
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1702 Session of
2011

INTRODUCED BY GINGRICH, ROSS, CREIGHTON, FREEMAN, SANTARSIERO
AND CALTAGIRONE, JUNE 21, 2011

SENATOR CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, APRIL 2, 2012

AN ACT

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

5 TABLE OF CONTENTS

6 ARTICLE I

7 PRELIMINARY PROVISIONS

8 Section 101. Short Title.

9 Section 102. Excluded Provisions.

10 Section 103. Construction of Act Generally.

11 Section 104. Constitutional Construction.

12 Section 105. Construction of References.

13 Section 106. Boroughs to Which Act Applies.

14 Section 107. Acceptance of Act by Boroughs.

15 Section 107.1. Acceptance of Act by Incorporated Towns.

16 Section 108. Effective Date.

17 Section 109. Publication of Notices.

18 Section 110. Terms of Existing Officers Saved.

1 Section 111. Definitions.

2 ARTICLE II

3 CREATION AND ALTERATION OF BOROUGHS

4 (a) Incorporation of Boroughs

5 Section 201. Areas May be Incorporated.

6 Section 202. Applications for Incorporation.

7 Section 202.1. Borough Advisory Committee.

8 Section 202.2. Advisability of Incorporation; Certification of
9 Question for Referendum; Decree.

10 Section 205. When Borough Government Becomes Effective;
11 Requisites of Charter.

12 Section 206. Exclusion of Farm Lands.

13 Section 207. Corporate Name.

14 Section 210. Certificates of Clerk of Court; Fees; Penalty.

15 Section 211. Existing Government Preserved Temporarily;
16 Organization of Borough; Election of Borough
17 Officers.

18 Section 212. Marking Borough Boundaries.

19 Section 213. Agreement to Adjust Indebtedness Where Borough
20 Created.

21 Section 214. Judicial Adjustment on Failure of Agreement.

22 Section 215. Proceeding on Judicial Adjustment Award.

23 Section 216. Exceptions to Report.

24 Section 217. Compensation and Expenses of Commissioners; Costs.

25 Section 218. Where Territory of Borough is Located in Two or
26 More Counties.

27 Section 219. Bond Issues; Taxation.

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

29 Section 231. Petition for Creation of Borough from a City of
30 the Third Class.

1 Section 232. Filing Petition; Notice of Election; Return.
2 Section 233. When Borough Government Effective.
3 Section 234. Property; Assets; Liabilities; Ordinances; Wards;
4 Election Districts and Certain Officers.

5 Section 235. Costs and Expenses.

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

8 Section 241. Consolidation or merger.

9 Section 242. Change of corporate name.

10 ARTICLE V

11 BOROUGH BOUNDARIES

12 Section 501. Stream Boundaries.

13 Section 502. Petition to Court; Establishment of Disputed
14 Boundaries.

15 Section 503. Commissioners; Report.

16 Section 504. Exceptions and Procedure.

17 Section 505. Compensation and Expenses of Commissioners; Costs.

18 Section 506. Boundary Monuments.

19 ARTICLE VI

20 BOROUGH WARDS

21 Section 601. Power of Council to Erect, Abolish and Change
22 Wards and to Adjust, Alter and Establish Lines.

23 Section 602. Petition of Electors.

24 Section 603. Notice of Ordinance.

25 Section 604. (Reserved).

26 Section 605. (Reserved).

27 Section 606. Terms of Officers.

28 ARTICLE VII

29 ASSOCIATIONS AND ORGANIZATIONS

30 Section 701. State Association of Boroughs.

1 Section 701.1. Authorization to Attend and Payment of Expenses
2 for Attending Meetings, Etc.
3 Section 701.2. Compensation of Officers and Employes for
4 Attending Meetings, Etc.
5 Section 702. County and Regional Associations of Boroughs.
6 Section 703. Other Associations and Organizations.
7 Section 704. Associations and Organizations for Mayors.
8 Section 705. National or State Lodge of Police Officers.

9 ARTICLE VIII

10 ELECTIONS OF OFFICERS

11 (a) General Provisions Relating to Elected Officers

12 Section 801. Electors Only to be Eligible; Incompatibility.
13 Section 802. Time and Place of Elections.
14 Section 803. Certificates of Election.
15 Section 804. Term; Bonds.
16 Section 805. Election of Borough Officers When Boroughs
17 Created, Etc.
18 Section 806. Officers to be Elected.

19 (b) Members of Council

20 Section 811. Election of Members of Council.
21 Section 812. Election of Members of Council Where New Wards
22 Created.
23 Section 813. Fixing Number of Members of Council When Wards
24 Created.
25 Section 814. Increase in Number of Ward Council Members.
26 Section 815. Decrease of Number of Ward Council Members.
27 Section 816. Election of Members of Council Where Wards
28 Abolished.
29 Section 817. Vacancies Created After a Primary Election.
30 Section 818. Decrease in Number of Members of Council.

1 ARTICLE IX

2 VACANCIES IN OFFICE

3 Section 901. Filling Vacancies in Elective Borough Offices.

4 Section 902. Collection of Taxes Where Vacancy in Office of Tax
5 Collector Not Filled.

6 Section 903. Right of Council to Declare Seat of Member Vacant
7 for Failure to Qualify.

8 Section 905. Temporary Auditor.

9 ARTICLE X

10 POWERS AND DUTIES OF ELECTED

11 BOROUGH OFFICIALS

12 (a) Council

13 Section 1001. Organization of Council; Quorum; Participation by
14 Telecommunication Device; Voting; Compensation;
15 Eligibility.

16 Section 1002. Oath of Members of Council.

17 Section 1003. When the Mayor May Preside Over Council and Vote;
18 Attendance of Mayor at Council Meetings; Breaking Tie
19 Votes.

20 Section 1004. Failure of Council to Organize.

21 Section 1005. Powers of Council.

22 Section 1006. Duties of Council.

23 Section 1009. Typewritten, Printed, Photocopied, Microfilmed
24 and Electronically or Digitally Stored Records Valid;
25 Recording or Transcribing Records.

26 Section 1014. Hearings Before Council; Witnesses.

27 Section 1015. Witness Fees and Mileage.

28 Section 1016. Examination of Witnesses; Penalty.

29 (c) Auditors

30 Section 1041. Auditors to Meet Yearly, and Audit Accounts.

1 Section 1053. Compensation of Auditors.
2 Section 1055. Subpoenas; Oath; Perjury.
3 Section 1058. Pay of Witnesses.
4 Section 1059. Auditors to Settle Accounts Where Witnesses Do
5 Not Appear.
6 Section 1059.1. Completion, Filing and Publication of Auditor's
7 Report and Financial Statement.
8 Section 1059.2. Attorney to Auditors.
9 Section 1059.3. Surcharge by Auditors.
10 Section 1059.4. Appeals from Audit.
11 Section 1059.5. Taxpayers Appealing to Enter Bond.
12 Section 1059.6. Procedure on Appeals.
13 Section 1059.7. Findings of Fact and Law; Judgment; Appeals.
14 Section 1059.8. Attorney Fees.
15 Section 1059.9. Balances Due to be Entered as Judgments.
16 Section 1059.10. Penalty for Failure to Comply with Law.
17 Section 1059.11. General Powers and Duties of Independent
18 Auditor.
19 (d) Controller
20 Section 1061. Oath and Bond of Controller.
21 Section 1062. Salary of Controller.
22 Section 1063. General Powers and Duties of Controller.
23 Section 1065. Controller to Countersign Warrants.
24 Section 1066. Controller to Prevent Appropriation Overdrafts.
25 Section 1067. Amount of Contracts to be Charged Against
26 Appropriations.
27 Section 1068. Controller's Recommendations on Borough Finances.
28 Section 1069. Books to be Kept by Controller.
29 Section 1070. Appeals from Controller's Report.
30 Section 1071. Acceptance by Ordinance.

1 (f) Tax Collector
2 Section 1086. Powers and Duties of Tax Collector.

3 ARTICLE X-A

4 MAYOR

5 Section 1001-A. Eligibility of mayor.

6 Section 1002-A. Incompatible offices.

7 Section 1003-A. Oath of mayor.

8 Section 1004-A. Salary of mayor.

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

10 Section 1006-A. General powers of mayor.

11 Section 1007-A. Duties of mayor.

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

14 ARTICLE XI

15 POWERS, DUTIES AND RIGHTS OF APPOINTED

16 OFFICERS AND EMPLOYEES

17 (a) General Provisions

18 Section 1101. Compensation; Hours and Days of Work; Outside
19 Employment.

20 Section 1102. Accounts.

21 Section 1103. Bonds.

22 Section 1104. Appointments; Incompatible Offices.

23 Section 1105. Compensation to Aged Employees.

24 Section 1105.1. Retirement Benefits of Employees Transferred to
25 Wastewater Authorities.

26 (b) Treasurer

27 Section 1106. Bond and Duties.

28 Section 1107. Assistant Treasurer.

29 (c) Secretary

30 Section 1111. Duties.

1 Section 1112. Assistant Secretary.
2 Section 1113. Records Open to Inspection.
3 (d) Solicitor
4 Section 1116. Solicitor to Have Control of Legal Matters.
5 Section 1117. Duties of Solicitor; Outside Counsel.
6 Section 1118. Assistant Solicitor.
7 (e) Police
8 Section 1121. Council's Powers; Police.
9 Section 1122. Police Serving Under Cooperative Agreement or
10 Contract.
11 Section 1123. Police Badge.
12 Section 1123.1. Mayor's Powers; Police.
13 Section 1124. Suspension by Mayor.
14 Section 1125. Compensation.
15 Section 1127. School Crossing Guards.
16 (f) Police Pension Fund in Boroughs Having a Police Force
17 of Less Than Three Members
18 Section 1131. Police Pension Fund.
19 Section 1132. Private Police Pension Funds; Optional Transfers.
20 (g) Borough Manager
21 Section 1141. Borough Manager May be Created by Ordinance;
22 Election.
23 Section 1142. Powers and Duties[; Bond].
24 Section 1143. Other Offices Not Incompatible.
25 (j) Civil Service for Police and
26 Fire Apparatus Operators
27 Section 1171. Appointments of Police and Fire Apparatus
28 Operators.
29 Section 1172. Civil Service Commission Created; Appointments;
30 Vacancies; Oath; Compensation.

1 Section 1173. Offices Incompatible with Civil Service
2 Commissioner.
3 Section 1174. Organization of Commission; Quorum.
4 Section 1175. Clerks and Supplies, Etc.; Solicitor.
5 Section 1176. Rules and Regulations.
6 Section 1177. Minutes and Records.
7 Section 1178. Investigations.
8 Section 1179. Subpoenas.
9 Section 1180. Annual Report.
10 Section 1181. General Provisions Relating to Examinations.
11 Section 1182. Application for Examination.
12 Section 1183. Rejection of Applicant; Hearing.
13 Section 1184. Eligibility List and Manner of Filling
14 Appointments.
15 Section 1185. Age, Applicant's Residence.
16 Section 1186. Probationary Period.
17 Section 1187. Provisional Appointments.
18 Section 1188. Promotions.
19 Section 1189. Physical and Psychological Medical Examination.
20 Section 1190. Removals.
21 Section 1191. Hearings on Dismissals and Reductions.
22 Section 1192. Employes Exempted.
23 Section 1193. Discrimination on Account of Political or
24 Religious Affiliations.
25 Section 1194. Penalty.

26 ARTICLE XII

27 CORPORATE POWERS

28 Section 1201. General Powers.
29 Section 1201.1. Real Property.
30 Section 1201.2. Personal Property.

1 Section 1201.3. Exceptions.

2 Section 1202. Specific Powers.

3 Section 1203. General Powers.

4 ARTICLE XIII

5 TAXATION AND FINANCE

6 Section 1301. Fiscal Year.

7 Section 1302. Tax Levy.

8 Section 1302.1. Different and Separate Tax Levies.

9 Section 1303. Special Levy to Pay Debts.

10 Section 1304. Special Road Fund Tax.

11 Section 1305. Date Tax Duplicate to Issue.

12 Section 1306. Additions and Revisions to Duplicates.

13 Section 1307. Preparation of Budget.

14 Section 1308. Notice of Proposed Budget; Penalty.

15 Section 1309. Revision and Completion of Budget.

16 Section 1310. Adoption of Budget.

17 Section 1310.1. Tax Ordinance.

18 Section 1311. Amending Budget; Notice.

19 Section 1312. Modification of Budget; Supplemental

20 Appropriations and Transfers.

21 Section 1313. Payment from Borough Funds.

22 Section 1313.1. Creation of Special Funds; Investments.

23 Section 1314. Uniform Financial Report; Forms.

24 Section 1315. Capital Improvements to Certain Public Service

25 Facilities.

26 Section 1316. Investment of Funds.

27 ARTICLE XIV

28 CONTRACTS

29 Section 1401. Power to Make Contracts.

30 Section 1402. Regulation of Contracts.

1 Section 1403. Evasion of Advertising Requirements.
2 Section 1404. Personal Interest in Contracts or Purchases.
3 Section 1404.1. Purchase Contracts for Petroleum Products; Fire
4 Company, Etc., Participation.
5 Section 1405. Separate Bids for Plumbing, Heating, Ventilating
6 and Electrical Work.
7 Section 1406. Bonds for the Protection of Labor and Materials.
8 Section 1410. Acceptance by Contractor of Workers' Compensation
9 Act.

10 ARTICLE XV

11 EMINENT DOMAIN; ASSESSMENT OF DAMAGES;

12 DAMAGES FOR INJURY TO PROPERTY

13 (a) General Provisions Relating to Eminent Domain

14 Section 1501. Exercise of Eminent Domain.

15 Section 1502. Restrictions as to Certain Property.

16 Section 1502.1. Declaration of Intention.

17 Section 1503. Application of 26 Pa.C.S.

18 (c) Damages for Injury to Property

19 Section 1561. Right to Damage Given in Certain Cases.

20 ARTICLE XVII

21 STREETS

22 (a) General Provisions Relating to Streets

23 Section 1701. Definitions.

24 Section 1704. Streets Connecting With Street of Other
25 Municipality.

26 Section 1705. Entry on Land to Maintain Marks and Monuments.

27 Section 1706. Exclusive Nature of Provisions.

28 Section 1707. Failure of Council to Hold Hearing.

29 Section 1708. Street Lighting, Ornamental Lighting and Traffic
30 Control Signals and Devices.

1 (b) Plan of Streets

2 Section 1712. Borough Street Plan.

3 (c) Laying Out Streets

4 Section 1721.1. Power to Lay Out, Open, Etc.

5 Section 1721.2. Laying Out Streets; Procedure.

6 Section 1724. Effect of Laying Out Street.

7 (d) Opening; Acceptance and Vacation of Streets

8 Section 1731. Authority to Open and Vacate Streets; Procedure.

9 Section 1732. Petition for Opening or Vacating Street; Action
10 Thereon.

11 Section 1733. Action for Damages and Benefits; Award.

12 Section 1734. Acceptance and Dedication of Streets.

13 Section 1735. Streets Not to Be Constructed, or Dedicated or
14 Opened to Travel Without the Approval of Council.

15 (f) Straightening and Relocating Streets

16 Section 1751. Authority to Straighten and Relocate Streets;
17 Procedure.

18 (g) Improvement of Borough Streets

19 Section 1761. Proceedings With or Without Petition.

20 (h) Improvement of Streets Outside or Partly
21 Outside Borough Limits

22 Section 1771. Improvement of Streets Outside or Partly Outside
23 Borough Limits.

24 (i) Acquisition or Use of Abutting Lands

25 Section 1782. Acquisition of Property for Unobstructed View.

26 ARTICLE XVIII

27 SIDEWALKS

28 Section 1801. Power to Lay Out and Establish Sidewalks and to
29 Compel the Construction Thereof.

30 Section 1802. Sidewalks on Land Abutting State Highways and

1 Along Roads Outside Borough.
2 Section 1803. Establishment of Grades.
3 Section 1804. Boroughs May Pay All or Part of Cost of Grading
4 and Curbing.
5 Section 1805. Borough May Do Work; Collection of Cost.
6 Section 1806. Emergency Repairs to Sidewalks.

7 ARTICLE XIX

8 BRIDGES, VIADUCTS AND UNDERGROUND

9 PASSAGEWAYS

10 Section 1901. Construction or Acquisition and Maintenance of
11 Bridges and Viaducts.
12 Section 1902. Right to Appropriate Property; Assessment of
13 Damages.
14 Section 1903. Boundary Bridges.
15 Section 1904. Contracts With Railroads and Other Companies and
16 With Counties.
17 Section 1905. Overhead and Underground Passageways.

18 ARTICLE XX

19 SANITARY SEWERS

20 (a) Laying Out, Construction and Operation of Sanitary Sewers
21 and Construction of Sewage Treatment Works
22 Section 2001. Power to Lay Out and Construct.
23 Section 2002. Assessments.
24 Section 2009. Extensions Beyond Borough Limits; Eminent Domain.
25 Section 2010. Notice of Certain Ordinances.
26 Section 2012. Unlawful to Build Within Right-of-Way of Sanitary
27 Sewers.
28 Section 2013. Opening Sanitary Sewers.
29 (b) Joint Sanitary Sewers
30 Section 2021. Joint Sanitary Sewer Systems.

1 Section 2023. Connections with Sanitary Sewers of Adjacent
2 Municipalities.

3 Section 2024. Applications to Court.

4 Section 2025. Appointment of Viewers.

5 Section 2026. Report of Viewers; Appeals to Court.

6 (d) Acquisition of Community Collection or Disposal Systems

7 Section 2041.1. Power to Acquire Community Collection or
8 Disposal Systems.

9 Section 2043. Community Sewage Collection or Disposal Systems.

10 (e) Connection and Use of Sanitary Sewers

11 Section 2051. Ordinances to Require Sanitary Sewer Connections.

12 Section 2053. Tapping Fees.

13 (f) Monthly, Quarterly or Annual Rentals

14 Section 2061. Ordinance for Monthly, Quarterly or Annual
15 Rental.

16 Section 2062. How Rental Fixed.

17 Section 2063. Collection of Rental.

18 ARTICLE XXI-A

19 ASSESSMENTS AND CHARGES FOR PUBLIC IMPROVEMENTS

20 Section 2101-A. Authority to assess.

21 Section 2102-A. Notice of assessments.

22 Section 2103-A. Assessment based on front foot basis.

23 Section 2104-A. Assessment of benefits conferred.

24 Section 2105-A. Assessment awards.

25 Section 2106-A. Petition for viewers.

26 Section 2107-A. Payment of assessments in installments.

27 Section 2108-A. Collection of assessments.

28 ARTICLE XXII

29 STORM SEWERS AND WATER COURSES

30 Section 2201. Authority of Boroughs.

1 Section 2202. Right of Entry Upon Lands.
2 Section 2203. Manner of Financing Work.
3 Section 2204. Proceedings to Assess Damages.
4 Section 2205. Unlawful to Build Within Right-of-Way of Storm
5 Sewers.

6 Section 2206. Power to Acquire Storm Sewer Systems.

7 ARTICLE XXIV

8 WATER SYSTEM

9 (a) General Powers to Supply Water

10 Section 2401. Power to Supply Water and Make Regulations.

11 Section 2402. Contracts Not to Abridge Powers.

12 Section 2403. Issue of Bonds Where Water System Acquired.

13 Section 2404. Refunding Bonds.

14 Section 2406. Contracts to Supply Water for Municipal Purposes.

15 Section 2407. Power to Supply Water Beyond Limits of Borough.

16 Section 2408. Assessment for Water Mains.

17 Section 2409. Sale of Water System.

18 (a.1) Acquisition by Eminent Domain

19 Section 2411. Appropriation of Lands and Waters.

20 Section 2412. Agreements as to Damages; Bonds.

21 (a.2) Acquisition by Purchase after Appraisement

22 Section 2421. Petition to Court Expressing Desire to Acquire a
23 Water System.

24 Section 2422. Appointment of Engineers as Appraisers to Make
25 Valuation.

26 Section 2423. Powers of Appraisers.

27 Section 2424. Appeal from Appraisement.

28 Section 2425. Effect of Failure of Owner of Works to Accept
29 Price Fixed.

30 Section 2426. Bond Issue and Limitations.

1 (a.3) Power to Lease a Water System
2 Section 2431. Lease of a Water System.
3 Section 2432. Term of Lease; Rental.
4 Section 2433. Operation of Property.
5 (a.4) Joint Water System
6 Section 2436. Joint Acquisitions and Constructions.
7 Section 2437. Permit of Department of Environmental Protection.
8 Section 2438. Joint Commission of a Water System.
9 (a.5) Condemnation of Lands for Road Purposes
10 and to Prevent Contamination
11 Section 2441. Prevention of Contamination of Water Supply;
12 Acquisition of Lands to Reconstruct Roads.
13 Section 2442. Filing Maps and Plans.
14 (a.6) Commission of the Water System
15 Section 2451. Commission May Be Established.
16 Section 2452. Terms of Commissioners; Compensation.
17 Section 2453. Organization of Commissioners.
18 Section 2454. Powers of Commission.
19 Section 2455. Issue of Bonds.
20 Section 2456. Plans and Specifications for the Improvements;
21 Contracts.
22 Section 2457. Reports by Commission.
23 Section 2458. Care of Funds.
24 (a.7) Water Connections
25 Section 2461. Ordinances to Require Water Connections.
26 Section 2462. Notice of Ordinance; Failure to Comply With
27 Ordinance.
28 Section 2463. Water Main Tapping Fees.
29 ARTICLE XXIV-A
30 MANUFACTURE AND SUPPLY OF ELECTRICITY

1 Section 2401-A. Definitions.
2 Section 2402-A. General powers.
3 Section 2403-A. Specific powers.
4 Section 2404-A. Municipal power agencies.
5 Section 2405-A. Additional contracting authority for electric
6 power and energy.

7 ARTICLE XXV-A

8 AIRPORTS

9 Section 2501-A. Authority to secure lands for airports.
10 Section 2502-A. Authority to establish and lease airports.
11 Section 2503-A. Joint airports.

12 ARTICLE XXVI

13 WHARVES AND DOCKS

14 Section 2601. Power With Regard to Wharves and Docks.
15 Section 2603. Proceedings.
16 Section 2604. How Damages Assessed.
17 Section 2605. Leases.
18 Section 2606. Market-Houses and Terminal Sheds.
19 Section 2607. Public Use Preserved.
20 Section 2608. Saving Clause.

21 ARTICLE XXVII

22 RECREATION PLACES, SHADE TREES, FORESTS

23 (a) Parks and Playgrounds, Et Cetera

24 Section 2701. Power to Maintain, Improve and Acquire.
25 Section 2703. Appropriations for Public Purposes.
26 Section 2708. Creation of Recreation Board.
27 Section 2709. Composition of Board.
28 Section 2710. Organization of Board; Employees.
29 Section 2713. Lease for School Athletics.

30 (b) Shade Trees

1 (1) Power of Boroughs as to Shade Trees
2 Section 2720. Care, Custody and Control of Shade Trees.
3 Section 2720.1. Maintenance by Borough; Tax Levy.
4 Section 2720.2. Payment by Owners; Assessments.
5 Section 2720.3. Notice of Work.
6 Section 2720.4. Penalties.

7 (2) Shade Tree Commission

8 Section 2721. Shade Tree Commission.
9 Section 2722. Composition of Commission.
10 Section 2724.1. Duties of Commission.

11 (c) Forests

12 Section 2751. Acquisition of Land for Forest Purposes.
13 Section 2753. Ordinance Declaring Intention.
14 Section 2754. Appropriations of Money.
15 Section 2755. Rules and Regulations.
16 Section 2756. Appropriations and Revenues.
17 Section 2757. Use of Forests.
18 Section 2758. Ordinance of Sale.
19 Section 2759. Pruning or Thinning Out; Sale of Products
20 Thereof.

21 ARTICLE XXVIII

22 CEMETERIES

23 Section 2800. Appropriations for Burial Ground Maintenance.
24 Section 2800.1. Burial of Deceased Persons.
25 Section 2801. Management by Commission.
26 Section 2802. Transfer from Borough to Company.
27 Section 2805. Transfer from Company to Borough.
28 Section 2805.1. Neglected or Abandoned Cemeteries.
29 Section 2808. Removing Bodies to Alter Plots.
30 Section 2809. Removal of Bodies to Other Cemeteries.

1 Section 2816. Purchase of Plots for Burial of Deceased Service
2 Persons.

3 ARTICLE XXIX

4 LICENSES AND LICENSE FEES

5 Section 2901. Licensing Transient Retail Business.

6 Section 2902. Commonwealth Licenses Saved.

7 Section 2903. Licensing Parking Lots and Parking Garages
8 Operated for Profit.

9 Section 2904. Persons Taking Orders by Samples.

10 Section 2905. Equality of Residents and Non-Residents.

11 Section 2906. Insurance Business.

12 ARTICLE XXIX-A

13 VETERANS' AFFAIRS

14 (a) Pennsylvania National Guard

15 Section 2901-A. Eminent domain for National Guard purposes.

16 Section 2902-A. Lands for armory purposes.

17 Section 2903-A. Appropriation to assist in erection of
18 armories.

19 Section 2904-A. Support of Pennsylvania National Guard units.

20 (b) Support of Veterans' Organizations

21 Section 2911-A. Appropriations to organizations of veterans and
22 American Gold Star Mothers.

23 Section 2912-A. Payment of rent for veterans' organizations.

24 Section 2913-A. Rooms for veterans' and children of veterans'
25 organizations.

26 Section 2914-A. Care and erection of memorials.

27 ARTICLE XXXI

28 HEALTH AND SANITATION

29 Section 3101. Establishment of Board of Health; Health
30 Officers.

1 Section 3102. Members of Board of Health.
2 Section 3103. Oaths of Members, Secretary and Health Officer;
3 Organization; Bonds.
4 Section 3104. Duties of Secretary.
5 Section 3105. Powers and Duties of Health Officer.
6 Section 3106. Powers of Board of Health.
7 Section 3107. Entry Upon Premises.
8 Section 3108. Inspections; Abatement of Nuisances.
9 Section 3109. Estimates of Expenditures; Report.
10 Section 3110. Cooperation With Other Units.
11 Section 3111. Powers of Department of Health to Administer
12 Health Laws; Expenses.

13 ARTICLE XXXII-A
14 UNIFORM CONSTRUCTION CODE, PROPERTY MAINTENANCE
15 CODE AND RESERVED POWERS

16 Section 3201-A. Primacy of Uniform Construction Code.
17 Section 3202-A. Changes in Uniform Construction Code.
18 Section 3203-A. Public nuisance.
19 Section 3204-A. Property maintenance code.
20 Section 3205-A. Reserved powers.

21 ARTICLE XXXIII

22 ORDINANCES

23 (a) General Provisions

24 Section 3301.1. Ordinances; resolutions.
25 Section 3301.2. Publication of proposed ordinances.
26 Section 3301.3. Enactment, approval and veto of ordinances;
27 effective date.
28 Section 3301.4. Recording, advertising and proof of ordinances.
29 Section 3301.5. Codification of ordinances.
30 Section 3301.6. Appeals from ordinances.

1 Section 3301.7. Lost ordinance books to be replaced; recording
2 ordinances.

3 (b) Enforcement

4 Section 3321. Fines and penalties.

5 Section 3322. Commitments Pending Hearings.

6 Section 3323. Commitments After Hearing.

7 Section 3324. Payment of Costs by Borough.

8 ARTICLE XXXV

9 ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE

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

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

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

16 ARTICLE I

17 PRELIMINARY PROVISIONS

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

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

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

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

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

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

30 (4) Conduct of elections.

(5) Public schools.

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

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

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

(9) State highways.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 also to]";

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

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

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

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

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

1 provision in the local or special law shall prevail.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ARTICLE II

2 CREATION AND ALTERATION OF BOROUGHS

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

5 (a) Incorporation of Boroughs

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

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

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

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

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

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

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

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

1 community facility services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The corporate name of the borough.

(2) The boundaries of the borough.

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

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

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

Section 18. Section 208 of the act is repealed:

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

(1) The corporate name of the borough.

(2) The boundaries thereof.]

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

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

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

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

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

1 duly organized under this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 repealed:

2 (b) Consolidation of Boroughs

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 Section 241. Consolidation or merger.

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

17 Section 242. Change of corporate name.

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

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

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

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

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

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

25 [ARTICLE III

26 ANNULMENT OF CHARTERS AND CHANGE

27 OF CORPORATE NAMES

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

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

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

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

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

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

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

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

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

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

19 ARTICLE IV

20 CHANGE OF BOROUGH LIMITS

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

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

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

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

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

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

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

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

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

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

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

5 (1) Where territory is in one county:

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

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

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

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

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

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

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

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

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

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

1 registered engineer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 [(e) Detachment of Territory

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

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

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

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

16 (f) Adjustment of Indebtedness and Public Property]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (g) When Territory is Detached

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

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

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

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

13 ARTICLE V

14 BOROUGH BOUNDARIES

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

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

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

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

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

1 court deems proper.

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

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

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

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

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

9 ARTICLE VI

10 BOROUGH WARDS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 ARTICLE VII

6 ASSOCIATIONS AND ORGANIZATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE VIII

ELECTIONS OF OFFICERS

(a) General Provisions Relating to Elected Officers

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

Section 801. Electors Only to be Eligible;
Incompatibility.--(a) Except as provided in subsection (b), only registered electors of the borough [only] shall be eligible to elective borough offices. [All] Before being sworn in to office, each elected borough [officers shall reside] officer

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

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

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

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

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

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

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

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

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

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

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

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

1 provisions of section 811 [of this act].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (b) Members of Council

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 At the municipal election following the decrease in the

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

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

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

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

15 [(c) Mayor

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

21 (d) Auditors

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

28 (e) Controller

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

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

8 (f) Assessors

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

18 (g) Tax Collector

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

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

27 ARTICLE IX

28 VACANCIES IN OFFICE

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

Section 901. Filling Vacancies in Elective Borough

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

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

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

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

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

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

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

1 for the remainder of the term.

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

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

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

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

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

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

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

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

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

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

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

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

3 ARTICLE X

4 POWERS AND DUTIES OF ELECTED

5 BOROUGH OFFICIALS

6 (a) Council

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) emergency; and

(iv) family or business travel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 decide.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ordinances, except as hereinafter provided.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 [(b) Mayor

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (c) Auditors

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

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

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

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

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

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

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

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

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

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

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

1 on the face thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (c) Each auditor shall be reimbursed for travel costs
9 incurred in the performance of the auditing duties at the rate
10 established by the borough council under the act of July 20,
11 1979 (P.L.156, No.51), referred to as the Uniform Mileage Fee
12 Law, and for other actual expenses, including postage, notary
13 fees or publication costs, necessarily incurred during the
14 audit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) the assets in each sinking fund.

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

(1) the actual indebtedness;

(2) the amount of funded debt;

(3) the amount of floating debt;

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

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

1 value; and

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

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

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

1 judgment entered pursuant to this article.

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

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

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

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

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

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

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

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

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

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

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

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

22 (1) If in the opinion of the court the final determination
23 is more favorable to the borough officer involved than that
24 awarded by the auditors, the borough shall pay reasonable
25 attorney fees or, under ~~subsection (c)~~ PARAGRAPH (3), a portion
26 of reasonable attorney fees incurred by the officer in
27 connection with the surcharge proceeding.

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





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

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

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

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

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

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

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

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

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

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

6 (1) The scope of the examination.

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

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

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

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

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

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

3 (d) Controller

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 [(e) Assessors

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

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

1 reenacted to read:

2 (f) Tax Collector

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

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

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

24 ARTICLE X-A

25 MAYOR

26 Section 1001-A. Eligibility of mayor.

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

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

Section 1002-A. Incompatible offices.

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

Section 1003-A. Oath of mayor.

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

Section 1004-A. Salary of mayor.

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

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

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

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

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

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

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

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

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

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

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

1 Section 1006-A. General powers of mayor.

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

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

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

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

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

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

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

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

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

22 Section 1007-A. Duties of mayor.

23 It shall be the duty of the mayor:

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

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

1 required by law.

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

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

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

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

29 ARTICLE XI

30 POWERS, DUTIES AND RIGHTS OF APPOINTED

OFFICERS AND EMPLOYES

(a) General Provisions

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

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

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

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

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

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

Section 110. Section 1104 of the act, amended ~~June 25, 2001~~ ~~(P.L.651, No.56)~~ NOVEMBER 22, 2011 (P.L.417, NO.104), is amended to read:

~~Section 1104. Appointments; Incompatible Offices. (a) Unless there is incompatibility in fact, any elective or appointive officer of the borough shall be eligible to serve on~~

~~any board, commission, bureau or other agency created by or for the borough, or any borough office created or authorized by statute and may accept appointments thereunder, but no mayor or member of council shall receive compensation therefor.~~

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

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

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

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

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


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

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

~~(g) Nothing [herein] contained in this section shall affect~~

~~the eligibility of any borough official to hold any other public office or receive compensation therefor.~~

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

SECTION 1104. APPOINTMENTS; INCOMPATIBLE OFFICES.-- (A) 
UNLESS THERE IS INCOMPATIBILITY IN FACT, ANY ELECTIVE OR APPOINTIVE OFFICER OF THE BOROUGH SHALL BE ELIGIBLE TO SERVE ON ANY BOARD, COMMISSION, BUREAU OR OTHER AGENCY CREATED BY OR FOR THE BOROUGH, OR ANY BOROUGH OFFICE CREATED OR AUTHORIZED BY STATUTE AND MAY ACCEPT APPOINTMENTS THEREUNDER, BUT NO MAYOR OR MEMBER OF COUNCIL SHALL RECEIVE COMPENSATION THEREFOR.

(B) THE FOLLOWING APPLY TO EMPLOYMENT:

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

(2) THIS SUBSECTION SHALL NOT APPLY TO A BOROUGH OFFICIAL SERVING AS AN EMPLOYEE OF THAT BOROUGH PRIOR TO THE CERTIFICATION OF [A] THE 2010 CENSUS OR A SUBSEQUENT DECENNIAL CENSUS WHICH INDICATES AN INCREASE IN THE POPULATION OF THAT BOROUGH TO 3,000 OR MORE.

(C) WHERE THERE IS NO INCOMPATIBILITY IN FACT, AND SUBJECT TO [THE FOREGOING PROVISIONS] SUBSECTION (A) AS TO COMPENSATION, APPOINTEES OF COUNCIL MAY HOLD TWO OR MORE APPOINTIVE BOROUGH OFFICES, BUT NO MAYOR OR MEMBER OF COUNCIL MAY SERVE AS BOROUGH MANAGER OR AS SECRETARY OR TREASURER.

(D) NO PERSON HOLDING THE OFFICE OF MAGISTERIAL DISTRICT JUDGE MAY AT THE SAME TIME HOLD [THE OFFICE OF BOROUGH

1 TREASURER] ANY ELECTED OR APPOINTED BOROUGH OFFICER.

2 (E) THE OFFICES OF SECRETARY AND TREASURER MAY BE HELD BY
3 THE SAME PERSON WHEN SO AUTHORIZED BY ORDINANCE.

4 (F) A POLICE OFFICER OR FIREFIGHTER MAY NOT HOLD AN ELECTIVE
5 OFFICE OF THE BOROUGH THAT EMPLOYS THE POLICE OFFICER OR
6 FIREFIGHTER. A POLICE OFFICER OR FIREFIGHTER WHO IS EMPLOYED BY
7 A REGIONAL DEPARTMENT, COUNCIL OF GOVERNMENT OR OTHER
8 COOPERATIVE VENTURE MAY NOT HOLD AN ELECTIVE OFFICE OF ANY
9 MUNICIPALITY THAT PARTICIPATES IN THE REGIONAL DEPARTMENT,
10 COUNCIL OF GOVERNMENT OR OTHER COOPERATIVE VENTURE.

11 [(F)] (G) NOTHING [HEREIN] CONTAINED IN THIS SECTION SHALL
12 AFFECT THE ELIGIBILITY OF ANY BOROUGH OFFICIAL TO HOLD ANY OTHER
13 PUBLIC OFFICE OR RECEIVE COMPENSATION THEREFOR.

14 [(G)] (H) ALL APPOINTMENTS TO BE MADE BY THE COUNCIL [OR THE
15 CORPORATE AUTHORITIES] SHALL BE MADE BY A MAJORITY OF THE
16 MEMBERS OF COUNCIL [ATTENDING THE MEETING AT WHICH THE
17 APPOINTMENT IS MADE], UNLESS A DIFFERENT VOTE IS REQUIRED BY
18 STATUTE.

19 Section 111. Section 1105 of the act, amended December 16,
20 1992 (P.L.1215, No.158), is amended to read:

21 Section 1105. Compensation to Aged Employees.--[By ordinance
22 a] A borough may provide, by ordinance, for compensation to
23 appointees and employes of not less than ten years of
24 satisfactory service, and who are not less than sixty years of
25 age, upon termination of active employment with the borough a
26 proportion of the compensation last paid to them but not in
27 excess of fifty percent thereof, including benefits received
28 under the social security act, if any, as fixed in [said] the
29 ordinance or amendment thereto. Any arrangement to provide post-
30 retirement compensation to aged appointees and employes pursuant

1 to this section shall be a pension plan within the meaning of
2 that term pursuant to the act of December 18, 1984 (P.L.1005,
3 No.205), known as the "Municipal Pension Plan Funding Standard
4 and Recovery Act," and the borough establishing that plan shall
5 provide funding of that pension plan in an amount sufficient to
6 meet the minimum obligation of the municipality with respect to
7 the pension plan pursuant to that act. The expenditures herein
8 authorized shall be paid out of the general tax levy for the
9 current expenditures of the year, and not by any special tax
10 therefor. Nothing [herein] in this section shall preclude any
11 appointee or employe of the borough from joining in any pension
12 system or municipal retirement system that the borough may
13 adopt. [The true intent and purpose hereof is to permit
14 boroughs, without exceeding the present general tax limitation,
15 to pay to servants in their employ who are too old to
16 advantageously join any pensioning or retirement system, a
17 reasonable annuity in lieu of joining a pensioning or retirement
18 system.]

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

21 Section 1105.1. Retirement Benefits of Employes Transferred
22 to [Wastewater] Authorities--(a) THE FOLLOWING EMPLOYES OF ←
23 MUNICIPAL AUTHORITIES SHALL BE MEMBERS OF THE BOROUGH RETIREMENT
24 SYSTEM UPON A WRITTEN ELECTION AS PROVIDED IN THIS SECTION:

25 (1) An employe of a wastewater authority created by a
26 borough and one or more townships pursuant to 53 Pa.C.S. Ch. 56
27 (relating to municipal authorities) that commenced operations
28 after December 1, 2001, who satisfies the requirements of
29 [paragraph (2) and] SUBSECTION (B), has past service credits ←
30 under the borough retirement plan [may file a written election ←

1 with the borough council and the wastewater authority to be a
2 member of the borough retirement system. The qualified employee
3 shall file the written election within one year after the
4 effective date of this section.] AND HAS FILED A WRITTEN
5 ELECTION TO BE A MEMBER OF THE BOROUGH RETIREMENT SYSTEM WITH
6 BOROUGH COUNCIL AND THE WASTEWATER AUTHORITY PRIOR TO SEPTEMBER
7 14, 2005.

8 (2) AN EMPLOYEE OF A MUNICIPAL AUTHORITY CREATED BY A BOROUGH
9 PURSUANT TO 53 PA.C.S. CH. 56 THAT COMMENCED OPERATIONS AFTER
10 OCTOBER 4, 2010, WHO SATISFIES THE REQUIREMENTS OF SUBSECTION
11 (B), HAS PAST SERVICE CREDITS UNDER THE BOROUGH RETIREMENT PLAN
12 AND FILES A WRITTEN ELECTION WITH THE BOROUGH COUNCIL AND THE
13 AUTHORITY TO BE A MEMBER OF THE BOROUGH RETIREMENT SYSTEM WITHIN
14 ONE YEAR OF THE EFFECTIVE DATE OF THIS PARAGRAPH.

15 **[(2)] (B) (1)** In order to qualify for the option under
16 **[paragraph (1)] SUBSECTION (A)(1) OR (2),** the employee must
17 satisfy both of the following requirements:

18 (i) Immediately prior to the date of transfer of employment
19 to the **[wastewater]** authority, be an employee of the borough
20 that, EITHER ALONE OR together with one or more **[townships]**
21 MUNICIPALITIES, established the **[wastewater]** authority.


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

25 **[(3)] (2)** For an employee who files an election under
26 **[paragraph (1)] SUBSECTION (A),** the affected **[wastewater]**
27 authority shall:

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

1 deducted amount to the borough's retirement fund.

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

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

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

21 (b) Treasurer

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

24 Section 1106. Bond and Duties.--(a) The borough treasurer
25 shall, before entering upon the duties of [his] office, give
26 bond in an amount determined by council, conditioned for the
27 faithful performance of [his] the treasurer's duties. [He shall
28 keep a just account of all receipts and disbursements, and shall
29 annually submit his account to the borough auditors or
30 controller; he shall pay over all moneys remaining in his hands

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

12 (b) The treasurer shall:

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

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

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

27 (4) Annually submit the accounts to the elected auditors,
28 independent auditor or controller for settlement.

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

1 office.

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

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

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

15 (c) Secretary

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

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

1 his certificate thereof shall be good evidence of such notice.
2 The borough shall furnish the secretary with such dockets,
3 books, forms and files as are necessary for the conduct of his
4 office, such dockets, books, forms and files to be and remain
5 the property of the borough. He shall deliver to his successor
6 the seal and all books, papers and other records and things
7 belonging to the borough].

8 (b) The secretary shall:

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

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

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

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

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

29 (c) The borough shall furnish the secretary with the
30 necessary dockets, books, forms and files as are necessary for

1 the conduct of the office, and which shall be and remain the
2 property of the borough.

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

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

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

23 (d) Solicitor

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

25 Section 1116. Solicitor to Have Control of Legal Matters.--
26 The legal matters of the borough shall be under the control of
27 the borough solicitor, and no department or officer of the
28 borough, except as [herein] otherwise provided by law, shall
29 employ an additional counsel without the assent or ratification
30 of the council. The borough solicitor shall be licensed to

1 practice law in this Commonwealth and may be one person or a law
2 firm, partnership, association or professional corporation. The
3 borough solicitor serves at the pleasure of council. In the
4 absence of the solicitor, the law firm of which [he] the
5 solicitor is a member or associate may perform any of the duties
6 or functions of the solicitor.

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

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

28 (1) Prepare or approve, when directed or requested to do so
29 by council or the mayor, any bonds, obligations, contracts,
30 leases, conveyances, ordinances and assurances to which the

1 borough or any department of the borough may be a party.

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

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

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

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

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

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

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

3 (e) Police

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

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

26 The borough council may designate one of said policemen as
27 chief of police. The mayor of the borough shall have full charge
28 and control of the chief of police and the police force, and he
29 shall direct the time during which, the place where and the
30 manner in which, the chief of police and the police force shall

1 perform their duties, except that council shall fix and
2 determine the total weekly hours of employment that shall apply
3 to the policemen.

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

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

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

established a police department, the following shall apply:

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

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

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

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

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

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

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

(c) In any case in which a borough has [heretofore] previously appointed [policemen] police officers or established a police department by action of council but not [by or] pursuant to an ordinance regularly enacted, [such] the action

1 shall be deemed to have been a valid exercise of the legislative
2 power of the borough [for all purposes the same as though an
3 ordinance had been enacted], and all [policemen] police officers
4 appointed [thereunder] shall occupy the same status and shall
5 have the same rights and privileges as in the case of
6 [policemen] police officers appointed under authority of an
7 ordinance.

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

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

1 police force or other governmental entity furnishing their
2 service and making the original appointment [thereof].

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

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

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

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

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

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

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

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

27 Section 1124. Suspension by Mayor.--In addition to the
28 powers of council to suspend [policemen] police officers, the
29 mayor may, for cause and without pay, suspend any [policemen]
30 police officers until the succeeding regular meeting of the

1 council, at which time or [thereafter] later the council may,
2 subject to the civil service provisions of this act, if they be
3 in effect at the time, suspend, discharge, reduce in rank or
4 reinstate with pay, [such policemen: Provided, however, That a
5 policeman] the police officers. A police officer suspended by
6 the mayor may not be reinstated by council at a date earlier
7 than ten working days from the date fixed by the mayor for the
8 suspension to commence. In any case where the council has
9 reinstated a [policeman] police officer, after having been
10 suspended by the mayor, the mayor shall not thereafter suspend
11 [such policeman] the police officer for reasons arising from the
12 same act for which the first suspension was made, or for reasons
13 that the council, in reinstating [such policeman] the police
14 officer, shall have determined not to be grounds for suspension.

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

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

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

21 Section 1127. School Crossing Guards.--(a) Upon request of
22 the board of school directors of the school district in which a
23 borough is wholly or partially located, the borough council may
24 appoint school crossing guards who shall have the duty of
25 controlling and directing traffic and pedestrians at or near
26 schools and who shall be in suitable and distinctive uniform.
27 While on duty, these crossing guards shall be under and subject
28 to the direction of the mayor. They shall serve at the pleasure
29 of the borough council, except as noted in subsection (b), and
30 shall not come within the civil service provisions of this act

1 and shall not be entitled to participate in any borough pension
2 plan or plans now in effect or hereafter effective. The
3 compensation of the school crossing guards, if any, shall be
4 fixed by the borough council and shall be jointly paid by the
5 borough council and the board of school directors, in a ratio to
6 be determined by the borough council and board of school
7 directors. If the borough council and board of school directors
8 are unable to determine the ratio of compensation of the
9 crossing guards to be paid by the council and the board, each
10 shall pay one-half of the compensation of [such] the crossing
11 guards. [Auxiliary policemen] Notwithstanding any other
12 provision of law, auxiliary police officers, appointed as
13 prescribed by general law, may be designated to serve as
14 crossing guards.

15 (b) The borough council may [approve] enact an ordinance
16 allowing a board of school directors to assume hiring and
17 oversight of school crossing guards. Before the borough council
18 may [approve such an] enact the ordinance, the board of
19 directors of the school district shall [approve] adopt a
20 resolution requesting the authority to assume the hiring and
21 oversight of school crossing guards. The ordinance enacted by
22 the borough council shall outline how the police department will
23 provide any necessary training and assistance of the school
24 crossing guards while on duty. [Such] The school crossing guards
25 shall be authorized only in the management of traffic and
26 pedestrians in and around areas identified by the police
27 department and the school district superintendent or his or her
28 designees. The school crossing guards shall not come within the
29 civil service provisions of this act, nor shall they fall under
30 the bargaining unit of the school district nor be considered an

1 employe as defined under section 1101-A of the act of March 10,
2 1949 (P.L.30, No.14), known as the "Public School Code of 1949,"
3 or a school employee as defined under 24 Pa.C.S. § 8102
4 (relating to definitions), or under any plans hereafter
5 effective. [Once] After the ordinance [receives approval] is
6 enacted by the borough council, the school district shall assume
7 the cost of compensation, including fixing [such] compensation,
8 if any, of the school crossing guards. [Auxiliary policemen]
9 Notwithstanding any other provision of law, auxiliary police
10 officers, appointed as prescribed by general law, may be hired
11 by the school district to serve as school crossing guards. The
12 board of school directors shall notify the borough council of
13 those hired to serve as school crossing guards and request the
14 necessary training or assistance be provided as outlined by the
15 ordinance.

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

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

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

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

1 [such] the member.

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

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

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

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

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

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

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

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

27 Section 1132. Private Police Pension Funds; Optional
28 Transfers.--(a) Where there is a private organization or
29 association constituting and managing an existing pension fund
30 for the members of the police force in any borough, [such] the



1 borough shall establish a police pension for the purpose of
2 paying pensions to the members of its police force, if the
3 membership of [such] the organization or association, by a two-
4 thirds vote, elects to transfer its funds with all its assets
5 and liabilities into a borough pension fund, as required to be
6 established by this act.

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

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

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

29 Section 130. Section 1134 of the act, amended December 16,
30 1992 (P.L.1215, No.158), is repealed:

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

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

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

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

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

29 Section 1137. Annuity Contracts in Lieu of Establishing a
30 Police Pension Fund.--Boroughs may provide annuity contracts for

1 the purpose of paying pension or annuities to the members of the
2 police force who receive honorable discharge therefrom by reason
3 of age or disability and the families of such as may be injured
4 or killed in service.]

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

7 (g) Borough Manager

8 Section 133. Sections 1141 and 1142 of the act, amended July
9 7, 2011 (P.L.267, No.54), are amended to read:

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

20 Section 1142. Powers and Duties[; Bond].--The powers and
21 duties of the borough manager shall be regulated by ordinance.
22 Council may enter into an employment agreement with the borough
23 manager. The employment agreement may set forth the terms and
24 conditions of employment, and the agreement may provide that it
25 shall remain in effect for a specified period terminating no
26 later than two years after the effective date of the agreement
27 or the date of the [organization] organizational meeting of
28 council following the next municipal election, whichever shall
29 first occur. An employment agreement entered into pursuant to
30 this section may specify conditions under which a borough

1 manager would be entitled to severance compensation, but in no
2 event shall an employment agreement guarantee employment through
3 the term of the agreement or confer upon the borough manager any
4 legal remedy based on specific performance. Any employment
5 agreement with a borough manager executed on or after a
6 municipal election but before the first meeting in January the
7 year after the municipal election shall be void. The council, by
8 ordinance, may delegate, subject to recall, any of the
9 nonlegislative and nonjudicial powers and duties of the council,
10 the planning commission and the shade tree commission, to the
11 borough manager. With approval of borough council, the mayor may
12 delegate to the borough manager any of [his] the mayor's
13 nonlegislative and nonjudicial powers and duties.

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

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

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

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

24 [(h) Borough Planning Commission

25 (i) Mine and Quarry Inspection and Surface Support

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

29 Section 1162. Engineer and Other Personnel.--In any such
30 borough an engineer, to be appointed by the council, and such

1 assistants, clerks and employes as the council may provide, to
2 receive such compensation as may be prescribed by council, may
3 be appointed to supervise and administer the work of mine and
4 quarry inspection and surface support.

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

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

1 show the number of the last survey on the gangways or the most
2 advanced workings.

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

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

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

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

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

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

7 Fire Apparatus Operators

8 Section 136. Section 1171 of the act, amended October 4,
9 1978 (P.L.1000, No.210), is amended to read:

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

25 No person shall [hereafter] be suspended, removed or reduced
26 in rank as a paid employe in any police force or as a paid
27 operator of fire apparatus of any borough, except in accordance
28 with the provisions of this subdivision. However, nothing in
29 this subdivision [(j)] shall apply to retirement nor shall
30 anything herein prevent any borough from adopting a compulsory

1 retirement age for its employes or for any class or classes
2 thereof and from retiring all [such] employes automatically when
3 they reach such age.

4 Section 137. Sections 1172, 1173, 1174, 1175, 1176, 1177,
5 1178 and 1179 of the act are amended to read:

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

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

20 (b) Borough council may appoint no more than three qualified
21 electors of the borough to serve as alternate members of the
22 commission. The term of office of the alternate members shall be
23 six years. When seated pursuant to section 1174, an alternate
24 shall be entitled to participate in all proceedings and
25 discussions of the commission to the same and full extent as
26 provided by law for commission members, including specifically
27 the right to cast a vote as a voting member during the
28 proceedings, and shall have all the powers and duties set forth
29 in this act and as otherwise provided by law. Alternates shall
30 hold no other office in the borough. An alternate may

1 participate in any proceeding or discussion of the commission
2 but shall not be entitled to vote as a member of the commission
3 unless designated as a voting alternate member pursuant to
4 section 1174.

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

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

21 Section 1174. Organization of Commission; Quorum.--The
22 commission first appointed shall organize within ten days of its
23 appointment and shall elect one of its members as the [chairman]
24 chair and one as the secretary. The commission shall thereafter
25 meet and organize on the first Monday [of February] of each
26 even-numbered year. [The secretary of the commission shall give
27 each commissioner twenty-four hours' notice] Each commissioner
28 shall be notified in writing of each and every meeting [of the
29 commission. Two]. Three members of the commission shall
30 constitute a quorum [and no action of the commission shall be

1 valid unless it shall have the concurrence of at least two
2 members]. If, by reason of absence or disqualification of a
3 member a quorum is not reached, the chair shall designate as
4 many alternate members of the commission to sit on the
5 commission as may be needed to provide a quorum. An alternate
6 member of the commission shall continue to serve on the
7 commission in all proceedings involving the matter or case for
8 which the alternate was initially designated until the
9 commission has made a final determination of the matter or case.
10 Designation of an alternate member pursuant to this section
11 shall be made on a case-by-case basis in rotation according to
12 declining seniority among the alternates. No action of the
13 commission may be valid unless it shall have the concurrence of
14 at least two members.

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

29 Section 1176. Rules and Regulations.--The commission shall
30 have power to prescribe, amend and enforce rules and regulations

1 for carrying into effect the provisions of this subdivision and
2 shall be governed thereby. Before [any such] the effective date
3 of the rules and regulations [are in force], or amendments
4 thereto, the same shall be first approved by [the] borough
5 council [of the borough]. When [such] the rules and regulations,
6 or amendments, have been [so] approved, they shall not be
7 annulled, amended, or added to, without the approval of [the
8 said] council. All rules and regulations and modifications
9 [thereof] shall be made available by the boroughs for public
10 distribution or inspection.

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

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

25 Section 1179. Subpoenas.--The commission shall have power to
26 issue subpoenas over the signature of the [chairman] chair, to
27 require the attendance of witnesses and the production of
28 records and papers pertaining to any investigation or inquiry.
29 The fees of [such] witnesses for attendance and travel shall be
30 the same as for witnesses appearing in the courts and shall be

1 paid from appropriations for the incidental expenses of the
2 commission.

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

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

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

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

19 Section 1180. Annual Report.--The commission shall make an
20 annual report to the council containing a brief summary of its
21 work during the year, which shall be available for public
22 inspection.

23 Section 139. Section 1181 of the act, amended ~~October 27,~~
24 ~~2010 (P.L.884, No.91)~~ NOVEMBER 22, 2011 (P.L.417, NO.104), is
25 amended to read:

26 Section 1181. General Provisions Relating to Examinations.--
27 (a) The commission shall make rules and regulations, to be
28 approved as provided in section 1176 [hereof], providing for the
29 examination of applicants for positions in the police force and
30 as paid operators of fire apparatus and for promotions, which

1 rules and regulations shall prescribe the minimum qualifications
2 of all applicants to be examined and the passing grades. All
3 examinations for positions or promotions shall be practical in
4 character and shall relate to [such] matters and include [such]
5 inquiries as will fairly test the merit and fitness of the
6 persons examined to discharge the duties of the employment
7 sought by them. All examinations shall be open to all applicants
8 who have the minimum qualifications required by the rules and
9 regulations. Each applicant ~~for an original position~~ FOR AN
10 ORIGINAL POSITION shall:

11 (1) be subject to the regulations adopted by the commission;
12 (2) either before or after the written examination, be
13 required to submit to a physical fitness or agility examination
14 that is job related and consistent with business necessity;

15 ~~and~~

16 (3) if made a conditional offer of employment, be given a
17 physical and psychological medical examination as provided in
18 section 1189 [of this act.]; ~~and~~

19 ~~(4) be subject to a background investigation. Background~~
20 ~~investigations may be restricted to those candidates on an~~
21 ~~eligibility list or those to be certified to borough council for~~
22 ~~appointment in accordance with section 1184.~~

23 ~~(a.1) Each applicant for promotion shall be subject to the~~
24 ~~regulations adopted by the commission and to examination and~~
25 ~~selection in accordance with section 1188. Physical fitness or~~
26 ~~agility examinations that are job related and consistent with~~
27 ~~business necessity and physical and psychological medical~~
28 ~~examinations may be, but need not be, required for promotions.;~~

29 AND

30 (4) BE SUBJECT TO A BACKGROUND INVESTIGATION. BACKGROUND

1 INVESTIGATIONS MAY BE RESTRICTED TO THOSE CANDIDATES ON AN
2 ELIGIBILITY LIST OR THOSE TO BE CERTIFIED TO BOROUGH COUNCIL FOR
3 APPOINTMENT IN ACCORDANCE WITH SECTION 1184 [OF THIS ACT].

4 (A.1) EACH APPLICANT FOR PROMOTION SHALL BE SUBJECT TO THE
5 REGULATIONS ADOPTED BY THE COMMISSION AND TO EXAMINATION AND
6 SELECTION IN ACCORDANCE WITH SECTION 1188 [OF THIS ACT].
7 PHYSICAL FITNESS OR AGILITY EXAMINATIONS THAT ARE JOB-RELATED
8 AND CONSISTENT WITH BUSINESS NECESSITY AND PHYSICAL AND
9 PSYCHOLOGICAL MEDICAL EXAMINATIONS MAY, BUT NEED NOT, BE
10 REQUIRED FOR PROMOTIONS.

11 (b) Public notice of the time and place of every
12 examination, together with the information as to the kind of
13 position or place to be filled, shall be given by publication
14 once in a newspaper of general circulation [in the borough], at
15 least two weeks prior to each examination, and a copy of the
16 notice shall be prominently posted in the office of the
17 commission or other public place.

18 (c) The commission shall post in its office the [eligible]
19 eligibility list, containing the names and grades of those who
20 have passed the examination.

21 Section 140. Section 1182 of the act is amended to read:

22 Section 1182. Application for Examination.--Each person
23 desiring to apply for examination shall file with the commission
24 a formal application in which the applicant shall [state]
25 provide, under oath or affirmation [(i) his full name and
26 residence or post office address, (ii) his citizenship, place
27 and date of birth, (iii) his condition of health and physical
28 capacity for public service, (iv) his business or employment and
29 his residence for the past five years, and (v) such] the
30 following information:

- 1 (1) full name and residence or post office address;
2 (2) citizenship, place and date of birth;
3 (3) condition of health and physical capacity for public
4 service;
5 (4) business or employment and his residence for the past
6 five years; and
7 (5) other information as may be required by the commission's
8 rules and regulations, showing the applicant's qualifications
9 for the position for which [he] the applicant is being examined.

10 Section 141. ~~Sections 1183 and 1184~~ SECTION 1183 of the act, ←
11 amended October 27, 2010 (P.L.884, No.91), ~~are~~ IS amended to ←
12 read:

13 Section 1183. Rejection of Applicant; Hearing.--(a) The
14 commission may refuse to examine, or, if examined, may refuse to
15 certify after examination as eligible, any applicant who is
16 found to lack any of the minimum qualifications for examination
17 prescribed in the rules and regulations adopted for the position
18 or employment for which he has applied, or who is physically
19 unfit for the performance of the duties of the position to which
20 he seeks employment, or who is illegally using a controlled
21 substance, as defined in section 102 of the Controlled
22 Substances Act (Public Law 91-513, 21 U.S.C. § 802), or who has
23 been guilty of any crime involving moral turpitude, or of
24 infamous or notoriously disgraceful conduct, or who has been
25 dismissed from public service for delinquency or misconduct of
26 office, or who is affiliated with any group whose policies or
27 activities are subversive to the form of government set forth in
28 the constitutions and laws of the United States and
29 Pennsylvania.

30 (b) If any applicant [or person is aggrieved by refusal of

1 the commission to examine or certify the applicant as eligible
2 after examination, the commission shall, at the request of the
3 applicant, within ten days, appoint a time and place for a
4 public hearing, with or without counsel, at which time] is
5 aggrieved by the refusal of the commission to certify the
6 applicant as eligible after examination, or a person is
7 aggrieved by refusal of the commission to examine the person,
8 the commission shall, at the request of the applicant or person
9 aggrieved, within ten days, appoint a time and place for a
10 public hearing. At the hearing, the applicant or person
11 aggrieved may appear with or without counsel, and the commission
12 shall take testimony and review its refusal to provide
13 examination or certification. THE DELIBERATIONS OF THE ←
14 COMMISSION, INCLUDING INTERIM RULINGS ON EVIDENTIARY OR
15 PROCEDURAL ISSUES, MAY BE HELD IN THE NATURE OF A CLOSED
16 EXECUTIVE SESSION. THE COMMISSION'S DISPOSITION OF THE MATTER
17 SHALL CONSTITUTE OFFICIAL ACTION WHICH SHALL OCCUR AT A PUBLIC
18 MEETING HELD PURSUANT TO 65 PA.C.S. CH. 7 (RELATING TO OPEN
19 MEETINGS). The decision of the commission shall be final.

20 SECTION 141.1. SECTION 1184 OF THE ACT, AMENDED NOVEMBER 22, ←
21 2011 (P.L.417, NO.104), IS AMENDED TO READ:

22 Section 1184. Eligibility List and Manner of Filling
23 Appointments.--(a) At the completion of the testing process,
24 including any ~~background,~~ physical agility or other ←
25 examination, with the exception of any ~~background investigation~~ ←
26 ~~to be conducted after the establishment of an eligibility list~~
27 ~~and~~ BACKGROUND INVESTIGATION TO BE CONDUCTED AFTER THE ←
28 ESTABLISHMENT OF AN ELIGIBILITY LIST AND physical and
29 psychological medical examination pursuant to section 1189 [of
30 this act], the commission shall rank the candidates who have

1 satisfied the minimum requirements for appointment on an
2 eligibility list. The eligibility list shall contain the names
3 of individuals eligible for appointment listed from highest to
4 lowest based on their scores on the examinations administered by
5 the commission and any points for which the applicant was
6 entitled by virtue of 51 Pa.C.S. Ch. 71 (relating to veterans'
7 preference). The eligibility list will be valid for one year
8 from the date the commission formally adopts the eligibility
9 list. Prior to expiration of the one-year period, the commission
10 may extend the validity of the eligibility list for up to an
11 additional twelve months by a majority vote of the commission at
12 a duly authorized commission meeting. In the absence of a lawful
13 extension by the commission, the list shall expire.

14 (b) Except as provided in subsection (c), every original
15 position or employment in the police force or as paid operators
16 of fire apparatus, except that of chief of police or chief of
17 the fire department, or equivalent, shall be filled only in the
18 following manner: the council shall notify the commission of any
19 vacancy which is to be filled and shall request the
20 certification of an eligibility list. The commission shall
21 certify for each existing vacancy from the eligibility list, the
22 names of the three persons, or a lesser number where three are
23 not available, who have received the highest average. The
24 council shall make a conditional appointment from the three
25 names certified, based solely on the merits and fitness of the
26 candidates, unless borough council makes objections to the
27 commission regarding one or more of the certified persons for
28 any of the reasons stated in section 1183 [of this act]. Should
29 [such] the objections be sustained by the commission, as
30 provided in section 1183 [of this act], or if the conditional

1 appointee is determined to be unqualified in accordance with the
2 procedures set forth in section 1189 [of this act], the
3 commission shall strike the name of the person from the
4 eligibility list and certify the next highest name for each name
5 stricken from the eligibility list. As each subsequent vacancy
6 occurs in the same or another position precisely the same
7 procedure shall be followed.

8 (c) Any vacancy in an existing position in the police force
9 or as a paid operator of fire apparatus which occurs as a result
10 of retirement, resignation, disability or death may be filled by
11 council by the reappointment or reinstatement of a former
12 employe of the police force or fire department who had
13 previously complied with the provisions of this section. No
14 examination, other than a physical examination as directed by
15 the civil service commission, shall be required in any case of
16 reappointment or reinstatement.

17 (d) In the case of a vacancy in the office of chief of
18 police or chief of the fire department, or equivalent official,
19 the appointive power may nominate a person to the commission. It
20 shall [thereupon] then become the duty of the commission to
21 subject the person to a non-competitive examination, and if the
22 person shall be certified by the commission as qualified, he may
23 then be appointed to the position, and [thereafter] shall be
24 subject to all the provisions of this subdivision.

25 Section 142. Section 1185 of the act, amended June 16, 1972
26 (P.L.439, No.132), is amended to read:

27 Section 1185. Age, Applicant's Residence.--No person shall
28 be eligible to apply for examination unless [he] the person is
29 at least eighteen years of age at the date of application. An
30 applicant need not be a resident of the borough. The council of

1 the borough may authorize the commission, by rule or regulation,
2 to require [policemen and firemen] police officers and paid
3 operators of fire apparatus to become residents of the borough
4 after appointment to [such] the positions.

5 Section 143. Section 1186 of the act, amended October 27,
6 2010 (P.L.884, No.91), is amended to read:

7 Section 1186. Probationary Period.--All original
8 appointments to any position in the police force or as paid
9 operators of fire apparatus shall be for a probationary period
10 of not less than six months, and not more than one year, but
11 during the probationary period an appointee may be dismissed
12 only for a cause specified in section 1183 [of this act] or
13 because of incapacity for duty due to the use of alcohol or
14 drugs. If at the close of a probationary period the conduct or
15 fitness of the probationer has not been satisfactory to the
16 council, the probationer shall be notified in writing that [he]
17 the probationer will not receive a permanent appointment, and
18 the appointment shall cease. If the probationer is not notified
19 or dismissed in accordance with this section, [his] the
20 probationer's retention shall be equivalent to a permanent
21 appointment. The decision of a borough to suspend or discharge a
22 probationer shall be final and shall not be subject to the
23 hearing provisions of section 1191.

24 Section 144. Section 1187 of the act is amended to read:

25 Section 1187. Provisional Appointments.--Whenever there are
26 urgent reasons for the filling of a vacancy in any position in
27 the police force and there are no names on the [eligible]
28 eligibility list for [such] the appointment, the council may
29 nominate a person to the commission for noncompetitive
30 examination, and if [such] the nominee shall be certified by the

1 commission as qualified after [such] noncompetitive examination,
2 [he] the nominee may be appointed provisionally to fill [such]
3 the vacancy. [It shall thereupon become the duty of the
4 commissioner within three weeks to] Within three weeks of the
5 provisional appointment, the commission shall hold a competitive
6 examination and certify [a list of eligibles] an eligibility
7 list and a regular appointment shall then be made from the name
8 or names submitted by the commission[: Provided, That], provided
9 that nothing [herein contained] in this section shall prevent
10 the appointment, without examination, of persons, temporarily as
11 police officers in cases of riot or other emergency or as
12 operators of fire apparatus in emergency cases.

13 Section 145. Section 1188 of the act, amended October 27,
14 2010 (P.L.884, No.91), is amended to read:

15 Section 1188. Promotions.--Promotions shall be based on
16 merit to be ascertained by examinations to be prescribed by the
17 commission. All questions relative to promotions shall be
18 practical in character and [such as] will fairly test the merit
19 and fitness of persons seeking promotion. Borough council shall
20 notify the commission of a vacancy in the police force or as a
21 paid operator of fire apparatus in the borough which is to be
22 filled by promotion and shall request the certification of an
23 eligibility list. The commission shall certify for each vacancy
24 the names of three persons on the eligibility list who have
25 received the highest average in the last preceding promotional
26 examination held within a period of two years preceding the date
27 of the request for the eligibility list. If three names are not
28 available, the commission shall certify the names remaining on
29 the eligibility list. The borough council shall make an
30 appointment from the names certified, based solely on the merits

1 and fitness of the candidate, unless council makes objections to
2 the commission regarding one or more of the persons so certified
3 for any reason provided under section 1183 [of this act].

4 The council shall have power to determine in each instance
5 whether an increase in salary shall constitute a promotion.

6 Section 145.1. Section 1189 of the act, amended October 27,
7 2010 (P.L.884, No.91), is reenacted to read:

8 Section 1189. Physical and Psychological Medical
9 Examination.--(a) An applicant selected from the eligibility
10 list shall receive a conditional offer of employment. The offer
11 of employment shall be conditioned upon the conditional
12 appointee undergoing a physical and psychological medical
13 examination and a determination that the conditional appointee
14 is capable of performing all the essential functions of the
15 position. Physical medical examinations shall be under the
16 direction of a physician or other qualified medical
17 professional. Psychological medical examinations shall be under
18 the direction of a psychiatrist or psychologist.

19 (b) The physician or other qualified medical professional
20 and the psychiatrist or psychologist shall be appointed by
21 council and shall render an opinion as to whether the
22 conditional appointee has a physical or mental condition which
23 calls into question the person's ability to perform all of the
24 essential functions of the position for which the person was
25 conditionally appointed.

26 (c) If the opinion rendered by the physician, other
27 qualified medical professional, psychiatrist or psychologist
28 calls into question the conditional appointee's ability to
29 perform all essential functions of a position, a person
30 designated by council shall meet with the conditional appointee

1 for the purpose of having one or more interactive discussions
2 on whether the conditional appointee can, with or without
3 reasonable accommodation, perform all the essential functions of
4 the position.

5 (d) If, at the conclusion of the interactive discussion
6 under subsection (c), council determines that the conditional
7 appointee is not qualified, council shall give written notice to
8 the conditional appointee and the commission.

9 (e) Nothing in this act shall be construed to authorize
10 physical or psychological medical examinations prior to
11 conditional appointment.

12 (f) As used in this section, the following definitions shall
13 apply:

14 "Medical examination" shall mean any examination, procedure,
15 inquiry or test designed to obtain information about medical
16 history or a physical or mental condition which might disqualify
17 an applicant if it would prevent the applicant from performing,
18 with or without a reasonable accommodation, all of the essential
19 functions of the position.

20 "Physician" shall have the meaning given to it in 1 Pa.C.S. §
21 1991 (relating to definitions).

22 "Qualified medical professional" shall mean an individual, in
23 collaboration with or under the supervision or direction of a
24 physician, as may be required by law, who is licensed:

25 (1) as a physician assistant pursuant to the act of December
26 20, 1985 (P.L.457, No.112), known as the "Medical Practice Act
27 of 1985," or the act of October 5, 1978 (P.L.1109, No.261),
28 known as the "Osteopathic Medical Practice Act"; or

29 (2) as a certified registered nurse practitioner pursuant to
30 the act of May 22, 1951 (P.L.317, No.69), known as "The

1 Professional Nursing Law."

2 Section 146. Section 1190 of the act, amended May 31, 1984
3 (P.L.362, No.72), is amended to read:

4 Section 1190. Removals.--No person employed in any police or
5 fire force of any borough shall be suspended without pay,
6 removed or reduced in rank except for the following reasons:

7 (1) Physical or mental disability affecting [his] the
8 person's ability to continue in service, in which cases the
9 person shall receive an honorable discharge from service.

10 (2) Neglect or violation of any official duty.

11 (3) Violation of any law which provided that [such] the
12 violation constitutes a misdemeanor or felony.

13 (4) Inefficiency, neglect, intemperance, immorality,
14 disobedience of orders, or conduct unbecoming an officer.

15 (5) Intoxication while on duty.

16 (6) Engaging or participating in conducting of any political
17 or election campaign while on duty or in uniform or while using
18 borough property otherwise than to exercise [his] the person's
19 own right of suffrage.

20 (7) Engaging or participating in the conduct of a political
21 or election campaign for an incompatible office as provided in
22 section 1104(f).

23 A person so employed shall not be removed for religious,
24 racial or political reasons. A written statement of any charges
25 made against any person so employed shall be furnished to [such]
26 person within five days after the same are filed. The person so
27 employed shall have ten days from the date of receiving the
28 notice in which to submit a written request for a hearing to the
29 civil service commission under section 1191.

30 If for reasons of economy or other reasons it shall be deemed

1 necessary by any borough to reduce the number of paid employes
2 of the police or fire force, then [such] the borough shall
3 [apply the following procedure: (i) if there are any employes
4 eligible for retirement under the terms of any retirement or
5 pension law, if the party to be retired exceeds the maximum age
6 as defined in the act of October 27, 1955 (P.L.744, No.222),
7 known as the "Pennsylvania Human Relations Act," then such
8 reduction in numbers shall be made by retirement of such
9 employes, starting with the oldest employe and following in
10 order of age respectively, (ii) if the number of paid employes
11 in the police force or fire force eligible to retirement is
12 insufficient to effect the necessary reduction in numbers, or if
13 there are no persons eligible for retirement, or if no
14 retirement or pension fund exists, then the reduction shall be
15 effected by furloughing] furlough the person or persons,
16 including probationers, last appointed to the respective force.
17 Such removal shall be accomplished by furloughing in numerical
18 order commencing with the person last appointed until such
19 reduction shall have been accomplished. In the event the said
20 police force or fire force shall again be increased the employes
21 furloughed shall be reinstated in the order of their seniority
22 in the service. The provisions of this paragraph as to
23 reductions in force are not applicable to a chief of police.

24 Section 147. Section 1191 of the act, repealed in part June
25 3, 1971 (P.L.118, No.6), is amended to read:

26 Section 1191. Hearings on Dismissals and Reductions.--[If
27 the] (a) The person suspended, removed or reduced in rank
28 [shall demand a hearing by the commission, the demand shall be
29 made to the commission. Such person] may make written answers to
30 any charges filed against [him] the person not later than the

1 day fixed for hearing. The commission shall grant [him] the
2 person a hearing which shall be held within a period of ten days
3 from the filing of charges in writing, unless continued by the
4 commission for cause at the request of the council or the
5 accused. Notwithstanding this provision, the failure of the
6 commission to hold a hearing within ten days from the filing of
7 the charges in writing shall not result in the dismissal of the
8 charges filed.

9 (b) At any [such] hearing, the person against whom the
10 charges are made may be present in person and by counsel. The
11 council may suspend [any such] the person, without pay, pending
12 the determination of the charges against [him] the person, but
13 in the event the commission fails to uphold the charges, then
14 the person sought to be suspended, removed or [demoted] reduced
15 in rank shall be reinstated with full pay for the period during
16 which [he] the person was suspended, removed or [demoted]
17 reduced in rank, and no charges shall be officially recorded
18 against [his] the person's record. A stenographic record of all
19 testimony taken at [such] the hearings shall be filed with, and
20 preserved by, the commission, which record shall be sealed and
21 not be available for public inspection in the event the charges
22 are dismissed.

23 (c) All parties concerned shall have immediate right of
24 appeal to the court of common pleas of the county, and the case
25 shall there be determined as the court deems proper. No order of
26 suspension made by the commission shall be for a longer period
27 than one year. [Such] The appeal shall be taken within [sixty]
28 thirty days from the date of entry by the commission of its
29 final order and shall be by petition. Upon [such] the appeal
30 being taken and docketed, the court of common pleas shall fix a

1 day for a hearing and shall proceed to hear the appeal on the
2 original record and [such] additional proof or testimony as the
3 parties concerned may desire to offer in evidence. The decision
4 of the court affirming or revising the decision of the
5 commission shall be final, and the employe shall be suspended,
6 discharged, [demoted] reduced in rank or reinstated in
7 accordance with the order of court.

8 (d) The council and the person sought to be suspended,
9 removed or [demoted] reduced in rank shall at all times have the
10 right to employ counsel before the commission and upon appeal to
11 the court of common pleas. Unless the council or the person
12 sought to be suspended, removed or reduced in rank requests that
13 the proceedings before the commission be open to the public, the
14 proceedings before the commission pursuant to this section shall
15 be held in the nature of a closed executive session that shall
16 not be open to the public. Any such request shall be presented
17 to the commission before the civil service hearing commences.
18 The deliberations of the commission, including interim rulings
19 on evidentiary or procedural issues, may be held in private and
20 shall not be subject to a request for being open to the public,
21 the council or to the person sought to be suspended, removed or
22 reduced in rank. The commission's disposition of the
23 disciplinary action shall constitute official action which shall
24 occur at a public meeting held pursuant to 65 Pa.C.S. Ch. 7
25 (relating to open meetings).

26 Section 148. Sections 1192 and 1193 of the act are amended
27 to read:

28 Section 1192. Employes Exempted.--All appointments in the
29 police or fire forces of boroughs, including the chief of police
30 or equivalent official, prior to the creation of a commission,

1 shall continue to hold their positions and shall not be required
2 to take any examination under the provisions of this
3 subdivision, except [such as] that which may be required for
4 promotion[: Provided, That], provided that this section shall
5 not be construed to apply to persons employed temporarily in
6 emergency cases.

7 Section 1193. Discrimination on Account of Political or
8 Religious Affiliations.--No question in any form of application
9 for examination or in any examination shall be so framed as to
10 elicit information concerning the political or religious
11 opinions or affiliations of any applicant, nor shall inquiry be
12 made concerning [such] the opinion or affiliations and all
13 disclosures [thereof] of opinion or affiliation shall be
14 [discountenanced] ignored.

15 No discrimination shall be exercised, threatened or promised
16 by any person against or in favor of any applicant or employe
17 because of political or religious opinions or affiliations or
18 race, and no offer or promise or reward, favor or benefit,
19 directly or indirectly, shall be made to or received by any
20 person for any act done or duty omitted or to be done under this
21 subdivision [of this article].

22 Section 149. Section 1194 of the act, amended June 25, 2001
23 (P.L.651, No.56), is amended to read:

24 Section 1194. Penalty.--Any member of council who, by [his]
25 vote, causes to be appointed any person to the police force or
26 as a fire apparatus operator contrary to the provisions of this
27 subdivision, or any member of council or member of the
28 commission who wilfully refuses to comply with, or conform to,
29 the provisions of [subdivision (j) of this article] this
30 subdivision, shall be deemed guilty of a misdemeanor, and upon

conviction [thereof], shall be sentenced to pay a fine not exceeding one hundred dollars (\$100), or suffer imprisonment not exceeding [three months] ninety days, or both.

Section 150. Section 1195 of the act is reenacted to read:

Section 1195. Police Force and Fire Apparatus Operators Defined.--Police force as used in subdivision (j) of this article shall mean a police force organized and operating as prescribed by law, the members of which devote their normal working hours to police duty or duty in connection with the bureau, agencies and services connected with police protection work, and who are paid a stated salary or compensation for such work by the borough. Police force as used in this subdivision shall not include:

(1) Any special police appointed by the mayor to act in emergencies,

(2) Any person appointed solely for parking meter enforcement duties,

(3) Any special school police,

(4) Any extra police serving from time to time or on an hourly or daily basis, or,

(5) Any auxiliary policeman appointed under the act of January 14, 1952 (P.L.2016).

Fire apparatus operators as used in this subdivision (j) of this article shall mean any person who operates fire apparatus and devotes his normal working hours to operating any piece of fire apparatus or other services connected with fire protection work, and who is paid a stated salary or compensation for such work done by the borough.

Section 150.1. Article XI subdivision (k) heading of the act is repealed:

1 [(k) Independent Auditor]

2 Section 151. Section 1196 of the act, amended December 17,
3 1986 (P.L.1691, No.201), is repealed:

4 [Section 1196. General Powers and Duties of Independent
5 Auditor.--(a) The independent auditor shall annually examine,
6 audit and settle all accounts whatsoever in which the borough is
7 concerned and the audit shall consist of an examination in
8 accordance with generally accepted auditing standards and shall
9 include such tests of the accounting records and such other
10 auditing procedures as he considers necessary in the
11 circumstances.

12 (b) The independent auditor shall audit the accounting
13 records of the borough for the fiscal year and shall prepare a
14 report on the examination which shall set forth:

15 (1) The scope of his examination,

16 (2) His opinion of the fairness of the presentation of the
17 financial statement of the borough which shall show a complete
18 statement of the financial condition of the borough, giving in
19 detail the actual indebtedness, the amount of the funded debt,
20 the amount of the floating debt thereof, the valuation of
21 taxable property therein, the assets of the borough with the
22 character and value thereof, and the date of maturity of the
23 respective forms of funded debt thereof, and

24 (3) The amount of any balance or shortage or any expenditure
25 of any kind, or made in a manner, prohibited or not authorized
26 by a statute which came to his attention during the course of
27 his examination and which, in his opinion, causes a financial
28 loss to the borough which loss is material in relation to the
29 receipts and disbursements of the borough, and such amount shall
30 be a surcharge against any officer against whom such balance or

1 shortage shall appear.

2 (c) The amount of any balance or shortage, or of any
3 expenditure of a kind, or made in a manner, prohibited or not
4 authorized by statute, which causes a financial loss to the
5 borough, shall be a surcharge against any officer against whom
6 such balance or shortage shall appear, or who by vote, act, or
7 neglect, has permitted or approved such expenditure, but no
8 elected or appointed official of a borough shall be surcharged
9 for any act, error or omission in excess of the actual financial
10 loss sustained by the borough, and any surcharge shall take into
11 consideration as its basis the results of such act, error or
12 omission and the results had the procedure been strictly
13 according to law. The provisions hereof limiting the amount of
14 any surcharge shall not apply to cases involving fraud or
15 collusion on the part of officers, nor to any penalty enuring to
16 the benefit or payable to the Commonwealth.

17 (d) In any matter involving any financial transaction, any
18 official knowingly and wilfully acting contrary to law, or,
19 knowingly and wilfully failing to act as required by law, is
20 guilty of a misdemeanor, and on conviction thereof, may be
21 sentenced to a fine not exceeding one hundred dollars (\$100),
22 and his office may be forthwith declared vacant as may seem meet
23 and just to the court passing sentence.

24 (e) It shall be the duty of the independent auditor:

25 (1) To file a copy of the report with the secretary of the
26 borough and the clerk of the court of common pleas of the county
27 and the Department of Community Affairs not later than ninety
28 days after the close of the fiscal year, and

29 (2) To publish within ten days thereafter, by advertisement
30 in at least one newspaper of general circulation in the borough,

1 a concise financial statement setting forth the balance in the
2 treasury at the beginning of the fiscal year, all revenues
3 received during the fiscal year by major classifications, all
4 expenditures made during the fiscal year by major functions, and
5 the current resources and liabilities of the borough at the end
6 of the fiscal year, the gross liability and net debt of the
7 borough, the amount of the assessed valuation of the borough,
8 the assets of the borough with the character and value thereof,
9 the date of the last maturity of the respective forms of funded
10 debt, and the assets in each sinking fund. The independent
11 auditor shall make his report on the uniform form prepared
12 pursuant to article XIII of this act.

13 (f) The compensation of the independent auditor shall be
14 determined by council and paid out of borough funds.]

15 Section 152. Sections 1197, 1198 and 1199 of the act are
16 repealed:

17 [Section 1197. Appeals From Report of Independent Auditor.--
18 Appeals may be taken from the settlement and audit of the
19 independent auditor as shown in the independent auditor's report
20 to the court of common pleas of the county, by the same persons,
21 in the same manner, within the same time, subject to the same
22 conditions and procedure, and with like effect in every respect,
23 as in this act provided in the cases of appeals from the
24 settlement and audit of elected auditors.

25 Section 1198. Balances Due to be Entered as Judgments.--Any
26 balance, in any report of the independent auditor, against any
27 officer of the borough, shall constitute a surcharge against
28 such officer, as fully as if expressly stated in said report to
29 be a surcharge, and the amount of any such balance, and of any
30 express surcharge, shall, if no appeal is taken, or after an

1 appeal has been finally determined, be entered by the
2 prothonotary as a judgment, against such officer and in favor of
3 the borough, the clerk of the court of quarter sessions shall
4 certify the amount of every balance or surcharge, contained in
5 any such report, from which no appeal has been taken within time
6 herein provided, to the court of common pleas, for entry thereof
7 by the prothonotary as a judgment. Any taxpayer of the borough
8 may enforce the collection thereof, for the benefit of the
9 borough, by action or execution, upon filing in the court of
10 common pleas a bond, in the sum of five hundred dollars (\$500)
11 with one or more sureties, conditioned to indemnify the borough
12 from all costs which may accrue in the proceedings undertaken by
13 such taxpayer, subject, however, to all rights of appeal from
14 the report of independent auditors granted by this act. If any
15 person or persons have been, or shall be, surcharged for an
16 illegal purchase, and no fraud or collusion is shown and the
17 surcharge is paid to the borough, then the articles purchased
18 shall become the property of the person or persons surcharged.

19 Section 1199. Employment of Attorney, Compelling Attendance
20 of Witnesses, Administration of Oath, Penalties and Settlement
21 of Accounts.--(a) The independent auditor, with the consent of
22 the borough council, may employ an attorney whenever the same is
23 deemed advisable by him and the compensation of such attorney
24 shall be determined by the borough council and shall be payable
25 by the borough out of the general funds of the borough.

26 (b) The independent auditor of each borough shall have power
27 to issue subpoenas to obtain the attendance of the officers
28 whose accounts he is required to adjust, their executors and
29 administrators, and of any persons whom it may be necessary to
30 examine as witnesses, and to compel their attendance. If any

1 person shall refuse or neglect to appear or testify, the
2 independent auditor shall petition the court of common pleas of
3 the county to issue a subpoena to such person and to require him
4 to appear and to testify before the court. The court shall issue
5 such subpoena if it deems the testimony relevant to the issue.

6 (c) The independent auditor shall have power to administer
7 oaths and affirmations to all persons brought or appearing
8 before him, whether accountants, witnesses, or otherwise. All
9 persons guilty of swearing or affirming falsely on such
10 examination shall be liable to the pains and penalties of
11 perjury.

12 (d) If any person, appearing before such independent auditor
13 for examination, shall refuse to take such oath or affirmation,
14 or, after having been sworn or affirmed, shall refuse to make
15 answer to such questions as shall be put to him by the
16 independent auditor touching the accounts or the official
17 conduct of such public officers or any of them, then the
18 independent auditor may petition the court to issue its subpoena
19 as hereinbefore provided.

20 (e) Witnesses, other than officers of the borough, attending
21 before the independent auditor and persons or officers serving
22 subpoenas shall be paid out of the borough treasury, upon orders
23 drawn on the borough treasury, pursuant to authorization by the
24 independent auditor, the same fees as are payable for rendering
25 similar services in civil proceedings before a justice of the
26 peace, and the amount thereof shall be made a part of the charge
27 against any officer who shall be charged by the independent
28 auditor with any balance: Provided, that any such costs shall
29 have been incurred in establishing said balance. Upon collection
30 of any such costs from any officer, they shall be repaid into

1 the borough treasury.

2 (f) If any person in possession of books, vouchers, or
3 papers, relative to public accounts before independent auditor,
4 shall refuse to produce the same or, if any officer whose
5 accounts are to be settled and adjusted by such independent
6 auditor refuses to attend or submit to examination as is
7 hereinbefore directed, the independent auditor may proceed, by
8 the examination of witnesses and other evidence, to ascertain
9 and settle as near as may be, the amount of public money
10 received by such officer and its application to public purposes
11 or otherwise.]

12 Section 153. Article XII heading of the act is reenacted to
13 read:

14 ARTICLE XII

15 CORPORATE POWERS

16 Section 154. Section 1201 of the act, amended June 28, 2011
17 (P.L.66, No.12), is renumbered and amended to read:

18 Section 1201. General Powers.--A borough may:

19 (1) Have succession perpetually by its corporate name.

20 (2) Sue and be sued, and complain and defend in the courts
21 of the Commonwealth.

22 (3) Make and use a common seal, and alter the same at
23 pleasure.

24 (4) Purchase, exchange, acquire by gift, or otherwise, hold,
25 lease, let and convey, by sale or lease, [such] real and
26 personal property [as shall be] deemed to be to the best
27 interest of the borough, subject to the [following]
28 restrictions, limitations or exceptions[:]

29 (i)] as set forth in this article. Property may be acquired
30 for any public purpose, including, but not limited to,



~~greenways, greenbelts, recreational trails, buffer zones and
natural areas, in addition to any recreation purpose authorized
by this act.~~

Section 1201.1. Real Property.--(a) No real estate owned by
the borough [shall] may be sold except upon approval of council
by resolution. Additionally, no real estate owned by the borough
shall be sold for a consideration in excess of fifteen hundred
dollars (\$1500), except to the highest bidder after due notice
by advertisement for bids or advertisement of a public auction
in one newspaper of general circulation [in the borough. Such].
The advertisement shall be published once not less than ten days
prior to the date fixed for the opening of bids or public
auction, and [such] the date for opening bids or public auction
shall be announced in [such] the advertisement. The award of
contracts shall be made only by public announcement at a regular
or special meeting of council or at the public auction. All bids
shall be accepted on the condition that payment of the purchase
price in full shall be made within sixty days of the acceptance
of bids. If no compliant bids are received after advertisement,
the applicable procedures in the act of October 27, 1979
(P.L.241, No.78), entitled, as amended, "An act authorizing
political subdivisions, municipality authorities and
transportation authorities to enter into contracts for the
purchase of goods and the sale of real and personal property
where no bids are received," shall be followed.

(b) The borough council shall have the authority to reject
all bids if [such] the bids are deemed to be less than the fair
market value of the real property. In the case of a public
auction, the borough council may establish a minimum bid based
on the fair market value of the real property.

1 (c) Real estate owned by a borough may be sold at a
2 consideration of fifteen hundred dollars (\$1500) or less without
3 advertisement or competitive bidding only after council
4 estimates the value thereof upon receipt of an appraisal by a
5 qualified real estate appraiser.

6 ~~[(ii)]~~ (d) (1) Notwithstanding the foregoing provisions of
7 this section, borough council shall have the authority to
8 exchange real property for real property of equal or greater
9 value without complying with the foregoing provisions of this
10 section, provided that the property being acquired by the
11 borough is to be used for municipal purposes. Municipal purposes
12 as used in this subsection include a subsequent sale or lease of
13 the property to any of the delineated entities listed in section
14 1201.3.

15 (2) Any conveyance of real property acquired in an exchange
16 to an entity listed in section 1201.3 may contain a clause
17 whereby the lands and buildings will revert to the borough if
18 they are no longer being used for the purposes of the entity.

19 (3) If borough council chooses to exercise its power of real
20 property exchange pursuant to this section, it shall be by
21 resolution adopted by council. Notice of the resolution,
22 including a description of the properties to be exchanged, shall
23 be published once in one newspaper of general circulation not
24 more than sixty days nor fewer than seven days prior to
25 adoption.

26 (4) Participation in a real property exchange shall not
27 prohibit the application of the requirements of the act of
28 October 4, 1978 (P.L.851, No.166), known as the "Flood Plain
29 Management Act."

30 Section 1201.2. Personal Property.--(a) (1) Except as

1 otherwise hereinafter provided in the case of personal property
2 of an estimated fair market value of less than one thousand
3 dollars (\$1,000), no borough personal property shall be disposed
4 of, by sale or otherwise, except upon approval of council, by
5 [ordinance or] resolution. In cases where council shall approve
6 a sale of [such] the property, it shall estimate the fair market
7 value of the entire lot to be disposed of. If council shall
8 estimate the fair market value to be one thousand dollars
9 (\$1,000) or more, the entire lot shall be advertised for sale
10 once, in at least one newspaper of general circulation [in the
11 borough], not less than ten days prior to the date fixed for the
12 opening of bids or public auction, and [such] the date of
13 opening of bids or public auction, shall be announced in [such]
14 the advertisement, and sale of the property so advertised shall
15 be made to the best responsible bidder.

16 (2) A public auction of personal property may be conducted
17 by means of an online or electronic auction sale. During an
18 electronic auction sale, bids shall be accepted electronically
19 at the time and in the manner designated in the advertisement.
20 During the electronic auction, each bidder shall have the
21 capability to view the bidder's bid rank or the high bid price.
22 Bidders may increase their bid prices during the electronic
23 auction. The record of the electronic auction shall be
24 accessible for public inspection. The purchase price shall be
25 paid by the high bidder immediately or at a reasonable time
26 after the conclusion of the electronic auction as determined by
27 council. In the event that shipping costs are incurred, they
28 shall be paid by the high bidder. A borough that has complied
29 with the advertising requirements of this section may provide
30 additional public notice of the sale by bids or public auction

1 in any manner deemed appropriate by council. The advertisement
2 for electronic auction sales authorized in this [subclause]
3 paragraph shall include the Internet address or means of
4 accessing the electronic auction and the date, time and duration
5 of the electronic auction.

6 (3) Council may reject any bids received if the bids are
7 believed to be less than the fair market value of the property.
8 If no bids are received after advertisement, the applicable
9 procedures in the act of October 27, 1979 (P.L.241, No.78),
10 entitled, as amended, "An act authorizing political
11 subdivisions, municipality authorities and transportation
12 authorities to enter into contracts for the purchase of goods
13 and the sale of real and personal property where no bids are
14 received," shall be followed.

15 (b) Council shall, by resolution, adopt a procedure for the
16 sale of surplus personal property, either individual items or
17 lots of items, of an estimated fair market value of less than
18 one thousand dollars (\$1,000) and the approval of council shall
19 not be required for any individual sale that shall be made in
20 conformity to [such] the procedure.

21 [(iii)] (c) The provisions of this [clause] section shall
22 not be mandatory where borough personal property is to be traded
23 in or exchanged for new [borough property] or used personal
24 property being acquired by the borough, except that the trade or
25 exchange shall be by resolution.

26 [(iv)] Section 1201.3. Exceptions.--(a) The provisions of
27 this [clause] article requiring advertising for bids or sale at
28 public auction and sale to the highest bidder shall not apply
29 where borough real or personal property is to be sold to:

30 [(A)] (1) a county, city, borough, town, township,

1 institution district, school district, volunteer fire company,
2 volunteer ambulance service or volunteer rescue squad located
3 within the borough;

4 [(A.1)] (2) a council of government, consortium, cooperative
5 or other similar entity created pursuant to 53 Pa.C.S. Ch. 23
6 (relating to intergovernmental cooperation);

7 [(B)] (3) an authority as defined in 53 Pa.C.S. § 5602
8 (relating to definitions);

9 [(C)] (4) a non-profit corporation engaged in community
10 development or reuse only upon entering into a written agreement
11 with the non-profit corporation that requires the property to be
12 used for industrial, commercial or affordable housing purposes.
13 This exemption shall not apply to property on which existing
14 governmental functions are conducted[;

15 (D) where real property is to be sold to]. This exemption
16 shall also not apply to property owned and operated by the
17 borough or subcontracted or operated on behalf of the borough in
18 order to conduct existing government functions;

19 (5) a person for [his] the person's exclusive use in an
20 industrial development program;

21 [(E) where real property is to be sold to] (6) a non-profit
22 corporation organized as a public library for its exclusive use
23 as a library;

24 [(F) where real property is to be sold to] (7) a non-profit
25 medical service corporation as authorized by clause [(76)] (50)
26 of section 1202;

27 [(G) where real property is to be sold to] (8) a non-profit
28 housing corporation as authorized by clause [(77)] (51) of
29 section 1202;

30 [(H) where real property is to be sold to] (9) the

1 Commonwealth or to the Federal Government; or

2 [(I) where real property is to be sold to] (10) a non-
3 profit museum or historical society for its exclusive use as a
4 non-profit museum or historical society.

5 [(v)] (b) When real property is to be sold to a non-profit
6 corporation organized as a public library for its exclusive use
7 as a library or to a non-profit medical service corporation or
8 to a non-profit housing corporation, council may elect to accept
9 [such] nominal consideration for [such] the sale as it shall
10 deem appropriate.

11 [(vi)] (c) Real property sold pursuant to this [clause]
12 section to a volunteer fire company, volunteer ambulance service
13 or volunteer rescue squad, non-profit medical service
14 corporation or to a non-profit housing corporation shall be
15 subject to the condition that when the property is not used for
16 the purposes of the company, service, squad or the corporation
17 the property shall revert to the borough.

18 [(vii) The exemption granted under subclause (iv) (C) shall
19 not apply to property owned and operated by the borough or
20 subcontracted or operated on the behalf of the borough in order
21 to conduct existing governmental functions.

22 (5) To invest in or purchase bonds of any municipal
23 authority or parking authority created solely by the borough,
24 for the purpose either of investment or of possible retirement
25 of such bonds and acquisition of authority projects at an
26 earlier date than originally contemplated, using for the purpose
27 either surplus funds of the borough or money appropriated in the
28 annual budget for the purpose.]

29 Section 155. Section 1202 of the act, amended or added
30 October 9, 1967 (P.L.399, No.181), November 24, 1967 (P.L.621,

1 No.283), December 14, 1967 (P.L.727, No.336), June 30, 1969
2 (P.L.111, No.43), June 27, 1974 (P.L.412, No.145), December 19,
3 1975 (P.L.561, No.158), June 23, 1978 (P.L.530, No.89), October
4 4, 1978 (P.L.962, No.189), October 5, 1979 (P.L.197, No.66),
5 November 1, 1979 (P.L.453, No.90), May 9, 1980 (P.L.119, No.46),
6 December 11, 1986 (P.L.1499, No.158), March 30, 1988 (P.L.309,
7 No.40), July 10, 1990 (P.L.383, No.90), December 16, 1992
8 (P.L.1215, No.158), December 14, 1995 (P.L.652, No.71), December
9 18, 1996 (P.L.1156, No.176), June 22, 2000 (P.L.325, No.34),
10 June 25, 2001 (P.L.699, No.67), July 5, 2005 (P.L.44, No.13) and
11 March 17, 2008 (P.L.48, No.8) and repealed in part November 26,
12 1978 (P.L.1399, No.330), is amended to read:

13 Section 1202. Specific Powers.--The powers of the borough
14 shall be vested in the [corporate authorities. Among the
15 specific powers of the borough shall be the following, and in]
16 borough council. In the exercise of any [of such] specific
17 powers involving the enactment of [any] an ordinance or the
18 making of any regulation, restriction or prohibition, the
19 borough may provide for [the] enforcement [thereof] and [may
20 prescribe] penalties for [the violation thereof or for the
21 failure to conform thereto] violations. The specific powers of
22 the borough shall include the following:

23 (1) Fees for service of officers. To prescribe reasonable
24 fees for the services of their officers and to enforce the
25 payment of the same. This paragraph shall not be applicable to
26 the services rendered by borough police officers in responding
27 to motor vehicle accidents pursuant to 53 Pa.C.S. § 1392
28 (relating to prohibition of fees for police services).

29 (2) Regulation of charges in the operation of its utilities,
30 parking meters, parking lots, recreational facilities or its

1 other facilities and services to the public. In the operation of
2 its utilities, parking meters, parking lots, recreational
3 facilities, and other facilities and services, to make and
4 regulate charges therefor for general borough purposes.

5 (3) Fines and forfeitures. To impose fines and penalties,
6 incurring partial or total forfeiture, or to remit the same.

7 (4) Nuisances and dangerous structures. [To prohibit and
8 remove any obstruction or nuisance in the streets of the
9 borough.

10 (5) Nuisances and dangerous structures.] To prohibit and
11 remove any nuisance or dangerous structure on public or private
12 grounds, including but not limited to accumulations of garbage
13 and rubbish [and], the storage of abandoned or junked
14 automobiles [and to prohibit and remove any dangerous structure
15 on public or private grounds, or to] and obstructions or
16 nuisances in the streets of the borough. The borough may require
17 the removal of any [such] nuisance or dangerous structure by the
18 owner or occupier of [such] the grounds, in default of which the
19 borough may cause the same to be done, and collect the cost
20 [thereof] of removal, together with a penalty of ten percent of
21 [such] the cost, in the manner provided by law for the
22 collection of municipal claims, or by action of assumpsit, or
23 may seek relief by bill in equity.

24 [(6)] (5) Health and cleanliness regulations. To make such
25 regulations as may be necessary for the health, safety, morals,
26 general welfare and cleanliness and the beauty, convenience,
27 comfort and safety of the borough.

28 [(7) Burial of deceased persons. To prohibit, within the
29 borough limits, or within any described territory within such
30 limits, the burial or interment of deceased persons.

1 (8)] (6) Regulation of vaults, cesspools and drains. To make
2 regulations respecting vaults, cesspools and drains.

3 [(9)] (7) Manure and compost regulations. To make
4 regulations relative to the accumulation of manure, compost and
5 the like to the extent authorized by 3 Pa.C.S. Ch. 5 (relating
6 to nutrient management and odor management).

7 [(10) Accumulations of garbage] (8) Garbage and other
8 refuse material. (i) To individually or jointly with other
9 municipal corporations pursuant to an agreement, prohibit
10 accumulations of garbage or other refuse material upon public
11 and private property and to [provide] make regulations for the
12 care, removal [of prohibited accumulations] and collection of
13 garbage or other refuse material[.], including:

14 (A) To provide for the collection and imposition of
15 reasonable fees and charges for the collection of garbage and
16 other refuse material.

17 (B) To erect, operate and maintain refuse disposal or
18 incineration facilities or sanitary landfills, either within or
19 without the limits of the borough, or provide other means for
20 the collection, destruction or removal of garbage and other
21 refuse material, and provide for the payment of the cost or
22 expense thereof, either in whole or in part, out of the funds of
23 the borough.

24 (C) To purchase real estate for the purpose of erecting,
25 operating and maintaining refuse disposal or incineration
26 facilities or sanitary landfills, provided, however, that prior
27 to any acquisition of property pursuant to this paragraph the
28 borough shall, individually or jointly, as the case may be,
29 obtain the approval of the court of common pleas for the
30 location of the facilities or landfill after a hearing and

1 subject to notice as the court shall require. If no objections
2 are heard at the hearing, the court shall approve the location.
3 If any objection is made, the court shall proceed to hear the
4 matter and determine whether the location is a detriment to
5 neighboring properties. The finding of the court shall be
6 conclusive, but in no way shall adjudicate any question relating
7 to damages for injury to property.

8 (D) To take and appropriate real estate for purposes of
9 refuse disposals or incineration facilities or sanitary
10 landfills in accordance with Article XV if a purchase price
11 cannot first be agreed upon, provided, however, that no real
12 estate located outside the limits of the borough, or outside the
13 limits of the joint municipal corporations in the case of a
14 joint effort, shall be taken and appropriated if the real estate
15 currently contains or is being used for a refuse disposal or
16 incineration facility or a sanitary landfill.

17 (ii) Regulations enacted pursuant to this section shall be
18 consistent with the act of July 7, 1980 (P.L.380, No.97), known
19 as the "Solid Waste Management Act," the act of July 28, 1988
20 (P.L.556, No.101), known as the "Municipal Waste Planning,
21 Recycling and Waste Reduction Act," and subject to any other
22 necessary Federal or State approval.

23 [(11) Removal of garbage and other refuse material. To make
24 regulations for the care and removal of garbage and other refuse
25 material, including the imposition and collection of reasonable
26 fees and charges therefor.

27 (12) Hogs. To prohibit the keeping of hogs within the
28 borough, or within any part of the borough.

29 (13)] (9) Dogs, cats and other pets. To the extent not
30 otherwise prohibited by the act of December 7, 1982 (P.L.784,

1 No.225), known as the "Dog Law," to destroy dogs found at large
2 contrary to laws of the Commonwealth; to prohibit or regulate,
3 by ordinance, the running at large of dogs, cats [and/or] or
4 other pets, and, in the enforcement of [such] the regulations,
5 to direct the killing of dogs, cats [and/or] or other pets, or
6 their seizure and detention, prescribing reasonable charges for
7 their seizure and detention, and to provide for their sale for
8 the benefit of the borough, in default of the redemption
9 [thereof] of the pet by their owners.

10 [(14)] (10) Livestock, fowls and [certain] all other
11 animals. To [prohibit and regulate, by ordinance,] enact
12 ordinances prohibiting or regulating the keeping or running at
13 large of livestock and fowls and any other animals not covered
14 in clause [(13) hereof] (9), and [to authorize] authorizing
15 their seizure [and], detention, [prescribing] or, in the case of
16 unowned pigeons, humane destruction. The borough may prescribe
17 reasonable charges [therefor, and to] for the seizure and
18 detention of the animals and provide for their sale for the
19 benefit of the borough, in default of the redemption [thereof]
20 of the animals by their owners. Ordinances enacted pursuant to
21 this clause shall not unreasonably interfere with any
22 agricultural operation to the extent prohibited by applicable
23 State law.

24 [(15)] Pigeons. To authorize or provide for the destruction
25 or killing of unowned pigeons within the geographical limits of
26 the borough by any humane means.

27 (16)] (11) Smoke regulations. To regulate the emission of
28 smoke from chimneys, smokestacks and other sources to the extent
29 the regulation is not otherwise prohibited by applicable Federal
30 or State law. This clause shall not apply to locomotive

1 smokestacks.

2 [(17)] (12) Street and sewer regulations; obstructions. To
3 regulate the streets, sewers, public squares, common grounds,
4 sidewalks, curbs, gutters, culverts and drains, and the heights,
5 grades, widths, slopes and their construction [thereof;] and to
6 prohibit the erection or construction of any building or other
7 obstruction to the convenient use of the same.

8 [(18)] (13) Riding or driving on sidewalks. To prohibit or
9 regulate the riding [or], driving, parking or other passage of
10 [animals, or the passage of] any animal or vehicle, over, along
11 and across sidewalks. As used in this paragraph, the word
12 "vehicle" shall include any device in, upon or by which any
13 person or property may be transported, but not a self-propelled
14 wheelchair or an electrical mobility device operated by and
15 designed for the exclusive use of a person with a mobility-
16 related disability.

17 [(19) Stands for cabs and other vehicles for hire. To
18 establish stands for cabs and other vehicles for hire, to
19 establish charges therefor, and to enforce the observance and
20 use thereof.

21 (20)] (14) Disorderly conduct; disturbance of the peace;
22 ordinances. To adopt ordinances defining disorderly conduct
23 [and/or] or disturbing the peace within the limits of the
24 borough, and to provide for the imposition of penalties for
25 [such] the conduct in [such] amounts, without limitation except
26 as in this act provided, as council shall establish, and
27 notwithstanding any statutes of the Commonwealth upon disorderly
28 conduct [and/or] or disturbing the peace and the penalties
29 therefor.

30 (15) Construction code, property maintenance code, fire

1 prevention code and reserved powers. To adopt and enforce a
2 construction code, a property maintenance code, a fire
3 prevention code and exercise any additional reserved powers
4 pursuant to Article XXXII-A.

5 [(21) Fire regulations; fire prevention codes by reference.
6 To make regulations, within the borough, or within such limits
7 thereof as may be deemed proper, relative to the cause and
8 management of fires and the prevention thereof. To enact and
9 enforce suitable fire prevention codes, and to provide for the
10 enforcement thereof by a suitable fine, and by instituting
11 appropriate actions or proceedings, at law or in equity, to
12 effect the purposes of this provision and ordinances thereunder.
13 Such fire prevention code shall not be advertised by publication
14 of the full text thereof, and, in place of such complete
15 advertisement, an informative notice of intention to consider
16 such proposed fire prevention code, and a brief summary, setting
17 forth the principal provisions of such proposed fire prevention
18 code in such reasonable detail as will give adequate notice of
19 its contents and a reference to the place or places within the
20 borough where copies of such proposed fire prevention code may
21 be examined or obtained shall be published once in one newspaper
22 of general circulation in the borough at least one week and not
23 more than three weeks prior to the presentation of the proposed
24 fire prevention code to council. No further advertisement or
25 notice need be published following enactment of the fire
26 prevention code.

27 The fire prevention code may be adopted by reference to a
28 standard fire prevention code, or to parts thereof, determined
29 by council, or the provisions of the code may be supplied by
30 reference to a typed or printed fire prevention code, prepared

1 under the direction of or accepted by the council, or the
2 provisions may consist of a standard code, or parts thereof, and
3 also further provisions typed or printed as aforesaid. Copies of
4 the fire prevention code thus adopted by reference shall be made
5 available to any interested party at the cost thereof, or may be
6 furnished or loaned without charge. Such fire prevention code
7 need not be recorded in or attached to the ordinance book, but
8 it shall be deemed to have been legally recorded if the
9 ordinance by which such fire prevention code was adopted by
10 reference shall have been recorded, with an accompanying
11 notation stating where the full text of the fire prevention code
12 shall have been filed.

13 (22)] (16) Prohibition of fire producing devices [in certain
14 retail stores] and smoking. To prohibit and regulate the smoking
15 or carrying of lighted cigarettes, cigars, pipes or matches, and
16 the use of matches or fire-producing devices[, in retail stores
17 arranged to accommodate one hundred persons or more or which
18 employ ten or more persons]. Any ordinance enacted or regulation
19 or resolution adopted under this clause shall not [prohibit]
20 regulate smoking in [any restaurant, rest room, beauty parlor,
21 executive office or any room designated for smoking in such
22 store.] a manner that conflicts with the act of June 13, 2008
23 (P.L.182, No.27), known as the "Clean Indoor Air Act."

24 [(23) Dangerous and inflammable articles, substances and
25 materials. To prohibit the manufacture, sale or storage of
26 inflammable or otherwise dangerous articles, substances or
27 materials; to prescribe the quantities of any such articles,
28 substances or materials that may be kept in any location and/or
29 building; and to prescribe such other safeguards as may be
30 necessary.]

1 (17) Fireworks and inflammable articles.

2 (i) To, by ordinance, regulate and prohibit the manufacture
3 of fireworks or inflammable or dangerous articles.

4 (ii) To grant permits for supervised public displays of
5 fireworks and adopt rules and regulations governing the
6 displays.

7 (iii) To, by ordinance, adopt rules and regulations not
8 inconsistent with State regulations relating to the storage of
9 inflammable articles.

10 (iv) To, by ordinance, impose other safeguards concerning
11 inflammable articles as may be necessary.

12 [(24) Building, housing, property maintenance, plumbing and
13 other regulations. To enact and enforce ordinances relating to
14 buildings and housing, their construction, alteration,
15 extension, repair and maintenance and all facilities and
16 services in or about such buildings or housing, to require that,
17 before any work of construction, alteration, extension, or
18 repair of any building is begun, approval of the plans and
19 specifications therefor be secured; to provide for the
20 inspection of such work of construction, alteration, extension
21 and repair, including the appointment of one or more building
22 inspectors and/or housing inspectors; to prescribe limits
23 wherein none but buildings of noncombustible material and
24 fireproof roofs shall be erected, or substantially
25 reconstructed, or moved thereinto; to provide for enforcement of
26 such regulations by a reasonable fine, and by instituting
27 appropriate actions or proceedings at law, or in equity, to
28 effect the purposes of this provision and ordinances enacted
29 thereunder. Any building, housing or property, or part thereof
30 erected, altered, extended, reconstructed, removed or

1 maintained, contrary to any of the provisions of any ordinance
2 passed for any of the purposes specified in this clause is
3 declared to be a public nuisance and abatable as such.

4 Any such ordinance may be adopted by reference to a standard
5 building code, housing code or other standard codes, or to parts
6 thereof, determined by council, or the provisions of the
7 ordinance may be supplied by reference to a typed or printed
8 building code, housing code or other standard codes, prepared
9 under the direction of or accepted by council, or the provisions
10 may consist of a standard building code, housing code or other
11 standard codes, or parts thereof, and also further provisions
12 typed or printed as aforesaid. Such building code, housing code
13 or other standard codes shall not be advertised either in
14 advance of or following enactment, by publication of the full
15 text thereof, and, in place of such complete advertisement, an
16 informative notice of intention to consider such proposed
17 building code, housing code or other standard codes, and a brief
18 summary, setting forth the principal provisions of such proposed
19 building code, housing code or other standard codes in such
20 reasonable detail as will give adequate notice of its contents
21 and a reference to the place or places within the borough where
22 copies of such proposed building code, housing code or other
23 standard codes may be examined or obtained shall be published
24 once in one newspaper of general circulation in the borough at
25 least one week and not more than three weeks prior to the
26 presentation of the proposed building code, housing code or
27 other standard codes to council. No further advertisement or
28 notice need be published following enactment of the building
29 code, housing code or other standard codes. Copies of the
30 building code, housing code or other standard codes thus adopted

1 by reference shall be made available to any interested party at
2 the cost thereof, or may be furnished or loaned without charge.
3 Such building code, housing code or other standard codes need
4 not be recorded in or attached to the ordinance book, but it
5 shall be deemed to have been legally recorded if the ordinance
6 by which such building code, housing code or other standard
7 codes were adopted by reference shall have been recorded, with
8 an accompanying notation stating where the full text of such
9 building code, housing code or other standard codes shall have
10 been filed. The procedure set forth relating to the adoption of
11 the building code, housing code or other standard codes, by
12 reference, may likewise be adopted in amending, supplementing or
13 repealing any of the provisions of the building code, housing
14 code or other standard codes.

15 To enact suitable ordinances relating to property maintenance
16 and plumbing, in the same manner and to the same effect as
17 herein provided for building codes, housing codes or other
18 standard codes. The building code, the property maintenance
19 code, the housing code and the plumbing code may be combined or
20 separately enacted or combined with other standard codes.

21 Any ordinance previously enacted by a borough which provides
22 for the purposes authorized by this clause is hereby validated.

23 (25)] (18) Numbering buildings. To require and regulate the
24 numbering of buildings and lots.

25 [(26) Building lines. To establish and maintain uniform
26 building lines upon any or all streets of the borough.

27 (27)] (19) Party wall and fence regulations. To make
28 regulations respecting partition fences and the foundations and
29 party walls of buildings.

30 (20) Prohibition, licensing and regulation of business.

1 (i) In addition to licensing in accordance with Article
2 XXIX, council may prohibit, license and regulate by ordinance
3 the following:

4 (A) Noxious and offensive businesses. Council may prohibit,
5 within the borough, the carrying on of any manufacture, art,
6 trade or business which may be noxious or offensive and
7 therefore prejudicial to the public health or safety of the
8 inhabitants.

9 (B) Junk yards. Council may prohibit, regulate and license
10 the establishment and maintenance of junk yards, salvage yards
11 and other places used and maintained for the collection, storage
12 and disposal of used or second-hand goods and materials.

13 (C) Market places. Council may:

14 (I) regulate markets whether for individual use or for
15 resale;

16 (II) purchase and own ground;

17 (III) erect, establish and maintain market places for which
18 purposes parts of a street or sidewalk may be temporarily used;

19 (IV) contract with a person or association of persons,
20 companies or corporations for the erection, maintenance and
21 regulation of market places, on terms and conditions, and in a
22 manner, as the council may prescribe;

23 (V) provide and enforce suitable regulations respecting
24 market places;

25 (VI) provide for the payment of the cost or expense of
26 market places, either in whole or in part, out of the funds of
27 the borough; and

28 (VII) levy and collect a suitable license fee from every
29 person who may be authorized by council to occupy any portion of
30 market places, or any portion of the streets or sidewalks for

1 temporary market purposes.

2 (ii) Notwithstanding the enumeration in subparagraph (i),
3 boroughs may prohibit, license and regulate businesses unless
4 prohibited by law.

5 (21) Zoning and land use regulations; building lines. To
6 plan for and regulate the development of the borough by:

7 (i) establishing and maintaining uniform building lines upon
8 any or all borough streets pursuant to applicable law; and

9 (ii) utilizing powers delegated by the Pennsylvania
10 Municipalities Planning Code, and other applicable laws by
11 adopting zoning, subdivision and land use and development
12 regulations.

13 [(28) Noxious and offensive businesses. To prohibit, within
14 the borough, the carrying on of any manufacture, art, trade, or
15 business which may be noxious or offensive to the inhabitants.

16 (29) Junk yards. To prohibit, regulate and license the
17 establishment and maintenance of junk yards, salvage yards and
18 other places used and maintained for the collection, storage and
19 disposal of used or second-hand goods and materials.

20 (30) Regulating and prohibiting amusements. To regulate,
21 license, fix the time of opening and closing, or prohibit
22 theatrical exhibitions, amusements and dances, at which an
23 admission or other fee is charged, and other exhibitions; to
24 regulate, license and fix the time of opening and closing of
25 pool-rooms, billiard-rooms, shooting galleries, skating rinks
26 and bowling alleys.

27 (31) Markets, market houses and peddling. To regulate
28 markets and peddling, whether for individual use or for resale;
29 and to purchase and own ground for and to erect, establish and
30 maintain market houses and market places, for which latter

1 purposes, parts of any streets or sidewalks may be temporarily
2 used; to contract with any person or persons, or association of
3 persons, companies, or corporations, for the erection,
4 maintenance and regulation of market houses and market places,
5 on such terms and conditions, and in such manner, as the council
6 may prescribe; to provide and enforce suitable regulations
7 respecting said market houses and market places and to provide
8 for the payment of the cost or expense thereof, either in whole
9 or in part, out of the funds of the borough; and to levy and
10 collect a suitable license fee from every person who may be
11 authorized by council to occupy any portion of said market
12 houses or market places, or any portion of the streets or
13 sidewalks for temporary market purposes.

14 (32) Creation of special funds; investments. To set aside in
15 a separate fund any moneys received out of or from the sale,
16 lease, or other disposition of any borough property or received
17 from any source other than taxation, unless such money was
18 received or acquired for a particular purpose. Such fund shall
19 be controlled, invested and administered, and the income arising
20 therefrom expended, in such manner as may be determined by
21 action of the council pursuant to the ordinance creating the
22 fund. Such ordinance may provide that only the income from such
23 fund may be used or expended, and that neither principal, not
24 any part thereof, may be used or expended unless upon
25 authorization of a majority vote of the qualified electors of
26 the borough. All ordinances heretofore enacted and ordained by
27 any borough, creating and establishing such a separate fund as
28 is authorized by this clause, shall be deemed and taken as valid
29 and effectual for all purposes: Provided, That all other
30 requirements of law concerning the enactment of the same have

1 been complied with.

2 (33)] (22) Creation of capital reserve fund for anticipated
3 capital expenditures. To create and maintain a separate capital
4 reserve fund for anticipated legal capital expenditures. The
5 money in the fund shall be used, from time to time, for the
6 construction, purchase or replacement of or addition to
7 municipal buildings, equipment, machinery, motor vehicles or
8 other capital assets of the borough and for no other purpose.

9 Council may appropriate moneys from the general borough funds
10 to be paid into the capital reserve fund or place in the fund
11 any moneys received from the sale, lease or other disposition of
12 any borough property or from any other source, unless received
13 or acquired for a particular purpose. The fund shall be
14 controlled, invested, reinvested and administered and the moneys
15 expended for any of the purposes for which the fund is created
16 in [such] a manner as may be determined by council. The money in
17 the fund, when invested, shall be invested in securities
18 designated by [law] 53 Pa.C.S. Pt. VII Subpt. B (relating to
19 indebtedness and borrowing) as legal investments for sinking
20 funds of municipalities.

21 This clause shall not be construed to limit the powers of the
22 borough to the use of moneys in the capital reserve fund in
23 making lawful capital expenditures.

24 (23) Operating Reserve Fund. To create and maintain a
25 separate operating reserve fund from which appropriations may be
26 made to meet emergencies involving the health, safety and
27 welfare of the residents of the borough, to counterbalance
28 potential budget deficits resulting from shortfalls in
29 anticipated revenues or program receipts from whatever source,
30 or to provide anticipated operating expenditures related either

1 to the planned growth of existing projects or programs or to the
2 establishment of new projects or programs if for a project or
3 program appropriations have been made and allocated to a
4 separate restricted account established within the operating
5 reserve fund. Council may annually make appropriations from the
6 general fund to the operating reserve fund, but no appropriation
7 shall be made to the operating reserve fund if the effect of the
8 appropriation would cause the fund to exceed five per centum of
9 the estimated revenues of the borough's general fund in the
10 current fiscal year. The operating reserve fund shall be
11 invested, reinvested and administered in a manner consistent
12 with the provisions of section 1316 relating to investment of
13 funds.

14 [(34) Joint municipal agreements] (24) Intergovernmental
15 Cooperation. To enter into agreements with other political
16 subdivisions, in accordance with existing laws, in making joint
17 purchases of materials, supplies or equipment and in performing
18 governmental powers, duties and functions and in carrying into
19 effect provisions of [law relating to said subjects which are
20 common to such political subdivisions] 53 Pa.C.S. Ch. 23 Subch.
21 A (relating to intergovernmental cooperation), and agreements
22 with the proper authorities of municipal corporations, regional
23 police or fire forces, or other public safety or governmental
24 entities created by two or more municipal corporations pursuant
25 to 53 Pa.C.S. Ch. 23 Subch. A, either for mutual aid or
26 assistance in police and fire protection or any other public
27 safety services, or for the furnishing to or, receiving from the
28 municipal corporations or governmental entities, police and fire
29 protection or any other public safety services, and to make
30 appropriations for public safety services. In connection with

1 agreements for police or fire protection or any other public
2 safety services, it shall not be necessary to advertise for bids
3 or receive bonds as required for contracts under existing law.
4 When an agreement has been entered into, the police,
5 firefighters, fire police or any other public safety services of
6 the employing municipal corporation or governmental entity shall
7 have all the powers and authority conferred by law on police,
8 firefighters, fire police or any other public safety services in
9 the territory of the municipal corporation which has contracted
10 to secure the service.

11 [(35) Joint contracts for police and fire protection. To
12 enter into contracts with the proper authorities of near or
13 adjacent cities, boroughs, or townships, either for mutual aid
14 or assistance in police and fire protection, or for the
15 furnishing to or, receiving from, such cities, boroughs, or
16 townships, aid and assistance in police and fire protection, and
17 to make appropriations therefor: Provided, That in connection
18 with such contracts, it shall not be necessary to advertise for
19 bids or receive bonds as required for other contracts under
20 existing law. When any such contract has been entered into the
21 police, firemen or fire police of the employing city, borough or
22 township shall have all the powers and authority conferred by
23 law on city, borough or township police, firemen, or fire police
24 in the territory of the city, borough or township which has
25 contracted to secure such service.

26 (36)] (25) Insurance on property. To make contracts of
27 insurance, with any mutual or other fire insurance company,
28 association or exchange, duly authorized by law to transact
29 insurance business in the Commonwealth of Pennsylvania, on any
30 building or property owned or leased by the borough.

1 [(37)] (26) Other insurance. (i) Workers' compensation
2 insurance. To appropriate [such] an amount as may be necessary
3 to secure insurance or compensation in accordance with Article
4 VI of the act of June 2, 1915 (P.L.736, No.338), known as the
5 "Workers' Compensation Act," for:

6 (A) volunteer [firemen] fire fighters of companies duly
7 recognized by the borough, by motion or resolution, killed or
8 injured while going to, returning from, or attending fires, or
9 while performing their duties as special fire police[.]; and

10 (B) other borough employes as "employee" is defined in
11 section 601 of the "Workers' Compensation Act."

12 (ii) Life and health insurance. To make contracts of
13 insurance with any insurance company, association or exchange,
14 authorized to transact business in the Commonwealth, insuring
15 borough employes, or any class or classes of employes, or mayor
16 and council, [or any class, or classes thereof,] or their
17 dependents, under a policy or policies of insurance covering
18 life, health, hospitalization, medical and surgical service
19 [and/or] or accident insurance[, and to].

20 (iii) Pension contracts. To contract with [any such] an
21 insurance company, granting annuities or pensions, for the
22 pensioning of borough employes, or any class, or classes
23 [thereof] of employes, and to agree to pay part or all of the
24 premiums or charges for carrying [such] the contracts, and to
25 appropriate moneys from the borough treasury for such purposes.

26 (iv) Liability insurance. To make contracts with any
27 insurance company, association or exchange, authorized to
28 transact business in this Commonwealth, insuring any public
29 liability of the borough, and to appropriate moneys from the
30 borough treasury for such purpose.

1 (v) Nothing in this clause shall affect any contract, right
2 or coverage of insurance vested or existing on the effective
3 date of this clause. Contract, as used in this clause, includes
4 an annuity contract, provided that the option to renew continues
5 to provide the same rights to the annuitant that existed on the
6 effective date of this clause.

7 [(38) Contract with railways. To enter into contract with
8 any person or company, operating a street passenger railway,
9 surface, elevated, or underground, or furnishing motor
10 transportation, or leasing and operating the franchise and
11 property of such person or company, within the limits of the
12 borough, regulating the franchises, powers, duties and
13 liabilities of such persons or companies, and the respective
14 rights of the contracting parties. Such contracts may, inter
15 alia, provide for payments by the persons or companies to the
16 borough, in lieu of the performance of certain duties, or the
17 payment of license fees or charges imposed in favor of such
18 borough, or by the charters of any such companies, or by any
19 general law, or ordinances; for the appointment by the borough
20 of a certain number of persons to act as director of any such
21 company, in conjunction with the directors elected by the
22 stockholders of such company; and may further provide for the
23 ultimate acquisition by the borough, upon terms mutually
24 satisfactory, of the leaseholds, property and franchises of the
25 contracting persons or companies.

26 Subject to the approval of the Public Utility Commission, and
27 in order to secure the removal of any street railway tracks, or
28 to prevent the laying of any tracks authorized to be laid, or to
29 change the route of any street railway on any street to enter
30 into a contract with a street railway or motor power company,

1 owning, leasing, or operating such tracks, for a period not to
2 exceed fifty years, for such considerations and upon such
3 conditions as may be agreed upon.

4 Such contract may include a covenant providing that, during
5 the continuance thereof, municipal consent shall not be granted
6 to any other company to use, for street railway or passenger
7 transportation purposes, any streets covered by such contract.
8 Such covenant may be enforced by bill in equity against the
9 borough. The contract may also provide for the laying or
10 relaying of tracks, upon such terms and upon such conditions as
11 may be agreed upon.]

12 (27) Public transportation. To contract with a company
13 owning, leasing or operating a light rail or similar
14 transportation system, whether surface, elevated or underground,
15 within the limits of the borough, for the acquisition, leasing
16 or regulation of the franchises, property, powers, duties and
17 liabilities of the company for the purpose of providing public
18 transportation. A contract may provide that the companies may
19 make payments to the borough in lieu of the performance of
20 certain duties or may include a provision that municipal consent
21 shall not be granted to any other company for the same services
22 covered by the contract. A contract may also provide, subject to
23 any required approval by the Public Utility Commission and
24 consistent with the jurisdictional limits established under 49
25 U.S.C. (relating to transportation), for the laying,
26 installation or removal of tracks or lines, to prevent the
27 laying or installation of otherwise authorized tracks or lines,
28 or to change the route of any tracks or lines, for the
29 considerations and upon conditions as may be agreed upon.
30 Borough council may acquire, maintain and operate any existing

1 inclined plane passenger transportation facilities and may
2 acquire or may establish vehicular feeder lines for those
3 facilities.

4 [(39) Water supply. To provide a supply of water and to make
5 regulations for the protection of the pipes, reservoirs and
6 other constructions or apparatus; to prevent the waste of water
7 so supplied, and to regulate the drilling of wells within the
8 borough.

9 (40)] (28) Community buildings and public facilities. To
10 acquire land or buildings by purchase [and own ground for, and],
11 gift, exchange or eminent domain, to erect[, establish, or
12 purchase] a building[, to be used] or to lease land or
13 buildings, within the borough limits, for community purposes, or
14 for public facilities such as comfort and waiting stations and
15 drinking fountains, and to erect watering troughs, and to
16 maintain the [same] public facilities; to provide for the
17 payment of [the] their cost [thereof], and the expense of [such]
18 their maintenance either in whole or in part out of the funds of
19 the borough.

20 [(41)] (29) Lockup. To provide a lockup for the temporary
21 detention of persons.

22 [(42)] (30) Flags. To display the flag of the United States
23 of America, of the Commonwealth of Pennsylvania, the official
24 POW/MIA flag or the flag of any county, city, borough or other
25 municipality in the State, on the public buildings or grounds
26 and in public places of the borough.

27 [(43) Comfort stations. To use land owned by the borough and
28 to acquire or lease land or land and buildings within the
29 borough limits, for the purposes of construction or of providing
30 comfort and waiting stations and drinking fountains and to

1 maintain such public facilities; to contribute to the
2 maintenance of any such public facilities which may be located
3 in or upon property not owned or leased by the borough. The
4 damages accruing to abutting properties, by reason of any such
5 improvements constructed or provided by the borough, shall be
6 ascertained and collected in the manner provided in the laws
7 governing eminent domain.

8 (44) Watering troughs. To erect and maintain watering
9 troughs.

10 (45) Garbage and refuse disposal facilities. To erect,
11 operate and maintain garbage plants, either within or without
12 the limits of the borough, or to provide other means for the
13 collection, destruction, or removal of garbage and other refuse
14 material, and to provide for the payment of the cost or expense
15 thereof, either in whole or in part, out of the funds of the
16 borough.

17 (46)] (31) Parking lots. To acquire by lease, purchase or
18 eminent domain any land which the [corporate authorities]
19 borough council may deem necessary or desirable for the purpose
20 of establishing and maintaining parking lots, and to regulate
21 the use [thereof] of parking lots, and to regulate parking and
22 provide parking accommodations so as to promote the convenience
23 and protection of the public and to establish or designate, at
24 the discretion of the [corporate authorities] borough council,
25 areas exclusively reserved for parking by handicapped
26 individuals and to post signs regulating [such] the areas. The
27 right to regulate the use of the lots shall include the right to
28 impose fines and fees for violation of any law or ordinance
29 regulating parking. Regulation of parking lots shall be
30 consistent with 75 Pa.C.S (relating to vehicles) and the act of

1 October 27, 1955 (P.L.744, No.222), known as the "Pennsylvania
2 Human Relations Act."

3 [(47) Inclined planes. To acquire by purchase, lease, or
4 otherwise, any existing inclined plane passenger and vehicular
5 traffic transportation facilities, and to maintain and operate
6 the same in the transportation of passengers and vehicles for
7 hire, and for the accommodation of the public, and in like
8 manner to acquire or to establish bus feeder lines, and to
9 maintain and operate the same in connection with such inclined
10 plane passenger and vehicular traffic transportation facilities.

11 (48)] (32) Historical property. To acquire by purchase, or
12 by gift, and to repair, supervise, operate and maintain ancient
13 landmarks, and other property of historical or antiquarian
14 interest and to make appropriations to nonprofit associations or
15 corporations organized for the purpose of acquiring and
16 maintaining historical properties. [Such] The appropriations
17 shall only be used by the association or corporation for the
18 acquisition, restoration and maintenance of the historical
19 properties.

20 [(49)] (33) Provisions against hazards of war, terrorism and
21 disasters. To [build or establish bomb shelters or assist in so
22 doing to] provide against all hazards of war, terrorism and
23 other disasters and their consequences; and for [all such] those
24 purposes, to have the power of eminent domain, to cooperate with
25 any other unit and agency of government, Federal, State or
26 local, in every lawful way, for purposes of defense against the
27 hazards of war and terrorism and to further provide against the
28 hazards of manmade or natural disasters in conjunction with the
29 powers applicable to boroughs in 35 Pa.C.S. Pt. V (relating to
30 Emergency Management Services).

1 [(50) Street lighting. To provide street lights and to make
2 regulations for the protection thereof; and, upon the petition
3 of a majority of abutting property owners of the section
4 affected, to provide for the ornamental illumination of any
5 section of the borough and to collect the cost of the
6 installation of such illumination from the owners of property
7 fronting the streets upon which the same is installed by the
8 foot-front rule.

9 (51)] (34) Towing [equipment]. To purchase vehicles and
10 other equipment necessary for the towing of motor vehicles,
11 tractors, trailers, recreational trailers and other vehicles
12 from highways, roads, streets, and public property of the
13 borough and to impose fees [therefor] for towing whenever [such]
14 the towing equipment is used for the lawful removal of motor
15 vehicles, tractors, trailers, recreational trailers and other
16 vehicles from highways, roads, streets, and public property of
17 the borough [and/or] and to authorize or contract with [one or
18 more] commercial towers that agree to tow vehicles for a
19 negotiated price as the official towers for the borough for the
20 lawful removal of motor vehicles, tractors, trailers,
21 recreational trailers and other vehicles from highways, roads,
22 streets and public property of the borough in accordance with
23 Federal and State law and to impose fees in the same manner as
24 hereby authorized when the towing is performed with borough
25 vehicles and equipment. A commercial tower that agrees not to
26 charge in excess of the negotiated price and is otherwise
27 lawfully authorized to tow vehicles in accordance with Federal
28 and State law, shall be put on an official rotation list for the
29 borough if borough council provides for a list. This clause
30 shall apply only when the borough is requesting a vehicle to be

1 towed. In all other cases, the owner or operator of a vehicle
2 shall be permitted to select and pay for the tower.

3 [(52)] (35) Fire, rescue and life saving apparatus and
4 [houses] buildings. To purchase, or contribute to the purchase
5 of fire engines and fire apparatus, boats, rescue and life
6 saving equipment and supplies for the use of the borough[, and
7 to appropriate money to fire companies, rescue units and for the
8 construction, repair and maintenance of fire company and rescue
9 units houses, including the acquisition of land for such
10 purposes and, as set forth in this clause, for fire training
11 schools and centers.

12 The council may annually appropriate funds to fire companies
13 located within the borough for the training of its personnel,
14 and to lawfully organized or incorporated county or regional
15 firemen's associations or an entity created pursuant to the act
16 of July 12, 1972 (P.L.762, No.180), referred to as the
17 Intergovernmental Cooperation Law, to establish, equip, maintain
18 and operate fire training schools or centers] for fire, rescue
19 and life saving services including community ambulance service.
20 To appropriate money for fire companies and rescue units located
21 within the borough including for the construction, repair and
22 maintenance of buildings for fire companies and rescue units and
23 to acquire land for those purposes. Appropriations may include
24 funds to establish, equip, maintain and operate lawfully
25 organized or incorporated fire training schools within the
26 county or regional fire fighters' associations or an entity
27 created pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to
28 intergovernmental cooperation) for the purpose of giving
29 instruction and practical training in the prevention, control
30 and fighting of fire and related fire department emergencies to

1 the members of fire departments and volunteer fire companies in
2 any city, borough or town within this Commonwealth. Annual
3 appropriations may also be made to an ambulance service, or
4 borough council may enter into contracts for use in providing
5 community ambulance service.

6 [(53) Eminent domain for national guard purposes. To take,
7 by right of eminent domain, for the purpose of appropriating to
8 themselves for the use of the National Guard of Pennsylvania,
9 such public lands, easements, and public property, as may be in
10 their possession or control and used or held by them for any
11 other purpose. Such right, however, shall not be exercised as to
12 any street or wharf.

13 (54) Lands for armory purposes. To acquire, by purchase or
14 by gift or by the right of eminent domain, any land for the use
15 of the National Guard of Pennsylvania; to convey such lands so
16 acquired to the Commonwealth of Pennsylvania in order to assist
17 the Armory Board in the erection of armories. The power
18 conferred by this clause shall not be exercised to take any
19 church property, graveyard, cemetery, or any dwelling-house or
20 the curtilage of the same in the actual occupancy of the owner.

21 (55) Appropriation of money, et cetera, to assist in
22 erection of armories. To appropriate money or convey land,
23 either independently or in conjunction with any county, city,
24 town, borough, or other municipal division of the Commonwealth
25 of Pennsylvania for the purpose of assisting the Armory Board of
26 the Commonwealth in the erection of armories for the use of the
27 national guard; and to furnish water, sewer service, light, or
28 fuel, free of cost, to the Commonwealth for use in any armory of
29 the national guard; and to do all things necessary to accomplish
30 the purpose of this clause.

1 (56) Support of national guard units. To appropriate
2 annually a sum not exceeding seven hundred and fifty dollars
3 (\$750) for the support and maintenance, discipline and training
4 of any dismounted company or similar unit of the national guard,
5 and a sum not to exceed fifteen hundred dollars (\$1500) for the
6 support and maintenance of any mounted or motorized troop or
7 similar unit of the national guard. Where such units are
8 organized as a battalion, regiment or similar organization, the
9 total amount due may be paid to the commanding officer of the
10 battalion, regiment or similar organization. Any moneys so
11 appropriated shall be paid by warrant drawn to the order of the
12 commanding officer of such company, battalion, regiment or
13 similar organization, only when it shall be certified to the
14 borough, by the Adjutant General of the State, that the said
15 company or companies have satisfactorily passed the annual
16 inspection provided by law. The moneys so appropriated shall be
17 used and expended solely and exclusively for the support and
18 maintenance, discipline and training of the said company,
19 battalion, regiment, or similar organization; and the commanding
20 officer shall account, by proper vouchers to the said borough
21 each year, for the expenditure of the money so appropriated, and
22 no appropriation shall be made for any subsequent year until the
23 expenditure of the previous year is duly and satisfactorily
24 accounted for.

25 The accounts of such expenditures shall be subject to the
26 inspection of the Department of Military Affairs, and shall be
27 audited by the Auditor General in the manner provided by law for
28 the audit of accounts of State moneys.

29 (57) Appropriations to organizations of veterans and
30 American Gold Star Mothers. To appropriate annually a sum not

1 exceeding five hundred dollars (\$500) to be divided in such
2 amounts as council deems proper to organizations composed of
3 veterans of any war in which the United States was engaged or
4 the American Gold Star Mothers' Organization, to aid in
5 defraying the expenses of Memorial Day, Veterans' Day or any
6 similar day hereafter provided for by State or Federal law. Such
7 payments shall be made to defray actual expenses only. Before
8 any payment is made the organization receiving the same shall
9 submit verified accounts of its expenditures.

10 (58) Payment of rent for veterans' organizations. By a two-
11 thirds vote of the council, to appropriate annually a sum not
12 exceeding five hundred dollars (\$500) to be divided in such
13 amounts as council deems proper to incorporated organizations of
14 American veterans of any war in which the United States was
15 engaged, to be used in the payment of the rent of any building
16 or room or rooms in which such camps or post have their regular
17 meetings.

18 (59) Rooms for veterans' and children of veterans'
19 organizations. Upon application therefor, to furnish to each
20 organization composed of American veterans of any war in which
21 the United States was engaged and children of such veterans, a
22 room or rooms in any public building of such borough, sufficient
23 for the meeting of each of such organizations at least once each
24 month; and in the case of municipally owned utilities, to
25 furnish service without charge to such rooms, and also to
26 buildings occupied by organizations of veterans of any war in
27 which the United States was engaged.

28 (60) Care and erection of memorials. To take charge of, care
29 for, maintain and keep in good order and repair, at the expense
30 of the borough, any soldiers monument, gun, or carriage, or

1 similar memorial situated in the borough, and not in the charge
2 or care of any person, body, or organization, and not put up or
3 placed by the Government of the United States, the Commonwealth
4 of Pennsylvania, or the commissioners of the county, or by the
5 direction or authority of any other State of the Union, and to
6 receive from any person or organization any moneys or funds
7 which can be used for the maintenance of such memorials, and to
8 expend the same; and to erect or contribute to the erection of,
9 memorials in honor of those who served in any war in which the
10 United States was engaged and thereafter to properly and
11 adequately maintain the same.

12 (61) Appropriations for burial ground maintenance. To
13 appropriate annually, out of the general funds of the borough, a
14 sum not exceeding three thousand dollars (\$3000) for the care,
15 upkeep, maintenance and beautifying of cemeteries, burial
16 grounds and private roads therein or leading thereto, lying
17 wholly or partly within the boundary limits of such borough, or
18 in the territory immediately adjacent to the borough.

19 (62)] (36) Municipal music. To appropriate money for the
20 expense of municipal music.

21 [(63)] (37) Purchase and planting of trees. To accept,
22 purchase and plant, or contribute to the purchasing and planting
23 of shade trees along the streets and sidewalks of the borough
24 and to have the care, custody and control of shade trees
25 pursuant to subdivision (d) of Article XXVII.

26 [(64)] (38) Hospital appropriations. To appropriate moneys
27 for the support of any incorporated hospital which is engaged in
28 charitable work and extends treatment and medical attention to
29 residents of [such] the borough, but no [such] appropriation
30 shall exceed in any year the cost of free service extended to

residents of the borough which is in excess of any amount paid by the Commonwealth towards [such] free service.

[(64.1)] (39) Building hospitals. To appropriate [not exceeding one dollar (\$1) per borough resident per year] moneys toward the maintenance [and/or] and support of any medical center or hospital building and further appropriate from [such] the funds toward the purchase [and/or] and erection of medical or hospital facilities. Where the total cost of [such] the purchase or erection exceeds one hundred thousand dollars (\$100,000), it will necessitate approval by the appropriate health planning agency. [The number of residents shall be determined from the latest decennial Federal census.]

[(65)] (40) Community nurse services. To appropriate money annually for the expense of community nurse services to any nonprofit associations or corporations which provide community nursing services for the elderly and other needy persons, the control of communicable disease, the immunization of children, the operation of child health centers (Well-Baby Clinics), instructive visits to parents of new babies, beginning in the prenatal period, and family health guidance, including nutrition, detection and correction of defects all of which relate to the responsibilities of local boards of health.

[(66)] Community ambulance service. To appropriate money annually towards ambulance service and to enter into contracts relating thereto. All appropriations of money heretofore made and contracts heretofore entered into by any borough for ambulance service are hereby validated and confirmed.

[(67)] (41) Appropriation for civic purposes. To appropriate, in any year out of the general funds of the borough for the observance of holidays or centennials or other anniversaries or

1 for borough celebrations or other civic projects or programs.

2 [(68)] (42) Appropriations for handling, storage and
3 distribution of surplus foods. To appropriate from borough funds
4 moneys for the handling, storage and distribution of surplus
5 foods obtained through either a local, State or Federal agency.
6 All appropriations of moneys heretofore made by any borough for
7 the handling, storage and distribution of surplus foods obtained
8 through either a local, State or Federal agency are hereby
9 validated.

10 [(69)] (43) Appropriations for industrial promotions. To
11 make appropriations to an industrial development agency.

12 [(70)] (44) Appropriations to tourist promotion agencies. To
13 appropriate money annually[, such amount of money but not in
14 excess of ten cents (10¢) for each resident of the borough, as
15 determined by the latest official census, which may be deemed
16 necessary], to any "tourist promotion agency," as defined in the
17 act of [April 28, 1961 (P.L.111), known as the "Tourist
18 Promotion Law,"] July 4, 2008 (P.L.621, No.50), known as the
19 "Tourism Promotion Act," to assist [such] the agencies in
20 carrying out tourist promotional activities.

21 [(71)] (45) Appropriating money to assist [political
22 subdivisions and municipality] municipalities and municipal
23 authorities for airports. To appropriate moneys to assist any
24 [city, borough, town, township or other political subdivision or
25 municipality] municipality or municipal airport authority to
26 acquire, establish, operate and maintain any and all air
27 navigation facilities lying either within or without the limits
28 of [such] the borough.

29 [(72)] (46) Non-Debt revenue bonds. To issue non-debt
30 revenue bonds pursuant to provisions of [the Act of June 25,

1 1941 (P.L.159), known as the "Municipal Borrowing Law," and its
2 amendments,] 53 Pa.C.S. Pt. VII Subpt. B (relating to
3 indebtedness and borrowing) to provide sufficient moneys for and
4 toward the acquisition, construction, reconstruction, extension
5 or improvement of municipal facilities, including water systems
6 or facilities, sewers, sewer systems and sewage disposal systems
7 or facilities, systems for the treatment or disposal of garbage
8 and refuse, gas plants or gas distribution systems for its own
9 municipal purposes, electric light or power plants or power
10 distribution systems, aeronautical facilities including but not
11 limited to airports, terminals and hangars and park and
12 recreational facilities and parking lots and facilities to be
13 secured solely by the pledge of the whole or part of the rent,
14 toll or charge for the use or services of [such] the facilities.

15 Included in the cost of the issue may be any costs and
16 expenses incident to construction and financing the facilities
17 and selling and distributing the bonds.

18 [(73)] (47) Rewards for apprehension of certain criminals.
19 To offer rewards for the arrest and conviction of persons guilty
20 of capital or other crimes within the borough.

21 [(73.1)] (48) Appropriations for Urban Common Carrier Mass
22 Transportation. To appropriate funds for urban common carrier
23 mass transportation purposes from current revenues and to make
24 annual contributions to county departments of transportation or
25 to urban common carrier mass transportation authorities to
26 assist the departments or the authorities to meet costs of
27 operation, maintenance, capital improvements, and debt service,
28 and to enter into long-term agreements providing for the payment
29 of the [said] contributions.

30 [(74) General powers. To make and adopt all such ordinances,

1 bylaws, rules and regulations not inconsistent with or
2 restrained by the Constitution and laws of this Commonwealth, as
3 may be expedient or necessary for the proper management, care
4 and control of the borough and its finances, and the maintenance
5 of peace, good government, safety and welfare of the borough and
6 its trade, commerce and manufactures.

7 (75)] (49) To undertake community development programs,
8 including but not limited to urban renewal, public housing,
9 model cities programs and neighborhood development projects.

10 [(76)] (50) Sale of real or personal property to non-profit
11 medical service corporation. To sell to a non-profit medical
12 service corporation borough-owned:

13 (i) real property [to a non-profit medical service
14 corporation] for its exclusive use as a site for a medical
15 service facility; and

16 (ii) personal property for use at the medical service
17 facility.

18 [(77)] (51) Sale of real or personal property to non-profit
19 housing corporation. To sell to a non-profit housing corporation
20 borough-owned:

21 (i) real property [to a non-profit housing corporation] for
22 its exclusive use for housing for the elderly; and

23 (ii) personal property for its use at the non-profit housing
24 corporation.

25 [(78)] (52) Grants to nonprofit art corporations. To make
26 grants annually[, not exceeding an amount equal to one mill of
27 the real estate tax] to nonprofit art corporations for the
28 conduct of their artistic and cultural activities. For the
29 purposes of this section nonprofit art corporation shall mean a
30 local arts council, commission or coordinating agency, or any

1 other nonprofit corporation engaged in the production or display
2 of works of art, including the visual, written or performing
3 arts. Artistic and cultural activities shall include the display
4 or production of theater, music, dance, painting, architecture,
5 sculpture, arts and crafts, photography, film, graphic arts and
6 design and creative writing.

7 [(79)] (53) Appropriations for neighborhood crime watch
8 programs. To appropriate annually[, solely at the discretion of
9 the borough officials,] an amount toward a neighborhood crime
10 watch program. Notwithstanding any other provision of law, no
11 borough or official thereof shall become subject to contractual,
12 tort or other liability as a result of having made an
13 appropriation pursuant to this clause.

14 [(80)] (54) Appropriations to Senior Citizens Organizations.
15 To appropriate funds for programs which benefit senior citizens,
16 or make grants to civic organizations which represent senior
17 citizens, provide services to senior citizens, or of which its
18 members are senior citizens.

19 [(81)] (55) Appropriations to watershed associations. To
20 appropriate money to nonprofit watershed associations for
21 watersheds serving the borough. [Such appropriations]
22 Appropriations may not be used to undertake litigation against
23 any [municipal corporation] municipality or to seek redress
24 against any individual landowner.

25 [(82)] (56) Emergency services. The borough shall be
26 responsible for ensuring that fire and emergency medical
27 services are provided within the borough by the means and to the
28 extent determined by the borough, including the appropriate
29 financial and administrative assistance for these services. The
30 borough shall consult with fire and emergency medical services

1 providers to discuss the emergency services needs of the
2 borough. The borough shall require any emergency services
3 organization receiving borough funds to provide to the borough
4 an annual itemized listing of all expenditures of these funds
5 before the borough may consider budgeting additional funding to
6 the organization.

7 (57) Appropriations to conservation district. To appropriate
8 money to the conservation district, as defined in the act of May
9 15, 1945 (P.L.547, No.217), known as the "Conservation District
10 Law," in which the borough is located.

11 (58) Mines and quarries. To require the owner, operator or
12 superintendent of every mine, colliery or quarry located wholly
13 or partially within the limits of the borough, to furnish to the
14 borough maps, plans and drawings of workings, excavations and
15 surface support as the council may require. In the case of coal
16 mines and collieries, the map or plan shall exhibit the workings
17 or excavations in every seam of coal on a separate sheet, and
18 the tunnels and passages connecting with the workings or
19 excavations. It shall show in degrees the general inclination of
20 the strata, with any material deflection in the strata in the
21 workings or excavations, and shall also show the tidal
22 elevations of the bottom of every shaft, slope, tunnel and
23 gangway, and of any other point in the mine or on the surface
24 where the elevation shall be deemed necessary by the borough.
25 The map or plan shall show the number of the last survey on the
26 gangways or the most advanced workings. Every owner, operator,
27 or superintendent, of a mine, colliery or quarry, shall update,
28 at least once every three months, the pertinent maps, plans and
29 drawings to reflect any extensions made in any mine, colliery or
30 quarry during the three preceding months, except those made

within thirty days immediately preceding the time of placing the extensions upon the map or drawing. A borough engineer, assistant or other person authorized by council may enter and survey any mine, colliery or quarry within the limits of the borough, at all reasonable times, but not so as to impede or obstruct the workings of the mine, colliery or quarry. The owner, operator or superintendent of the mine, colliery or quarry, shall furnish the means necessary for the entry, survey and exit.

(59) Assessment of benefits. To petition the court of common pleas for the appointment of viewers to assess the total cost of an improvement as set forth in Article XXI-A. The viewers shall assess the total cost of the improvement, or so much of the cost as may be just and reasonable, upon the lands or properties peculiarly benefited.

(60) Authority to purchase natural gas wells. To authorize any borough to purchase, own, use, operate and control any natural gas well or wells for the purpose of supplying natural gas for its own municipal purposes.

(61) Real estate registry. To establish, by ordinance, and maintain a real estate registry for the purpose of procuring accurate information in reference to the ownership of real estate in the borough in a manner not inconsistent with the act of October 9, 2008 (P.L.1400, No.110), known as the "Uniform Municipal Deed Registration Act." Council shall designate a person to have charge of the registry, who shall cause to be made and carefully preserve all necessary books, maps and plans as may show the location and ownership of every lot, piece of real estate and subdivision thereof. For purposes of establishing or maintaining the registry, the person in charge

1 of the registry shall have access to public records without
2 charge. Information contained within a real estate registry
3 shall not affect the validity of any municipal claim or tax
4 claim of the borough. Nothing in this paragraph shall prohibit a
5 borough from requiring owners to provide information relevant to
6 the enforcement of any borough ordinance in accordance with law.

7 (62) Authority to manufacture and supply electricity. To
8 manufacture, purchase or otherwise supply electricity pursuant
9 to Article XXIV-A, relating to manufacture and supply of
10 electricity.

11 (63) Authority to provide telecommunications and cable
12 television services. To provide the following:

13 (i) telecommunications services to the extent that provision
14 of services is not inconsistent with 66 Pa.C.S. Ch. 30 (relating
15 to alternative form of regulation of telecommunications
16 services); and

17 (ii) cable television services in a manner consistent with
18 Federal law.

19 (64) Underground conduits. To acquire, by purchase or
20 condemnation, or to construct, underground conduits within which
21 electrical, communication and other types of wires shall be
22 placed and to, by ordinance and subject to approval by the
23 Public Utility Commission, regulate the manner and terms and
24 conditions of the use of any underground conduits. Council may
25 define reasonable districts of the borough within which
26 underground conduits shall be used for the placement of wires
27 without the approval of the Public Utility Commission. The
28 powers reserved by this clause shall not be bartered away or
29 surrendered by the borough.

30 (65) Actions for municipal claims. In addition to the

1 remedies provided by law for the filing of liens for the
2 collection of municipal claims, including, but not limited to,
3 water rates, sewer rates and the removal of nuisances, to
4 proceed for the recovery and collection of claims by action of
5 assumpsit against the person or persons who were the owner or
6 owners of the property at the time of the completion of the
7 improvement, or at the time the water or sewer rates or the cost
8 of the removal of nuisances first became payable,
9 notwithstanding the fact that there was a failure on the part of
10 the borough, or its agents, to enter the municipal claim as a
11 lien against the property assessed for the improvement, or for
12 the furnishing of water or sewer services and for the removal of
13 nuisances and for the recovery of which the action of assumpsit
14 was brought. The action in assumpsit shall be commenced either
15 within six years after the completion of the improvement from
16 which the claim arises or within six years after the water or
17 sewer rates or the cost of abating a nuisance first became
18 payable.

19 Section 156. The act is amended by adding a section to read:

20 Section 1203. Reserved Powers.--The council may make and
21 adopt all ordinances, bylaws, rules and regulations not
22 inconsistent with or restrained by the Constitution of
23 Pennsylvania and laws of this Commonwealth as may be expedient
24 or necessary for the proper management, care and control of the
25 borough and its finances, and the maintenance of peace, good
26 government, safety and welfare of the borough and its trade,
27 commerce and manufactures.

28 Section 157. Article XIII heading and section 1301 of the
29 act are reenacted to read:

30 ARTICLE XIII

TAXATION AND FINANCE

Section 1301. Fiscal Year.--The fiscal year of every borough shall coincide with the calendar year, beginning January 1 and ending December 31.

Section 158. Section 1302 of the act, amended December 1, 2004 (P.L.1742, No.223), is amended to read:

Section 1302. Tax Levy.--(a) The council of the borough shall have power, by ordinance, to levy and collect annually, a tax, not exceeding thirty mills for general borough purposes, unless the council by majority action shall, upon due cause shown by resolution, petition the court of common pleas, in which case the court may order a rate of not more than five mills additional to be levied and in addition [thereto] any of the following taxes:

(1) An annual tax sufficient to pay interest and principal on any indebtedness incurred pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) or any prior or subsequent act governing the incurrence of indebtedness of the borough;

(2) To provide for pensions, retirement or the purchase of annuity contracts for borough employees, not exceeding one-half mill;

(3) To defray the cost and expenses of caring for shade trees as provided in section [2729 of this act] 2720.1, and the expense of publishing the notice referred to in such section, not exceeding one-tenth mill;

(4) For lighting and illuminating the streets, highways and other public places [with electric light, gas light or other illuminant], not exceeding eight mills;

(5) For gas, water and electric light, not exceeding eight

1 mills, such additional millage permitted only following a
2 favorable referendum on the matter held in accordance with the
3 [act of April 16, 1875 (P.L.55), as amended] election laws of
4 this Commonwealth;

5 (6) For the purchase of fire engines, fire apparatus and
6 fire hose for the use of the borough, or for assisting any fire
7 company in the borough in the purchase, renewal or repair of any
8 of its fire engines, fire apparatus or fire hose, for the
9 purposes of making appropriations to fire companies both within
10 and without the borough and of contracting with adjacent
11 municipalities or volunteer fire companies therein for fire
12 protection, for the training of fire personnel and payments to
13 fire training schools and centers or for the purchase of land
14 upon which to erect a fire house, or for the erection and
15 maintenance of a fire house or fire training school and center
16 or fire houses, not exceeding three mills.

17 (i) The borough may appropriate up to one-half, but not to
18 exceed one mill, of the revenue generated from a tax under this
19 clause for the purpose of paying salaries, benefits or other
20 compensation of fire suppression employees of the borough or a
21 fire company serving the borough.

22 (ii) If an annual tax for the purposes specified in this
23 clause is proposed to be set at a level higher than three mills,
24 the question shall be submitted to the voters of the borough,
25 and the county board of elections shall frame the question in
26 accordance with the election laws of the Commonwealth for
27 submission to the voters of the borough;

28 (7) For building a fire house, fire training school and
29 center, lockup [and/or] or municipal building, not exceeding two
30 mills, such additional millage permitted only following a

1 favorable referendum on the matter held in accordance with the
2 [act of May 4, 1927 (P.L.673)] election laws of this
3 Commonwealth;

4 (8) To establish [and/or] and maintain a local library or to
5 maintain or aid in the maintenance of a local library
6 established by deed, gift or testamentary provision, for the use
7 of the residents of the borough, in accordance with the act of
8 June 14, 1961 (P.L.324, No.188), known as The Library Code.

9 (9) For the purpose of supporting ambulance, rescue and
10 other emergency services serving the borough, not to exceed one-
11 half mill, except as provided in subsection (e). The borough may
12 appropriate up to one-half of the revenue generated from a tax
13 under this clause for the purpose of paying salaries, benefits
14 or other compensation of employes of the ambulance, rescue or
15 other emergency service.

16 (b) The [said] taxes shall be levied on the dollar on the
17 valuation assessed for county purposes, as now is or may be
18 provided by law. All real property, offices, professions and
19 persons, made taxable by the laws of this Commonwealth for
20 county rates and levies, may, in the discretion of council, be
21 taxed after the same manner for such purposes. No action on the
22 part of the borough authorities fixing the tax rate for any year
23 at a mill rate need include a statement expressing the rate of
24 taxation in dollars and cents on each one hundred dollars (\$100)
25 of assessed valuation of taxable property.

26 (c) Nothing [herein] contained in this section shall prevent
27 the application of moneys received from taxes levied for general
28 purposes to the purposes of paying interest and sinking fund
29 charges on indebtedness.

30 (d) The proceeds of all taxes for which additional millage

1 is hereby authorized shall be kept in a separate fund and used
2 only for the purposes hereby provided [therefor: Provided,
3 That], provided that the additional taxes authorized by
4 referendum shall continue to be levied annually for so long a
5 period as provided in the question submitted in [such] the
6 referendum, and, in the case of any [such] taxes for which the
7 question voted upon shall not have stated the duration of [such]
8 the tax, until [such] the tax shall be abolished by vote of the
9 electors in a subsequent referendum.

10 (e) The tax for supporting ambulance and rescue squads
11 serving the borough shall not exceed the rate specified in
12 subsection (a)(9) except when the question is submitted to the
13 voters of the borough in the form of a referendum which will
14 appear on the ballot in accordance with the election laws of the
15 Commonwealth, in which case the rate shall not exceed two mills.
16 The county board of elections shall frame the question to be
17 submitted to the voters of the borough in accordance with the
18 election laws of the Commonwealth.

19 Section 159. Section 1302.1 of the act, added November 24,
20 1998 (P.L.827, No.108), is amended to read:

21 Section 1302.1. Different and Separate Tax Levies.--(a) A
22 borough may in any year levy separate and different rates of
23 taxation for municipal purposes on all real estate classified as
24 nonfarmland, exclusive of the buildings thereon, and on all real
25 estate classified as either buildings on land or farmland. When
26 real estate tax rates are so levied:

27 (1) The rates shall be determined by the requirements of the
28 borough budget.

29 (2) A higher rate may be levied on real estate classified as
30 nonfarmland than on real estate classified as either buildings

1 on land or farmland if the respective rates on nonfarmland and
2 on buildings or farmland are so fixed as not to constitute a
3 greater levy in the aggregate than the levy to result from the
4 maximum rate allowed by law on all real estate.

5 (3) The rates shall be uniform as to all real estate within
6 the classification.

7 (b) For purposes of this section:

8 (1) "Farmland" shall include any tract of land that is
9 actively devoted to agricultural use, including, but not limited
10 to, the commercial production of "crops, livestock and livestock
11 products" as defined in section 3 of the act of June 30, 1981
12 (P.L.128, No.43), known as the "Agricultural Area Security Law."

13 (2) "Nonfarmland" shall include any tract of land that is
14 not farmland.

15 (c) [The] Notwithstanding section 104, the provisions of
16 this section are nonseverable. If any provision of this [act]
17 section or its application to any person or circumstance is held
18 invalid, the remaining provisions or applications of this [act]
19 section are void.

20 Section 160. Section 1303 of the act, repealed in part April
21 28, 1978 (P.L.202, No.53), is amended to read:

22 Section 1303. Special Levy to Pay Debts.--In addition to the
23 levies provided for in the preceding section, when it shall be
24 shown to the court that the [corporate authorities refuse or
25 neglect] borough council refuses or neglects to levy a
26 sufficient tax to pay the debts due by the borough, the court
27 may, after ascertaining the amount of [such] the indebtedness of
28 the borough, direct a writ of mandamus to the proper officers of
29 [such] the borough to collect by special taxation an amount
30 sufficient to pay the same in one or more annual [instalments]

1 installments, as may be adjudged reasonable by [said] the court,
2 during such years as may be required for the payment of the
3 same.

4 Section 161. Sections 1304 and 1305 of the act are amended
5 to read:

6 Section 1304. Special Road Fund Tax.--Any borough shall be
7 empowered, within its general power to levy taxes, to collect
8 annually a tax upon all property taxable for borough purposes
9 not to exceed five mills on the dollar in any one year, for the
10 purpose of creating and maintaining a special fund, to be used
11 by its borough in making permanent street improvements, and to
12 pay contract prices for paving and other permanent street
13 improvements, prior to the collection of the cost and expense or
14 any part thereof from the property owners adjoining or abutting
15 thereon by the borough under existing laws.

16 When the cost and expense, or any part [thereof,] of the cost
17 and expense of the construction of any permanent street
18 improvement, which has been made under existing laws, and which
19 has been aided in its construction from the [said] special fund
20 [hereby provided for] provided for under this section, shall
21 have been assessed and collected from the owners of the property
22 adjoining or abutting upon [such] the improvement, it shall be
23 applied to the credit of the [said] special fund, to the extent
24 of the withdrawal [therefrom for such] from the special fund for
25 that purpose.

26 Section 1305. Date Tax Duplicate to Issue.--[The corporate
27 authorities of the borough] Borough council shall, within thirty
28 days after adoption of the budget or within thirty days after
29 receipt of the assessment roll from the county, whichever is
30 later, issue their duplicate of taxes assessed to the collector

1 of taxes of the borough.

2 Section 162. Section 1306 of the act, amended July 22, 1970
3 (P.L.549, No.188), is amended to read:

4 Section 1306. Additions and Revisions to Duplicates.--

5 Whenever in any borough, there is any construction of a building
6 or buildings not otherwise exempt as a dwelling after the
7 borough council has prepared a duplicate of the assessment of
8 borough taxes and the building is not included in the tax
9 duplicate of the borough, the [authority responsible for
10 assessments in the borough] county assessment office shall, upon
11 the request of the borough council, direct the assessor in the
12 [borough] county assessment office to inspect and reassess,
13 subject to the right of appeal and adjustment provided by the
14 act of assembly under which assessments are made, all taxable
15 property in the borough to which major improvements have been
16 made after the original duplicates were prepared, and to give
17 notice of such reassessments within ten days to the authority
18 responsible for assessments, the borough and the property owner.
19 The property shall then be added to the duplicate and shall be
20 taxable for borough purposes at the reassessed valuation for
21 that proportionate part of the fiscal year of the borough
22 remaining after the property was improved. Any improvement made
23 during the month shall be computed as having been made on the
24 first of the month. A certified copy of the additions or
25 revisions to the duplicate shall be furnished by the borough
26 council to the borough tax collector, together with their
27 warrant for collection of the same, and within ten days
28 thereafter, the borough tax collector shall notify the owner of
29 the property of the taxes due the borough.

30 Section 163. Sections 1307 and 1308 of the act are amended

1 to read:

2 Section 1307. Preparation of Budget.--Beginning at least
3 thirty days prior to the adoption of the budget a proposed
4 budget or annual estimate of revenues and expenditures for the
5 ensuing year shall be prepared in a manner designated by the
6 council. [The budget shall be prepared on a uniform form
7 prepared and furnished as hereinafter provided.] The proposed
8 budget shall be kept on file with the borough secretary and [by
9 him] be made available for public inspection by the borough
10 secretary for a period of ten days.

11 Section 1308. Notice of Proposed Budget; Penalty.--(a)
12 Notice that the proposed budget is available for inspection
13 shall be published by the borough secretary in a newspaper of
14 general circulation [in the borough], except in boroughs where
15 the estimated budget receipts are less than [five thousand
16 dollars (\$5000)] fifty thousand dollars (\$50,000) in the year in
17 which this amendment is enacted, where in lieu of such newspaper
18 publications, notice may be conspicuously posted during the ten
19 day period, in a place readily viewable by the public at the
20 office of the borough secretary and with such further notice as
21 shall be prescribed by council.

22 (b) Failure to give the notice herein required shall not
23 invalidate the budget adopted or the tax ordinance. Any borough
24 secretary who shall fail or refuse to give the notice that the
25 proposed budget is available for inspection, as herein required,
26 shall, upon conviction [thereof] in a summary proceeding, be
27 sentenced to pay a fine not exceeding one hundred dollars (\$100)
28 and costs of prosecution.

29 Section 164. Section 1309 of the act is reenacted to read:

30 Section 1309. Revision and Completion of Budget.--After the

1 expiration of the said ten days, council shall make such
2 revision in the budget as shall be deemed advisable. The budget
3 shall be as comprehensive and exact as the information available
4 will admit. In addition to expenditures proposed for the current
5 fiscal year, council may include as proposed expenditures a sum
6 sufficient to pay any existing indebtedness and to pay the
7 ordinary operating expenses for the subsequent year until the
8 taxes of the subsequent year are received therefor, and may also
9 include a sum to provide in whole or in part for any deferred
10 maintenance, depreciation and replacements. Within the tax levy
11 and debt limitations, council may also include, in whole or in
12 part, expenditures for capital investments and purchases.
13 Expenditures of a legislative character shall be made,
14 authorized or ratified by ordinance. Other expenditures allowed
15 by law may be made or ratified by motion in council. Such
16 expenditures, whether by ordinance or motion, shall then be
17 considered as appropriations affecting the budget. Any balance
18 of revenues over expenditures may be expended in any subsequent
19 year for any lawful purpose.

20 Section 165. Section 1310 of the act, amended June 22, 2000
21 (P.L.325, No.34), is amended to read:

22 Section 1310. Adoption of Budget[; Tax Ordinance].--Upon
23 completion of the budget, containing the estimated receipts and
24 expenditures, [and its adoption] the borough council shall adopt
25 the budget by motion [in] of the borough council, which shall
26 not be later than December thirty-first[, it shall be the duty
27 of the council to adopt an ordinance levying the taxes referred
28 to in this act for the fiscal year for approval of the mayor or
29 passage over his veto].

30 Section 166. The act is amended by adding a section to read:

1 Section 1310.1. Tax Ordinance.--After borough council has
2 adopted the budget, it shall be the duty of the borough council
3 to enact an ordinance levying the taxes referred to in this act
4 for the fiscal year subject to approval of the mayor or
5 enactment over the mayor's veto pursuant to the procedure
6 established in section 3301.3(c).

7 Section 167. Section 1311 of the act, amended June 22, 2000
8 (P.L.325, No.34), is amended to read:

9 Section 1311. Amending Budget; Notice.--During the month of
10 January next following any municipal election the council of any
11 borough may amend the budget and the levy and tax rate to
12 conform with its amended budget. A period of ten days' public
13 inspection at the office of the borough secretary of the
14 proposed amended budget after notice by the borough secretary to
15 that effect is published once in a newspaper [as provided in
16 section 109 of this act] of general circulation, shall intervene
17 between the proposed amended budget and the adoption thereof.
18 Any amended budget must be adopted by council on or before the
19 fifteenth day of February.

20 Section 168. Sections 1312 and 1313 of the act are reenacted
21 to read:

22 Section 1312. Modification of Budget; Supplemental
23 Appropriations and Transfers.--The council in its reasonable
24 discretion may, in any year, by motion, modify the budget after
25 its final adoption. New appropriations, supplementary
26 appropriations and transfers from one appropriation to another
27 may be made during the fiscal year, either before or after the
28 expenditure is authorized or ratified after the expenditure is
29 made, provided it is within the current year's revenues, or the
30 money therefor promptly made available through borrowing as

1 allowed by law.

2 Section 1313. Payment from Borough Funds.--All payments made
3 by the council of any borough from the borough funds shall be
4 made by proper borough orders, drawn upon the treasurer; no
5 borough order shall be authorized by council or signed by the
6 president or secretary of any council unless there are
7 sufficient funds in the treasury of the borough to pay the same,
8 and no orders shall be made payable at any time in the future or
9 draw interest. A separate borough order shall be drawn for each
10 account or payment.

11 Section 169. The act is amended by adding a section to read:

12 Section 1313.1. Creation of Special Funds; Investments.--
13 Borough council may set aside in a separate fund any moneys
14 received out of or from the sale, lease or other disposition of
15 any borough property or received from any source unless such
16 money was received or acquired for a particular purpose. The
17 fund shall be controlled, invested and administered, and the
18 income arising therefrom expended, in the manner as may be
19 determined by action of the council pursuant to the ordinance
20 creating the fund. The ordinance may provide that only the
21 income from the fund may be used or expended, and that neither
22 principal, nor any part thereof, may be used or expended unless
23 upon authorization of a majority vote of the qualified electors
24 of the borough. All ordinances previously enacted by any
25 borough, creating and establishing a separate fund as is
26 authorized by this section, shall be deemed and taken as valid
27 and effectual for all purposes provided that all other
28 requirements of law concerning the enactment of the same have
29 been complied with.

30 Section 170. Section 1314 of the act, amended June 22, 2000

1 (P.L.325, No.34), is amended to read:

2 Section 1314. Uniform Financial Report; Forms.--The uniform
3 forms for the annual financial statement required to be made by
4 the auditors or the controller shall be prepared by a committee
5 consisting of four representatives from the Pennsylvania State
6 Association of Boroughs, [and] the Secretary of Community and
7 Economic Development, or [his agent] the secretary's designee
8 and any additional members appointed pursuant to statute.

9 [Such] The representatives of boroughs shall be appointed by
10 the president of the [organization. Such] Pennsylvania State
11 Association of Boroughs. The representatives shall be chosen
12 from among the finance officers or other officers of the borough
13 who have knowledge of their fiscal procedures. As far as
14 possible, they shall be chosen to represent boroughs in the
15 various population groups. The president of the organization
16 shall supply to the Department of Community and Economic
17 Development the names and addresses of [such] the
18 representatives immediately upon their appointment.

19 [Such] The representatives shall serve without compensation,
20 but shall be reimbursed by the Commonwealth for all necessary
21 expenses incurred in attending meetings of the committee. The
22 committee shall meet from time to time as conditions may warrant
23 at the call of Secretary of Community and Economic Development,
24 or [his agent] the secretary's designee, who shall serve as
25 [chairman] chair of the committee.

26 It shall be the duty of the Secretary of Community and
27 Economic Development, or [his agent] the secretary's designee,
28 to see to it that the forms required by this article are
29 prepared in cooperation with [such] the committee. In the event
30 that the committee should for any reason fail to furnish such

1 cooperation, the Secretary of Community and Economic
2 Development, or [his agent] the secretary's designee, shall
3 prepare the forms. After their preparation, [he] the secretary
4 shall issue [such] the forms and distribute them annually, as
5 needed to the proper officers of each borough.

6 Section 171. Section 1315 of the act is amended to read:

7 Section 1315. Capital Improvements to Certain Public Service
8 Facilities.--(a) For the purpose of financing the cost and
9 expense or its share of the cost and expense of capital
10 improvements by altering, improving or enlarging (i) its sewer,
11 sewer system or sewage treatment works, either singly or
12 jointly, with other municipalities [or townships, or both], or
13 (ii) its water works, either singly or jointly, with other
14 municipalities [or townships, or both], or (iii) its electric
15 light or power plant or power distribution system, or (iv) its
16 gas plant or gas distribution system for its own municipal
17 purposes, including the purchase and installation of machinery
18 and equipment, any borough owning any such plant or facility may
19 issue non-debt revenue bonds as provided in clause [(72)] (46)
20 of section 1202 of this act.

21 (b) Any borough issuing non-debt revenue bonds under the
22 authority of this section shall adjust and, where necessary,
23 increase the rates of rentals or charges pledged as security for
24 the bonds, in order to provide sufficient revenue which shall be
25 set aside as reserve funds to cover depreciation of the
26 properties involved, and for future improvements to the plant or
27 facility involved, as well as for the payment of the interest on
28 the bonds and the principal at the time of maturity.

29 Section 172. Section 1316 of the act, amended or added
30 November 2, 1979 (P.L.458, No.94) and December 13, 1982

1 (P.L.1145, No.261), is amended to read:

2 Section 1316. Investment of Funds.--(a) Council shall
3 invest borough funds consistent with sound business practice.

4 (b) Council shall provide for an investment program subject
5 to restrictions contained in this act and in any other
6 applicable statute and any rules and regulations adopted by
7 council.

8 (c) Authorized types of investments for borough funds shall
9 be:

10 (i) United States Treasury bills.

11 (ii) Short-term obligations of the United States Government
12 or its agencies or instrumentalities.

13 (iii) Deposits in savings accounts or time deposits, other
14 than certificates of deposit, or share accounts of institutions
15 insured by the Federal Deposit Insurance Corporation [or the
16 Federal Savings and Loan Insurance Corporation] or the National
17 Credit Union Share Insurance Fund [or the Pennsylvania Deposit
18 Insurance Corporation or the Pennsylvania Savings Association
19 Insurance Corporation] to the extent that such accounts are so
20 insured, and, for any amounts above the insured maximum,
21 provided that approved collateral as provided by law therefore
22 shall be pledged by the depository.

23 (iv) Obligations of the United States of America or any of
24 its agencies or instrumentalities backed by the full faith and
25 credit of the United States of America, the Commonwealth of
26 Pennsylvania or any of its agencies or instrumentalities backed
27 by the full faith and credit of the Commonwealth, or of any
28 political subdivision of the Commonwealth of Pennsylvania or any
29 of its agencies or instrumentalities backed by the full faith
30 and credit of the political subdivision.

1 (v) Shares of an investment company registered under the
2 Investment Company Act of 1940, whose shares are registered
3 under the Securities Act of 1933, provided that the only
4 investments of that company are in the authorized investments
5 for borough funds listed in (i) through (iv).

6 (vi) Certificates of deposit purchased from institutions
7 insured by the Federal Deposit Insurance Corporation [or the
8 Federal Savings and Loan Insurance Corporation] or the National
9 Credit Union Share Insurance Fund [or the Pennsylvania Deposit
10 Insurance Corporation or the Pennsylvania Savings Association
11 Insurance Corporation] to the extent that such accounts are so
12 insured. However, for any amounts above the insured maximum,
13 such certificates of deposit shall be collateralized by a pledge
14 or assignment of assets of the institution, and such collateral
15 may include loans (including interest in pools of loans) secured
16 by first mortgage liens on real property. Certificates of
17 deposit purchased from commercial banks shall be limited to an
18 amount equal to twenty percent of a bank's total capital and
19 surplus. Certificates of deposit purchased from savings and loan
20 associations or savings banks shall be limited to an amount
21 equal to twenty percent of an institution's assets minus
22 liabilities.

23 (vii) Any investment authorized by 20 Pa.C.S. Ch.73
24 (relating to fiduciaries investments) shall be an authorized
25 investment for any pension or retirement fund.

26 (viii) Bonds of a municipal authority or parking authority
27 created solely by the borough, for the purpose either of
28 investment or of possible retirement of the bonds and
29 acquisition of authority projects at an earlier date than
30 originally contemplated, using for the purpose either surplus

1 funds of the borough or money appropriated in the annual budget
2 for the purpose.

3 (d) In making investments of borough funds, council shall
4 have authority:

5 (i) To permit assets pledged as collateral under subsection
6 (c)(iii), to be pooled in accordance with the act of August 6,
7 1971 (P.L.281, No.72), relating to pledges of assets to secure
8 deposits of public funds.

9 (ii) To combine moneys from more than one fund under borough
10 control for the purchase of a single investment, provided that
11 each of the funds combined for the purpose shall be accounted
12 for separately in all respects and that the earnings from the
13 investment are separately and individually computed and
14 recorded, and credited to the accounts from which the investment
15 was purchased.

16 (iii) To join with one or more other political subdivisions
17 and municipal authorities in accordance with [the act of July
18 12, 1972 (P.L.762, No.180), entitled "An act relating to
19 intergovernmental cooperation,"] 53 Pa.C.S. Ch. 23 Subch. A
20 (relating to intergovernmental cooperation) in the purchase of a
21 single investment, provided that the requirements of subclause
22 (ii) on separate accounting of individual funds and separate
23 computation, recording and crediting of the earnings therefrom
24 are adhered to.

25 Section 173. Section 1317 of the act, added November 21,
26 2001 (P.L.843, No.85), is repealed:

27 [Section 1317. Conservation District.--The council may make
28 appropriations to the conservation district, as defined in the
29 act of May 15, 1945 (P.L.547, No.217), known as the
30 "Conservation District Law," in which the borough is located.]

1 Section 174. Article XIV heading of the act is reenacted to
2 read:

3 ARTICLE XIV

4 CONTRACTS

5 Section 175. Section 1401 of the act is amended to read:

6 Section 1401. Power to Make Contracts.--(a) Each borough
7 may make contracts for lawful purposes and for the purposes of
8 carrying into execution the provisions of this act and laws of
9 the Commonwealth.

10 (b) Except as otherwise specifically provided in this act,
11 all contracts and purchases shall be made with and from the
12 lowest qualified and responsible bidder. In awarding contracts
13 and making purchases, council shall have the right to take into
14 consideration such factors as the availability, cost and quality
15 of service, and may establish pre-qualification standards for
16 contracts and purchases. Any pre-qualification standards shall
17 be reasonably designed to assist council in determining the
18 ability of a bidder to successfully complete a contract or
19 purchase.

20 (c) A borough may permit the electronic submission of bids
21 and may receive bids electronically for competitively bid
22 purchases and contracts pursuant to 62 Pa.C.S. Ch. 46 (relating
23 to electronic bidding by local government units).

24 Section 176. Section 1402 of the act, amended or added
25 October 4, 1978 (P.L.1022, No.226), April 6, 1980 (P.L.95,
26 No.34), June 26, 1995 (P.L.63, No.12), December 20, 1996
27 (P.L.1497, No.193) and November 3, 2011 (P.L.381, No.92), is
28 amended to read:

29 Section 1402. Regulation of Contracts.--(a) All contracts
30 or purchases in excess of the base amount of eighteen thousand

1 five hundred dollars (\$18,500) subject to adjustment under
2 subsection (a.2), except those [hereinafter] mentioned[,] in
3 this section and except as provided by the act of October 27,
4 1979 (P.L.241, No.78), entitled "An act authorizing political
5 subdivisions, municipality authorities and transportation
6 authorities to enter into contracts for the purchase of goods
7 and the sale of real and personal property where no bids are
8 received," shall not be made except with and from the lowest
9 qualified and responsible bidder after due notice in one
10 newspaper of general circulation [in the borough], at least two
11 times at intervals of not less than three days where daily
12 newspapers of general circulation are available for [such]
13 publication, in case of weekly newspapers, [such] notice once a
14 week for two successive weeks. The first advertisement shall be
15 published not more than forty-five days and the second
16 advertisement not less than ten days prior to the date fixed for
17 the opening of bids. Advertisements for contracts or purchases
18 shall also be posted in a conspicuous place within the borough.
19 Advertisements for contracts and purchases shall contain the
20 date, time and location for opening of bids and shall state the
21 amount of the performance bond determined under subsection (c).
22 The amount of the contract shall in all cases, whether of
23 straight sale price, conditional sale, [bailment] lease, lease
24 purchase or otherwise, be the entire amount which the borough
25 pays to the successful bidder or his assigns in order to obtain
26 the services or property, or both, and shall not be construed to
27 mean only the amount which is paid to acquire title or to
28 receive any other particular benefit or benefits of the whole
29 bargain. [In awarding contracts, council shall have the right to
30 take into consideration such other factors as the availability,

1 cost and quality of service.]

2 (a.1) Written or telephonic price quotations from at least
3 three qualified and responsible contractors shall be requested
4 for all contracts in excess of the base amount of ten thousand
5 dollars (\$10,000) subject to adjustment under subsection (a.2)
6 but are less than the amount requiring advertisement and
7 competitive bidding or, in lieu of price quotations, a
8 memorandum shall be kept on file showing that fewer than three
9 qualified contractors exist in the market area within which it
10 is practicable to obtain quotations. A written record of
11 telephonic price quotations shall be made and shall contain at
12 least the date of the quotation, the name of the contractor and
13 the contractor's representative, the construction,
14 reconstruction, repair, maintenance or work which was the
15 subject of the quotation and the price. Written price
16 quotations, written records of telephonic price quotations and
17 memoranda shall be retained for a period of three years. Written
18 price quotations as used throughout this section shall include
19 electronic mail.

20 (a.2) Adjustments to the base amounts specified under
21 subsections (a) and (a.1) shall be made as follows:

22 (1) The Department of Labor and Industry shall determine the
23 percentage change in the All Items Consumer Price Index for All
24 Urban Consumers (CPI-U) for the United States City Average as
25 published by the United States Department of Labor, Bureau of
26 Labor Statistics for the twelve-month period ending September
27 30, 2012, and for each successive twelve-month period
28 thereafter.

29 (2) If the department determines that there is no positive
30 percentage change, then no adjustment to the base amounts shall

1 occur for the relevant time period provided for in this
2 subsection.

3 (3) (i) If the department determines that there is a
4 positive percentage change in the first year that the
5 determination is made under paragraph (1), the positive
6 percentage change shall be multiplied by each base amount and
7 the products shall be added to the base amounts, respectively,
8 and the sums shall be preliminary adjusted amounts.

9 (ii) The preliminary adjusted amounts shall be rounded to
10 the nearest one hundred dollars (\$100), to determine the final
11 adjusted base amounts for purposes of subsections (a) and (a.1).

12 (4) In each successive year in which there is a positive
13 percentage change in the CPI-U for the United States City
14 Average, the positive percentage change shall be multiplied by
15 the most recent preliminary adjusted amounts and the products
16 shall be added to the preliminary adjusted amount of the prior
17 year to calculate the preliminary adjusted amounts for the
18 current year. The sums thereof shall be rounded to the nearest
19 one hundred dollars (\$100) to determine the new final adjusted
20 base amounts for purposes of subsections (a) and (a.1).

21 (5) The determinations and adjustments required under this
22 subsection shall be made in the period between October 1 and
23 November 15 of the year following the effective date of this
24 subsection, and annually between October 1 and November 15 of
25 each year thereafter.

26 (6) The final adjusted base amounts and new final adjusted
27 base amounts obtained under paragraphs (3) and (4) shall become
28 effective January 1 for the calendar year following the year in
29 which the determination required under paragraph (1) is made.

30 (7) The department shall publish notice in the Pennsylvania

1 Bulletin prior to January 1 of each calendar year of the annual
2 percentage change determined under paragraph (1) and the
3 unadjusted or final adjusted base amounts determined under
4 paragraphs (3) and (4) at which competitive bidding is required
5 under subsection (a) and written or telephonic price quotations
6 are required under subsection (a.1), respectively, for the
7 calendar year beginning the first day of January after
8 publication of the notice. The notice shall include a written
9 and illustrative explanation of the calculations performed by
10 the department in establishing the unadjusted or final adjusted
11 base amounts under this subsection for the ensuing calendar
12 year.

13 (8) The annual increase in the preliminary adjusted base
14 amounts obtained under paragraphs (3) and (4) shall not exceed
15 three percent.

16 (b) (1) The award of contracts shall only be made by public
17 announcement at the meeting at which bids are received, or at a
18 subsequent meeting, the time and place of which shall be
19 publicly announced when bids are received. If for any reason one
20 or both of the above meetings shall not be held, the same
21 business may be transacted at any subsequent meeting if at least
22 five days' notice thereof shall be published in the newspaper of
23 general circulation aforesaid. At council's request, all bids
24 advertised for shall be accompanied by cash, money order, a
25 certified or cashier's good faith check, or other irrevocable
26 letter of credit drawn upon a bank authorized to do business in
27 this Commonwealth or by a bond with corporate surety in such
28 amount as council shall determine, and, when requested, no bid
29 shall be considered unless so accompanied.

30 (2) Notwithstanding clause (1), council may direct that a

1 committee of council, a member of council or a member of the
2 borough staff receive, open and review bids during normal
3 business hours and forward the information to council for
4 subsequent award at a public meeting. Bidders shall be notified
5 and other interested parties, upon request, shall be notified of
6 the date, time and location of the opening of bids and may be
7 present when the bids are opened.

8 (c) The successful bidder when advertising as required
9 herein may, at the discretion of council, be required to furnish
10 a bond or irrevocable letter of credit or other security with
11 suitable reasonable requirements guaranteeing the work to be
12 done with sufficient surety in an amount as determined by
13 council which shall be not less than ten percent nor more than
14 one hundred percent of the amount of the liability under the
15 contract within twenty days after the contract has been awarded,
16 unless council shall prescribe a shorter period of not less than
17 ten days, and upon failure to furnish such [bond] security
18 within such time the previous award shall be void. Deliveries,
19 accomplishment and guarantees may be required in all cases of
20 expenditures.

21 (d) The contracts or purchases made by council, which shall
22 not require advertising, bidding or price quotations as
23 hereinbefore provided, are as follows:

24 (1) Those for maintenance, repairs or replacements for
25 water, electric light or public works of the borough, provided
26 they do not constitute new additions, extensions or enlargements
27 of existing facilities and equipment, but [a bond] security may
28 be required by council, as in other cases of work done;

29 (2) Those made for improvements, repairs and maintenance of
30 any kind, made or provided by any borough, through its own

1 [employees: Provided, That] employees, provided that all materials
2 used for street improvement, maintenance [and/or] or
3 construction in excess of the amount specified or adjusted under
4 subsection (a.1) be subject to the relevant price quotation or
5 advertising requirements contained [herein] in this section;

6 (3) Those where particular types, models or pieces of new
7 equipment, articles, apparatus, appliances, computer software,
8 vehicles or parts thereof are desired by council, which are
9 patented and manufactured or copyrighted products;

10 (3.1) Those for used equipment, articles, apparatus,
11 appliances, vehicles or parts thereof being purchased from a
12 public utility[.], MUNICIPAL CORPORATION, COUNTY, SCHOOL
13 DISTRICT, MUNICIPAL AUTHORITY, COUNCIL OF GOVERNMENT OR FEDERAL
14 OR STATE GOVERNMENT;

15 (4) Those involving any policies of insurance or surety
16 company bonds; those made for [public] utility service [under
17 tariffs on file with the Pennsylvania Public Utility Commission]
18 for borough purposes, including, but not limited to, those made
19 for natural gas or telecommunications services; those made for
20 electricity with the entities set forth in clause 6(i), (ii),
21 (iii), (iv), (v), (vi) and (vii)(A); those made with another
22 political subdivision, or a county, or council of government,
23 consortium, cooperative or other similar entity created pursuant
24 to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
25 cooperation) or the Commonwealth of Pennsylvania, the Federal
26 Government, any agency of the Commonwealth or the Federal
27 Government, or any municipal authority, including the sale,
28 leasing or loan of any supplies or materials by the Commonwealth
29 or the Federal Government or their agencies. The price thereof
30 shall not be in excess of that fixed by the Commonwealth, the

Federal Government, or their agencies;

(5) Those involving personal or professional services[.];

(6) Those made relating to the purchase of electricity and associated energy and related services by a borough owning or operating electric generation or distribution facilities on the effective date of this section with any of the following:

(i) A political subdivision.

(ii) Another state.

(iii) The Commonwealth or an agency thereof.

(iv) The Federal Government.

(v) A private corporation.

(vi) An electric cooperative corporation under 15 Pa.C.S. Ch. 73 (relating to electric cooperative corporations).

(vii) A non-profit membership corporation. As used in this subclause, the term "non-profit membership corporation" means an entity, the membership of which:

(A) consists solely of Pennsylvania boroughs, such as a consortium, buying group or municipal power agency under section 2471.2; or

(B) consists of Pennsylvania boroughs and political subdivisions of another state or states.

(viii) An electric cooperative of another state.

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."]

1 Council shall award contracts subject to the requirements of,
2 and may exercise any powers granted by, the following acts to
3 the extent applicable: the act of March 3, 1978 (P.L.6, No.3),
4 known as the "Steel Products Procurement Act," the act of
5 December 20, 1967 (P.L.869, No.385), known as the "Public Works
6 Contractors' Bond Law of 1967," the act of August 15, 1961
7 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage
8 Act," the act of January 17, 1968 (P.L.11, No.5), known as "The
9 Minimum Wage Act of 1968," the act of February 17, 1994 (P.L.73,
10 No.7), known as the "Contractor and Subcontractor Payment Act,"
11 the act of January 23, 1974 (P.L.9, No.4), referred to as the
12 Public Contract Bid Withdrawal Law and 62 Pa.C.S. Pt. II
13 (relating to general procurement provisions).

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 the amount specified or
10 adjusted under section 1402(a) upon transactions, which
11 transactions should, in the exercise of reasonable discretion
12 and prudence, be conducted as one transaction amounting to more
13 than the amount specified or adjusted under section 1402(a).
14 This provision is intended to make unlawful the evading of
15 advertising requirements by making a series of purchases or
16 contracts, each for less than the advertising requirement price,
17 or by making several simultaneous purchases or contracts, each
18 below said price, when, in either case, the transactions
19 involved should have been made as one transaction for one price.
20 Any members of council who so vote in violation of this
21 provision and who know that the transaction upon which they so
22 vote is or ought to be a part of a larger transaction and that
23 it is being divided in order to evade the requirements as to
24 advertising for bids, shall be jointly and severally subject to
25 surcharge for ten percent of the full amount of the contract or
26 purchase. Whenever it shall appear that a member of council may
27 have voted in violation of this section but the purchase or
28 contract on which [he so] the member of council voted was not
29 approved by council, this section shall be inapplicable.

30 (b) Any council member who votes to unlawfully evade the

1 provisions of section 1402 and who knows that the transaction
2 upon which he so votes is or ought to be a part of a larger
3 transaction and that it is being divided in order to evade the
4 requirements as to advertising for bids commits a misdemeanor of
5 the third degree for each contract entered into as a direct
6 result of that vote. This penalty shall be in addition to any
7 surcharge which may be assessed pursuant to subsection (a).

8 Section 178. Section 1404 of the act, amended June 25, 2001
9 (P.L.651, No.56), is amended to read:

10 Section 1404. [Penalty for] Personal Interest in Contracts
11 or Purchases.--[Except as otherwise provided in this act, no
12 borough official either elected or appointed, who knows or who
13 by the exercise of reasonable diligence could know, shall be
14 interested to any appreciable degree either directly or
15 indirectly in any purchase made or contract entered into or
16 expenditure of money made by the borough or relating to the
17 business of the borough, involving the expenditure by the
18 borough of more than one thousand dollars (\$1000) in any
19 calendar year, but this limitation shall not apply to cases
20 where such officer or appointee of the borough is an employe of
21 the person, firm or corporation to which the money is to be paid
22 in a capacity with no possible influence on the transaction, and
23 in which he cannot be possibly benefited thereby either
24 financially or otherwise. But in the case of a member of council
25 or mayor, if he knows that he is within the exception just
26 mentioned he shall so inform council and shall refrain from
27 voting on the expenditure or any ordinance relating thereto, and
28 shall in no manner participate therein. Any official or
29 appointee who shall knowingly violate the provisions of this
30 section shall be subject to surcharge to the extent of the

1 damage shown to be thereby sustained by the borough and to
2 ouster from office, and shall be guilty of a misdemeanor, and
3 upon conviction thereof shall be sentenced to pay a fine not
4 exceeding one thousand dollars (\$1000), or not exceeding one
5 hundred eighty days' imprisonment, or both] Elected and
6 appointed borough officials and borough employees shall be
7 restricted from any interest in borough contracts and purchases
8 to the extent provided in 65 Pa.C.S. Ch. 11 (relating to ethics
9 standards and financial disclosure).

10 Section 179. Section 1404.1 of the act, added December 1,
11 1977 (P.L.245, No.80), is amended to read:

12 Section 1404.1. Purchase Contracts for Petroleum Products;
13 Fire Company, Etc., Participation.--The council of each borough
14 shall have power to permit, subject to such terms and conditions
15 as it may, and as hereinafter specifically provided, shall,
16 prescribe any paid or volunteer fire company, paid or volunteer
17 rescue company and paid or volunteer ambulance company in the
18 borough to participate in purchase contracts for petroleum
19 products entered into by the borough. Any such company desiring
20 to participate in [such] purchase contracts shall file with the
21 borough secretary a request that it be authorized to participate
22 in contracts for the purchase of petroleum products of the
23 borough and agreeing that it will be bound by [such] the terms
24 and conditions as the borough may, and as hereinafter
25 specifically provided, shall, prescribe and that it will be
26 responsible for payment directly to the vendor under each
27 purchase contract. Among [such] the terms and conditions, the
28 borough shall prescribe that all prices shall be F.O.B.
29 destination.

30 Section 180. Section 1405 of the act, amended November 3,

1 2011 (P.L.381, No.92), is amended to read:

2 Section 1405. Separate Bids for Plumbing, Heating,
3 Ventilating and Electrical Work.--In the preparation for the
4 erection, construction and alteration of any public building,
5 when the entire cost of [such] the work shall exceed the amount
6 specified or adjusted under section 1402(a), the architect,
7 engineer, or other person preparing [such] the specifications
8 may, if so requested by the borough council, prepare separate
9 specifications for the plumbing, heating, ventilating and
10 electrical work. The person or persons authorized to enter into
11 contracts for the erection, construction or alteration of [such]
12 the public buildings may, if [such] the separate specifications
13 shall have been proposed, receive separate bids upon each of the
14 [said] branches of work and shall [thereupon] award the contract
15 [for the same] to the lowest responsible bidder for each of
16 [said] the branches.

17 Section 181. Section 1406 of the act, amended October 9,
18 1967 (P.L.380, No.171), is amended to read:

19 Section 1406. Bonds for the Protection of Labor and
20 [Materialmen] Materials.--[It shall be the duty of every borough
21 to require any person, copartnership, association, or
22 corporation, entering into a contract with such borough for the
23 construction, erection, installation, completion, alteration,
24 repair of, or addition to, any public work or improvement of any
25 kind whatsoever, where the amount of such contract is in excess
26 of one thousand five hundred dollars (\$1,500), before commencing
27 work under such contract, to execute and deliver to such
28 borough, in addition to any other bond which may now or
29 hereafter be required by law to be given in connection with such
30 contract, an additional bond for the use of any and every

1 person, copartnership, association, or corporation interested,
2 in a sum not less than fifty percent and not more than one
3 hundred percent of the contract price, as such borough may
4 prescribe, having as surety thereon one or more surety companies
5 legally authorized to do business in this Commonwealth,
6 conditioned for the prompt payment of all material furnished and
7 labor supplied or performed in the prosecution of the work,
8 whether or not the said material or labor enter into and become
9 component parts of the work or improvement contemplated. Such
10 additional bond shall be deposited with and held by the borough
11 for the use of any party interested therein. Every such
12 additional bond shall provide that every person, copartnership,
13 association, or corporation, who, whether as subcontractor or
14 otherwise, has furnished material or supplied or performed labor
15 in the prosecution of the work as above provided, and who has
16 not been paid therefor, may sue in assumpsit on said additional
17 bond, in the name of the borough, for his, their or its use and
18 prosecute the same to final judgment for such sum or sums as may
19 be justly due him, them, or it and have execution thereof;
20 provided, the borough shall not be liable for the payment of any
21 costs or expense of any suit.] Before any contract exceeding ten
22 thousand dollars (\$10,000) is awarded to any prime contractor or
23 construction manager for the construction, erection,
24 installation, completion, alteration, repair of or addition to
25 any public work or improvement of any kind, the contractor shall
26 furnish to the borough a payment bond for the protection of
27 claimants supplying labor or materials to the prime contractor
28 to whom the contract is awarded, at one hundred percent of the
29 contract amount, conditioned for the prompt payment of all
30 materials furnished or labor supplied or performed in the

1 prosecution of the contract under the act of December 20, 1967
2 (P.L.869, No.385), known as the "Public Works Contractors' Bond
3 Law of 1967." This bond requirement shall be in addition to any
4 other bond requirement that may now or hereafter be required by
5 law to be given in connection with the contract.

6 Section 182. Section 1407 of the act is repealed:

7 [Section 1407. Minimum Wage Specifications in Contracts.--

8 The specifications upon which contracts are entered into by any
9 borough for the construction, alteration or repair of any public
10 work or improvement may, at the option of the borough council,
11 contain the minimum wage or wages which may be paid by the
12 contractor or his subcontractors for the work performed by
13 laborers and mechanics employed on such public work or
14 improvement, and such laborers and mechanics shall in such cases
15 be paid not less than such minimum wage or wages.

16 Every contract for the construction, alteration or repair of
17 any public work or improvement, founded on specifications
18 containing any such stipulation for minimum wage or wages, shall
19 stipulate a penalty of an amount equal to twice the difference
20 between the minimum wage contained in said specifications and
21 the wage actually paid to each laborer or mechanic for each day
22 during which he shall have been employed at a wage less than
23 that prescribed in said specifications.

24 Every officer or person designated as an inspector of or
25 having supervision over the work to be performed under any such
26 contract, in order to aid in enforcing the fulfillment thereof,
27 shall, upon observation or investigation, report to the borough
28 council or agency which let the contract, all violations of
29 minimum wage stipulations, together with the name of each
30 laborer or mechanic who has been paid a wage less than

1 prescribed by the specifications, and the day or days of such
2 violation.

3 All such penalties shall be withheld and deducted for the use
4 of the borough from any moneys due the contractor by the officer
5 or person whose duty it shall be to authorize the payment of
6 moneys due such contractor, whether the violation of the minimum
7 stipulation of the specifications was by the contractor or by
8 any of his subcontractors. If any such contractor or
9 subcontractor subsequently pays to all laborers and mechanics
10 the balance of the amounts stipulated in such contract, the
11 borough shall pay to the contractor the amounts so withheld as
12 penalties.]

13 Section 183. Section 1410 of the act is amended to read:

14 Section 1410. Acceptance by Contractor of [Workmen's]
15 Workers' Compensation Act.--All contracts executed by any
16 borough, or any officer [thereof] of a borough, which involves
17 the construction or doing of any work involving the employment
18 of labor, shall contain a provision that the contractor shall
19 accept, insofar as the work covered by [any such] the contract
20 is concerned, the provisions of the [Workmen's Compensation Act
21 of 1915,] act of June 2, 1915 (P.L.736, No.338), known as the
22 "Workers' Compensation Act," and the supplements and amendments
23 [thereto] to the act, and that the [said] contractor will insure
24 his or her liability [thereunder] under the act and will file
25 with the borough with which the contract is made a certificate
26 of insurance providing evidence of such coverage, or file with
27 the borough with which the contract is made a certificate of
28 exemption from insurance from the Bureau of [Workmen's] Workers'
29 Compensation of the Department of Labor and Industry. The
30 certificate of exemption from insurance may be issued on the

1 basis of either individual self-insurance or group self-
2 insurance. Additionally, a contractor shall file with the
3 borough with which the contract is made any applications to be
4 excepted by the provisions of the "Workers' Compensation Act" in
5 respect to certain employees on religious grounds if the
6 applications have been accepted by the Department of Labor and
7 Industry.

8 Any contract executed in violation of this section shall be
9 null and void.

10 Section 184. Section 1411 of the act, amended July 10, 1981
11 (P.L.247, No.80), is repealed:

12 [Section 1411. Architects and Engineers Employed Prohibited
13 From Bidding on Public Works; Penalty.--It shall be unlawful for
14 any architect or engineer, in the employ of any borough, and
15 engaged in the preparation of plans, specifications or
16 estimates, to bid or negotiate on any public work at any letting
17 of such work by the borough, except that any such architect or
18 engineer who shall have prepared preliminary plans only shall
19 not be prohibited from bidding or negotiating on the final
20 contract for such work.

21 It shall be unlawful for the officers of any borough charged
22 with the duty of letting any public work, to award a contract to
23 any such architect or engineer, in the employ of the borough to
24 be in any way interested in any contract for public work for the
25 borough or to receive any remuneration or gratuity from any
26 person interested in such contract except under the terms and
27 conditions as provided in section 1402(f).

28 Any person violating any of the provisions of this section
29 shall forfeit his office, and shall be guilty of a misdemeanor,
30 and on conviction thereof, shall be sentenced to pay a fine not

1 exceeding five hundred dollars (\$500), or to undergo
2 imprisonment for not more than six months, or both.]

3 Section 185. Article XV heading of the act is amended to
4 read:

5 ARTICLE XV
6 EMINENT DOMAIN; ASSESSMENT OF DAMAGES [AND
7 BENEFITS]; DAMAGES FOR INJURY TO PROPERTY

8 Section 186. Article XV subdivision (a) heading of the act
9 is reenacted to read:

10 (a) General Provisions Relating to Eminent Domain

11 Section 187. Sections 1501 and 1502 of the act are amended
12 to read:

13 Section 1501. Exercise of Eminent Domain.--In the laying
14 out, opening, widening, extending, vacating, grading, or
15 changing the grades or lines of streets; the construction of
16 bridges, and the piers and abutments therefor; the construction
17 of slopes, embankments, and sewers; the erection and extension
18 of [waterworks] water systems, wharves, and docks, public
19 buildings, public auditoriums, memorials, monuments, public
20 works, filtration plants, sewerage systems, sewage treatment
21 works, [garbage] refuse disposal or incineration plants,
22 sanitary landfills, gas plants, electric light plants and
23 libraries; the establishing of parks, playgrounds and recreation
24 places; the changing of watercourses; and for all other purposes
25 authorized by this act, a borough may enter upon, appropriate,
26 injure, or destroy, private lands, property or material, or
27 lands previously granted or dedicated to public use and which
28 are no longer used for the purpose for which the lands were
29 granted, according to the proceedings set forth in the law
30 governing eminent domain.

1 Section 1502. Restrictions as to Certain Property.--(a) In
2 addition to [the] any restrictions made by other provisions of
3 this act in particular cases, no borough shall exercise the
4 right of eminent domain as against land now occupied by any
5 building which was used during the Colonial or Revolutionary
6 period as a place of assembly by the Council of the Colony of
7 Pennsylvania, the Supreme Executive Council of the Commonwealth
8 of Pennsylvania, or the Congress of the United States; or as
9 against the land occupied by any fort, redoubt, or blockhouse
10 erected during the Colonial or Revolutionary period, or any
11 building used as headquarters by the Commander-in-Chief of the
12 Continental Army; or as against the site of any building, fort,
13 redoubt, blockhouse, or headquarters, which are preserved for
14 their historic associations and not for private profit. The
15 Colonial and Revolutionary period shall be taken as ended on
16 September 3, 1783.

17 (b) No land or property used for a cemetery, burying ground
18 or place of public worship may be taken or appropriated by
19 virtue of any power contained in this article.

20 Section 188. The act is amended by adding a section to read:

21 Section 1502.1. Declaration of Intention.--A borough shall
22 declare its intention to acquire, enter upon, take, use and
23 appropriate any private property or land for any of the purposes
24 authorized by this article through a duly enacted ordinance.

25 Section 189. Section 1503 of the act, added October 9, 1967
26 (P.L.399, No.181), is amended to read:

27 Section 1503. Application of [the Act of June 22, 1964 (P.L.
28 84)] 26 Pa.C.S.--[Notwithstanding any of the provisions of this
29 act, all] All eminent domain proceedings shall conform to the
30 provisions of [the act of June 22, 1964 (P.L.84), known as the

1 "Eminent Domain Code."] 26 Pa.C.S. (relating to eminent domain),
2 including, but not limited to, payment of damages and costs.

3 Section 190. Article XV subdivision (b) heading and section
4 1525 of the act, repealed in part April 28, 1978 (P.L.202,
5 No.53), are repealed:

6 [(b) Procedure for the Assessment of Benefits by Viewers

7 Section 1525. Assessment of Benefits.--The viewers shall
8 assess the total cost of the improvement, or so much thereof as
9 may be just and reasonable, upon the lands or properties
10 peculiarly benefited.]

11 Section 191. Section 1547 of the act is repealed:

12 [Section 1547. Assessments to Bear Interest.--All
13 assessments for benefits, costs, and expenses shall bear
14 interest at six percent per annum from the expiration of thirty
15 days after they shall have been finally ascertained, and shall
16 be payable to the treasurer of the borough.]

17 Section 192. Article XV subdivision (c) heading of the act
18 is reenacted to read:

19 (c) Damages for Injury to Property

20 Section 193. Section 1561 of the act is amended to read:

21 Section 1561. Right to Damage Given in Certain Cases.--The
22 right to damage against boroughs is given to all owners or
23 tenants of lands, property, or material, abutting on, or through
24 which pass, streets, injured by the vacating of [such] the
25 streets, or the vacation of bridges and piers, abutments and
26 approaches therefor.

27 Section 194. Sections 1562, 1563 and 1565 and Article XVI
28 heading of the act are repealed:

29 [Section 1562. Juries of View to Assess Damages and
30 Benefits.--All juries of view for assessing damages for taking,

1 using, occupying, or injuring land, property, or material, are
2 directed to assess the damages, provided for in the preceding
3 section, against boroughs, and the benefits in connection
4 therewith, and make a report thereof to the court.

5 Section 1563. Appeals from Viewers' Reports.--The right of
6 appeal to the court of common pleas, the right of trial by jury,
7 and the right to file exceptions are given to any party not
8 satisfied with such report.

9 Section 1565. Damages for Vacations.--Whenever viewers are
10 appointed to vacate any street, and the vacation of the same
11 takes no land from the owner abutting thereon, if, in the
12 opinion of the viewers, such vacation damages the property of
13 the abutting owner, they may award damages to such owner as
14 though land has been actually taken, and such damages shall be
15 ascertained as provided in the law governing eminent domain.

16 ARTICLE XVI

17 LAND SUBDIVISION]

18 Section 195. Article XVII heading and Article XVII
19 subdivision (a) heading of the act are reenacted to read:

20 ARTICLE XVII

21 STREETS

22 (a) General Provisions Relating to Streets

23 Section 196. Section 1701 of the act is amended to read:

24 Section 1701. Definitions.--The following words and terms,
25 as used in this article, shall be construed as follows:

26 (1) "Street" shall mean and include any street, [as defined
27 in section 111 of this act] road, lane, court, cul-de-sac,
28 alley, public way and public square, either for or intended for
29 public use, and shall include the cartway, sidewalk, gutter,
30 [and/or] and the right-of-way area, whether or not [such] the

1 street, or any part [thereof] of the street, is owned in fee by
2 others than the borough. Streets shall be of two classes, opened
3 and unopened.

4 (2) "Opened streets" shall mean and include all streets
5 within the borough used as public passageways.

6 (3) "Unopened streets" shall mean and include all streets
7 within the borough [not] neither used as a public passageway,
8 nor accepted or maintained, but [placed on the] plotted in one
9 of the following:

10 (i) a borough plan [for future or prospective use, or placed
11 on the plan of a real estate project, or referred to in
12 individual deeds.] or official map adopted in accordance with
13 the "Pennsylvania Municipalities Planning Code";

14 (ii) an ordinance laying out the street in accordance with
15 this article;

16 (iii) a subdivision or land development plan; or

17 (iv) an individual deed.

18 (4) "Laying out" shall mean and include the plotting of an
19 unopened street or portion [thereof] of the street on [the] a
20 borough plan [or on the plan of a real estate development] or
21 official map adopted in accordance with the "Pennsylvania
22 Municipalities Planning Code," on a subdivision or land
23 development plan or by the enactment of an ordinance adopted in
24 accordance with this article, and shall include the plotting of
25 an unopened street in any case where any of the lines of the
26 same are proposed to be revised, or in any case where the same
27 was never previously laid out, although [such] the street may
28 have been opened and used.

29 (5) "Opening a street" shall mean and include the
30 construction and grading of a street or portion thereof and the

1 act of physically taking possession of an area or laid-out
2 street for the purpose of making the same usable to the
3 traveling public.

4 (6) "Improving a street" shall mean and include any work
5 upon any street or portion thereof done or proposed to be done
6 in order to open the same, if [such] the street shall not
7 previously have been opened, or if previously opened, to make
8 the same more usable, or more suitable for use by the traveling
9 public or safer for such use, and shall include, but shall not
10 be limited to grading, paving, curbing and macadamizing.

11 (7) "Portion [thereof]" shall mean and include a portion
12 either of the width or of the length of a street and, therefore,
13 opening a portion of a street may mean extending or widening a
14 street, and vacating a portion of a street may mean closing or
15 narrowing a street.

16 (8) "Personal notice" shall mean and include notice upon the
17 owner of a premises either by personal service upon [such] the
18 owner or by certified mail to [such] the owner at [his] the
19 owner's last known address, or where service shall not have been
20 successfully made by either of the two methods first mentioned
21 herein, then by leaving such notice at or upon [such] the
22 premises.

23 (9) "Person" shall mean and include a natural person,
24 association, firm, corporation or political subdivision.

25 Section 197. Sections 1702 and 1703 of the act are repealed:

26 [Section 1702. Right of Borough to Take Over Streets.--Any
27 borough shall have the right at any time to take over, by laying
28 out and/or opening the same--

29 (1) Any street as it appears upon the borough plan;

30 (2) Any street, or portion thereof, which the borough shall

determine to acquire by the exercise of its rights under the power of eminent domain, by following the procedure set forth in the law governing eminent domain;

(3) Any street to which the public shall have acquired rights by constant use over a period exceeding twenty-one years;

(4) Any street or portion thereof, laid out or constructed by any person, which the borough shall see fit to take over or accept as provided in this article.

Section 1703. Dedication of Streets Privately Constructed.--No borough shall acquire any right in or responsibility for any street privately constructed until dedication of such street shall have been presented to and accepted by the borough and until such dedication shall have been recorded in the county office for the recording of deeds.]

Section 198. Section 1704 of the act is amended to read:

Section 1704. Streets Connecting With Street of Other Municipality [or Township].--No action shall be taken under this article that would result in the change of location or grade, or the vacation of any street or portion thereof that connects with a street of another municipality [or township], without approval of the court of [quarter sessions] common pleas of the county in which [such] the municipality [or township] is located, unless [such] the municipality [or township] shall itself first file with the borough secretary its approval of [such] the proposed action.

Section 199. Sections 1705 and 1706 of the act are reenacted to read:

Section 1705. Entry on Land to Maintain Marks and Monuments.--The borough council, its agents and employes, may enter upon any land or property, and maintain marks and

monuments, so far as the council may deem necessary, in carrying out its powers and duties under this article.

Section 1706. Exclusive Nature of Provisions.--The provisions in this article, as applicable to the dedication, acceptance, laying out, opening and vacation of streets, shall be exclusive, and no streets shall be acquired, laid out, opened or vacated by any borough except under such provisions.

Section 200. The act is amended by adding sections to read:

Section 1707. Failure of Council to Hold Hearing.--If, after the filing of a petition pursuant to this article, council fails to hold a required hearing, any aggrieved party may file a mandamus action in the court of common pleas requesting that a hearing be held.

Section 1708. Street Lighting, Ornamental Lighting and Traffic Control Signals and Devices.--Council may provide street lights and ornamental lighting and make regulations for the protection of lighting. Council may assess the costs for the erection of lighting in accordance with Article XXI-A. Council may provide for the erection, maintenance and operation of traffic control signals and devices in accordance with 75 Pa.C.S. (relating to vehicles).

Section 201. Article XVII subdivision (b) heading of the act is reenacted to read:

(b) Plan of Streets

Section 202. The act is amended by adding a section to read:

Section 1712. Borough Street Plan.--(a) A borough that has not maintained an accurate plan of borough streets adopted in accordance with this act prior to the effective date of this section may only adopt a plan of streets pursuant to the "Pennsylvania Municipalities Planning Code," governing the

1 adoption of an official map.

2 (b) If a borough maintains a plan of streets adopted prior
3 to the effective date of this section, or maintains an official
4 map containing opened and unopened streets, a street laid out in
5 accordance with this act by ordinance or by final approval of a
6 subdivision or land development plan shall be deemed an
7 amendment to the plan. Notwithstanding any other provision of
8 law, a deemed amendment as provided in this section and any
9 subsequent placement of the street on a plan shall not be
10 subject to public notice or public hearing, provided that the
11 street has been laid out in accordance with the requirements of
12 this article.

13 (c) The maintenance of a plan of streets or official map
14 shall not be required in order for a borough to lay out streets
15 in accordance with section 1721.2(b) or lay out and open a
16 street in accordance with section 1724.

17 Section 203. Article XVII subdivision (c) heading of the act
18 is reenacted to read:

19 (c) Laying Out Streets

20 Section 204. The act is amended by adding sections to read:

21 Section 1721.1. Power to Lay Out, Open, Etc.--(a) In
22 accordance with the provisions of this article, boroughs may,
23 with or without petition of abutting property owners, lay out,
24 open, widen, straighten, alter, extend and improve, and may
25 establish or reestablish the grades of, and keep in order and
26 repair and in safe passable condition, any street or portion of
27 a street within the borough limits, or may vacate the same
28 whenever deemed expedient for the public good and provide for
29 the costs of alteration.

30 (b) Boroughs may lay out or open:

1 (1) any street, or portion of a street, as it appears upon a
2 borough plan, or an official map adopted in accordance with the
3 "Pennsylvania Municipalities Planning Code," or is described in
4 an ordinance adopted in accordance with this article;

5 (2) any street, or portion of a street, which the borough
6 shall determine to acquire by eminent domain;

7 (3) any street to which the public shall have acquired
8 rights by constant use over a period exceeding twenty-one years;
9 or

10 (4) any street or portion of a street, laid out or
11 constructed by any person, which the borough shall see fit to
12 open or accept as provided in this article.

13 Section 1721.2. Laying Out Streets; Procedure.--(a) Any
14 street identified in a plan of streets, an official map adopted
15 in accordance with the "Pennsylvania Municipalities Planning
16 Code," or identified in a recorded subdivision or land
17 development plan shall be deemed to be laid out for purposes of
18 this act.

19 (b) Boroughs shall have the authority, by ordinance, to lay
20 out any area for future opening as a public street. The proposed
21 ordinance laying out such street shall be advertised in a
22 newspaper of general circulation once a week for two successive
23 weeks. On or before the publication of the first advertisement,
24 personal notice shall be provided to all owners of any property
25 abutting the proposed street or through which the proposed
26 street is to be laid out, and, if the proposed street will lead
27 into an adjacent municipality, a copy of the proposed ordinance
28 shall be sent to the adjacent municipality. The proposed
29 ordinance shall have appended to the ordinance or referenced a
30 map sufficient to apprise the public of the proposed location,

profile and dimensions of the street, and shall list the names of the owners of any property through which the proposed street has been laid out.

(c) Within ten days after the second publication of the notice required in subsection (b), any interested party may petition council for a hearing, which council shall hold within sixty days after the date of the petition. Council shall give at least fifteen days' notice of the hearing in a newspaper of general circulation and by personal notice to persons entitled to such notice under subsection (b). Council may enact the ordinance no later than thirty days following the date of the hearing, or, where no timely petition has been filed, within thirty days of the second publication of the notice required by subsection (b). The enactment of the ordinance shall constitute public notice of the borough's intent to recognize the street within the system of borough streets and the borough's rights in the street. Within thirty days of the enactment of the ordinance, any party aggrieved by council's action may appeal to the court of common pleas.

(d) If, at the time of the enactment of an ordinance in accordance with subsection (c), the lines of the laid out street include property not subject to use as a public passageway, the ordinance shall be filed with the recorder of deeds of the county where the borough is located. The recorder of deeds shall index the ordinance by name of borough, name of the property owner, and, if applicable, parcel number, of the property through which the proposed street is laid out.

(e) Whenever a street shall have been laid out by ordinance as provided in this section, the owner or subsequent owner shall have no right to damages for buildings or improvements placed on

streets after the date of enactment, and the buildings or
improvements shall be removed at the expense of the landowner
after the opening of the street in accordance with this act.

(f) The laying out of a street, without opening the street,
shall create no right to public use of the street and shall not
constitute the taking or acceptance of any property or obligate
the borough to improve or maintain the street or the property on
which the street has been laid out.

(g) Nothing in this section may affect the validity or legal
effect of a street laid out in accordance with law prior to the
effective date of this section.

Section 205. Section 1723 of the act is repealed:

[Section 1723. Effect of Laying Out Street Without Opening
Thereof.--The laying out of a street, without opening the same,
shall create no right to public use of such street.]

Section 206. Section 1724 of the act, amended April 28, 1978
(P.L.76, No.36) and repealed in part October 5, 1980 (P.L.693,
No.142), is amended to read:

Section 1724. Effect of [Failure to Open Street After its]
Laying Out Street.--(a) At any time after any street or portion
thereof shall have remained laid out but not opened for a period
of ten years or longer, any owner or owners of fifty percent of
the front feet of the land over which [such] the street or
portion thereof was laid out may petition the borough council to
[remove such street from the plan of streets and to] cancel the
laying out [thereof] of the street. Council shall thereupon,
following at least fifteen days' notice in a newspaper of
general circulation [in the borough], and at least fifteen days'
personal notice to the owners of all real estate abutting upon
the land over which [such] the street or portion [thereof] of

1 the street was laid out, hold a public hearing on the matter.
2 Council may, on motion, deny the petition, or, by ordinance,
3 grant [such] the petition and [remove such street or portion
4 thereof from the borough plan and] cancel the laying out
5 thereof. Any person aggrieved by the decision of the council,
6 either granting or denying [such] the petition, may appeal
7 therefrom. The ordinance providing for the cancellation of the
8 laying out of a street shall be filed with the recorder of deeds
9 in accordance with section 1721.2(d).

10 (b) Whenever any street shall have been laid out and shall
11 not have been opened to, or used by the public for a period of
12 twenty-one years, [such] the street shall not thereafter be
13 opened without the consent of at least fifty-one percent of the
14 number of owners of the abutting real estate and without the
15 consent of the owners of at least fifty-one percent of the
16 property abutting [such] the street, based on a front foot
17 basis.

18 Section 207. Article XVII subdivision (d) heading and
19 sections 1731, 1732, 1733, 1734 and 1735 of the act are amended
20 to read:

21 (d) Opening [and Acceptance of Streets]; Acceptance
22 and Vacation of Streets

23 Section 1731. Authority to Open and Vacate Streets;
24 Procedure.--[Any borough] (a) Council shall have authority, by
25 ordinance [(i)], to [open];

26 (1) Open any street or portion thereof previously laid
27 out[;] or [(ii)] simultaneously to lay out and open any street
28 or portion thereof. Any street or portion [thereof] of a street
29 so opened shall be a public street of the borough. [No such
30 ordinance shall become effective until thirty days after the

1 enactment thereof. Within ten days after the enactment of any
2 such ordinance, the borough shall give personal notice to the
3 owners of all property abutting the street so proposed to be
4 opened. During such thirty-day period between the enactment and
5 taking effect of such ordinance, any interested party may
6 petition council for a hearing, which council shall hold within
7 thirty days after the date of such petition, and of which the
8 borough shall give at least fifteen days' notice in a newspaper
9 of general circulation in the borough. Any such petition shall
10 serve to stay the effective date of such ordinance, until
11 council shall have held such hearing and shall have acted upon
12 such petition by motion, or, in case of further appeal, until
13 the court shall have finally disposed of the matter. After such
14 hearing and within thirty days after action by council upon such
15 petition, any party aggrieved by council's action thereupon may
16 appeal to the court of quarter sessions.]

17 (2) Vacate or close any street or portion of a street
18 previously opened or laid out, provided that no street or
19 portion of a street providing the sole means of access to any
20 tract of land shall be vacated without the consent of those to
21 whom access would be denied. Vacation of a street shall
22 terminate all public right in or to the street but shall not
23 affect any private rights acquired by any of the owners of
24 abutting property.

25 (b) The proposed ordinance, opening or vacating any street
26 or portion of a street shall be advertised in a newspaper of
27 general circulation once a week for two successive weeks. On or
28 before the publication of the first advertisement, personal
29 notice shall be provided to all owners of any property abutting
30 the street proposed to be opened or vacated. The proposed

1 ordinance shall have appended to it or shall reference a map or
2 a survey sufficient to apprise the public of the proposed
3 location, profile and dimensions of the street, and shall list
4 the names of the owners of any property abutting the street.

5 (c) Within ten days after the second publication of the
6 notice required under subsection (b), any interested party may
7 petition council for a hearing, which council shall hold within
8 sixty days after the date of the petition. Council shall give at
9 least fifteen days' notice of the hearing in a newspaper of
10 general circulation and by personal notice to persons entitled
11 to notice under subsection (b). Council may enact the ordinance
12 no later than thirty days following the date of the hearing or,
13 where no timely petition has been filed, within thirty days of
14 the second publication of the notice required under subsection
15 (b). Within thirty days of the enactment of the ordinance, any
16 party aggrieved by council's action may appeal to the court of
17 common pleas.

18 Section 1732. Petition for Opening or Vacating Street;
19 Action Thereon.--(a) Any person or persons, constituting a
20 majority in number and interest of the owner of the real estate
21 abutting upon any area not opened as a street or abutting upon
22 an existing street or portion of a street, may petition the
23 council to [open]:

24 (1) Open or lay out and open such area as a street or
25 portion thereof.

26 (2) Vacate a street or portion of a street.

27 (b) Council shall hold a hearing [upon such] after receiving
28 a petition filed with council in accordance with subsection (a),
29 following at least fifteen days' personal notice to all owners
30 of abutting real estate not joining in [such] the petition, and

1 following at least fifteen days' notice thereof in a newspaper
2 of general circulation [in the borough]. Following such hearing,
3 council shall either by motion deny [such] the petition or by
4 ordinance open, [or] lay out and open [such] or vacate the
5 street or portion [thereof] of the street. All provisions of
6 section 1731 [hereof] applicable to ordinances enacted by
7 authority of that section shall apply to ordinances enacted by
8 authority of this section.

9 (c) A petition for the vacation of any street or portion of
10 a street may release the borough from all damages sustained as a
11 result of the vacation if the petition is signed by the owners
12 of all the property abutting upon the street or portion of the
13 street and, where the release shall have been included in the
14 petition, no proceedings for award of damages may be had and no
15 damages as a result of the vacation shall under any conditions
16 be awarded to any abutting property owner.

17 Section 1733. [Procedure for Opening Street;] Action for
18 Damages and Benefits; Award [Thereof].--(a) Upon the effective
19 date of an ordinance enacted to open a street or portion of a
20 street by authority of section 1731 or 1732 [hereof], the
21 borough shall have authority to enter upon and take possession
22 of the street or portion thereof opened by [such] the ordinance,
23 if no structures are upon [such] the street. If any structure
24 shall have been located upon [such] the street or portion
25 [thereof] of the street so opened, prior to the laying out of
26 [such] the street or prior to the simultaneous laying out and
27 opening [thereof, such] of the street, the street shall not be
28 opened until the owner of [such] the structure shall have been
29 given sixty days' personal notice to vacate the same. [If any of
30 the parties cannot agree upon damages sustained by reason of the

1 opening of any street or portion thereof, such damages shall be
2 assessed by a jury of view under the provisions of the law
3 governing eminent domain.] Council shall not be required to file
4 any bond or security for the exercise of the right granted by
5 this section.

6 (b) All parties whose ground is taken in the opening of a
7 street or portion [thereof] of the street shall have three years
8 from and after the effective date of the ordinance opening
9 [such] the street or portion [thereof] of the street in which to
10 bring an action for damages resulting [therefrom] from the
11 opening of the street or portion of the street. In case of the
12 assessment of damages for the opening of any street or portion
13 [thereof] of the street, the award of damages, if any, shall
14 include all damages resulting from the grade at which [such] the
15 street or portion [thereof] of the street is to be opened; the
16 plan attached to the report of the viewers awarding the damages
17 shall [have therein] include a profile plan showing the existing
18 grade as well as the grade to which [such] the street or portion
19 [thereof] of the street is to be opened. Any costs and expenses
20 which cannot be assessed upon property benefited shall be paid
21 by the borough.

22 (c) If the parties cannot agree upon damages sustained by
23 reason of the opening or vacation of any street or portion of a
24 street, the damages shall be assessed by a jury of view under
25 the law governing eminent domain.

26 Section 1734. Acceptance and Dedication of Streets.--(a)
27 Any borough may, by ordinance, accept any opened street not
28 previously dedicated to or laid out by the borough, by following
29 the procedure set forth in section 1731 or 1732 [hereof], and
30 the effect of [such] the acceptance shall be the same as of

opening [such street: Provided, That no] the street. No street may be accepted unless [such] the street connects with at least one other previously opened street or State highway.

(b) No borough shall acquire any right in or responsibility for any street privately constructed until dedication of the street shall have been presented to and accepted by the borough and until the dedication shall have been recorded in the county office for the recording of deeds.

Section 1735. Streets Not to Be Constructed, or Dedicated or Opened to Travel Without the Approval of Council.--(a) No person shall construct, dedicate, or open to travel any street, or any drainage facilities in connection [therewith] with the street, for public use or travel or for the common use of occupants of buildings abutting thereon in any borough, without first submitting suitable plans [thereof] to the council [for its approval. Such] and obtaining its approval. The plans shall be prepared in accordance with [such] rules and regulations as may be prescribed by the council, and shall show the profiles of [such] the street, the course, structure and capacity of any drainage facilities, and the method of drainage of the adjacent or contiguous territory, and also any other or further details that may be required under the rules or regulations adopted by the council.

(b) The provisions of the "Pennsylvania Municipalities Planning Code" shall govern the construction, security requirements and dedication of streets and connected drainage facilities when the streets proposed to be constructed are part of a plan required by an ordinance adopted pursuant to the "Pennsylvania Municipalities Planning Code."

(c) Before acting upon [any such] plans not subject to

1 review under subsection (b), [the] council may, at its
2 discretion, arrange for a public hearing after giving such
3 notice as it may deem desirable in each case. [The council is
4 authorized to] Council may alter [such] the plans, and [to]
5 specify [any] changes or modifications of any [kinds, which it
6 may deem necessary with respect thereto,] kind and may make its
7 approval of [such] the plans subject to [any such] alterations,
8 changes or modifications. Any plans, when so approved, shall be
9 signed on behalf of the borough by such officer as the council
10 may designate, and shall be filed where the same shall be
11 available to public inspection among the records of the borough
12 at all reasonable times. [No street, or any drainage facilities
13 in connection therewith, shall be constructed or dedicated for
14 public use or travel, except in strict accordance with plans so
15 approved by the council, or with further plans subsequently
16 approved by it in the same manner.

17 In any case where council has heretofore required or shall
18 hereafter require the construction or improvement of streets or
19 parts of streets, or of any drainage facilities in connection
20 therewith, or the posting of a bond or other security for so
21 doing, within any parts or subdivisions of a borough, as a
22 condition to approval of any plan thereof, and the materials or
23 other specifications for such construction or improvements are
24 required by the borough to be of better quality or type or
25 otherwise superior to and more costly than those of most of the
26 already existing streets and drainage facilities in connection
27 therewith of the borough, or of the particular zone of the
28 borough, in case it has a zoning ordinance, the cost of such
29 construction or improvement shall be allocated and paid in
30 accordance with the provisions of section 1761 of this act, and

1 the submission of a plan shall not be deemed a petition for the
2 construction or improvements so required, but if the borough
3 shall require substantially the same quality or type and
4 specifications of street and drainage facilities as generally
5 exists either in the borough, or, if the borough has a zoning
6 ordinance, in the particular zone involved, the submission of a
7 plan shall be deemed a petition therefor by a majority in the
8 number of feet assessable, properties abutting thereon, and the
9 cost of such constructions and improvements shall be paid in
10 accordance with the provisions of section 1761 of this act under
11 such circumstances: Provided, That council and the person or
12 persons submitting a plan may in all cases, by agreement,
13 provided otherwise as to such costs: And provided further, That
14 this section shall not authorize the recovery or avoidance of
15 any such costs heretofore agreed to or paid. Whenever council
16 requires the construction or improvement of streets or parts
17 thereof, it shall establish or cause to be established the
18 grades of such streets or parts, or shall approve the grades
19 indicated upon the plan submitted before such streets or parts
20 are improved or constructed. Council's approval of plans,
21 whether or not such plans are subject to any such conditions as
22 to streets, parts of streets, or drainage facilities in
23 connection therewith, shall constitute the streets as shown upon
24 the plans so approved as streets of the borough, any plan so
25 approved as filed and as recorded, indicate clearly all such
26 constructions and improvements required to be made, the grades
27 thereof, the materials and other specifications required, and
28 the allocation of cost thereof, as provided by law or as agreed
29 upon.] No approval of plans by council may obligate or require
30 the borough to construct, reconstruct, maintain, repair or grade

1 any street or drainage facilities associated therewith.

2 (d) In any case where the borough council shall refuse to
3 approve any plans submitted to it, any person aggrieved by the
4 action of council may, within thirty days after the action,
5 appeal from the action, by petition to the court of common pleas
6 of the county which court shall hear the matter de novo, and,
7 after hearing, may enter decree affirming, reversing or
8 modifying the action of the council as may appear just. The
9 court shall designate the manner in which notice of the hearing
10 of an appeal shall be given to all parties interested. The
11 decision of the court shall be final.

12 Any plan approved by the action of borough council or by the
13 court on appeal shall be recorded by the person applying for
14 approval in the office of the recorder of deeds in the county.

15 (e) If any street, or any drainage facilities in connection
16 with the street, shall be opened, constructed or dedicated for
17 public use or travel, except in strict accordance with plans
18 approved by the council, or the court on appeal, as provided in
19 this article, neither the borough council nor any other public
20 authority shall place, construct or operate any sewer, drain,
21 water pipe or other facilities, or do any work of any kind in or
22 upon the street; and neither borough council nor any other
23 public authorities shall have any responsibility of any kind
24 with respect to any such street, or drainage facilities,
25 notwithstanding any use of the same by the public, provided that
26 nothing in this article shall prevent the laying of trunk
27 sewers, drains, water or gas mains, if required by engineering
28 necessity for the accommodation of other territory.

29 (f) Any person who constructs, opens or dedicates any street
30 or any drainage facilities in connection with a street, for

public use or travel in any borough, without having first
complied with the provisions of this article shall be guilty of
a misdemeanor of the third degree and shall be subject to a suit
for all costs and damages incurred by the borough or property
owners in the course of correcting all substantive violations of
State law or borough ordinance resulting from or arising out of
the unlawfully constructed street or facilities. Nothing in this
section shall be construed to apply to the Department of
Transportation.

Section 208. Sections 1736 and 1737 and Article XVII
subdivision (e) heading of the act are repealed:

[Section 1736. Appeal From Refusal of Council.--In any case
where the borough council shall refuse to approve any plans
submitted to it, any person aggrieved by the action of such
council may, within thirty days after such action, appeal from
such action, by petition to the court of quarter sessions of the
county which court shall hear the matter de novo, and, after
hearing, may enter decree affirming, reversing or modifying the
action of the council as may appear just in the premises. The
court shall designate the manner in which notice of the hearing
of any such appeal shall be given to all parties interested. The
decision of the court shall be final.

The action of the borough council, or the court on appeal, in
approving any such plan, and such approved plan, shall be
recorded by the person applying for such approval in the office
of the recorder of deeds in the county.

Section 1737. Streets Opened Without Approval; Penalty.--If
any street, or any drainage facilities in connection therewith,
shall be opened, constructed or dedicated for public use or
travel, except in strict accordance with plans approved by the

1 council, or the court on appeal, as provided in this
2 subdivision, neither the borough council nor any other public
3 authority shall place, construct or operate any sewer, drain,
4 water pipe or other facilities, or do any work of any kind in or
5 upon such street; and neither borough council nor any other
6 public authorities shall have any responsibility of any kind
7 with respect to any such street, or drainage facilities,
8 notwithstanding any use of the same by the public: Provided,
9 however, That nothing herein contained shall prevent the laying
10 of trunk sewers, drains, water or gas mains, if required by
11 engineering necessity for the accommodation of other territory.

12 Any person who shall construct, open or dedicate any street
13 or any drainage facilities in connection therewith, for public
14 use or travel in any borough, without having first complied with
15 the provisions of sections 1735 and 1736 of this act, or of any
16 borough ordinance adopted pursuant thereto, shall be guilty of a
17 misdemeanor, and, upon conviction thereof, shall be sentenced to
18 pay a fine not exceeding one thousand dollars (\$1000), or suffer
19 imprisonment not exceeding two years, or both, in the discretion
20 of the court. Nothing herein contained shall be construed to
21 apply to the Department of Highways of the Commonwealth.

22 (e) Vacating Streets]

23 Section 209. Section 1741 of the act, amended June 28, 1979
24 (P.L.55, No.23), is repealed:

25 [Section 1741. Authority to Vacate Streets; Procedure.--Any
26 borough shall have authority, by ordinance, to vacate or close
27 any street or portion thereof previously opened or laid out, but
28 no street or portion thereof providing the sole means of access
29 to any lot or tract of land shall be vacated unless those to
30 whom access would be denied shall consent. No such ordinance

1 shall become effective until forty days after the enactment
2 thereof. Within ten days after the enactment of any such
3 ordinance, the borough shall give written notice by United
4 States certified mail return receipt requested to the personal
5 address to the owners of all property abutting on the street or
6 portion thereof so proposed to be vacated. If any street or
7 portion thereof proposed to be vacated shall be on a recorded
8 plan, the borough shall also give thirty days notice in a
9 newspaper of general circulation in the borough of the proposed
10 vacation directed to all the owners of property abutting on the
11 street or portion thereof proposed to be vacated by name and
12 directed generally to all other owners of property appearing on
13 such plan. In the event any owners of property abutting on the
14 street or portion thereof so proposed to be vacated cannot be
15 found a copy of the ordinance shall be posted on the premises of
16 such property owner within ten days after the enactment of any
17 such ordinance. During such forty-day period between the
18 enactment and taking effect of such ordinance, any interested
19 party may petition council for a hearing, which council shall
20 hold within thirty days after the date of such petition, and of
21 which the borough shall give at least fifteen days' notice in a
22 newspaper of general circulation in the borough. Any such
23 petition shall serve to stay the effective date of such
24 ordinance, until council shall have held such hearing and shall
25 have acted upon such petition by motion, or, in case of further
26 appeal, until the court shall have finally disposed of the
27 matter. After such hearing and within thirty days after action
28 by council upon such petition, any party aggrieved by council's
29 action thereupon may appeal to the court of common pleas.]

30 Section 210. Sections 1742, 1743 and 1744 of the act are

1 repealed:

2 [Section 1742. Petition for Vacating Street; Action
3 Thereon.--Any person or persons constituting a majority in
4 number and interest of the owners of the real estate abutting
5 upon any street or portion thereof may petition the council to
6 vacate such street or portion thereof. Council shall hold a
7 hearing upon such petition, following at least fifteen days'
8 personal notice to all owners of abutting real estate not
9 joining in such petition, and following at least fifteen days'
10 notice thereof in a newspaper of general circulation in the
11 borough. Following such hearing the council shall either by
12 motion deny such petition or by ordinance vacate such street or
13 portion thereof. All provisions of section 1741 hereof
14 applicable to ordinances enacted by authority of that section
15 shall apply to ordinances enacted by authority of this section:
16 Provided, That any petition for the vacation of any street or
17 portion thereof may release the borough from all damages
18 sustained as a result of such vacation, if such petition is
19 signed by the owners of all the property abutting upon such
20 street or portion thereof, and, where any such release shall
21 have been included in such petition, no proceedings for award of
22 damages shall be had and no damages as a result of such vacation
23 shall under any conditions be awarded to any abutting property
24 owner.

25 Section 1743. Action for Damages.--If the parties cannot
26 agree upon the damages sustained by reason of the vacation of
27 any street or portion thereof, such damages shall be assessed by
28 a jury of view under the law governing eminent domain.

29 Section 1744. Effect of Vacation.--When a street or portion
30 thereof shall have been vacated, all public right in or to such

1 street or portion thereof shall cease, but such vacation shall
2 not affect any private rights acquired by any of the owners of
3 abutting property.]

4 Section 211. Article XVII subdivision (f) heading of the act
5 is reenacted to read:

6 (f) Straightening and Relocating Streets

7 Section 212. Section 1751 of the act is amended to read:

8 Section 1751. Authority to Straighten and Relocate Streets;
9 Procedure.--[Any borough] Council may, by ordinance, provide for
10 straightening [and/or] or relocating any street previously
11 opened, involving the opening of a portion of [such] the
12 straightened [and/or relocate] or relocated street over land not
13 previously a portion of [such] the street [and/or] or the
14 vacation of a portion of such previously opened street no longer
15 to be used for street purposes. [In such cases, such] The
16 straightening [and/or] or relocation shall be considered as an
17 opening [and/or] or vacation and shall be effected in the same
18 manner and by the same procedure as provided in [prior sections
19 of this article for opening or vacation of streets, as the case
20 may be, but such opening and/or vacation] section 1731 but may
21 be considered as a single proceeding, to be effected by
22 enactment of a single ordinance[, and it shall not be necessary
23 to enact one ordinance for vacation and another for opening].

24 Section 213. Article XVII subdivision (g) heading of the act
25 is reenacted to read:

26 (g) Improvement of Borough Streets

27 Section 214. Section 1761 of the act is amended to read:

28 Section 1761. Proceedings With or Without Petition.--
29 Boroughs with petition or without petition may improve streets,
30 or parts [thereof] of streets, or a particular width, or

1 additional widths [thereof] of streets, with or without the
2 assistance or contribution of the United States of America, the
3 [State] Commonwealth, the county, or a corporation occupying the
4 thoroughfare and may assess and collect the whole cost [thereof]
5 of improvement, or the whole cost not thus aided or contributed,
6 or any part [thereof] of the cost, from the owners of real
7 estate abutting on the improvement [by an equal assessment on
8 the foot-front basis or according to benefits as provided in
9 article XV of this act including the expenses of the necessary
10 drainage. The council may make equitable adjustments for corner
11 lots or lots of irregular shape where an assessment for full
12 frontage might be unjust. Property not otherwise assessable
13 shall become assessable by the petition of the owner or the
14 owners' representative. In all cases where the whole width of
15 the highway is being paved without State or County aid and more
16 than two-thirds of the total cost is proposed to be assessed on
17 abutters the borough shall for this purpose be considered as
18 owner of non-assessable property, of street intersections and of
19 the deducted frontage on equitable adjustment. At the discretion
20 of the borough council, the total cost of the improvement or a
21 lesser amount, if the borough desires, may be assessed on the
22 assessable properties abutting without any deduction for non-
23 assessable property or street intersections, or for the
24 equitable adjustments aforesaid, if the petition states that the
25 total cost may be assessed on the abutters: Provided, if in
26 connection with such proceedings any street or sidewalk is so
27 graded or changed in grade that private property is damaged
28 thereby and the damages have not been released or agreed upon,
29 then the damages shall be awarded as provided in the law
30 governing eminent domain, and benefits, costs, and expenses in

1 connection with the improvement shall be assessed as provided in
2 article XV: Provided further, That owners of all real estate
3 abutting upon any such improvement shall be assessable for the
4 cost thereof, whether such property owner be a natural person,
5 partnership, association, firm or corporation, including but not
6 limited to any nonprofit corporation or association, and any
7 public utility corporation, or political subdivision, but not
8 including the Commonwealth of Pennsylvania or the United States
9 of America] in accordance with Article XXI-A.

10 Section 215. Sections 1762 and 1763 of the act are repealed:

11 [Section 1762. Notice of Assessments.--The borough secretary
12 of the borough shall cause thirty days' personal notice of the
13 assessment to be given to each party assessed.

14 Section 1763. Collection of Assessments.--If any assessment
15 shall remain unpaid at the expiration of the notice, it shall be
16 the duty of the borough solicitor to collect the same, with
17 interest from the time of completion of the improvement, by
18 action of assumpsit, or by a lien to be filed and collected in
19 the same manner as municipal claims. When an owner has two or
20 more lots, against which there is an assessment for the same
21 improvement, all of such lots may be embraced in one claim.]

22 Section 216. Article XVII subdivision (h) heading of the act
23 is reenacted to read:

24 (h) Improvement of Streets Outside or Partly
25 Outside Borough Limits

26 Section 217. Section 1771 of the act is amended to read:

27 Section 1771. [Agreements to Improve Boundary Streets.--]

28 Improvement of Streets Outside or Partly Outside Borough

29 Limits.--(a) Any borough may enter into a written agreement,
30 with any adjoining municipality [and/or township] for improving

1 streets which may be boundaries between [such] the borough and
2 municipality [or township], and may provide in [such] the
3 contract [that] for the division of the damages, costs, and
4 expenses of [such] the improvement [shall be divided between
5 such borough, municipality, and/or township in the proportion
6 agreed upon]. The borough may assess its share of [such] the
7 costs against the owner of property abutting upon the borough's
8 side of [such] the improvement, in the manner provided in
9 [sections 1761, 1762 and 1763 of this act] Article XXI-A or may
10 agree to pay any part of the costs, damages and expenses of the
11 improvements out of the general funds.

12 The portion of the damages, costs, and expenses agreed to be
13 paid by the borough, shall be ascertained as provided in the law
14 governing eminent domain[, and the benefits incident thereto
15 shall be assessed and collected in the manner provided in
16 article XV of this act; but the borough may agree to pay any
17 part of the costs, damages, and expenses of such improvements
18 out of the general funds].

19 (b) Whenever the center line of any street constitutes the
20 dividing line between any borough and a township located in the
21 same county, any agreement to improve and maintain the street
22 shall be made with the governing bodies of the township and, if
23 necessary, the county. The improvement shall be constructed and
24 subsequent repairs shall be made under the supervision of the
25 borough, and in compliance with plans to be agreed upon, in
26 writing, by the parties. One-half of the cost of the repairs
27 shall be borne by the borough. The borough may assess its share
28 of costs against the owners of property abutting on the
29 borough's side of the improvement, in the manner provided in
30 Article XXI-A.

1 (c) Whenever any street, more than one-half the width or the
2 entire width of which is within the limits of any borough, shall
3 divide the borough from any other municipality, the street may
4 be improved by the borough. The property abutting on the side of
5 the street, which is located outside the limits of the borough
6 making the improvements, may, for a depth of one hundred and
7 fifty feet, plus one-half the width of the street, from its
8 center line, be assessed for any and all municipal improvements
9 to or on the street in accordance with Article XXI-A.

10 (d) A borough may appropriate and expend moneys for the
11 improvement of a street, not to exceed one mile in length,
12 outside the limits of the borough for the purpose of connecting
13 improved streets in the borough with State highways, interstate
14 highways and county roads.

15 Section 218. Sections 1772, 1773, 1774 and 1775 of the act
16 are repealed:

17 [Section 1772. Proceedings to Improve Boundary Streets by
18 Agreement with Counties and Townships.--Whenever the center line
19 of any street constitutes the dividing line between any borough
20 and a township located in the same county, the borough may enter
21 into a contract with the commissioners of the county and the
22 commissioners or supervisors of the township, as the case may
23 be, to improve such street. Such improvement shall be
24 constructed and subsequent repairs shall be made under the
25 supervision of the borough, and in compliance with the plans to
26 be agreed upon, in writing, between such borough and the
27 commissioners of the county and the commissioners or supervisors
28 of the township. One-half of the cost of such repairs shall be
29 borne by the borough. The borough may assess its share of such
30 costs against the owners of property abutting on the borough's

1 side of such improvement, in the manner provided in section
2 1761, 1762 and 1763 of this act.

3 Section 1773. Streets More Than One-Half the Width of Which
4 Are Within the Borough.--Whenever any street, more than one-half
5 the width of which is within the limits of any borough, shall
6 divide such borough from any other municipality or township,
7 such street may be improved by the borough within which the
8 greater width is located, in the same manner as if such street
9 were entirely located within the limits of said borough. The
10 property abutting on the side of such street, which is located
11 outside the limits of the borough making such improvements,
12 shall, for a depth of one hundred and fifty feet, plus one-half
13 the width of such street, from its center line, be assessed for
14 any and all municipal improvements to or on the said street in
15 the same manner as such property would be assessed under the
16 laws of the Commonwealth if it were entirely located within the
17 limits of such borough.

18 Section 1774. Assessment on Property Outside Limits Where
19 Boundary Line Street Entirely Within Borough.--Wherever any
20 street, entirely within the limits of any borough, shall divide
21 such borough from any other municipality or township, located in
22 the same county, the property on the side of the street opposite
23 the line of the borough shall, for the depth of one hundred and
24 fifty feet, be assessed for municipal improvements on such
25 streets on which such property shall abut, in the manner
26 provided by this article for assessments by the foot-front rule;
27 and such improvements may be made, assessed, and collected in
28 accordance with the provisions of this article for assessments
29 by the foot-front rule.

30 Section 1775. Streets Outside Limits; Appropriations to

1 Improve Connecting Links.--Any borough may, singly, or jointly
2 with any other borough, city, township and/or county,
3 appropriate and expend moneys for the improvement of streets
4 outside the limits of such borough, for the purpose of
5 connecting improved streets in such borough with State highways.
6 No such street shall be improved which shall be more than one
7 mile in length.]

8 Section 219. Article XVII subdivision (i) heading of the act
9 is amended to read:

10 (i) Acquisition [and/or] or Use of Abutting
11 Lands [for Embankments, Slopes, Fills and
12 Culverts, or for Unobstructed View]

13 Section 220. Section 1781 of the act is repealed:

14 [Section 1781. Use of Abutting Lands for Embankments,
15 Slopes, Fills, and Culverts.--In the improvement of any street
16 or portion thereof, any borough may use as much of the land
17 abutting on the same for the construction of embankments,
18 slopes, fills and culverts, as may be necessary and proper for
19 the completion of the improvement; and the assessment of
20 damages, costs, and expenses, resulting thereby, shall be
21 regarded as other assessments of damages, costs, and expenses,
22 caused by the improvement of streets, in said borough, and shall
23 be assessed and paid, as is provided by the law governing
24 eminent domain.]

25 Section 221. Section 1782 of the act is amended to read:

26 Section 1782. Acquisition of Property for Unobstructed
27 View.--(a) Any borough may, singly or jointly with another
28 [borough, city, county or township] municipality, acquire, by
29 purchase or by the right of eminent domain, a free and
30 unobstructed view down and across [such] lands located at or

1 near the intersection of any two streets or highways or a street
2 or highway and a railroad or railway or at a curve in any street
3 or highway as may be necessary to assure a free and unobstructed
4 view in all directions at such crossings, and to so prevent the
5 use of [such] the lands for any purpose or in any manner which
6 may interfere with or obstruct the view of persons traveling
7 upon any such street or highway.

8 [Upon any such] (b) After condemnation, the borough [having
9 had such view condemned] may, from time to time, abate or remove
10 or cause to be abated or removed any obstruction to the view
11 over and across [such] the lands except poles used in furnishing
12 [telephone, telegraph or electric] service to the public.

13 (c) The proceedings for the condemnation of [such] the view
14 over and across [such] lands and for the assessment of damages
15 for property taken, injured or destroyed, or the portion thereof
16 agreed to be paid by the borough if the taking is jointly with
17 another [borough, city, county or township] municipality, shall
18 be taken in the manner provided in the law governing eminent
19 domain.

20 (d) Upon the purchase or condemnation of a view, the owner
21 of [such] the lands may make every [such use thereof] use of the
22 lands as will not interfere with a free and unobstructed view at
23 the dangerous crossing or curve [and, unless specially provided
24 for in such purchase or condemnation proceedings, such purchase
25 or condemnation shall be constructed to prevent the owner
26 thereof from using the land for pasture or the growing of grass,
27 oats, wheat or other crops which will not obstruct the vision
28 more than wheat].

29 Section 222. Article XVIII heading of the act is reenacted
30 to read:

ARTICLE XVIII

SIDEWALKS

Section 223. Sections 1801 and 1802 of the act are amended to read:

Section 1801. Power to Lay Out[, Ordain] and Establish Sidewalks and to Compel the Construction Thereof.--Any borough may, by ordinance, lay out[, ordain] and establish sidewalks, curbs, gutters and surface water drains along any street, and, with the consent of the Secretary of [Highways] Transportation of the Commonwealth, along any State highway, and may, with or without petition, require owners of property abutting on any street or State highway to grade, construct, drain, pave and repave the sidewalk, curb or gutter and keep [the same] them in repair, and in safe and usable condition along [such] the property, at such grades and under such regulations and specifications as council may prescribe[: Provided, That the].
The word "sidewalk" as used in this article, shall mean and include the portion of a street located outside the cartway, and may include paved footway, unpaved grassplot, curb and gutter.

Section 1802. Sidewalks on Land Abutting State Highways and Along Roads Outside Borough.--Any borough may [ordain and], by ordinance, lay out sidewalks, gutters, [and/or] and surface water drains upon land abutting the sides of State highways, and upon land abutting the sides of public roads, where such roads are outside the borough limits, but the land upon which [such] the sidewalks, gutters [and/or] and surface water drains are to be laid out is within the borough limits.

Section 224. Sections 1803 and 1804 of the act are reenacted to read:

Section 1803. Establishment of Grades.--Any borough may

1 establish a grade or grades for sidewalks, which grade or grades
2 may be separate and apart from the grade or grades established
3 for the cartway or roadway.

4 Section 1804. Boroughs May Pay All or Part of Cost of
5 Grading and Curbing.--The borough may pay all or any part of the
6 cost and expenses of grading and curbing any sidewalk.

7 Section 225. Section 1805 of the act is amended to read:

8 Section 1805. Borough May Do Work; Collection of Cost.--Upon
9 the [neglect] failure of any property owner to comply with any
10 of the requirements provided in the preceding sections of this
11 article, the borough may, after notice, cause the grading,
12 paving, repairing, curbing, [and/or] and guttering to be done at
13 the cost of [such] the owner, and may collect the cost [thereof]
14 of the work and ten percent additional, together with all
15 charges and expenses, from [such] the owner, and may file a
16 municipal claim [therefor] for the amounts or collect the [same]
17 amounts by action in assumpsit.

18 All [such] notices shall be served upon the owner of the
19 premises to which the notice refers, if [such] the owner is a
20 resident of the borough. If the owner is not a resident, then
21 the notice may be served upon the agent or tenant of the owner,
22 or upon the occupant of [such] the premises[, after such
23 premises, if]. If the owner has no agent or tenant or there is
24 no occupier of [such] the premises, then service shall be by
25 notice posted upon the premises. The notice required by this
26 section shall specify a period of time of not less than thirty
27 days for the owner to complete the specified work. If the work
28 has not been completed after the specified time has elapsed, the
29 owner shall be deemed to have failed to comply.

30 Section 226. Section 1806 of the act, amended December 21,

1 1988 (P.L.1413, No.171), is amended to read:

2 Section 1806. Emergency Repairs to Sidewalks.--In addition
3 to the remedies now vested in boroughs to make repairs to
4 sidewalks, any borough shall have power to make emergency
5 repairs to any sidewalks [thereon, where, in the opinion of the
6 officer or head of the department or committee lawfully having
7 charge of sidewalk repairs, a dangerous condition exists that
8 can be repaired by an expenditure of not more than five hundred
9 dollars (\$500)] within the borough if an inspection of the
10 sidewalk discloses that, and a certificate made by the officer
11 or head of the department or committee lawfully having charge of
12 sidewalk repairs specifies that, a dangerous condition exists
13 that can be repaired by an expenditure of not more than one
14 thousand dollars (\$1,000). Before [any such] repairs are made, a
15 notice to make the repairs within forty-eight hours shall be
16 served upon the owner of the [said] property. If the owner
17 cannot be served within the county, notice may be served upon
18 the agent of the owner or the party in possession, or if there
19 is no agent or party in possession, the notice may be served by
20 posting the same upon [such] the premises.

21 Upon the completion of the work, the cost [thereof] shall be
22 a charge against the owner of the property, and shall be a lien,
23 until paid, upon the abutting property, provided a claim is
24 filed [therefor] in accordance with the law providing for the
25 filing and collection of municipal claims. [Any such] The charge
26 may also be collected by action of assumpsit. This section is
27 intended to provide an additional remedy for boroughs in
28 connection with emergency repairs, where the actual cost of
29 doing the work does not exceed [five hundred dollars (\$500)] one
30 thousand dollars (\$1,000), and the certificate of the officer or

1 head of the department or committee in charge of repairs to
2 sidewalks shall be conclusive evidence of the existence of the
3 emergency justifying the repair under the terms of this section.

4 Section 227. Article XIX heading of the act is reenacted to
5 read:

6 ARTICLE XIX

7 BRIDGES, VIADUCTS AND UNDERGROUND

8 PASSAGEWAYS

9 Section 228. Sections 1901, 1902, 1903, 1904 and 1905 of the
10 act are amended to read:

11 Section 1901. Construction or Acquisition and Maintenance of
12 Bridges and Viaducts.--Any borough may locate and build, or
13 acquire by purchase, condemnation or otherwise, any bridge or
14 viaduct and the piers, approaches and abutments therefor, to be
15 used and thereafter improved and maintained as a street, over
16 any river, creek, stream, railroad or public or private property
17 or over and across a combination of any of them, whether [such]
18 the bridge or viaduct shall be wholly or partly within[, or
19 partly within and partly without] the borough limits. The
20 proceedings for laying out and opening [any such] a bridge or
21 viaduct shall be the same as provided by this act for the laying
22 out and opening of streets, and [any such] the bridge or viaduct
23 or portion [thereof] of the bridge or viaduct may thereafter be
24 vacated under the same procedure as provided in this act for the
25 relocation or vacation of streets or portions thereof.

26 Section 1902. Right to Appropriate Property; Assessment of
27 Damages.--In any case where the borough shall not have agreed
28 with the owner or owners for damages done, or likely to be done,
29 by the erection of [any such] a bridge or viaduct, the borough
30 may take and appropriate the land and property necessary, over

1 and across which to erect [such] the bridge or viaduct and the
2 damages caused by [such] the taking and appropriation shall be
3 assessed according to the law governing eminent domain.

4 Section 1903. Boundary Bridges.--Whenever a bridge or
5 viaduct shall cross the boundary line of a borough and another
6 municipality [or township], the borough may [unite] enter into
7 an intergovernmental cooperation agreement in accordance with 53
8 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
9 cooperation) with [such] the municipality [or township] in the
10 construction and maintenance of [such] the bridge, and shall
11 [pay an equal share of the expenses incident thereto] apportion
12 the costs as per the intergovernmental agreement.

13 Section 1904. Contracts With Railroads and Other Companies
14 and With Counties.--The borough may also enter into a contract
15 with the county commissioners, and also with railroads, street
16 railways, and other companies, or parties interested, for the
17 building and maintenance of [such] bridges or viaducts, and for
18 the payment of any damages caused by the location or erection
19 thereof. [Such] The contracts may stipulate that the borough,
20 county, railroad company, street railway, or other company or
21 party interested, shall pay a certain part of the contract price
22 of the work, including damages; or may stipulate that each shall
23 construct a certain portion of the work, and may provide
24 otherwise for the payment of damages.

25 When any railroad company, street railway, or other company
26 or party interested, shall agree to pay a certain portion of the
27 cost of [such] the work, it shall pay the same into the borough
28 treasury; and the borough treasurer shall pay the same over to
29 the contractor, as may be provided in the contract; but the
30 amount to be paid by the county shall be paid directly to the

1 contractor. The agreement may provide for the maintenance of the
2 bridges and viaducts after their erection. Nothing [herein
3 contained] in this section shall authorize any borough to
4 contract with a county for the maintenance of any bridge or
5 viaduct which does not cross a place over which the county is
6 authorized to build bridges; but [such] the bridge or viaduct
7 shall be maintained as a borough structure, and the borough may
8 contract with any party interested, except the county, for the
9 maintenance of the [same.] bridge or viaduct. Nothing in this
10 section shall affect the powers or duties of the Public Utility
11 Commission to the extent otherwise provided by law.

12 Section 1905. Overhead and Underground Passageways.--
13 Whenever the comfort and safety of the residents of any borough
14 and any adjoining municipality [or township] be enhanced by any
15 overhead or underground passageway connecting with adjoining
16 streets in either borough or municipality [or township], and
17 extending to any plant or place of business where residents of
18 [such] the borough are employed, [such] the borough may jointly
19 with each adjoining municipality [or township], construct and
20 maintain any [such] passageway or they may join with other
21 interests in the construction and maintenance [thereof] of the
22 passageway.

23 Section 229. Article XX heading of the act is reenacted to
24 read:

25 ARTICLE XX

26 SANITARY SEWERS

27 Section 230. Article XX subdivision (a) heading and sections
28 2001 and 2002 of the act are amended to read:

29 (a) Laying Out, [Ordaining and] Construction
30 and Operation of Sanitary Sewers and Construction

of Sewage Treatment Works

Section 2001. Power to Lay Out[, Ordain] and Construct.--
[Boroughs, with the consent and permit of the Sanitary Water
Board, and of the Water and Power Resources Board, where
requested,] (a) (1) Upon enactment of an ordinance, boroughs
may lay out[, ordain] and construct sanitary sewers and branches
of sanitary sewers in streets and on public or private property,
and may construct sewage treatment works on land owned or
acquired for such purposes[, and]. Boroughs may pay the costs
and expenses [thereof] of sanitary sewer systems and treatment
works out of borough funds, or may assess the costs and expenses
[of sanitary sewers as herein provided] pursuant to Article XXI-
A.

(2) Boroughs may determine the location and the manner in
which sanitary sewer systems shall be constructed. Sanitary
sewers laid and constructed in streets may be located in the
center of the street or [on either side of the cartway] in the
right-of-way or [of] the curb lines [thereof] of the street in
any street and may be for the service and use of properties on
both sides of the street or on only one side of the street in
which they are laid, as directed by the borough council[, and
the costs and expenses of such sanitary sewers may be assessed
against properties benefited, accommodated or improved thereby
regardless of the property line location, and regardless of
whether any portion of a property so benefited, accommodated or
improved shall physically abut upon such sanitary sewer. The
term "sanitary sewer,"]. Boroughs shall have the authority to
lay out and construct sanitary sewers in any street, any portion
of which is within the limits of the borough, and which forms a
portion of the boundary dividing the borough from any other

municipal corporation within the same county, in the same manner
and to the same extent as if the whole of the street was within
the limits of the borough.

(3) Whenever any borough is maintaining and operating a
sanitary sewer system and sewage treatment works, it shall be
lawful for the borough to supply sewerage service to
municipalities, persons and corporations outside the limits of
the borough and to enter into contracts for service at rates not
less than those required to be paid by persons and corporations
within the limits of the borough. This privilege shall not
conflict with the rights of any sewer company or the rights of
any other borough.

(b) (1) If required by other law, a borough shall obtain
the consent and permit of the Department of Environmental
Protection, or other Federal, State or county entity, including
the Pennsylvania Turnpike Commission, for the laying out and
construction of a sanitary sewer and treatment works.

(2) Where construction beyond the limits of the borough is
entirely within the limits of a State or county highway or the
turnpike, a sanitary sewer may be constructed in or under the
State or county highway, or turnpike, provided that written
notice is given to the Department of Transportation, county
commissioners or Pennsylvania Turnpike Commission, respectively,
and its consent obtained before construction is commenced.
Permission shall not be unreasonably withheld.

(c) Borough council may by ordinance make regulations
respecting the use and maintenance of the sanitary sewer system
and treatment works. The regulations may:

(1) specify materials and substances which may or may not
enter the public sewer or sewer system;

1 (2) require that certain types or classes of waste be
2 subjected to treatment or to grinding or other reduction in size
3 before entering into the sewer;

4 (3) restrict the quantity of waste material that may enter a
5 sanitary sewer from any premises within any time interval; and

6 (4) require that property owners provide means other than
7 the public sanitary sewers for disposal of storm, surface and
8 roof water originating or accumulating upon their property.

9 Violations of the ordinance may be enforced by penalties.

10 (d) (1) "Sanitary sewer" or "sanitary sewer system," as
11 used in this article, shall mean [and include] a sewer or sewers
12 used for receiving and collecting sewage matter and liquid waste
13 from the inside of buildings and structures[, and, in those
14 boroughs where there shall be what is known as "combined
15 sewers," receiving, in addition to such]. Storm water shall not
16 be permitted to enter into a sanitary sewer. A sanitary sewer or
17 sanitary sewer system shall not include a combined sewer.

18 (2) "Combined sewer" shall mean a sewer used for the
19 receiving and collecting of sewage and liquid waste from the
20 inside of buildings and structures, storm water, roof or surface
21 drainage [or any of them, the term "sanitary sewer," as used in
22 this article, shall include such combined sewers], sump pump
23 discharge and draining from foundation drains.

24 (3) "Sewer system," as opposed to a "sanitary sewer system,"
25 shall be either a sanitary sewer or a combined sewer and shall
26 include pump stations and force mains.

27 Section 2002. [Assessment According to Benefits.--Where a
28 borough constructs sanitary sewers and desires to assess the
29 costs and expenses upon property benefited, whether or not such
30 property abuts upon such sewer, then on petition, viewers shall

1 be appointed, as provided in article XV of this act, who shall
2 assess the damages, costs, and expenses of the sanitary sewer
3 upon the property benefited, accommodated or improved according
4 to benefits, if sufficient can be found, but if not, then the
5 deficiency when finally ascertained shall be paid by the
6 borough. The proceedings of the viewers and the proceedings of
7 their report shall be as provided in article XV of this act.]

8 Assessments.--Assessments, whether based according to benefits
9 conferred or by the front foot basis, and assessment awards, if
10 any, shall be calculated pursuant to Article XXI-A.

11 Section 231. Sections 2003, 2004 and 2005 of the act are
12 repealed:

13 [Section 2003. Assessment by Foot-front Rule.--Where a
14 borough constructs sanitary sewers and desires to assess the
15 costs and expenses thereof by the foot-front rule, it may by
16 ordinance provide that the expenses shall be assessed against
17 the property benefited, improved or accommodated by any sanitary
18 sewer, whether or not such property abuts upon such sewer, by
19 the foot-front rule and may provide for equitable assessments
20 and/or adjustments when special conditions exist where an
21 assessment for the full frontage would be unjust. The secretary
22 of the borough shall cause thirty days' notice of the assessment
23 to be given to each party assessed, either by service on the
24 owner or his agent, or left on the assessed premises.

25 Section 2004. Places and Manner of Construction.--The
26 borough shall fix the places along, where such sanitary sewer
27 and branches thereof, shall be laid down, and shall prescribe
28 the manner in which they shall be constructed.

29 Section 2005. Permit from Sanitary Water Board.--No contract
30 for the construction of any sewer system or treatment works

1 shall be entered into until a permit for the construction of the
2 same shall have been obtained from the Sanitary Water Board.]

3 Section 232. Section 2006 of the act, amended October 9,
4 1967 (P.L.399, No.181), is repealed:

5 [Section 2006. Assessments of Cost.--Whenever any borough
6 shall construct any sanitary sewer and assess the cost thereof
7 by the foot-front rule, the assessment, duly certified under the
8 seal of the borough, attested by the president of council and
9 secretary, shall be collectible from the owner of property
10 benefited, improved or accommodated thereby.

11 Such certificate of assessment shall be prima facie evidence,
12 in any suit for the recovery of same, of the correctness and
13 validity of such assessment.

14 The assessment herein referred to shall be computed under the
15 terms of the ordinance, but the individual assessments need not
16 be expressed therein.]

17 Section 233. Sections 2007 and 2008 of the act are repealed:

18 [Section 2007. Collections of Assessments.--If the owners of
19 property against which a foot-front assessment has been made
20 shall refuse to pay such assessment within thirty days after
21 notice of the same, it shall be the duty of the borough
22 solicitor to collect the same, with interest from the time of
23 completion of the improvement, by action of assumpsit, or by
24 lien to be filed and collected in the same manner as municipal
25 claims. When an owner has two or more lots against which there
26 is an assessment for the same improvement, all of such lots may
27 be embraced in one claim.

28 Section 2008. Regulations of Borough.--The borough may
29 enforce by penalties, such regulations as it may ordain with
30 reference to the use and maintenance of such sanitary sewerage

1 system and treatment works.]

2 Section 234. Sections 2009 and 2010 of the act are amended
3 to read:

4 Section 2009. Extensions Beyond Borough Limits; Eminent
5 Domain.--The borough may extend the necessary sewer mains, pipes
6 and outlets beyond the limits of [such] the borough, to a point
7 where [such] the sewage is to be disposed[;] or collected and
8 received and shall have power to enter upon and condemn [such
9 lands, property and materials] land for the construction of all
10 [such] sewer mains, outlets, and treatment works as may be
11 necessary for the disposal or the collection of [such] the
12 sewage provided that the extension is in conformity with 26
13 Pa.C.S. § 206 (relating to extraterritorial takings) and any
14 other applicable requirement of 26 Pa.C.S. (relating to eminent
15 domain).

16 Section 2010. Notice of Certain Ordinances.--No ordinance
17 for any construction of sewers or treatment works beyond the
18 limits of the borough, shall be [adopted] enacted until notice
19 [thereof] of the ordinance has been given, by publication of the
20 proposed ordinance, once a week for four weeks in one newspaper
21 of general circulation [in the borough], and also by serving
22 copies of [such] the proposed ordinance upon all land owners
23 through whose land [such] the sewer is to pass, or on whose
24 lands any treatment works are to be located, at least ten days
25 before [final action thereon. But no notice, as herein provided,
26 shall be required where such construction beyond the limits of a
27 borough is entirely within the limits of any street or State
28 highway. In such cases a written notice shall be given to the
29 corporate authorities of the municipality or township having
30 jurisdiction over such street and consent of the State

1 Department of Highways shall be obtained in the case of any
2 State highway, before construction is commenced] the enactment
3 of the ordinance.

4 Section 235. Section 2011 of the act is repealed:

5 [Section 2011. Security for Damages; Assessments.--Before
6 entry shall be made upon private property without the owner's
7 consent, for the purpose of laying any sewer or constructing any
8 treatment works, security for all damages which may be done
9 shall first be given to such owner in such form and in such
10 amount as the court of common pleas of the county may direct.
11 All damages caused by the construction of any such sewer or
12 works, or by the taking of lands and materials, shall be
13 ascertained in the manner provided in the law governing eminent
14 domain for property taken, injured, or destroyed, and shall be
15 paid out of the borough treasury.]

16 Section 236. Sections 2012 and 2013 of the act are amended
17 to read:

18 Section 2012. Unlawful to Build Within Right-of-Way of
19 Sanitary Sewers.--It shall be unlawful for any person to erect
20 any building or make any improvement, within the right-of-way of
21 any sanitary sewer laid out [or ordained to be laid out], after
22 due notice [thereof;] of the laying out of the sanitary sewer,
23 and, if any [such] erection or improvement shall be made, no
24 allowance shall be had [therefor] for the building or
25 improvement in the assessment of damages.

26 Section 2013. Opening Sanitary Sewers.--(a) If any borough
27 shall lay out [or ordain] any sanitary sewer, over or under
28 private property, located in whole or in part within the limits
29 of [such] the borough, and proceedings to open the same and to
30 assess the damage arising therefrom shall not be proceeded with

1 by the borough, within two years from the enactment of the
2 ordinance, the whole proceeding shall be void.

3 (b) If any borough has laid out a sanitary sewer without the
4 enactment of an ordinance prior to the effective date of this
5 subsection and shall have not opened the same, the proceedings
6 shall not be deemed to be void but the borough shall have two
7 years from the effective date of this subsection to open the
8 sanitary sewer or the whole proceeding shall be void.

9 Section 237. Article XX subdivision (b) heading and section
10 2021 of the act are amended to read:

11 (b) Joint Sanitary Sewers

12 Section 2021. [Building Joint Sewers.--(a) Boroughs may
13 jointly with other cities, boroughs or townships build and
14 construct sanitary sewers, including trunk line sewers or drains
15 and sewage treatment works, and may connect into such system
16 existing sanitary sewers, and may assess their respective
17 portions of the cost thereof, or so much thereof as may be
18 legally assessable, upon property benefited, improved, or
19 accommodated by the improvement, either by viewers or by the
20 foot-front rule as provided in this article. Any portion of the
21 cost of such improvement not assessed or not assessable shall be
22 paid by the respective cities, boroughs, and townships joining,
23 as may be agreed upon.] Joint Sanitary Sewer Systems.--(a)
24 Pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to
25 intergovernmental cooperation), boroughs may contract with other
26 municipal corporations providing for the joint construction or
27 maintenance of sanitary sewer systems and for the joint
28 construction onto existing sanitary sewer systems. The agreement
29 shall provide for the apportionment of costs among the municipal
30 corporations. The borough council may assess the borough's

1 respective portion of the costs, as may be legally assessable,
2 upon property benefited by the facilities pursuant to Article
3 XXI-A. Any portion of the cost not assessed or assessable shall
4 be paid by the respective municipal corporations under the
5 agreement.

6 (b) The [boroughs, cities and townships] municipal
7 corporations joining or contemplating joining in any [such]
8 improvement, in order to facilitate the building of the [same]
9 sanitary sewer system and in securing preliminary surveys and
10 estimates, may by ordinance provide for the appointment of a
11 joint sanitary sewer board composed of one representative from
12 each of the [boroughs, cities, and townships] municipal
13 corporations joining which shall act generally as the advisory
14 and administrative agency in the construction of [such] the
15 improvement[,] and its subsequent operation and maintenance.

16 [The members of such] Members of the joint sanitary sewer board
17 shall serve for terms of six years each from the dates of their
18 respective appointments and until their successors are
19 appointed. The joint sanitary sewer board shall organize by the
20 election of a [chairman] chair, secretary, and treasurer. The
21 secretary and treasurer may be the same person. The [several
22 boroughs, cities, and townships] municipal corporations may in
23 the ordinances creating the joint sanitary sewer board,
24 authorize the board to appoint an engineer, a solicitor, and
25 [such] other assistants as are deemed necessary, and agree to
26 the share of the compensation of [such] those persons each
27 [borough, city, and township,] municipal corporation is to pay.
28 The members of the joint sanitary sewer board shall receive
29 [such] compensation for attending board meetings [of the board]
30 as [shall be fixed] established in the budget[,] that is

1 prepared by the joint sanitary sewer board [for submission to,
2 and adoption by, the several boroughs, cities, and townships, as
3 hereinafter provided,] and submitted to and adopted by the
4 municipal corporations. The members shall be entitled to actual
5 expenses to be paid by the respective [boroughs, cities and
6 townships which such] municipal corporations the members
7 represent.

8 (c) The joint sanitary sewer board [shall have powers to]
9 may adopt rules and regulations consistent with the requirements
10 of this act to govern its proceedings, and shall prepare and
11 suggest any practical measures and plans by which the joint
12 improvement may be carried to successful completion[;] and plan
13 the future development of the system, so as to conform to a
14 general plan. It [shall have power to] may prepare a joint
15 agreement or agreements for submission to and adoption by the
16 [several boroughs, cities and townships] municipal corporations
17 defining the advisory and administrative powers of the joint
18 sanitary sewer board[;] and setting forth the consents of the
19 [several boroughs, cities and townships] municipal corporations
20 to the proposed improvement; the manner in which preliminary and
21 final plans, specifications and estimates for the proposed
22 improvement shall be prepared and adopted; how proposals for
23 bids shall be advertised and contracts let; the manner in which
24 the costs of the improvement and other incidental and
25 preliminary expenses in connection [therewith] with the
26 improvement, and the future cost of operation and maintenance
27 shall be equitably shared, apportioned and paid; and all [such]
28 other matters, including the preparation and submission of
29 annual and other budgets, as may be deemed necessary or required
30 by law[, to carry] to complete the proposed improvement [to

1 completion] and to assure future maintenance and operation
2 thereof. [But nothing herein contained shall authorize the board
3 to make any improvement or expend any public moneys which has
4 not first been authorized by all the boroughs, cities and
5 townships] The board may not make any improvement or spend any
6 public moneys which have not first been authorized by all of the
7 municipal corporations proceeding with the improvement.

8 (d) [In any case where it shall be] When it is necessary to
9 acquire, appropriate, injure, or destroy private property[,
10 lands, property, or material] to build [any such] a joint
11 sanitary sewer system or improvement[,] and the [same] property
12 cannot be acquired by purchase or gift, the right of eminent
13 domain shall vest in the [borough, city, or township] municipal
14 corporation where [such] the property is located. [In any case
15 where it shall be] When it is necessary to acquire, injure, or
16 destroy property in any territory not within the limits of any
17 of the [boroughs, cities, or townships] municipal corporations
18 joining in the improvement, then the right of eminent domain
19 shall be vested in [any borough, city, or township] the
20 municipal corporation adjacent to [such] the territory where
21 [such] the property is located subject to 26 Pa.C.S. § 206
22 (relating to extraterritorial takings). Damages for any property
23 taken, injured, or destroyed shall be assessed [as provided by
24 the general laws relating to the boroughs, cities and townships]
25 under laws relating to the municipal corporation exercising the
26 right of eminent domain[;] and shall be paid by the [several
27 boroughs, cities and townships] municipal corporations
28 joining[,] in the same proportion as other costs of the
29 [improvement] improvements.

30 (e) Each of the boroughs joining in [any such] the

1 improvement shall have power to incur or increase its
2 indebtedness, not exceeding the constitutional limits, for the
3 purpose of paying its share or portion of the cost of [such] the
4 improvement in the manner now provided by law for the incurring
5 of indebtedness.

6 Section 238. Section 2022 of the act is repealed:

7 [Section 2022. Approval of Sanitary Water Board.--No such
8 sewer or sewage treatment plant shall be constructed until plans
9 and specifications have been submitted to the Sanitary Water
10 Board, and approved in accordance with provisions of existing
11 laws.]

12 Section 239. Sections 2023, 2024 and 2025 of the act are
13 amended to read:

14 Section 2023. Connections with Sanitary Sewers of Adjacent
15 Municipalities.--Any borough may connect with an existing
16 sanitary sewer, owned by any adjacent municipality [or
17 township,] for sewerage purposes[, in the manner prescribed in
18 [the following sections of this subdivision of this article]
19 sections 2024, 2025 and 2026.

20 Section 2024. Applications to Court.--Whenever any borough
21 shall desire to connect with the existing sanitary sewer of any
22 adjacent municipality [or township,] and no agreement, either
23 upon the basis of a rental payment for the use of an existing
24 sanitary sewer or a division of the cost of the construction or
25 maintenance [thereof] of the sanitary sewer, has been reached
26 between [such] the borough and the adjacent municipality [or
27 township], an application shall be made by council to the court
28 of [quarter sessions] common pleas of the county where the
29 proposed connection is to be located, setting forth that fact.

30 Section 2025. Appointment of Viewers.--If the court shall be

1 of the opinion that [such] the connection can be made without
2 impairing the usefulness of the existing sanitary sewer, it
3 shall appoint three viewers, who shall view the premises and
4 investigate the facts of the case, and shall assess the
5 proportionate part of the expense of building the original
6 sanitary sewer upon [such] the borough, and shall fix the
7 proportion of the expense for repairs which each municipality
8 [or township] shall thereafter bear, and determine all other
9 questions liable to arise in connection [therewith] with the
10 sanitary sewer.

11 Section 240. Section 2026 of the act, repealed in part June
12 3, 1971 (P.L.118, No.6), is amended to read:

13 Section 2026. Report of Viewers; Appeals to Court.--The
14 viewers shall report to the court the result of their
15 investigation, which report shall be confirmed within thirty
16 days unless exceptions [thereto be] are filed. After
17 confirmation of [such] the report, or the disposal of any
18 exceptions, any party interested may appeal from the decision of
19 the court of [quarter sessions] common pleas.

20 Section 241. Article XX subdivision (c) heading and sections
21 2031 and 2032 of the act are repealed:

22 [(c) Power to Supply Sewerage Service Outside Borough Limits

23 Section 2031. Power to Supply Service.--Whenever any borough
24 is maintaining and operating a sewerage system and sewage
25 purification or treatment works, it shall be lawful for such
26 borough to supply sewerage service to municipalities, townships,
27 persons and corporations, outside the limits of such borough,
28 and to enter into contracts for such service, at rates not less
29 than those required to be paid by persons and corporations
30 within the limits of such borough; but no such privilege shall

1 conflict with the rights of any sewer company, or the rights of
2 any other borough.

3 Section 2032. Power to Extend Lines and Condemn Property.--

4 For the purpose of supplying such sewerage facilities, any such
5 borough may extend the necessary sewer mains and pipes beyond
6 the limits of such borough, to the points where such sewage is
7 to be collected and received, and shall have the power to enter
8 upon and condemn such lands, property and materials for the
9 construction of such sewer mains, and pipes, as may be necessary
10 to the furnishing of such sewerage service.]

11 Section 243. Article XX subdivision (d) heading of the act
12 is amended to read:

13 (d) Acquisition of [Sewer] Community Collection
14 or Disposal Systems

15 Section 244. Section 2041 of the act is repealed:

16 [Section 2041. Power to Acquire Sewer Systems.--Any borough,
17 in which any person or persons, firm, or corporation are
18 maintaining sewers and culverts, with the necessary inlets and
19 appliances for surface, under surface and sewage drainage, or in
20 which any person or persons, firm or corporation are maintaining
21 a community sewage collection or disposal system as defined in
22 section 2043 of this act, may become the owner of such sewers,
23 culverts, inlets and appliances, or the owner of such community
24 collection or disposal system, by purchase or by the exercise of
25 the power of eminent domain, or by gift from the owner or owners
26 thereof.]

27 Section 245. The act is amended by adding a section to read:

28 Section 2041.1. Power to Acquire Community Collection or
29 Disposal Systems.--(a) A borough may, by ordinance, acquire
30 ownership of a community sewage collection or disposal system as

1 defined in section 2043 by purchase or by the exercise of
2 eminent domain pursuant to 26 Pa.C.S. (relating to eminent
3 domain), or by gift from the owner or owners.

4 (b) In eminent domain proceedings, the viewers shall assess
5 the costs and expenses of the community sewage collection or
6 disposal system acquired by the borough upon the property or
7 properties benefited according to benefits. Any deficiency that
8 is not assessed upon the benefited property or properties shall
9 be paid by the borough.

10 Section 246. Section 2042 of the act is repealed:

11 [Section 2042. Assessment of Damages.--In case of
12 disagreement, the amount to be paid shall be ascertained in the
13 manner provided in the law governing eminent domain. In the same
14 proceeding, the viewers shall assess the costs and expenses of
15 the sewer, culverts, inlets and appliances, or of the sewer
16 collection, or disposal system, acquired by the borough, upon
17 the property benefited, according to benefits, if sufficient can
18 be found; but, if not, then the deficiency when ascertained
19 shall be paid by the borough.]

20 Section 247. Section 2043 of the act is amended to read:

21 Section 2043. Community Sewage Collection or Disposal
22 Systems.--(a) For the purpose of this subdivision, a community
23 sewage collection or disposal system is all or part of a device
24 or devices installed on any privately or publicly owned parcel
25 of land, intended to treat or dispose of the sewage or
26 equivalent volume of domestic sewage from two or more
27 residences, buildings or occupied parcels of land, or any system
28 of piping used in collection and conveyance of sewage on private
29 or public property.

30 (b) After a community sewage collection or disposal system

1 has been acquired under the provisions of this subdivision by
2 the borough, the council shall have the power to enlarge [such]
3 the system if it deems it advisable. In such cases, the cost and
4 expenses of [such] the enlargement may be distributed or
5 assessed in the same manner as if the enlargement was a regular
6 sewer constructed by the borough under other provisions of this
7 act.

8 (c) Whenever a community sewage collection or disposal
9 system is [or shall have been] established or constructed within
10 a borough by a private owner or owners, and the borough council
11 is thereafter empowered by ordinance to acquire the ownership of
12 the sewage disposal system so established, or when [any such]
13 the system has been enlarged by the borough, [such] the
14 acquisition and ownership shall be subject to the following
15 provisions of this subsection:

16 (1) When the person or persons having established or
17 constructed a community sewage collection or disposal system, or
18 when more than one-half the number of the owners of properties
19 which are connected with, have a right to use and are using a
20 community collection or disposal system, enter into an agreement
21 with the borough for the acquisition of the system by the
22 borough, [such] the agreement shall be considered a valid
23 agreement by the owners of the sewage collection or disposal
24 system and a transfer of ownership to the borough.

25 (2) The borough shall operate and maintain any sewage
26 collection or disposal system acquired and any enlargement or
27 addition thereto for the use of persons having acquired from the
28 borough or from the former owner or owners the right to use the
29 system, and for the use of other owners of property accessible
30 thereto up to the capacity of the sewage collection or disposal

1 system.

2 (3) All persons whose property connects with the sewage
3 collection or disposal system acquired or constructed by the
4 borough shall pay to the borough treasurer, a monthly,
5 quarterly, semi-annual or annual charge prescribed by a
6 resolution of the council. The amount of the charges shall not
7 be in excess of the estimated amount necessary to maintain and
8 operate the system and to establish a reserve fund sufficient
9 for its future replacement.

10 (4) All sewer rentals or charges imposed by the council
11 against properties connected with a community sewage collection
12 or disposal system under the provisions of this section shall
13 constitute liens against the properties and may be collected in
14 the same manner as other sewer charges.

15 (5) All moneys received from the sewer charges shall be
16 deposited as a special reserve fund, and shall be used only for
17 the payment of the cost of operating and maintaining the sewage
18 collection or disposal system and the replacement [thereof] of
19 the collection or disposal system, if necessary and economically
20 desirable. If at any time after the acquisition or enlargement
21 of the community sewage system, a regular sewer system is made
22 available by the borough for connection with the properties
23 using the community sewage collection or disposal system, the
24 owners of [such] the properties shall be subject to the other
25 provisions of this act relating to sewers, and all money at that
26 time in the reserve fund which was received from charges for the
27 use of that particular sewage collection or disposal system, and
28 which is over and above the amount expended for the operation
29 and maintenance of that particular sewage collection or disposal
30 system, shall be used towards the payment of any sewer

1 assessments charged against [such] the properties under other
2 sections of this act.

3 (d) Nothing in this section may be construed to supersede
4 the requirements of the act of January 24, 1966 (1965 P.L.1535,
5 No.537), known as the "Pennsylvania Sewage Facilities Act."

6 Section 248. Article XX subdivision (e) heading and section
7 2051 of the act are amended to read:

8 (e) Connection and Use of Sanitary Sewers

9 Section 2051. Ordinances to Require Sanitary Sewer
10 Connections.--Any borough may, by ordinance, require any owner
11 of property, benefited, improved or accommodated by a sanitary
12 sewer, to make connections with [such] the sanitary sewer, in
13 [such] the manner as the borough may order, for the purpose of
14 discharge of [such] drainage or waste matter as the borough may
15 specify. All connections required shall be uniform. The owner
16 shall be given at least forty-five days' notice of any ordinance
17 requiring a sanitary sewer connection and, upon failure of the
18 owner to make the connection, the borough may make the
19 connection and collect the cost from the owner by a municipal
20 claim or by an action of assumpsit. The borough may by penalties
21 enforce any [regulation] ordinance it may [ordain] enact with
22 reference to any sanitary sewer connections.

23 Section 249. Section 2052 of the act is repealed:

24 [Section 2052. Notice of Ordinances; Failure to Comply With
25 Ordinance.--The owner shall be given at least forty-five days'
26 notice of any ordinance requiring such sewer connection, and,
27 upon failure of such owner to make such connection, the borough
28 may make the same, and collect the cost thereof from the owner
29 by a municipal claim or in an act of assumpsit. All connections
30 required shall be uniform.]

Section 250. Section 2053 of the act is amended to read:

Section 2053. Tapping Fees.--Any borough may by ordinance provide for charging a tapping fee whenever the owner of any property connects [such] the property with a sanitary sewer system constructed or acquired by the borough provided that the tapping fee is calculated in accordance with 53 Pa.C.S. § 5607 (relating to purposes and powers), which fee shall be in addition to any charges assessed and collected against [such] the property in the construction or acquisition of [such] the sanitary sewer by the borough. Whenever a sanitary sewer system or any part or extension [thereof] of a sanitary sewer system, owned by a borough, has been constructed by the borough at the expense of a private person or corporation or has been constructed by a private person or corporation under the supervision of the borough at the expense of the private person or corporation, the borough shall have the right to charge a tapping fee calculated in accordance with 53 Pa.C.S. § 5607 and refund [said] the tapping fee or any part [thereof] of the fee to the person or corporation who has paid for the construction of [said] the sanitary sewer system or any part or extension [thereof] of the sanitary sewer system in accordance with 53 Pa.C.S. § 5607. The total of [said] the refunds shall never exceed the cost of [said] the system or any part or extension [thereof] of the system to the person or corporation paying for the construction [thereof] of the system or any part or extension of the system. In any case, where the property connected or to be connected with the sanitary sewer system of the borough is not equipped with a water meter the borough may install [such] a meter at its own cost and expense. If the property is supplied with water from the facilities of a public

1 water supply agency, the borough shall not install [such] a
2 meter without the consent and approval of the public water
3 supply agency.

4 Section 251. Section 2054 of the act is repealed:

5 [Section 2054. Regulations and Restrictions in Use of
6 Sanitary Sewers.--Any borough in which there is any public
7 sanitary sewer or sewer system shall have authority, by
8 ordinance, to make regulations and restrictions pertaining to
9 the use of such sewer or sewer system. Such regulations and
10 restrictions: (i) may specify materials and/or substances which
11 may or may not enter the public sewer or sewer system; (ii) may
12 require that certain types or classes of waste be subjected to
13 treatment or to grinding or other reduction in size before
14 entering into the sewer; (iii) may restrict the quantity of
15 waste material that may enter a sanitary sewer from any premises
16 within any time interval; and (iv) may require that property
17 owners provide means other than the public sanitary sewers for
18 disposal of storm, surface and roof water originating or
19 accumulating upon their property.]

20 Section 252. Article XX subdivision (f) heading of the act,
21 amended July 13, 1988 (P.L.521, No.91), is reenacted to read:

22 (f) Monthly, Quarterly or Annual Rentals

23 Section 253. Sections 2061, 2062 and 2063 of the act,
24 amended July 13, 1988 (P.L.521, No.91), are amended to read:

25 Section 2061. Ordinance for Monthly, Quarterly or Annual
26 Rental.--Whenever any borough shall have constructed any
27 sanitary sewer, sewer system or sewage treatment works, or shall
28 have acquired wholly or partially the same at public expense, as
29 authorized in this article, the [council of such] borough
30 council may provide, by ordinance, for the collection of a

1 monthly, quarterly or annual rental or charge or a fixed sum,
2 for the use of [such] the sanitary sewer, sewer system or sewage
3 treatment works, from the owner of property served by it. [The
4 council may, at its discretion, in lieu of such monthly,
5 quarterly or annual rental or charge, provide for the payment by
6 such owner of a fixed sum.]

7 Section 2062. How Rental Fixed.--[Such] The monthly,
8 quarterly or annual rental may include the amount expended
9 monthly, quarterly or annually by the borough in maintenance,
10 repair, alteration, inspection, depreciation, or other expense,
11 of [such] the sanitary sewer, sewer system or sewage treatment
12 works, and may include interest on money expended or borrowed by
13 the borough in the construction of the sanitary sewer, sewer
14 system or sewage treatment works, or in the acquisition,
15 enlargement or extension of the sanitary sewer or sewer system,
16 and may also include an amount sufficient for the amortization
17 of debt incurred by the borough for [any such] those purposes,
18 including the construction of sewage treatment works according
19 to law. The [said] monthly, quarterly or annual amount or fixed
20 sum shall be apportioned equitably among the [several]
21 properties served by the [said] sanitary sewers, sewer system or
22 sewage treatment works.

23 Section 2063. Collection of Rental.--[Such] The monthly,
24 quarterly or annual rental or charge, or [such] the fixed sum,
25 shall be authorized and collected as provided by general
26 ordinances, and, when so levied and charged, shall be a lien on
27 the properties charged[. The collection thereof shall be made
28 and enforced in the manner municipal claims are collected.] from
29 the date set forth in the ordinance. If the rental, charge or
30 fixed sum is not paid after thirty days' notice, it may be

1 collected by an action of assumpsit, in the name of the borough
2 against the owner of the property charged, or by a lien filed in
3 the nature of a municipal lien.

4 The borough council [of such borough] shall execute a warrant
5 or warrants, authorizing the collection of [such] the monthly,
6 quarterly or annual sewer rentals or charges, or [such] the
7 fixed sum, to the officer employed by council to collect the
8 same. [Such] The officer shall have the authority now vested by
9 law for the collection of borough taxes.

10 Section 254. Section 2064 of the act, amended July 13, 1988
11 (P.L.521, No.91), is repealed:

12 [Section 2064. Lien.--Such monthly, quarterly or annual
13 sewer rentals or charges, or such fixed sum, shall be a lien on
14 the properties charged with the payment thereof, from the date
15 set forth in the ordinance, and, if not paid after thirty days'
16 notice, may be collected by an action of assumpsit, in the name
17 of the borough against the owner of the property charged, or by
18 distress of personal property on the premises, or by a lien
19 filed in the nature of a municipal lien.]

20 Section 255. Article XX subdivision (g) heading, sections
21 2071 and 2072, Article XXI heading and sections 2101, 2102,
22 2103, 2104 and 2105 of the act are repealed:

23 [(g) Sewers on Boundary Streets

24 Section 2071. Power to Lay and Construct.--Boroughs shall
25 have authority to lay and construct sewers in any street, any
26 portion of which is within the limits of the borough, and which
27 forms a portion of the boundary dividing the borough from any
28 other city, borough, or township within the same county, in the
29 same manner and to the same extent as if the whole of said
30 street was within the limits of the said borough.

1 Section 2072. Assessment of Benefits.--The property
2 benefited, improved or accommodated, which is located outside
3 the limits of the borough constructing such sanitary sewers,
4 shall, for a depth of one hundred fifty feet, be assessed for
5 the cost of such sewer, in the same manner as such property
6 would be assessed, under the laws of the Commonwealth, if it
7 were entirely located within the limits of such borough, if such
8 property is given permission to use such sanitary sewer and is
9 not, at the time such sanitary sewer is constructed, provided
10 with sanitary sewer facilities.

11 ARTICLE XXI

12 COLLECTION BY INSTALMENT OF STREET

13 AND SEWER ASSESSMENTS

14 Section 2101. Authority for Instalment Payments.--Whenever
15 any borough shall authorize the construction or acquisition of
16 any sanitary sewer or system of sanitary sewers, or the
17 improvement of any street or portion thereof, and the entire
18 cost, or any part thereof, shall be assessed against the
19 properties benefited, improved or accommodated by such sewer or
20 system of sewers, or abutting upon such street or portion
21 thereof, such borough may authorize the payment of such
22 assessment in equal annual, or more frequent instalments. Such
23 instalment payments may be authorized by a general ordinance
24 applicable to all sanitary sewers or systems thereof and/or all
25 streets thereafter acquired, constructed or improved, as the
26 case may be, or by one or more specific ordinances applicable to
27 a specific sewer, system of sewers or street or portion thereof.
28 Every such ordinance shall specify the length of time over which
29 such instalments may be extended and whether payments are to be
30 made by annual or more frequent instalments. All such

1 instalments shall bear interest, as provided in the applicable
2 ordinance, at a rate not to exceed six percent, commencing at
3 such time as may be fixed or regulated by ordinance: Provided,
4 That where bonds shall have been issued and sold in the manner
5 provided by law, to provide for the payment of any street
6 improvement, such assessments shall be payable in equal
7 instalments during the term for which such bonds are issued, and
8 the expenditures for such improvements, and interest thereon to
9 the first day when interest is payable on such bonds, shall be
10 taken as the cost of such improvement to be assessed on the
11 property benefited.

12 Section 2102. Entry of Liens.--Claims to secure the
13 assessments shall be entered in the prothonotary's office of the
14 county at the same time and in the same form and shall be
15 collected in the same manner as municipal claims are filed and
16 collected, notwithstanding the provisions of this article on
17 instalment payments.

18 Section 2103. Assessments; Where Payable.--Such assessments
19 shall be payable at the office of the borough treasurer, or such
20 other place as the ordinance shall provide, in semi-annual or
21 annual instalments, with interest at the rate provided from the
22 date from which interest is computed on the amount of the
23 assessments.

24 Section 2104. Default in Payment of Instalment.--In case of
25 default in the payment of any instalment and interest for a
26 period of sixty days after the same shall become due, the entire
27 assessment and accrued interest shall become due; and the
28 borough solicitor shall proceed to collect the same under the
29 general laws relating to the collection of municipal claims.

30 Section 2105. Payments in Full.--Any owner of property,

1 against whom any such assessment shall have been made, may pay
2 the same in full, at any time, with interest and costs thereon
3 to the due date of the next instalment, and such payment shall
4 discharge the lien.]

5 Section 256. The act is amended by adding an article to
6 read:

7 ARTICLE XXI-A

8 ASSESSMENTS AND CHARGES FOR PUBLIC IMPROVEMENTS

9 Section 2101-A. Authority to assess.

10 (a) General rule.--Borough council shall have the power to
11 pay the cost, in whole or in part, of any and all public
12 improvements of all natures and descriptions, including, but not
13 limited to, the grading, building, paving, regrading, rebuilding
14 and repaving of streets as defined in section 1701, the
15 creation, extension, renovation or enlargement of water mains
16 and sewage collection, transmission, treatment and disposal
17 systems and the creation, extension and renovation of storm,
18 surface and subsurface drainage systems, the construction,
19 reconstruction and repair of wharves and docks, the installation
20 of ornamental street lighting, or the planting, removal,
21 maintenance and protection of shade trees by any of the
22 following methods:

23 (1) from general borough funds;

24 (2) from special borough funds created for that purpose;

25 or

26 (3) by assessment of costs against the benefited
27 properties either on the front foot or benefit conferred
28 method of assessment.

29 Except as provided in subsection (c), the costs and expenses of
30 sanitary sewers may be assessed against properties benefited,

1 accommodated or improved regardless of the property line
2 location and regardless of whether any portion of a property so
3 benefited, accommodated or physically improved abuts upon the
4 sanitary sewer.

5 (b) Payment of indebtedness.--

6 (1) If a borough that incurs authorized indebtedness
7 pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to
8 indebtedness and borrowing) for the purposes of funding the
9 cost and expense of making public improvements for which
10 assessments can be made in accordance with this article,
11 payments made on the assessment must be applied to pay the
12 debt service for the indebtedness incurred for funding the
13 cost and expense of making the public improvement.

14 (2) Notwithstanding section 2107-A, when bonds are
15 issued in a manner provided by law and an assessment is to be
16 paid in installments, the assessment shall be payable in
17 equal installments during the term for which the bond is
18 issued, and the cost of the improvement plus interest
19 beginning the first day when interest is payable on the bond
20 shall be the cost of the improvement to be assessed on a
21 property.

22 (c) Property outside borough.--Property benefited, improved
23 or accommodated which is located outside the limits of the
24 borough that constructed a sanitary sewer may, if located no
25 more than 150 feet from the sewer main, be assessed for the cost
26 of the sewer in the same manner as the property would be
27 assessed under the laws of this Commonwealth if it were entirely
28 located within the limits of the borough, if the property is
29 given permission to use the sanitary sewer and is not, at the
30 time the sanitary sewer is constructed, provided with sanitary

1 sewer facilities.

2 (d) Water mains.--Boroughs shall have power to assess the
3 whole cost or any part of the cost of construction of new water
4 mains built in connection with the establishment or extension of
5 a municipally owned water supply system, even if the mains are
6 located outside the limits of the borough, and that serve
7 abutting properties, against the properties abutting the
8 boundary line. The borough may provide that the assessment be
9 rebated to the owner of the assessed property out of rates
10 charged for water consumed in serving the assessed property. The
11 borough may also issue a negotiable credit memorandum in the
12 amount of the assessment which may be used for the payment of
13 any water service to the extent of the assessment.

14 Section 2102-A. Notice of assessments.

15 The borough secretary shall cause 30 days' personal notice of
16 the assessment to be served upon each property owner assessed.
17 If a certificate is required to be filed with council relating
18 to the public improvement as otherwise provided in this act,
19 then a copy of the certificate shall accompany the notice.

20 "Personal notice" as used in this article shall mean and include
21 notice upon the owner of a property either by personal service
22 upon the owner or by certified mail to the owner at the owner's
23 last known address, or where service, after a reasonable
24 attempt, shall not have been successfully made by either of
25 these two methods, then by leaving notice at or upon the
26 property.

27 Section 2103-A. Assessment based on front foot basis.

28 (a) General rule.--If borough council elects to collect the
29 cost, including any administrative fees, of any improvement on
30 the front foot basis, the cost to be collected shall be divided

1 by the total number of linear feet of street frontage of each
2 property benefited and there shall be assessed against each
3 property that portion of the cost which is determined by
4 multiplying the dividend of the prior calculation by the number
5 of linear feet for street frontage of that property.

6 (b) Certificate of assessment.--Council shall issue a
7 certificate of assessment when assessing on the front foot
8 basis, duly certified under the seal of the borough and attested
9 by the president of council and secretary. The certificate of
10 assessment shall be prima facie evidence in any suit for
11 recovery of the same of the correctness and validity of the
12 assessment.

13 (c) Adjustments in assessments.--Notwithstanding subsection
14 (a), council may make equitable adjustments for corner lots,
15 lots of irregular shape, or, where special conditions exist,
16 where an assessment for full frontage would be unjust.
17 Section 2104-A. Assessment of benefits conferred.

18 (a) General rule.--In lieu of the front foot basis, borough
19 council may elect to have the benefits of public improvements
20 assessed, in whole or in part, upon property benefited, improved
21 or accommodated by assessing an equal assessment on the
22 properties benefited, improved or accommodated in proportion to
23 the total cost of construction of the improvement. The amount of
24 the charge on each property shall be determined by borough
25 council.

26 (b) Certificate.--Council shall issue a certificate of
27 assessment when assessing benefits upon property benefited,
28 improved or accommodated, duly certified under the seal of the
29 borough and attested by the president of council and secretary.
30 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

1 this act and 26 Pa.C.S. (relating to eminent domain) for the
2 assessment of damages and benefits by viewers. Upon the filing
3 of the petition by taxpayers for the appointment of viewers, any
4 assessment made by the borough council and any proceedings shall
5 be stayed pending the disposition of the petition by the court.

6 Section 2107-A. Payment of assessments in installments.

7 (a) Installments.--Whenever any ordinance is passed
8 providing for a public improvement the expense of which is to be
9 defrayed by an assessment against properties benefited by the
10 improvement, either by the front foot or benefit conferred
11 methods, the ordinance shall specify the length of time over
12 which the installments may be extended and whether payments are
13 to be made by equal annual or more frequent installments. If the
14 provisions of section 2101-A(b)(2) and this subsection conflict,
15 the provisions of section 2101-A(b)(2) shall prevail to the
16 extent of the conflict.

17 (b) Commencement of payments and rate of interest.--The
18 ordinance shall set a time when the installment payments shall
19 commence and shall set forth the rate of interest for the
20 installments which shall not be more than 6% per year.

21 (c) Installment agreement.--The borough shall enter into a
22 written installment agreement with each property owner, subject
23 to the requirements of the ordinance pertaining to such
24 agreements and this article.

25 (d) Unpaid installments.--If any of the installments shall
26 remain unpaid for 60 days after the same has become due and
27 payable, the entire unpaid assessment, plus unpaid accrued
28 interest and any costs, shall be due and payable and the borough
29 solicitor shall proceed to collect the same by filing a lien in
30 the same manner as municipal claims are filed or by action in

1 assumpsit.

2 (e) Prepayment.--A property owner upon whom an assessment
3 has been made may pay all or as many of the installments before
4 the same are due, with interest and costs to the due date of the
5 next installment.

6 Section 2108-A. Collection of assessments.

7 (a) Collection methods.--If any assessment remains unpaid at
8 the expiration of the 30-day personal notice, and an installment
9 agreement has not been entered into pursuant to section 2106-A,
10 the borough solicitor shall collect the unpaid assessment, with
11 interest from the time of completion of the improvement, or from
12 the time of filing a certificate of assessment with council,
13 plus costs, by filing a lien to be collected in the same manner
14 as municipal claims or by action in assumpsit. When a property
15 owner has two or more lots, against which there is an assessment
16 for the same improvement, all of the lots may be embraced in one
17 claim.

18 (b) Payment location.--Assessments, whether paid one time or
19 by installments, shall be payable at the office of the borough
20 treasurer or any other place as the applicable ordinance shall
21 provide.

22 Section 257. Article XXII heading of the act is reenacted to
23 read:

24 ARTICLE XXII

25 STORM SEWERS AND WATER COURSES

26 Section 258. Sections 2201, 2202, 2203 and 2204 of the act
27 are amended to read:

28 Section 2201. Authority of Boroughs.--Any borough may, by
29 ordinance, after [a permit shall have been obtained from the
30 Water and Power Resources Board, and from the Federal

Government, where required] obtaining any required permit from the Department of Environmental Protection, or other Federal or State entity, do the following:

(1) Widen and deepen any water course running through or within the borough, erecting [such] dykes, retaining walls and embankments along the [same] water course as may be necessary to prevent the water from overflowing the banks [thereof];

(2) Confine and pave any water course or portion thereof, other than a navigable stream;

(3) Engage in channel improvement through the construction and maintenance of storm sewers and the accumulation and discharge of water [thereinto] into storm sewers;

(4) Vacate or alter the course or channel of any water course, other than a navigable stream;

(5) Acquire, operate and maintain areas for the infiltration, detention or retention of storm water and for other methods of storm water management authorized by the Department of Environmental Protection.

For any of [such] these purposes, a borough may enter upon and condemn [such] property and materials as may be necessary. No borough may confine and pave, vacate or alter any water course used by any municipality, municipal authority or water company as a source of supply, unless [such] the municipality, municipal authority or water company shall first consent to [such] the confining and paving, vacation or alteration.

Section 2202. Right of Entry Upon Lands.--Any borough may enter upon any land lying near any water course, and secure such material as may be necessary for the purpose of making and repairing the embankments along [such] the water course, when the same cannot be obtained by contract at reasonable price.

1 [Such] The boroughs shall cause no unnecessary damage to the
2 owners of [such] the land, and shall repair any fences [which
3 they may injure], structures or damage to the land that is
4 caused by the borough, and shall compensate the owner, either by
5 agreement or in accordance with the law governing eminent
6 domain, for any materials obtained pursuant to this section.

7 Section 2203. Manner of Financing Work.--[The costs and
8 expenses of any work authorized under section 2201 of this act
9 may be paid wholly or in part by the borough from any moneys of
10 the borough available for the purpose, with or without the
11 assistance of the county, State or Federal Government, or the
12 whole or any part of such costs and expenses not thus aided may
13 be assessed, according to benefits as prescribed in article XV
14 of this act, against properties located within the drainage area
15 of such water course and benefited, improved or accommodated
16 thereby.] A borough may pay for the costs and expenses of any
17 work authorized under section 2201 wholly or in part from any
18 moneys of the borough available for the purpose. To the extent
19 that a borough does not receive assistance from the Federal,
20 State or county government for the costs and expenses of the
21 work, the borough may assess the benefited properties located
22 within the drainage area of the water course in accordance with
23 Article XXI-A.

24 Section 2204. Proceedings to Assess Damages.--Any person
25 aggrieved by [reason of] any ordinance [passed] enacted or
26 action taken pursuant to the preceding sections of this article
27 may [complain to] file a complaint with the court of common
28 pleas[, and proceedings may be had in the court] to fix and
29 determine the damages for property taken, injured or destroyed
30 [in the same manner as provided in] pursuant to the law

1 governing eminent domain.

2 Section 259. The act is amended by adding sections to read:

3 Section 2205. Unlawful to Build Within Right-of-Way of Storm
4 Sewers.--It shall be unlawful for any person to erect any
5 building or make any improvement within the right-of-way of any
6 storm sewer laid out after due notice of the laying out of the
7 storm sewer. If the erection or improvement is made, no
8 allowance shall be had in the assessment of damages.

9 Section 2206. Power to Acquire Storm Sewer Systems.--(a) A
10 borough may, by ordinance, acquire ownership of storm sewers,
11 culverts and the necessary inlets and appliances for surface,
12 under surface and storm sewer drainage by purchase, by the
13 exercise of eminent domain pursuant to 26 Pa.C.S. (relating to
14 eminent domain) or by gift from the owner or owners.

15 (b) In eminent domain proceedings, the viewers shall assess
16 the costs and expenses of the storm sewer, culverts, inlets and
17 appliances acquired by the borough, upon the property or
18 properties benefited, according to benefits. Any deficiency that
19 is not assessed upon the benefited property or properties shall
20 be paid by the borough.

21 Section 260. Article XXIII heading and sections 2301, 2302,
22 2303 and 2304 of the act are repealed:

23 [ARTICLE XXIII

24 UNDERGROUND CONDUITS

25 Section 2301. Powers of Boroughs.--Any borough may define,
26 by ordinance, a reasonable district within which electric light,
27 electric power, telephone, telegraph and other types of wires
28 shall be placed underground in conduits, owned and constructed
29 either by the borough or by corporations owning such wires, or
30 by corporations organized for the purpose of laying such

1 conduits and renting space therein.

2 Section 2302. Borough Regulations.--Whenever conduits are
3 owned by any person, firm, or corporation, the borough may
4 regulate, by ordinance, the manner in which conduits shall be
5 used, and the terms and conditions of such use.

6 Section 2303. Acquisition of Conduits; Assessment of
7 Damages.--Any borough may acquire existing conduits by purchase
8 or by condemnation, and, in the latter case, the proceedings for
9 the assessment of damages shall be the same as provided in the
10 law governing eminent domain.

11 Section 2304. Borough Not to Surrender Rights.--The borough
12 authorities shall not surrender or barter away the rights
13 reserved in this article.]

14 Section 261. Article XXIV and subdivision (a)(1) headings
15 and sections 2401, 2402, 2403 and 2404 of the act are amended to
16 read:

17 ARTICLE XXIV

18 [PUBLIC SERVICE] WATER SYSTEM

19 (a) [Water Supply and Waterworks

20 (1)] General Powers to Supply Water

21 Section 2401. Power to Supply Water and Make Regulations.--

22 (a) Boroughs may [provide a] supply [of] water for the use of
23 the public within [such] the borough, by [erecting] constructing
24 or purchasing and operating [waterworks, by purchasing and
25 operating waterworks] a water system, by entering into contract
26 with persons or corporations authorized to supply water within
27 the limits of [such] the borough, or partly by [the erection or
28 purchase and operation of waterworks] constructing or purchasing
29 and operating a water system, and partly by entering into a
30 contract.

1 (b) Borough council may make regulations for the protection
2 of water pipes, reservoirs and other apparatus used in the
3 supplying or storing of water, for the prevention of the waste
4 of water supplied and for the drilling of water wells within the
5 borough.

6 (c) Borough council shall fix the rates to be charged for
7 the water furnished to individuals, partnerships, associations
8 or corporations and shall provide for the collection of water
9 rents from users of water supplied by the borough. The borough's
10 provision of water to users outside the borough limits, as to
11 character of service, extensions and rates, shall be subject to
12 any applicable approval, regulation, or control imposed by 66
13 Pa.C.S. Pt. I (relating to Public Utility Code).

14 Section 2402. Contracts Not to Abridge Powers.--[No contract
15 for the supply of water hereafter entered into by any borough
16 with any person or corporation shall, in anywise, abridge the
17 power of the borough to construct and operate waterworks as
18 provided in the preceding section of this article, but such] A
19 borough's power to construct and operate a water system as
20 provided in section 2401 shall not be abridged by the borough
21 entering into a contract with a person or corporation for the
22 supply of water, but the power shall remain in force as though
23 [such] the contract had not been made.

24 Section 2403. Issue of Bonds Where [Waterworks] Water System
25 Acquired.--Where the price and terms are agreed upon, a borough
26 may become the owner of and operate any water system owned and
27 operated by a corporation furnishing water within the acquiring
28 borough, and in nearby [townships or boroughs] municipal
29 corporations, and may pay [therefor] for the water system from
30 the revenues derived from general obligation bonds or utility

1 bonds issued in the manner provided by [the Municipal Borrowing
2 Law] 53 Pa.C.S. Pt. VII Subpt.B (relating to indebtedness and
3 borrowing).

4 Section 2404. Refunding Bonds.--[Where any borough has
5 heretofore acquired or shall hereafter acquire any waterworks
6 and the appurtenances thereto, subject to any existing lien or
7 liens, and at the time of such acquisition issues utility bonds
8 secured solely by liens on the property of such waterworks and
9 imposing no municipal liability; then the borough may, at the
10 time such utility bonds mature, or at any time prior thereto,
11 issue and sell utility bonds for the purpose of refunding such
12 outstanding bonds, which refunding bonds shall be issued as
13 utility bonds in the manner provided by the Municipal Borrowing
14 Law. Such bonds so issued,] (a) If a borough acquires a water
15 system, subject to any existing lien or liens and, at the time
16 of acquisition, issues utility bonds secured by the liens on the
17 water system and which imposes no municipal liability, then,
18 when the utility bonds mature or at any time prior, the borough
19 may issue and sell utility bonds for the purposes of refunding
20 the outstanding bonds. The refunding bonds shall be issued as
21 utility bonds pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating
22 to indebtedness and borrowing). The issued bonds shall not be
23 deemed to be the creation of new obligations but be deemed a
24 continuation of the bonds existing or created at the time of the
25 original acquisition of [said waterworks and the appurtenances
26 thereto] the water system.

27 [Such] (b) The bonds shall not be refunded for a longer
28 period than twenty years, and the refunding lien bonds issued
29 shall not bear interest at a rate exceeding six percent[, and
30 the]. The amount of the issued refunding lien bonds[, so

1 issued,] shall not exceed, in the aggregate, the amount of the
2 bonds to be refunded[: Provided, That], provided that any moneys
3 placed in any fund by the borough or by any commission of
4 [waterworks] the water system for the purpose of redeeming or
5 paying [such] the bonds at maturity, shall be first applied to
6 the payment, as far as applicable, of the principal of [such]
7 the bonds to be refunded, and the balance of [such] the bonds
8 only shall be refunded by the issue of new bonds.

9 Section 262. Section 2405 of the act is repealed:

10 [Section 2405. Rates in Particular Boroughs.--Whenever the
11 schedule of water rates in any borough, owning or controlling
12 waterworks, shall have been fixed or limited by special act of
13 Assembly, the borough may change the rates schedule or rates
14 from time to time.]

15 Section 263. Sections 2406, 2407, 2408 and 2409 of the act
16 are amended to read:

17 Section 2406. Contracts to Supply Water for Municipal
18 Purposes.--Boroughs may receive bids from water companies and
19 municipal authorities, authorized to do business within [such]
20 the borough, and from other municipalities operating [waterworks
21 or distributing water] a water system, for the supply of water
22 for fire protection and for other municipal purposes, and may
23 contract [therefor] for the supply of water with [such] the
24 company.

25 Section 2407. Power to Supply Water Beyond Limits of
26 Borough.--Whenever any borough is maintaining [waterworks] a
27 water system, it shall be lawful for [such] the borough to
28 supply water to persons and corporations outside the limits of
29 [such] the borough[; but no such], but shall be subject to any
30 applicable approval or regulation imposed by 66 Pa.C.S. Pt. I

1 (relating to Public Utility Code). The privilege shall not
2 conflict with the corporate rights of any water company, or the
3 rights of any other municipality or municipal authority.

4 Section 2408. Assessment for Water Mains.--Boroughs shall
5 have power to assess the whole cost, or any part of the cost, of
6 construction of new water mains, built in connection with the
7 establishment or extension of a municipally owned water supply
8 system in accordance with Article XXI-A, whether [such mains be]
9 the mains are located within or without the limits of the
10 borough[, and serving the properties abutting thereon, against
11 the properties abutting along the line thereof, by the foot-
12 front rule, and to collect such assessments as other municipal
13 claims are now by law collectible: Provided, That the assessment
14 may be rebated to the owner of the property assessed, out of
15 rates charged for water consumed in serving the property so
16 assessed: And provided further, That the borough may issue
17 negotiable credit memorandum to the amount of the assessment,
18 which may be used for the payment of any water service to the
19 extent of the said assessment].

20 Section 2409. Sale of [Waterworks.--] Water System.--(a) By
21 ordinance, a borough may sell all or part of its [waterworks
22 and/or water distribution] water system to a purchaser at [such]
23 an agreed upon price [as the parties may agree upon], and
24 thereafter for all purposes that price shall be deemed to be the
25 purchaser's original cost less accrued depreciation of the plant
26 at the date of purchase[: Provided, That no]. No such ordinance,
27 however, shall take effect until the expiration of ten days
28 following its enactment and if, within [such] that ten-day
29 period, a protest, signed by at least ten percent of the
30 registered electors of the borough [shall be] is filed with the

1 borough council, [such] the sale shall be stayed pending a
2 referendum on the ordinance.

3 **(b)** The borough secretary within five days following the
4 filing of [such] the protest, shall certify to the county board
5 of elections a copy of the ordinance and the fact of the
6 protest, together with the number of signers [thereof] of the
7 protest, and the county board of elections shall direct a
8 referendum to be held on the matter at a special election to be
9 held at the time of the next general or municipal or primary
10 election occurring not less than sixty days from the date of
11 [such] the certification by the borough secretary. [Such] The
12 referendum shall be conducted by the county board of elections
13 in the manner provided by the Pennsylvania Election Code for the
14 holding of special elections. The ballot used when voting upon
15 the question shall contain a question stating the nature and
16 purpose of the ordinance and providing that a "yes" vote shall
17 be to sustain the ordinance and a "no" vote shall be to reject
18 it. If more electors vote to sustain the ordinance than to
19 reject it, [such] the ordinance shall take effect immediately[;
20 if]. If more electors shall vote to reject the ordinance than to
21 sustain it, [such] the ordinance shall be null and void and
22 shall not take effect.

23 Section 264. Article XXIV subdivision (a)(2) heading of the
24 act is renumbered and amended to read:

25 [(2)] (a.1) Acquisition by Eminent Domain

26 Section 265. Sections 2411 and 2412 of the act are amended
27 to read:

28 Section 2411. Appropriation of Lands and Waters.--Any
29 borough desiring to [erect waterworks,] build a water system or
30 to improve its water supply[,] may appropriate springs, streams,

1 rivers, or creeks and lands, easements and rights of way, within
2 or without its limits[, and, for], provided that if the
3 appropriation is outside its limits, the appropriation shall be
4 in compliance with 26 Pa.C.S. § 206 (relating to
5 extraterritorial takings). For the purpose of conducting water
6 obtained outside [the] its limits [of the borough,] a borough
7 may lay pipes under and over any lands, rivers, streams,
8 bridges, highways and under railroads. No water appropriated
9 under the provisions of this section shall be used in [such] a
10 manner as to deprive the owner [thereof] of the water of the
11 free use and enjoyment of the same for domestic or farm
12 purposes. The exercise of the powers in this section shall be
13 subject to any required approvals or permits from the Department
14 of Environmental Protection or other Federal or State entity.

15 Section 2412. Agreements as to Damages; Bonds.--Prior to any
16 [such] appropriation pursuant to section 2411, the borough shall
17 attempt to agree with the owner as to the damage done, or likely
18 to be done[, and, if]. If the parties cannot agree, the borough
19 shall [file its bond in the court of common pleas, conditioned
20 for the payment to the owner of the property of the damages for
21 the taking thereof, when the same shall have been ascertained.
22 Upon the approval of the bond and filing thereof, the borough
23 may enter upon such property.] proceed pursuant to 26 Pa.C.S.
24 (relating to eminent domain).

25 Section 266. Section 2413 of the act is repealed:

26 [Section 2413. Appointment of Viewers; Proceedings.--Upon
27 petition of either the property owner or borough, at any time
28 thereafter, the court shall appoint three viewers from the
29 county board of viewers, who shall assess the damages for the
30 property or rights appropriated, and shall fix a time for their

meeting, of which notice shall be given to all parties interested. The proceedings for the assessment of damages shall be as provided in the law governing eminent domain.]

Section 267. Article XXIV subdivision (a)(3) heading of the act is renumbered and amended to read:

[(3)] (a.2) Acquisition by Purchase after Appraisement

Section 268. Sections 2421, 2422 and 2423 of the act are amended to read:

Section 2421. Petition to Court Expressing Desire to Acquire [Waterworks] a Water System.--Whenever any person, firm, or corporation [shall own] owns any [waterworks or] water system, and a borough is desirous of owning and operating [such waterworks or] the water system, [such] a borough may present its petition to the court of common pleas of the county where the water system is located, setting forth that the borough is desirous of owning [such waterworks or] the water system, and that it will be necessary to issue bonds, and that a value should be placed upon [such waterworks or] the water system, including all property, real and personal, used in connection therewith.

Section 2422. Appointment of Engineers as Appraisers to Make Valuation.--The court shall [thereupon] appoint three civil engineers as appraisers, to value and appraise [such waterworks or] the water system, and the property used in connection [therewith] with the water system, and the contracts or agreements with municipalities [or townships, who]. The civil engineers shall file their report in the court within three months after their appointment, unless [such] the time [be] is extended by the court.

Section 2423. Powers of Appraisers.--The appraisers shall

1 have access to the books and records of the person, firm, or
2 corporation owning [such waterworks or] the water system, to
3 inform themselves as to the income and value [thereof] of the
4 water system. They shall have power to administer oaths and are
5 authorized to take the testimony of witnesses. Their report
6 shall be final if not appealed from.

7 Section 269. Section 2424 of the act, repealed in part June
8 3, 1971 (P.L.118, No.6), is amended to read:

9 Section 2424. Appeal from Appraisement.--Within ten days
10 after notice of the filing of any report in court, either party
11 may appeal from [such] the appraisement by filing a petition for
12 a hearing before the court, alleging an undervaluation or
13 overvaluation of the property[, and praying for a hearing before
14 the court]. The court shall [thereupon] fix a time when [such]
15 the appeal may be heard, [of which time at least ten days'
16 notice shall be given to the parties] giving at least ten days'
17 notice to the parties, and, upon such hearing, the court shall
18 have power to affirm or modify [such] the report as to it
19 appears just and proper.

20 Section 270. Sections 2425 and 2426 of the act are amended
21 to read:

22 Section 2425. Effect of Failure of Owner of Works to Accept
23 Price Fixed.--After the value is finally determined, the borough
24 is authorized to buy [such waterworks or] the water system at
25 the valuation so fixed[; and the]. The person, firm, or
26 corporation owning the [same] water system shall, within ten
27 days after notice, file in court its consent to sell and convey
28 its [waterworks or] water system and property to the borough at
29 the valuation fixed[;] and, in default [thereof, such] of the
30 filing of the consent, the person, firm, or corporation shall

1 cease to have any exclusive privilege of supplying the borough,
2 or the citizens [thereof] of the borough, with water, and the
3 borough may install [such waterworks or] the water system as may
4 be necessary for the accommodation of the public.

5 Section 2426. [Issue of Bonds] Bond Issue and Limitations.--

6 For the purpose of [such purchase] purchasing a water system,
7 the borough may issue utility bonds in the manner provided by
8 [the Municipal Borrowing Law.] 53 Pa.C.S. Pt. VII Subpt. B
9 (relating to indebtedness and borrowing). The bonds shall not
10 exceed in amount the value fixed by the appraisers or the court.
11 The proceeds of the sale of the bonds shall be used exclusively
12 for the purpose of paying for the property acquired.

13 Section 271. Section 2427 of the act is repealed:

14 [Section 2427. Limit of Bond Issue.--Such bonds shall not
15 exceed in amount the value fixed by the appraisers or the court.
16 The proceeds of the sale of such bonds shall be used exclusively
17 for the purpose of paying for the property acquired.]

18 Section 272. Article XXIV subdivision (a)(4) heading of the
19 act is renumbered and amended to read:

20 [(4)] (a.3) Power to Lease [Waterworks] a Water System

21 Section 273. Sections 2431, 2432 and 2433 of the act are
22 amended to read:

23 Section 2431. Lease of [Waterworks] a Water System.--The
24 council of any borough may enter into a contract with any
25 individual, [copartnership] partnership, association, or
26 corporation, for the leasing of any water [supply, works,
27 systems, and property, or both of such] system of the
28 individual, [copartnership] partnership, association, or
29 corporation.

30 Section 2432. Term of Lease; Rental.--[Such leasing] The

1 lease term may be for [such] a term of years and at [such] a
2 rental price, as shall be agreed upon by the borough and the
3 individual, copartnership, association, or corporation.

4 Section 2433. Operation of Property.--[The property, so
5 acquired, shall be operated in the same manner as if the same
6 had been acquired by such borough by purchase or condemnation
7 proceedings] A borough shall have the same powers in operating a
8 leased water system as it would have in operating a purchased or
9 condemned water system.

10 Section 274. Section 2434 of the act is repealed:

11 [Section 2434. Rates.--The council of the borough shall fix
12 the rates to be charged for the water furnished without the
13 limits of such borough to individuals, copartnerships,
14 associations, or corporations.]

15 Section 275. Article XXIV subdivision (a)(5) heading of the
16 act is renumbered and amended to read:

17 [(5)] (a.4) Joint [Waterworks] Water System

18 Section 276. Sections 2436, 2437 and 2438 of the act are
19 amended to read:

20 Section 2436. Joint Acquisitions and Constructions.--[Two or
21 more boroughs may unite, or any borough may unite with a city or
22 township] A borough may join with one or more municipal
23 corporations in the construction or acquisition and maintenance
24 of [waterworks] a water system.

25 Section 2437. Permit of [Sanitary Water Board] Department of
26 Environmental Protection.--The construction of [such waterworks]
27 a water system shall be commenced only after plans for [such
28 waterworks have] the water system has been filed with the
29 Department of [Health and the Water and Power Resources Board]
30 Environmental Protection and, if required by law, other Federal

1 or State entities, and permits issued in accordance with law.

2 Section 2438. Joint Commission of [Waterworks] a Water
3 System.--The [boroughs, cities and townships] municipal

4 corporations joining in [any such] the construction or

5 acquisition and maintenance of [waterworks, in order to

6 facilitate the building, operation and maintenance of the same,

7 and in securing preliminary surveys and estimates,] a water

8 system may, by ordinance, provide for the appointment of a joint

9 commission of [waterworks, composed of one representative from

10 each of the boroughs, cities and townships joining, which] a

11 water system in order to facilitate the construction, operation

12 and maintenance of the water system and to secure preliminary

13 surveys and estimates. The joint commission shall act generally

14 as the advisory and administrative agency in the construction of

15 [such] the improvement and its subsequent operation and

16 maintenance and shall be composed of one representative from

17 each of the joining municipal corporations. The members of [such

18 board] the commission shall serve for terms of six years each

19 from the dates of their respective appointments and until their

20 successors are appointed. The commission shall organize by the

21 election of a [chairman] chair, secretary and treasurer. The

22 secretary and treasurer may be the same person. The [several

23 boroughs, cities and townships] municipal corporations may in

24 the ordinances creating the commission authorize it to appoint

25 an engineer, a solicitor and [such] other assistants as are

26 deemed necessary and agree to share the compensation for

27 attending its meetings as shall be fixed in the budget prepared

28 by the commission and submitted to and adopted by the [several

29 boroughs, cities and townships] joining municipal corporations.

30 The budget item providing for the compensation to the members

1 for attending meetings shall not exceed five hundred dollars
2 (\$500) per year, but members in addition thereto shall be
3 entitled to actual expenses to be paid by the respective
4 [boroughs, cities and townships which such] municipal
5 corporations that the members represent. The fee for each
6 attendance at meetings shall be stipulated and no member shall
7 be paid a fee for any meeting [he] the member does not attend.

8 Section 277. Article XXIV subdivision (a)(6) heading of the
9 act is renumbered and amended to read:

10 [(6)] (a.5) Condemnation of Lands for Road Purposes
11 and to Prevent Contamination

12 Section 278. Sections 2441 and 2442 of the act are amended
13 to read:

14 Section 2441. [Overflowing Roads] Prevention of
15 Contamination of Water Supply; Acquisition of Lands to
16 Reconstruct Roads.--[Whenever any borough, in supplying water to
17 the public, shall find it necessary, in storing water] (a) If a
18 borough finds it necessary, when storing water for supply to the
19 public, to occupy and overflow [with water] portions of any
20 public road with water, or whenever any public road leads into
21 or crosses over any reservoir used for the storage of water, the
22 borough shall [cause such road to be reconstructed, at its own
23 expense, on a favorable location, and in as perfect manner as
24 the original road, and, for such purposes is authorized to
25 condemn land, whenever an agreement as to the price cannot be
26 had with the owners.], at its own expense, reconstruct or build
27 a road in a favorable location and it shall be in the same or
28 better condition as the original road. A borough is authorized
29 to condemn land for these purposes if an agreement as to price
30 cannot be reached with the landowner. A condemnation of land

1 outside the borough limits shall be in conformity with 26
2 Pa.C.S. § 206 (relating to extraterritorial takings).

3 (b) A borough may acquire, by purchase or condemnation, land
4 along and contiguous to streams of water or reservoirs from
5 which water is taken for public use if necessary to preserve the
6 water from contamination.

7 Section 2442. Filing Maps and Plans.--[After such] If a
8 change is made pursuant to section 2441(a), the borough shall
9 file in the court of [quarter sessions of the county] common
10 pleas a map or plan showing [such] the change of road, and if
11 the road is outside the limits of the borough, it shall furnish
12 to the [supervisors or other authorities of the township, or
13 municipal corporation] governing body of the municipal
14 corporation, a copy of [such] the map.

15 Section 279. Sections 2443 and 2444 of the act are repealed:
16 [Section 2443. Condemnation of Lands to Prevent
17 Contamination.--Any borough may acquire, by purchase or
18 condemnation, such land along and contiguous to the streams of
19 water or reservoirs from which water is taken for public use, as
20 may be necessary to preserve the same from contamination.

21 Section 2444. Condemnation Proceedings.--The damages
22 incurred in changing the location of any such public road, and
23 in condemning land to preserve water from contamination, shall
24 be ascertained in the manner provided in the law governing
25 eminent domain, and shall be paid by the borough.]

26 Section 280. Article XXIV subdivision(a) (7) heading of the
27 act is renumbered and amended to read:

28 [(7)] (a.6) Commission of [Waterworks] the Water System

29 Section 281. Sections 2451 and 2452 of the act, amended July
30 11, 1996 (P.L.549, No.97), are amended to read:

1 Section 2451. Commission May Be Established.--Whenever any
2 borough owns and maintains [waterworks] a water system, there
3 may be established in [such] the borough, by ordinance, a
4 commission of [waterworks] the water system, which shall have
5 the power of a nonprofit corporation, to be composed of either
6 three or five citizens of the borough, appointed by the borough
7 council who shall be known as commissioners of [waterworks] the
8 water system. At any time after three years from the first
9 appointment of the commissioners of [waterworks] the water
10 system, the borough may abolish [such] the commission by
11 repealing the ordinance establishing the same[, and therefore],
12 which shall terminate the terms of the commissioners then in
13 office [shall terminate].

14 Section 2452. Terms of Commissioners; Compensation.--(a)
15 [It] If a borough establishes a commission of the water system,
16 it shall be the duty of the borough council to appoint [such]
17 the commissioners of [waterworks] the water system. If there are
18 three commissioners, one shall be appointed to serve for one
19 year, one for two years, and one for three years[;],
20 annually thereafter, the council shall appoint one commissioner
21 of [waterworks] the water system to serve a term of three years.
22 If there are five commissioners, one shall be appointed to serve
23 for one year, one for two years, one for three years, one for
24 four years and one for five years[;], and annually thereafter,
25 the council shall appoint one commissioner of [waterworks] the
26 water system to serve a term of five years. [The terms of
27 commissioners of waterworks in office on the effective date of
28 this act shall terminate on the effective date of this act.] In
29 case of a vacancy, the council shall fill the same for the
30 unexpired term. [Such] The commissioners of [waterworks] the

1 water system may receive a salary for their services and shall
2 be reimbursed by the borough for all expenses necessarily
3 incurred in the performance of their [duty] duties.

4 (b) The salary of the commissioners shall not exceed in
5 service areas with fewer than five thousand metered accounts a
6 maximum of one thousand eight hundred seventy-five dollars
7 (\$1875) per year or one hundred fifty-six dollars and twenty-
8 five cents (\$156.25) per month; in service areas with five
9 thousand but fewer than ten thousand metered accounts, a maximum
10 of two thousand five hundred dollars (\$2500) per year or two
11 hundred and eight dollars and thirty-three cents (\$208.33) per
12 month; in service areas with ten thousand but fewer than fifteen
13 thousand metered accounts, a maximum of three thousand two
14 hundred and fifty dollars (\$3250) per year or two hundred and
15 seventy dollars and eighty-three cents (\$270.83) per month; in
16 service areas with fifteen thousand but fewer than twenty-five
17 thousand metered accounts, a maximum of four thousand one
18 hundred and twenty-five dollars (\$4125) per year or three
19 hundred and forty-three dollars and seventy-five cents (\$343.75)
20 per month; in service areas with twenty-five thousand but fewer
21 than thirty-five thousand metered accounts, a maximum of four
22 thousand three hundred seventy-five dollars (\$4375) per year or
23 three hundred sixty-four dollars and fifty-eight cents (\$364.58)
24 per month; and in service areas with thirty-five thousand or
25 more metered accounts, a maximum of five thousand dollars
26 (\$5000) per year or four hundred and sixteen dollars and sixty-
27 seven cents (\$416.67) per month.

28 Section 282. Sections 2453, 2454, 2455, 2456, 2457 and 2458
29 of the act are amended to read:

30 Section 2453. Organization of Commissioners.--It shall be

1 the duty of the commissioners of [waterworks] the water system
2 to meet within ten days after their first appointment, and
3 annually thereafter, and organize by electing a president and
4 secretary.

5 Section 2454. Powers of Commission.--After organization, the
6 commissioners shall take charge and control of the [waterworks]
7 water system of [such] the borough. The commission shall have
8 power to appoint all necessary officers and agents, and take
9 from [them such] the officers and agents security for the
10 faithful performance of their [duty] duties as [they] the
11 commission shall deem proper[; and], to fix the salaries and
12 wages of [such] the officers and agents[;], to provide for the
13 repair, extension, improvement and maintenance of [such
14 waterworks] the water system, and the [erection] construction of
15 a new [waterworks;] water system, to collect water rents and to
16 make and establish the rates and conditions upon which water
17 will be furnished to applicants [therefor], subject to any
18 applicable approval, regulation or control imposed by 66 Pa.C.S.
19 Pt. I (relating to Public Utility Code) and to make bylaws and
20 regulations for the economic and efficient management of [such
21 waterworks] the water system, which shall not be inconsistent
22 with any of the laws of the Commonwealth, or the rules and
23 regulations of the [Sanitary Water Board or the Water and Power
24 Resources Board of the Commonwealth] Department of Environmental
25 Protection. No such bylaws or regulations shall become effective
26 until they have been approved by the borough council and enacted
27 as ordinances of the borough.

28 Section 2455. Issue of Bonds.--The borough may, upon the
29 request of the commissioners of [waterworks] the water system,
30 issue general obligation or non-debt revenue bonds for the

1 extension of the [waterworks] water system or the erection of a
2 new [waterworks. Such] water system. The bonds shall be
3 designated ["waterworks] "water system bonds" and shall be
4 issued and sold in the manner provided by [the Municipal
5 Borrowing Law] 53 Pa.C.S. Pt. VII Subpt. B (relating to
6 indebtedness and borrowing).

7 Section 2456. Plans and Specifications for the Improvements;
8 Contracts.--The commissioners shall prepare plans and
9 specifications of all work to be performed and materials
10 necessary for the repair, maintenance, and extension of [such
11 waterworks] the water system, or the [erection] construction of
12 a new [waterworks; and] water system. The commissioners shall,
13 after plans and specifications for the extension or the
14 [erection] construction of [waterworks have] a water system has
15 been submitted to and approved by the [Sanitary Water Board]
16 Department of Environmental Protection, and a permit granted
17 [therefor by the board] as may be required by law, invite
18 proposals for the performing of [such] the work and the
19 furnishing of [such] materials[;], and shall advertise for bids
20 as required by law, and shall let contracts [therefor] to the
21 lowest responsible bidder, and shall take adequate security for
22 the performance of all such contracts and for the payment of all
23 labor and materials.

24 Section 2457. Reports by Commission.--The commissioners
25 shall make a monthly report to the borough council of the
26 receipts and disbursements during the preceding month, and
27 annually make a detailed report of the condition of the
28 [waterworks, which shall be published or otherwise made
29 available by the council for the information of the public.]
30 water system. Both the monthly and annual reports shall be

1 deemed to be public records.

2 Section 2458. Care of Funds.--[The commissioners shall cause
3 all moneys collected to be deposited weekly, by the collectors,]
4 Collectors shall be appointed by the commissioners, pursuant to
5 section 2454, who shall collect all moneys for water rents. The
6 moneys collected shall be deposited weekly with the borough
7 treasurer, who shall return a receipt [therefor] to the
8 commissioners. All moneys [so] collected shall be kept in a
9 separate fund, and shall be used for the purpose of repairing,
10 maintaining and extending [such waterworks] the water system,
11 and the [erection] construction of a new [waterworks] water
12 system. All moneys remaining after [such] the expenditures shall
13 be used solely for the payment of any indebtedness on [said
14 waterworks] the water system and any indebtedness incurred by
15 the borough for constructing, maintaining, improving, enlarging
16 or extending [said waterworks] the water system. [Said moneys
17 shall be used for no purpose other than as provided in this
18 section.] No money shall be drawn from [such] the fund except
19 upon order countersigned by the president and secretary of the
20 commission.

21 Section 283. Article XXIV subdivision (a)(8) heading of the
22 act is renumbered and amended to read:

23 [(8)] (a.7) Water Connections

24 Section 284. Sections 2461, 2462 and 2463 of the act are
25 amended to read:

26 Section 2461. Ordinances to Require Water Connections.--[Any
27 borough supplying water for the use of the public within such
28 borough, in any manner mentioned in section 2401 of this act,]
29 (a) Borough council may, by ordinance, require any owner of
30 property [abutting upon any street in which there is a water

1 main constructed or acquired by the borough, to make connections
2 with such water line, for the purpose of conducting water to
3 such property. The borough may by penalties enforce any
4 regulation it may ordain with reference to such water
5 connections.] to connect with and use a water system of the
6 borough or municipal authority or a joint water board in either
7 of the following cases:

8 (1) Except as provided in subsection (b), if the property
9 owner's principal building is located within one hundred fifty
10 feet of a water system or any part or extension of the system.

11 (2) If the property owner's principal building has no supply
12 of water which is safe for human consumption.

13 (b) A property owner who, after the effective date of this
14 subsection, is subject to mandatory connection pursuant to
15 subsection (a) (1) shall not be required to connect to the water
16 system pursuant to that subsection if all of the following
17 conditions exist:

18 (1) The water system or part or extension of the system that
19 is within one hundred fifty feet of the principal building was
20 in existence on the effective date of this subsection.

21 (2) The principal building has its own supply of water which
22 is safe for human consumption.

23 (3) Prior to the effective date of this subsection, the
24 property owner was not required to connect to the existing
25 system.

26 (c) A borough may also require any owner of property to
27 install and maintain a backflow prevention device based on the
28 degree of potential hazard of the connected property in
29 accordance with the act of November 10, 1999 (P.L.491, No.45),
30 known as the "Pennsylvania Construction Code Act," and

1 regulations promulgated thereunder.

2 (d) A borough may assess penalties for the violation of
3 ordinances pertaining to water connections or backflow
4 prevention devices.

5 Section 2462. Notice of Ordinance; Failure to Comply With
6 Ordinance.--The owner shall be given at least forty-five days'
7 notice of any ordinance requiring [such] a water connection,
8 and, upon failure of [such] the owner to make [such] the
9 required connection, the borough may make the [same] connection,
10 and collect the cost [thereof] from the owner by a municipal
11 claim or in an action of assumpsit. All connections required
12 shall be uniform.

13 Section 2463. Water Main Tapping Fees.--Any borough may, by
14 ordinance, provide for charging a tapping fee calculated in
15 accordance with 53 Pa.C.S. § 5607 (relating to purposes and
16 powers) whenever the owner of any property connects [such] the
17 property with a water main constructed or acquired by the
18 borough[, which]. The tapping fee shall be in addition to any
19 charges assessed and collected against [such] the property in
20 the construction or acquisition of [such] the water main by the
21 borough. Whenever a water main or part or extension [thereof]
22 owned by a borough has been constructed by the borough at the
23 expense of a private person or corporation or has been
24 constructed by a private person or corporation under the
25 supervision of the borough at the expense of the private person
26 or corporation, the borough shall have the right to charge a
27 tapping fee calculated in accordance with 53 Pa.C.S. § 5607 and
28 refund [said] the tapping fee or any part [thereof] of the
29 tapping fee to the person or corporation who has paid for the
30 construction of [said] the water main or any part or extension

1 [thereof]. The total of [said] the refunds shall never exceed
2 the cost of [said] the system or any part or extension [thereof]
3 to the person or corporation paying for the construction
4 [thereof].

5 Section 285. Article XXIV subdivision (b) heading of the act
6 is repealed:

7 [(b) Manufacture and Supply of Electricity]

8 Section 286. Section 2471 of the act, amended December 16,
9 1992 (P.L.1215, No.158), is repealed:

10 [Section 2471. Manufacture and Purchase of Electricity.--Any
11 borough may manufacture or purchase electricity for the use of
12 the inhabitants of such borough. Any borough owning or operating
13 electric light plants may make contracts for supplying
14 electricity for commercial purposes outside the limits of such
15 borough, with the consent of the municipal and township
16 authorities. Nothing in this section shall conflict with the
17 corporate rights of any corporation empowered to supply
18 electricity in territory adjacent to such boroughs, or with the
19 rights of any other borough. No person, firm, or corporation
20 shall introduce electric current for light, heat, or power
21 purposes, without the consent of the borough authorities, into
22 the limits of any borough which is furnishing electric current
23 to the inhabitants: Provided, however, That this section shall
24 not apply to any person, firm, or corporation manufacturing
25 electricity exclusively for its own use: And provided further,
26 That any borough which constructs an electric light plant, or
27 purchases the property of any person, copartnership, or electric
28 light company, and incurs debt for any of such purposes, shall
29 incur such debt in accordance with and to the extent permitted
30 by the act of July 12, 1972 (P.L.781, No.185), known as the

1 "Local Government Unit Debt Act." Nothing in this act shall be
2 construed so as to disallow any borough from operating a cable
3 television system.]

4 Section 287. Sections 2471.1 and 2471.2 of the act, added
5 December 30, 1982 (P.L.1465, No.333), are repealed:

6 [Section 2471.1. Operation of Electric Plants.--(a) The
7 following words and phrases when used in this section shall
8 have, unless the context clearly indicates otherwise, the
9 meanings given to them in this subsection:

10 (1) "Project" means any electric plants, hydroelectric plant
11 works, system, facilities, or real or personal property,
12 together with all parts thereof and appurtenances thereto, used
13 or useful in connection with the generation, production,
14 transmission, purchase, sale, exchange or interchange of
15 electric power or energy, or any interest therein or right to
16 capacity thereof.

17 (2) "Revenue bond" means an instrument imposing an
18 obligation for the repayment of money borrowed, payable as to
19 both principal and interest exclusively from the income and
20 revenues derived from an interest in an electric light plant or
21 project.

22 (b) A borough may own, construct, acquire by lease, purchase
23 or otherwise gain an interest as co-owner or tenant in common
24 and operate and manage or cause to be operated and managed an
25 electric light plant or project located within or without this
26 Commonwealth jointly with any other borough, political
27 subdivision, subdivision of the Federal Government, State,
28 political subdivision of another state, private corporation
29 empowered to supply electricity, electric cooperative
30 corporation formed under the act of June 21, 1937 (P.L.1969,

No.389), known as the "Electric Cooperative Corporation Act," or electric cooperative corporation in another state.

(c) A borough which jointly owns, constructs, leases, purchases or otherwise gains an interest in an electric light plant or project shall have the power to do and accomplish all actions reasonably necessary and incident to the administration, operation and management of the plant or project. This power shall be vested in the corporate authorities: Provided, however, That a borough shall not become a stockholder in, obtain or appropriate money for or loan its credit to any corporation, association, institution or individual or otherwise act contrary to the provisions of section 9 of Article IX of the Constitution of Pennsylvania. In addition to the powers enjoyed by all boroughs, a borough which gains an interest in an electric light plant or project under subsection (b) shall have the following powers:

(1) to cooperate with private power companies, other boroughs, electric cooperative corporations and other public or private electric power entities, inside and outside of this Commonwealth, in the development of electric power and energy;

(2) to make such studies as may be necessary to determine the feasibility and cost of any additional sources and supplies of electric power and energy;

(3) to contract for the purchase, sale, exchange, interchange, wheeling, pooling or transmission of electric power and energy or for the right to the capacity thereof, inside and outside of this Commonwealth, to and from any public or private power entities, private power companies, other boroughs and electric cooperative corporations;

(4) to procure insurance against any losses in connection

1 with its property, operations or assets in such amounts and from
2 such insurers as the corporate authorities deem desirable;

3 (5) to contract for and to accept any gifts or grants or
4 loans of funds or property or financial or other aid in any form
5 from the United States of America or any agency or
6 instrumentality thereof, or from any other source;

7 (6) to grant the use, by lease or otherwise, and to make
8 charges for the use, of any property or facility owned or
9 controlled by it;

10 (7) to procure from the United States of America or any
11 agency or instrumentality thereof, or from any state or agency
12 or instrumentality thereof, any consents, authorizations or
13 approvals which may be requisite to enable ownership, operation,
14 construction or repair;

15 (8) to borrow money and from time to time to issue revenue
16 bonds, and to enter into agreements with the purchasers of such
17 revenue bonds; and

18 (9) to mortgage any property acquired or owned under
19 subsection (b) to secure the payment of its revenue bonds, or
20 other obligations issued to finance such acquisition, ownership
21 or repair.

22 (d) In the erection and extension of an electric light plant
23 or project under subsection (b) and for all other purposes
24 authorized by this act, a borough may enter upon, appropriate,
25 injure, or destroy private lands, property or material according
26 to the proceedings set forth in the law governing eminent
27 domain: Provided, however, That a borough shall not have the
28 power of condemnation with regard to any property of a private
29 or public retail electric supplier which geographically lies
30 beyond the boundaries of the corporate limits of the borough.

1 (e) A borough which gains an interest in an electric light
2 plant or project under subsection (b) may fix, establish,
3 maintain and collect or authorize by contract or otherwise the
4 establishment, levying and collection of such rates, fees,
5 rental or other charges, including connection charges, for the
6 services afforded by or in connection with any properties which
7 it constructs, erects, owns, acquires, operates or manages, and
8 for the sale or transmission of electric energy and power as it
9 may deem necessary, proper, desirable and reasonable.

10 (f) A borough which gains an interest in an electric light
11 plant or project under subsection (b) may pay all or part of the
12 cost therefor from the revenues derived from the sale of revenue
13 bonds issued in the manner provided by the act of July 12, 1972
14 (P.L.781, No.185), known as the "Local Government Unit Debt
15 Act."

16 (g) Interest and principal paid on revenue bonds issued by a
17 borough under subsection (f) shall be exempt from all State
18 taxes of whatsoever kind or nature.

19 Section 2471.2. Municipal Power Agencies.--(a) The
20 following words and phrases when used in this section shall
21 have, unless the context clearly indicates otherwise, the
22 meanings given to them in this subsection:

23 (1) "Municipal power agency" means a separate body politic
24 and corporate under the laws of the Commonwealth of Pennsylvania
25 created by agreement between or among two or more boroughs
26 pursuant to this section.

27 (2) "Project" means any electric plant or plants,
28 hydroelectric plant works, system, facilities or real or
29 personal property, together with all parts thereof and
30 appurtenances thereto, used or useful in connection with the

1 generation, production, transmission, purchase, sale, exchange
2 or interchange of electric power or energy, or any interest
3 therein or right to capacity thereof.

4 (3) "Revenue bond" means an instrument imposing an
5 obligation for the repayment of money borrowed, payable as to
6 both principal and interest exclusively from the income and
7 revenues derived from an interest in an electric light plant or
8 project.

9 (b) Any two or more boroughs may form a municipal power
10 agency by the execution of any agency agreement authorized by a
11 resolution of the corporate authorities of each borough. Such
12 agency agreement shall state:

13 (1) The name of the agency, which shall include the words
14 "municipal power agency."

15 (2) The names of the boroughs which have approved the agency
16 agreement and are initial members of the municipal power agency.

17 (3) That the municipal power agency is created pursuant to
18 the authority granted by this act.

19 (4) The names and addresses of the persons initially
20 appointed by the corporate authorities to act as representatives
21 to the municipal power agency from the member boroughs.

22 (5) The limitations, if any, placed on the powers or terms
23 of representatives appointed by the corporate authorities of the
24 member boroughs.

25 (6) The names and addresses of the initial board of
26 directors of the municipal power agency, if known by the time of
27 filing, which shall be constituted by not less than five persons
28 who are representatives of the member boroughs, selected by the
29 vote of a majority of such representatives.

30 (c) The agency agreement referred to in subsection (b) and a

1 certified copy of the resolution of the corporate authorities of
2 each borough shall be filed for record with the Secretary of the
3 Commonwealth. If the agency agreement meets the requirements of
4 this subsection, the Secretary of the Commonwealth shall record
5 it and issue and record a certificate of incorporation which
6 shall be conclusive proof of a substantial compliance with the
7 requirements of this subsection. The certificate shall state the
8 name of the municipal power agency and the fact and date of
9 incorporation. Upon the issuance of the certificate of
10 incorporation the existence of the municipal power agency as a
11 political instrumentality of the Commonwealth shall begin.

12 (d) The bylaws of the municipal power agency and any
13 amendments thereto, shall be proposed by the board of directors
14 and shall be adopted by a majority vote of the representatives
15 of the member boroughs, unless the agency agreement requires a
16 greater vote, at a meeting held after notice. Subject to the
17 provisions of the agency agreement, the bylaws shall state:

18 (1) the qualifications of member boroughs, and limitations,
19 if any, upon their number;

20 (2) conditions of membership, if any;

21 (3) manner and time of calling regular meeting of
22 representatives of member boroughs;

23 (4) manner and conditions of termination of membership; and

24 (5) such other provisions for regulating the affairs of the
25 municipal power agency as the representatives of the member
26 boroughs shall determine to be necessary.

27 (e) Every municipal power agency shall maintain an office in
28 this Commonwealth to be known as its registered office. When a
29 municipal power agency desires to change the location of its
30 registered office, it shall file with the Secretary of the

1 Commonwealth a certificate of change of location of registered
2 office, stating the new location by city, town or other
3 community and effective date of change. When the certificate of
4 change of location has been duly filed, the board of directors
5 may make the change without any further action.

6 (f) Each of the directors shall hold office for the term for
7 which he has been selected and until a successor has been
8 selected and has qualified. Directors shall discharge their
9 duties in good faith, and with that diligence and care which an
10 ordinary prudent person in a like position would exercise under
11 similar circumstances. The agency agreement, or the bylaws may
12 prescribe the number, term of office, powers, authority and
13 duties of directors, the time and place of their meetings and
14 other regulations concerning directors. Except where the agency
15 agreement or bylaws prescribe otherwise, the term of office of a
16 director shall be for one year. Except where the agency
17 agreement or bylaws prescribe otherwise, a meeting of the board
18 of directors may be held at any place, within the Commonwealth,
19 designated by the board, after notice, and an act of the
20 majority of the directors present at a meeting at which a quorum
21 is present is the act of the board. Except where the agency
22 agreement or bylaws prescribe otherwise, any vacancy occurring
23 on the board shall be filled by a person nominated by the
24 remaining members of the board and elected by a majority of
25 representatives of the member boroughs.

26 (g) Except where the agency agreement or bylaws prescribe
27 otherwise, the board of directors shall appoint a president from
28 its membership, and a secretary and treasurer, and any other
29 officers or agents deemed to be necessary, who may but need not
30 be borough representatives or directors. An officer may be

1 removed with or without cause by the board of directors.
2 Officers of the municipal power agency shall have the authority
3 and duties in the management of the business of the municipal
4 power agency that the agency agreement or bylaws prescribe, or,
5 in the absence of such prescription, as the board of directors
6 determines.

7 (h) Except as otherwise provided in the agency agreement or
8 the bylaws, the duly authorized representatives of each member
9 borough shall act as, and vote on behalf of, such borough.
10 Except where the agency agreement or bylaws provide otherwise,
11 representatives of the member boroughs shall hold at least one
12 meeting each year for the election of directors and for the
13 transaction of any other business. Except where the agency
14 agreement or bylaws prescribe otherwise, special meetings of the
15 representatives may be called for any purpose upon written
16 request to the president or secretary to call the meeting. Such
17 officer shall give notice of the meeting to be held between ten
18 and sixty days after receipt of such request. Unless the agency
19 agreement or bylaws provide for a different percentage, a quorum
20 for a meeting of the representatives of the member boroughs is a
21 majority of the total members and a quorum for meetings of the
22 board of directors is a majority of the membership of such
23 board.

24 (i) The agency agreement may be amended as proposed at any
25 meeting of the representatives of the members for which notice,
26 stating the purpose, shall be given to each representative and,
27 unless the agency agreement or bylaws require otherwise, shall
28 become effective when ratified by resolutions of a majority of
29 the corporate authorities of the member boroughs. Each amendment
30 and the resolutions approving it shall be filed for record with

1 the Secretary of the Commonwealth.

2 (j) Each member borough shall have full power and authority,
3 within budgetary limits applicable to it, to appropriate money
4 for the payment of expenses of the formation of the municipal
5 power agency and of its representative in exercising its
6 functions as a member of the agency.

7 (k) A municipal power agency may own, construct, acquire by
8 lease, purchase or otherwise gain an interest by itself or as
9 co-owner or tenant in common and operate and manage or cause to
10 be operated and managed an electric light plant or project
11 located within or without this Commonwealth jointly with any
12 political subdivision, subdivision of the Federal Government,
13 State, political subdivision of another state, private
14 corporation empowered to supply electricity, electric
15 cooperative corporation formed under the act of June 21, 1937
16 (P.L.1969, No.389), known as the "Electric Cooperative
17 Corporation Act," or electric cooperative corporation in another
18 state.

19 (l) All powers of a municipal power agency shall be
20 exercised by its board of directors, unless otherwise provided
21 by the agency agreement or bylaws. A municipal power agency
22 shall have the power to do and accomplish all actions reasonably
23 necessary and incident to the ownership, construction,
24 acquisition, administration, operation and management of an
25 electric light plant or project. Among the specific powers of a
26 municipal power agency shall be the following:

27 (1) to sue and be sued;

28 (2) to enter into contracts;

29 (3) to cooperate with private power companies, boroughs,
30 electric cooperative corporations and other public or private

electric power entities, inside and outside of this Commonwealth, in the development of electric power and energy;

(4) to make such studies as may be necessary to determine the feasibility and cost of any additional sources and supplies of electric power and energy;

(5) to contract for the purchase, sale, exchange, interchange, wheeling, pooling or transmission of electric power and energy or for the right to the capacity thereof, inside and outside of this Commonwealth, to and from any public or private power entities, private power companies, other boroughs and electric cooperative corporations;

(6) to procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as the board of directors deems desirable;

(7) to contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from any other source;

(8) to acquire, hold, use, operate and dispose of personal property;

(9) to acquire, hold, use and dispose of its income, revenues, funds and moneys;

(10) to acquire, own, use, lease, operate and dispose of real property and interests in real property and to make improvements thereon;

(11) to grant the use, by lease or otherwise, and to make charges for the use, of any property or facility owned or controlled by it;

(12) to procure from the United States of America or any agency or instrumentality thereof, or from any state or agency

1 or instrumentality thereof, any consents, authorizations or
2 approvals which may be requisite to enable ownership, operation,
3 construction or repair;

4 (13) to borrow money and from time to time to issue revenue
5 bonds and to enter into agreements with the purchasers of such
6 revenue bonds;

7 (14) to invest funds not required for immediate use,
8 including but not limited to proceeds from the sale of revenue
9 bonds: Provided, however, That the power of a municipal power
10 agency to invest shall be the same as that of a borough, as
11 exercised by the borough council pursuant to clause (6) of
12 section 1005 and section 1316; and

13 (15) to mortgage any property acquired or owned to secure
14 the payment of its revenue bonds or other obligations issued to
15 finance such acquisition, ownership or repair.

16 (m) In the erection and extension of an electric light plant
17 or project, and for all other purposes authorized by this act, a
18 municipal power agency may enter upon, appropriate, injure or
19 destroy private lands, property or material according to the
20 proceedings set forth in the law governing eminent domain:

21 Provided, however, That a municipal power agency shall not have
22 the power of condemnation with regard to any property of a
23 private or public retail electric supplier which geographically
24 lies beyond the boundaries of the corporate limits of its member
25 boroughs.

26 (n) A municipal power agency which gains an interest in an
27 electric light plant or project may pay all or part of the cost
28 therefor from the revenues derived from the sale of revenue
29 bonds issued in the manner provided by the act of July 12, 1972
30 (P.L.781, No.185), known as the "Local Government Unit Debt

1 Act."

2 (o) A municipal power agency may make and enforce bylaws or
3 rules which it deems necessary or desirable and may establish,
4 fix, levy and collect or may authorize, by contract, franchise,
5 lease or otherwise, the establishment, levying and collection
6 of, rents, rates and other charges for the services afforded by
7 the municipal power agency, including connection for the
8 services afforded by the municipal power agency, including
9 connection charges or by or in connection with any project or
10 properties which it may construct, erect, acquire, own, operate
11 or control, or with respect to which it may have any interest or
12 any right to capacity thereof and for the sale of electric
13 energy or of generation or transmission capacity or services as
14 it may deem necessary, proper, desirable and reasonable. Rents,
15 rates and other charges shall be at least sufficient to meet
16 expenses thereof, including reasonable reserves, interest and
17 principal payments.

18 (p) Interest and principal paid on revenue bonds, issued by
19 a municipal power agency shall be exempt from all State taxes of
20 whatsoever kind or nature.]

21 Section 288. Section 2471.3 of the act, added October 27,
22 2010 (P.L.862, No.87), is repealed:

23 [Section 2471.3. Additional Contracting Authority for
24 Electric Power and Energy.--(a) In addition to the authority
25 provided under section 2471, a borough that, on the effective
26 date of this section, owns or operates electric generation or
27 distribution facilities and a borough that is a member of a non-
28 profit membership corporation may contract with the non-profit
29 membership corporation for the following:

30 (1) The development of electric power and associated energy,

1 including the conduct of investigations or studies necessary to
2 determine the feasibility and cost of additional sources and
3 supplies of electric power and associated energy.

4 (2) The purchase, sale, exchange, interchange, wheeling,
5 pooling or transmission of electric power and associated energy
6 or the right to the capacity from sources and projects in this
7 Commonwealth or another state for a period not to exceed fifty
8 years.

9 (b) A contract under subsection (a)(2) shall include the
10 purpose of the contract, the duration of the contract and
11 available procedures to terminate the contract subsequent to the
12 repayment of all indebtedness secured under the contract.

13 (c) If a borough is a member of a non-profit membership
14 corporation, a contract under subsection (a)(2) may, if
15 specifically set forth in the contract, obligate the borough to:

16 (1) take and pay for a minimum quantity of electric power
17 and associated energy if the power and energy is available for
18 delivery;

19 (2) in connection with a project owned by the non-profit
20 membership corporation or in which the non-profit membership
21 corporation obtains an undivided ownership interest, to take or
22 pay for a minimum amount of electric power and energy; or

23 (3) pay for electric power and energy only if utilized by
24 the borough.

25 (d) (1) The authority under subsection (c)(1) shall apply
26 whether or not the borough accepts delivery of the power and
27 energy.

28 (2) The authority under subsection (c)(2) shall apply
29 notwithstanding the suspension, interruption, interference or
30 reduction or curtailment of the output of the project or the

1 electric power and energy contracted for and whether or not:

2 (i) the electric power and energy is available for delivery
3 to the borough; or

4 (ii) the borough accepts delivery of the electric power and
5 energy.

6 (e) No borough may be obligated under a take-or-pay or take-
7 and-pay arrangement entered into with a non-profit membership
8 corporation in which the borough maintains membership unless
9 that obligation is expressly authorized by an act of the borough
10 council.

11 (f) A non-profit membership corporation shall not:

12 (1) condition membership in the non-profit membership
13 corporation on the inclusion of any take-or-pay or take-and-pay
14 obligations in a contract under subsection (a)(2); or

15 (2) except as set forth in subsection (g), require take-or-
16 pay or take-and-pay obligations in a contract with a borough
17 unless the contract meets the criteria of subsection (c)(1) or
18 (2).

19 (g) A borough which is a member of a non-profit membership
20 corporation may enter into future power supply contracts,
21 contract renewals or contract extensions with the non-profit
22 membership corporation under subsection (c)(3):

23 (1) with no take-or-pay or take-and-pay obligations as
24 permitted by subsection (c)(1) and (2); and

25 (2) without prejudice or discrimination as compared to any
26 other borough which chooses to enter into contracts permitted by
27 subsection (c)(1) and (2) with the non-profit membership
28 corporation.

29 (h) In order to carry out subsection (g), a non-profit
30 membership corporation which provides or offers electric power

1 and associated energy to a member borough in this Commonwealth
2 under subsection (a)(2) shall offer, to all of its member
3 boroughs in this Commonwealth, future power supply contract
4 terms, contract renewals or contract extensions under subsection
5 (c)(3) on a comparable and nondiscriminatory basis and with
6 similar terms and conditions to future power supply contract
7 terms, contract renewals or contract extensions that would be
8 appropriate under subsection (c)(3) which the non-profit
9 membership corporation contemporaneously offers to its members
10 in other states.

11 (i) All obligations under a contract under subsection (a)(2)
12 shall be paid from revenues derived from the operation of the
13 borough's electric system, and payments shall be an operating
14 expense of the borough's electric system.

15 (j) If explicitly set forth in a contract under subsection
16 (a)(2), a borough may agree to assume, prorate or otherwise
17 become liable for the obligations of another borough of this
18 Commonwealth or of a political subdivision of another state that
19 is a member of the non-profit membership corporation if the
20 borough or other political subdivision defaults in the payment
21 of its obligations for the purchase of the electric power and
22 associated energy. The contract may include provisions to permit
23 a borough to succeed to the rights and interests of the
24 defaulting borough or political subdivision to purchase electric
25 power and associated energy. A borough's liability for the
26 obligations of a defaulting borough of this Commonwealth or a
27 political subdivision of another state shall not exceed twenty-
28 five percent of a borough's initial nominal entitlement to
29 electric power and associated energy under the contract.

30 (k) None of the obligations under the contract shall

1 constitute a legal or equitable pledge, charge, lien or
2 encumbrance on any property of the borough or on any of its
3 income, receipts or revenues, except revenues of its electric
4 system. The full faith and credit and the taxing power of the
5 borough shall not be pledged for the payment of an obligation
6 under the contract.

7 (1) The provisions of this section are intended to add to
8 the powers and rights of a borough, and nothing in this section
9 shall be construed to limit either the general or specific
10 powers or rights of a borough set forth in this act.

11 (m) As used in this section, the term "non-profit membership
12 corporation" means an entity the membership of which:

13 (1) consists solely of Pennsylvania boroughs, such as a
14 consortium, buying group or municipal power agency under section
15 2471.2; or

16 (2) consists of Pennsylvania boroughs and political
17 subdivisions of another state or states.]

18 Section 289. Sections 2472, 2473, 2474, 2475 and 2476 of the
19 act are repealed:

20 [Section 2472. May Regulate Use and Prices.--Any borough
21 furnishing electricity may regulate the use of electricity in
22 dwellings, business places, and other places in such borough,
23 and the rate to be charged for the same.

24 Section 2473. Sale of Electric Light Works.--By ordinance, a
25 borough may sell all or part of its electric light works to a
26 purchaser for such sale price as the parties may agree upon, and
27 thereafter for all purposes that price shall be deemed to be the
28 purchaser's original cost less accrued depreciation of the plant
29 at the date of purchase.

30 Section 2474. Purchase of Electric Light Works.--Whenever

1 any person, copartnership, or any electric light company
2 organized under the laws of the Commonwealth, is furnishing
3 light to any borough or the public within such borough, such
4 borough may purchase the works of such person, copartnership, or
5 corporation, at such price as may be agreed upon by the borough
6 and such person or copartnership, or a majority in value of the
7 stockholders of such corporation.

8 Section 2475. Petition for Viewers.--Upon failure so to
9 agree on purchase price the borough may present a petition to
10 the court of common pleas, asking for the appointment of viewers
11 to assess the value of the plant and works so proposed to be
12 purchased whereupon the court shall appoint three viewers from
13 the county board of viewers, neither of whom shall be interested
14 in such works, or be stockholders in such corporation, or
15 taxpayers in such borough, and shall appoint a time for their
16 meeting, of which ten days' notice shall be given to all parties
17 in interest.

18 Section 2476. Duty of Viewers.--The viewers, having been
19 sworn or affirmed justly and impartially to appraise the
20 property, and having viewed the premises and taken such
21 testimony as may be offered by any party touching the value of
22 the property and franchises, they shall determine the amount of
23 damages that such person, copartnership, or corporation will
24 sustain, and to whom payable, and make report thereof to the
25 court; which report shall be confirmed "nisi" by the court, and
26 if no appeal is taken as hereinafter provided, shall be
27 confirmed absolutely.]

28 Section 290. Section 2477 of the act, repealed in part June
29 3, 1971 (P.L.118, No.6), is repealed:

30 [Section 2477. Appeal from Report; Trial by Jury.--Either

1 party may, at any time within thirty days after the confirmation
2 "nisi" of any such report, appeal therefrom to the court of
3 common pleas of the county. After such appeal, either party may
4 put the cause at issue, in the form directed by the court, and
5 the same shall be tried before a jury.]

6 Section 291. Sections 2478 and 2479, Article XXIV
7 subdivision (c) heading, section 2481, subdivision (d) heading
8 and sections 2491, 2492 and 2493 of the act are repealed:

9 [Section 2478. Exceptions to Report.--If any exceptions are
10 filed with any appeal, they shall be speedily disposed of, and,
11 if allowed, a new view shall be ordered; but if disallowed, the
12 appeal shall proceed as before provided.

13 Section 2479. Notices.--The court shall have power to order
14 what notice shall be given in connection with any part of such
15 proceedings.

16 (c) Operation of Gas Wells; Gas Works

17 Section 2481. Authority to Purchase Natural Gas Well.--Any
18 borough shall have authority to purchase, own, use, operate and
19 control any natural gas well, or wells, for the purpose of
20 supplying natural gas for its own municipal purposes.

21 (d) Airports

22 Section 2491. Authority to Secure Lands for Airports.--Any
23 borough is hereby authorized and empowered to acquire, by lease
24 or purchase, any land, lying either within or without the limits
25 of such borough, which, in the judgment of the council thereof,
26 may be necessary and desirable for the purpose of establishing
27 and maintaining municipal airport facilities. The proceedings
28 for the condemnation of land under the provisions of this
29 subdivision, and for the assessment of damages for property
30 taken, injured or destroyed, shall be conducted in the manner

1 provided by the law governing eminent domain. The title acquired
2 by the borough exercising the power of condemnation shall be a
3 title in fee simple.

4 Section 2492. Authority to Establish Airports and Lease the
5 Same.--Any borough, acquiring land under the provisions of this
6 subdivision, is authorized and empowered to establish, equip,
7 condition, operate and maintain the same as a municipal airport,
8 and may lease the same, or any part thereof, to any individual
9 or corporation desiring to use the same for aviation purposes;
10 and any borough may enter into a contract, in the form of a
11 lease, providing for the use of said land, or any part thereof,
12 by the Government of the United States, for the use by said
13 Government of said land for aviation purposes upon nominal
14 rental or without consideration.

15 Section 2493. Joint Airports.--Any borough, acquiring land
16 under the provisions of this subdivision, is authorized and
17 empowered to acquire, by lease or purchase, land for aviation
18 purposes, as hereinbefore provided, jointly with any county,
19 city, borough, township, or political subdivision of this
20 Commonwealth, and is hereby authorized and empowered to operate
21 and maintain said airport, jointly, with any county, city,
22 borough, township, or other political subdivision of this
23 Commonwealth, upon such terms and conditions as may be agreed
24 upon between the proper authorities of the county, city,
25 borough, township, or other political subdivision of this
26 Commonwealth.]

27 Section 292. The act is amended by adding an article to
28 read:

29 ARTICLE XXIV-A

30 MANUFACTURE AND SUPPLY OF ELECTRICITY

1 Section 2401-A. Definitions.

2 The following words and phrases when used in this article
3 shall have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 "Municipal power agency." A separate body politic and
6 corporate under the laws of this Commonwealth created by
7 agreement between or among two or more boroughs pursuant to
8 section 2404-A.

9 "Project." Electric plants, hydroelectric plant works,
10 system, facilities or real or personal property, together with
11 their parts and appurtenances, used or useful in connection with
12 the generation, production, transmission, purchase, sale,
13 exchange or interchange of electric power or energy, or any
14 interest therein or right to capacity thereof.

15 "Revenue bond." An instrument imposing an obligation for the
16 repayment of money borrowed, payable as to both principal and
17 interest exclusively from the income and revenues derived from
18 an interest in an electric plant or project.

19 Section 2402-A. General powers.

20 (a) Electric plants and projects.--A borough may, either
21 singly or jointly, manufacture or purchase electricity for the
22 use of its inhabitants, own, construct, acquire by lease,
23 purchase or otherwise gain an interest in, operate and manage or
24 cause to be operated and managed, an electric plant or project
25 located within or without this Commonwealth. In the exercise of
26 any of the foregoing powers, a borough may join with any other
27 borough, political subdivision, agency or instrumentality of the
28 Federal Government, State government, political subdivision of
29 another state, private corporation empowered to supply
30 electricity, electric cooperative corporation formed under 15

1 Pa.C.S. Ch. 73 Subchs. A (relating to preliminary provisions)
2 and B (relating to powers, duties and safeguards), or previously
3 formed under the act of June 21, 1937 (P.L.1969, No.389), known
4 as the Electric Cooperative Corporation Act (REPEALED 1990-198),
5 or electric cooperative corporation in another state.

6 (b) Contracts for supplying electricity.--A borough owning
7 or operating an electric plant may make contracts for supplying
8 electricity for commercial purposes outside the limits of the
9 borough, provided that the borough has received the consent of
10 the other municipal governing body and, if applicable, subject
11 to 66 Pa.C.S. Pt. I (relating to Public Utility Code).

12 (c) Additional sources.--A borough may conduct studies as
13 necessary to determine the feasibility and cost of any
14 additional sources and supplies of electric power and energy and
15 may cooperate with private power companies, other boroughs,
16 electric cooperative corporations and other public or private
17 electric power entities, within or without this Commonwealth, in
18 the development of electric power and energy.

19 (d) Consent of borough to supply electricity.--No person,
20 partnership or corporation may introduce electric current for
21 light, heat or power purposes, without the consent of the
22 borough council, into the limits of any borough that is
23 furnishing electric current to its inhabitants, provided,
24 however, that this subsection shall not apply to any person,
25 partnership or corporation manufacturing electricity exclusively
26 for its own use.

27 (e) Corporate rights.--Nothing in this article may conflict
28 with the corporate rights of any corporation empowered to supply
29 electricity in the territory adjacent to the borough, or with
30 the rights of any other municipality.

1 (f) Restrictions.--A borough shall not become a stockholder
2 in, obtain or appropriate money for or loan its credit to any
3 corporation, association, institution or individual or otherwise
4 act contrary to the provisions of section 9 of Article IX of the
5 Constitution of Pennsylvania.

6 (g) General powers.--A borough, through its governing body,
7 shall have the power to do and accomplish all actions reasonably
8 necessary and incident to the administration, operation and
9 management of a plant or project.

10 Section 2403-A. Specific powers.

11 (a) Specific powers enumerated.--In addition to exercising
12 its general powers under section 2402-A, a borough, through its
13 governing body, shall have the following powers:

14 (1) To contract for the purchase, sale, exchange,
15 interchange, wheeling, pooling or transmission of electric
16 power and energy or for the right to the capacity thereof,
17 inside and outside of this Commonwealth, to and from any
18 public or private power entities, private power companies,
19 other boroughs and electric cooperative corporations.

20 (2) To regulate the use of and the charge for
21 electricity furnished by the borough for use throughout the
22 borough. A borough may fix, establish, maintain and collect
23 or authorize by contract or otherwise the establishment,
24 levying and collection of the rates, fees, rental or other
25 charges, including connection charges, for the services
26 afforded by or in connection with any properties which the
27 borough constructs, erects, owns, acquires, operates or
28 manages, and for the sale or transmission of electric energy
29 and power as it deems necessary, proper, desirable and
30 reasonable.

1 (3) To procure insurance against any losses in
2 connection with its property, operations or assets in the
3 amounts and from such insurers as the governing body or
4 bodies deem desirable.

5 (4) To contract for and to accept any gifts, grants or
6 loans of funds or property, or financial or other aid in any
7 form from the United States of America or any agency or
8 instrumentality of the United States of America, or from any
9 other source.

10 (5) To lease, or otherwise grant the use of, and to make
11 charges for the use of any property or facility owned or
12 controlled by the borough.

13 (6) To procure from the United States of America or any
14 agency or instrumentality of the United States of America, or
15 from any state or agency or instrumentality of the State, any
16 consents, authorizations or approvals which may be requisite
17 to enable ownership, operation, construction or repair.

18 (7) To borrow money and from time to time to issue
19 revenue bonds, and to enter into agreements with the
20 purchasers of the revenue bonds. Any borough that incurs debt
21 for the construction or purchase of an electric plant, or
22 land on which to construct an electric plant, or gains an
23 interest in an electric plant or project under section 2402-A
24 shall incur the debt in accordance with and to the extent
25 permitted by 53 Pa.C.S. Pt. VII Subpt. B (relating to
26 indebtedness and borrowing). Interest and principal paid on
27 revenue bonds issued by a borough under this article shall be
28 exempt from all State taxes of whatsoever kind or nature.

29 (8) To mortgage any property acquired or owned under
30 section 2402-A to secure the payment of its revenue bonds or

1 other obligations issued to finance the acquisition,
2 ownership or repair.

3 (9) To sell, by ordinance, all or part of its electric
4 works to a purchaser for the sale price agreed upon by the
5 parties, and thereafter, for all purposes, that price shall
6 be deemed to be the purchaser's original cost less accrued
7 depreciation of the plant at the date of purchase.

8 (10) To purchase the electric works of any person,
9 partnership, or electric company organized under the laws of
10 this Commonwealth that is furnishing light to the borough or
11 the public within the borough. The borough and the person,
12 partnership or a majority in value of the stockholders of a
13 corporation, may agree upon the purchase price, but upon
14 failure of the parties to agree on the price, the borough may
15 proceed according to the laws of eminent domain.

16 (b) Eminent domain.--In the erection and extension of an
17 electric plant or project under this article, and for all other
18 purposes authorized by this act, a borough may enter upon,
19 appropriate, injure or destroy private lands, property or
20 material according to the proceedings set forth in 26 Pa.C.S.
21 (relating to eminent domain). A borough, however, shall not have
22 the power of condemnation with regard to any property of a
23 private or public retail electric supplier which geographically
24 lies beyond the boundaries of the corporate limits of the
25 borough.

26 Section 2404-A. Municipal power agencies.

27 (a) General rule.--Two or more boroughs may form a municipal
28 power agency by the execution of an agency agreement authorized
29 by an ordinance of the governing bodies of each borough. The
30 agency agreement shall state:

1 (1) The name of the agency, which shall include the
2 words "municipal power agency."

3 (2) The names of the boroughs which have approved the
4 agency agreement and are initial members of the municipal
5 power agency.

6 (3) That the municipal power agency is created pursuant
7 to the authority granted by this act.

8 (4) The names and addresses of the persons initially
9 appointed by the governing bodies to act as representatives
10 to the municipal power agency from the member boroughs.

11 (5) The limitations, if any, placed on the powers or
12 terms of representatives appointed by the governing bodies of
13 the member boroughs.

14 (6) The names and addresses of the initial board of
15 directors of the municipal power agency, if known by the time
16 of filing, which shall be constituted by not less than five
17 persons who are representatives of the member boroughs,
18 selected by the vote of a majority of the representatives.

19 (b) Certificate of incorporation.--The agency agreement
20 under subsection (a) and a certified copy of the ordinance of
21 the governing body of each borough shall be filed for record
22 with the Secretary of the Commonwealth. If the agency agreement
23 meets the requirements of this section, the Secretary of the
24 Commonwealth shall record the agreement and issue and record a
25 certificate of incorporation which shall be conclusive proof of
26 substantial compliance with the requirements of this section.
27 The certificate shall state the name of the municipal power
28 agency and the fact and date of incorporation. Upon the issuance
29 of the certificate of incorporation, the existence of the
30 municipal power agency as a political instrumentality of the

1 Commonwealth shall begin.

2 (b.1) Open meetings.--Regular and special meetings of the
3 representatives of member boroughs and the board of directors as
4 provided in this section shall be subject to 65 Pa.C.S. Ch. 7
5 (relating to open meetings).

6 (c) Bylaws.--The bylaws of the municipal power agency and
7 any amendments, shall be proposed by the board of directors and
8 shall be adopted by a majority vote of the representatives of
9 the member boroughs, unless the agency agreement requires a
10 greater vote at a meeting held after notice. Subject to the
11 provisions of the agency agreement, the requirements of this act
12 and the laws of this Commonwealth, the bylaws shall state:

13 (1) the qualifications of member boroughs, and
14 limitations, if any, upon their number;

15 (2) conditions of membership, if any;

16 (3) the manner and time of calling regular meetings of
17 representatives of member boroughs;

18 (4) the manner and conditions of termination of
19 membership; and

20 (5) such other provisions for regulating the affairs of
21 the municipal power agency as the representatives of the
22 member boroughs shall determine to be necessary.

23 (d) Registered office.--Every municipal power agency shall
24 maintain an office in this Commonwealth to be known as its
25 registered office. When a municipal power agency desires to
26 change the location of its registered office, it shall file with
27 the Secretary of the Commonwealth a certificate of change of
28 location of registered office, stating the new location by
29 address, including street and number, if any, and effective date
30 of change. When the certificate of change of location has been

1 duly filed, the board of directors may make the change without
2 any further action.

3 (e) Directors.--Each of the directors shall hold office for
4 the term for which the director has been selected and until a
5 successor has been selected and has qualified. Directors shall
6 discharge their duties in good faith, and with that diligence
7 and care which an ordinary prudent person in a like position
8 would exercise under similar circumstances. The agency agreement
9 or the bylaws may prescribe the number, term of office, powers,
10 authority and duties of directors, the time and place of their
11 meetings and other regulations concerning directors, in a manner
12 consistent with law. Except where the agency agreement or bylaws
13 prescribe otherwise, the term of office of a director shall be
14 for one year. Except where the agency agreement or bylaws
15 prescribe otherwise, a meeting of the board of directors may be
16 held at any place within this Commonwealth designated by the
17 board, after notice, and an act of the majority of the directors
18 present at a meeting at which a quorum is present is the act of
19 the board. Except where the agency agreement or bylaws prescribe
20 otherwise, any vacancy occurring on the board shall be filled by
21 a person nominated by the remaining members of the board and
22 elected by a majority of representatives of the member boroughs.

23 (f) Officers.--Except where the agency agreement or bylaws
24 prescribe otherwise, the board of directors shall appoint a
25 president from its membership, and a secretary, treasurer and
26 any other officers or agents deemed necessary who may, but need
27 not be, borough representatives or directors. An officer may be
28 removed with or without cause by the board of directors.
29 Officers of the municipal power agency shall have the authority
30 and duties in the management of the business of the municipal

power agency that the agency agreement or bylaws prescribe or,
in the absence of such prescription, as the board of directors
determines.

(g) Representatives of member boroughs.--Except as otherwise
provided in the agency agreement or the bylaws, the duly
authorized representatives of each member borough shall act as
and vote on behalf of that borough. Except where the agency
agreement or bylaws provide otherwise, representatives of the
member boroughs shall hold at least one meeting each year for
the election of directors and for the transaction of any other
business. Except where the agency agreement or bylaws prescribe
otherwise, special meetings of the representatives may be called
for any purpose upon written request to the president or
secretary to call the meeting. Such officer shall give notice of
the meeting to be held between ten and 60 days after receipt of
the request. Unless the agency agreement or bylaws provide for a
different percentage, a quorum for a meeting of the
representatives of the member boroughs is a majority of the
total members and a quorum for meetings of the board of
directors is a majority of the membership of the board.

(h) Amendment of agency agreement.--The agency agreement may
be amended as proposed at any meeting of the representatives of
the members for which notice stating the purpose shall be given
to each representative and, unless the agency agreement or
bylaws require otherwise, shall become effective when ratified
by ordinances of a majority of the governing bodies of the
member boroughs. Each amendment and the ordinances approving it
shall be filed for record with the Secretary of the
Commonwealth.

(i) Appropriations.--Each member borough shall have full

power and authority, within budgetary limits applicable to it,
to appropriate money for the payment of expenses of the
formation of the municipal power agency and of its
representative in exercising its functions as a member of the
agency.

(j) General powers.--A municipal power agency may own,
construct, acquire by lease, purchase or otherwise gain an
interest by itself or as co-owner or tenant in common and
operate and manage or cause to be operated and managed an
electric plant or project located within or without this
Commonwealth jointly with any political subdivision, subdivision
of the Federal Government, State government, political
subdivision of another state, private corporation empowered to
supply electricity, electric cooperative corporation formed
under the act of June 21, 1937 (P.L.1969, No.389), known as the
Electric Cooperative Corporation Act, (REPEALED 1990-198) or
electric cooperative corporation in another state.

(k) Specific powers.--All powers of a municipal power agency
shall be exercised by its board of directors, unless otherwise
provided by the agency agreement or bylaws. A municipal power
agency shall have the power to do and accomplish all actions
reasonably necessary and incident to the ownership,
construction, acquisition, administration, operation and
management of an electric plant or project. Among the specific
powers of a municipal power agency shall be the following:

(1) to sue and be sued;

(2) to enter into contracts;

(3) to cooperate with private power companies, boroughs,
electric cooperative corporations and other public or private
electric power entities inside and outside of this

1 Commonwealth in the development of electric power and energy;

2 (4) to make such studies as may be necessary to
3 determine the feasibility and cost of any additional sources
4 and supplies of electric power and energy;

5 (5) to contract for the purchase, sale, exchange,
6 interchange, wheeling, pooling or transmission of electric
7 power and energy or for the right to the capacity thereof
8 inside and outside of this Commonwealth, to and from any
9 public or private power entities, private power companies,
10 other boroughs and electric cooperative corporations;

11 (6) to procure insurance against any losses in
12 connection with its property, operations or assets in such
13 amounts and from such insurers as the board of directors
14 deems desirable;

15 (7) to contract for and to accept any gifts or grants or
16 loans of funds or property or financial or other aid in any
17 form from the United States of America or any agency or
18 instrumentality of the United States of America, or from any
19 other source;

20 (8) to acquire, hold, use, operate and dispose of
21 personal property;

22 (9) to acquire, hold, use and dispose of its income,
23 revenues, funds and moneys;

24 (10) to acquire, own, use, lease, operate and dispose of
25 real property and interests in real property and to make
26 improvements thereon;

27 (11) to grant the use, by lease or otherwise, and to
28 make charges for the use of any property or facility owned or
29 controlled by it;

30 (12) to procure from the United States of America or any

agency or instrumentality of the United States of America, or
from any state or agency or instrumentality of a state, any
consents, authorizations or approvals which may be requisite
to enable ownership, operation, construction or repair;

(13) to borrow money and from time to time to issue
revenue bonds and to enter into agreements with the
purchasers of such revenue bonds;

(14) to invest funds not required for immediate use,
including, but not limited to, proceeds from the sale of
revenue bonds, provided, however, that the power of a
municipal power agency to invest shall be the same as that of
a borough, as exercised by the borough council pursuant to
clause (6) of section 1005 and section 1316; and

(15) to mortgage any property acquired or owned to
secure the payment of its revenue bonds or other obligations
issued to finance the acquisition, ownership or repair.

(1) Eminent domain.--In the erection and extension of an
electric plant or project, and for all other purposes authorized
by this act, a municipal power agency may enter upon,
appropriate, injure or destroy private lands, property or
material according to the proceedings set forth in the law
governing eminent domain, provided, however, that a municipal
power agency shall not have the power of condemnation with
regard to any property of a private or public retail electric
supplier which geographically lies beyond the boundaries of the
corporate limits of its member boroughs.

(m) Revenue bonds.--A municipal power agency which gains an
interest in an electric plant or project may pay all or part of
the cost from the revenues derived from the sale of revenue
bonds issued in the manner provided by 53 Pa.C.S. Pt. VII Subpt.

1 B (relating to indebtedness and borrowing).

2 (n) Bylaws.--A municipal power agency may make and enforce
3 bylaws or rules which it deems necessary or desirable and may
4 establish, fix, levy and collect or may authorize, by contract,
5 franchise, lease or otherwise, the establishment, levying and
6 collection of rents, rates and other charges for the services
7 afforded by the municipal power agency, including connection for
8 the services afforded by the municipal power agency, including
9 connection charges or by or in connection with any project or
10 properties which it may construct, erect, acquire, own, operate
11 or control, or with respect to which it may have any interest or
12 any right to capacity thereof and for the sale of electric
13 energy or of generation or transmission capacity or services as
14 it may deem necessary, proper, desirable and reasonable. Rents,
15 rates and other charges shall be at least sufficient to meet
16 expenses thereof, including reasonable reserves, interest and
17 principal payments.

18 (o) State tax exemptions.--Interest and principal paid on
19 revenue bonds issued by a municipal power agency shall be exempt
20 from all State taxes of whatsoever kind or nature.

21 Section 2405-A. Additional contracting authority for electric
22 power and energy.

23 (a) Additional contracting authority.--In addition to the
24 authority provided under section 2402-A, a borough that, on
25 October 27, 2010, owns or operates electric generation or
26 distribution facilities and a borough that is a member of a
27 nonprofit membership corporation may contract with the nonprofit
28 membership corporation for the following:

29 (1) The development of electric power and associated
30 energy, including the conduct of investigations or studies

1 necessary to determine the feasibility and cost of additional
2 sources and supplies of electric power and associated energy.

3 (2) The purchase, sale, exchange, interchange, wheeling,
4 pooling or transmission of electric power and associated
5 energy or the right to the capacity from sources and projects
6 in this Commonwealth or another state for a period not to
7 exceed 50 years.

8 (b) Contract requirements.--A contract under subsection (a)
9 (2) shall include the purpose of the contract, the duration of
10 the contract and available procedures to terminate the contract
11 subsequent to the repayment of all indebtedness secured under
12 the contract.

13 (c) Minimum quantity of electric power and energy.--If a
14 borough is a member of a nonprofit membership corporation, a
15 contract under subsection (a) (2) may, if specifically set forth
16 in the contract, obligate the borough to:

17 (1) take and pay for a minimum quantity of electric
18 power and associated energy if the power and energy is
19 available for delivery;

20 (2) in connection with a project owned by the nonprofit
21 membership corporation or in which the nonprofit membership
22 corporation obtains an undivided ownership interest, to take
23 or pay for a minimum amount of electric power and energy; or

24 (3) pay for electric power and energy only if utilized
25 by the borough.

26 (d) Applicability of minimum requirements.--

27 (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
5 delivery to the borough; or

6 (ii) the borough accepts delivery of the electric
7 power and energy.

8 (e) Take-or-pay or take-and-pay arrangements.--No borough
9 may be obligated under a take-or-pay or take-and-pay arrangement
10 entered into with a nonprofit membership corporation in which
11 the borough maintains membership unless that obligation is
12 expressly authorized by an act of the borough council.

13 (f) Restrictions.--A nonprofit membership corporation shall
14 not:

15 (1) condition membership in the nonprofit membership
16 corporation on the inclusion of any take-or-pay or take-and-
17 pay obligations in a contract under subsection (a)(2); or

18 (2) except as set forth in subsection (g), require take-
19 or-pay or take-and-pay obligations in a contract with a
20 borough unless the contract meets the criteria of subsection
21 (c)(1) or (2).

22 (g) Future contracts.--A borough that is a member of a
23 nonprofit membership corporation may enter into future power
24 supply contracts, contract renewals or contract extensions with
25 the nonprofit membership corporation under subsection (c)(3):

26 (1) with no take-or-pay or take-and-pay obligations as
27 permitted by subsection (c)(1) and (2); and

28 (2) without prejudice or discrimination as compared to
29 any other borough which chooses to enter into contracts
30 permitted by subsection (c)(1) and (2) with the nonprofit

1 membership corporation.

2 (h) Future power supply contract terms.--In order to carry
3 out subsection (g), a nonprofit membership corporation which
4 provides or offers electric power and associated energy to a
5 member borough in this Commonwealth under subsection (a)(2)
6 shall offer, to all of its member boroughs in this Commonwealth,
7 future power supply contract terms, contract renewals or
8 contract extensions under subsection (c)(3) on a comparable and
9 nondiscriminatory basis and with similar terms and conditions to
10 future power supply contract terms, contract renewals or
11 contract extensions that would be appropriate under subsection
12 (c)(3) which the nonprofit membership corporation
13 contemporaneously offers to its members in other states.

14 (i) Payments.--All obligations under a contract under
15 subsection (a)(2) shall be paid from revenues derived from the
16 operation of the borough's electric system, and payments shall
17 be an operating expense of the borough's electric system.

18 (j) Obligations of other entities.--If explicitly set forth
19 in a contract under subsection (a)(2), a borough may agree to
20 assume, prorate or otherwise become liable for the obligations
21 of another borough of this Commonwealth or of a political
22 subdivision of another state that is a member of the nonprofit
23 membership corporation if the borough or other political
24 subdivision defaults in the payment of its obligations for the
25 purchase of the electric power and associated energy. The
26 contract may include provisions to permit a borough to succeed
27 to the rights and interests of the defaulting borough or
28 political subdivision to purchase electric power and associated
29 energy. A borough's liability for the obligations of a
30 defaulting borough of this Commonwealth or a political

subdivision of another state shall not exceed 25% of a borough's
initial nominal entitlement to electric power and associated
energy under the contract.

(k) Pledge of borough property prohibited.--None of the
obligations under the contract may constitute a legal or
equitable pledge, charge, lien or encumbrance on any property of
the borough or on any of its income, receipts or revenues,
except revenues of its electric system. The full faith and
credit and the taxing power of the borough shall not be pledged
for the payment of an obligation under the contract.

(l) Construction.--The provisions of this section are
intended to add to the powers and rights of a borough, and
nothing in this section may be construed to limit either the
general or specific powers or rights of a borough set forth in
this act.

(m) Definition.--As used in this section, the term "non-
profit membership corporation" means an entity the membership of
which:

(1) consists solely of Pennsylvania boroughs, such as a
consortium, buying group or municipal power agency under
section 2404-A; or

(2) consists of Pennsylvania boroughs and political
subdivisions of another state or states.

Section 293. Article XXV and subdivision (a) headings,
sections 2501, 2502, 2503, 2504 and 2505, Article XXV
subdivision (b) heading and sections 2511 and 2512 of the act
are repealed:

[ARTICLE XXV

PUBLIC BUILDINGS AND WORKS

(a) Eminent Domain; General Provisions

1 Section 2501. Exercise of Eminent Domain.--Any borough may
2 enter upon and appropriate private property, and also land
3 previously granted or dedicated to public use or other use, and
4 which is no longer used for the purpose for which the same was
5 granted or dedicated, and also land where the title may be
6 defective, disputed, or doubtful, for the erection thereon of
7 public auditoriums, public libraries, public memorial buildings
8 and monuments and such other public buildings and works as are
9 necessary for municipal purposes within the limits of such
10 borough.

11 Section 2502. Lands Excepted.--No land or property used for
12 any cemetery, burying-ground, or place of public worship, shall
13 be taken or appropriated by virtue of any power contained in the
14 preceding section of this article.

15 Section 2503. Declaration of Intention.--Whenever the
16 borough shall desire to acquire, enter upon, take, use and
17 appropriate any such private property or land, for any such
18 purposes, it shall declare such intention by an ordinance duly
19 enacted.

20 Section 2504. Proceedings.--The compensation and damages
21 arising from such taking, using and appropriating of private
22 property for the purposes aforesaid, shall be considered,
23 ascertained, determined, awarded and paid in the manner provided
24 in the law governing eminent domain.

25 Section 2505. Payment of Damages and Costs.--All damages
26 when ascertained, the costs of the viewers, and all court costs
27 incurred in such proceedings, including advertising, printing
28 and posting notices, shall be paid by the borough.

29 (b) Refuse Disposal Facilities

30 Section 2511. Power to Purchase Real Estate.--Any borough,

1 separately, or jointly, with another borough, city or township,
2 may purchase any real estate within or without the limits of
3 such borough or of any such other boroughs, cities, or
4 townships, as the case may be, upon which to erect and maintain
5 garbage or incinerating plants, or for sanitary landfill.

6 Section 2512. Approval of Site.--Boroughs desiring to locate
7 any garbage or incinerating plant or sanitary landfill, shall
8 first apply separately or jointly as the case may be to the
9 court of common pleas for its approval of the location thereof;
10 whereupon the court shall fix a date when objections to the
11 location will be heard and shall prescribe what notice of such
12 hearing shall be given. If at the time fixed for such hearing no
13 objections shall be made to such location, the same shall be
14 approved; but, if objection is made, the court shall proceed to
15 hear the matter and determine whether the location is a
16 detriment to neighboring properties. The finding of the court
17 shall be conclusive, but shall in no way adjudicate any question
18 relating to damages for injury to property.]

19 Section 294. Section 2513 of the act, amended December 21,
20 1984 (P.L.1263, No.239), is repealed:

21 [Section 2513. Authority to Take or Appropriate Real
22 Estate.--In case the borough or boroughs cannot agree with the
23 owner of such property as to the price, the borough or boroughs,
24 separately or jointly, may take and appropriate, for any of such
25 purposes, any real estate, after an ordinance or ordinances
26 shall have been enacted providing for such taking and
27 appropriating. Notwithstanding the provisions of this section,
28 no borough or boroughs, separately or jointly, may take or
29 appropriate any real estate that is located outside the limits
30 of the borough or boroughs and contains or is being utilized as

1 an existing garbage dump or sanitary landfill.]

2 Section 295. Section 2514 of the act is repealed:

3 [Section 2514. Proceedings.--The proceedings before the
4 viewers for the assessment of damages for property taken,
5 injured, or destroyed under this subdivision of this article and
6 the proceedings upon their report shall be as provided in the
7 law governing eminent domain.]

8 Section 296. The act is amended by adding an article to
9 read:

10 ARTICLE XXV-A

11 AIRPORTS

12 Section 2501-A. Authority to secure lands for airports.

13 Any borough is hereby authorized and empowered to acquire, by
14 lease, purchase or condemnation, any land lying either within or
15 without the limits of the borough which, in the judgment of the
16 council, may be necessary and desirable for the purpose of
17 establishing and maintaining municipal airport facilities. The
18 proceedings for the condemnation of land under the provisions of
19 this article and for the assessment of damages for property
20 taken, injured or destroyed, shall be conducted in the manner
21 provided by the law governing eminent domain. The title acquired
22 by the borough exercising the power of condemnation shall be a
23 title in fee simple.

24 Section 2502-A. Authority to establish and lease airports.

25 Any borough acquiring land under the provisions of this
26 article is authorized and empowered to establish, equip,
27 condition, operate and maintain the land as a municipal airport,
28 and may lease the land, or any part, to any individual or
29 corporation desiring to use the same for aviation purposes. Any
30 borough may enter into a contract, in the form of a lease,

providing for the use of the land, or any part, by the Federal Government, for its use of the land for aviation purposes upon nominal rental or without consideration.

Section 2503-A. Joint airports.

Pursuant to the powers in this article, any borough may, jointly with another municipality, acquire land for aviation purposes, and may jointly operate and maintain the airport on the terms and conditions as agreed upon by the governing bodies of the borough and other municipality.

Section 297. Article XXVI heading of the act is reenacted to read:

ARTICLE XXVI

WHARVES AND DOCKS

Section 298. Section 2601 of the act is amended to read:

Section 2601. Power With Regard to Wharves and Docks.--[Any borough may erect and repair wharves and docks, regulate and fix the rate of wharfage for all public wharves and docks within its limits, and enforce the collection of wharfage for the use of the same, and may also regulate the anchoring of vessels, boats, or rafts within the borough limits, and the depositing of freight on such public wharves.] (a) Boroughs shall have the power to construct and repair wharves and docks and may acquire, by purchase or condemnation, real estate along navigable waters and within the borough limits as needed for the construction. Prior to any condemnation, a borough shall enact an ordinance authorizing the same.

(b) Boroughs shall also have the following powers:

(1) To regulate, fix, and enforce the collection of the rate of wharfage for all public wharves and docks within its limits.

(2) To regulate the anchoring of vessels, boats or rafts

1 within the borough limits.

2 (3) To regulate the depositing of freight on the public
3 wharves.

4 Section 299. Section 2602 of the act is repealed:

5 [Section 2602. Purchase and Condemnation of Real Estate.--

6 Any such borough may acquire, by purchase or condemnation, such
7 real estate as it may need for the construction of wharves and
8 docks within the limits of the borough, along navigable waters.

9 No real estate for the erection of wharves and docks shall be so
10 taken or appropriated until an ordinance authorizing the same
11 shall have been enacted.]

12 Section 300. Section 2603 of the act is reenacted to read:

13 Section 2603. Proceedings.--The proceedings before the
14 viewers for the assessment of damages for property taken,
15 injured, or destroyed under this article, and the proceedings on
16 their report shall be as provided in the law governing eminent
17 domain. The costs of all proceedings, including the compensation
18 of the viewers, shall be paid by the borough.

19 Section 301. Sections 2604, 2605 and 2606 of the act are
20 amended to read:

21 Section 2604. How Damages Assessed.--The damages for the
22 taking or injury of any property for use as a wharf, pier, or
23 bulkhead, shall include full compensation for the value of the
24 property taken or injured[; and if]. If the property [so] taken
25 or injured shall constitute a part of a plant used as an
26 entirety, the damage to the owner or tenant shall be assessed by
27 taking the difference in market value of [such] the plant as a
28 whole, including buildings and all equipment installed and used
29 in [such] the plant, before and after taking or injury, and
30 notwithstanding that part of [such] the plant may be separated

1 by a street or highway.

2 Section 2605. Leases.--Any borough may lease any wharf or
3 part [thereof] and collect rent [therefor] by distress or
4 otherwise. No one term of [any such] a lease shall be for a
5 period longer than three years.

6 Section 2606. Market-Houses and Terminal Sheds.--Boroughs
7 may erect and maintain market-houses and terminal sheds on
8 wharves, for the receipt and distribution of freight and
9 express. Boroughs may also construct railroad and street railway
10 tracks, or other facilities, on wharves, to provide for the
11 convenient hauling of [such] freight or express matter and may
12 collect rents, tolls, or charges for the use of [such] market-
13 houses, terminal sheds, tracks and facilities. No permit other
14 than a license revocable at will shall be granted, and no
15 exclusive permit for the use of such facilities shall be
16 granted.

17 Section 302. Section 2607 of the act is reenacted to read:

18 Section 2607. Public Use Preserved.--No structure erected,
19 and no right granted under the powers conferred by any of the
20 preceding sections of this article, shall interfere with the
21 public use of wharves for water-borne commerce.

22 Section 303. Section 2608 of the act is amended to read:

23 Section 2608. Saving Clause.--Nothing contained in this
24 article shall be construed as conferring upon boroughs any power
25 conferred by existing law on the Navigation [Commissioners]
26 Commission for the Delaware River and its Navigable Tributaries,
27 or to permit boroughs to do any act, or to enact any ordinance,
28 inconsistent with the laws, rules and regulations relating to
29 [said board, or the rules and regulations of said board] the
30 commission.

1 Section 304. Article XXVII and subdivision (a) headings of
2 the act are reenacted to read:

3 ARTICLE XXVII

4 RECREATION PLACES, SHADE TREES, FORESTS

5 (a) Parks and Playgrounds, Et Cetera

6 Section 305. Sections 2701, 2702 and 2703 of the act are
7 amended to read:

8 Section 2701. Power to Maintain [and Improve], Improve and
9 Acquire.--(a) Any borough may provide, improve, maintain and
10 regulate public parks, parkways and playgrounds, playfields,
11 swimming pools, public baths, bathing places, indoor recreation
12 centers and gymnasiums, hereinafter called "recreation places,"
13 within the borough limits or in any adjacent [township or in any
14 city or other borough] municipal corporation if the other
15 [borough or city] municipal corporation shall, by ordinance,
16 signify its consent thereto. [Two or more boroughs may jointly
17 provide, improve, maintain and regulate such recreation places
18 within the limits of any township adjacent to any one of such
19 boroughs. All expenses relative thereto shall be borne by the
20 respective boroughs, in such proportion as may be agreed upon by
21 the councils thereof.

22 Section 2702. Power to Acquire.--Any] (b) Any borough may
23 enter upon, appropriate and acquire by gift, devise, purchase,
24 lease, or otherwise, private property [within the limits of the
25 borough, or in any adjacent township,] or [any borough] may
26 designate and set apart any lands or buildings, owned by the
27 borough and not dedicated or devoted to other public uses[; and
28 two or more boroughs may jointly appropriate and acquire by
29 gift, devise, purchase, lease, or otherwise, private property
30 within the limits of any township adjacent to any of such

1 boroughs,] for the purpose of making, enlarging and maintaining
2 recreation places. [All the costs and expenses relative to any
3 such property, acquired by two or more boroughs jointly, shall
4 be paid by the respective boroughs in such proportions as may be
5 agreed upon by the councils thereof.

6 Any]

7 (c) Any borough may join with one or more political
8 subdivisions to acquire, create, equip, improve, regulate,
9 maintain and operate any recreation place in accordance with 53
10 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
11 cooperation).

12 (d) No borough, acting individually or jointly, may
13 [likewise] acquire private property within the limits of another
14 [borough or city,] municipal corporation for the purposes
15 designated in this section, [if the other borough or city shall,
16 by ordinance, signify its consent thereto] without the consent
17 of the governing body of the municipal corporation in which the
18 property is located in accordance with the law governing eminent
19 domain.

20 (e) All expenses incurred in the maintenance, improvement,
21 acquisition or operation of recreation places, as provided in
22 this section, shall be payable from the treasury of the borough,
23 or the borough and other political subdivisions as may be
24 provided for by agreement of the governing bodies. The borough
25 council may annually appropriate, and cause to be raised by
26 taxation, an amount necessary for the purpose of maintaining and
27 operating recreation places, or for paying its share of such
28 amount.

29 Section 2703. Appropriations for Public Purposes.--The
30 appropriation of private property for the purpose of making,

1 enlarging and maintaining recreation places, is declared to be
2 the taking of private property for public use, and for all
3 damage suffered by the owners of any property so taken, the
4 funds of the borough raised by taxation shall be pledged as
5 security. The proceedings for the taking of private property and
6 the assessment of damages for private property taken, injured or
7 destroyed under this article shall be as provided in the law
8 governing eminent domain.

9 Section 306. Sections 2704 and 2705 of the act are repealed:

10 [Section 2704. Proceedings.--The proceedings before the
11 viewers for the assessment of damages for property taken,
12 injured or destroyed under this article and the proceedings upon
13 their report shall be as provided in the law governing eminent
14 domain.

15 Section 2705. Validation of Prior Acquisitions.--Whenever,
16 prior to June 1, 1911, any borough acquired land outside its
17 corporate limits for park purposes, such borough may own and
18 possess such land for park purposes, and is authorized to lay
19 out and maintain the same and to appropriate money to defray
20 expenses incident to such work.]

21 Section 307. Sections 2708, 2709 and 2710 of the act are
22 amended to read:

23 Section 2708. Creation of Recreation Board.--(a) The
24 authority to supervise and maintain recreation places, may be
25 vested in any existing body or board, including the borough
26 council, or in a recreation board, as the borough council shall
27 determine. The council of any such borough may equip, operate
28 and maintain the recreation places, as authorized by this
29 article, and may, for the purpose of carrying out the provisions
30 of this article, employ [play leaders, recreation directors,

supervisors, superintendents, or] any [other] officers or
employees, as it may deem proper.

(b) Notwithstanding subsection (a), a borough council shall
not delegate the power to maintain accounts or expend funds from
the borough treasury for the purposes authorized by this
subdivision to any existing or newly created body or board.

(c) Any borough may join or create, with one or more
municipalities, a joint recreation board in accordance with 53
Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
cooperation). The composition of the board and its powers and
duties shall be as provided by agreement of the governing bodies
of the municipalities.

Section 2709. Composition of Board.--[(a)] If the borough
council shall determine that the power to equip, operate, and
maintain recreation places, shall be exercised by a recreation
board, it may, by ordinance, establish in [said] the borough
[such] a recreation board, which shall possess [all the powers,
and be subject to all the responsibilities, of the respective
authorities under this article. Such] those powers and duties as
may be delegated to it by ordinance. The board shall consist of
a minimum of five and a maximum of nine persons. Two of the
members may be members or appointees of the school board of the
school district in which the borough is located. If the board
[consist] consists of seven members, three of the members may be
members or appointees of [such] the school board. The borough
members of the board shall be appointed by the borough council,
and shall serve no longer than five years and the terms of the
members shall be staggered in such a manner that at least one
expires annually. Members of [such] the board shall serve
without pay. Vacancies in [such] the board, occurring otherwise

1 than by expiration of term, shall be filled for the unexpired
2 term in the same manner as original appointments.

3 [(b) In addition to the establishment of a borough
4 recreation board, the borough council may appoint persons to
5 serve as members of a school district recreation board
6 established by the school district wherein the borough is
7 located.]

8 Section 2710. Organization of Board; Employees.--The members
9 of a recreation board, established pursuant to this article,
10 shall elect their own [chairman] chair and secretary and select
11 all other necessary officers, to serve for a period of one
12 year[, and may employ such persons as may be needed, as
13 authorized by this article. Such] The recreation board may, with
14 the approval of council, establish employment positions and hire
15 employees to fill the approved positions. The board shall have
16 power to adopt rules and regulations for the conduct of all
17 business within its jurisdiction.

18 Section 308. Sections 2711 and 2712 of the act are repealed:

19 [Section 2711. Joint Ownership and Maintenance.--Any two or
20 more boroughs, or a borough with any city or township, or a
21 borough with a county, may jointly acquire property for, and
22 operate and maintain, any recreation places. Any borough or
23 boroughs shall have power to join with any school district in
24 equipping, operating and maintaining recreation places, and may
25 appropriate money therefor.

26 Section 2712. Maintenance and Tax Levy.--All expenses
27 incurred in the operation of such recreation places, established
28 as herein provided, shall be payable from the treasury of such
29 borough, or boroughs, township, city, county or school districts
30 as may be provided for by agreement of the corporate

1 authorities. The borough council may annually appropriate, and
2 cause to be raised by taxation, an amount necessary for the
3 purpose of maintaining and operating recreation places, or for
4 paying its share of such amount.]

5 Section 309. Section 2713 of the act is amended to read:

6 Section 2713. Lease for School Athletics.--Any borough
7 maintaining a recreation place, may lease [such] a recreation
8 place or [such] a portion [thereof] of a recreation place,
9 suitable for athletic sports and athletic games, to any school
10 board, or school athletic association organized by a school
11 board, and organized for the purpose of conducting amateur
12 athletic sports and games among pupils of the public school, and
13 may permit [such] a school board or school athletic association
14 to charge admission to [such] sports and games and to deny
15 persons refusing to pay admission access to the grounds where
16 [such] sports or games are being conducted, if [such] sports and
17 games are not conducted for individual profit.

18 Section 310. Article XXVII subdivision (b)(1) heading of the
19 act is amended to read:

20 (b) Shade Trees

21 (1) [Shade Tree Commission] Power of Boroughs
22 as to Shade Trees

23 Section 311. The act is amended by adding sections to read:

24 Section 2720. Care, Custody and Control of Shade Trees.--(a)
25 Council shall have exclusive care, custody and control of shade
26 trees in the borough. Council may plant, transplant, remove,
27 maintain and protect shade trees on the streets and highways in
28 the borough, employ and pay persons and make and enforce
29 regulations as may be necessary for the care and protection of
30 the shade trees of the borough.

1 (b) Council may, by ordinance, and with or without the
2 petition of a majority of the property owners upon any public
3 street in the borough, plant, transplant or remove shade trees.
4 Council may, with or without petition, require the planting and
5 replanting of suitable shade trees along and upon the sides of
6 the streets, upon such alignment and at such points as may be
7 designated by ordinance, by the owners of property abutting the
8 street at the points designated. Nothing in this act may
9 authorize council to plant or replant, or require the planting
10 or replanting, of trees at any point which may interfere with
11 the necessary or reasonable use of any street or abutting
12 property or the business conducted on the property. On failure
13 of any owner, after reasonable notice, to comply with the terms
14 of an ordinance requiring the planting or replanting of shade
15 trees, the borough may cause such trees to be planted or
16 replanted and assess the cost against the owner in accordance
17 with section 2720.2.

18 (c) Council may, upon notice as may be provided by
19 ordinance, require owners of property to cut and remove plants,
20 shrubs and trees afflicted with any disease that threatens to
21 injure or destroy plants, shrubs and shade trees in the borough
22 under regulations prescribed by ordinance. Upon failure of any
23 owner to comply with the notice, the borough may cause the work
24 to be done by the borough, and assess the cost against the owner
25 in accordance with section 2720.2.

26 Section 2720.1. Maintenance by Borough; Tax Levy.--(a) The
27 cost and expenses of caring for shade trees after having been
28 planted or transplanted and the expense of publishing any notice
29 required by this subdivision shall be paid by the borough.

30 (b) Council may levy a general tax, not to exceed the sum of

one-tenth of one mill on the dollar on the assessed valuation of the property in the borough taxable for county purposes, for the purpose of defraying the cost and expenses of caring for the shade trees and the expense of publishing notices; or it may provide for the expense of the caring for trees already planted and of publishing the notice by appropriations.

Section 2720.2. Payment by Owners; Assessments.--The cost of planting, transplanting or removing any shade trees or the necessary and suitable guards, curbing or grading for their protection and of the replacing of pavement or sidewalk necessarily disturbed in the execution of the work shall be paid by the owners of the real estate abutting the location of the work. In the event that the borough undertakes the work described in this section, costs shall be certified, assessed against the abutting owners and collected in accordance with Article XXI-A.

Section 2720.3. Notice of Work.--Whenever council proposes to plant, transplant or remove shade trees on any street, notice of the time and place of the meeting at which the work is to be considered shall be given in one newspaper of general circulation once a week for two weeks immediately preceding the time of the meeting. The notice shall specify in detail the streets or portions upon which trees are proposed to be planted, transplanted or removed. In the event that a shade tree commission is to undertake the work, the commission shall provide the notice.

Section 2720.4. Penalties.--(a) To the extent provided by ordinance, council may assess penalties for the violation of regulations relating to shade trees or delegate the power to assess such penalties to a shade tree commission. Any penalty so

1 assessed shall be a lien upon the real estate of the offender
2 and may be collected as municipal claims are collected.

3 (b) All penalties or assessments imposed under this
4 subdivision shall be paid to the borough treasurer, to be kept
5 in a separate fund and utilized only for the purposes authorized
6 by this subdivision.

7 Section 312. Article XXVII subdivision (b) of the act is
8 amended by adding a subdivision to read:

9 (2) Shade Tree Commission

10 Section 313. Section 2721 of the act is amended to read:

11 Section 2721. Shade Tree Commission.--[A borough] (a)
12 Council by ordinance may establish a commission to be known as
13 the shade tree commission, [but in boroughs where the council
14 shall not elect by ordinance a shade tree commission council may
15 exercise all the rights and perform the duties and obligations
16 imposed by this subdivision of this article upon the shade tree
17 commission.] and delegate to the commission the exclusive care,
18 custody and control of shade trees and authorization to plant,
19 transplant, remove, maintain and protect shade trees on the
20 streets and highways in the borough. The commission may make and
21 enforce regulations for the care and protection of shade trees.
22 No regulation may be in force until it has been approved by the
23 council and enacted as an ordinance.

24 (b) Whenever in any borough there exists a commission for
25 the care of public parks, the council may, by ordinance, confer
26 on the park commission all the powers and all the duties
27 prescribed by this article for the shade tree commission.

28 Section 314. Section 2722 of the act, amended April 17, 2002
29 (P.L.243, No.31), is reenacted to read:

30 Section 2722. Composition of Commission.--(a) Except as

provided in subsection (b), the commission shall be composed of three residents of the borough, who shall be appointed by the council and shall serve without compensation.

(b) The council, by ordinance, may provide that the commission be composed of five members who shall be residents of the borough, shall be appointed by the council and shall serve without compensation.

(c) Whenever a shade tree commission of three members is established by any borough, the council shall appoint one member for a term of three years, one for a term of four years, and one for a term of five years. On the expiration of the term of any commissioner, a successor shall be appointed by the council to serve for a term of five years.

(d) Whenever a shade tree commission of five members is established by any borough, the council shall appoint members to staggered terms so that one term expires every year. On the expiration of the term of any commissioner, a successor shall be appointed by the council to serve for a term of five years.

(e) Vacancies in the office of commissioner shall be filled by the council for the unexpired term.

Section 315. Sections 2723 and 2724 of the act are repealed:

[Section 2723. Powers May Be Vested in Park Commission.--Whenever in any borough there exists a commission for the care of public parks, the council may by ordinance, confer on the park commission all the powers and all the duties prescribed by this article for the shade tree commission.

Section 2724. Powers of Commission.--The commission shall have exclusive custody and control of the shade trees in the borough, and is authorized to plant, remove, maintain and protect shade trees on the streets and highways in the borough.

1 The commission may employ and pay such superintendents,
2 engineers, foresters, tree-wardens, or other assistants, as the
3 proper performance of the duties devolving upon it shall
4 require, and may make, and enforce regulations for the care and
5 protection of the shade trees of the borough. No such regulation
6 shall be in force until it has been approved by the council and
7 enacted as an ordinance.]

8 Section 316. The act is amended by adding a section to read:

9 Section 2724.1. Duties of Commission.--(a) The shade tree
10 commission shall annually report in full to the council its
11 transactions and expenses for the last fiscal year of the
12 borough.

13 (b) Whenever any shade tree commission proposes to plant,
14 transplant or remove shade trees on any street, notice of the
15 time and place of the meeting at which such work is to be
16 considered shall be given by the commission in accordance with
17 section 2720.3.

18 (c) The commission shall each year certify to council an
19 amount needed for the care of shade trees and for the
20 publication of notices required by this subdivision. The
21 commission shall use funds appropriated or raised by taxation in
22 accordance with section 2720.1 for any purpose authorized by
23 council.

24 (d) The commission shall ascertain and certify to council
25 and the borough treasurer the amount of any assessment imposed
26 in accordance with this subdivision for the planting,
27 transplanting or removal of plants, shrubs and trees.

28 Section 317. Sections 2725, 2726, 2727, 2728, 2729 and 2730,
29 Article XXVII(b)(2) heading and sections 2741, 2742 and 2743 of
30 the act are repealed:

1 [Section 2725. Report of Commission.--The shade tree
2 commission shall annually report in full to the council its
3 transactions and expenses for the last fiscal year of the
4 borough.

5 Section 2726. Notices by Commission.--Whenever any shade
6 tree commission proposes to plant, transplant, or remove shade
7 trees on any street, notice of the time and place of the meeting
8 at which such work is to be considered shall be given in one
9 newspaper of general circulation in the borough once a week for
10 two weeks immediately preceding the time of the meeting. The
11 notice shall specify in detail the streets or portions upon
12 which trees are proposed to be so planted, replanted, or
13 removed.

14 Section 2727. Payment by Owners.--The cost of planting,
15 transplanting, or removing any shade trees in and along the
16 streets and highways in the borough, of the necessary and
17 suitable guards, curbing or grading for the protection thereof,
18 and of the replacing of any pavement or sidewalk necessarily
19 disturbed in the execution of such work, shall be paid by the
20 owner of the real estate abutting which the work is done.

21 The amount each owner is to pay shall be ascertained and
22 certified by the commission to council and to the borough
23 treasurer.

24 Section 2728. Assessments; Liens.--Upon the filing of the
25 certificate with the council, the borough secretary shall cause
26 thirty days' written notice to be given to every person against
27 whose property an assessment has been made. The notice shall
28 state the amount of the assessment, and the time and place of
29 payment, and shall be accompanied with a copy of the
30 certificate.

1 The amount assessed against the real estate shall be a lien
2 from the time of the filing of the certificate with the council,
3 and if not paid within the time designated in the notice, a
4 claim may be filed and collected by the borough solicitor in the
5 same manner as municipal claims are filed and collected.

6 Section 2729. Maintenance by Borough; Tax Levy.--The cost
7 and expenses of caring for such trees after having been planted
8 and the expense of publishing the notice hereinbefore provided
9 for shall be paid by the borough.

10 The needed amount shall each year be certified by the
11 commission to the council and shall be drawn against, as
12 required by the commission, in the same manner as money
13 appropriated for borough purposes.

14 The council may levy a general tax, not to exceed the sum of
15 one-tenth of one mill on the dollar on the assessed valuation of
16 the property in said borough taxable for county purposes, for
17 the purpose of defraying the cost and expenses of caring for
18 such shade trees and the expense of publishing the notice; or it
19 may provide for the expense of the caring for trees already
20 planted and of publishing the notice by appropriations equal to
21 the amount certified to be required by the commission.

22 Section 2730. Penalties.--The commission, to the extent as
23 may be provided by ordinance of the borough, may assess
24 penalties for the violation of its regulations and of this
25 article so far as it relates to shade trees. Any penalty so
26 assessed shall be a lien upon the real estate of the offender
27 and may be collected as municipal claims are collected.

28 All penalties or assessments imposed under this article shall
29 be paid to the borough treasurer, to be placed to the credit of
30 the commission, subject to be drawn upon by the commission for

1 the purposes of the preceding sections of this subdivision of
2 this article.

3 (2) Power of Boroughs as to Shade Trees

4 Section 2741. Ordinances to Require Planting and
5 Replanting.--Any borough may, by ordinance, upon the petition of
6 a majority of the property owners upon any public street
7 thereof, require the planting and replanting of suitable shade
8 trees along and upon the sides of such streets, upon such
9 alignment and at such points as may be designated by such
10 ordinance, by the owners of property abutting the street at the
11 points designated. This section shall not authorize any borough
12 to require the planting or replanting of trees at any point
13 which may interfere with the necessary or reasonable use of any
14 street or abutting property or unreasonably interfere with any
15 business conducted thereon.

16 Section 2742. Power of Borough Where Owners Fail to
17 Comply.--On failure of any owner, after reasonable notice, to
18 comply with the terms of any such ordinance, the borough may
19 cause such trees to be planted or replanted at the expense of
20 the borough, and thereupon, in the name of the borough, collect
21 the cost of such work from the owners in default, as debts of
22 like amount are by law collectible.

23 Section 2743. Removal of Diseased Plants, Shrubs and
24 Trees.--The commission may upon such notice as may be provided
25 by ordinance, require owners of property to cut and remove
26 plants, shrubs and trees, afflicted with the Dutch elm or other
27 disease, which threatens to injure or destroy plants, shrubs and
28 shade trees, in the borough under regulations prescribed by
29 ordinance. Upon failure of any such owner to comply with such
30 notice, the borough may cause the work to be done by the

1 borough, and levy and collect the cost thereof from the owner of
2 the property. The cost of such work shall be a lien upon the
3 premises from the time of the commencement of the work, which
4 date shall be fixed by the borough engineer and shall be filed
5 with the borough secretary. Any such lien may be collected by
6 action in assumpsit or by lien filed in the manner provided by
7 law for the filing and collection of municipal claims.]

8 Section 318. Article XVII subdivision (c) heading of the act
9 is reenacted to read:

10 (c) Forests

11 Section 319. Section 2751 of the act is amended to read:

12 Section 2751. Acquisition of Land for Forest Purposes.--Any
13 borough may acquire, by purchase, gift, or lease, and hold
14 tracts of land covered with forest or tree growth or suitable
15 for the growth of trees, and administer the same[, under the
16 direction of the Department of Forests and Waters,] in
17 accordance with the practices and principles of scientific
18 forestry, for the benefit of the borough. Such tracts may be of
19 any size suitable for the purpose and may be located within or
20 without the borough limits.

21 Section 320. Section 2752 of the act is repealed:

22 [Section 2752. Approval of Department of Forests and
23 Waters.--Before the passage of any ordinance for the acquisition
24 of land to be used as a municipal forest, the borough shall
25 submit to the Department of Forests and Waters, and secure its
26 approval of, the area and location of such land.]

27 Section 320.1. section 2753 of the act is reenacted to read:

28 Section 2753. Ordinance Declaring Intention.--Whenever the
29 council of any borough deems it expedient to acquire any land
30 for the purposes of municipal forests, it shall so declare in an

1 ordinance wherein shall be set forth all facts and conditions
2 relating to the proposed action.

3 Section 321. Sections 2754, 2755, 2756 and 2757 of the act
4 are amended to read:

5 Section 2754. Appropriations of Money.--All moneys necessary
6 for the purchase of such tracts shall be appropriated in the
7 same manner as appropriations for borough purposes, and [such]
8 the funds may be provided from the current revenue or by the
9 proceeds of a sale of general obligation bonds in accordance
10 with existing law.

11 Section 2755. Rules and Regulations.--Upon the acquisition
12 of any municipal forest or land suitable [therefor] for
13 municipal forests, the council [shall notify the Department of
14 Forests and Waters, which shall] may make [such] rules for the
15 government and proper administration of the same as may be
16 deemed necessary[, and the council shall publish such rules,
17 declare the uses of the forest in accordance with the intent of
18 this subdivision of this article, and make such provision for
19 its administration, maintenance, protection and development as
20 shall be necessary or expedient]. The rules governing the
21 administration of [such] the forest shall have for their main
22 purpose the [producing of a] production of continuing borough
23 revenue by the sale of forest products.

24 Section 2756. Appropriations and Revenues.--All moneys
25 necessary to be expended for the administration, maintenance,
26 protection and development of [such] forests, shall be
27 appropriated and applied as is now done for borough purposes[;].
28 [all] All revenue and emoluments arising from [such] the forests
29 shall be paid into the borough treasury to be used for general
30 borough purposes.

CEMETERIES

Section 325. The act is amended by adding sections to read:

Section 2800. Appropriations for Burial Ground

Maintenance.--Any borough may appropriate annually, out of the general funds of the borough, a sum for the care, upkeep, maintenance and beautifying of cemeteries, burial grounds and private roads in or leading to those areas, lying wholly or partly within the boundary limits of the borough or in the territory immediately adjacent to the borough.

Section 2800.1. Burial of Deceased Persons.--Any borough may prohibit, within the borough limits, or within any described territory within the limits, the burial or interment of deceased persons.

Section 326. Sections 2801 and 2802 of the act are amended to read:

Section 2801. Management by Commission[; Transfer from Borough to Company].--When the title and management of any cemetery is vested in a borough, the council of [such] the borough may [in its discretion], by ordinance, vest the care, management and operation of [such] the cemetery in a commission of three citizens to be appointed by the council[, such care, management and operation, and the terms of the commissioners to be as provided in the ordinance establishing such cemetery commission. Upon petition of at least ten lot owners in such cemetery, the council may, in its discretion, transfer such cemetery and the management thereof to an incorporated cemetery company in the manner hereinafter provided]. The ordinance shall provide for the terms of the cemetery commissioners.

Section 2802. [Vesting Title.--] Transfer from Borough to Company.--(a) Upon petition of at least ten per centum of

1 living cemetery lot owners, the council may, in its discretion,
2 transfer the cemetery and the management thereof to an
3 incorporated cemetery company.

4 (b) Upon the presentation to council of [such] the petition,
5 the council may enact an ordinance declaring that, upon the
6 acceptance of the provisions of [such] the ordinance by the
7 incorporated cemetery company, filed with the borough secretary,
8 the title and control of [such] the cemetery shall vest in
9 [such] the incorporated cemetery company.

10 (c) A copy of the ordinance and the acceptance thereof,
11 certified by the borough secretary, shall be recorded in the
12 office of the recorder of deeds of the county.

13 Section 327. Sections 2803 and 2804 of the act are repealed:

14 [Section 2803. Recording of Ordinance and Acceptance.--A
15 copy of the ordinance and the acceptance thereof, certified by
16 the borough secretary, shall be recorded in the office of the
17 recorder of deeds of the county.

18 Section 2804. Orders of Court as to Neglected Cemeteries.--

19 (a) Authority is vested in the court of quarter sessions to
20 make such orders for the regulation of cemeteries, situated in
21 or adjacent to boroughs, as the public good shall require; and
22 when any cemetery shall become so neglected as, in the opinion
23 of the court, to become a public nuisance, the court may direct
24 the removal of the dead therefrom by the borough authorities to
25 some other cemetery.

26 (b) When any cemetery situated in a borough shall become so
27 neglected as, in the opinion of the court of quarter sessions,
28 to become a public nuisance, such court, upon petition of the
29 borough council and after such notice as is required in
30 subsection (c) of this section, may authorize the borough

1 without the removal of any dead from the cemetery to improve and
2 maintain the cemetery by the restoration, improvement or removal
3 of some or all of the gravestones, posts, railings, fences or
4 other structures and improvements. If the court authorizes the
5 removal of gravestones, it shall direct the borough to erect and
6 maintain at a prominent location in the cemetery a suitable
7 memorial of stone, bronze or similar material having inscribed
8 thereon the available names and dates of all persons in the
9 cemetery the gravestones for whom have been authorized to be
10 removed. The petition filed by the council shall include such
11 facts as to the ownership of the cemetery as are known to the
12 borough and shall set forth the proposed plans of the borough
13 for the improvement of the cemetery including, if it proposes to
14 remove the gravestones, a description of the memorial it intends
15 to erect.

16 (c) Whenever the council shall file a petition as
17 hereinbefore provided, the court shall direct such notice of the
18 filing of the petition to be given in such manner as it shall
19 deem appropriate and shall afford the owner or owners of the
20 cemetery or the owners of any burial rights therein, if any
21 appear, an opportunity to be heard before making an order
22 authorizing the borough to improve and maintain the burial
23 ground.]

24 Section 328. Section 2805 of the act is amended to read:

25 Section 2805. Transfer from Company to Borough.--(a) Upon
26 the petition of any incorporated cemetery company and the owners
27 of a majority of the taxable real estate in any borough, the
28 court of [quarter sessions] common pleas may authorize the
29 transfer of any cemetery to any borough in which [such] the
30 cemetery may be located or [be adjacent thereto.] which is

1 adjacent to the borough. A copy of the court order authorizing
2 the transfer shall be filed with the recorder of deeds.

3 (b) The transfer shall be made without cost to the borough
4 and upon being made the borough shall exercise the powers and
5 privileges of the incorporated company, and may purchase land
6 within or adjacent to the borough limits, not to exceed thirty
7 acres, for the extension of the cemetery, and may raise the
8 means to pay for the same, by the sale of lots or otherwise, but
9 in no event by taxation. The borough may lay out lots so
10 purchased and alter the original plot of the cemetery, and may
11 dispose of such grounds in the same manner as the incorporated
12 company could have done.

13 (c) A deed for any lot, made by the borough, shall be of the
14 same validity as the deed of the incorporated cemetery company
15 and the borough may make deeds to those who theretofore
16 purchased lots, but had not been furnished with deeds by the
17 cemetery company.

18 Section 329. The act is amended by adding a section to read:

19 Section 2805.1. Neglected or Abandoned Cemeteries.--Borough
20 council shall have the power to direct the removal of weeds,
21 refuse and debris from an abandoned or neglected cemetery. To
22 exercise this power, council shall give personal notice to the
23 owner, if known, directing the removal of weeds, refuse and
24 debris from the cemetery within thirty days from the giving of
25 personal notice. Personal notice shall be by any of the
26 following means: (1) personal service on the owner, (2)
27 certified mail, addressee only, return receipt requested, to the
28 owner at the owner's last known address, or (3) posting notice
29 at or upon the property after reasonable attempts to give
30 personal notice pursuant to (1) or (2) has failed. If the

1 removal is not completed within thirty days after personal
2 notice was effected, borough council shall provide for the
3 removal to be done by employes of the borough or persons hired
4 for that purpose at the expense of the borough. The costs of
5 removal shall be assessed against the owner of the cemetery, if
6 known, and collected pursuant to Article XXI-A.

7 Section 330. Sections 2806 and 2807 of the act are repealed:

8 [Section 2806. Powers of Borough.--Such transfer shall be
9 made without cost to the borough and upon being made the borough
10 shall exercise the powers and privileges of such incorporated
11 company, and may purchase land within or beyond the borough
12 limits, not to exceed thirty acres, for the extension of such
13 cemetery, and may raise the means to pay for the same, by the
14 sale of lots or otherwise, but in no event by taxation; the
15 borough may lay out lots so purchased and alter the original
16 plot of such cemetery, and may dispose of such grounds in the
17 same manner as such incorporated company could have done.

18 Section 2807. Deeds to Lots.--A deed for any lot, made by
19 the borough, shall be of the same validity as the deed of such
20 incorporated cemetery company; and the borough is authorized to
21 make deeds to those who theretofore purchased lots, but had not
22 been furnished with deeds by the cemetery company.]

23 Section 331. Sections 2808 and 2809 of the act are amended
24 to read:

25 Section 2808. Removing Bodies to Alter Plots.--In altering
26 the plot of any [such] cemetery, the bodies may be removed and
27 reinterred in a suitable place, but without cost to surviving
28 relatives.

29 Section 2809. Removal of Bodies to Other [Cemeteries.--
30 Whenever any cemetery privately owned and in charge of no

1 person, or any cemetery in charge of any religious society or
2 church, has ceased to be used for interments, or has become so
3 neglected as to become a public nuisance; or when such cemetery
4 hinders the improvement and progressive interests of any
5 borough, or is desired by the borough as a site for any free
6 public library building, or for any other public purpose, the
7 court of quarter sessions of the county, upon petition of the
8 managers of such cemetery; or upon the petition of fifty
9 residents in the vicinity in case such cemetery is not in charge
10 of anyone, setting forth that the improvements and progressive
11 interests of such borough are hampered and the welfare of such
12 borough is injured; or upon the petition of such borough setting
13 forth that such cemetery is desired by the borough for the
14 erection thereon of a free public library building, or for use
15 as a recreation place, or the opening, laying out or extension
16 through said land of any street, or for any other public
17 purpose; and after three successive weeks of advertisement in a
18 newspaper of general circulation in the borough may direct the
19 removal of the remains of the dead from such cemetery.]

20 Cemeteries.--(a) The court of common pleas may, upon petition
21 and notice as set forth in this section, direct the removal of
22 the remains of the dead from a privately owned cemetery,
23 borough-owned cemetery, any cemetery affiliated with any
24 religious society or church or with any other organization, when
25 the cemetery has ceased to be used for interments, or has become
26 so neglected as to become a public nuisance, or when the
27 cemetery hinders the improvement and progressive interests of
28 the borough, or is desired by the borough as a site for any
29 public purpose.

30 (b) The petition to the court for the removal of the remains

of the dead shall be made in accordance with any of the
following:

(1) The managers of the cemetery in charge of a religious
society or church or any other organization, but only in
pursuance of the wishes of a majority of the members of the
society or church or any other organization, expressed at a
meeting held for that purpose after two weeks' public notice.
The managers' petition shall set forth that the cemetery has
ceased to be used for interments.

(2) Approval of fifty residents of the borough if the
cemetery is not in charge of anyone, setting forth that the
improvements and progressive interests of the borough are
hampered and the welfare of the borough is injured by the
presence of the cemetery.

(3) Borough council setting forth that the cemetery has
become so neglected as to become a public nuisance, or that the
improvements and progressive interests of the borough are
hampered and the welfare of the borough is injured by the
presence of the cemetery, or that the land is desired for a
public purpose.

(c) Prior to the court authorizing the removal of the
remains of the dead from a cemetery, notice shall be given by
advertisement in a newspaper of general circulation once a week
for three successive weeks.

(d) The removal shall be made by the managers of the
cemetery, or by the borough when the cemetery is in charge of no
one or is a borough-owned cemetery, in a careful manner, at the
expense of the party making the removal, to another cemetery as
may be selected, or if so desired by relatives or other
interested parties, to some cemetery in the vicinity.

1 (e) Relatives or other interested parties of the dead may
2 remove the remains, at any time during the proceedings, at their
3 own expense, before removal by the managers or the borough.

4 (f) All bodies, when so removed, shall be placed in separate
5 caskets and graves, and the markers placed over the remains of
6 the bodies shall be taken by the persons authorized to make the
7 removal, and placed as near as can be in the same relative
8 position as before removal.

9 (g) After the removal of all dead bodies from any such
10 cemetery, the land shall cease to be a cemetery or burial
11 ground, and may be acquired by the borough as other real estate
12 is acquired for borough purposes.

13 Section 332. Sections 2810, 2811, 2812, 2813, 2814 and 2815
14 of the act are repealed:

15 [Section 2810. Applications for Removal.--No application, as
16 provided in the preceding section, shall be made by the managers
17 of any cemetery, in charge of any society or church, except in
18 pursuance of the wishes of a majority of the members of such
19 society or church, expressed at a meeting held for that purpose
20 after two weeks' public notice.

21 Section 2811. Removals; How Made.--Such removal shall be
22 made by the managers of such cemetery, or by the borough when
23 such cemetery is in charge of no one, in a careful manner, at
24 the expense of the party making such removal, to such other
25 cemetery as may be selected; or if so desired by relatives or
26 friends, to some cemetery in the vicinity.

27 Section 2812. Notice of Removal.--The parties making such
28 removal shall publish, for two successive weeks, in a newspaper
29 of general circulation in the borough, a notice declaring their
30 intention to remove such remains.

1 Section 2813. Removal by Relatives and Friends.--Relatives
2 and friends of such dead may remove such remains, at any time
3 during such proceedings, at their own expense, before removal by
4 the managers.

5 Section 2814. Care in Removal.--All bodies, when so removed,
6 shall be placed in separate caskets and graves, and the markers
7 placed over the remains of such bodies shall be taken by the
8 persons authorized to make such removal, and placed as near as
9 can be in the same relative position as before removal.

10 Section 2815. Right to Use Property From Which Bodies
11 Removed.--After the removal of all dead bodies from any such
12 cemetery, the said land shall cease to be a cemetery or burial
13 ground for all and any purpose whatsoever; and may be acquired
14 by the borough as other real estate is acquired for borough
15 purposes.]

16 Section 333. Section 2816 of the act, amended October 4,
17 1978 (P.L.962, No.189), is amended to read:

18 Section 2816. Purchase of Plots for Burial of Deceased
19 Service Persons.--Any borough may purchase plots of ground, in
20 any cemetery or burial ground within its limits, for the
21 interment of [such] deceased members of the armed forces, as
22 have [heretofore] died before or shall [hereafter] die later
23 within [such] the borough, or shall die beyond [such] the
24 borough and shall have a legal residence within the borough at
25 the time of their death, and whose bodies are entitled to be
26 buried by the county under the provisions of existing law.
27 [Such] The plots of ground shall be paid for out of the treasury
28 of [such] the borough.

29 Section 334. Article XXIX heading of the act is reenacted to
30 read:

1 ARTICLE XXIX

2 LICENSES AND LICENSE FEES

3 Section 335. Sections 2901 and 2902 of the act are amended
4 to read:

5 Section 2901. Licensing Transient Retail Business.--[Every
6 borough shall have power] (a) Any borough may, by ordinance,
7 [to] regulate and license [each and every person, firm or
8 corporation] transient merchants engaged in any transient retail
9 business[,] within [such] the borough[,]. Transient merchants
10 shall include any person, partnership or corporation engaged in
11 any transient retail business for the sale of goods, wares, or
12 merchandise, whether [such] the business [shall be] is conducted
13 from a fixed location within the borough or by any person or
14 persons engaged in peddling, soliciting, or taking of orders
15 from house to house[, and to]. The ordinance may prohibit the
16 commencement or doing of any [such] transient retail business
17 [or] unless the license required by [such] the ordinance has
18 been procured from the proper authorities by the person, firm,
19 or corporation desiring to commence [such] the transient retail
20 business[, and to enforce such ordinances]. The ordinance may
21 provide for enforcement by penalties or [by] other appropriate
22 means. The amount of any [such] license fee shall bear a
23 reasonable relationship to the cost of administering [such] the
24 ordinance and regulating[, investigating,] and inspecting [and
25 supervising such] the transient retail business.

26 (b) No license fee shall be charged under this section to
27 the following transient merchants, unless such transient
28 merchant is also selling other goods, wares and merchandise not
29 excepted:

30 (i) [to farmers] Farmers selling their own produce[,].

(ii) [for the sale of] Persons selling goods, wares and merchandise[, donated by the owners thereof,] if the proceeds [whereof] of the sale are to be applied to any charitable or philanthropic purpose[, or].

(iii) [to any manufacturer or producer] Manufacturers or producers in the sale of bread and bakery products, meat and meat products, or milk [or] and milk products, [but the] provided that milk and milk products shall not include or apply to ice cream or other frozen desserts.

(c) The ordinance may require [any person, partnership, firm or corporation in any or all of these excepted categories to] that the transient merchants excepted from payment of a license fee in subsection (b) must register with the borough[, and otherwise be subject to all other provisions of the ordinance [except those pertaining to the payment of license fees: Provided, the term "milk or milk products" shall not include or apply to ice cream or other frozen desserts: And provided further, That any transient retail business dealing in one or more of the excepted categories and selling other goods, wares and merchandise not excepted shall be subject to the license fee fixed by the ordinance for its activities in connection with the sale of goods, wares and merchandise not in any of the excepted categories].

Section 2902. Commonwealth Licenses Saved.--Nothing contained in [section 2901 of this act] this article shall be construed to relieve any person, partnership, or corporation from the duty of taking out a license, or from the payment of any license tax or fee imposed or authorized by any other statute of this Commonwealth, nor shall any Commonwealth license tax or fee preempt the registration, license, or regulatory

1 powers of a borough in accordance with this article, unless the
2 preemption is expressly authorized.

3 Section 336. Section 2903 of the act, amended October 5,
4 1979 (P.L.197, No.66), is amended to read:

5 Section 2903. Licensing Parking Lots and Parking Garages
6 Operated for Profit.--Any borough may, by ordinance, regulate
7 the business of operating parking lots or parking garages for
8 profit within the borough and may require such lots or garages
9 to reserve areas exclusively for parking by handicapped
10 individuals. Ordinances shall be consistent with 75 Pa.C.S.
11 (relating to vehicles). Nothing in this section may be construed
12 to limit the protections and prohibitions contained in any law
13 or regulation relating to the rights of the disabled. License or
14 permit fees may be charged and collected from the operators of
15 [such] the parking lots or parking garages. Any borough adopting
16 such a regulatory plan shall require from each operator of
17 [such] a parking lot or parking garage a bond to be approved by
18 council for the protection of the public from loss of or damage
19 to vehicles parked, stored or placed under the jurisdiction of
20 [such] a parking lot or parking garage operator[: Provided,
21 That], provided that nothing in this section shall apply to
22 parking lots or parking garages operated by a municipal
23 authority or a parking authority.

24 Section 337. Sections 2904 and 2905 of the act are amended
25 to read:

26 Section 2904. Persons Taking Orders by Samples.--It shall be
27 unlawful for any borough to impose, levy or collect any license
28 fee or mercantile tax upon any persons taking orders for
29 merchandise by sample, from dealers or merchants[,] for
30 individuals or companies who pay a license fee or mercantile tax

1 at their chief places of business. Nothing in this section shall
2 authorize any such person, firm or corporation to sell by retail
3 to others than dealers or merchants without payment of a license
4 or permit fee.

5 Section 2905. Equality of Residents and Non-Residents.--It
6 shall be unlawful for any borough to impose, by ordinance, [or
7 exact] or collect under the provisions of any ordinance
8 [heretofore or hereafter enacted], any license [tax or] fee upon
9 or from any manufacturer, or the agent, representative or
10 employe of any manufacturer who is a resident of the
11 Commonwealth, for soliciting orders for, or for selling, any
12 goods, merchandise or wares manufactured within this
13 Commonwealth, that is not or cannot legally be imposed upon, [or
14 exacted,] or collected from, any manufacturer or dealer, or the
15 agent, representative, or employe of any manufacturer, who is a
16 non-resident of the Commonwealth, for soliciting orders for or
17 for selling any goods, merchandise, or wares manufactured
18 [without the] outside this Commonwealth.

19 Section 338. Section 2906 of the act is reenacted to read:

20 Section 2906. Insurance Business.--It shall be unlawful for
21 any borough to impose or collect any license fee upon any
22 insurance company or its agents, or insurance broker, authorized
23 to transact business under the laws of the Commonwealth.

24 Section 339. The act is amended by adding an article to
25 read:

26 ARTICLE XXIX-A

27 VETERANS' AFFAIRS

28 (a) Pennsylvania National Guard

29 Section 2901-A. Eminent domain for National Guard purposes.

30 Borough council may take, by right of eminent domain, for the

purpose of appropriating to the borough for the use of the
Pennsylvania National Guard, public lands, easements and public
property, as may be in its possession or control and used or
held by the borough for any other purpose. The right, however,
shall not be exercised as to any street or wharf.

Section 2902-A. Lands for armory purposes.

Borough council may acquire, by purchase or by gift or by the
right of eminent domain, any land for the use of the
Pennsylvania National Guard, to convey the lands so acquired to
the Commonwealth in order to assist the State Armory Board in
the erection of armories. The power conferred by this section
shall not be exercised to take any church property, graveyard,
cemetery or any dwelling-house or the curtilage of the same in
the actual occupancy of the owner.

Section 2903-A. Appropriation to assist in erection of
armories.

Borough council may appropriate money or convey land, either
independently or in conjunction with any municipality for the
purpose of assisting the State Armory Board in the erection of
armories for the use of the Pennsylvania National Guard and to
furnish water, sewer service, light or fuel, free of cost, to
the Commonwealth for use in any armory of the Pennsylvania
National Guard, and to do all things necessary to accomplish the
purpose of this section.

Section 2904-A. Support of Pennsylvania National Guard units.

Borough council may appropriate annually a sum to be used and
expended exclusively for the support and maintenance, discipline
and training of any company, battalion, regiment or similar unit
of the Pennsylvania National Guard. Where the units are
organized as a company, battalion, regiment or similar

1 organization, the total amount due may be paid to the commanding
2 officer of the company, battalion, regiment or similar
3 organization. Any moneys so appropriated shall be paid by
4 warrant drawn to the order of the commanding officer of the
5 company, battalion, regiment or similar organization, only when
6 it shall be certified to the borough, by the Adjutant General,
7 that the company or companies have satisfactorily passed the
8 annual inspection provided by law. The commanding officer shall
9 account, by proper vouchers to the borough each year, for the
10 expenditure of the money appropriated, and no appropriation
11 shall be made for any subsequent year until the expenditure of
12 the previous year is duly and satisfactorily accounted for. The
13 accounts of the expenditures shall be subject to the inspection
14 of the Department of Military and Veterans Affairs, and shall be
15 audited by the Auditor General in the manner provided by law for
16 the audit of accounts of State moneys.

17 (b) Support of Veterans' Organizations

18 Section 2911-A. Appropriations to organizations of veterans and
19 American Gold Star Mothers.

20 Borough council may appropriate annually a sum to be divided
21 in amounts as council deems proper to organizations composed of
22 veterans of any war in which the United States was engaged or
23 the American Gold Star Mothers' Organization, to aid in
24 defraying the expenses of Memorial Day, Veterans' Day or any
25 similar day hereafter provided for by Federal or State law. The
26 payments shall be made to defray actual expenses only. Before
27 any payment is made, the organization receiving the
28 appropriation shall submit verified accounts of its
29 expenditures.

30 Section 2912-A. Payment of rent for veterans' organizations.

1 Borough council may appropriate annually a sum as council
2 deems proper to incorporated organizations of American veterans
3 of any war in which the United States was engaged, to be used in
4 the payment of the rent of any building or room or rooms in
5 which the post, branch, camp, detachment or lodge has its
6 regular meetings.

7 Section 2913-A. Rooms for veterans' and children of veterans'
8 organizations.

9 Borough council may furnish without charge to each
10 organization composed of American veterans of any war in which
11 the United States was engaged and children of such veterans, a
12 room or rooms in any public building of the borough.

13 Section 2914-A. Care and erection of memorials.

14 Borough council may take charge of, care for, maintain and
15 keep in good order and repair, at the expense of the borough,
16 any soldiers' monument, gun or carriage or similar memorial
17 situated in the borough, and not in the charge or care of any
18 person, body or organization, and not put up or placed by the
19 Government of the United States, the Commonwealth of
20 Pennsylvania, or the commissioners of the county, or by the
21 direction or authority of any other state. Borough council may
22 also receive and expend any moneys or funds from any person or
23 organization to be used for the maintenance of the memorials.
24 Additionally, borough council may contribute to the erection of
25 memorials in honor of those who served in any war in which the
26 United States was engaged and thereafter to properly and
27 adequately maintain the same.

28 Section 340. Article XXX heading and sections 3001, 3002,
29 3003, 3004 and 3005 of the act are repealed:

30 [ARTICLE XXX

REAL ESTATE REGISTRY

Section 3001. Real Estate Registry Established.--For the purpose of procuring accurate information in reference to the ownership of real estate the council of any borough may provide by ordinance for a registry thereof.

Section 3002. Maintenance of Real Estate Registry.--The borough council in any borough in which a registry shall be established shall appoint or designate any officer of the borough or any other person to have charge of the real estate registry, who shall, under the direction of the council, cause to be made all necessary books, maps and plans, as will show the situation and dimensions of each property thereon; which books, maps, or plans shall be so prepared as to show the location and the name of the owner or owners thereof, with blank spaces for the name of the owner of each lot, and with provision for the names of future owners and the dates of future transfers of title.

Section 3003. Access to Public Records.--For the purpose of establishing such registry, the person in charge of the real estate registry of any borough shall have access without charge to any public records wherein the necessary information may be obtainable, and may also cause a search to be made in other places for any muniments or evidences of title, not reported to him as herein provided, and requisite for the completion of such books, maps, or plans.

Section 3004. Keeping of Records.--The registry, books, maps and plans shall be carefully preserved, and shall be so kept, by additions from time to time, as to show the ownership of every lot, or piece of real estate, or subdivision thereof, within the limits of the borough, with the succeeding transmissions of

1 title from the time of the commencement of such plans, but
2 nothing contained therein shall, at any time, invalidate any
3 municipal or tax claim by reason of the fact that the same is
4 not assessed or levied against the registered owner.

5 Section 3005. Duties of Owners of Real Estate.--It shall be
6 the duty of all owners of real estate within the limits of the
7 borough, within one month after the date of the enactment of any
8 ordinance establishing such registry, and of every subsequent
9 purchaser, devise, or other owner, within one month after
10 acquiring title in any manner whatsoever to any real estate in
11 such borough, to furnish to the person in charge of the real
12 estate registry, at his office, descriptions of their respective
13 properties upon blanks to be furnished by the borough, and at
14 the same time to present their conveyances to be stamped as
15 evidence of the registry thereof.]

16 Section 341. Section 3006 of the act, amended October 9,
17 1967 (P.L.360, No.158), is repealed:

18 [Section 3006. Registry Required Before Recording.--The
19 sheriffs of the respective counties in which any such borough is
20 situated shall present for registry the deeds of all properties
21 within such borough sold by them at judicial sales; and the
22 recorders of deeds of such counties shall not admit for record
23 any deed of any property in such borough, bearing dates
24 subsequent to the enactment of an ordinance providing for the
25 establishment of such registry, unless the same shall first have
26 been duly stamped as herein provided.]

27 Section 342. Article XXXI heading of the act is reenacted to
28 read:

29 ARTICLE XXXI

30 HEALTH AND SANITATION

1 Section 343. Sections 3101 and 3102 of the act are amended
2 to read:

3 Section 3101. Establishment of Board of Health; Health
4 Officers.--[The administration of the health laws and ordinances
5 in boroughs shall be enforced by a board of health, or by a
6 health officer or officers, as the case may be, appointed by the
7 borough council.

8 Where the borough council elects to appoint a health officer
9 or officers the said health officer or officers] (a) Borough
10 council may, by ordinance, appoint a board of health, or a
11 health officer or officers in lieu of a board of health, to
12 administer and enforce the health laws and related ordinances of
13 the borough. Health officers appointed by borough council shall
14 have the same powers and duties, and exercise the same
15 authority, as is prescribed for boards of health in boroughs.
16 All health officers, whether appointed by boards of health
17 pursuant to section 3106(b) or by the borough council, shall
18 have had some experience or training in public health work [in
19 accordance with rules and regulations established by the
20 Advisory Health Board of the State] and shall be, or within six
21 months of taking the oath of office, shall become certified for
22 the office of health officer by the Department of Health. [Such
23 health officers shall not enter upon the performance of their
24 duties until they are certified so to do by the State Department
25 of Health.]

26 (b) All expenses incurred by the board of health, its
27 officers or employes in the performance of the duties required
28 by law or by ordinance, shall be paid by the borough where the
29 duties are performed, in the same manner as other expenses of
30 the borough are paid.

1 (c) A borough may, by ordinance, dissolve a board of health
2 and decide to become subject to the jurisdiction of a county
3 department of health or joint county department of health in
4 accordance with the act of August 24, 1951 (P.L.1304, No.315),
5 known as the "Local Health Administration Law."

6 Section 3102. Members of Board of Health.--(a) Where the
7 borough council decides to appoint a board of health [such], the
8 board shall be composed of three or five members, appointed by
9 borough council, at least one of whom shall be a [physician]
10 professional health care provider of not less than two years'
11 experience in the practice of [his] the respective profession.
12 [The members of the board shall be appointed by the borough
13 council.] If no professional health care provider can be
14 identified to serve on the board, council may, instead, appoint
15 an individual who has experience in or is knowledgeable of
16 public health issues. At the first appointment one member shall
17 be appointed to serve for one year, one for two years, one for
18 three years, and, in the case of boards with five members, one
19 for four years, and one for five years; and thereafter one
20 member shall, in like manner, be appointed each year to serve
21 for three years or, in the case of boards with five members,
22 five years. The members of the board of health shall serve
23 without compensation, but if any member of the board shall be
24 elected to the office of secretary of the board of health, [he]
25 the member shall be entitled to receive a salary fixed by the
26 board for that office.

27 (b) "Professional health care provider" as described in this
28 section shall mean an individual who is approved, licensed,
29 certified or otherwise regulated to practice or operate in the
30 health care field under the laws of this Commonwealth,

1 including, but not limited to, a physician, a dentist, a
2 podiatrist, a chiropractor, an optometrist, a psychologist, a
3 pharmacist, a registered or practical nurse, a physical
4 therapist, a physician's assistant, a paramedic, an
5 administrator of a hospital, nursing or convalescent home or
6 other health care facility or individuals licensed to practice
7 veterinary medicine under the laws of this Commonwealth.

8 Section 344. Section 3103 of the act, amended June 25, 2001
9 (P.L.651, No.56), is amended to read:

10 Section 3103. Oaths of Members, Secretary and Health
11 Officer; Organization; Bonds.--The members of the board shall
12 severally take and subscribe to the oath prescribed for borough
13 members of council [together with such loyalty oath as is
14 prescribed and required by law;] and shall annually organize by
15 electing a president from among the members of the board, a
16 secretary who may or may not be a member of the board, and a
17 health officer. The secretary and the health officer shall
18 receive such salary as may be fixed by the board, and ratified
19 by the borough council, and shall serve [for a period] until
20 such time as their successors may be elected and qualified. If
21 the borough council shall so require, they shall severally give
22 bond to the borough in such sums as council shall prescribe for
23 the faithful discharge of their duties. They shall take and
24 subscribe to the oaths required of members of the board.

25 Section 345. Sections 3104, 3105, 3106, 3107, 3108, 3109,
26 3110 and 3111 of the act are amended to read:

27 Section 3104. Duties of Secretary.--The secretary of the
28 board shall [keep]:

29 (1) Keep and maintain, in accordance with 53 Pa.C.S. Ch. 13
30 Subch. F (relating to municipal records), the minutes of the

proceedings of the board[; shall] and keep accurate accounts of the expenditures of the board[; shall draw].

(2) Draw all requisitions for the payment of moneys on account of the board of health from appropriations made by the borough council [of] to the board, and [shall] present the same to the president of the board for [his] the president's approval[; shall render].

(3) Render statements of the expenditures to the board at each stated meeting, or as frequently as the board may require[; shall prepare,].

(4) Prepare, under the directions of the board, the annual report to the borough council together with the estimate of appropriation needed for the ensuing year. [He shall report]

(5) Report to the State Department of Health at such intervals as shall be specified by [the State] law or regulation, the cases of communicable disease reported to the board of health, on the form provided for that purpose by [such] the department[;] and [shall also] make an annual report to [such] the department[; and shall make].

(6) Make such other reports and perform such other duties as the board may require.

Section 3105. Powers and Duties of Health Officer.--It shall be the duty of the health officer to attend all [stated] regular and special meetings of the board of health, and at all times be ready and available for the prompt performance of [his] the officer's official duties[. He shall perform], including such duties as are vested in local health officers by State laws and regulations. [He] The health officer shall make sanitary inspection and shall execute the orders of the board of health and shall, in the performance of [his] the health officer's

duties, have the power and authority [of a policeman] to issue citations for the violation of applicable laws and ordinances.

Section 3106. Powers of Board of Health.--(a) The board of health shall have the power, and it shall be its duty to [enforce]:

(1) Enforce the laws of the Commonwealth, the regulations of the State Department of Health, and all ordinances of the borough enacted to promote public health and prevent the introduction and spread of infectious or contagious disease[; to abate].

(2) Abate and remove all nuisances [which] that the board shall deem [prejudicial] detrimental to the public health[;] and to mark infected houses or places[; to recommend].

(3) Recommend rules [for the construction and maintenance of house-drains, wash-pipes, soil-pipes and cesspools; and to recommend all such other rules] and regulations as shall be deemed necessary for the preservation of the public health and for carrying into effect the powers and functions of the board.

[Such] The rules and regulations shall not become effective until they have been approved by the borough council and enacted as ordinances of the borough. [The board shall also have power, with the consent of council, in case of a prevalence of any contagious or infectious disease to establish one or more emergency hospitals, and to make provisions and regulations for the maintenance and management of the same.

The board shall also have the power to recommend to council all necessary rules and regulations not inconsistent with law, for carrying into effect the powers and functions with which the board is invested by law, and the power and authority relating to the public health conferred on boroughs. Such rules and

1 regulations shall not become effective until they have been
2 approved by the borough council and enacted as ordinances of the
3 borough.]

4 (b) The board of health may appoint a health officer or
5 officers.

6 Section 3107. Entry Upon Premises.--(a) The board of health
7 as a body, or by committee, as well as the health officer,
8 together with their assistants, subordinates, and [workmen]
9 employees, under and by order of the [said] board, shall have the
10 power to enter at [any time] a reasonable time and in a
11 reasonable manner upon any premises in the borough upon which
12 there is suspected to be any infectious or contagious disease,
13 or nuisance detrimental to the public health, for the purpose of
14 examining and abating the same.

15 (b) In the event that entry upon any premises is refused by
16 an owner, an agent of an owner or a tenant, the board of health
17 or health officer shall obtain an administrative search warrant
18 from any magisterial district judge within the judicial district
19 where the premises to be inspected is located.

20 (c) It shall be sufficient to support the issuance of a
21 warrant for the board of health or health officer to provide to
22 the magisterial district judge evidence of any of the following:

23 (1) Reasonable standards and an administrative plan for
24 conducting inspections.

25 (2) The condition of the premises or general area and the
26 passage of time since the last inspection.

27 (3) Facts, supported by oath or affirmation, alleging that
28 probable cause exists that a law, regulation or ordinance
29 subject to enforcement by the board of health or health officer
30 has been violated.

1 Section 3108. Inspections; Abatement of Nuisances.--The
2 board of health [may inspect house-drains, waste and soil-pipes,
3 cesspools, water-closets, slaughter-houses, hog-pens, stable-
4 yards and] shall have the power to inspect any conditions or
5 places [whatsoever] in the borough which may constitute a
6 nuisance or a menace to public health[; and whenever]. Whenever
7 any condition or place in the borough is found by the board to
8 be a nuisance or a menace to the health of the people of the
9 borough it shall issue a written order of abatement, directed to
10 the owner, or agent of the owner, of the premises, stating that
11 the conditions specified [therein] in the premises constitute a
12 nuisance or a menace to health, and ordering an abatement
13 thereof within [such] reasonable time as may be specified by the
14 board in [such] the order. [In case such] If the order of
15 abatement is not obeyed within the time specified [therein], the
16 board shall [thereupon] issue a further written order to the
17 health officer, directing [him] the health officer to remove or
18 abate the same[; which]. The order shall be executed by [him and
19 his] the health officer and subordinates and [workmen] agents,
20 and the expense [thereof] of execution with a penalty of ten
21 percent [thereof added thereto], shall be recoverable from the
22 owner of the premises upon or from which the nuisance or menace
23 to health is abated or removed, in the same manner as debts of
24 like character are now collected by law[; or the said board of
25 health may proceed to enforce such other remedy, or inflict such
26 penalty, as may be provided by ordinance of the borough]. In
27 lieu of, or in addition to the above procedure, borough council
28 may seek relief from a nuisance or threatened nuisance by an
29 action at law or in equity. Council may seek the guidance of the
30 board of health or the health officer in determining the nature

1 of the relief requested.

2 Section 3109. Estimates of Expenditures; Report.--It shall
3 be the duty of the board of health or of the health officer or
4 officers appointed by borough council to submit annually to the
5 council, before the commencement of the fiscal year, an estimate
6 of the probable expenditures of the board or the health officer
7 or officers during the ensuing year; and council shall then
8 proceed to make [such] appropriations as may be deemed
9 necessary. The board of health, or the health officer or
10 officers, shall, in the month of January of each year, submit a
11 report, in writing, to council of its appropriation and
12 expenditures for the preceding year, together with such other
13 information on subjects relative to the sanitary conditions or
14 requirements of the borough as may be necessary.

15 Section 3110. Cooperation With Other Units.--Any borough may
16 cooperate with the county or counties in which it is located, or
17 with any [city, borough, or township] municipal corporation, as
18 well as with the State Department of Health, in the
19 administration and enforcement of health laws.

20 Section 3111. Powers of [Secretary of Health.--Whenever, in
21 the opinion of the Secretary of Health, conditions found by him
22 to exist in any borough shall constitute a menace to the lives
23 and health of people living outside the corporate limits of such
24 borough or if it be known by him that any borough is without an
25 existing or efficient board of health, he or his agents may take
26 full charge of and administer the health laws, regulations and
27 ordinances in such borough; and may continue in charge thereof
28 until he shall decide that a competent and efficient board of
29 health, or health officer or officers, has been appointed and
30 qualified for such borough and is ready, able and willing to

1 assume and carry into effect the duties imposed upon it by law.]
2 Department of Health to Administer Health Laws; Expenses.--(a)
3 Nothing in this act may be construed as to limit any power or
4 duty of the Department of Health, including the power to take
5 full charge of the administration of health laws, regulations
6 and ordinances in a borough and collect any costs associated
7 therewith in accordance with Article XXI of the act of April 9,
8 1929 (P.L.177, No.175), known as "The Administrative Code of
9 1929."

10 (b) Any expenses of the Department of Health for which the
11 borough is liable shall be paid by the borough where the
12 expenses have been incurred, in the same manner as other
13 expenses of the borough are paid. All expenses incurred by the
14 Department of Health, when paid or when collected, shall be
15 returned by the department to the State Treasurer, who shall
16 credit the amount so received to the appropriation made to the
17 Department of Health.

18 (c) Whenever expenses incurred in accordance with the
19 provisions of subsection (b) shall remain unpaid by a borough
20 for a period over three months after a statement of the expense
21 has been rendered to the borough and demand for payment is made,
22 the Secretary of Health shall, with the approval of the
23 Governor, institute, in the name of the Commonwealth as
24 plaintiff, an action of assumpsit against the borough for the
25 collection of the expense from the borough in the same manner as
26 debts of like amount are collected by law. Upon the trial of the
27 action, the reasonableness of the expenditures made by the
28 secretary shall be submitted to the jury for its determination.

29 Section 346. Sections 3112, 3113 and 3114 and Article XXXIII
30 heading of the act are repealed:

1 [Section 3112. Expenses of Board or Secretary of Health.--
2 All expenses incurred by any local board of health, its officers
3 or employes, in the performance of the duties imposed upon it by
4 law, and all expenses incurred by the Secretary of Health or his
5 agents in accordance with the provisions of this article shall
6 be paid by the borough wherein such duties are performed, in the
7 same manner as other expenses of such borough are paid.

8 Section 3113. Failure to Pay Expenses Incurred by State
9 Secretary.--Whenever expenses incurred by the Secretary of
10 Health or his agents in the administration of health laws in any
11 borough in accordance with the provisions of this article, shall
12 remain unpaid by said borough for a period over three months
13 after a statement of such expense has been rendered by him to
14 such borough and demand for payment by him made, he shall, with
15 the approval of the Governor, institute, in the name of the
16 Commonwealth as plaintiff, an action of assumpsit against such
17 borough for the collection of such expense from the borough in
18 the same manner as debts of like amount are collected by law:
19 Provided, That upon the trial of any such action of assumpsit,
20 the reasonableness of the expenditures made by the Secretary of
21 Health shall be submitted to the jury for its determination.

22 Section 3114. Disposition of Collected Funds.--All expenses
23 incurred by the Secretary of Health in the administration of
24 health laws in any borough, when paid to him by such borough, or
25 when collected by him, shall be returned by him to the State
26 Treasurer, who shall credit the amount so received to the
27 appropriation made to the Department of Health.

28 ARTICLE XXXII

29 ZONING]

30 Section 347. The act is amended by adding an article to

1 read:

2 ARTICLE XXXII-A

3 UNIFORM CONSTRUCTION CODE, PROPERTY MAINTENANCE

4 CODE AND RESERVED POWERS

5 Section 3201-A. Primacy of Uniform Construction Code.

6 (a) General rule.--The act of November 10, 1999 (P.L.491,
7 No.45), known as the Pennsylvania Construction Code Act, and the
8 Uniform Construction Code adopted under section 301 of the
9 Pennsylvania Construction Code Act shall apply to the
10 construction, alteration, repair and occupancy of all buildings
11 and structures within a borough.

12 (b) Primacy.--This section and any ordinance, rule or
13 regulation adopted pursuant to this section shall not supersede
14 or abrogate the Pennsylvania Construction Code Act or the
15 Uniform Construction Code and shall be construed and read in
16 pari materia with them.

17 Section 3202-A. Changes in Uniform Construction Code.

18 A borough may propose and enact an ordinance to equal or
19 exceed the minimum requirements of the Uniform Construction Code
20 in accordance with and subject to the requirements of section
21 503 of the act of November 10, 1999 (P.L.491, No.45), known as
22 the Pennsylvania Construction Code Act. Any ordinance exceeding
23 the provisions of the Uniform Construction Code shall be
24 required to meet the standards provided in section 503(j)(2) of
25 the Pennsylvania Construction Code Act.

26 Section 3203-A. Public nuisance.

27 Any building, housing or property, or part of any building,
28 housing or property erected, altered, extended, reconstructed,
29 removed or maintained, contrary to any of the provisions of any
30 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

1 may be furnished or lent without charge. A property maintenance
2 code adopted by reference need not be recorded in or attached to
3 the ordinance book, but shall be deemed to have been legally
4 recorded if the ordinance by which the code was adopted by
5 reference shall have been recorded, with an accompanying
6 notation stating where the full text of the code shall have been
7 filed. The ordinance may provide for reasonable property fines
8 and penalties for violations of the ordinance. The procedure
9 under this section relating to the adoption of the ordinance may
10 likewise be utilized in amending, supplementing or repealing any
11 of the provisions of the ordinance.

12 (b) Property maintenance inspectors.--Council may appoint
13 property maintenance inspectors who shall have the right to
14 enter upon, subject to constitutional standards in a similar
15 manner as provided in section 3107, and inspect any premises at
16 all reasonable hours and in a reasonable manner for the
17 administration and enforcement of the borough's property
18 maintenance code or ordinance incorporating a standard or
19 nationally recognized property maintenance code. Any fees
20 payable to property maintenance inspectors under the ordinance
21 shall be paid by the property maintenance inspectors to the
22 borough treasurer for the use of the borough as promptly as may
23 be.

24 (c) Legal actions.--In addition to the penalties provided by
25 the property maintenance ordinance, the borough may institute
26 appropriate actions or proceedings at law or in equity to
27 prevent or restrain property maintenance violations.

28 (d) Construction.--The powers of a borough as provided in
29 this section shall be in addition to, but not limited to, the
30 powers provided in the act of November 26, 2008 (P.L.1672,

No.135), known as the Abandoned and Blighted Property
Conservatorship Act, and 53 Pa.C.S. Ch. 61 (relating to
neighborhood blight reclamation and revitalization).
Section 3205-A. Reserved powers.

If, as a result of legislative action or final order of court
for which the time for appeal has expired and no appeal has been
taken or from which there is no pending appeal, the Uniform
Construction Code or any replacement code is no longer
applicable in boroughs, a borough may:

(1) Enact and enforce ordinances to govern and regulate
the construction, reconstruction, alteration, extension,
repair, conversion, maintenance, occupation, sanitation,
ventilation, heating, egress, lighting, electric wiring,
water supply, toilet facilities, drainage, plumbing, fire
prevention, fireproofing, including prescribing limitations
wherein only buildings of noncombustible material and
fireproofed roofs are used in construction, erection or
substantial reconstruction, use and inspection of all
buildings and housing or parts of buildings and housing and
the roofs, walls and foundations of buildings and housing,
and all facilities and services in or about the buildings or
housing constructed, erected, altered, designed or used, in
whole or in part, for any use or occupancy, and the
sanitation and inspection of land appurtenant to the
buildings or housing. The codes may be combined or separately
enacted or combined with the property maintenance code. A
borough may adopt, amend or incorporate by reference any
standard or nationally recognized code or any variations or
changes or parts of the code as its ordinance in the manner
provided in section 3204-A. The ordinance may provide for

1 reasonable fines and penalties for violations of the
2 ordinance in compliance with Article XXXIII.

3 (2) Require that before any work of construction,
4 reconstruction, alteration, extension, repair or conversion
5 of any building is begun, approval of the plans and
6 specifications be secured.

7 (3) Council may appoint building inspectors, housing
8 inspectors, property maintenance inspectors, fire prevention
9 inspectors, electrical inspectors and plumbing inspectors,
10 and fix their compensation. The inspectors shall have the
11 right to enter upon, subject to constitutional standards in a
12 similar manner as provided in section 3107, and inspect any
13 premises at all reasonable hours and in a reasonable manner,
14 for the administration and enforcement of the borough's
15 adopted codes or ordinances incorporating standard or
16 nationally recognized codes. Any fees payable to inspectors
17 under the ordinances shall be paid by them to the borough
18 treasurer for the use of the borough as promptly as may be.

19 (4) In addition to the penalties provided by ordinances,
20 the borough may institute appropriate actions or proceedings
21 at law or in equity to prevent or restrain the unlawful
22 construction, reconstruction, alteration, extension, repair,
23 conversion, maintenance, use or occupation of property
24 located within the borough, to restrain, correct or abate the
25 violation and to prevent the use or occupancy of the
26 building, housing or structure.

27 Section 348. Article XXXIII heading of the act is amended to
28 read:

29 ARTICLE XXXIII

30 [ENFORCEMENT OF] ORDINANCES

1 Section 349. Section 3301 of the act, amended October 9,
2 1967 (P.L.399, No.181) and repealed in part April 28, 1978
3 (P.L.202, No.53), is repealed:

4 [Section 3301. Prosecution of Ordinance Violators;
5 Disposition of Fines, Penalties and Costs.--Any violation or
6 failure to comply with any provision of any borough ordinance
7 shall constitute a summary offense and prosecution for every
8 such offense shall be according to the practice in the case of
9 summary convictions.]

10 Section 350. The act is amended by adding subdivisions to
11 read:

12 (a) General Provisions

13 Section 3301.1. Ordinances; resolutions.

14 (a) General rule.--Borough council shall enact ordinances in
15 accordance and not inconsistent with the provisions of this act
16 and with the laws of this Commonwealth, in which general or
17 specific powers of the borough shall be exercised as it shall
18 deem beneficial to the borough and to provide for the
19 enforcement of the same. Borough council may amend, repeal or
20 revise existing ordinances by the enactment of subsequent
21 ordinances.

22 (b) Legislative acts.--Every legislative act of council
23 shall be by ordinance and these legislative acts shall include,
24 but not be limited to, tax ordinances, general appropriation
25 ordinances, capital expenditures not payable out of current
26 funds, and all legislation exercising the police power of the
27 borough, regulating land use, development and subdivision,
28 imposing building, plumbing, electrical, property maintenance,
29 housing and similar standards, and otherwise regulating the
30 conduct of persons or entities within the borough and imposing

1 penalties for the violation thereof.

2 (c) Resolutions.--Borough council shall adopt resolutions in
3 accordance and not inconsistent with the provisions of this act
4 and the laws of this Commonwealth. The purposes for which
5 resolutions may be adopted shall include, but not be limited to,
6 ceremonial or congratulatory expressions of the good will of the
7 council, statements of public policy of the council, approval of
8 formal agreements of the borough, other than agreements arising
9 under an established purchasing system of the borough, the
10 approval, when required, of administrative rules, regulations
11 and bylaws arising under State statutes or borough ordinances
12 and the filling of borough-appointed positions and of vacancies
13 of elected officials unless otherwise provided.

14 (d) Real and personal property matters.--Borough council's
15 approval of the acquisition, disposition and leasing of real or
16 personal property shall be by adoption of a resolution in a
17 manner consistent with this act.

18 Section 3301.2. Publication of proposed ordinances.

19 (a) Publication requirements.--Except where otherwise
20 provided in this act or in other law, borough council shall
21 publish every proposed ordinance once in one newspaper of
22 general circulation no more than 60 days nor fewer than seven
23 days prior to enactment, which the seventh day shall fall on the
24 day prior to the day when council shall vote on the proposed
25 ordinance. Publication of any proposed ordinance shall include
26 either the full text or the title and a brief summary prepared
27 by the borough solicitor setting forth all the provisions in
28 reasonable detail and a reference to a place within the borough
29 where copies of the proposed ordinance may be examined.

30 (b) Publication of summary.--If the full text is not

1 included in the publication of the proposed ordinance, the
2 following shall apply:

3 (1) The newspaper in which the proposed ordinance is
4 published shall, upon request, be furnished a copy of the
5 full text.

6 (2) An attested copy of the full text shall be filed in
7 the county law library or other county office designated by
8 the county commissioners who may impose a fee no greater than
9 that necessary to cover the actual costs of storing the
10 proposed ordinance.

11 (3) The date of the filing with the county, as provided
12 in paragraph (2), shall not affect the effective date of the
13 ordinance and shall not be deemed a defect in the process of
14 the enactment of the ordinance.

15 (c) Notice of amendments.--In the event substantial
16 amendments are made in the proposed ordinance, before voting
17 upon enactment, council shall within ten days readvertise in one
18 newspaper of general circulation, a brief summary setting forth
19 all the provisions in reasonable detail together with a summary
20 of the amendments.

21 Section 3301.3. Enactment, approval and veto of ordinances;
22 effective date.

23 (a) Approval by mayor.--

24 (1) Every ordinance enacted by council shall be
25 presented to the mayor for the mayor's approval. As a matter
26 of law, presented to the mayor shall be deemed to mean
27 delivery to the mayor by hand delivery or certified mail,
28 addressee only, to the mayor at the mayor's last known
29 address. Delivery shall be deemed complete upon depositing in
30 the mail, postage or charges prepaid, as evidenced by a

1 certificate of mailing.

2 (2) If the mayor approves the ordinance, he or she shall
3 sign it. If the mayor does not approve the ordinance, the
4 mayor shall return it with his or her objections which shall
5 be entered upon the minutes, to the council at its next
6 scheduled meeting occurring at least ten days after the
7 meeting at which the ordinance was enacted by council.
8 Council shall proceed to a reconsideration of the ordinance
9 either at the meeting at which the vetoed ordinance was
10 returned or no later than ten days thereafter at any other
11 scheduled meeting. If, after reconsideration, a majority of
12 all elected council members plus one votes to override the
13 mayor's veto, the ordinance shall have full force and effect
14 as if it had received the approval of the mayor. The vote
15 shall be determined by yeas and nays, and the names and votes
16 of the members shall be entered upon the minutes. A scheduled
17 meeting, as used in this section, may be either a regular,
18 special or reconvened meeting.

19 (3) If any ordinance shall not be returned by the mayor
20 at council's next scheduled meeting occurring at least ten
21 days after its presentation to the mayor, the ordinance shall
22 have full force and effect as if it had been approved by the
23 mayor.

24 (b) Effective date.--The effective date of an enacted
25 ordinance, except as otherwise provided in the ordinance, shall
26 be the date when the mayor shall approve it or the date of
27 enactment by the council over the veto of the mayor, or in the
28 case of any ordinance not returned by the mayor at the next
29 scheduled meeting of council occurring at least ten days after
30 the meeting at which the ordinance was enacted by the council,

1 the date of enactment shall be the date of the succeeding
2 scheduled meeting of council.

3 (c) Tax ordinance.--When council shall present the mayor
4 with the annual tax ordinance referred to in section 1310.1, the
5 mayor shall, within ten days of receiving the tax ordinance
6 approve or return the tax ordinance to the borough secretary
7 with a statement setting forth the mayor's objections. Council
8 shall proceed to a reconsideration at any scheduled meeting held
9 no later than ten days after the mayor has returned the tax
10 ordinance to the secretary with the mayor's objections. The
11 mayor's objections shall be entered upon the minutes of the
12 meeting. A veto of the tax ordinance of the borough may be
13 overridden by a vote of a majority of all elected council
14 members plus one. After that action, the ordinance shall have
15 full force and effect as if it had received the approval of the
16 mayor. If the mayor neither approves the tax ordinance nor
17 returns it with objections, the date of enactment of the tax
18 ordinance shall be the date of the adoption of the tax ordinance
19 by council.

20 Section 3301.4. Recording, advertising and proof of ordinances.

21 All borough ordinances shall, within 30 days after (1)
22 approval by the mayor, or (2) council's override of the mayor's
23 veto or (3) council's next scheduled meeting after its
24 presentation to the mayor, be recorded by the borough secretary
25 in a book provided for that purpose, which shall be open to the
26 inspection of citizens during normal business hours. All
27 ordinances may be proved by the certificate of the borough
28 secretary, under the corporate seal. When printed or published
29 in book or pamphlet form by the authority of the borough, the
30 ordinances shall be read and received as evidence in all courts

and places without further proof. The entry of the borough ordinance in the ordinance book shall be sufficient, without the signature of the president of council, mayor or member of council. Any and all borough ordinances or portions thereof, the text of which, prior to the effective date of this act, shall have been attached to the ordinance book, shall be considered in force just as if the ordinances or portions thereof had been recorded directly upon the pages of the ordinance book, provided that all other requirements of this act applicable to the enactment, approval, advertising and recording of the ordinances or portions of ordinances were complied with within the time limits prescribed by this act.

Section 3301.5. Codification of ordinances.

(a) Consolidation, codification and revision.--When a borough has prepared a consolidation, codification or revision of the general body of borough ordinances, or the ordinances on a particular subject, the borough council may adopt the consolidation, codification or revision as an ordinance of the borough in accordance with section 3301.1(a), except as hereinafter provided.

(b) Enactment.--Any consolidation, codification or revision of borough ordinances to be enacted as a single ordinance shall be introduced in the borough council at least 30 days before its final enactment. At least 15 days before its final enactment, notice of the introduction of any consolidation, codification or revision, specifying its general nature and listing its table of contents, shall be given by advertisement in a newspaper of general circulation.

(c) Notice.--When any consolidation, codification or revision has been enacted as an ordinance, it shall not be

1 necessary to advertise the entire text, but it shall be
2 sufficient to publish a notice stating that the consolidation,
3 codification or revision, notice of the introduction of which
4 had previously been given, was finally enacted.

5 (d) Contents of notice.--In the course of preparing a
6 consolidation, codification or revision of ordinances, a borough
7 may utilize the procedure set forth in subsections (a), (b) and
8 (c) to enact a complete group or body of ordinances, repealing
9 or amending existing ordinances as may be necessary. In such
10 cases, the advertisement giving notice of the introduction shall
11 list, in lieu of a table of contents, the titles only of each of
12 the ordinances in a complete group or body of ordinances, as was
13 finally enacted.

14 Section 3301.6. Appeals from ordinances.

15 Complaint as to the legality of any ordinance or resolution
16 may be made to the court of common pleas. In cases of ordinances
17 laying out streets over private lands, the court shall have
18 jurisdiction to review the propriety as well as the legality of
19 the ordinance.

20 Section 3301.7. Lost ordinance books to be replaced; recording
21 ordinances.

22 (a) Lost ordinance books.--Whenever any ordinance book or
23 books are lost, destroyed or become unserviceable, the borough
24 council may provide by ordinance for a new ordinance book or
25 books into which shall be recorded by the secretary all of the
26 ordinances contained in the lost, destroyed or unserviceable
27 ordinance book or books. The secretary, in recording the
28 ordinances, shall make complete copies of the ordinances,
29 including the date of enactment and approval and the names of
30 the officers who signed the same, and, after notice given, as

1 provided in this section, and corrections made, shall certify
2 each ordinance as a correct copy of the original.

3 (b) Recording ordinances.--The ordinance providing for the
4 recording of ordinances shall be recorded in the ordinance book,
5 immediately following the ordinances so recorded and it shall
6 provide that the secretary of the borough, upon the completion
7 of the recording, shall publish once, in one newspaper of
8 general circulation, a notice stating that ordinances of the
9 borough contained in lost, destroyed or unserviceable ordinance
10 book or books, and that the old books and records of borough
11 ordinances and the new ordinance book are open to public
12 inspection for the purpose of verification and correction for a
13 period of 30 days from the date of the notice.

14 (c) Certification by secretary of borough.--The secretary of
15 the borough, at the expiration of the notice, shall make all
16 corrections, and shall then certify that all of the ordinances
17 have been compared with the originals and that they are correct
18 copies. After the ordinances are recorded, notice given, and the
19 certificate of correction made, the ordinances so recorded shall
20 take the place of the original record and shall be the valid and
21 legal ordinances of the borough for the period covered by the
22 new ordinance book.

23 (b) Enforcement

24 Section 3321. Fines and penalties.

25 An ordinance enacted by borough council pursuant to this act
26 shall prescribe the fines and penalties which may be imposed for
27 its violation and shall, unless otherwise specified in any other
28 law of this Commonwealth, designate the method of its
29 enforcement in accordance with the following:

30 (1) Except as provided in paragraph (2), when the

1 penalty imposed for the violation of an ordinance enacted
2 pursuant to the provisions of this act is not voluntarily
3 paid to the borough, the borough shall initiate a civil
4 enforcement proceeding before a magisterial district judge.
5 The civil enforcement proceeding shall be initiated by
6 complaint or by such other means as may be provided by the
7 Pennsylvania Rules of Civil Procedure. An ordinance which is
8 to be enforced through a civil enforcement proceeding may
9 prescribe civil penalties not to exceed \$600 per violation. A
10 borough shall be exempt from the payment of costs in any
11 civil case brought by the borough to enforce an ordinance in
12 accordance with this paragraph.

13 (2) For an ordinance regulating building, housing,
14 property maintenance, health, fire, public safety, parking,
15 solicitation, curfew, water, air or noise pollution, borough
16 council shall provide that its enforcement shall be by action
17 brought before a magisterial district judge in the same
18 manner provided for the enforcement of summary offenses under
19 the Pennsylvania Rules of Criminal Procedure. The municipal
20 solicitor may assume charge of the prosecution without the
21 consent of the District Attorney as required under
22 Pa.R.Crim.P. No. 454 (relating to trial in summary cases).
23 Borough council may prescribe criminal fines not to exceed
24 \$1,000 per violation and may prescribe imprisonment to the
25 extent allowed by law for the punishment of summary offenses.
26 Violations of the property maintenance code or ordinance may
27 also be enforced pursuant to section 3204-A(c).

28 (3) All ordinances enacted prior to the effective date
29 of this clause, other than those regulating building,
30 housing, property maintenance, health, fire, public safety,

1 parking, solicitation, curfew, water, air or noise pollution,
2 shall be deemed automatically amended so that they shall be
3 enforced through a civil enforcement proceeding in accordance
4 with paragraph (1).

5 (4) In addition to or in lieu of enforcement of an
6 ordinance through a civil action or as a summary offense, as
7 provided in this section, boroughs may enforce ordinances
8 through an action in equity brought in the court of common
9 pleas of the county where the borough is situate.

10 (5) Ordinances, whether enforced through civil
11 proceedings or as a summary offense, may provide that a
12 separate offense shall arise for each day or portion of a day
13 in which a violation is found to exist or for each section of
14 the ordinance which is found to have been violated. In the
15 event that such claims for fines and penalties exceed the
16 monetary jurisdiction of a magisterial district judge as set
17 forth in 42 Pa.C.S. § 1515(a) (relating to jurisdiction and
18 venue), exclusive of interest, costs or other fees, the
19 borough may bring such action in the court of common pleas or
20 may, pursuant to 42 Pa.C.S. § 1515(a), waive that portion of
21 fines or penalties that exceed the monetary jurisdictional
22 limits so as to bring the matter within the monetary
23 jurisdiction of the magisterial district judge.

24 (6) Ordinances may provide that any person found guilty
25 of violating an ordinance may be assessed court costs and
26 reasonable attorney fees incurred by the borough in the
27 enforcement proceedings.

28 (7) All fines, costs, penalties, and fees collected for
29 the violation of any borough ordinance shall be paid to the
30 borough treasurer.

1 (8) Borough council may delegate the initial
2 determination of ordinance violation and the service of
3 notice of violation to such officers or agents as the borough
4 shall deem qualified for that purpose.

5 Section 351. Sections 3306 and 3307 of the act are
6 renumbered and amended to read:

7 Section [3306] 3322. Commitments Pending Hearings.--Any
8 person arrested for the violation of a borough ordinance that
9 may be enforced as a summary offense may be committed to the
10 borough lockup, pending a hearing or trial, but in case there is
11 no suitable lockup in which to detain prisoners the person
12 arrested may be committed to the county jail.

13 Section [3307] 3323. Commitments After Hearing.--Upon
14 judgment against any person by summary conviction, or by
15 proceedings by summons on default of the payment of the fine or
16 penalty imposed and the costs, the defendant may be sentenced
17 and committed to the borough lockup for a period not exceeding
18 ten days or to the county jail [or workhouse] for a period not
19 exceeding thirty days.

20 Section 352. Section 3308 of the act, amended March 2, 1988
21 (P.L.103, No.18), is repealed:

22 [Section 3308. Collection of Penalties.--No fine or penalty
23 shall exceed one thousand dollars (\$1,000) for a violation of a
24 building, housing, property maintenance, health, fire or public
25 safety code or ordinance and for water, air and noise pollution
26 violations, and shall not exceed six hundred dollars (\$600) for
27 a violation of any other borough ordinance.]

28 Section 353. Section 3309 of the act, repealed in part April
29 28, 1978 (P.L.202, No.53), is renumbered and amended to read:

30 Section [3309] 3324. Payment of Costs by Borough.--When a

1 prisoner shall be committed to any county jail [or workhouse],
2 either for the nonpayment of a fine or penalty imposed for the
3 violation of any borough ordinance, or while awaiting a hearing
4 upon any charge for the violation of any borough ordinance that
5 is enforced as a summary offense, the expenses of maintaining
6 [such] the prisoner during [his] the prisoner's confinement
7 shall be paid by the borough, and the county shall not be liable
8 for any such maintenance.

9 Section 354. Article XXXIV and subdivision (a) headings of
10 the act are repealed:

11 [ARTICLE XXXIV

12 ACTIONS BY AND AGAINST BOROUGHS

13 (a) Municipal Claims]

14 Section 355. Section 3401 of the act, repealed in part April
15 28, 1978 (P.L.202, No.53), is repealed:

16 [Section 3401. Collection of Municipal Claims.--In all
17 proceedings for the recovery of municipal claims an attorney's
18 commission of five percent may be included.]

19 Section 356. Article XXXIV subdivision (b) heading and
20 section 3415 of the act are repealed:

21 [(b) Defenses by Taxpayers

22 Section 3415. Liability in Bond Transfers.--All certificates
23 of loans, issued by a borough, shall be transferable by the
24 legal owner thereof without any liability on the part of the
25 transfer agents of the borough to recognize or see to the
26 execution of any trust, whether expressed, implied, or
27 constructive, to which such loans may be subject, unless such
28 transfer agents of the borough shall have previously received
29 notice in writing signed by or on behalf of the person for whom
30 such loans appear by the certificate thereof to be held in

1 trust, that the proposed transfer would be a violation of such
2 trust.]

3 Section 357. Article XXXV heading of the act is reenacted to
4 read:

5 ARTICLE XXXV

6 ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE

7 Section 358. Section 3501 of the act is amended to read:

8 Section 3501. Acts of Assembly Repealed; Saving Clause.--(a)
9 The following acts and parts of acts are hereby repealed as set
10 forth:

11 (1) The act of May 4, 1927 [(P.L.519)] (P.L.519, No.336),
12 known as "The Borough Code," and its reenactments and amendments
13 are repealed, except that section 2, act of May 23, 1961
14 [(P.L.210)] (P.L.210, No.109), shall not be construed to be
15 repealed.

16 (2) The act of April 14, 1875 (P.L.55, No.58), entitled "An
17 act authorizing the burgess and town council of each of the
18 several boroughs throughout this commonwealth to levy and
19 collect a gas, kerosene oil and water tax," absolutely.

20 (3) The act of April 18, 1877 (P.L.55, No.55), entitled "An
21 act to provide through the courts of this commonwealth for the
22 erection of boroughs out of territory now included in cities of
23 the third class that have been formed by joining together two or
24 more boroughs," absolutely.

25 (4) The act of June 16, 1891 (P.L.302, No.232), entitled "A
26 further supplement to an act approved the sixteenth of April,
27 Anno Domini one thousand eight hundred and seventy-five,
28 entitled 'An act authorizing the burgess and town council of
29 each of the several boroughs throughout this Commonwealth to
30 levy and collect a gas, kerosene oil and water tax,' amended by

1 the act approved the eighth day of May, Anno Domini one thousand
2 eight hundred and seventy-six, providing for a further amendment
3 of section second, as amended by said last mentioned act, to
4 authorize the use of the money so raised and collected for the
5 purpose of illuminating said boroughs with electric light,"
6 absolutely.

7 (5) The act of May 2, 1901 (P.L.120, No.87), entitled "An
8 act to prevent burgesses and councilmen of the several boroughs
9 within this Commonwealth from soliciting or receiving bribes,
10 and to punish any person who may offer to bribe the same,"
11 absolutely.

12 (6) The act of May 4, 1927 (P.L.673, No.337), entitled "An
13 act relating to purchases by boroughs," absolutely.

14 (7) The act of April 26, 1929 (P.L.823, No.354), entitled
15 "An act permitting boroughs to provide a method of assessment
16 for borough taxes," absolutely.

17 (8) The act of April 11, 1931 (P.L.26, No.24), entitled "An
18 act to validate certain proceedings for municipal improvements,
19 municipal assessments, municipal claims, and municipal liens, in
20 the several boroughs of this Commonwealth, and validating such
21 improvements, assessments, claims, and liens; providing for the
22 filing of claims and liens therefor; and the proceedings for the
23 collection of such assessments and claims," absolutely.

24 (9) The act of June 12, 1931 (P.L.559, No.192), entitled "An
25 act to authorize boroughs to sue out writs of scire facias on
26 certain municipal claims, where more than five years have
27 elapsed since said claims were filed, and to reduce such claims
28 to judgment; and providing for the revival and collection of
29 such judgments," absolutely.

30 (10) The act of March 3, 1933 (P.L.8, No.5), entitled "An

1 act validating, ratifying and confirming acts and municipal
2 functions done, executed and performed, municipal works and
3 improvements instituted and completed, and affairs regulated by
4 boroughs in accordance with general borough laws, where such
5 boroughs were incorporated under local law, and no official
6 record of the acceptance of the general borough law is in
7 existence or can be found," absolutely.

8 (11) The act of July 12, 1935 (P.L.721, No.282), entitled
9 "An act authorizing boroughs to construct, reconstruct, and
10 repair sidewalks, gutters, curbs, and grass plots, in cases
11 where material is paid by the abutters, and labor is furnished
12 without cost to the borough," absolutely.

13 (12) The act of July 18, 1935 (P.L.1305, No.408), entitled
14 "An act authorizing boroughs to repay certain surcharges
15 heretofore made against councilmen for the purchase of any fire
16 apparatus where there was no fraud, corruption, or dishonesty,
17 or profit to such councilmen, and where the borough is in
18 possession of and uses such fire apparatus," absolutely.

19 (b) All other acts or parts of acts of Assembly supplied by,
20 inconsistent with or appertaining to the subject matter covered
21 by this act are hereby repealed. It is the intention that this
22 act shall furnish a complete and exclusive system for the
23 government and regulation of boroughs, except as to the several
24 matters enumerated in section 102 of article I of this act.

25 (c) Nothing contained in this act shall be construed to
26 repeal:

27 (1) Any local or special law.

28 (2) Any of the provisions of the Public Utility [Law] Code.

29 (3) Any of the provisions of any law relating to the
30 Navigation Commission for the Delaware River and its navigable

1 tributaries.

2 (4) Any of the provisions of any law, the enforcement of
3 which is vested in the Department of Health of the Commonwealth
4 or of the [Sanitary Water Board] Department of Environmental
5 Protection.

6 (5) Any of the provisions of any law the enforcement of
7 which is vested in the Department of [Forests and Waters or the
8 Water and Power Resources Board] Conservation and Natural
9 Resources.

10 (6) Any of the provisions of the act of [June 25, 1947 (P.L.
11 1145), entitled, as amended, "An act empowering cities of the
12 second class, cities of the second class A, cities of the third
13 class, boroughs, towns, townships of the first class, townships
14 of the second class, school districts of the second class,
15 school districts of the third class and school districts of the
16 fourth class to levy, assess, and collect or to provide for the
17 levying, assessment and collection of certain additional taxes
18 subject to maximum limitations for general revenue purposes;
19 authorizing the establishment of bureaus and the appointment and
20 compensation of officers and employes to assess and collect such
21 taxes; and permitting penalties to be imposed and enforced;
22 providing an appeal from the ordinance or resolution levying
23 such taxes to the court of quarter sessions and to the Supreme
24 Court and Superior Court," or of any of the amendments or
25 supplements to the said act.] December 31, 1965 (P.L.1257,
26 No.511), known as "The Local Tax Enabling Act."

27 (7) The act of February 14, 2008 (P.L.6, No.3), known as the
28 "Right-to-Know Law."

29 (8) Any provision of 45 Pa.C.S. (relating to legal notices).

30 (9) Any provision of 65 Pa.C.S. (relating to public

1 officers).

2 (d) Nothing contained in this act shall be construed to
3 revive any act or part of an act heretofore repealed.

4 Section 359. The addition of section 1104(f) of the act
5 shall apply to officials elected or appointed to fill a vacancy
6 in an elected office after the effective date of this section. A ←
7 POLICE OFFICER OR FIREFIGHTER HOLDING AN ELECTIVE OFFICE IN THE
8 BOROUGH ON THE EFFECTIVE DATE OF THIS SECTION SHALL BE SUBJECT
9 TO THE RESTRICTIONS IN SECTION 1104(F) OF THE ACT FOR ANY TERM
10 BEGINNING, OR VACANCY OCCURRING, AFTER THE EFFECTIVE DATE OF
11 THIS SECTION.

12 Section 360. This act shall take effect in 60 days.