing power of the
7 borough shall not be pledged for the payment of an obligation
8 under the contract.

9 (l) The provisions of this section are intended to add to
10 the powers and rights of a borough, and nothing in this section
11 shall be construed to limit either the general or specific
12 powers or rights of a borough set forth in this act.

13 (m) As used in this section, the term "non-profit membership
14 corporation" means an entity the membership of which:

15 (1) consists solely of Pennsylvania boroughs, such as a
16 consortium, buying group or municipal power agency under section
17 2471.2; or

18 (2) consists of Pennsylvania boroughs and political
19 subdivisions of another state or states.]

20 Section 289. Sections 2472, 2473, 2474, 2475 and 2476 of the
21 act are repealed:

22 [Section 2472. May Regulate Use and Prices.--Any borough
23 furnishing electricity may regulate the use of electricity in
24 dwellings, business places, and other places in such borough,
25 and the rate to be charged for the same.

26 Section 2473. Sale of Electric Light Works.--By ordinance, a
27 borough may sell all or part of its electric light works to a
28 purchaser for such sale price as the parties may agree upon, and
29 thereafter for all purposes that price shall be deemed to be the
30 purchaser's original cost less accrued depreciation of the plant

1 at the date of purchase.

2 Section 2474. Purchase of Electric Light Works.--Whenever
3 any person, copartnership, or any electric light company
4 organized under the laws of the Commonwealth, is furnishing
5 light to any borough or the public within such borough, such
6 borough may purchase the works of such person, copartnership, or
7 corporation, at such price as may be agreed upon by the borough
8 and such person or copartnership, or a majority in value of the
9 stockholders of such corporation.

10 Section 2475. Petition for Viewers.--Upon failure so to
11 agree on purchase price the borough may present a petition to
12 the court of common pleas, asking for the appointment of viewers
13 to assess the value of the plant and works so proposed to be
14 purchased whereupon the court shall appoint three viewers from
15 the county board of viewers, neither of whom shall be interested
16 in such works, or be stockholders in such corporation, or
17 taxpayers in such borough, and shall appoint a time for their
18 meeting, of which ten days' notice shall be given to all parties
19 in interest.

20 Section 2476. Duty of Viewers.--The viewers, having been
21 sworn or affirmed justly and impartially to appraise the
22 property, and having viewed the premises and taken such
23 testimony as may be offered by any party touching the value of
24 the property and franchises, they shall determine the amount of
25 damages that such person, copartnership, or corporation will
26 sustain, and to whom payable, and make report thereof to the
27 court; which report shall be confirmed "nisi" by the court, and
28 if no appeal is taken as hereinafter provided, shall be
29 confirmed absolutely.]

30 Section 290. Section 2477 of the act, repealed in part June

1 3, 1971 (P.L.118, No.6), is repealed:

2 [Section 2477. Appeal from Report; Trial by Jury.--Either
3 party may, at any time within thirty days after the confirmation
4 "nisi" of any such report, appeal therefrom to the court of
5 common pleas of the county. After such appeal, either party may
6 put the cause at issue, in the form directed by the court, and
7 the same shall be tried before a jury.]

8 Section 291. Sections 2478 and 2479, Article XXIV
9 subdivision (c) heading, section 2481, subdivision (d) heading
10 and sections 2491, 2492 and 2493 of the act are repealed:

11 [Section 2478. Exceptions to Report.--If any exceptions are
12 filed with any appeal, they shall be speedily disposed of, and,
13 if allowed, a new view shall be ordered; but if disallowed, the
14 appeal shall proceed as before provided.

15 Section 2479. Notices.--The court shall have power to order
16 what notice shall be given in connection with any part of such
17 proceedings.

18 (c) Operation of Gas Wells; Gas Works

19 Section 2481. Authority to Purchase Natural Gas Well.--Any
20 borough shall have authority to purchase, own, use, operate and
21 control any natural gas well, or wells, for the purpose of
22 supplying natural gas for its own municipal purposes.

23 (d) Airports

24 Section 2491. Authority to Secure Lands for Airports.--Any
25 borough is hereby authorized and empowered to acquire, by lease
26 or purchase, any land, lying either within or without the limits
27 of such borough, which, in the judgment of the council thereof,
28 may be necessary and desirable for the purpose of establishing
29 and maintaining municipal airport facilities. The proceedings
30 for the condemnation of land under the provisions of this

1 subdivision, and for the assessment of damages for property
2 taken, injured or destroyed, shall be conducted in the manner
3 provided by the law governing eminent domain. The title acquired
4 by the borough exercising the power of condemnation shall be a
5 title in fee simple.

6 Section 2492. Authority to Establish Airports and Lease the
7 Same.--Any borough, acquiring land under the provisions of this
8 subdivision, is authorized and empowered to establish, equip,
9 condition, operate and maintain the same as a municipal airport,
10 and may lease the same, or any part thereof, to any individual
11 or corporation desiring to use the same for aviation purposes;
12 and any borough may enter into a contract, in the form of a
13 lease, providing for the use of said land, or any part thereof,
14 by the Government of the United States, for the use by said
15 Government of said land for aviation purposes upon nominal
16 rental or without consideration.

17 Section 2493. Joint Airports.--Any borough, acquiring land
18 under the provisions of this subdivision, is authorized and
19 empowered to acquire, by lease or purchase, land for aviation
20 purposes, as hereinbefore provided, jointly with any county,
21 city, borough, township, or political subdivision of this
22 Commonwealth, and is hereby authorized and empowered to operate
23 and maintain said airport, jointly, with any county, city,
24 borough, township, or other political subdivision of this
25 Commonwealth, upon such terms and conditions as may be agreed
26 upon between the proper authorities of the county, city,
27 borough, township, or other political subdivision of this
28 Commonwealth.]

29 Section 292. The act is amended by adding an article to
30 read:

1 ARTICLE XXIV-A

2 MANUFACTURE AND SUPPLY OF ELECTRICITY

3 Section 2401-A. Definitions.

4 The following words and phrases when used in this article
5 shall have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Municipal power agency." A separate body politic and
8 corporate under the laws of this Commonwealth created by
9 agreement between or among two or more boroughs pursuant to
10 section 2404-A.

11 "Project." Electric plants, hydroelectric plant works,
12 system, facilities or real or personal property, together with
13 their parts and appurtenances, used or useful in connection with
14 the generation, production, transmission, purchase, sale,
15 exchange or interchange of electric power or energy, or any
16 interest therein or right to capacity thereof.

17 "Revenue bond." An instrument imposing an obligation for the
18 repayment of money borrowed, payable as to both principal and
19 interest exclusively from the income and revenues derived from
20 an interest in an electric plant or project.

21 Section 2402-A. General powers.

22 (a) Electric plants and projects.--A borough may, either
23 singly or jointly, manufacture or purchase electricity for the
24 use of its inhabitants, own, construct, acquire by lease,
25 purchase or otherwise gain an interest in, operate and manage or
26 cause to be operated and managed, an electric plant or project
27 located within or without this Commonwealth. In the exercise of
28 any of the foregoing powers, a borough may join with any other
29 borough, political subdivision, agency or instrumentality of the
30 Federal Government, State government, political subdivision of

1 another state, private corporation empowered to supply
2 electricity, electric cooperative corporation formed under 15
3 Pa.C.S. Ch. 73 Subchs. A (relating to preliminary provisions)
4 and B (relating to powers, duties and safeguards), or previously
5 formed under the act of June 21, 1937 (P.L.1969, No.389), known
6 as the Electric Cooperative Corporation Act (REPEALED 1990-198),
7 or electric cooperative corporation in another state.

8 (b) Contracts for supplying electricity.--A borough owning
9 or operating an electric plant may make contracts for supplying
10 electricity for commercial purposes outside the limits of the
11 borough, provided that the borough has received the consent of
12 the other municipal governing body and, if applicable, subject
13 to 66 Pa.C.S. Pt. I (relating to Public Utility Code).

14 (c) Additional sources.--A borough may conduct studies as
15 necessary to determine the feasibility and cost of any
16 additional sources and supplies of electric power and energy and
17 may cooperate with private power companies, other boroughs,
18 electric cooperative corporations and other public or private
19 electric power entities, within or without this Commonwealth, in
20 the development of electric power and energy.

21 (d) Consent of borough to supply electricity.--No person,
22 partnership or corporation may introduce electric current for
23 light, heat or power purposes, without the consent of the
24 borough council, into the limits of any borough that is
25 furnishing electric current to its inhabitants, provided,
26 however, that this subsection shall not apply to any person,
27 partnership or corporation manufacturing electricity exclusively
28 for its own use.

29 (e) Corporate rights.--Nothing in this article may conflict
30 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

1 and power as it deems necessary, proper, desirable and
2 reasonable.

3 (3) To procure insurance against any losses in
4 connection with its property, operations or assets in the
5 amounts and from such insurers as the governing body or
6 bodies deem desirable.

7 (4) To contract for and to accept any gifts, grants or
8 loans of funds or property, or financial or other aid in any
9 form from the United States of America or any agency or
10 instrumentality of the United States of America, or from any
11 other source.

12 (5) To lease, or otherwise grant the use of, and to make
13 charges for the use of any property or facility owned or
14 controlled by the borough.

15 (6) To procure from the United States of America or any
16 agency or instrumentality of the United States of America, or
17 from any state or agency or instrumentality of the State, any
18 consents, authorizations or approvals which may be requisite
19 to enable ownership, operation, construction or repair.

20 (7) To borrow money and from time to time to issue
21 revenue bonds, and to enter into agreements with the
22 purchasers of the revenue bonds. Any borough that incurs debt
23 for the construction or purchase of an electric plant, or
24 land on which to construct an electric plant, or gains an
25 interest in an electric plant or project under section 2402-A
26 shall incur the debt in accordance with and to the extent
27 permitted by 53 Pa.C.S. Pt. VII Subpt. B (relating to
28 indebtedness and borrowing). Interest and principal paid on
29 revenue bonds issued by a borough under this article shall be
30 exempt from all State taxes of whatsoever kind or nature.

1 (8) To mortgage any property acquired or owned under
2 section 2402-A to secure the payment of its revenue bonds or
3 other obligations issued to finance the acquisition,
4 ownership or repair.

5 (9) To sell, by ordinance, all or part of its electric
6 works to a purchaser for the sale price agreed upon by the
7 parties, and thereafter, for all purposes, that price shall
8 be deemed to be the purchaser's original cost less accrued
9 depreciation of the plant at the date of purchase.

10 (10) To purchase the electric works of any person,
11 partnership, or electric company organized under the laws of
12 this Commonwealth that is furnishing light to the borough or
13 the public within the borough. The borough and the person,
14 partnership or a majority in value of the stockholders of a
15 corporation, may agree upon the purchase price, but upon
16 failure of the parties to agree on the price, the borough may
17 proceed according to the laws of eminent domain.

18 (b) Eminent domain.--In the erection and extension of an
19 electric plant or project under this article, and for all other
20 purposes authorized by this act, a borough may enter upon,
21 appropriate, injure or destroy private lands, property or
22 material according to the proceedings set forth in 26 Pa.C.S.
23 (relating to eminent domain). A borough, however, shall not have
24 the power of condemnation with regard to any property of a
25 private or public retail electric supplier which geographically
26 lies beyond the boundaries of the corporate limits of the
27 borough.

28 Section 2404-A. Municipal power agencies.

29 (a) General rule.--Two or more boroughs may form a municipal
30 power agency by the execution of an agency agreement authorized

1 by a ~~resolution~~ AN ORDINANCE of the governing bodies of each
2 borough. The agency agreement shall state:

3 (1) The name of the agency, which shall include the
4 words "municipal power agency."

5 (2) The names of the boroughs which have approved the
6 agency agreement and are initial members of the municipal
7 power agency.

8 (3) That the municipal power agency is created pursuant
9 to the authority granted by this act.

10 (4) The names and addresses of the persons initially
11 appointed by the governing bodies to act as representatives
12 to the municipal power agency from the member boroughs.

13 (5) The limitations, if any, placed on the powers or
14 terms of representatives appointed by the governing bodies of
15 the member boroughs.

16 (6) The names and addresses of the initial board of
17 directors of the municipal power agency, if known by the time
18 of filing, which shall be constituted by not less than five
19 persons who are representatives of the member boroughs,
20 selected by the vote of a majority of the representatives.

21 (b) Certificate of incorporation.--The agency agreement
22 under subsection (a) and a certified copy of the ~~resolution~~
23 ORDINANCE of the governing body of each borough shall be filed
24 for record with the Secretary of the Commonwealth. If the agency
25 agreement meets the requirements of this section, the Secretary
26 of the Commonwealth shall record the agreement and issue and
27 record a certificate of incorporation which shall be conclusive
28 proof of substantial compliance with the requirements of this
29 section. The certificate shall state the name of the municipal
30 power agency and the fact and date of incorporation. Upon the

1 issuance of the certificate of incorporation, the existence of
2 the municipal power agency as a political instrumentality of the
3 Commonwealth shall begin.

4 (B.1) OPEN MEETINGS.--REGULAR AND SPECIAL MEETINGS OF THE ←
5 REPRESENTATIVES OF MEMBER BOROUGHES AND THE BOARD OF DIRECTORS AS
6 PROVIDED IN THIS SECTION SHALL BE SUBJECT TO 65 PA.C.S. CH. 7
7 (RELATING TO OPEN MEETINGS).

8 (c) Bylaws.--The bylaws of the municipal power agency and
9 any amendments, shall be proposed by the board of directors and
10 shall be adopted by a majority vote of the representatives of
11 the member boroughs, unless the agency agreement requires a
12 greater vote at a meeting held after notice. Subject to the
13 provisions of the agency agreement, THE REQUIREMENTS OF THIS ACT ←
14 AND THE LAWS OF THIS COMMONWEALTH, the bylaws shall state:

15 (1) the qualifications of member boroughs, and
16 limitations, if any, upon their number;

17 (2) conditions of membership, if any;

18 (3) the manner and time of calling regular meetings of
19 representatives of member boroughs;

20 (4) the manner and conditions of termination of
21 membership; and

22 (5) such other provisions for regulating the affairs of
23 the municipal power agency as the representatives of the
24 member boroughs shall determine to be necessary.

25 (d) Registered office.--Every municipal power agency shall
26 maintain an office in this Commonwealth to be known as its
27 registered office. When a municipal power agency desires to
28 change the location of its registered office, it shall file with
29 the Secretary of the Commonwealth a certificate of change of
30 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 ~~resolutions~~ ORDINANCES of a majority of the governing bodies of the member boroughs. Each amendment and the ~~resolutions~~ ORDINANCES approving it shall be filed for record with the



1 Secretary of the Commonwealth.

2 (i) Appropriations.--Each member borough shall have full
3 power and authority, within budgetary limits applicable to it,
4 to appropriate money for the payment of expenses of the
5 formation of the municipal power agency and of its
6 representative in exercising its functions as a member of the
7 agency.

8 (j) General powers.--A municipal power agency may own,
9 construct, acquire by lease, purchase or otherwise gain an
10 interest by itself or as co-owner or tenant in common and
11 operate and manage or cause to be operated and managed an
12 electric plant or project located within or without this
13 Commonwealth jointly with any political subdivision, subdivision
14 of the Federal Government, State government, political
15 subdivision of another state, private corporation empowered to
16 supply electricity, electric cooperative corporation formed
17 under the act of June 21, 1937 (P.L.1969, No.389), known as the
18 Electric Cooperative Corporation Act, (REPEALED 1990-198) or
19 electric cooperative corporation in another state.

20 (k) Specific powers.--All powers of a municipal power agency
21 shall be exercised by its board of directors, unless otherwise
22 provided by the agency agreement or bylaws. A municipal power
23 agency shall have the power to do and accomplish all actions
24 reasonably necessary and incident to the ownership,
25 construction, acquisition, administration, operation and
26 management of an electric plant or project. Among the specific
27 powers of a municipal power agency shall be the following:

28 (1) to sue and be sued;

29 (2) to enter into contracts;

30 (3) to cooperate with private power companies, boroughs,

1 electric cooperative corporations and other public or private
2 electric power entities inside and outside of this
3 Commonwealth in the development of electric power and energy;

4 (4) to make such studies as may be necessary to
5 determine the feasibility and cost of any additional sources
6 and supplies of electric power and energy;

7 (5) to contract for the purchase, sale, exchange,
8 interchange, wheeling, pooling or transmission of electric
9 power and energy or for the right to the capacity thereof
10 inside and outside of this Commonwealth, to and from any
11 public or private power entities, private power companies,
12 other boroughs and electric cooperative corporations;

13 (6) to procure insurance against any losses in
14 connection with its property, operations or assets in such
15 amounts and from such insurers as the board of directors
16 deems desirable;

17 (7) to contract for and to accept any gifts or grants or
18 loans of funds or property or financial or other aid in any
19 form from the United States of America or any agency or
20 instrumentality of the United States of America, or from any
21 other source;

22 (8) to acquire, hold, use, operate and dispose of
23 personal property;

24 (9) to acquire, hold, use and dispose of its income,
25 revenues, funds and moneys;

26 (10) to acquire, own, use, lease, operate and dispose of
27 real property and interests in real property and to make
28 improvements thereon;

29 (11) to grant the use, by lease or otherwise, and to
30 make charges for the use of any property or facility owned or

1 controlled by it;

2 (12) to procure from the United States of America or any
3 agency or instrumentality of the United States of America, or
4 from any state or agency or instrumentality of a state, any
5 consents, authorizations or approvals which may be requisite
6 to enable ownership, operation, construction or repair;

7 (13) to borrow money and from time to time to issue
8 revenue bonds and to enter into agreements with the
9 purchasers of such revenue bonds;

10 (14) to invest funds not required for immediate use,
11 including, but not limited to, proceeds from the sale of
12 revenue bonds, provided, however, that the power of a
13 municipal power agency to invest shall be the same as that of
14 a borough, as exercised by the borough council pursuant to
15 clause (6) of section 1005 and section 1316; and

16 (15) to mortgage any property acquired or owned to
17 secure the payment of its revenue bonds or other obligations
18 issued to finance the acquisition, ownership or repair.

19 (1) Eminent domain.--In the erection and extension of an
20 electric plant or project, and for all other purposes authorized
21 by this act, a municipal power agency may enter upon,
22 appropriate, injure or destroy private lands, property or
23 material according to the proceedings set forth in the law
24 governing eminent domain, provided, however, that a municipal
25 power agency shall not have the power of condemnation with
26 regard to any property of a private or public retail electric
27 supplier which geographically lies beyond the boundaries of the
28 corporate limits of its member boroughs.

29 (m) Revenue bonds.--A municipal power agency which gains an
30 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 (1) The development of electric power and associated
2 energy, including the conduct of investigations or studies
3 necessary to determine the feasibility and cost of additional
4 sources and supplies of electric power and associated energy.

5 (2) The purchase, sale, exchange, interchange, wheeling,
6 pooling or transmission of electric power and associated
7 energy or the right to the capacity from sources and projects
8 in this Commonwealth or another state for a period not to
9 exceed 50 years.

10 (b) Contract requirements.--A contract under subsection (a)
11 (2) shall include the purpose of the contract, the duration of
12 the contract and available procedures to terminate the contract
13 subsequent to the repayment of all indebtedness secured under
14 the contract.

15 (c) Minimum quantity of electric power and energy.--If a
16 borough is a member of a nonprofit membership corporation, a
17 contract under subsection (a) (2) may, if specifically set forth
18 in the contract, obligate the borough to:

19 (1) take and pay for a minimum quantity of electric
20 power and associated energy if the power and energy is
21 available for delivery;

22 (2) in connection with a project owned by the nonprofit
23 membership corporation or in which the nonprofit membership
24 corporation obtains an undivided ownership interest, to take
25 or pay for a minimum amount of electric power and energy; or

26 (3) pay for electric power and energy only if utilized
27 by the borough.

28 (d) Applicability of minimum requirements.--

29 (1) The authority under subsection (c) (1) shall apply
30 whether or not the borough accepts delivery of the power and

1 energy.

2 (2) The authority under subsection (c)(2) shall apply
3 notwithstanding the suspension, interruption, interference or
4 reduction or curtailment of the output of the project or the
5 electric power and energy contracted for, and whether or not:

6 (i) the electric power and energy is available for
7 delivery to the borough; or

8 (ii) the borough accepts delivery of the electric
9 power and energy.

10 (e) Take-or-pay or take-and-pay arrangements.--No borough
11 may be obligated under a take-or-pay or take-and-pay arrangement
12 entered into with a nonprofit membership corporation in which
13 the borough maintains membership unless that obligation is
14 expressly authorized by an act of the borough council.

15 (f) Restrictions.--A nonprofit membership corporation shall
16 not:

17 (1) condition membership in the nonprofit membership
18 corporation on the inclusion of any take-or-pay or take-and-
19 pay obligations in a contract under subsection (a)(2); or

20 (2) except as set forth in subsection (g), require take-
21 or-pay or take-and-pay obligations in a contract with a
22 borough unless the contract meets the criteria of subsection
23 (c)(1) or (2).

24 (g) Future contracts.--A borough that is a member of a
25 nonprofit membership corporation may enter into future power
26 supply contracts, contract renewals or contract extensions with
27 the nonprofit membership corporation under subsection (c)(3):

28 (1) with no take-or-pay or take-and-pay obligations as
29 permitted by subsection (c)(1) and (2); and

30 (2) without prejudice or discrimination as compared to

1 any other borough which chooses to enter into contracts
2 permitted by subsection (c)(1) and (2) with the nonprofit
3 membership corporation.

4 (h) Future power supply contract terms.--In order to carry
5 out subsection (g), a nonprofit membership corporation which
6 provides or offers electric power and associated energy to a
7 member borough in this Commonwealth under subsection (a)(2)
8 shall offer, to all of its member boroughs in this Commonwealth,
9 future power supply contract terms, contract renewals or
10 contract extensions under subsection (c)(3) on a comparable and
11 nondiscriminatory basis and with similar terms and conditions to
12 future power supply contract terms, contract renewals or
13 contract extensions that would be appropriate under subsection
14 (c)(3) which the nonprofit membership corporation
15 contemporaneously offers to its members in other states.

16 (i) Payments.--All obligations under a contract under
17 subsection (a)(2) shall be paid from revenues derived from the
18 operation of the borough's electric system, and payments shall
19 be an operating expense of the borough's electric system.

20 (j) Obligations of other entities.--If explicitly set forth
21 in a contract under subsection (a)(2), a borough may agree to
22 assume, prorate or otherwise become liable for the obligations
23 of another borough of this Commonwealth or of a political
24 subdivision of another state that is a member of the nonprofit
25 membership corporation if the borough or other political
26 subdivision defaults in the payment of its obligations for the
27 purchase of the electric power and associated energy. The
28 contract may include provisions to permit a borough to succeed
29 to the rights and interests of the defaulting borough or
30 political subdivision to purchase electric power and associated

1 energy. A borough's liability for the obligations of a
2 defaulting borough of this Commonwealth or a political
3 subdivision of another state shall not exceed 25% of a borough's
4 initial nominal entitlement to electric power and associated
5 energy under the contract.

6 (k) Pledge of borough property prohibited.--None of the
7 obligations under the contract may constitute a legal or
8 equitable pledge, charge, lien or encumbrance on any property of
9 the borough or on any of its income, receipts or revenues,
10 except revenues of its electric system. The full faith and
11 credit and the taxing power of the borough shall not be pledged
12 for the payment of an obligation under the contract.

13 (l) Construction.--The provisions of this section are
14 intended to add to the powers and rights of a borough, and
15 nothing in this section may be construed to limit either the
16 general or specific powers or rights of a borough set forth in
17 this act.

18 (m) Definition.--As used in this section, the term "non-
19 profit membership corporation" means an entity the membership of
20 which:

21 (1) consists solely of Pennsylvania boroughs, such as a
22 consortium, buying group or municipal power agency under
23 section 2404-A; or

24 (2) consists of Pennsylvania boroughs and political
25 subdivisions of another state or states.

26 Section 293. Article XXV and subdivision (a) headings,
27 sections 2501, 2502, 2503, 2504 and 2505, Article XXV
28 subdivision (b) heading and sections 2511 and 2512 of the act
29 are repealed:

30 [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

1 of wharfage for all public wharves and docks within its limits.

2 (2) To regulate the anchoring of vessels, boats or rafts
3 within the borough limits.

4 (3) To regulate the depositing of freight on the public
5 wharves.

6 Section 299. Section 2602 of the act is repealed:

7 [Section 2602. Purchase and Condemnation of Real Estate.--

8 Any such borough may acquire, by purchase or condemnation, such
9 real estate as it may need for the construction of wharves and
10 docks within the limits of the borough, along navigable waters.
11 No real estate for the erection of wharves and docks shall be so
12 taken or appropriated until an ordinance authorizing the same
13 shall have been enacted.]

14 Section 300. Section 2603 of the act is reenacted to read:

15 Section 2603. Proceedings.--The proceedings before the
16 viewers for the assessment of damages for property taken,
17 injured, or destroyed under this article, and the proceedings on
18 their report shall be as provided in the law governing eminent
19 domain. The costs of all proceedings, including the compensation
20 of the viewers, shall be paid by the borough.

21 Section 301. Sections 2604, 2605 and 2606 of the act are
22 amended to read:

23 Section 2604. How Damages Assessed.--The damages for the
24 taking or injury of any property for use as a wharf, pier, or
25 bulkhead, shall include full compensation for the value of the
26 property taken or injured[; and if]. If the property [so] taken
27 or injured shall constitute a part of a plant used as an
28 entirety, the damage to the owner or tenant shall be assessed by
29 taking the difference in market value of [such] the plant as a
30 whole, including buildings and all equipment installed and used

1 in [such] the plant, before and after taking or injury, and
2 notwithstanding that part of [such] the plant may be separated
3 by a street or highway.

4 Section 2605. Leases.--Any borough may lease any wharf or
5 part [thereof] and collect rent [therefor] by distress or
6 otherwise. No one term of [any such] a lease shall be for a
7 period longer than three years.

8 Section 2606. Market-Houses and Terminal Sheds.--Boroughs
9 may erect and maintain market-houses and terminal sheds on
10 wharves, for the receipt and distribution of freight and
11 express. Boroughs may also construct railroad and street railway
12 tracks, or other facilities, on wharves, to provide for the
13 convenient hauling of [such] freight or express matter and may
14 collect rents, tolls, or charges for the use of [such] market-
15 houses, terminal sheds, tracks and facilities. No permit other
16 than a license revocable at will shall be granted, and no
17 exclusive permit for the use of such facilities shall be
18 granted.

19 Section 302. Section 2607 of the act is reenacted to read:

20 Section 2607. Public Use Preserved.--No structure erected,
21 and no right granted under the powers conferred by any of the
22 preceding sections of this article, shall interfere with the
23 public use of wharves for water-borne commerce.

24 Section 303. Section 2608 of the act is amended to read:

25 Section 2608. Saving Clause.--Nothing contained in this
26 article shall be construed as conferring upon boroughs any power
27 conferred by existing law on the Navigation [Commissioners]
28 Commission for the Delaware River and its Navigable Tributaries,
29 or to permit boroughs to do any act, or to enact any ordinance,
30 inconsistent with the laws, rules and regulations relating to

1 [said board, or the rules and regulations of said board] the
2 commission.

3 Section 304. Article XXVII and subdivision (a) headings of
4 the act are reenacted to read:

5 ARTICLE XXVII

6 RECREATION PLACES, SHADE TREES, FORESTS

7 (a) Parks and Playgrounds, Et Cetera

8 Section 305. Sections 2701, 2702 and 2703 of the act are
9 amended to read:

10 Section 2701. Power to Maintain [and Improve], Improve and
11 Acquire.--(a) Any borough may provide, improve, maintain and
12 regulate public parks, parkways and playgrounds, playfields,
13 ~~open space~~, swimming pools, public baths, bathing places, indoor ←
14 recreation centers and gymnasiums, hereinafter called
15 "recreation places," within the borough limits or in any
16 adjacent [township or in any city or other borough] municipal
17 corporation if the other [borough or city] municipal corporation
18 shall, by ordinance, signify its consent thereto. [Two or more
19 boroughs may jointly provide, improve, maintain and regulate
20 such recreation places within the limits of any township
21 adjacent to any one of such boroughs. All expenses relative
22 thereto shall be borne by the respective boroughs, in such
23 proportion as may be agreed upon by the councils thereof.

24 Section 2702. Power to Acquire.--Any] (b) Any borough may
25 enter upon, appropriate and acquire by gift, devise, purchase,
26 lease, or otherwise, private property [within the limits of the
27 borough, or in any adjacent township,] or [any borough] may
28 designate and set apart any lands or buildings, owned by the
29 borough and not dedicated or devoted to other public uses[; and
30 two or more boroughs may jointly appropriate and acquire by

1 gift, devise, purchase, lease, or otherwise, private property
2 within the limits of any township adjacent to any of such
3 boroughs,] for the purpose of making, enlarging and maintaining
4 recreation places. [All the costs and expenses relative to any
5 such property, acquired by two or more boroughs jointly, shall
6 be paid by the respective boroughs in such proportions as may be
7 agreed upon by the councils thereof.

8 Any]

9 (c) Any borough may join with one or more political
10 subdivisions to acquire, create, equip, improve, regulate,
11 maintain and operate any recreation place in accordance with 53
12 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
13 cooperation).

14 (d) No borough, acting individually or jointly, may
15 [likewise] acquire private property within the limits of another
16 [borough or city,] municipal corporation for the purposes
17 designated in this section, [if the other borough or city shall,
18 by ordinance, signify its consent thereto] without the consent
19 of the governing body of the municipal corporation in which the
20 property is located in accordance with the law governing eminent
21 domain.

22 (e) All expenses incurred in the maintenance, improvement,
23 acquisition or operation of recreation places, as provided in
24 this section, shall be payable from the treasury of the borough,
25 or the borough and other political subdivisions as may be
26 provided for by agreement of the governing bodies. The borough
27 council may annually appropriate, and cause to be raised by
28 taxation, an amount necessary for the purpose of maintaining and
29 operating recreation places, or for paying its share of such
30 amount.

1 Section 2703. Appropriations for Public Purposes.--The
2 appropriation of private property for the purpose of making,
3 enlarging and maintaining recreation places, is declared to be
4 the taking of private property for public use, and for all
5 damage suffered by the owners of any property so taken, the
6 funds of the borough raised by taxation shall be pledged as
7 security. The proceedings for the taking of private property and
8 the assessment of damages for private property taken, injured or
9 destroyed under this article shall be as provided in the law
10 governing eminent domain.

11 Section 306. Sections 2704 and 2705 of the act are repealed:

12 [Section 2704. Proceedings.--The proceedings before the
13 viewers for the assessment of damages for property taken,
14 injured or destroyed under this article and the proceedings upon
15 their report shall be as provided in the law governing eminent
16 domain.]

17 Section 2705. Validation of Prior Acquisitions.--Whenever,
18 prior to June 1, 1911, any borough acquired land outside its
19 corporate limits for park purposes, such borough may own and
20 possess such land for park purposes, and is authorized to lay
21 out and maintain the same and to appropriate money to defray
22 expenses incident to such work.]

23 Section 307. Sections 2708, 2709 and 2710 of the act are
24 amended to read:

25 Section 2708. Creation of Recreation Board.--(a) The
26 authority to supervise and maintain recreation places, may be
27 vested in any existing body or board, including the borough
28 council, or in a recreation board, as the borough council shall
29 determine. The council of any such borough may equip, operate
30 and maintain the recreation places, as authorized by this

1 article, and may, for the purpose of carrying out the provisions
2 of this article, employ [play leaders, recreation directors,
3 supervisors, superintendents, or] any [other] officers or
4 employes, as it may deem proper.

5 (b) Notwithstanding subsection (a), a borough council shall
6 not delegate the power to maintain accounts or expend funds from
7 the borough treasury for the purposes authorized by this
8 subdivision to any existing or newly created body or board.

9 (c) Any borough may join or create, with one or more
10 municipalities, a joint recreation board in accordance with 53
11 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
12 cooperation). The composition of the board and its powers and
13 duties shall be as provided by agreement of the governing bodies
14 of the municipalities.

15 Section 2709. Composition of Board.--[(a)] If the borough
16 council shall determine that the power to equip, operate, and
17 maintain recreation places, shall be exercised by a recreation
18 board, it may, by ordinance, establish in [said] the borough
19 [such] a recreation board, which shall possess [all the powers,
20 and be subject to all the responsibilities, of the respective
21 authorities under this article. Such] those powers and duties as
22 may be delegated to it by ordinance. The board shall consist of
23 a minimum of five and a maximum of nine persons. Two of the
24 members may be members or appointees of the school board of the
25 school district in which the borough is located. If the board
26 [consist] consists of seven members, three of the members may be
27 members or appointees of [such] the school board. The borough
28 members of the board shall be appointed by the borough council,
29 and shall serve no longer than five years and the terms of the
30 members shall be staggered in such a manner that at least one

1 expires annually. Members of [such] the board shall serve
2 without pay. Vacancies in [such] the board, occurring otherwise
3 than by expiration of term, shall be filled for the unexpired
4 term in the same manner as original appointments.

5 [(b) In addition to the establishment of a borough
6 recreation board, the borough council may appoint persons to
7 serve as members of a school district recreation board
8 established by the school district wherein the borough is
9 located.]

10 Section 2710. Organization of Board; Employees.--The members
11 of a recreation board, established pursuant to this article,
12 shall elect their own [chairman] chair and secretary and select
13 all other necessary officers, to serve for a period of one
14 year[, and may employ such persons as may be needed, as
15 authorized by this article. Such] The recreation board may, with
16 the approval of council, establish employment positions and hire
17 employees to fill the approved positions. The board shall have
18 power to adopt rules and regulations for the conduct of all
19 business within its jurisdiction.

20 Section 308. Sections 2711 and 2712 of the act are repealed:

21 [Section 2711. Joint Ownership and Maintenance.--Any two or
22 more boroughs, or a borough with any city or township, or a
23 borough with a county, may jointly acquire property for, and
24 operate and maintain, any recreation places. Any borough or
25 boroughs shall have power to join with any school district in
26 equipping, operating and maintaining recreation places, and may
27 appropriate money therefor.

28 Section 2712. Maintenance and Tax Levy.--All expenses
29 incurred in the operation of such recreation places, established
30 as herein provided, shall be payable from the treasury of such

1 borough, or boroughs, township, city, county or school districts
2 as may be provided for by agreement of the corporate
3 authorities. The borough council may annually appropriate, and
4 cause to be raised by taxation, an amount necessary for the
5 purpose of maintaining and operating recreation places, or for
6 paying its share of such amount.]

7 Section 309. Section 2713 of the act is amended to read:

8 Section 2713. Lease for School Athletics.--Any borough
9 maintaining a recreation place, may lease [such] a recreation
10 place or [such] a portion [thereof] of a recreation place,
11 suitable for athletic sports and athletic games, to any school
12 board, or school athletic association organized by a school
13 board, and organized for the purpose of conducting amateur
14 athletic sports and games among pupils of the public school, and
15 may permit [such] a school board or school athletic association
16 to charge admission to [such] sports and games and to deny
17 persons refusing to pay admission access to the grounds where
18 [such] sports or games are being conducted, if [such] sports and
19 games are not conducted for individual profit.

20 Section 310. Article XXVII subdivision (b)(1) heading of the
21 act is amended to read:

22 (b) Shade Trees

23 (1) [Shade Tree Commission] Power of Boroughs
24 as to Shade Trees

25 Section 311. The act is amended by adding sections to read:

26 Section 2720. Care, Custody and Control of Shade Trees.--(a)
27 Council shall have exclusive care, custody and control of shade
28 trees in the borough. Council may plant, transplant, remove,
29 maintain and protect shade trees on the streets and highways in
30 the borough, employ and pay persons and make and enforce

1 regulations as may be necessary for the care and protection of
2 the shade trees of the borough.

3 (b) Council may, by ordinance, and with or without the
4 petition of a majority of the property owners upon any public
5 street in the borough, plant, transplant or remove shade trees.
6 Council may, with or without petition, require the planting and
7 replanting of suitable shade trees along and upon the sides of
8 the streets, upon such alignment and at such points as may be
9 designated by ordinance, by the owners of property abutting the
10 street at the points designated. Nothing in this act may
11 authorize council to plant or replant, or require the planting
12 or replanting, of trees at any point which may interfere with
13 the necessary or reasonable use of any street or abutting
14 property or the business conducted on the property. On failure
15 of any owner, after reasonable notice, to comply with the terms
16 of an ordinance requiring the planting or replanting of shade
17 trees, the borough may cause such trees to be planted or
18 replanted and assess the cost against the owner in accordance
19 with section 2720.2.

20 (c) Council may, upon notice as may be provided by
21 ordinance, require owners of property to cut and remove plants,
22 shrubs and trees afflicted with any disease that threatens to
23 injure or destroy plants, shrubs and shade trees in the borough
24 under regulations prescribed by ordinance. Upon failure of any
25 owner to comply with the notice, the borough may cause the work
26 to be done by the borough, and assess the cost against the owner
27 in accordance with section 2720.2.

28 Section 2720.1. Maintenance by Borough; Tax Levy.--(a) The
29 cost and expenses of caring for shade trees after having been
30 planted or transplanted and the expense of publishing any notice

1 required by this subdivision shall be paid by the borough.

2 (b) Council may levy a general tax, not to exceed the sum of
3 one-tenth of one mill on the dollar on the assessed valuation of
4 the property in the borough taxable for county purposes, for the
5 purpose of defraying the cost and expenses of caring for the
6 shade trees and the expense of publishing notices; or it may
7 provide for the expense of the caring for trees already planted
8 and of publishing the notice by appropriations.

9 Section 2720.2. Payment by Owners; Assessments.--The cost of
10 planting, transplanting or removing any shade trees or the
11 necessary and suitable guards, curbing or grading for their
12 protection and of the replacing of pavement or sidewalk
13 necessarily disturbed in the execution of the work shall be paid
14 by the owners of the real estate abutting the location of the
15 work. In the event that the borough undertakes the work
16 described in this section, costs shall be certified, assessed
17 against the abutting owners and collected in accordance with
18 Article XXI-A.

19 Section 2720.3. Notice of Work.--Whenever council proposes
20 to plant, transplant or remove shade trees on any street, notice
21 of the time and place of the meeting at which the work is to be
22 considered shall be given in one newspaper OF GENERAL
23 CIRCULATION once a week for two weeks immediately preceding the
24 time of the meeting. The notice shall specify in detail the
25 streets or portions upon which trees are proposed to be planted,
26 transplanted or removed. In the event that a shade tree
27 commission is to undertake the work, the commission shall
28 provide the notice.

29 Section 2720.4. Penalties.--(a) To the extent provided by
30 ordinance, council may assess penalties for the violation of



1 regulations relating to shade trees or delegate the power to
2 assess such penalties to a shade tree commission. Any penalty so
3 assessed shall be a lien upon the real estate of the offender
4 and may be collected as municipal claims are collected.

5 (b) All penalties or assessments imposed under this
6 subdivision shall be paid to the borough treasurer, to be kept
7 in a separate fund and utilized only for the purposes authorized
8 by this subdivision.

9 Section 312. Article XXVII subdivision (b) of the act is
10 amended by adding a subdivision to read:

11 (2) Shade Tree Commission

12 Section 313. Section 2721 of the act is amended to read:

13 Section 2721. Shade Tree Commission.--[A borough] (a)
14 Council by ordinance may establish a commission to be known as
15 the shade tree commission, [but in boroughs where the council
16 shall not elect by ordinance a shade tree commission council may
17 exercise all the rights and perform the duties and obligations
18 imposed by this subdivision of this article upon the shade tree
19 commission.] and delegate to the commission the exclusive care,
20 custody and control of shade trees and authorization to plant,
21 transplant, remove, maintain and protect shade trees on the
22 streets and highways in the borough. The commission may make and
23 enforce regulations for the care and protection of shade trees.
24 No regulation may be in force until it has been approved by the
25 council and enacted as an ordinance.

26 (b) Whenever in any borough there exists a commission for
27 the care of public parks, the council may, by ordinance, confer
28 on the park commission all the powers and all the duties
29 prescribed by this article for the shade tree commission.

30 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

1 borough, and is authorized to plant, remove, maintain and
2 protect shade trees on the streets and highways in the borough.

3 The commission may employ and pay such superintendents,
4 engineers, foresters, tree-wardens, or other assistants, as the
5 proper performance of the duties devolving upon it shall
6 require, and may make, and enforce regulations for the care and
7 protection of the shade trees of the borough. No such regulation
8 shall be in force until it has been approved by the council and
9 enacted as an ordinance.]

10 Section 316. The act is amended by adding a section to read:

11 Section 2724.1. Duties of Commission.--(a) The shade tree
12 commission shall annually report in full to the council its
13 transactions and expenses for the last fiscal year of the
14 borough.

15 (b) Whenever any shade tree commission proposes to plant,
16 transplant or remove shade trees on any street, notice of the
17 time and place of the meeting at which such work is to be
18 considered shall be given by the commission in accordance with
19 section 2720.3.

20 (c) The commission shall each year certify to council an
21 amount needed for the care of shade trees and for the
22 publication of notices required by this subdivision. The
23 commission shall use funds appropriated or raised by taxation in
24 accordance with section 2720.1 for any purpose authorized by
25 council.

26 (d) The commission shall ascertain and certify to council
27 and the borough treasurer the amount of any assessment imposed
28 in accordance with this subdivision for the planting,
29 transplanting or removal of plants, shrubs and trees.

30 Section 317. Sections 2725, 2726, 2727, 2728, 2729 and 2730,

1 Article XXVII(b)(2) heading and sections 2741, 2742 and 2743 of
2 the act are repealed:

3 [Section 2725. Report of Commission.--The shade tree
4 commission shall annually report in full to the council its
5 transactions and expenses for the last fiscal year of the
6 borough.

7 Section 2726. Notices by Commission.--Whenever any shade
8 tree commission proposes to plant, transplant, or remove shade
9 trees on any street, notice of the time and place of the meeting
10 at which such work is to be considered shall be given in one
11 newspaper of general circulation in the borough once a week for
12 two weeks immediately preceding the time of the meeting. The
13 notice shall specify in detail the streets or portions upon
14 which trees are proposed to be so planted, replanted, or
15 removed.

16 Section 2727. Payment by Owners.--The cost of planting,
17 transplanting, or removing any shade trees in and along the
18 streets and highways in the borough, of the necessary and
19 suitable guards, curbing or grading for the protection thereof,
20 and of the replacing of any pavement or sidewalk necessarily
21 disturbed in the execution of such work, shall be paid by the
22 owner of the real estate abutting which the work is done.

23 The amount each owner is to pay shall be ascertained and
24 certified by the commission to council and to the borough
25 treasurer.

26 Section 2728. Assessments; Liens.--Upon the filing of the
27 certificate with the council, the borough secretary shall cause
28 thirty days' written notice to be given to every person against
29 whose property an assessment has been made. The notice shall
30 state the amount of the assessment, and the time and place of

1 payment, and shall be accompanied with a copy of the
2 certificate.

3 The amount assessed against the real estate shall be a lien
4 from the time of the filing of the certificate with the council,
5 and if not paid within the time designated in the notice, a
6 claim may be filed and collected by the borough solicitor in the
7 same manner as municipal claims are filed and collected.

8 Section 2729. Maintenance by Borough; Tax Levy.--The cost
9 and expenses of caring for such trees after having been planted
10 and the expense of publishing the notice hereinbefore provided
11 for shall be paid by the borough.

12 The needed amount shall each year be certified by the
13 commission to the council and shall be drawn against, as
14 required by the commission, in the same manner as money
15 appropriated for borough purposes.

16 The council may levy a general tax, not to exceed the sum of
17 one-tenth of one mill on the dollar on the assessed valuation of
18 the property in said borough taxable for county purposes, for
19 the purpose of defraying the cost and expenses of caring for
20 such shade trees and the expense of publishing the notice; or it
21 may provide for the expense of the caring for trees already
22 planted and of publishing the notice by appropriations equal to
23 the amount certified to be required by the commission.

24 Section 2730. Penalties.--The commission, to the extent as
25 may be provided by ordinance of the borough, may assess
26 penalties for the violation of its regulations and of this
27 article so far as it relates to shade trees. Any penalty so
28 assessed shall be a lien upon the real estate of the offender
29 and may be collected as municipal claims are collected.

30 All penalties or assessments imposed under this article shall

1 be paid to the borough treasurer, to be placed to the credit of
2 the commission, subject to be drawn upon by the commission for
3 the purposes of the preceding sections of this subdivision of
4 this article.

5 (2) Power of Boroughs as to Shade Trees

6 Section 2741. Ordinances to Require Planting and
7 Replanting.--Any borough may, by ordinance, upon the petition of
8 a majority of the property owners upon any public street
9 thereof, require the planting and replanting of suitable shade
10 trees along and upon the sides of such streets, upon such
11 alignment and at such points as may be designated by such
12 ordinance, by the owners of property abutting the street at the
13 points designated. This section shall not authorize any borough
14 to require the planting or replanting of trees at any point
15 which may interfere with the necessary or reasonable use of any
16 street or abutting property or unreasonably interfere with any
17 business conducted thereon.

18 Section 2742. Power of Borough Where Owners Fail to
19 Comply.--On failure of any owner, after reasonable notice, to
20 comply with the terms of any such ordinance, the borough may
21 cause such trees to be planted or replanted at the expense of
22 the borough, and thereupon, in the name of the borough, collect
23 the cost of such work from the owners in default, as debts of
24 like amount are by law collectible.

25 Section 2743. Removal of Diseased Plants, Shrubs and
26 Trees.--The commission may upon such notice as may be provided
27 by ordinance, require owners of property to cut and remove
28 plants, shrubs and trees, afflicted with the Dutch elm or other
29 disease, which threatens to injure or destroy plants, shrubs and
30 shade trees, in the borough under regulations prescribed by

1 ordinance. Upon failure of any such owner to comply with such
2 notice, the borough may cause the work to be done by the
3 borough, and levy and collect the cost thereof from the owner of
4 the property. The cost of such work shall be a lien upon the
5 premises from the time of the commencement of the work, which
6 date shall be fixed by the borough engineer and shall be filed
7 with the borough secretary. Any such lien may be collected by
8 action in assumpsit or by lien filed in the manner provided by
9 law for the filing and collection of municipal claims.]

10 Section 318. Article XVII subdivision (c) heading of the act
11 is reenacted to read:

12 (c) Forests

13 Section 319. Section 2751 of the act is amended to read:

14 Section 2751. Acquisition of Land for Forest Purposes.--Any
15 borough may acquire, by purchase, gift, or lease, and hold
16 tracts of land covered with forest or tree growth or suitable
17 for the growth of trees, and administer the same[, under the
18 direction of the Department of Forests and Waters,] in
19 accordance with the practices and principles of scientific
20 forestry, for the benefit of the borough. Such tracts may be of
21 any size suitable for the purpose and may be located within or
22 without the borough limits.

23 Section 320. Section 2752 of the act is repealed:

24 [Section 2752. Approval of Department of Forests and
25 Waters.--Before the passage of any ordinance for the acquisition
26 of land to be used as a municipal forest, the borough shall
27 submit to the Department of Forests and Waters, and secure its
28 approval of, the area and location of such land.]

29 Section 320.1. section 2753 of the act is reenacted to read:

30 Section 2753. Ordinance Declaring Intention.--Whenever the

1 council of any borough deems it expedient to acquire any land
2 for the purposes of municipal forests, it shall so declare in an
3 ordinance wherein shall be set forth all facts and conditions
4 relating to the proposed action.

5 Section 321. Sections 2754, 2755, 2756 and 2757 of the act
6 are amended to read:

7 Section 2754. Appropriations of Money.--All moneys necessary
8 for the purchase of such tracts shall be appropriated in the
9 same manner as appropriations for borough purposes, and [such]
10 the funds may be provided from the current revenue or by the
11 proceeds of a sale of general obligation bonds in accordance
12 with existing law.

13 Section 2755. Rules and Regulations.--Upon the acquisition
14 of any municipal forest or land suitable [therefor] for
15 municipal forests, the council [shall notify the Department of
16 Forests and Waters, which shall] may make [such] rules for the
17 government and proper administration of the same as may be
18 deemed necessary[, and the council shall publish such rules,
19 declare the uses of the forest in accordance with the intent of
20 this subdivision of this article, and make such provision for
21 its administration, maintenance, protection and development as
22 shall be necessary or expedient]. The rules governing the
23 administration of [such] the forest shall have for their main
24 purpose the [producing of a] production of continuing borough
25 revenue by the sale of forest products.

26 Section 2756. Appropriations and Revenues.--All moneys
27 necessary to be expended for the administration, maintenance,
28 protection and development of [such] forests, shall be
29 appropriated and applied as is now done for borough purposes[;].
30 [all] All revenue and emoluments arising from [such] the forests

1 shall be paid into the borough treasury to be used for general
2 borough purposes.

3 Section 2757. Use of Forests.--Municipal forests may be used
4 by the public as general outing or recreation grounds subject to
5 the rules [of the Department of Forests and Waters governing
6 their administration as municipal forests and rules] adopted by
7 the council [of the borough not inconsistent with law or the
8 regulations of the department].

9 Section 322. Section 2758 of the act is reenacted to read:

10 Section 2758. Ordinance of Sale.--Whenever the council of
11 any borough deems it expedient to sell or lease any municipal
12 forest or part thereof, or products therefrom, it shall so
13 declare in an ordinance wherein shall be set forth all the facts
14 and conditions relating to the proposed action. No ordinance for
15 the sale of a municipal forest, or part thereof, shall be
16 enacted until the provisions of this act relative to the sale of
17 borough-owned real estate have been complied with.

18 Section 323. Section 2759 of the act is amended to read:

19 Section 2759. Pruning or Thinning Out; Sale of Products
20 Thereof.--In order to comply with the practices and principles
21 of scientific forestry, the council, by resolution, shall have
22 the power to prune or thin out any municipal forest or portion
23 [thereof] of a municipal forest, and shall have the right to
24 sell the products of [such] the pruning or thinning out without
25 complying with the provisions of this act relative to
26 advertising and bidding. In doing so, the borough may either use
27 its own personnel or hire or contract with skilled personnel,
28 and in [such] the hiring or contracting, council shall not be
29 required to obtain bids or to advertise.

30 Section 324. Article XXVIII heading of the act is reenacted

1 to read:

2 ARTICLE XXVIII

3 CEMETERIES

4 Section 325. The act is amended by adding sections to read:

5 Section 2800. Appropriations for Burial Ground

6 Maintenance.--Any borough may appropriate annually, out of the
7 general funds of the borough, a sum for the care, upkeep,
8 maintenance and beautifying of cemeteries, burial grounds and
9 private roads in or leading to those areas, lying wholly or
10 partly within the boundary limits of the borough or in the
11 territory immediately adjacent to the borough.

12 Section 2800.1. Burial of Deceased Persons.--Any borough may
13 prohibit, within the borough limits, or within any described
14 territory within the limits, the burial or interment of deceased
15 persons.

16 Section 326. Sections 2801 and 2802 of the act are amended
17 to read:

18 Section 2801. Management by Commission[; Transfer from
19 Borough to Company].--When the title and management of any
20 cemetery is vested in a borough, the council of [such] the
21 borough may [in its discretion], by ordinance, vest the care,
22 management and operation of [such] the cemetery in a commission
23 of three citizens to be appointed by the council[, such care,
24 management and operation, and the terms of the commissioners to
25 be as provided in the ordinance establishing such cemetery
26 commission. Upon petition of at least ten lot owners in such
27 cemetery, the council may, in its discretion, transfer such
28 cemetery and the management thereof to an incorporated cemetery
29 company in the manner hereinafter provided]. The ordinance shall
30 provide for the terms of the cemetery commissioners.

1 Section 2802. [Vesting Title.--] Transfer from Borough to
2 Company.--(a) Upon petition of at least ten per centum of
3 living cemetery lot owners, the council may, in its discretion,
4 transfer the cemetery and the management thereof to an
5 incorporated cemetery company.

6 (b) Upon the presentation to council of [such] the petition,
7 the council may enact an ordinance declaring that, upon the
8 acceptance of the provisions of [such] the ordinance by the
9 incorporated cemetery company, filed with the borough secretary,
10 the title and control of [such] the cemetery shall vest in
11 [such] the incorporated cemetery company.

12 (c) A copy of the ordinance and the acceptance thereof,
13 certified by the borough secretary, shall be recorded in the
14 office of the recorder of deeds of the county.

15 Section 327. Sections 2803 and 2804 of the act are repealed:

16 [Section 2803. Recording of Ordinance and Acceptance.--A
17 copy of the ordinance and the acceptance thereof, certified by
18 the borough secretary, shall be recorded in the office of the
19 recorder of deeds of the county.

20 Section 2804. Orders of Court as to Neglected Cemeteries.--

21 (a) Authority is vested in the court of quarter sessions to
22 make such orders for the regulation of cemeteries, situated in
23 or adjacent to boroughs, as the public good shall require; and
24 when any cemetery shall become so neglected as, in the opinion
25 of the court, to become a public nuisance, the court may direct
26 the removal of the dead therefrom by the borough authorities to
27 some other cemetery.

28 (b) When any cemetery situated in a borough shall become so
29 neglected as, in the opinion of the court of quarter sessions,
30 to become a public nuisance, such court, upon petition of the

1 borough council and after such notice as is required in
2 subsection (c) of this section, may authorize the borough
3 without the removal of any dead from the cemetery to improve and
4 maintain the cemetery by the restoration, improvement or removal
5 of some or all of the gravestones, posts, railings, fences or
6 other structures and improvements. If the court authorizes the
7 removal of gravestones, it shall direct the borough to erect and
8 maintain at a prominent location in the cemetery a suitable
9 memorial of stone, bronze or similar material having inscribed
10 thereon the available names and dates of all persons in the
11 cemetery the gravestones for whom have been authorized to be
12 removed. The petition filed by the council shall include such
13 facts as to the ownership of the cemetery as are known to the
14 borough and shall set forth the proposed plans of the borough
15 for the improvement of the cemetery including, if it proposes to
16 remove the gravestones, a description of the memorial it intends
17 to erect.

18 (c) Whenever the council shall file a petition as
19 hereinbefore provided, the court shall direct such notice of the
20 filing of the petition to be given in such manner as it shall
21 deem appropriate and shall afford the owner or owners of the
22 cemetery or the owners of any burial rights therein, if any
23 appear, an opportunity to be heard before making an order
24 authorizing the borough to improve and maintain the burial
25 ground.]

26 Section 328. Section 2805 of the act is amended to read:

27 Section 2805. Transfer from Company to Borough.--(a) Upon
28 the petition of any incorporated cemetery company and the owners
29 of a majority of the taxable real estate in any borough, the
30 court of [quarter sessions] common pleas may authorize the

1 transfer of any cemetery to any borough in which [such] the
2 cemetery may be located or [be adjacent thereto.] which is
3 adjacent to the borough. A copy of the court order authorizing
4 the transfer shall be filed with the recorder of deeds.

5 (b) The transfer shall be made without cost to the borough
6 and upon being made the borough shall exercise the powers and
7 privileges of the incorporated company, and may purchase land
8 within or adjacent to the borough limits, not to exceed thirty
9 acres, for the extension of the cemetery, and may raise the
10 means to pay for the same, by the sale of lots or otherwise, but
11 in no event by taxation. The borough may lay out lots so
12 purchased and alter the original plot of the cemetery, and may
13 dispose of such grounds in the same manner as the incorporated
14 company could have done.

15 (c) A deed for any lot, made by the borough, shall be of the
16 same validity as the deed of the incorporated cemetery company
17 and the borough may make deeds to those who theretofore
18 purchased lots, but had not been furnished with deeds by the
19 cemetery company.

20 Section 329. The act is amended by adding a section to read:

21 Section 2805.1. Neglected or Abandoned Cemeteries.--Borough
22 council shall have the power to direct the removal of weeds,
23 refuse and debris from an abandoned or neglected cemetery. To
24 exercise this power, council shall give personal notice to the
25 owner, if known, directing the removal of weeds, refuse and
26 debris from the cemetery within thirty days from the giving of
27 personal notice. Personal notice shall be by any of the
28 following means: (1) personal service on the owner, (2)
29 certified mail, addressee only, return receipt requested, to the
30 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.

1 Section 2809. Removal of Bodies to Other [Cemeteries.--

2 Whenever any cemetery privately owned and in charge of no
3 person, or any cemetery in charge of any religious society or
4 church, has ceased to be used for interments, or has become so
5 neglected as to become a public nuisance; or when such cemetery
6 hinders the improvement and progressive interests of any
7 borough, or is desired by the borough as a site for any free
8 public library building, or for any other public purpose, the
9 court of quarter sessions of the county, upon petition of the
10 managers of such cemetery; or upon the petition of fifty
11 residents in the vicinity in case such cemetery is not in charge
12 of anyone, setting forth that the improvements and progressive
13 interests of such borough are hampered and the welfare of such
14 borough is injured; or upon the petition of such borough setting
15 forth that such cemetery is desired by the borough for the
16 erection thereon of a free public library building, or for use
17 as a recreation place, or the opening, laying out or extension
18 through said land of any street, or for any other public
19 purpose; and after three successive weeks of advertisement in a
20 newspaper of general circulation in the borough may direct the
21 removal of the remains of the dead from such cemetery.]

22 Cemeteries.--(a) The court of common pleas may, upon petition
23 and notice as set forth in this section, direct the removal of
24 the remains of the dead from a privately owned cemetery,
25 borough-owned cemetery, any cemetery affiliated with any
26 religious society or church or with any other organization, when
27 the cemetery has ceased to be used for interments, or has become
28 so neglected as to become a public nuisance, or when the
29 cemetery hinders the improvement and progressive interests of
30 the borough, or is desired by the borough as a site for any

1 public purpose.

2 (b) The petition to the court for the removal of the remains
3 of the dead shall be made in accordance with any of the
4 following:

5 (1) The managers of the cemetery in charge of a religious
6 society or church or any other organization, but only in
7 pursuance of the wishes of a majority of the members of the
8 society or church or any other organization, expressed at a
9 meeting held for that purpose after two weeks' public notice.
10 The managers' petition shall set forth that the cemetery has
11 ceased to be used for interments.

12 (2) Approval of fifty residents of the borough if the
13 cemetery is not in charge of anyone, setting forth that the
14 improvements and progressive interests of the borough are
15 hampered and the welfare of the borough is injured by the
16 presence of the cemetery.

17 (3) Borough council setting forth that the cemetery has
18 become so neglected as to become a public nuisance, or that the
19 improvements and progressive interests of the borough are
20 hampered and the welfare of the borough is injured by the
21 presence of the cemetery, or that the land is desired for a
22 public purpose.

23 (c) Prior to the court authorizing the removal of the
24 remains of the dead from a cemetery, notice shall be given by
25 advertisement in a newspaper OF GENERAL CIRCULATION once a week
26 for three successive weeks.

27 (d) The removal shall be made by the managers of the
28 cemetery, or by the borough when the cemetery is in charge of no
29 one or is a borough-owned cemetery, in a careful manner, at the
30 expense of the party making the removal, to another cemetery as

1 may be selected, or if so desired by relatives or other
2 interested parties, to some cemetery in the vicinity.

3 (e) Relatives or other interested parties of the dead may
4 remove the remains, at any time during the proceedings, at their
5 own expense, before removal by the managers or the borough.

6 (f) All bodies, when so removed, shall be placed in separate
7 caskets and graves, and the markers placed over the remains of
8 the bodies shall be taken by the persons authorized to make the
9 removal, and placed as near as can be in the same relative
10 position as before removal.

11 (g) After the removal of all dead bodies from any such
12 cemetery, the land shall cease to be a cemetery or burial
13 ground, and may be acquired by the borough as other real estate
14 is acquired for borough purposes.

15 Section 332. Sections 2810, 2811, 2812, 2813, 2814 and 2815
16 of the act are repealed:

17 [Section 2810. Applications for Removal.--No application, as
18 provided in the preceding section, shall be made by the managers
19 of any cemetery, in charge of any society or church, except in
20 pursuance of the wishes of a majority of the members of such
21 society or church, expressed at a meeting held for that purpose
22 after two weeks' public notice.

23 Section 2811. Removals; How Made.--Such removal shall be
24 made by the managers of such cemetery, or by the borough when
25 such cemetery is in charge of no one, in a careful manner, at
26 the expense of the party making such removal, to such other
27 cemetery as may be selected; or if so desired by relatives or
28 friends, to some cemetery in the vicinity.

29 Section 2812. Notice of Removal.--The parties making such
30 removal shall publish, for two successive weeks, in a newspaper

1 of general circulation in the borough, a notice declaring their
2 intention to remove such remains.

3 Section 2813. Removal by Relatives and Friends.--Relatives
4 and friends of such dead may remove such remains, at any time
5 during such proceedings, at their own expense, before removal by
6 the managers.

7 Section 2814. Care in Removal.--All bodies, when so removed,
8 shall be placed in separate caskets and graves, and the markers
9 placed over the remains of such bodies shall be taken by the
10 persons authorized to make such removal, and placed as near as
11 can be in the same relative position as before removal.

12 Section 2815. Right to Use Property From Which Bodies
13 Removed.--After the removal of all dead bodies from any such
14 cemetery, the said land shall cease to be a cemetery or burial
15 ground for all and any purpose whatsoever; and may be acquired
16 by the borough as other real estate is acquired for borough
17 purposes.]

18 Section 333. Section 2816 of the act, amended October 4,
19 1978 (P.L.962, No.189), is amended to read:

20 Section 2816. Purchase of Plots for Burial of Deceased
21 Service Persons.--Any borough may purchase plots of ground, in
22 any cemetery or burial ground within its limits, for the
23 interment of [such] deceased members of the armed forces, as
24 have [heretofore] died before or shall [hereafter] die later
25 within [such] the borough, or shall die beyond [such] the
26 borough and shall have a legal residence within the borough at
27 the time of their death, and whose bodies are entitled to be
28 buried by the county under the provisions of existing law.
29 [Such] The plots of ground shall be paid for out of the treasury
30 of [such] the borough.

1 Section 334. Article XXIX heading of the act is reenacted to
2 read:

3 ARTICLE XXIX

4 LICENSES AND LICENSE FEES

5 Section 335. Sections 2901 and 2902 of the act are amended
6 to read:

7 Section 2901. Licensing Transient Retail Business.--[Every
8 borough shall have power] (a) Any borough may, by ordinance,
9 [to] regulate and license [each and every person, firm or
10 corporation] transient merchants engaged in any transient retail
11 business[,] within [such] the borough[,]. Transient merchants
12 shall include any person, partnership or corporation engaged in
13 any transient retail business for the sale of goods, wares, or
14 merchandise, whether [such] the business [shall be] is conducted
15 from a fixed location within the borough or by any person or
16 persons engaged in peddling, soliciting, or taking of orders
17 from house to house[, and to]. The ordinance may prohibit the
18 commencement or doing of any [such] transient retail business
19 [or] unless the license required by [such] the ordinance has
20 been procured from the proper authorities by the person, firm,
21 or corporation desiring to commence [such] the transient retail
22 business[, and to enforce such ordinances]. The ordinance may
23 provide for enforcement by penalties or [by] other appropriate
24 means. The amount of any [such] license fee shall bear a
25 reasonable relationship to the cost of administering [such] the
26 ordinance and regulating[, investigating,] and inspecting [and
27 supervising such] the transient retail business.

28 (b) No license fee shall be charged under this section to
29 the following transient merchants, unless such transient
30 merchant is also selling other goods, wares and merchandise not

1 excepted:

2 (i) [to farmers] Farmers selling their own produce[,].

3 (ii) [for the sale of] Persons selling goods, wares and
4 merchandise[, donated by the owners thereof,] if the proceeds
5 [whereof] of the sale are to be applied to any charitable or
6 philanthropic purpose[, or].

7 (iii) [to any manufacturer or producer] Manufacturers or
8 producers in the sale of bread and bakery products, meat and
9 meat products, or milk [or] and milk products, [but the]
10 provided that milk and milk products shall not include or apply
11 to ice cream or other frozen desserts.

12 (c) The ordinance may require [any person, partnership, firm
13 or corporation in any or all of these excepted categories to]
14 that the transient merchants excepted from payment of a license
15 fee in subsection (b) must register with the borough[, and
16 otherwise be subject to all other provisions of the ordinance
17 [except those pertaining to the payment of license fees:
18 Provided, the term "milk or milk products" shall not include or
19 apply to ice cream or other frozen desserts: And provided
20 further, That any transient retail business dealing in one or
21 more of the excepted categories and selling other goods, wares
22 and merchandise not excepted shall be subject to the license fee
23 fixed by the ordinance for its activities in connection with the
24 sale of goods, wares and merchandise not in any of the excepted
25 categories].

26 Section 2902. Commonwealth Licenses Saved.--Nothing
27 contained in [section 2901 of this act] this article shall be
28 construed to relieve any person, partnership, or corporation
29 from the duty of taking out a license, or from the payment of
30 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

1 merchandise by sample, from dealers or merchants[,] for
2 individuals or companies who pay a license fee or mercantile tax
3 at their chief places of business. Nothing in this section shall
4 authorize any such person, firm or corporation to sell by retail
5 to others than dealers or merchants without payment of a license
6 or permit fee.

7 Section 2905. Equality of Residents and Non-Residents.--It
8 shall be unlawful for any borough to impose, by ordinance, [or
9 exact] or collect under the provisions of any ordinance
10 [heretofore or hereafter enacted], any license [tax or] fee upon
11 or from any manufacturer, or the agent, representative or
12 employe of any manufacturer who is a resident of the
13 Commonwealth, for soliciting orders for, or for selling, any
14 goods, merchandise or wares manufactured within this
15 Commonwealth, that is not or cannot legally be imposed upon, [or
16 exacted,] or collected from, any manufacturer or dealer, or the
17 agent, representative, or employe of any manufacturer, who is a
18 non-resident of the Commonwealth, for soliciting orders for or
19 for selling any goods, merchandise, or wares manufactured
20 [without the] outside this Commonwealth.

21 Section 338. Section 2906 of the act is reenacted to read:

22 Section 2906. Insurance Business.--It shall be unlawful for
23 any borough to impose or collect any license fee upon any
24 insurance company or its agents, or insurance broker, authorized
25 to transact business under the laws of the Commonwealth.

26 Section 339. The act is amended by adding an article to
27 read:

28 ARTICLE XXIX-A

29 VETERANS' AFFAIRS

30 (a) Pennsylvania National Guard

1 Section 2901-A. Eminent domain for National Guard purposes.

2 Borough council may take, by right of eminent domain, for the
3 purpose of appropriating to the borough for the use of the
4 Pennsylvania National Guard, public lands, easements and public
5 property, as may be in its possession or control and used or
6 held by the borough for any other purpose. The right, however,
7 shall not be exercised as to any street or wharf.

8 Section 2902-A. Lands for armory purposes.

9 Borough council may acquire, by purchase or by gift or by the
10 right of eminent domain, any land for the use of the
11 Pennsylvania National Guard, to convey the lands so acquired to
12 the Commonwealth in order to assist the State Armory Board in
13 the erection of armories. The power conferred by this section
14 shall not be exercised to take any church property, graveyard,
15 cemetery or any dwelling-house or the curtilage of the same in
16 the actual occupancy of the owner.

17 Section 2903-A. Appropriation to assist in erection of
18 armories.

19 Borough council may appropriate money or convey land, either
20 independently or in conjunction with any municipality for the
21 purpose of assisting the State Armory Board in the erection of
22 armories for the use of the Pennsylvania National Guard and to
23 furnish water, sewer service, light or fuel, free of cost, to
24 the Commonwealth for use in any armory of the Pennsylvania
25 National Guard, and to do all things necessary to accomplish the
26 purpose of this section.

27 Section 2904-A. Support of Pennsylvania National Guard units.

28 Borough council may appropriate annually a sum to be used and
29 expended exclusively for the support and maintenance, discipline
30 and training of any company, battalion, regiment or similar unit

1 of the Pennsylvania National Guard. Where the units are
2 organized as a company, battalion, regiment or similar
3 organization, the total amount due may be paid to the commanding
4 officer of the company, battalion, regiment or similar
5 organization. Any moneys so appropriated shall be paid by
6 warrant drawn to the order of the commanding officer of the
7 company, battalion, regiment or similar organization, only when
8 it shall be certified to the borough, by the Adjutant General,
9 that the company or companies have satisfactorily passed the
10 annual inspection provided by law. The commanding officer shall
11 account, by proper vouchers to the borough each year, for the
12 expenditure of the money appropriated, and no appropriation
13 shall be made for any subsequent year until the expenditure of
14 the previous year is duly and satisfactorily accounted for. The
15 accounts of the expenditures shall be subject to the inspection
16 of the Department of Military and Veterans Affairs, and shall be
17 audited by the Auditor General in the manner provided by law for
18 the audit of accounts of State moneys.

19 (b) Support of Veterans' Organizations

20 Section 2911-A. Appropriations to organizations of veterans and
21 American Gold Star Mothers.

22 Borough council may appropriate annually a sum to be divided
23 in amounts as council deems proper to organizations composed of
24 veterans of any war in which the United States was engaged or
25 the American Gold Star Mothers' Organization, to aid in
26 defraying the expenses of Memorial Day, Veterans' Day or any
27 similar day hereafter provided for by Federal or State law. The
28 payments shall be made to defray actual expenses only. Before
29 any payment is made, the organization receiving the
30 appropriation shall submit verified accounts of its

1 expenditures.

2 Section 2912-A. Payment of rent for veterans' organizations.

3 Borough council may appropriate annually a sum as council
4 deems proper to incorporated organizations of American veterans
5 of any war in which the United States was engaged, to be used in
6 the payment of the rent of any building or room or rooms in
7 which the post, branch, camp, detachment or lodge has its
8 regular meetings.

9 Section 2913-A. Rooms for veterans' and children of veterans'
10 organizations.

11 Borough council may furnish without charge to each
12 organization composed of American veterans of any war in which
13 the United States was engaged and children of such veterans, a
14 room or rooms in any public building of the borough.

15 Section 2914-A. Care and erection of memorials.

16 Borough council may take charge of, care for, maintain and
17 keep in good order and repair, at the expense of the borough,
18 any soldiers' monument, gun or carriage or similar memorial
19 situated in the borough, and not in the charge or care of any
20 person, body or organization, and not put up or placed by the
21 Government of the United States, the Commonwealth of
22 Pennsylvania, or the commissioners of the county, or by the
23 direction or authority of any other state. Borough council may
24 also receive and expend any moneys or funds from any person or
25 organization to be used for the maintenance of the memorials.
26 Additionally, borough council may contribute to the erection of
27 memorials in honor of those who served in any war in which the
28 United States was engaged and thereafter to properly and
29 adequately maintain the same.

30 Section 340. Article XXX heading and sections 3001, 3002,

1 3003, 3004 and 3005 of the act are repealed:

2 [ARTICLE XXX

3 REAL ESTATE REGISTRY

4 Section 3001. Real Estate Registry Established.--For the
5 purpose of procuring accurate information in reference to the
6 ownership of real estate the council of any borough may provide
7 by ordinance for a registry thereof.

8 Section 3002. Maintenance of Real Estate Registry.--The
9 borough council in any borough in which a registry shall be
10 established shall appoint or designate any officer of the
11 borough or any other person to have charge of the real estate
12 registry, who shall, under the direction of the council, cause
13 to be made all necessary books, maps and plans, as will show the
14 situation and dimensions of each property thereon; which books,
15 maps, or plans shall be so prepared as to show the location and
16 the name of the owner or owners thereof, with blank spaces for
17 the name of the owner of each lot, and with provision for the
18 names of future owners and the dates of future transfers of
19 title.

20 Section 3003. Access to Public Records.--For the purpose of
21 establishing such registry, the person in charge of the real
22 estate registry of any borough shall have access without charge
23 to any public records wherein the necessary information may be
24 obtainable, and may also cause a search to be made in other
25 places for any muniments or evidences of title, not reported to
26 him as herein provided, and requisite for the completion of such
27 books, maps, or plans.

28 Section 3004. Keeping of Records.--The registry, books, maps
29 and plans shall be carefully preserved, and shall be so kept, by
30 additions from time to time, as to show the ownership of every

1 lot, or piece of real estate, or subdivision thereof, within the
2 limits of the borough, with the succeeding transmissions of
3 title from the time of the commencement of such plans, but
4 nothing contained therein shall, at any time, invalidate any
5 municipal or tax claim by reason of the fact that the same is
6 not assessed or levied against the registered owner.

7 Section 3005. Duties of Owners of Real Estate.--It shall be
8 the duty of all owners of real estate within the limits of the
9 borough, within one month after the date of the enactment of any
10 ordinance establishing such registry, and of every subsequent
11 purchaser, devise, or other owner, within one month after
12 acquiring title in any manner whatsoever to any real estate in
13 such borough, to furnish to the person in charge of the real
14 estate registry, at his office, descriptions of their respective
15 properties upon blanks to be furnished by the borough, and at
16 the same time to present their conveyances to be stamped as
17 evidence of the registry thereof.]

18 Section 341. Section 3006 of the act, amended October 9,
19 1967 (P.L.360, No.158), is repealed:

20 [Section 3006. Registry Required Before Recording.--The
21 sheriffs of the respective counties in which any such borough is
22 situated shall present for registry the deeds of all properties
23 within such borough sold by them at judicial sales; and the
24 recorders of deeds of such counties shall not admit for record
25 any deed of any property in such borough, bearing dates
26 subsequent to the enactment of an ordinance providing for the
27 establishment of such registry, unless the same shall first have
28 been duly stamped as herein provided.]

29 Section 342. Article XXXI heading of the act is reenacted to
30 read:

1 ARTICLE XXXI

2 HEALTH AND SANITATION

3 Section 343. Sections 3101 and 3102 of the act are amended
4 to read:

5 Section 3101. Establishment of Board of Health; Health
6 Officers.--[The administration of the health laws and ordinances
7 in boroughs shall be enforced by a board of health, or by a
8 health officer or officers, as the case may be, appointed by the
9 borough council.

10 Where the borough council elects to appoint a health officer
11 or officers the said health officer or officers] (a) Borough
12 council may, by ordinance, appoint a board of health, or a
13 health officer or officers in lieu of a board of health, to
14 administer and enforce the health laws and related ordinances of
15 the borough. Health officers appointed by borough council shall
16 have the same powers and duties, and exercise the same
17 authority, as is prescribed for boards of health in boroughs.
18 All health officers, whether appointed by boards of health
19 pursuant to section 3106(b) or by the borough council, shall
20 have had some experience or training in public health work [in
21 accordance with rules and regulations established by the
22 Advisory Health Board of the State] and shall be, or within six
23 months of taking the oath of office, shall become certified for
24 the office of health officer by the Department of Health. [Such
25 health officers shall not enter upon the performance of their
26 duties until they are certified so to do by the State Department
27 of Health.]

28 (b) All expenses incurred by the board of health, its
29 officers or employes in the performance of the duties required
30 by law or by ordinance, shall be paid by the borough where the

1 duties are performed, in the same manner as other expenses of
2 the borough are paid.

3 (c) A borough may, by ordinance, dissolve a board of health
4 and decide to become subject to the jurisdiction of a county
5 department of health or joint county department of health in
6 accordance with the act of August 24, 1951 (P.L.1304, No.315),
7 known as the "Local Health Administration Law."

8 Section 3102. Members of Board of Health.--(a) Where the
9 borough council decides to appoint a board of health [such], the
10 board shall be composed of three or five members, appointed by
11 borough council, at least one of whom shall be a [physician]
12 professional health care provider of not less than two years'
13 experience in the practice of [his] the respective profession.
14 [The members of the board shall be appointed by the borough
15 council.] If no professional health care provider can be
16 identified to serve on the board, council may, instead, appoint
17 an individual who has experience in or is knowledgeable of
18 public health issues. At the first appointment one member shall
19 be appointed to serve for one year, one for two years, one for
20 three years, and, in the case of boards with five members, one
21 for four years, and one for five years; and thereafter one
22 member shall, in like manner, be appointed each year to serve
23 for three years or, in the case of boards with five members,
24 five years. The members of the board of health shall serve
25 without compensation, but if any member of the board shall be
26 elected to the office of secretary of the board of health, [he]
27 the member shall be entitled to receive a salary fixed by the
28 board for that office.

29 (b) "Professional health care provider" as described in this
30 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 (1) Keep and maintain, in accordance with 53 Pa.C.S. Ch. 13
2 Subch. F (relating to municipal records), the minutes of the
3 proceedings of the board[; shall] and keep accurate accounts of
4 the expenditures of the board[; shall draw].

5 (2) Draw all requisitions for the payment of moneys on
6 account of the board of health from appropriations made by the
7 borough council [of] to the board, and [shall] present the same
8 to the president of the board for [his] the president's
9 approval[; shall render].

10 (3) Render statements of the expenditures to the board at
11 each stated meeting, or as frequently as the board may require[;
12 shall prepare,].

13 (4) Prepare, under the directions of the board, the annual
14 report to the borough council together with the estimate of
15 appropriation needed for the ensuing year. [He shall report]

16 (5) Report to the State Department of Health at such
17 intervals as shall be specified by [the State] law or
18 regulation, the cases of communicable disease reported to the
19 board of health, on the form provided for that purpose by [such]
20 the department[;] and [shall also] make an annual report to
21 [such] the department[; and shall make].

22 (6) Make such other reports and perform such other duties as
23 the board may require.

24 Section 3105. Powers and Duties of Health Officer.--It shall
25 be the duty of the health officer to attend all [stated] regular
26 and special meetings of the board of health, and at all times be
27 ready and available for the prompt performance of [his] the
28 officer's official duties[. He shall perform], including such
29 duties as are vested in local health officers by State laws and
30 regulations. [He] The health officer shall make sanitary

1 inspection and shall execute the orders of the board of health
2 and shall, in the performance of [his] the health officer's
3 duties, have the power and authority [of a policeman] to issue
4 citations for the violation of applicable laws and ordinances.

5 Section 3106. Powers of Board of Health.--(a) The board of
6 health shall have the power, and it shall be its duty to
7 [enforce]:

8 (1) Enforce the laws of the Commonwealth, the regulations of
9 the State Department of Health, and all ordinances of the
10 borough enacted to promote public health and prevent the
11 introduction and spread of infectious or contagious disease[; to
12 abate].

13 (2) Abate and remove all nuisances [which] that the board
14 shall deem [prejudicial] detrimental to the public health[;] and
15 to mark infected houses or places[; to recommend].

16 (3) Recommend rules [for the construction and maintenance of
17 house-drains, wash-pipes, soil-pipes and cesspools; and to
18 recommend all such other rules] and regulations as shall be
19 deemed necessary for the preservation of the public health and
20 for carrying into effect the powers and functions of the board.

21 [Such] The rules and regulations shall not become effective
22 until they have been approved by the borough council and enacted
23 as ordinances of the borough. [The board shall also have power,
24 with the consent of council, in case of a prevalence of any
25 contagious or infectious disease to establish one or more
26 emergency hospitals, and to make provisions and regulations for
27 the maintenance and management of the same.

28 The board shall also have the power to recommend to council
29 all necessary rules and regulations not inconsistent with law,
30 for carrying into effect the powers and functions with which the

1 board is invested by law, and the power and authority relating
2 to the public health conferred on boroughs. Such rules and
3 regulations shall not become effective until they have been
4 approved by the borough council and enacted as ordinances of the
5 borough.]

6 (b) The board of health may appoint a health officer or
7 officers.

8 Section 3107. Entry Upon Premises.--(a) The board of health
9 as a body, or by committee, as well as the health officer,
10 together with their assistants, subordinates, and [workmen]
11 employes, under and by order of the [said] board, shall have the
12 power to enter at [any time] a reasonable time and in a
13 reasonable manner upon any premises in the borough upon which
14 there is suspected to be any infectious or contagious disease,
15 or nuisance detrimental to the public health, for the purpose of
16 examining and abating the same.

17 (b) In the event that entry upon any premises is refused by
18 an owner, an agent of an owner or a tenant, the board of health
19 or health officer shall obtain an administrative search warrant
20 from any magisterial district judge within the judicial district
21 where the premises to be inspected is located.

22 (c) It shall be sufficient to support the issuance of a
23 warrant for the board of health or health officer to provide to
24 the magisterial district judge evidence of any of the following:

25 (1) Reasonable standards and an administrative plan for
26 conducting inspections.

27 (2) The condition of the premises or general area and the
28 passage of time since the last inspection.

29 (3) Facts, supported by oath or affirmation, alleging that
30 probable cause exists that a law, regulation or ordinance

1 subject to enforcement by the board of health or health officer
2 has been violated.

3 Section 3108. Inspections; Abatement of Nuisances.--The
4 board of health [may inspect house-drains, waste and soil-pipes,
5 cesspools, water-closets, slaughter-houses, hog-pens, stable-
6 yards and] shall have the power to inspect any conditions or
7 places [whatsoever] in the borough which may constitute a
8 nuisance or a menace to public health[; and whenever]. Whenever
9 any condition or place in the borough is found by the board to
10 be a nuisance or a menace to the health of the people of the
11 borough it shall issue a written order of abatement, directed to
12 the owner, or agent of the owner, of the premises, stating that
13 the conditions specified [therein] in the premises constitute a
14 nuisance or a menace to health, and ordering an abatement
15 thereof within [such] reasonable time as may be specified by the
16 board in [such] the order. [In case such] If the order of
17 abatement is not obeyed within the time specified [therein], the
18 board shall [thereupon] issue a further written order to the
19 health officer, directing [him] the health officer to remove or
20 abate the same[; which]. The order shall be executed by [him and
21 his] the health officer and subordinates and [workmen] agents,
22 and the expense [thereof] of execution with a penalty of ten
23 percent [thereof added thereto], shall be recoverable from the
24 owner of the premises upon or from which the nuisance or menace
25 to health is abated or removed, in the same manner as debts of
26 like character are now collected by law[; or the said board of
27 health may proceed to enforce such other remedy, or inflict such
28 penalty, as may be provided by ordinance of the borough]. In
29 lieu of, or in addition to the above procedure, borough council
30 may seek relief from a nuisance or threatened nuisance by an

1 action at law or in equity. Council may seek the guidance of the
2 board of health or the health officer in determining the nature
3 of the relief requested.

4 Section 3109. Estimates of Expenditures; Report.--It shall
5 be the duty of the board of health or of the health officer or
6 officers appointed by borough council to submit annually to the
7 council, before the commencement of the fiscal year, an estimate
8 of the probable expenditures of the board or the health officer
9 or officers during the ensuing year; and council shall then
10 proceed to make [such] appropriations as may be deemed
11 necessary. The board of health, or the health officer or
12 officers, shall, in the month of January of each year, submit a
13 report, in writing, to council of its appropriation and
14 expenditures for the preceding year, together with such other
15 information on subjects relative to the sanitary conditions or
16 requirements of the borough as may be necessary.

17 Section 3110. Cooperation With Other Units.--Any borough may
18 cooperate with the county or counties in which it is located, or
19 with any [city, borough, or township] municipal corporation, as
20 well as with the State Department of Health, in the
21 administration and enforcement of health laws.

22 Section 3111. Powers of [Secretary of Health.--Whenever, in
23 the opinion of the Secretary of Health, conditions found by him
24 to exist in any borough shall constitute a menace to the lives
25 and health of people living outside the corporate limits of such
26 borough or if it be known by him that any borough is without an
27 existing or efficient board of health, he or his agents may take
28 full charge of and administer the health laws, regulations and
29 ordinances in such borough; and may continue in charge thereof
30 until he shall decide that a competent and efficient board of

1 health, or health officer or officers, has been appointed and
2 qualified for such borough and is ready, able and willing to
3 assume and carry into effect the duties imposed upon it by law.]

4 Department of Health to Administer Health Laws; Expenses.--(a)

5 Nothing in this act may be construed as to limit any power or
6 duty of the Department of Health, including the power to take
7 full charge of the administration of health laws, regulations
8 and ordinances in a borough and collect any costs associated
9 therewith in accordance with Article XXI of the act of April 9,
10 1929 (P.L.177, No.175), known as "The Administrative Code of
11 1929."

12 (b) Any expenses of the Department of Health for which the
13 borough is liable shall be paid by the borough where the
14 expenses have been incurred, in the same manner as other
15 expenses of the borough are paid. All expenses incurred by the
16 Department of Health, when paid or when collected, shall be
17 returned by the department to the State Treasurer, who shall
18 credit the amount so received to the appropriation made to the
19 Department of Health.

20 (c) Whenever expenses incurred in accordance with the
21 provisions of subsection (b) shall remain unpaid by a borough
22 for a period over three months after a statement of the expense
23 has been rendered to the borough and demand for payment is made,
24 the Secretary of Health shall, with the approval of the
25 Governor, institute, in the name of the Commonwealth as
26 plaintiff, an action of assumpsit against the borough for the
27 collection of the expense from the borough in the same manner as
28 debts of like amount are collected by law. Upon the trial of the
29 action, the reasonableness of the expenditures made by the
30 secretary shall be submitted to the jury for its determination.

Section 346. Sections 3112, 3113 and 3114 and Article XXXIII heading of the act are repealed:

[Section 3112. Expenses of Board or Secretary of Health.-- All expenses incurred by any local board of health, its officers or employes, in the performance of the duties imposed upon it by law, and all expenses incurred by the Secretary of Health or his agents in accordance with the provisions of this article shall be paid by the borough wherein such duties are performed, in the same manner as other expenses of such borough are paid.

Section 3113. Failure to Pay Expenses Incurred by State Secretary.--Whenever expenses incurred by the Secretary of Health or his agents in the administration of health laws in any borough in accordance with the provisions of this article, shall remain unpaid by said borough for a period over three months after a statement of such expense has been rendered by him to such borough and demand for payment by him made, he shall, with the approval of the Governor, institute, in the name of the Commonwealth as plaintiff, an action of assumpsit against such borough for the collection of such expense from the borough in the same manner as debts of like amount are collected by law: Provided, That upon the trial of any such action of assumpsit, the reasonableness of the expenditures made by the Secretary of Health shall be submitted to the jury for its determination.

Section 3114. Disposition of Collected Funds.--All expenses 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

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 that are used or intended for supporting or sheltering any occupancy.

(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.

1 (d) Construction.--The powers of a borough as provided in
2 this section shall be in addition to, but not limited to, the
3 powers provided in the act of November 26, 2008 (P.L.1672,
4 No.135), known as the Abandoned and Blighted Property
5 Conservatorship Act, and 53 Pa.C.S. Ch. 61 (relating to
6 neighborhood blight reclamation and revitalization).
7 Section 3205-A. Reserved powers.

8 ~~(a) Police powers. Nothing in this article may be construed~~ ←
9 ~~as limiting or restricting the police power which boroughs may~~
10 ~~be authorized to exercise in conformity with the act of November~~
11 ~~10, 1999 (P.L.491, No.45), known as the Pennsylvania~~
12 ~~Construction Code Act, and the Uniform Construction Code,~~
13 ~~including the exercise of those powers set forth in subsection~~
14 ~~(b) that are not prohibited by or inconsistent with the~~
15 ~~Pennsylvania Construction Code Act or the Uniform Construction~~
16 ~~Code.~~

17 ~~(b) Preserved powers. If, as a result of legislative action~~
18 ~~or otherwise, the Uniform Construction Code or any replacement~~
19 ~~code is no longer made applicable to boroughs, a borough may:~~

20 IF, AS A RESULT OF LEGISLATIVE ACTION OR FINAL ORDER OF COURT ←
21 FOR WHICH THE TIME FOR APPEAL HAS EXPIRED AND NO APPEAL HAS BEEN
22 TAKEN OR FROM WHICH THERE IS NO PENDING APPEAL, THE UNIFORM
23 CONSTRUCTION CODE OR ANY REPLACEMENT CODE IS NO LONGER
24 APPLICABLE IN BOROUGH, A BOROUGH MAY:

25 (1) Enact and enforce ordinances to govern and regulate
26 the construction, reconstruction, alteration, extension,
27 repair, conversion, maintenance, occupation, sanitation,
28 ventilation, heating, egress, lighting, electric wiring,
29 water supply, toilet facilities, drainage, plumbing, fire
30 prevention, fireproofing, including prescribing limitations

1 wherein only buildings of noncombustible material and
2 fireproofed roofs are used in construction, erection or
3 substantial reconstruction, use and inspection of all
4 buildings and housing or parts of buildings and housing and
5 the roofs, walls and foundations of buildings and housing,
6 and all facilities and services in or about the buildings or
7 housing constructed, erected, altered, designed or used, in
8 whole or in part, for any use or occupancy, and the
9 sanitation and inspection of land appurtenant to the
10 buildings or housing. The codes may be combined or separately
11 enacted or combined with the property maintenance code. A
12 borough may adopt, amend or incorporate by reference any
13 standard or nationally recognized code or any variations or
14 changes or parts of the code as its ordinance in the manner
15 provided in section 3204-A. The ordinance may provide for
16 reasonable fines and penalties for violations of the
17 ordinance in compliance with Article XXXIII.

18 (2) Require that before any work of construction,
19 reconstruction, alteration, extension, repair or conversion
20 of any building is begun, approval of the plans and
21 specifications be secured.

22 (3) Council may appoint building inspectors, housing
23 inspectors, property maintenance inspectors, fire prevention
24 inspectors, electrical inspectors and plumbing inspectors,
25 and fix their compensation. The inspectors shall have the
26 right to enter upon, subject to constitutional standards in a
27 similar manner as provided in section 3107, and inspect any
28 premises at all reasonable hours and in a reasonable manner,
29 for the administration and enforcement of the borough's
30 adopted codes or ordinances incorporating standard or

1 nationally recognized codes. Any fees payable to inspectors
2 under the ordinances shall be paid by them to the borough
3 treasurer for the use of the borough as promptly as may be.

4 (4) In addition to the penalties provided by ordinances,
5 the borough may institute appropriate actions or proceedings
6 at law or in equity to prevent or restrain the unlawful
7 construction, reconstruction, alteration, extension, repair,
8 conversion, maintenance, use or occupation of property
9 located within the borough, to restrain, correct or abate the
10 violation and to prevent the use or occupancy of the
11 building, housing or structure.

12 Section 348. Article XXXIII heading of the act is amended to
13 read:

14 ARTICLE XXXIII

15 [ENFORCEMENT OF] ORDINANCES

16 Section 349. Section 3301 of the act, amended October 9,
17 1967 (P.L.399, No.181) and repealed in part April 28, 1978
18 (P.L.202, No.53), is repealed:

19 [Section 3301. Prosecution of Ordinance Violators;
20 Disposition of Fines, Penalties and Costs.--Any violation or
21 failure to comply with any provision of any borough ordinance
22 shall constitute a summary offense and prosecution for every
23 such offense shall be according to the practice in the case of
24 summary convictions.]

25 Section 350. The act is amended by adding subdivisions to
26 read:

27 (a) General Provisions

28 Section 3301.1. Ordinances; resolutions.

29 (a) General rule.--Borough council shall enact ordinances in
30 accordance and not inconsistent with the provisions of this act

1 and with the laws of this Commonwealth, in which general or
2 specific powers of the borough shall be exercised as it shall
3 deem beneficial to the borough and to provide for the
4 enforcement of the same. Borough council may amend, repeal or
5 revise existing ordinances by the enactment of subsequent
6 ordinances.

7 (b) Legislative acts.--Every legislative act of council
8 shall be by ordinance and these legislative acts shall include,
9 but not be limited to, tax ordinances, general appropriation
10 ordinances, capital expenditures not payable out of current
11 funds, and all legislation exercising the police power of the
12 borough, regulating land use, development and subdivision,
13 imposing building, plumbing, electrical, property maintenance,
14 housing and similar standards, and otherwise regulating the
15 conduct of persons or entities within the borough and imposing
16 penalties for the violation thereof.

17 (c) Resolutions.--Borough council shall adopt resolutions in
18 accordance and not inconsistent with the provisions of this act
19 AND THE LAWS OF THIS COMMONWEALTH. The purposes for which
20 resolutions may be adopted shall include, but not be limited to,
21 ceremonial or congratulatory expressions of the good will of the
22 council, statements of public policy of the council, approval of
23 formal agreements of the borough, other than agreements arising
24 under an established purchasing system of the borough, the
25 approval, when required, of administrative rules, regulations
26 and bylaws arising under State statutes or borough ordinances
27 and the filling of borough-appointed positions and of vacancies
28 of elected officials unless otherwise provided.

29 (d) Real and personal property matters.--Borough council's
30 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



1 amendments are made in the proposed ordinance, before voting
2 upon enactment, council shall within ten days readvertise in one
3 newspaper OF GENERAL CIRCULATION, a brief summary setting forth
4 all the provisions in reasonable detail together with a summary
5 of the amendments.

6 Section 3301.3. Enactment, approval and veto of ordinances;
7 effective date.

8 (a) Approval by mayor.--

9 (1) Every ordinance enacted by council shall be
10 presented to the mayor for the mayor's approval. As a matter
11 of law, presented to the mayor shall be deemed to mean
12 delivery to the mayor by hand delivery or certified mail,
13 addressee only, to the mayor at the mayor's last known
14 address. Delivery shall be deemed complete upon depositing in
15 the mail, postage or charges prepaid, as evidenced by a
16 certificate of mailing.

17 (2) If the mayor approves the ordinance, he or she shall
18 sign it. If the mayor does not approve the ordinance, the
19 mayor shall return it with his or her objections which shall
20 be entered upon the minutes, to the council at its next
21 scheduled meeting occurring at least ten days after the
22 meeting at which the ordinance was enacted by council.
23 Council shall proceed to a reconsideration of the ordinance
24 either at the meeting at which the vetoed ordinance was
25 returned or no later than ten days thereafter at any other
26 scheduled meeting. If, after reconsideration, a majority of
27 all elected council members plus one votes to override the
28 mayor's veto, the ordinance shall have full force and effect
29 as if it had received the approval of the mayor. The vote
30 shall be determined by yeas and nays, and the names and votes

1 of the members shall be entered upon the minutes. A scheduled
2 meeting, as used in this section, may be either a regular,
3 special or reconvened meeting.

4 (3) If any ordinance shall not be returned by the mayor
5 at council's next scheduled meeting occurring at least ten
6 days after its presentation to the mayor, the ordinance shall
7 have full force and effect as if it had been approved by the
8 mayor.

9 (b) Effective date.--The effective date of an enacted
10 ordinance, except as otherwise provided in the ordinance, shall
11 be the date when the mayor shall approve it or the date of
12 enactment by the council over the veto of the mayor, or in the
13 case of any ordinance not returned by the mayor at the next
14 scheduled meeting of council occurring at least ten days after
15 the meeting at which the ordinance was enacted by the council,
16 the date of enactment shall be the date of the succeeding
17 scheduled meeting of council.

18 (c) Tax ordinance.--When council shall present the mayor
19 with the annual tax ordinance referred to in section 1310.1, the
20 mayor shall, within ten days of receiving the tax ordinance
21 approve or return the tax ordinance to the borough secretary
22 with a statement setting forth the mayor's objections. Council
23 shall proceed to a reconsideration at any scheduled meeting held
24 no later than ten days after the mayor has returned the tax
25 ordinance to the secretary with the mayor's objections. The
26 mayor's objections shall be entered upon the minutes of the
27 meeting. A veto of the tax ordinance of the borough may be
28 overridden by a vote of a majority of all elected council
29 members plus one. After that action, the ordinance shall have
30 full force and effect as if it had received the approval of the

1 mayor. If the mayor neither approves the tax ordinance nor
2 returns it with objections, the date of enactment of the tax
3 ordinance shall be the date of the adoption of the tax ordinance
4 by council.

5 Section 3301.4. Recording, advertising and proof of ordinances.

6 All borough ordinances shall, within 30 days after (1)
7 approval by the mayor, or (2) council's override of the mayor's
8 veto or (3) council's next scheduled meeting after its
9 presentation to the mayor, be recorded by the borough secretary
10 in a book provided for that purpose, which shall be open to the
11 inspection of citizens during normal business hours. All
12 ordinances may be proved by the certificate of the borough
13 secretary, under the corporate seal. When printed or published
14 in book or pamphlet form by the authority of the borough, the
15 ordinances ~~or resolutions~~ shall be read and received as evidence ←
16 in all courts and places without further proof. The entry of the
17 borough ordinance in the ordinance book shall be sufficient,
18 without the signature of the president of council, mayor or
19 member of council. Any and all borough ordinances or portions
20 thereof, the text of which, prior to the effective date of this
21 act, shall have been attached to the ordinance book, shall be
22 considered in force just as if the ordinances or portions
23 thereof had been recorded directly upon the pages of the
24 ordinance book, provided that all other requirements of this act
25 applicable to the enactment, approval, advertising and recording
26 of the ordinances or portions of ordinances were complied with
27 within the time limits prescribed by this act.

28 Section 3301.5. Codification of ordinances.

29 (a) Consolidation, codification and revision.--When a
30 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 in any case, 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.

1 Complaint as to the legality of any ordinance or resolution
2 may be made to the court of common pleas. In cases of ordinances
3 laying out streets over private lands, the court shall have
4 jurisdiction to review the propriety as well as the legality of
5 the ordinance.

6 Section 3301.7. Lost ordinance books to be replaced; recording
7 ordinances.

8 (a) Lost ordinance books.--Whenever any ordinance book or
9 books are lost, destroyed or become unserviceable, the borough
10 council may provide by ordinance for a new ordinance book or
11 books into which shall be recorded by the secretary all of the
12 ordinances contained in the lost, destroyed or unserviceable
13 ordinance book or books. The secretary, in recording the
14 ordinances, shall make complete copies of the ordinances,
15 including the date of enactment and approval and the names of
16 the officers who signed the same, and, after notice given, as
17 provided in this section, and corrections made, shall certify
18 each ordinance as a correct copy of the original.

19 (b) Recording ordinances.--The ordinance providing for the
20 recording of ordinances shall be recorded in the ordinance book,
21 immediately following the ordinances so recorded and it shall
22 provide that the secretary of the borough, upon the completion
23 of the recording, shall publish once, in one newspaper OF
24 GENERAL CIRCULATION, a notice stating that ordinances of the
25 borough contained in lost, destroyed or unserviceable ordinance
26 book or books, and that the old books and records of borough
27 ordinances and the new ordinance book are open to public
28 inspection for the purpose of verification and correction for a
29 period of 30 days from the date of the notice.

30 (c) Certification by secretary of borough.--The secretary of



1 the borough, at the expiration of the notice, shall make all
2 corrections, and shall then certify that all of the ordinances
3 have been compared with the originals and that they are correct
4 copies. After the ordinances are recorded, notice given, and the
5 certificate of correction made, the ordinances so recorded shall
6 take the place of the original record and shall be the valid and
7 legal ordinances of the borough for the period covered by the
8 new ordinance book.

9 (b) Enforcement

10 Section 3321. Fines and penalties.

11 An ordinance enacted by borough council pursuant to this act
12 shall prescribe the fines and penalties which may be imposed for
13 its violation and shall, unless otherwise specified in any other
14 law of this Commonwealth, designate the method of its
15 enforcement in accordance with the following:

16 (1) Except as provided in paragraph (2), when the
17 penalty imposed for the violation of an ordinance enacted
18 pursuant to the provisions of this act is not voluntarily
19 paid to the borough, the borough shall initiate a civil
20 enforcement proceeding before a magisterial district judge.
21 The civil enforcement proceeding shall be initiated by
22 complaint or by such other means as may be provided by the
23 Pennsylvania Rules of Civil Procedure. An ordinance which is
24 to be enforced through a civil enforcement proceeding may
25 prescribe civil penalties not to exceed \$600 per violation. A
26 borough shall be exempt from the payment of costs in any
27 civil case brought by the borough to enforce an ordinance in
28 accordance with this paragraph.

29 (2) For an ordinance regulating building, housing,
30 property maintenance, health, fire, public safety, parking,

1 solicitation, curfew, water, air or noise pollution, borough
2 council shall provide that its enforcement shall be by action
3 brought before a magisterial district judge in the same
4 manner provided for the enforcement of summary offenses under
5 the Pennsylvania Rules of Criminal Procedure. The municipal
6 solicitor may assume charge of the prosecution without the
7 consent of the District Attorney as required under
8 Pa.R.Crim.P. No. 454 (relating to trial in summary cases).
9 Borough council may prescribe criminal fines not to exceed
10 \$1,000 per violation and may prescribe imprisonment to the
11 extent allowed by law for the punishment of summary offenses.
12 Violations of the property maintenance code or ordinance may
13 also be enforced pursuant to section 3204-A(c).

14 (3) All ordinances enacted prior to the effective date
15 of this clause, other than those regulating building,
16 housing, property maintenance, health, fire, public safety,
17 parking, solicitation, curfew, water, air or noise pollution,
18 shall be deemed automatically amended so that they shall be
19 enforced through a civil enforcement proceeding in accordance
20 with paragraph (1).

21 (4) In addition to or in lieu of enforcement of an
22 ordinance through a civil action or as a summary offense, as
23 provided in this section, boroughs may enforce ordinances
24 through an action in equity brought in the court of common
25 pleas of the county where the borough is situate.

26 (5) Ordinances, whether enforced through civil
27 proceedings or as a summary offense, may provide that a
28 separate offense shall arise for each day or portion of a day
29 in which a violation is found to exist or for each section of
30 the ordinance which is found to have been violated. In the

1 event that such claims for fines and penalties exceed the
2 monetary jurisdiction of a magisterial district judge as set
3 forth in 42 Pa.C.S. § 1515(a) (relating to jurisdiction and
4 venue), exclusive of interest, costs or other fees, the
5 borough may bring such action in the court of common pleas or
6 may, pursuant to 42 Pa.C.S. § 1515(a), waive that portion of
7 fines or penalties that exceed the monetary jurisdictional
8 limits so as to bring the matter within the monetary
9 jurisdiction of the magisterial district judge.

10 (6) Ordinances may provide that any person found guilty
11 of violating an ordinance may be assessed court costs and
12 reasonable attorney fees incurred by the borough in the
13 enforcement proceedings.

14 (7) All fines, costs, penalties, and fees collected for
15 the violation of any borough ordinance shall be paid to the
16 borough treasurer.

17 (8) Borough council may delegate the initial
18 determination of ordinance violation and the service of
19 notice of violation to such officers or agents as the borough
20 shall deem qualified for that purpose.

21 Section 351. Sections 3306 and 3307 of the act are
22 renumbered and amended to read:

23 Section [3306] 3322. Commitments Pending Hearings.--Any
24 person arrested for the violation of a borough ordinance that
25 may be enforced as a summary offense may be committed to the
26 borough lockup, pending a hearing or trial, but in case there is
27 no suitable lockup in which to detain prisoners the person
28 arrested may be committed to the county jail.

29 Section [3307] 3323. Commitments After Hearing.--Upon
30 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

1 28, 1978 (P.L.202, No.53), is repealed:

2 [Section 3401. Collection of Municipal Claims.--In all
3 proceedings for the recovery of municipal claims an attorney's
4 commission of five percent may be included.]

5 Section 356. Article XXXIV subdivision (b) heading and
6 section 3415 of the act are repealed:

7 [(b) Defenses by Taxpayers

8 Section 3415. Liability in Bond Transfers.--All certificates
9 of loans, issued by a borough, shall be transferable by the
10 legal owner thereof without any liability on the part of the
11 transfer agents of the borough to recognize or see to the
12 execution of any trust, whether expressed, implied, or
13 constructive, to which such loans may be subject, unless such
14 transfer agents of the borough shall have previously received
15 notice in writing signed by or on behalf of the person for whom
16 such loans appear by the certificate thereof to be held in
17 trust, that the proposed transfer would be a violation of such
18 trust.]

19 Section 357. Article XXXV heading of the act is reenacted to
20 read:

21 ARTICLE XXXV

22 ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE

23 Section 358. Section 3501 of the act is amended to read:

24 Section 3501. Acts of Assembly Repealed; Saving Clause.--(a)
25 The following acts and parts of acts are hereby repealed as set
26 forth:

27 (1) The act of May 4, 1927 [(P.L.519)] (P.L.519, No.336),
28 known as "The Borough Code," and its reenactments and amendments
29 are repealed, except that section 2, act of May 23, 1961
30 [(P.L.210)] (P.L.210, No.109), shall not be construed to be

1 repealed.

2 (2) The act of April 14, 1875 (P.L.55, No.58), entitled "An
3 act authorizing the burgess and town council of each of the
4 several boroughs throughout this commonwealth to levy and
5 collect a gas, kerosene oil and water tax," absolutely.

6 (3) The act of April 18, 1877 (P.L.55, No.55), entitled "An
7 act to provide through the courts of this commonwealth for the
8 erection of boroughs out of territory now included in cities of
9 the third class that have been formed by joining together two or
10 more boroughs," absolutely.

11 (4) The act of June 16, 1891 (P.L.302, No.232), entitled "A
12 further supplement to an act approved the sixteenth of April,
13 Anno Domini one thousand eight hundred and seventy-five,
14 entitled 'An act authorizing the burgess and town council of
15 each of the several boroughs throughout this Commonwealth to
16 levy and collect a gas, kerosene oil and water tax,' amended by
17 the act approved the eighth day of May, Anno Domini one thousand
18 eight hundred and seventy-six, providing for a further amendment
19 of section second, as amended by said last mentioned act, to
20 authorize the use of the money so raised and collected for the
21 purpose of illuminating said boroughs with electric light,"
22 absolutely.

23 (5) The act of May 2, 1901 (P.L.120, No.87), entitled "An
24 act to prevent burgesses and councilmen of the several boroughs
25 within this Commonwealth from soliciting or receiving bribes,
26 and to punish any person who may offer to bribe the same,"
27 absolutely.

28 (6) The act of May 4, 1927 (P.L.673, No.337), entitled "An
29 act relating to purchases by boroughs," absolutely.

30 (7) The act of April 26, 1929 (P.L.823, No.354), entitled

1 "An act permitting boroughs to provide a method of assessment
2 for borough taxes," absolutely.

3 (8) The act of April 11, 1931 (P.L.26, No.24), entitled "An
4 act to validate certain proceedings for municipal improvements,
5 municipal assessments, municipal claims, and municipal liens, in
6 the several boroughs of this Commonwealth, and validating such
7 improvements, assessments, claims, and liens; providing for the
8 filing of claims and liens therefor; and the proceedings for the
9 collection of such assessments and claims," absolutely.

10 (9) The act of June 12, 1931 (P.L.559, No.192), entitled "An
11 act to authorize boroughs to sue out writs of scire facias on
12 certain municipal claims, where more than five years have
13 elapsed since said claims were filed, and to reduce such claims
14 to judgment; and providing for the revival and collection of
15 such judgments," absolutely.

16 (10) The act of March 3, 1933 (P.L.8, No.5), entitled "An
17 act validating, ratifying and confirming acts and municipal
18 functions done, executed and performed, municipal works and
19 improvements instituted and completed, and affairs regulated by
20 boroughs in accordance with general borough laws, where such
21 boroughs were incorporated under local law, and no official
22 record of the acceptance of the general borough law is in
23 existence or can be found," absolutely.

24 (11) The act of July 12, 1935 (P.L.721, No.282), entitled
25 "An act authorizing boroughs to construct, reconstruct, and
26 repair sidewalks, gutters, curbs, and grass plots, in cases
27 where material is paid by the abutters, and labor is furnished
28 without cost to the borough," absolutely.

29 (12) The act of July 18, 1935 (P.L.1305, No.408), entitled
30 "An act authorizing boroughs to repay certain surcharges

1 heretofore made against councilmen for the purchase of any fire
2 apparatus where there was no fraud, corruption, or dishonesty,
3 or profit to such councilmen, and where the borough is in
4 possession of and uses such fire apparatus," absolutely.

5 (b) All other acts or parts of acts of Assembly supplied by,
6 inconsistent with or appertaining to the subject matter covered
7 by this act are hereby repealed. It is the intention that this
8 act shall furnish a complete and exclusive system for the
9 government and regulation of boroughs, except as to the several
10 matters enumerated in section 102 of article I of this act.

11 (c) Nothing contained in this act shall be construed to
12 repeal:

13 (1) Any local or special law.

14 (2) Any of the provisions of the Public Utility [Law] Code.

15 (3) Any of the provisions of any law relating to the
16 Navigation Commission for the Delaware River and its navigable
17 tributaries.

18 (4) Any of the provisions of any law, the enforcement of
19 which is vested in the Department of Health of the Commonwealth
20 or of the [Sanitary Water Board] Department of Environmental
21 Protection.

22 (5) Any of the provisions of any law the enforcement of
23 which is vested in the Department of [Forests and Waters or the
24 Water and Power Resources Board] Conservation and Natural
25 Resources.

26 (6) Any of the provisions of the act of [June 25, 1947 (P.L.
27 1145), entitled, as amended, "An act empowering cities of the
28 second class, cities of the second class A, cities of the third
29 class, boroughs, towns, townships of the first class, townships
30 of the second class, school districts of the second class,

1 school districts of the third class and school districts of the
2 fourth class to levy, assess, and collect or to provide for the
3 levying, assessment and collection of certain additional taxes
4 subject to maximum limitations for general revenue purposes;
5 authorizing the establishment of bureaus and the appointment and
6 compensation of officers and employes to assess and collect such
7 taxes; and permitting penalties to be imposed and enforced;
8 providing an appeal from the ordinance or resolution levying
9 such taxes to the court of quarter sessions and to the Supreme
10 Court and Superior Court," or of any of the amendments or
11 supplements to the said act.] December 31, 1965 (P.L.1257,
12 No.511), known as "The Local Tax Enabling Act."

13 (7) THE ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE ←
14 "RIGHT-TO-KNOW LAW."

15 (8) ANY PROVISION OF 45 PA.C.S. (RELATING TO LEGAL NOTICES).

16 (9) ANY PROVISION OF 65 PA.C.S. (RELATING TO PUBLIC
17 OFFICERS).

18 (d) Nothing contained in this act shall be construed to
19 revive any act or part of an act heretofore repealed.

20 SECTION 359. THE ADDITION OF SECTION 1104(F) OF THE ACT ←
21 SHALL APPLY TO OFFICIALS ELECTED OR APPOINTED TO FILL A VACANCY
22 IN AN ELECTED OFFICE AFTER THE EFFECTIVE DATE OF THIS SECTION.

23 Section ~~359~~ 360. This act shall take effect in 60 days. ←