
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1702 Session of
2011

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

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JUNE 21, 2011

AN ACT

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

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8 ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE

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 Acts of Assembly Repealed; Saving Clause.

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

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

15 ARTICLE I

16 PRELIMINARY PROVISIONS

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

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

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

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

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

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

29 (4) Conduct of elections.

30 (5) Public schools.

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

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

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

(9) State highways.

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

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

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

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 The repeal by this act of any act of Assembly, or part thereof, shall not revive any act or part thereof heretofore repealed or superseded, nor affect the corporate existence of any borough heretofore incorporated.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

1 [such] office until the expiration of the term thereof, subject
2 to the conditions attached to [such] the office prior to the
3 [passage] enactment of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ordinance and until such time as the ordinance may be repealed or amended, the provisions of this act as set forth in the ordinance shall be the law applicable to the incorporated town and the provisions of any local or special acts of Assembly, to the extent surrendered as set forth in the ordinance, shall be of no force and effect to the extent they would otherwise apply to the incorporated town.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[(6)] (9) "Street" means and includes any street, road,

1 lane, court, cul-de-sac, alley, public way and public square.

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

4 ARTICLE II

5 CREATION AND ALTERATION OF BOROUGHS

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

8 (a) Incorporation of Boroughs

9 Section 11. Section 201 of the act, amended December 18,
10 1992 (P.L.1650, No.181), is amended to read:

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

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

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

townships, the petition shall be signed by a majority of the freeholders residing in each of [such] the separate portions and by the freeholders of a majority of the territory in each of [such] the separate portions. The signatures must be secured within three months immediately preceding the presentation thereof to the court. [Such] The petition shall be subscribed by and sworn to by at least one of the signers. The number of signers required to sign the petition shall be ascertained as of the date the petition was presented to court.

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

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

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

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

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

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

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

1 state when and where the petition was filed and the time during
2 which exceptions may be filed to the petition.

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

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

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

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

proposed borough. In particular, the committee shall render expert advice and findings of fact relating to the desirability of an incorporation, including, but not limited to, advice as to:

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

(2) whether the proposed borough constitutes a harmonious whole with common interests and needs that can best be served by a borough government;

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

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

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

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

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

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

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

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

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

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

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

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

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

30 Section 205. When Borough Government Becomes Effective;

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

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

11 (1) The corporate name of the borough.

12 (2) The boundaries of the borough.

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

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

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

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

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

29 (1) The corporate name of the borough.

30 (2) The boundaries thereof.]

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

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

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

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

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

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

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

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

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

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

26 Section 213. Agreement to Adjust Indebtedness Where Borough
27 Created.--[Whenever a borough is created out of a township, the
28 commissioners or supervisors of the township and the council of
29 the borough] (a) After the election of borough council under
30 section 211 when a borough is newly incorporated, the borough

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

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

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

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

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

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

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

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

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

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

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

30 Section 217. Compensation and Expenses of Commissioners;

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

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

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

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

(b) Consolidation of Boroughs

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

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

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

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

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

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

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

29 Section 233. When Borough Government Effective.--Upon the
30 recording of the record of the proceedings as [above] provided

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

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

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

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

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

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

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

11 Section 241. Consolidation or merger.

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

16 Section 242. Change of corporate name.

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

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

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

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

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

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

24 [ARTICLE III

25 ANNULMENT OF CHARTERS AND CHANGE

26 OF CORPORATE NAMES

27 Section 301. Petitions for Annulment of Charters or Change
28 of Corporate Names.--The court of quarter sessions shall, upon
29 petition of at least ten percent of the registered electors of
30 any borough setting forth that the inhabitants of such borough

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

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

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

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

1 said petition, but such change shall not in any way affect any
2 liabilities incurred, rights accrued or vested, obligations
3 issued or contracted, or any suits or prosecutions pending or
4 instituted to enforce any right or penalty accrued or punish any
5 offense committed, prior to such change.

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

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

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

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

18 ARTICLE IV

19 CHANGE OF BOROUGH LIMITS

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

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

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

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

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

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

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

1 situated, in the manner provided by law in such cases.

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

4 (1) Where territory is in one county:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 five years thereof.

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

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

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

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

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

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

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

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

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

25 (b) Upon such annexation by ordinance, a plan of the
26 territory annexed shall be filed by the borough council in the
27 office of the county commissioners and with the clerk of the
28 court of quarter sessions and, thereupon, the annexation shall
29 become effective. The annexation proceedings authorized by this
30 section are in addition to, and not in substitution of,

proceedings otherwise provided by law for annexation of territory, and may be followed without reference to or compliance with any other such provisions.]

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

[(e) Detachment of Territory

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

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

Section 433. Filing Petition; Notice; Decree.--Upon its presentation, the court shall order the petition filed and shall

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

15 (f) Adjustment of Indebtedness and Public Property]

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

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

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

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

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

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

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

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

29 Section 35. Section 444 of the act, repealed in part June 3,
30 1971 (P.L.118, No.6), is repealed:

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

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

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

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

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

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

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

11 (g) When Territory is Detached

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

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

30 Section 453. Confirmation of Report; Costs.--The report and

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

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

12 ARTICLE V

13 BOROUGH BOUNDARIES

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

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

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

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

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

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

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

28 Section 506. Boundary Monuments.--[Whenever any such borough
29 line is altered or ascertained and established, the court shall
30 cause the same to be appropriately marked. Following any change

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

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

8 ARTICLE VI

9 BOROUGH WARDS

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

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

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

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

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

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

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

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

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

1 initiate proceedings under section 601.

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

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

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

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

26 Section 605. [Payment of Costs; Bond.--Such compensation and
27 all costs and expenses incurred in such proceedings shall be
28 paid by the borough or the petitioners, as directed by the
29 court. To secure such reimbursement, the court may require the
30 petitioners, other than the borough council, to file a bond with

1 their petition.] (Reserved).

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

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

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

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

23 ARTICLE VII

24 ASSOCIATIONS AND ORGANIZATIONS

25 Section 45. Section 701 of the act, amended February 21,
26 2002 (P.L.94, No.7), is amended to read:

27 Section 701. State Association of Boroughs.--(a) The
28 boroughs of the Commonwealth are authorized to organize a State
29 Association of Boroughs for the purpose of advancing the
30 interests of the boroughs. [Any] A borough may join the [said]

1 association by motion of council and payment of the annual dues.
2 [Council may designate one or more delegates from the elected or
3 appointed officials of the borough to attend the annual meeting
4 of the association, which shall be held in the Commonwealth in
5 accordance with the procedure adopted by the association. In
6 addition to any compensation allowed by law for each delegate,
7 the borough may, for each delegate, pay expenses which shall be
8 limited to the registration fee, mileage for use of personal
9 vehicle or reimbursement of actual transportation expense going
10 to and returning from such meeting plus all other actual
11 expenses that the council may have agreed to pay. Every delegate
12 attending the annual meeting shall submit to the council an
13 itemized account of expenses incurred thereat. The council may
14 authorize borough employes to be compensated at their regular
15 employe rate during their attendance at the annual meeting. The
16 borough council solely may authorize the mayor and any council
17 member who is not employed by the borough to receive total or
18 partial reimbursement for lost wages or salary while attending
19 the annual meeting, provided that sufficient documentation is
20 presented to the borough council to justify the reimbursement.
21 The time spent in attending said meeting shall not be more than
22 four days, including the time employed in traveling thereto and
23 therefrom.] Each borough, becoming a member of the association,
24 shall pay [such] reasonable dues as may be fixed by the
25 association.

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

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

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

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

11 (c) In addition to any compensation allowed under section
12 701.2, council may, for each attending delegate, elected or
13 appointed officer or employee, pay expenses upon receipt of an
14 itemized account of expenses, which shall be limited to the
15 registration fee, mileage for use of personal vehicle or
16 reimbursement of actual transportation expenses going to and
17 returning from the respective annual meeting, conference,
18 educational training or committee meeting of the association
19 plus all other actual expenses that council may have agreed to
20 pay.

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

28 (b) 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 or a conference, educational training or
2 committee meeting of the association if sufficient documentation
3 is presented to council to justify the reimbursement.

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

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

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

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

29 (3) The compensation of a mayor or council member for
30 attending a meeting for which the mayor or council member is an

officer, member of the board of directors or a member of the
executive committee of the association shall be limited to
fifteen days per year of regular employee rate compensation or
lost wages or salary, as applicable.

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

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

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

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

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

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

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

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

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

25 In addition to any compensation allowed by law for each
26 delegate, the borough may, for each delegate, pay expenses which
27 shall be limited to the registration fee, mileage for use of
28 personal vehicle or reimbursement of actual transportation
29 expense going to and returning from [such] the meeting or
30 conference plus all other actual expenses that the council may

1 have agreed to pay. Every delegate attending the annual meeting
2 or conference shall submit to the council an itemized account of
3 expenses incurred [thereat]. The council may authorize borough
4 employes to be compensated at their regular employe rate during
5 their attendance at the annual meeting or conference. The time
6 spent in attending the meeting or [convention] conference shall
7 not be more than four days, including the time employed in
8 traveling [thereto and therefrom] to and from the meeting or
9 conference.

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

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

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

24 Section 704. Associations and Organizations for Mayors.--
25 [Any] A mayor may join a mayors' association and borough council
26 shall pay reasonable dues, not to exceed one hundred dollars
27 (\$100), as may be fixed by the association for each mayor
28 belonging to that association. The mayor may attend the annual
29 meeting of the association, which shall be held in [the] this
30 Commonwealth in accordance with the procedure adopted by the

1 association. [Each] A mayor shall be allowed expenses which
2 shall be limited to the registration fee, mileage for use of
3 personal vehicle or reimbursement of actual transportation
4 expense going to and returning from [such] the meeting plus all
5 other actual expenses that the council may have agreed to pay to
6 the extent that similar expenses are provided to the elected or
7 appointed officers of the borough in the same year for
8 attendance at an annual meeting of the State association as
9 provided under section 701.1. Every mayor attending the annual
10 meeting shall submit to the council an itemized account of
11 expenses incurred at the annual meeting. The time spent in
12 attending [said] the meeting shall not be more than four days,
13 including time in traveling to and from the meeting.

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

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

1 [any such] a convention or conference on behalf of [any such] a
2 lodge under this section.

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

5 ARTICLE VIII

6 ELECTIONS OF OFFICERS

7 (a) General Provisions Relating to Elected Officers

8 Section 52. Section 801 of the act, amended November 29,
9 2004 (P.L.1337, No.170), is amended to read:

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

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

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

29 Section 802. Time and Place of Elections.--Elections for
30 borough officers shall be at the time and place designated by

1 law for the holding of municipal elections.

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

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

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

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

23 Section 55. Sections 805 and 806 of the act, amended June
24 25, 2001 (P.L.651, No.56), are amended to read:

25 Section 805. Election of Borough Officers When Boroughs
26 Created, Etc.--Whenever a borough is incorporated under the
27 provisions of sections 201 to 219 [inclusive of this act], or
28 whenever two or more boroughs are consolidated under the
29 provisions of [sections 221 to 228 of this act] 53 Pa.C.S. Ch. 7
30 Subch. C (relating to consolidation and merger), or whenever a

1 borough is created from a city of the third class under the
2 provisions of sections 231 to 235 [of this act], the officers of
3 the borough, provided for in section 806 [of this act], shall be
4 elected at the appropriate municipal election as provided in
5 [said sections] the law and [such] the officers shall take
6 office on the first Monday of January succeeding [such] the
7 election.

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

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

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

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

30 Section 806. Officers to be Elected.--(a) It shall be

1 lawful for the electors of the borough to elect:

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

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

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

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

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

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

1 be reduced from seven to five or to three upon petition to the
2 court of common pleas, as provided in section 818 [of this act].

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

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

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

23 (b) Members of Council

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

26 Section 811. Election of Members of Council.--(a) At the
27 municipal election to be held in the year 1967, there shall be
28 elected in each borough a sufficient number of members of
29 council to equal one-half of the entire number of which [such]
30 the council is legally composed, to serve for a term of four

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

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

27 Section 812. Election of Members of Council Where New Wards
28 Created.--(a) Whenever [the court of common pleas shall]
29 council shall, by ordinance, divide any borough into wards,
30 erect new wards out of two or more wards or parts [thereof,] of

1 wards or divide a ward already erected into two or more wards,
2 [or create a new ward out of annexed territory, and when the
3 report, in such case, is confirmed by the court, it shall, at
4 the same time, decree] the ordinance shall provide for the
5 election of an equal number of members of council, in each of
6 the wards, in [such] a manner as not to interfere with the terms
7 of those [theretofore] previously elected.

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

29 Section 813. Fixing Number of Members of Council When Wards
30 Created.--Whenever upon the division of [any] a borough into

wards, or the creation of a new ward or wards, the number of members of council cannot be equally divided among the wards of the boroughs, it shall be lawful for [the court, in decreeing such division or creation,] council to increase the number of council to, and not exceeding, [such number as] a number that will enable [the court to make an] equal apportionment of the same among the several wards of [such] the borough. But where a borough is first divided into wards, the number of members of council provided for a ward shall not exceed two.

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

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

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

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

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

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

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

1 initial term of one or more of the council members subsequently
2 elected at large shall be reduced to accommodate a schedule of
3 staggered at-large elections to eventually insure that, as [near
4 as may be] nearly as possible, one-half of the members of
5 council elected at large will be elected at each municipal
6 election.

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

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

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

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

30 Section 816. Election of Members of Council Where Wards

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

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

(2) Eight or more members of council, the [decree shall be

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

27 In any [such] borough where, under the ward system of
28 electing members of council, the council shall have been so
29 large that there shall be seven or more members of council whose
30 terms shall not expire on the first Monday of January following

1 the first municipal election after [such decree] the effective
2 date of the ordinance, no members of council shall be elected at
3 [such] the first municipal election, and the members of council
4 remaining in office shall constitute [such] the borough council
5 until the first Monday of January following the second municipal
6 election following [such decree] the effective date of the
7 ordinance. At [such] the second municipal election, seven
8 members of council shall be elected in [such] the borough, some
9 to serve for a four-year term of office from the first Monday of
10 January following [such] the second municipal election, the
11 remainder to serve for a two-year term, the number in each case
12 [to be such] as necessary to bring the number of members of
13 council to be elected in [such] the borough in succeeding
14 elections into conformity with the number elected in other
15 boroughs of the Commonwealth not divided into wards. Thereafter,
16 at the third and all subsequent municipal elections following
17 [such decree] the effective date of the ordinance, the electors
18 shall elect three or four members of council, as the case may
19 be, each to serve for a term of four years from the first Monday
20 of January following [such] the subsequent municipal election.

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

1 elected in other boroughs of the Commonwealth not divided into
2 wards, shall be elected for four-year terms of office, beginning
3 the first Monday of January following [such] the first municipal
4 election, and the balance shall be elected for two-year terms.
5 Thereafter, at the second municipal election following [such
6 decree] the effective date of the ordinance and at all
7 subsequent municipal elections, the electors shall elect three
8 or four members of council, as the case may be, to serve for a
9 term of four years from the first Monday of January following
10 [such] the subsequent municipal election.

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

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

27 Section 818. Decrease in Number of Members of Council.--The
28 court of common pleas may, upon petition of at least five
29 percent of the registered electors of any borough not divided
30 into wards, which, according to the latest official census, had

1 a population of not more than three thousand, reduce the total
2 number of members of council for [such] the borough from seven
3 to five or to three. The sufficiency of the number of signers to
4 [any such] the petition shall be ascertained as of the date when
5 the petition is presented to court.

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

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

30 At the municipal election following the decrease in the

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

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

25 Section 60. Article VIII subdivision (c) heading, section
26 821, subdivision (d) heading, section 831, subdivision (e)
27 heading, section 841, subdivision (f) heading, section 851,
28 subdivision (g) heading and section 861 of the act are repealed:

29 [(c) Mayor

30 Section 821. Election of Mayor.--Electors of every borough

1 shall, at the municipal election in the year 1969, and every
2 four years thereafter, elect one person as mayor, who shall hold
3 office for a term of four years from the first Monday of January
4 next succeeding his election.

5 (d) Auditors

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

12 (e) Controller

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

22 (f) Assessors

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

1 assessor.

2 (g) Tax Collector

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

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

11 ARTICLE IX

12 VACANCIES IN OFFICE

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

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

1 section 801(b), no person shall be appointed to fill a vacancy
2 in an elected borough or ward office unless [he or she] the
3 person has resided within the borough, or within the ward in the
4 case of a ward office, continuously for at least one year
5 immediately prior to [his or her] the person's appointment.

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

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

12 (b) The person appointed shall give bond if required by law
13 or ordinance. In cases where the person elected to the office
14 shall fail to give any bond required, provide the affidavit
15 required under section 801 or to take the required oath, the
16 borough council, before making the appointment, shall declare
17 the office vacant.

18 (c) If the council of any borough shall refuse, fail or
19 neglect, or be unable, for any reason whatsoever, to fill any
20 vacancy within thirty days after the vacancy happens, as
21 provided in this section, then the vacancy shall be filled
22 within fifteen additional days by the vacancy board. [Such] The
23 board shall consist of the borough council exclusive of the
24 mayor, and one registered elector of the borough who shall be
25 appointed by the borough council at the council's first meeting
26 each calendar year or as soon thereafter as practical and who
27 shall act as [chairman] chair of the vacancy board. The board
28 shall appoint a registered elector of the borough, [(]or ward in
29 the case of a ward office[)], to hold [such] the office, if the
30 term [thereof] continues so long, until the first Monday in

1 January after the first municipal election occurring more than
2 sixty days after the vacancy occurs, at which election an
3 eligible person shall be elected to the office for the remainder
4 of the term.

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

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

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

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

1 the district through their secretaries, and in the case of
2 boroughs, at the option of the borough council, through their
3 secretaries or borough managers.

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

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

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

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

1 majority of the remaining members of the council shall
2 constitute a quorum.

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

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

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

17 ARTICLE X

18 POWERS AND DUTIES OF ELECTED

19 BOROUGH OFFICIALS

20 (a) Council

21 Section 67. Section 1001 of the act, amended June 25, 2001
22 (P.L.651, No.56), March 22, 2002 (P.L.207, No.17) and April 2,
23 2002 (P.L.236, No.28), is amended to read:

24 Section 1001. Organization of Council; Quorum; Participation
25 by Telecommunication Device; Voting; Compensation;
26 Eligibility.--(a) The borough council shall organize on the
27 first Monday of January of each even-numbered year, by electing
28 one of their number as president and one of their number as
29 vice-president, who shall hold [such] the offices at the
30 pleasure of the council. If the first Monday is a legal holiday,

1 the meeting and organization shall take place the first day
2 following. Any action taken by any borough council at any time
3 between 12:01 o'clock ante meridian on January 1 of an even-
4 numbered year and the organization of council in that year shall
5 be subject to reconsideration by the new council at any time
6 within ten days after [such] organization. The council may at
7 the organization meeting [elect such] appoint other officers as
8 may be provided for by law or ordinance, or as may be deemed
9 necessary for the conduct of affairs of the borough and may
10 transact [such] any other business as may come before the
11 meeting. The president, and during the president's absence or
12 incapacity the vice-president, shall preside over the meetings
13 of council and perform [such] other duties as are prescribed by
14 this act or by ordinance.

15 (b) A majority of the membership of council then in office
16 shall constitute a quorum. Only council members physically
17 present at a meeting place within the borough shall be counted
18 in establishing a quorum.

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

24 (1) A majority of the membership of council then in office
25 is physically present at the advertised meeting place within the
26 borough and no council member counting toward the quorum or
27 toward the majority of the vote has been disqualified from
28 voting as a matter of law.

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

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

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

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

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

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

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

22 (1) In boroughs with a population of less than five
23 thousand, a maximum of eighteen hundred seventy-five dollars
24 (\$1875) a year[; in].

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

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

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

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

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

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

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

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

28 Section 1002. Oath of Members of Council.--Before entering
29 upon the duties of their office, the members of council shall
30 take and subscribe an oath or affirmation [to support the

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

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

26 The mayor may attend any or all regular and special meetings
27 of council and may take part in the discussions of the council
28 on matters pertaining to borough affairs, subject to any
29 restrictions applicable to members of council contained in the
30 rules of order or bylaws of the council. In all cases where, by

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

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

1 respective unexpired terms.

2 Section 69. Section 1005 of the act, repealed in part July
3 12, 1972 (P.L.781, No.185) and amended November 2, 1979
4 (P.L.458, No.94) and June 25, 2001 (P.L.651, No.56), is amended
5 to read:

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

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

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

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

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

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

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

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

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

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

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

1 disposing of securities or withdrawing funds on deposit. Any
2 action taken to make or to liquidate any investment shall be
3 made by the officers designated by action of the borough
4 council.

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

27 Whenever any borough has provided by ordinance for the audit
28 of its accounts by an appointed auditor, the borough shall have
29 the right at any time to repeal [said] the ordinance, and
30 [thereupon] then the office of appointed auditor shall be

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

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

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

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

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

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

27 (2) To meet statedly at least once a month. Council may
28 adjourn to a stated time for general business or for special
29 businesses. If no quorum is present at a regular, special or
30 [adjourned] reconvened meeting, a majority of those who do meet

1 may agree upon another date for like business [and may continue
2 to so agree until the meeting is held]. Special meetings may be
3 called by the president of council or upon written request of at
4 least one-third of the members [thereof] of council. Members
5 shall have at least twenty-four hours' notice of [such] the
6 special meetings. The notice shall state whether it is for
7 general or special purposes, and, if it is for special purposes,
8 the notice shall contain a general statement of the nature of
9 the business to be transacted. Presence at a meeting constitutes
10 waiver of notice. Council may adopt rules relating to the
11 calling and holding of special meetings, which rules shall
12 supersede the provisions of this section.

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

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

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

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

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

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

1 decide.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ordinances, except as hereinafter provided.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 [(b) Mayor

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (c) Auditors

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

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

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

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

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

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

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

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

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

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

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

1 on the face thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 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 unfunded debt;

(3) the amount of floating debt;

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

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

1 value; and

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

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

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

1 judgment entered pursuant to this article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

28 (b) The independent auditor shall audit the accounting
29 records of the borough for the fiscal year and shall prepare a
30 report on the examination which shall be subject to appeal in

1 the same manner as reports of the auditors under this article.

2 The report shall set forth:

3 (1) The scope of the examination.

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

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

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

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

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

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

30 (d) Controller

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

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

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

Section 1063. General Powers and Duties of Controller.--The borough controller, shall [superintend] manage the fiscal affairs of the borough. [He] The controller shall examine, audit, and settle all accounts [whatsoever] in which the borough is concerned either as debtor or creditor, where provision for the settlement [thereof] is made by law[; and, where no such]. Where no provision or an insufficient provision has been made,

1 [he] the controller shall examine [such] the accounts and report
2 to the borough council the relevant facts [relating thereto with
3 his] and opinion [thereon] on the accounts.

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

13 The borough controller shall have supervision and control of
14 the accounts of all departments, bureaus, and officers of the
15 borough, authorized to collect, receive, or disburse the public
16 moneys, or who are charged with the management or custody
17 [thereof. He] of the accounts. The controller shall audit their
18 respective accounts, and may at any time require from any of
19 them a statement in writing of any moneys or property of the
20 borough in their possession, or under their control, showing the
21 amount of cash on hand and the amount deposited in banks and
22 banking institutions together with the names of [such] the
23 institutions. [He] The controller shall have power to examine
24 every [such] account of a borough officer in any bank or banking
25 institution to verify the accuracy of the statement of [such]
26 the borough, department, bureau or officer and it shall be the
27 duty of every [such] department, bureau or officer, and [it
28 shall be the duty] of every [such] bank and banking institution,
29 its officers and agents, to furnish full information to the
30 controller in relation to [such] the account. No banker or

1 banking institution, its officers or agents, shall be subject to
2 prosecution under other laws of this Commonwealth for disclosing
3 [any such] information with respect to [any such] an account.
4 [He] The controller shall, immediately upon the discovery of any
5 default, irregularity, or delinquency, report the same to the
6 borough council. [He] The controller shall also audit and report
7 upon the accounts of [any such] an officer upon the death,
8 resignation, removal, or expiration of the term of the [said]
9 officer.

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

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

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

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

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

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

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

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

30 Section 1068. Controller's Recommendations on Borough

1 Finances.--The borough controller shall, as often as [he] the
2 controller may deem expedient or the council shall direct,
3 suggest plans to the council for the management and improvement
4 of the borough finances.

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

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

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

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

26 Section 1071. Acceptance by Ordinance.--The foregoing
27 provisions of subdivision (d) [of this article] shall not become
28 operative or effective in any borough not having a controller,
29 until the borough shall, by ordinance, accept the provisions of
30 subdivision (d) [of this article]. When any borough accepts the

1 provisions of subdivision (d) [of this article], the court of
2 [quarter sessions] common pleas, upon petition of council, shall
3 appoint a controller to hold office until the first Monday of
4 January, next succeeding the next municipal election at which a
5 controller [may] shall be elected under the provisions of this
6 act.

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

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

20 Section 102. Article X subdivision (e) heading and section
21 1081 of the act are repealed:

22 [(e) Assessors

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

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

29 (f) Tax Collector

30 Section 104. Section 1086 of the act, amended October 9,

1 1967 (P.L.399, No.181), is amended to read:

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

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

21 ARTICLE X-A

22 MAYOR

23 Section 1001-A. Eligibility of mayor.

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

30 Section 1002-A. Incompatible offices.

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

Section 1003-A. Oath of mayor.

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

Section 1004-A. Salary of mayor.

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

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

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

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

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

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

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

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

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

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

28 Section 1006-A. General powers of mayor.

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

1 borough affairs.

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

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

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

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

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

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

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

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

19 Section 1007-A. Duties of mayor.

20 It shall be the duty of the mayor:

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

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

29 (3) To collect any costs and fees received and to pay
30 the money into the treasury, except as provided in section

1 1005-A(b), to report to the council from time to time on the
2 state of the borough and to make recommendations to the
3 council on matters of borough concern. The borough shall
4 furnish the mayor with the necessary dockets, books, forms
5 and files as are necessary for the conduct of the mayor's
6 office, and which shall be and remain the property of the
7 borough and shall be surrendered to the mayor's successor in
8 office.

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

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

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

26 ARTICLE XI

27 POWERS, DUTIES AND RIGHTS OF APPOINTED

28 OFFICERS AND EMPLOYES

29 (a) General Provisions

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

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

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

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

11 Section 109. Section 1103 of the act, amended October 25,
12 1967 (P.L.484, No.230), is amended to read:

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

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

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

1 **(b)** No elected borough official of a borough with a
2 population of 3,000 or more may serve as an employe of that
3 borough.

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

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

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

15 **(f)** Nothing [herein] contained in this section shall affect
16 the eligibility of any borough official to hold any other public
17 office or receive compensation therefor. All appointments to be
18 made by the council [or the corporate authorities] shall be made
19 by a majority of the members of council [attending the meeting
20 at which the appointment is made], unless a different vote is
21 required by statute.

22 Section 111. Section 1105 of the act, amended December 16,
23 1992 (P.L.1215, No.158), is amended to read:

24 Section 1105. Compensation to Aged Employes.--[By ordinance
25 a] A borough may provide, by ordinance, for compensation to
26 appointees and employes of not less than ten years of
27 satisfactory service, and who are not less than sixty years of
28 age, upon termination of active employment with the borough a
29 proportion of the compensation last paid to them but not in
30 excess of fifty percent thereof, including benefits received

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

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

24 Section 1105.1. Retirement Benefits of Employes Transferred
25 to Wastewater Authorities--(a) (1) An employe of a wastewater
26 authority created by a borough and one or more townships
27 pursuant to 53 Pa.C.S. Ch. 56 (relating to municipal
28 authorities) that commenced operations after December 1, 2001,
29 who satisfies the requirements of paragraph (2) and has past
30 service credits under the borough retirement plan may file a

1 written election with the borough council and the wastewater
2 authority to be a member of the borough retirement system. The
3 qualified employe shall file the written election within one
4 year after the effective date of this section.

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

7 (i) Immediately prior to the date of transfer of employment
8 to the wastewater authority, be an employe of the borough that,
9 together with one or more townships, established the wastewater
10 authority.

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

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

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

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

28 (b) All employes who elect to be members of the borough
29 retirement system under this section shall be treated as borough
30 employes in determining the borough's annual allocation of

1 general municipal pension system State aid pursuant to section
2 402(e) of the "Municipal Pension Plan Funding Standard and
3 Recovery Act," and the annual allocation of general municipal
4 pension system State aid pursuant to section 402(e) of the
5 "Municipal Pension Plan Funding Standard and Recovery Act" shall
6 be payable to the borough.

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

9 (b) Treasurer

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

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

30 (b) The treasurer shall:

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

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

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

15 (4) Annually submit the accounts to the elected auditors,
16 independent auditor or controller for settlement.

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

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

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

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

3 (c) Secretary

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

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

26 (b) The secretary shall:

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

29 (2) Preserve the records and documents of the borough, and
30 shall have custody of the corporate seal, and shall deliver to

1 the secretary's successor the seal and all books, papers and
2 other records and things belonging to the borough.

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

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

13 (5) Inform council of all borough meetings, including
14 special meetings of council.

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

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

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

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

9 (d) Solicitor

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

11 Section 1116. Solicitor to Have Control of Legal Matters.--

12 The legal matters of the borough shall be under the control of
13 the borough solicitor, and no department or officer of the

14 borough, except as [herein] otherwise provided by law, shall

15 employ an additional counsel without the assent or ratification

16 of the council. The borough solicitor shall be licensed to

17 practice law in this Commonwealth and may be one person or a law

18 firm, partnership, association or professional corporation. The

19 borough solicitor serves at the pleasure of council. In the

20 absence of the solicitor, the law firm of which [he] the

21 solicitor is a member or associate may perform any of the duties

22 or functions of the solicitor.

23 Section 119. Section 1117 of the act, amended July 1, 1992

24 (P.L.344, No.71), is amended to read:

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

26 The borough solicitor[, when directed or requested so to do by

27 council or the mayor, shall prepare or approve such bonds,

28 obligations, contracts, leases, conveyances, ordinances and

29 assurances to which the borough or any department thereof may be

30 a party; he shall commence and prosecute all actions brought by

1 the borough for or on account of any of the estates, rights,
2 trusts, privileges, claims, or demands, as well as defend all
3 actions or suits against the borough, or any officer thereof,
4 wherein or whereby any of the estates, rights, privileges,
5 trusts, ordinances, or accounts, of the borough, or any
6 department thereof, may be brought in question before any court
7 in the Commonwealth; and shall do every professional act
8 incident to the office which he may be authorized or required to
9 do by the council or the mayor. He shall, whenever required,
10 furnish the council, or committees thereof, the mayor, or the
11 head of department, with his opinion in writing upon any
12 question of law which may be submitted by any of them in their
13 official capacities.] shall:

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

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

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

30 (4) Perform every other professional act incident to the

office which the borough solicitor may be authorized or required to do by the council or the mayor.

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

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

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

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

(e) Police

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

Section 1121. [Appointment, Suspension, Reduction, Discharge, Powers; Mayor to Have Control.--Borough council may, subject to the civil service provisions of this act, if they be in effect at the time, appoint and remove, or suspend, or reduce in rank, one or more suitable persons, citizens of the United States of America, as borough policemen, who shall be ex officio constables of the borough, and shall and may, within the borough or upon property owned or controlled by the borough or by a municipal authority of the borough whether such property is

1 within or outside the limits of the borough, without warrant and
2 upon view, arrest, and commit for hearing any and all persons
3 guilty of breach of the peace, vagrancy, riotous or disorderly
4 conduct or drunkenness, or who may be engaged in the commission
5 of any unlawful act tending to imperil the personal security or
6 endanger the property of the citizens, or for violating any
7 ordinance of the borough for the violation of which a fine or
8 penalty is imposed, and notwithstanding any statute pertaining
9 to the same or similar offenses. Any person so arrested shall be
10 received for confinement by the keepers of the jails, lockups,
11 or station houses within the county.

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

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

26 The borough may, by ordinance establish a police department
27 consisting of chief, captain, lieutenant, sergeants, or any
28 other classification desired by the council, and council may,
29 subject to the civil service provisions of this act, if they be
30 in effect at the time, designate the individuals assigned to

1 each office, but the mayor shall continue to direct the manner
2 in which the persons assigned to the office shall perform their
3 duties. The mayor may, however, delegate to the chief of police
4 or other officers supervision over and instruction to
5 subordinate officers in the manner of performing their duties.
6 The mayor may appoint special policemen during an emergency in
7 which the safety and welfare of the borough and the public is
8 endangered and auxiliary policemen may be appointed as provided
9 by general law.

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

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

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

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

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

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

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

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

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

24 (d) No police officer may engage in political activity while
25 on duty or on borough-owned property.

26 Section 1122. Police Serving Under Cooperative Agreement or
27 Contract.--Whenever any borough shall have entered into a
28 cooperative agreement or contract with any [near or adjacent
29 city, borough, or township] municipal corporation, regional
30 police force or other governmental entity created by two or more

1 municipal corporations pursuant to 53 Pa.C.S. Ch. 23 Subch. A
2 (relating to intergovernmental cooperation), for the furnishing
3 or receiving of police protection, as authorized by clause (35)
4 of section 1202 [of this act, such policemen, individually], the
5 police force of the municipal corporation, regional police force
6 or other governmental entity furnishing the police protection
7 shall be appointed and accepted as [policemen] the police force
8 of the borough receiving [such] the police service by resolution
9 of the borough council [of the said borough. Policemen]. Police
10 officers of the police force of a municipal corporation,
11 regional police force or other governmental entity so appointed
12 shall, however, in so far as civil service and pensions are
13 concerned, be deemed to be appointees and employes only of the
14 [municipality or township] municipal corporation, regional
15 police force or other governmental entity furnishing their
16 service and making the original appointment [thereof].

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

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

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

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

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

29 (d) The mayor may activate auxiliary police in accordance
30 with general law, and notwithstanding any other provision of

1 law, the mayor may also activate auxiliary police for purposes
2 of crowd and traffic control for limited periods during events
3 where, in the mayor's discretion, public safety is promoted by
4 the activation of the auxiliary police.

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

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

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

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

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

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

25 (b) The borough council may [approve] enact an ordinance
26 allowing a board of school directors to assume hiring and
27 oversight of school crossing guards. Before the borough council
28 may [approve such an] enact the ordinance, the board of
29 directors of the school district shall [approve] adopt a
30 resolution requesting the authority to assume the hiring and

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

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

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

30 Section 128. Sections 1131 and 1132 of the act are amended

1 to read:

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

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

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

council. Any allowances made to those who are retired by reason of disability or age shall be in conformity with a uniform scale.

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

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

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

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

(h) No person participating in the police pension fund and becoming entitled to receive a benefit from the fund may be

1 deprived of the person's right to an equal and proportionate
2 share of the fund upon the basis upon which the person first
3 became entitled to the benefit.

4 (i) The act of May 29, 1956 (1955 P.L.1804, No.600), referred
5 to as the "Municipal Police Pension Law," shall govern any
6 borough police pension fund not established under the provisions
7 of this section.

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

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

30 Section 129. Section 1133 of the act, amended May 31, 1984

1 (P.L.362, No.72), is repealed:

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

10 Section 130. Section 1134 of the act, amended December 16,
11 1992 (P.L.1215, No.158), is repealed:

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

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

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

26 [Section 1135. Gifts to Pension Fund.--Borough may take, by
27 gift, grant, devise, or bequest, any money or property real,
28 personal, or mixed, in trust for the benefit of such police
29 pension fund. The care, management, investment and disposal of
30 such trust funds or property shall be vested in such offices as

1 the borough shall by ordinance direct, and shall be governed by
2 such officers, subject to any directions not inconsistent
3 therewith as the donors of such funds and property may
4 prescribe.

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

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

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

18 (g) Borough Manager

19 Section 133. Sections 1141 and 1142 of the act are amended
20 to read:

21 Section 1141. Borough Manager May be Created by Ordinance;
22 Election.--The council of any borough may, at its discretion at
23 any time, create by ordinance the office of borough manager and
24 may in like manner abolish the same. While [said] the office
25 exists, the council shall, from time to time, and whenever there
26 is a vacancy, elect, by a vote of a majority of all the members,
27 one person to fill [said] the office[, subject to removal by the
28 council at any time by a vote of the majority of all the
29 members]. The borough manager shall serve at the pleasure of
30 council, subject to contractual rights that may arise under an

1 employment agreement that may be entered into in accordance with
2 section 1142.

3 Section 1142. Powers and Duties; Bond.--The powers and
4 duties of the borough manager shall be regulated by ordinance.
5 Council may enter into an employment agreement with the borough
6 manager. The employment agreement may set forth the terms and
7 conditions of employment, and the agreement may provide that it
8 shall remain in effect for a specified period terminating no
9 later than two years after the effective date of the agreement
10 or the date of the organizational meeting of council following
11 the next municipal election, whichever shall first occur. An
12 employment agreement entered into pursuant to this section may
13 specify conditions under which a borough manager would be
14 entitled to severance compensation, but in no event shall an
15 employment agreement guarantee employment through the term of
16 the agreement or confer upon the borough manager any legal
17 remedy based on specific performance. The council, by ordinance,
18 may delegate, subject to recall, any of the nonlegislative and
19 nonjudicial powers and duties of the council, the planning
20 commission and the shade tree commission, to the borough
21 manager. With approval of borough council, the mayor may
22 delegate to the borough manager any of [his] the mayor's
23 nonlegislative and nonjudicial powers and duties.

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

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

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

4 [(h) Borough Planning Commission

5 (i) Mine and Quarry Inspection and Surface Support

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

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

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

25 Section 1164. Maps and Drawings.--The owner, operator, or
26 superintendent of every mine, colliery or quarry, within three
27 months after the passage of an ordinance by any borough
28 regulating mine or quarry inspection and surface support, shall
29 make or cause to be made and furnish to the borough such map,
30 plans and/or drawings of the workings, excavations and surface

1 support as the council may require. In the case of coal mines
2 and collieries, the map or plan shall exhibit the workings or
3 excavations in every seam of coal on a separate sheet, and the
4 tunnels and passages connecting with such workings or
5 excavations. It shall show in degrees the general inclination of
6 the strata, with any material deflection therein in the workings
7 or excavations, and shall also show the tidal elevations of the
8 bottom of every shaft, slope, tunnel and gangway, and of any
9 other point in the mine or on the surface where such elevation
10 shall be deemed necessary by the bureau. The map or plan shall
11 show the number of the last survey on the gangways or the most
12 advanced workings.

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

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

1 Section 1167. Penalty.--Any person being the general
2 manager, superintendent, or person in charge of the work of any
3 corporation, copartnership, or association, violating any of the
4 provisions of this subdivision, shall be guilty of a
5 misdemeanor, and upon conviction thereof shall be sentenced, for
6 such offense, to pay a fine not exceeding one thousand dollars
7 (\$1000) or to undergo imprisonment in the county jail for a
8 period not exceeding ninety days, or both. All fines imposed
9 under this section shall be paid into the treasury of the
10 borough.

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

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

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

17 Fire Apparatus Operators

18 Section 136. Section 1171 of the act, amended October 4,
19 1978 (P.L.1000, No.210), is amended to read:

20 Section 1171. Appointments of Police and [Firemen] Fire
21 Apparatus Operators.--(a) This subdivision [(j) of this
22 article] shall not apply to any borough having a police force of
23 less than three members or to those having three or more members
24 if those members in excess of two are appointed on a temporary
25 basis through a Federally funded program or to volunteer fire
26 departments or companies employing their own operators, or to
27 boroughs having less than three salaried operators of fire
28 apparatus. This subdivision [(j) of this article] is subject [as
29 heretofore] to the power of council to determine compensation.
30 [Hereafter each and every] Every full-time appointment to and

1 promotion in the police force or as fire apparatus operators
2 paid directly by the borough in every borough shall be made only
3 according to qualifications and fitness, to be ascertained by
4 examinations which shall be competitive as hereinafter provided.

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

14 (b) For purposes of determining whether a borough is subject
15 to the provisions of this subdivision, the term "members" shall
16 include part-time and full-time officers within the police
17 force.

18 (c) The provisions of this subdivision shall not apply to
19 any member of the department who shall work part-time for the
20 police force. A part-time employe shall be a member of the
21 police force who regularly works less than thirty-seven hours
22 per week, except in the case of emergency in which case a part-
23 time member may work in excess of thirty-seven hours per week.

24 (d) "Police force" as used in this subdivision shall mean
25 the members of a police force organized and operating as
26 prescribed by law who devote working hours to police duty or
27 duty in connection with the department, agencies and services
28 connected with police protection work, and who are paid a stated
29 salary or compensation for the work by the borough, but shall
30 not include:

1 (1) Special police appointed by the mayor to act in
2 emergencies.

3 (2) Persons appointed solely for parking meter enforcement
4 duties.

5 (3) School crossing guards.

6 (4) Extra police serving from time to time or on an hourly
7 or daily basis, without a regularly established full-time or
8 part-time schedule.

9 (5) Auxiliary police officer appointed under the act of
10 January 14, 1952 (1951 P.L.2016, No.561), entitled "An act
11 providing for supplementing the police forces of cities,
12 boroughs, towns and townships, for the appointment, powers and
13 control of auxiliary police therein, and for the transfer during
14 disasters and emergencies of such auxiliary police, members of
15 the regular police forces, and police equipment thereof."

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

21 Section 137. Sections 1172, 1173, 1174, 1175, 1176, 1177,
22 1178 and 1179 of the act are amended to read:

23 Section 1172. Civil Service Commission Created;
24 Appointments; Vacancies; Oath; Compensation.--(a) There is
25 hereby created in each borough, where a police force or paid
26 fire apparatus operators as hereinbefore provided are being
27 maintained, a civil service commission hereinafter referred to
28 as the commission. The commission shall consist of three
29 commissioners who shall be qualified electors of the borough and
30 shall be appointed by the borough council initially to serve for

1 the terms of two, four and six years, and as terms thereafter
2 expire shall be appointed for terms of six years.

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

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

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

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

8 Section 1174. Organization of Commission; Quorum.--The
9 commission first appointed shall organize within ten days of its
10 appointment and shall elect one of its members as the [chairman]
11 chair and one as the secretary. The commission shall thereafter
12 meet and organize on the first Monday [of February] of each
13 even-numbered year. [The secretary of the commission shall give
14 each commissioner twenty-four hours' notice] Each commissioner
15 shall be notified in writing of each and every meeting [of the
16 commission. Two]. Three members of the commission shall
17 constitute a quorum [and no action of the commission shall be
18 valid unless it shall have the concurrence of at least two
19 members]. If, by reason of absence or disqualification of a
20 member a quorum is not reached, the chair shall designate as
21 many alternate members of the commission to sit on the
22 commission as may be needed to provide a quorum. An alternate
23 member of the commission shall continue to serve on the
24 commission in all proceedings involving the matter or case for
25 which the alternate was initially designated until the
26 commission has made a final determination of the matter or case.
27 Designation of an alternate member pursuant to this section
28 shall be made on a case-by-case basis in rotation according to
29 declining seniority among the alternates. No action of the
30 commission may be valid unless it shall have the concurrence of

1 at least two members.

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

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

28 Section 1177. Minutes and Records.--The commission shall
29 keep minutes of its proceedings and records of examinations and
30 other official actions. All recommendations of applicants for

1 appointment received by the commission shall be kept and
2 preserved for a period of five years, and all [such] records and
3 all written causes of removal filed with the commission, except
4 as otherwise provided in section 1191 [of this act], shall be
5 open to public inspection and subject to reasonable regulation.

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

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

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

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

28 If any person shall refuse or neglect to obey any subpoena
29 issued by the commission, [it] the commission may apply by
30 petition to the court of common pleas of the county for its

1 subpoena, requiring the attendance of [such] persons before the
2 commission or the court there to testify and to produce any
3 records and papers necessary, and in default thereof, shall be
4 held in contempt of court.

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

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

10 Section 139. Section 1181 of the act, amended October 27,
11 2010 (P.L.884, No.91), is amended to read:

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

13 (a) The commission shall make rules and regulations, to be
14 approved as provided in section 1176 [hereof], providing for the
15 examination of applicants for positions in the police force and
16 as paid operators of fire apparatus and for promotions, which
17 rules and regulations shall prescribe the minimum qualifications
18 of all applicants to be examined and the passing grades. All
19 examinations for positions or promotions shall be practical in
20 character and shall relate to [such] matters and include [such]
21 inquiries as will fairly test the merit and fitness of the
22 persons examined to discharge the duties of the employment
23 sought by them. All examinations shall be open to all applicants
24 who have the minimum qualifications required by the rules and
25 regulations. Each applicant for an original position shall:

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

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

30 [and]

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

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

8 (a.1) Each applicant for promotion shall be subject to the
9 regulations adopted by the commission and to examination and
10 selection in accordance with section 1188. Physical fitness or
11 agility examinations that are job-related and consistent with
12 business necessity and physical and psychological medical
13 examinations may be, but need not be, required for promotions.

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

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

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

25 Section 1182. Application for Examination.--Each person
26 desiring to apply for examination shall file with the commission
27 a formal application in which the applicant shall [state]
28 provide, under oath or affirmation [(i) his full name and
29 residence or post office address, (ii) his citizenship, place
30 and date of birth, (iii) his condition of health and physical

1 capacity for public service, (iv) his business or employment and
2 his residence for the past five years, and (v) such] the
3 following information:

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

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

6 (3) condition of health and physical capacity for public
7 service;

8 (4) business or employment and his residence for the past
9 five years; and

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

13 Section 141. Sections 1183 and 1184 of the act, amended
14 October 27, 2010 (P.L.884, No.91), are amended to read:

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

1 Pennsylvania.

2 (b) If any applicant [or person is aggrieved by refusal of
3 the commission to examine or certify the applicant as eligible
4 after examination, the commission shall, at the request of the
5 applicant, within ten days, appoint a time and place for a
6 public hearing, with or without counsel, at which time] is
7 aggrieved by the refusal of the commission to certify the
8 applicant as eligible after examination, or a person is
9 aggrieved by refusal of the commission to examine the person,
10 the commission shall, at the request of the applicant or person
11 aggrieved, within ten days, appoint a time and place for a
12 public hearing. At the hearing, the applicant or person
13 aggrieved may appear with or without counsel, and the commission
14 shall take testimony and review its refusal to provide
15 examination or certification. The decision of the commission
16 shall be final.

17 Section 1184. Eligibility List and Manner of Filling
18 Appointments.--(a) At the completion of the testing process,
19 including any [background,] physical agility or other
20 examination, with the exception of any background investigation
21 to be conducted after the establishment of an eligibility list
22 and physical and psychological medical examination pursuant to
23 section 1189 [of this act], the commission shall rank the
24 candidates who have satisfied the minimum requirements for
25 appointment on an eligibility list. The eligibility list shall
26 contain the names of individuals eligible for appointment listed
27 from highest to lowest based on their scores on the examinations
28 administered by the commission and any points for which the
29 applicant was entitled by virtue of 51 Pa.C.S. Ch. 71 (relating
30 to veterans' preference). The eligibility list will be valid for

1 one year from the date the commission formally adopts the
2 eligibility list. Prior to expiration of the one-year period,
3 the commission may extend the validity of the eligibility list
4 for up to an additional twelve months by a majority vote of the
5 commission at a duly authorized commission meeting. In the
6 absence of a lawful extension by the commission, the list shall
7 expire.

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

1 procedure shall be followed.

2 (c) Any vacancy in an existing position in the police force
3 or as a paid operator of fire apparatus which occurs as a result
4 of retirement, resignation, disability or death may be filled by
5 council by the reappointment or reinstatement of a former
6 employe of the police force or fire department who had
7 previously complied with the provisions of this section. No
8 examination, other than a physical examination as directed by
9 the civil service commission, shall be required in any case of
10 reappointment or reinstatement.

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

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

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

29 Section 143. Section 1186 of the act, amended October 27,
30 2010 (P.L.884, No.91), is amended to read:

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

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

19 Section 1187. Provisional Appointments.--Whenever there are
20 urgent reasons for the filling of a vacancy in any position in
21 the police force and there are no names on the [eligible]
22 eligibility list for [such] the appointment, the council may
23 nominate a person to the commission for noncompetitive
24 examination, and if [such] the nominee shall be certified by the
25 commission as qualified after [such] noncompetitive examination,
26 [he] the nominee may be appointed provisionally to fill [such]
27 the vacancy. [It shall thereupon become the duty of the
28 commissioner within three weeks to] Within three weeks of the
29 provisional appointment, the commission shall hold a competitive
30 examination and certify [a list of eligibles] an eligibility

1 list and a regular appointment shall then be made from the name
2 or names submitted by the commission[: Provided, That], provided
3 that nothing [herein contained] in this section shall prevent
4 the appointment, without examination, of persons, temporarily as
5 police officers in cases of riot or other emergency or as
6 operators of fire apparatus in emergency cases.

7 Section 145. Section 1188 of the act, amended October 27,
8 2010 (P.L.884, No.91), is amended to read:

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

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

30 Section 145.1. Section 1189 of the act, amended October 27,

1 2010 (P.L.884, No.91), is reenacted to read:

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

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

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

29 (d) If, at the conclusion of the interactive discussion
30 under subsection (c), council determines that the conditional

1 appointee is not qualified, council shall give written notice to
2 the conditional appointee and the commission.

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

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

8 "Medical examination" shall mean any examination, procedure,
9 inquiry or test designed to obtain information about medical
10 history or a physical or mental condition which might disqualify
11 an applicant if it would prevent the applicant from performing,
12 with or without a reasonable accommodation, all of the essential
13 functions of the position.

14 "Physician" shall have the meaning given to it in 1 Pa.C.S. §
15 1991 (relating to definitions).

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

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

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

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

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

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

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

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

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

9 (5) Intoxication while on duty.

10 (6) Engaging or participating in conducting of any political
11 or election campaign otherwise than to exercise [his] the
12 person's own right of suffrage.

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

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

1 in the police force or fire force eligible to retirement is
2 insufficient to effect the necessary reduction in numbers, or if
3 there are no persons eligible for retirement, or if no
4 retirement or pension fund exists, then the reduction shall be
5 effected by furloughing] furlough the person or persons,
6 including probationers, last appointed to the respective force.
7 [Such removal shall be accomplished by furloughing in numerical
8 order commencing with the person last appointed until such
9 reduction shall have been accomplished.] For purposes of this
10 section, a borough shall not be obligated to first furlough
11 part-time employes of the police or fire force who were not
12 appointed through the civil service process prior to furloughing
13 civil service employes of the police or fire force. In the event
14 the said police force or fire force shall again be increased the
15 employes furloughed shall be reinstated in the order of their
16 seniority in the service. The provisions of this paragraph as to
17 reductions in force are not applicable to a chief of police.

18 Section 147. Section 1191 of the act, repealed in part June
19 3, 1971 (P.L.118, No.6), is amended to read:

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

1 the charges in writing shall not result in the dismissal of the
2 charges filed.

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

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

1 (d) The council and the person sought to be suspended,
2 removed or demoted shall at all times have the right to employ
3 counsel before the commission and upon appeal to the court of
4 common pleas. Unless otherwise directed by the commission in its
5 discretion, the proceedings before the commission pursuant to
6 this section, including the deliberations by the commission
7 following the completion of the hearing, shall be held in
8 executive session and shall not be open to the public.

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

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

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

28 No discrimination shall be exercised, threatened or promised
29 by any person against or in favor of any applicant or employe
30 because of political or religious opinions or affiliations or

1 race, and no offer or promise or reward, favor or benefit,
2 directly or indirectly, shall be made to or received by any
3 person for any act done or duty omitted or to be done under this
4 subdivision [of this article].

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

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

17 Section 150. Section 1195 and Article XI subdivision (k)
18 heading of the act are repealed:

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

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

30 (2) Any person appointed solely for parking meter

1 enforcement duties,

2 (3) Any special school police,

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

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

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

13 (k) Independent Auditor]

14 Section 151. Section 1196 of the act, amended December 17,
15 1986 (P.L.1691, No.201), is repealed:

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

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

27 (1) The scope of his examination,

28 (2) His opinion of the fairness of the presentation of the
29 financial statement of the borough which shall show a complete
30 statement of the financial condition of the borough, giving in

1 detail the actual indebtedness, the amount of the funded debt,
2 the amount of the floating debt thereof, the valuation of
3 taxable property therein, the assets of the borough with the
4 character and value thereof, and the date of maturity of the
5 respective forms of funded debt thereof, and

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

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

29 (d) In any matter involving any financial transaction, any
30 official knowingly and wilfully acting contrary to law, or,

1 knowingly and wilfully failing to act as required by law, is
2 guilty of a misdemeanor, and on conviction thereof, may be
3 sentenced to a fine not exceeding one hundred dollars (\$100),
4 and his office may be forthwith declared vacant as may seem meet
5 and just to the court passing sentence.

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

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

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

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

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

29 [Section 1197. Appeals From Report of Independent Auditor.--
30 Appeals may be taken from the settlement and audit of the

1 independent auditor as shown in the independent auditor's report
2 to the court of common pleas of the county, by the same persons,
3 in the same manner, within the same time, subject to the same
4 conditions and procedure, and with like effect in every respect,
5 as in this act provided in the cases of appeals from the
6 settlement and audit of elected auditors.

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

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

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

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

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

1 as hereinbefore provided.

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

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

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

26 ARTICLE XII

27 CORPORATE POWERS

28 Section 154. Section 1201 of the act, amended November 29,
29 2004 (P.L.1337, No.170) and June 30, 2007 (P.L.47, No.15), is
30 renumbered and amended to read:

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

(1) Have succession perpetually by its corporate name.

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

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

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

(i)] as set forth in this article.

Section 1201.1. Real Property.--(a) No real estate owned by the borough [shall] may be sold except upon approval of council by resolution. Additionally, no real estate owned by the borough shall be sold for a consideration in excess of fifteen hundred dollars (\$1500), except to the highest bidder after due notice by advertisement for bids or advertisement of a public auction in one newspaper [of general circulation in the borough. Such].The advertisement shall be published once not less than ten days prior to the date fixed for the opening of bids or public auction, and [such] the date for opening bids or public auction shall be announced in [such] the advertisement. The award of contracts shall be made only by public announcement at a regular or special meeting of council or at the public auction. All bids shall be accepted on the condition that payment of the purchase price in full shall be made within sixty days of the acceptance of bids. If no bids are received after advertisement, the applicable procedures in the act of October 27, 1979 (P.L.241, No.78), entitled, as amended, "An act authorizing political

subdivisions, municipality authorities and transportation
authorities to enter into contracts for the purchase of goods
and the sale of real and personal property where no bids are
received," shall be followed.

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

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

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

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

(3) If borough council chooses to exercise its power of real
property exchange pursuant to this section, it shall be by
resolution adopted by council.

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

5 Section 1201.2. Personal Property.--(a) (1) Except as
6 otherwise hereinafter provided in the case of personal property
7 of an estimated fair market value of less than one thousand
8 dollars (\$1,000), no borough personal property shall be disposed
9 of, by sale or otherwise, except upon approval of council, by
10 [ordinance or] resolution. In cases where council shall approve
11 a sale of [such] the property, it shall estimate the fair market
12 value of the entire lot to be disposed of. If council shall
13 estimate the fair market value to be one thousand dollars
14 (\$1,000) or more, the entire lot shall be advertised for sale
15 once, in at least one newspaper [of general circulation in the
16 borough], not less than ten days prior to the date fixed for the
17 opening of bids or public auction, and [such] the date of
18 opening of bids or public auction, shall be announced in [such]
19 the advertisement, and sale of the property so advertised shall
20 be made to the best responsible bidder.

21 (2) A public auction of personal property may be conducted
22 by means of an online or electronic auction sale. During an
23 electronic auction sale, bids shall be accepted electronically
24 at the time and in the manner designated in the advertisement.
25 During the electronic auction, each bidder shall have the
26 capability to view the bidder's bid rank or the high bid price.
27 Bidders may increase their bid prices during the electronic
28 auction. The record of the electronic auction shall be
29 accessible for public inspection. The purchase price shall be
30 paid by the high bidder immediately or at a reasonable time

1 after the conclusion of the electronic auction as determined by
2 council. In the event that shipping costs are incurred, they
3 shall be paid by the high bidder. A borough that has complied
4 with the advertising requirements of this section may provide
5 additional public notice of the sale by bids or public auction
6 in any manner deemed appropriate by council. The advertisement
7 for electronic auction sales authorized in this paragraph shall
8 include the Internet address or means of accessing the
9 electronic auction and the date, time and duration of the
10 electronic auction.

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

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

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

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

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

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

12 [(B) a municipal authority pursuant to the Municipality
13 Authorities Act of 1945] (3) an authority as defined in 53
14 Pa.C.S. § 5602 (relating to definitions);

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

21 (D) where real property is to be sold to]. This exemption
22 shall also not apply to property owned and operated by the
23 borough or subcontracted or operated on behalf of the borough in
24 order to conduct existing government functions;

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

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

30 [(F) where real property is to be sold to] (7) a non-profit

1 medical service corporation as authorized by clause [(76)] (50)
2 of section 1202;

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

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

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

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

17 [(vi)] (c) Real property sold pursuant to this [clause]
18 section to a volunteer fire company, volunteer ambulance service
19 or volunteer rescue squad, non-profit medical service
20 corporation or to a non-profit housing corporation shall be
21 subject to the condition that when the property is not used for
22 the purposes of the company, service, squad or the corporation
23 the property shall revert to the borough.

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

28 (5) To invest in or purchase bonds of any municipal
29 authority or parking authority created solely by the borough,
30 for the purpose either of investment or of possible retirement

1 of such bonds and acquisition of authority projects at an
2 earlier date than originally contemplated, using for the purpose
3 either surplus funds of the borough or money appropriated in the
4 annual budget for the purpose.]

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

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

29 (1) Fees for service of certain officers and emergency
30 responders. To prescribe reasonable fees for the services of

1 their officers and to enforce the payment of the same. The
2 borough may also prescribe reasonable fees for costs associated
3 with services of emergency service, fire or traffic control
4 personnel rendered in response to vehicle accidents, and may
5 claim the costs against insurance policies or otherwise provide
6 for the collection or payment of the fees. This paragraph shall
7 not be applicable to the services rendered by borough police
8 officers in responding to motor vehicle accidents pursuant to 53
9 Pa.C.S. § 1392 (relating to prohibition of fees for police
10 services).

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

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

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

22 (5) Nuisances and dangerous structures.] To prohibit and
23 remove any nuisance or dangerous structure on public or private
24 grounds, including but not limited to accumulations of garbage
25 and rubbish [and], the storage of abandoned or junked
26 automobiles [and to prohibit and remove any dangerous structure
27 on public or private grounds, or to] and obstructions or
28 nuisances in the streets of the borough. The borough may require
29 the removal of any [such] nuisance or dangerous structure by the
30 owner or occupier of [such] the grounds, in default of which the

1 borough may cause the same to be done, and collect the cost
2 [thereof] of removal, together with a penalty of ten percent of
3 [such] the cost, in the manner provided by law for the
4 collection of municipal claims, or by action of assumpsit, or
5 may seek relief by bill in equity.

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

10 [(7) Burial of deceased persons. To prohibit, within the
11 borough limits, or within any described territory within such
12 limits, the burial or interment of deceased persons.

13 (8)] (6) Regulation of vaults, cesspools and drains. To make
14 regulations respecting vaults, cesspools and drains.

15 [(9)] (7) Manure and compost regulations. To make
16 regulations relative to the accumulation of manure, compost and
17 the like to the extent authorized by 3 Pa.C.S. Ch. 5 (relating
18 to nutrient management and odor management).

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

26 (A) To provide for the collection and imposition of
27 reasonable fees and charges for the collection of garbage and
28 other refuse material.

29 (B) To erect, operate and maintain refuse disposal or
30 incineration facilities or sanitary landfills, either within or

1 without the limits of the borough, or provide other means for
2 the collection, destruction or removal of garbage and other
3 refuse material, and provide for the payment of the cost or
4 expense thereof, either in whole or in part, out of the funds of
5 the borough.

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

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

29 (ii) Regulations enacted pursuant to this section shall be
30 consistent with the act of July 7, 1980 (P.L.380, No.97), known

1 as the "Solid Waste Management Act," the act of July 28, 1988
2 (P.L.556, No.101), known as the "Municipal Waste Planning,
3 Recycling and Waste Reduction Act," and subject to any other
4 necessary Federal or State approval.

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

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

11 (13)] (9) Dogs, cats and other pets. To the extent not
12 otherwise prohibited by the act of December 7, 1982 (P.L.784,
13 No.225), known as the "Dog Law," to destroy dogs found at large
14 contrary to laws of the Commonwealth; to prohibit or regulate,
15 by ordinance, the running at large of dogs, cats [and/or] or
16 other pets, and, in the enforcement of [such] the regulations,
17 to direct the killing of dogs, cats [and/or] or other pets, or
18 their seizure and detention, prescribing reasonable charges for
19 their seizure and detention, and to provide for their sale for
20 the benefit of the borough, in default of the redemption
21 [thereof] of the pet by their owners.

22 [(14)] (10) Livestock, fowls and [certain] all other
23 animals. To [prohibit and regulate, by ordinance,] enact
24 ordinances prohibiting or regulating the keeping or running at
25 large of livestock and fowls and any other animals not covered
26 in clause [(13) hereof] (9), and [to authorize] authorizing
27 their seizure [and], detention, [prescribing] or, in the case of
28 unowned pigeons, humane destruction. The borough may prescribe
29 reasonable charges [therefor, and to] for the seizure and
30 detention of the animals and provide for their sale for the

benefit of the borough, in default of the redemption [thereof]
of the animals by their owners. Ordinances enacted pursuant to
this clause shall not unreasonably interfere with any
agricultural operation to the extent prohibited by applicable
State law.

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

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

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

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

[(19) Stands for cabs and other vehicles for hire. To
establish stands for cabs and other vehicles for hire, to

1 establish charges therefor, and to enforce the observance and
2 use thereof.

3 (20)] (14) Disorderly conduct; disturbance of the peace;
4 ordinances. To adopt ordinances defining disorderly conduct
5 [and/or] or disturbing the peace within the limits of the
6 borough, and to provide for the imposition of penalties for
7 [such] the conduct in [such] amounts, without limitation except
8 as in this act provided, as council shall establish, and
9 notwithstanding any statutes of the Commonwealth upon disorderly
10 conduct [and/or] or disturbing the peace and the penalties
11 therefor.

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

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

1 its contents and a reference to the place or places within the
2 borough where copies of such proposed fire prevention code may
3 be examined or obtained shall be published once in one newspaper
4 of general circulation in the borough at least one week and not
5 more than three weeks prior to the presentation of the proposed
6 fire prevention code to council. No further advertisement or
7 notice need be published following enactment of the fire
8 prevention code.

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

25 (22)] (16) Prohibition of fire producing devices [in certain
26 retail stores] and smoking. To prohibit and regulate the smoking
27 or carrying of lighted cigarettes, cigars, pipes or matches, and
28 the use of matches or fire-producing devices[, in retail stores
29 arranged to accommodate one hundred persons or more or which
30 employ ten or more persons]. Any ordinance enacted or regulation

1 or resolution adopted under this clause shall not [prohibit]
2 regulate smoking in [any restaurant, rest room, beauty parlor,
3 executive office or any room designated for smoking in such
4 store.] a manner that conflicts with the act of June 13, 2008
5 (P.L.182, No.27), known as the "Clean Indoor Air Act."

6 [(23)] (17) Dangerous and inflammable articles, substances
7 and materials. To the extent not otherwise prohibited by Federal
8 or State law or regulation, to prohibit the manufacture, sale or
9 storage of fireworks and inflammable or otherwise dangerous
10 articles, substances or materials; to prescribe the quantities
11 of [any such] inflammable or dangerous articles, substances or
12 materials that may be kept in any location [and/or] or building;
13 to grant permits for the supervised public displays of fireworks
14 and adopt rules and regulations governing the displays; and to
15 [prescribe such] impose other safeguards concerning inflammable
16 articles as may be necessary.

17 [(24) Building, housing, property maintenance, plumbing and
18 other regulations. To enact and enforce ordinances relating to
19 buildings and housing, their construction, alteration,
20 extension, repair and maintenance and all facilities and
21 services in or about such buildings or housing, to require that,
22 before any work of construction, alteration, extension, or
23 repair of any building is begun, approval of the plans and
24 specifications therefor be secured; to provide for the
25 inspection of such work of construction, alteration, extension
26 and repair, including the appointment of one or more building
27 inspectors and/or housing inspectors; to prescribe limits
28 wherein none but buildings of noncombustible material and
29 fireproof roofs shall be erected, or substantially
30 reconstructed, or moved thereinto; to provide for enforcement of

1 such regulations by a reasonable fine, and by instituting
2 appropriate actions or proceedings at law, or in equity, to
3 effect the purposes of this provision and ordinances enacted
4 thereunder. Any building, housing or property, or part thereof
5 erected, altered, extended, reconstructed, removed or
6 maintained, contrary to any of the provisions of any ordinance
7 passed for any of the purposes specified in this clause is
8 declared to be a public nuisance and abatable as such.

9 Any such ordinance may be adopted by reference to a standard
10 building code, housing code or other standard codes, or to parts
11 thereof, determined by council, or the provisions of the
12 ordinance may be supplied by reference to a typed or printed
13 building code, housing code or other standard codes, prepared
14 under the direction of or accepted by council, or the provisions
15 may consist of a standard building code, housing code or other
16 standard codes, or parts thereof, and also further provisions
17 typed or printed as aforesaid. Such building code, housing code
18 or other standard codes shall not be advertised either in
19 advance of or following enactment, by publication of the full
20 text thereof, and, in place of such complete advertisement, an
21 informative notice of intention to consider such proposed
22 building code, housing code or other standard codes, and a brief
23 summary, setting forth the principal provisions of such proposed
24 building code, housing code or other standard codes in such
25 reasonable detail as will give adequate notice of its contents
26 and a reference to the place or places within the borough where
27 copies of such proposed building code, housing code or other
28 standard codes may be examined or obtained shall be published
29 once in one newspaper of general circulation in the borough at
30 least one week and not more than three weeks prior to the

1 presentation of the proposed building code, housing code or
2 other standard codes to council. No further advertisement or
3 notice need be published following enactment of the building
4 code, housing code or other standard codes. Copies of the
5 building code, housing code or other standard codes thus adopted
6 by reference shall be made available to any interested party at
7 the cost thereof, or may be furnished or loaned without charge.
8 Such building code, housing code or other standard codes need
9 not be recorded in or attached to the ordinance book, but it
10 shall be deemed to have been legally recorded if the ordinance
11 by which such building code, housing code or other standard
12 codes were adopted by reference shall have been recorded, with
13 an accompanying notation stating where the full text of such
14 building code, housing code or other standard codes shall have
15 been filed. The procedure set forth relating to the adoption of
16 the building code, housing code or other standard codes, by
17 reference, may likewise be adopted in amending, supplementing or
18 repealing any of the provisions of the building code, housing
19 code or other standard codes.

20 To enact suitable ordinances relating to property maintenance
21 and plumbing, in the same manner and to the same effect as
22 herein provided for building codes, housing codes or other
23 standard codes. The building code, the property maintenance
24 code, the housing code and the plumbing code may be combined or
25 separately enacted or combined with other standard codes.

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

28 (25)] (18) Numbering buildings. To require and regulate the
29 numbering of buildings and lots.

30 [(26) Building lines. To establish and maintain uniform

1 building lines upon any or all streets of the borough.

2 (27)] (19) Party wall and fence regulations. To make
3 regulations respecting partition fences and the foundations and
4 party walls of buildings.

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

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

9 (A) Noxious and offensive businesses. Council may prohibit,
10 within the borough, the carrying on of any manufacture, art,
11 trade or business which may be noxious or offensive and
12 therefore prejudicial to the public health or safety of the
13 inhabitants.

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

18 (C) Market places. Council may:

19 (I) regulate markets whether for individual use or for
20 resale;

21 (II) purchase and own ground;

22 (III) erect, establish and maintain market places for which
23 purposes parts of a street or sidewalk may be temporarily used;

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

28 (V) provide and enforce suitable regulations respecting
29 market places;

30 (VI) provide for the payment of the cost or expense of

market places, either in whole or in part, out of the funds of the borough; and

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

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

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

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

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

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

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

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

1 and bowling alleys.

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

19 (32) Creation of special funds; investments. To set aside in
20 a separate fund any moneys received out of or from the sale,
21 lease, or other disposition of any borough property or received
22 from any source other than taxation, unless such money was
23 received or acquired for a particular purpose. Such fund shall
24 be controlled, invested and administered, and the income arising
25 therefrom expended, in such manner as may be determined by
26 action of the council pursuant to the ordinance creating the
27 fund. Such ordinance may provide that only the income from such
28 fund may be used or expended, and that neither principal, not
29 any part thereof, may be used or expended unless upon
30 authorization of a majority vote of the qualified electors of

1 the borough. All ordinances heretofore enacted and ordained by
2 any borough, creating and establishing such a separate fund as
3 is authorized by this clause, shall be deemed and taken as valid
4 and effectual for all purposes: Provided, That all other
5 requirements of law concerning the enactment of the same have
6 been complied with.

7 (33)] (22) Creation of capital reserve fund for anticipated
8 capital expenditures. To create and maintain a separate capital
9 reserve fund for anticipated legal capital expenditures. The
10 money in the fund shall be used, from time to time, for the
11 construction, purchase or replacement of or addition to
12 municipal buildings, equipment, machinery, motor vehicles or
13 other capital assets of the borough and for no other purpose.

14 Council may appropriate moneys from the general borough funds
15 to be paid into the capital reserve fund or place in the fund
16 any moneys received from the sale, lease or other disposition of
17 any borough property or from any other source, unless received
18 or acquired for a particular purpose. The fund shall be
19 controlled, invested, reinvested and administered and the moneys
20 expended for any of the purposes for which the fund is created
21 in [such] a manner as may be determined by council. The money in
22 the fund, when invested, shall be invested in securities
23 designated by [law] 53 Pa.C.S. Pt. VII Subpt. B (relating to
24 indebtedness and borrowing) as legal investments for sinking
25 funds of municipalities.

26 This clause shall not be construed to limit the powers of the
27 borough to the use of moneys in the capital reserve fund in
28 making lawful capital expenditures.

29 (23) Operating Reserve Fund. To create and maintain a
30 separate operating reserve fund from which appropriations may be

made to meet emergencies involving the health, safety and
welfare of the residents of the borough, to counterbalance
potential budget deficits resulting from shortfalls in
anticipated revenues or program receipts from whatever source,
or to provide anticipated operating expenditures related either
to the planned growth of existing projects or programs or to the
establishment of new projects or programs if for a project or
program appropriations have been made and allocated to a
separate restricted account established within the operating
reserve fund. Council may annually make appropriations from the
general fund to the operating reserve fund, but no appropriation
shall be made to the operating reserve fund if the effect of the
appropriation would cause the fund to exceed five per centum of
the estimated revenues of the borough's general fund in the
current fiscal year. The operating reserve fund shall be
invested, reinvested and administered in a manner consistent
with the provisions of section 1316 relating to investment of
funds.

[(34) Joint municipal agreements] (24) Intergovernmental
Cooperation. To enter into agreements with other political
subdivisions, in accordance with existing laws, in making joint
purchases of materials, supplies or equipment and in performing
governmental powers, duties and functions and in carrying into
effect provisions of [law relating to said subjects which are
common to such political subdivisions] 53 Pa.C.S. Ch. 23 Subch.
A (relating to intergovernmental cooperation), and agreements
with the proper authorities of municipal corporations, regional
police or fire forces, or other public safety or governmental
entities created by two or more municipal corporations pursuant
to 53 Pa.C.S. Ch. 23 Subch. A, either for mutual aid or

assistance in police and fire protection or any other public safety services, or for the furnishing to or, receiving from the municipal corporations or governmental entities, police and fire protection or any other public safety services, and to make appropriations for public safety services. In connection with agreements for police or fire protection or any other public safety services, it shall not be necessary to advertise for bids or receive bonds as required for contracts under existing law. When an agreement has been entered into, the police, firefighters, fire police or any other public safety services of the employing municipal corporation or governmental entity shall have all the powers and authority conferred by law on police, firefighters, fire police or any other public safety services in the territory of the municipal corporation which has contracted to secure the service.

[(35) Joint contracts for police and fire protection. To enter into contracts with the proper authorities of near or adjacent cities, boroughs, or townships, either for mutual aid or assistance in police and fire protection, or for the furnishing to or, receiving from, such cities, boroughs, or townships, aid and assistance in police and fire protection, and to make appropriations therefor: Provided, That in connection with such contracts, it shall not be necessary to advertise for bids or receive bonds as required for other contracts under existing law. When any such contract has been entered into the police, firemen or fire police of the employing city, borough or township shall have all the powers and authority conferred by law on city, borough or township police, firemen, or fire police in the territory of the city, borough or township which has contracted to secure such service.

1 (36)] (25) Insurance on property. To make contracts of
2 insurance, with any mutual or other fire insurance company,
3 association or exchange, duly authorized by law to transact
4 insurance business in the Commonwealth of Pennsylvania, on any
5 building or property owned or leased by the borough.

6 [(37)] (26) Other insurance. (i) Workers' compensation
7 insurance. To appropriate [such] an amount as may be necessary
8 to secure insurance or compensation in accordance with Article
9 VI of the act of June 2, 1915 (P.L.736, No.338), known as the
10 "Workers' Compensation Act," for:

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

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

17 (ii) Life and health insurance. To make contracts of
18 insurance with any insurance company, association or exchange,
19 authorized to transact business in the Commonwealth, insuring
20 borough employes, or any class or classes of employes, or mayor
21 and council, [or any class, or classes thereof,] or their
22 dependents, under a policy or policies of insurance covering
23 life, health, hospitalization, medical and surgical service
24 [and/or] or accident insurance[, and to].

25 (iii) Pension contracts. To contract with [any such] an
26 insurance company, granting annuities or pensions, for the
27 pensioning of borough employes, or any class, or classes
28 [thereof] of employes, and to agree to pay part or all of the
29 premiums or charges for carrying [such] the contracts, and to
30 appropriate moneys from the borough treasury for such purposes.

1 (iv) Liability insurance. To make contracts with any
2 insurance company, association or exchange, authorized to
3 transact business in this Commonwealth, insuring any public
4 liability of the borough, and to appropriate moneys from the
5 borough treasury for such purpose.

6 (v) Nothing in this clause shall affect any contract, right
7 or coverage of insurance vested or existing on the effective
8 date of this clause. Contract, as used in this clause, includes
9 an annuity contract, provided that the option to renew continues
10 to provide the same rights to the annuitant that existed on the
11 effective date of this clause.

12 [(38) Contract with railways. To enter into contract with
13 any person or company, operating a street passenger railway,
14 surface, elevated, or underground, or furnishing motor
15 transportation, or leasing and operating the franchise and
16 property of such person or company, within the limits of the
17 borough, regulating the franchises, powers, duties and
18 liabilities of such persons or companies, and the respective
19 rights of the contracting parties. Such contracts may, inter
20 alia, provide for payments by the persons or companies to the
21 borough, in lieu of the performance of certain duties, or the
22 payment of license fees or charges imposed in favor of such
23 borough, or by the charters of any such companies, or by any
24 general law, or ordinances; for the appointment by the borough
25 of a certain number of persons to act as director of any such
26 company, in conjunction with the directors elected by the
27 stockholders of such company; and may further provide for the
28 ultimate acquisition by the borough, upon terms mutually
29 satisfactory, of the leaseholds, property and franchises of the
30 contracting persons or companies.

1 Subject to the approval of the Public Utility Commission, and
2 in order to secure the removal of any street railway tracks, or
3 to prevent the laying of any tracks authorized to be laid, or to
4 change the route of any street railway on any street to enter
5 into a contract with a street railway or motor power company,
6 owning, leasing, or operating such tracks, for a period not to
7 exceed fifty years, for such considerations and upon such
8 conditions as may be agreed upon.

9 Such contract may include a covenant providing that, during
10 the continuance thereof, municipal consent shall not be granted
11 to any other company to use, for street railway or passenger
12 transportation purposes, any streets covered by such contract.
13 Such covenant may be enforced by bill in equity against the
14 borough. The contract may also provide for the laying or
15 relaying of tracks, upon such terms and upon such conditions as
16 may be agreed upon.]

17 (27) Public transportation. To contract with a company
18 owning, leasing or operating a light rail or similar
19 transportation system, whether surface, elevated or underground,
20 within the limits of the borough, for the acquisition, leasing
21 or regulation of the franchises, property, powers, duties and
22 liabilities of the company for the purpose of providing public
23 transportation. A contract may provide that the companies may
24 make payments to the borough in lieu of the performance of
25 certain duties or may include a provision that municipal consent
26 shall not be granted to any other company for the same services
27 covered by the contract. A contract may also provide, subject to
28 any required approval by the Public Utility Commission and
29 consistent with the jurisdictional limits established under 49
30 U.S.C. (relating to transportation), for the laying,

installation or removal of tracks or lines, to prevent the
laying or installation of otherwise authorized tracks or lines,
or to change the route of any tracks or lines, for the
considerations and upon conditions as may be agreed upon.
Borough council may acquire, maintain and operate any existing
inclined plane passenger transportation facilities and may
acquire or may establish vehicular feeder lines for those
facilities.

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

(40)] (28) Community buildings and public facilities. To
acquire land or buildings by purchase [and own ground for, and],
gift, exchange or eminent domain, to erect[, establish, or
purchase] a building[, to be used] or to lease land or
buildings, within the borough limits, for community purposes, or
for public facilities such as comfort and waiting stations and
drinking fountains, and to erect watering troughs, and to
maintain the [same] public facilities; to provide for the
payment of [the] their cost [thereof], and the expense of [such]
their maintenance either in whole or in part out of the funds of
the borough.

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

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

1 and in public places of the borough.

2 [(43) Comfort stations. To use land owned by the borough and
3 to acquire or lease land or land and buildings within the
4 borough limits, for the purposes of construction or of providing
5 comfort and waiting stations and drinking fountains and to
6 maintain such public facilities; to contribute to the
7 maintenance of any such public facilities which may be located
8 in or upon property not owned or leased by the borough. The
9 damages accruing to abutting properties, by reason of any such
10 improvements constructed or provided by the borough, shall be
11 ascertained and collected in the manner provided in the laws
12 governing eminent domain.

13 (44) Watering troughs. To erect and maintain watering
14 troughs.

15 (45) Garbage and refuse disposal facilities. To erect,
16 operate and maintain garbage plants, either within or without
17 the limits of the borough, or to provide other means for the
18 collection, destruction, or removal of garbage and other refuse
19 material, and to provide for the payment of the cost or expense
20 thereof, either in whole or in part, out of the funds of the
21 borough.

22 (46)] (31) Parking lots. To acquire by lease, purchase or
23 eminent domain any land which the [corporate authorities]
24 borough council may deem necessary or desirable for the purpose
25 of establishing and maintaining parking lots, and to regulate
26 the use [thereof] of parking lots, and to regulate parking and
27 provide parking accommodations so as to promote the convenience
28 and protection of the public and to establish or designate, at
29 the discretion of the [corporate authorities] borough council,
30 areas exclusively reserved for parking by handicapped

1 individuals and to post signs regulating [such] the areas. The
2 right to regulate the use of the lots shall include the right to
3 impose fines and fees for violation of any law or ordinance
4 regulating parking. Regulation of parking lots shall be
5 consistent with 75 Pa.C.S (relating to vehicles) and the act of
6 October 27, 1955 (P.L.744, No.222), known as the "Pennsylvania
7 Human Relations Act."

8 [(47) Inclined planes. To acquire by purchase, lease, or
9 otherwise, any existing inclined plane passenger and vehicular
10 traffic transportation facilities, and to maintain and operate
11 the same in the transportation of passengers and vehicles for
12 hire, and for the accommodation of the public, and in like
13 manner to acquire or to establish bus feeder lines, and to
14 maintain and operate the same in connection with such inclined
15 plane passenger and vehicular traffic transportation facilities.

16 (48)] (32) Historical property. To acquire by purchase, or
17 by gift, and to repair, supervise, operate and maintain ancient
18 landmarks, and other property of historical or antiquarian
19 interest and to make appropriations to nonprofit associations or
20 corporations organized for the purpose of acquiring and
21 maintaining historical properties. [Such] The appropriations
22 shall only be used by the association or corporation for the
23 acquisition, restoration and maintenance of the historical
24 properties.

25 [(49)] (33) Provisions against hazards of war, terrorism and
26 disasters. To [build or establish bomb shelters or assist in so
27 doing to] provide against all hazards of war, terrorism and
28 other disasters and their consequences; and for [all such] those
29 purposes, to have the power of eminent domain, to cooperate with
30 any other unit and agency of government, Federal, State or

1 local, in every lawful way, for purposes of defense against the
2 hazards of war and terrorism and to further provide against the
3 hazards of manmade or natural disasters in conjunction with the
4 powers applicable to boroughs in 35 Pa.C.S. Pt. V (relating to
5 Emergency Management Services).

6 [(50) Street lighting. To provide street lights and to make
7 regulations for the protection thereof; and, upon the petition
8 of a majority of abutting property owners of the section
9 affected, to provide for the ornamental illumination of any
10 section of the borough and to collect the cost of the
11 installation of such illumination from the owners of property
12 fronting the streets upon which the same is installed by the
13 foot-front rule.

14 (51)] (34) Towing [equipment]. To purchase vehicles and
15 other equipment necessary for the towing of motor vehicles,
16 tractors, trailers, recreational trailers and other vehicles
17 from highways, roads, streets, and public property of the
18 borough and to impose fees [therefor] for towing whenever [such]
19 the towing equipment is used for the lawful removal of motor
20 vehicles, tractors, trailers, recreational trailers and other
21 vehicles from highways, roads, streets, and public property of
22 the borough [and/or] and to authorize or contract with [one or
23 more] commercial towers that agree to tow vehicles for a
24 negotiated price as the official towers for the borough for the
25 lawful removal of motor vehicles, tractors, trailers,
26 recreational trailers and other vehicles from highways, roads,
27 streets and public property of the borough in accordance with
28 Federal and State law and to impose fees in the same manner as
29 hereby authorized when the towing is performed with borough
30 vehicles and equipment. A commercial tower that agrees not to

1 charge in excess of the negotiated price and is otherwise
2 lawfully authorized to tow vehicles in accordance with Federal
3 and State law, shall be put on an official rotation list for the
4 borough if borough council provides for a list. This clause
5 shall apply only when the borough is requesting a vehicle to be
6 towed. In all other cases, the owner or operator of a vehicle
7 shall be permitted to select and pay for the tower.

8 [(52)] (35) Fire, rescue and life saving apparatus and
9 [houses] buildings. To purchase, or contribute to the purchase
10 of fire engines and fire apparatus, boats, rescue and life
11 saving equipment and supplies for the use of the borough[, and
12 to appropriate money to fire companies, rescue units and for the
13 construction, repair and maintenance of fire company and rescue
14 units houses, including the acquisition of land for such
15 purposes and, as set forth in this clause, for fire training
16 schools and centers.

17 The council may annually appropriate funds to fire companies
18 located within the borough for the training of its personnel,
19 and to lawfully organized or incorporated county or regional
20 firemen's associations or an entity created pursuant to the act
21 of July 12, 1972 (P.L.762, No.180), referred to as the
22 Intergovernmental Cooperation Law, to establish, equip, maintain
23 and operate fire training schools or centers] for fire, rescue
24 and life saving services including community ambulance service.
25 To appropriate money for fire companies and rescue units located
26 within the borough including for the construction, repair and
27 maintenance of buildings for fire companies and rescue units and
28 to acquire land for those purposes. Appropriations may include
29 funds to establish, equip, maintain and operate lawfully
30 organized or incorporated fire training schools within the

county or regional fire fighters' associations or an entity
created pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to
intergovernmental cooperation) for the purpose of giving
instruction and practical training in the prevention, control
and fighting of fire and related fire department emergencies to
the members of fire departments and volunteer fire companies in
any city, borough or town within this Commonwealth. Annual
appropriations may also be made to an ambulance service, or
borough council may enter into contracts for use in providing
community ambulance service.

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

(54) Lands for armory purposes. To acquire, by purchase or
by gift or by the right of eminent domain, any land for the use
of the National Guard of Pennsylvania; to convey such lands so
acquired to the Commonwealth of Pennsylvania in order to assist
the Armory Board in the erection of armories. The power
conferred by this clause shall not be exercised to take any
church property, graveyard, cemetery, or any dwelling-house or
the curtilage of the same in the actual occupancy of the owner.

(55) Appropriation of money, et cetera, to assist in
erection of armories. To appropriate money or convey land,
either independently or in conjunction with any county, city,
town, borough, or other municipal division of the Commonwealth
of Pennsylvania for the purpose of assisting the Armory Board of

1 the Commonwealth in the erection of armories for the use of the
2 national guard; and to furnish water, sewer service, light, or
3 fuel, free of cost, to the Commonwealth for use in any armory of
4 the national guard; and to do all things necessary to accomplish
5 the purpose of this clause.

6 (56) Support of national guard units. To appropriate
7 annually a sum not exceeding seven hundred and fifty dollars
8 (\$750) for the support and maintenance, discipline and training
9 of any dismounted company or similar unit of the national guard,
10 and a sum not to exceed fifteen hundred dollars (\$1500) for the
11 support and maintenance of any mounted or motorized troop or
12 similar unit of the national guard. Where such units are
13 organized as a battalion, regiment or similar organization, the
14 total amount due may be paid to the commanding officer of the
15 battalion, regiment or similar organization. Any moneys so
16 appropriated shall be paid by warrant drawn to the order of the
17 commanding officer of such company, battalion, regiment or
18 similar organization, only when it shall be certified to the
19 borough, by the Adjutant General of the State, that the said
20 company or companies have satisfactorily passed the annual
21 inspection provided by law. The moneys so appropriated shall be
22 used and expended solely and exclusively for the support and
23 maintenance, discipline and training of the said company,
24 battalion, regiment, or similar organization; and the commanding
25 officer shall account, by proper vouchers to the said borough
26 each year, for the expenditure of the money so appropriated, and
27 no appropriation shall be made for any subsequent year until the
28 expenditure of the previous year is duly and satisfactorily
29 accounted for.

30 The accounts of such expenditures shall be subject to the

1 inspection of the Department of Military Affairs, and shall be
2 audited by the Auditor General in the manner provided by law for
3 the audit of accounts of State moneys.

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

15 (58) Payment of rent for veterans' organizations. By a two-
16 thirds vote of the council, to appropriate annually a sum not
17 exceeding five hundred dollars (\$500) to be divided in such
18 amounts as council deems proper to incorporated organizations of
19 American veterans of any war in which the United States was
20 engaged, to be used in the payment of the rent of any building
21 or room or rooms in which such camps or post have their regular
22 meetings.

23 (59) Rooms for veterans' and children of veterans'
24 organizations. Upon application therefor, to furnish to each
25 organization composed of American veterans of any war in which
26 the United States was engaged and children of such veterans, a
27 room or rooms in any public building of such borough, sufficient
28 for the meeting of each of such organizations at least once each
29 month; and in the case of municipally owned utilities, to
30 furnish service without charge to such rooms, and also to

1 buildings occupied by organizations of veterans of any war in
2 which the United States was engaged.

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

17 (61) Appropriations for burial ground maintenance. To
18 appropriate annually, out of the general funds of the borough, a
19 sum not exceeding three thousand dollars (\$3000) for the care,
20 upkeep, maintenance and beautifying of cemeteries, burial
21 grounds and private roads therein or leading thereto, lying
22 wholly or partly within the boundary limits of such borough, or
23 in the territory immediately adjacent to the borough.

24 (62)] (36) Municipal music. To appropriate money for the
25 expense of municipal music.

26 [(63)] (37) Purchase and planting of trees. To accept,
27 purchase and plant, or contribute to the purchasing and planting
28 of shade trees along the streets and sidewalks of the borough
29 and to have the care, custody and control of shade trees
30 pursuant to subdivision (d) of Article XXVII.

1 [(64)] (38) Hospital appropriations. To appropriate moneys
2 for the support of any incorporated hospital which is engaged in
3 charitable work and extends treatment and medical attention to
4 residents of [such] the borough, but no [such] appropriation
5 shall exceed in any year the cost of free service extended to
6 residents of the borough which is in excess of any amount paid
7 by the Commonwealth towards [such] free service.

8 [(64.1)] (39) Building hospitals. To appropriate [not
9 exceeding one dollar (\$1) per borough resident per year] moneys
10 toward the maintenance [and/or] and support of any medical
11 center or hospital building and further appropriate from [such]
12 the funds toward the purchase [and/or] and erection of medical
13 or hospital facilities. Where the total cost of [such] the
14 purchase or erection exceeds one hundred thousand dollars
15 (\$100,000), it will necessitate approval by the appropriate
16 health planning agency. [The number of residents shall be
17 determined from the latest decennial Federal census.]

18 [(65)] (40) Community nurse services. To appropriate money
19 annually for the expense of community nurse services to any
20 nonprofit associations or corporations which provide community
21 nursing services for the elderly and other needy persons, the
22 control of communicable disease, the immunization of children,
23 the operation of child health centers (Well-Baby Clinics),
24 instructive visits to parents of new babies, beginning in the
25 prenatal period, and family health guidance, including
26 nutrition, detection and correction of defects all of which
27 relate to the responsibilities of local boards of health.

28 [(66)] Community ambulance service. To appropriate money
29 annually towards ambulance service and to enter into contracts
30 relating thereto. All appropriations of money heretofore made

and contracts heretofore entered into by any borough for ambulance service are hereby validated and confirmed.

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

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

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

[(70)] (44) Appropriations to tourist promotion agencies. To appropriate money annually[, such amount of money but not in excess of ten cents (10¢) for each resident of the borough, as determined by the latest official census, which may be deemed necessary], to any "tourist promotion agency," as defined in the act of [April 28, 1961 (P.L.111), known as the "Tourist Promotion Law,"] July 4, 2008 (P.L.621, No.50), known as the "Tourism Promotion Act," to assist [such] the agencies in carrying out tourist promotional activities.

[(71)] (45) Appropriating money to assist [political subdivisions and municipality] municipalities and municipal authorities for airports. To appropriate moneys to assist any [city, borough, town, township or other political subdivision or municipality] municipality or municipal airport authority to

1 acquire, establish, operate and maintain any and all air
2 navigation facilities lying either within or without the limits
3 of [such] the borough.

4 [(72)] (46) Non-Debt revenue bonds. To issue non-debt
5 revenue bonds pursuant to provisions of [the Act of June 25,
6 1941 (P.L.159), known as the "Municipal Borrowing Law," and its
7 amendments,] 53 Pa.C.S. Pt. VII Subpt. B (relating to
8 indebtedness and borrowing) to provide sufficient moneys for and
9 toward the acquisition, construction, reconstruction, extension
10 or improvement of municipal facilities, including water systems
11 or facilities, sewers, sewer systems and sewage disposal systems
12 or facilities, systems for the treatment or disposal of garbage
13 and refuse, gas plants or gas distribution systems for its own
14 municipal purposes, electric light or power plants or power
15 distribution systems, aeronautical facilities including but not
16 limited to airports, terminals and hangars and park and
17 recreational facilities and parking lots and facilities to be
18 secured solely by the pledge of the whole or part of the rent,
19 toll or charge for the use or services of [such] the facilities.

20 Included in the cost of the issue may be any costs and
21 expenses incident to construction and financing the facilities
22 and selling and distributing the bonds.

23 [(73)] (47) Rewards for apprehension of certain criminals.
24 To offer rewards for the arrest and conviction of persons guilty
25 of capital or other crimes within the borough.

26 [(73.1)] (48) Appropriations for Urban Common Carrier Mass
27 Transportation. To appropriate funds for urban common carrier
28 mass transportation purposes from current revenues and to make
29 annual contributions to county departments of transportation or
30 to urban common carrier mass transportation authorities to

1 assist the departments or the authorities to meet costs of
2 operation, maintenance, capital improvements, and debt service,
3 and to enter into long-term agreements providing for the payment
4 of the [said] contributions.

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

12 (75)] (49) To undertake community development programs,
13 including but not limited to urban renewal, public housing,
14 model cities programs and neighborhood development projects.

15 [(76)] (50) Sale of real or personal property to non-profit
16 medical service corporation. To sell to a non-profit medical
17 service corporation borough-owned:

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

21 (ii) personal property for use at the medical service
22 facility.

23 [(77)] (51) Sale of real or personal property to non-profit
24 housing corporation. To sell to a non-profit housing corporation
25 borough-owned:

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

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

30 [(78)] (52) Grants to nonprofit art corporations. To make

1 grants annually[, not exceeding an amount equal to one mill of
2 the real estate tax] to nonprofit art corporations for the
3 conduct of their artistic and cultural activities. For the
4 purposes of this section nonprofit art corporation shall mean a
5 local arts council, commission or coordinating agency, or any
6 other nonprofit corporation engaged in the production or display
7 of works of art, including the visual, written or performing
8 arts. Artistic and cultural activities shall include the display
9 or production of theater, music, dance, painting, architecture,
10 sculpture, arts and crafts, photography, film, graphic arts and
11 design and creative writing.

12 [(79)] (53) Appropriations for neighborhood crime watch
13 programs. To appropriate annually[, solely at the discretion of
14 the borough officials,] an amount toward a neighborhood crime
15 watch program. Notwithstanding any other provision of law, no
16 borough or official thereof shall become subject to contractual,
17 tort or other liability as a result of having made an
18 appropriation pursuant to this clause.

19 [(80)] (54) Appropriations to Senior Citizens Organizations.
20 To appropriate funds for programs which benefit senior citizens,
21 or make grants to civic organizations which represent senior
22 citizens, provide services to senior citizens, or of which its
23 members are senior citizens.

24 [(81)] (55) Appropriations to watershed associations. To
25 appropriate money to nonprofit watershed associations for
26 watersheds serving the borough. [Such appropriations]
27 Appropriations may not be used to undertake litigation against
28 any [municipal corporation] municipality or to seek redress
29 against any individual landowner.

30 [(82)] (56) Emergency services. The borough shall be

1 responsible for ensuring that fire and emergency medical
2 services are provided within the borough by the means and to the
3 extent determined by the borough, including the appropriate
4 financial and administrative assistance for these services. The
5 borough shall consult with fire and emergency medical services
6 providers to discuss the emergency services needs of the
7 borough. The borough shall require any emergency services
8 organization receiving borough funds to provide to the borough
9 an annual itemized listing of all expenditures of these funds
10 before the borough may consider budgeting additional funding to
11 the organization.

12 (57) Appropriations to conservation district. To appropriate
13 money to the conservation district, as defined in the act of May
14 15, 1945 (P.L.547, No.217), known as the "Conservation District
15 Law," in which the borough is located.

16 (58) Mines and quarries. To require the owner, operator or
17 superintendent of every mine, colliery or quarry located wholly
18 or partially within the limits of the borough, to furnish to the
19 borough maps, plans and drawings of workings, excavations and
20 surface support as the council may require. In the case of coal
21 mines and collieries, the map or plan shall exhibit the workings
22 or excavations in every seam of coal on a separate sheet, and
23 the tunnels and passages connecting with the workings or
24 excavations. It shall show in degrees the general inclination of
25 the strata, with any material deflection in the strata in the
26 workings or excavations, and shall also show the tidal
27 elevations of the bottom of every shaft, slope, tunnel and
28 gangway, and of any other point in the mine or on the surface
29 where the elevation shall be deemed necessary by the borough.
30 The map or plan shall show the number of the last survey on the

gangways or the most advanced workings. Every owner, operator, or superintendent, of a mine, colliery or quarry, shall update, at least once every three months, the pertinent maps, plans and drawings to reflect any extensions made in any mine, colliery or quarry during the three preceding months, except those made within thirty days immediately preceding the time of placing the extensions upon the map or drawing. A borough engineer, assistant or other person authorized by council may enter and survey any mine, colliery or quarry within the limits of the borough, at all reasonable times, but not so as to impede or obstruct the workings of the mine, colliery or quarry. The owner, operator or superintendent of the mine, colliery or quarry, shall furnish the means necessary for the entry, survey and exit.

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

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

(61) Real estate registry. To establish, by ordinance, and maintain a real estate registry for the purpose of procuring accurate information in reference to the ownership of real estate in the borough in a manner not inconsistent with the act of October 9, 2008 (P.L.1400, No.110), known as the "Uniform Municipal Deed Registration Act." Council shall designate a

person to have charge of the registry, who shall cause to be made and carefully preserve all necessary books, maps and plans as may show the location and ownership of every lot, piece of real estate and subdivision thereof. For purposes of establishing or maintaining the registry, the person in charge of the registry shall have access to public records without charge. Information contained within a real estate registry shall not affect the validity of any municipal claim or tax claim of the borough. Nothing in this paragraph shall prohibit a borough from requiring owners to provide information relevant to the enforcement of any borough ordinance in accordance with law.

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

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

(i) telecommunications services to the extent that provision of services is not inconsistent with 66 Pa.C.S. Ch. 30 (relating to alternative form of regulation of telecommunications services); and

(ii) cable television services in a manner consistent with Federal law.

(64) Underground conduits. To acquire, by purchase or condemnation, or to construct, underground conduits within which electrical, communication and other types of wires shall be placed and to, by ordinance and subject to approval by the Public Utility Commission, regulate the manner and terms and conditions of the use of any underground conduits. Council may define reasonable districts of the borough within which

underground conduits shall be used for the placement of wires
without the approval of the Public Utility Commission. The
powers reserved by this clause shall not be bartered away or
surrendered by the borough.

(65) Actions for municipal claims. In addition to the
remedies provided by law for the filing of liens for the
collection of municipal claims, including, but not limited to,
water rates, sewer rates and the removal of nuisances, to
proceed for the recovery and collection of claims by action of
assumpsit against the person or persons who were the owner or
owners of the property at the time of the completion of the
improvement, or at the time the water or sewer rates or the cost
of the removal of nuisances first became payable,
notwithstanding the fact that there was a failure on the part of
the borough, or its agents, to enter the municipal claim as a
lien against the property assessed for the improvement, or for
the furnishing of water or sewer services and for the removal of
nuisances and for the recovery of which the action of assumpsit
was brought. The action in assumpsit shall be commenced either
within six years after the completion of the improvement from
which the claim arises or within six years after the water or
sewer rates or the cost of abating a nuisance first became
payable.

Section 156. The act is amended by adding a section to read:

Section 1203. General Powers.--The council may make and
adopt all ordinances, bylaws, rules and regulations not
inconsistent with or restrained by the Constitution of
Pennsylvania and laws of this Commonwealth as may be expedient
or necessary for the proper management, care and control of the
borough and its finances, and the maintenance of peace, good

government, safety and welfare of the borough and its trade,
commerce and manufactures.

Section 157. Article XIII heading and section 1301 of the act are reenacted to read:

ARTICLE XIII

TAXATION AND FINANCE

Section 1301. Fiscal Year.--The fiscal year of every borough shall coincide with the calendar year, beginning January 1 and ending December 31.

Section 158. Section 1302 of the act, amended December 1, 2004 (P.L.1742, No.223), is amended to read:

Section 1302. Tax Levy.--(a) The council of the borough shall have power, by ordinance, to levy and collect annually, a tax, not exceeding thirty mills for general borough purposes, unless the council by majority action shall, upon due cause shown by resolution, petition the court of common pleas, in which case the court may order a rate of not more than five mills additional to be levied and in addition [thereto] any of the following taxes:

(1) An annual tax sufficient to pay interest and principal on any indebtedness incurred pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) or any prior or subsequent act governing the incurrence of indebtedness of the borough;

(2) To provide for pensions, retirement or the purchase of annuity contracts for borough employes, not exceeding one-half mill;

(3) To defray the cost and expenses of caring for shade trees as provided in section [2729 of this act] 2720.1, and the expense of publishing the notice referred to in such section,

1 not exceeding one-tenth mill;

2 (4) For lighting and illuminating the streets, highways and
3 other public places [with electric light, gas light or other
4 illuminant], not exceeding eight mills;

5 (5) For gas, water and electric light, not exceeding eight
6 mills, such additional millage permitted only following a
7 favorable referendum on the matter held in accordance with the
8 [act of April 16, 1875 (P.L.55), as amended] election laws of
9 this Commonwealth;

10 (6) For the purchase of fire engines, fire apparatus and
11 fire hose for the use of the borough, or for assisting any fire
12 company in the borough in the purchase, renewal or repair of any
13 of its fire engines, fire apparatus or fire hose, for the
14 purposes of making appropriations to fire companies both within
15 and without the borough and of contracting with adjacent
16 municipalities or volunteer fire companies therein for fire
17 protection, for the training of fire personnel and payments to
18 fire training schools and centers or for the purchase of land
19 upon which to erect a fire house, or for the erection and
20 maintenance of a fire house or fire training school and center
21 or fire houses, not exceeding three mills.

22 (i) The borough may appropriate up to one-half, but not to
23 exceed one mill, of the revenue generated from a tax under this
24 clause for the purpose of paying salaries, benefits or other
25 compensation of fire suppression employees of the borough or a
26 fire company serving the borough.

27 (ii) If an annual tax for the purposes specified in this
28 clause is proposed to be set at a level higher than three mills,
29 the question shall be submitted to the voters of the borough,
30 and the county board of elections shall frame the question in

1 accordance with the election laws of the Commonwealth for
2 submission to the voters of the borough;

3 (7) For building a fire house, fire training school and
4 center, lockup [and/or] or municipal building, not exceeding two
5 mills, such additional millage permitted only following a
6 favorable referendum on the matter held in accordance with the
7 [act of May 4, 1927 (P.L.673)] election laws of this
8 Commonwealth;

9 (8) To establish [and/or] and maintain a local library or to
10 maintain or aid in the maintenance of a local library
11 established by deed, gift or testamentary provision, for the use
12 of the residents of the borough, in accordance with the act of
13 June 14, 1961 (P.L.324, No.188), known as The Library Code.

14 (9) For the purpose of supporting ambulance, rescue and
15 other emergency services serving the borough, not to exceed one-
16 half mill, except as provided in subsection (e). The borough may
17 appropriate up to one-half of the revenue generated from a tax
18 under this clause for the purpose of paying salaries, benefits
19 or other compensation of employees of the ambulance, rescue or
20 other emergency service.

21 (b) The [said] taxes shall be levied on the dollar on the
22 valuation assessed for county purposes, as now is or may be
23 provided by law. All real property, offices, professions and
24 persons, made taxable by the laws of this Commonwealth for
25 county rates and levies, may, in the discretion of council, be
26 taxed after the same manner for such purposes. No action on the
27 part of the borough authorities fixing the tax rate for any year
28 at a mill rate need include a statement expressing the rate of
29 taxation in dollars and cents on each one hundred dollars (\$100)
30 of assessed valuation of taxable property.

1 (c) Nothing [herein] contained in this section shall prevent
2 the application of moneys received from taxes levied for general
3 purposes to the purposes of paying interest and sinking fund
4 charges on indebtedness.

5 (d) The proceeds of all taxes for which additional millage
6 is hereby authorized shall be kept in a separate fund and used
7 only for the purposes hereby provided [therefor: Provided,
8 That], provided that the additional taxes authorized by
9 referendum shall continue to be levied annually for so long a
10 period as provided in the question submitted in [such] the
11 referendum, and, in the case of any [such] taxes for which the
12 question voted upon shall not have stated the duration of [such]
13 the tax, until [such] the tax shall be abolished by vote of the
14 electors in a subsequent referendum.

15 (e) The tax for supporting ambulance and rescue squads
16 serving the borough shall not exceed the rate specified in
17 subsection (a) (9) except when the question is submitted to the
18 voters of the borough in the form of a referendum which will
19 appear on the ballot in accordance with the election laws of the
20 Commonwealth, in which case the rate shall not exceed two mills.
21 The county board of elections shall frame the question to be
22 submitted to the voters of the borough in accordance with the
23 election laws of the Commonwealth.

24 Section 159. Section 1302.1 of the act, added November 24,
25 1998 (P.L.827, No.108), is amended to read:

26 Section 1302.1. Different and Separate Tax Levies.--(a) A
27 borough may in any year levy separate and different rates of
28 taxation for municipal purposes on all real estate classified as
29 nonfarmland, exclusive of the buildings thereon, and on all real
30 estate classified as either buildings on land or farmland. When

1 real estate tax rates are so levied:

2 (1) The rates shall be determined by the requirements of the
3 borough budget.

4 (2) A higher rate may be levied on real estate classified as
5 nonfarmland than on real estate classified as either buildings
6 on land or farmland if the respective rates on nonfarmland and
7 on buildings or farmland are so fixed as not to constitute a
8 greater levy in the aggregate than the levy to result from the
9 maximum rate allowed by law on all real estate.

10 (3) The rates shall be uniform as to all real estate within
11 the classification.

12 (b) For purposes of this section:

13 (1) "Farmland" shall include any tract of land that is
14 actively devoted to agricultural use, including, but not limited
15 to, the commercial production of "crops, livestock and livestock
16 products" as defined in section 3 of the act of June 30, 1981
17 (P.L.128, No.43), known as the "Agricultural Area Security Law."

18 (2) "Nonfarmland" shall include any tract of land that is
19 not farmland.

20 (c) [The] Notwithstanding section 104, the provisions of
21 this section are nonseverable. If any provision of this [act]
22 section or its application to any person or circumstance is held
23 invalid, the remaining provisions or applications of this [act]
24 section are void.

25 Section 160. Section 1303 of the act, repealed in part April
26 28, 1978 (P.L.202, No.53), is amended to read:

27 Section 1303. Special Levy to Pay Debts.--In addition to the
28 levies provided for in the preceding section, when it shall be
29 shown to the court that the [corporate authorities refuse or
30 neglect] borough council refuses or neglects to levy a

1 sufficient tax to pay the debts due by the borough, the court
2 may, after ascertaining the amount of [such] the indebtedness of
3 the borough, direct a writ of mandamus to the proper officers of
4 [such] the borough to collect by special taxation an amount
5 sufficient to pay the same in one or more annual [instalments]
6 installments, as may be adjudged reasonable by [said] the court,
7 during such years as may be required for the payment of the
8 same.

9 Section 161. Sections 1304 and 1305 of the act are amended
10 to read:

11 Section 1304. Special Road Fund Tax.--Any borough shall be
12 empowered, within its general power to levy taxes, to collect
13 annually a tax upon all property taxable for borough purposes
14 not to exceed five mills on the dollar in any one year, for the
15 purpose of creating and maintaining a special fund, to be used
16 by its borough in making permanent street improvements, and to
17 pay contract prices for paving and other permanent street
18 improvements, prior to the collection of the cost and expense or
19 any part thereof from the property owners adjoining or abutting
20 thereon by the borough under existing laws.

21 When the cost and expense, or any part [thereof,] of the cost
22 and expense of the construction of any permanent street
23 improvement, which has been made under existing laws, and which
24 has been aided in its construction from the [said] special fund
25 [hereby provided for] provided for under this section, shall
26 have been assessed and collected from the owners of the property
27 adjoining or abutting upon [such] the improvement, it shall be
28 applied to the credit of the [said] special fund, to the extent
29 of the withdrawal [therefrom for such] from the special fund for
30 that purpose.

1 Section 1305. Date Tax Duplicate to Issue.--[The corporate
2 authorities of the borough] Borough council shall, within thirty
3 days after adoption of the budget or within thirty days after
4 receipt of the assessment roll from the county, whichever is
5 later, issue their duplicate of taxes assessed to the collector
6 of taxes of the borough.

7 Section 162. Section 1306 of the act, amended July 22, 1970
8 (P.L.549, No.188), is amended to read:

9 Section 1306. Additions and Revisions to Duplicates.--
10 Whenever in any borough, there is any construction of a building
11 or buildings not otherwise exempt as a dwelling after the
12 borough council has prepared a duplicate of the assessment of
13 borough taxes and the building is not included in the tax
14 duplicate of the borough, the [authority responsible for
15 assessments in the borough] county assessment office shall, upon
16 the request of the borough council, direct the assessor in the
17 [borough] county assessment office to inspect and reassess,
18 subject to the right of appeal and adjustment provided by the
19 act of assembly under which assessments are made, all taxable
20 property in the borough to which major improvements have been
21 made after the original duplicates were prepared, and to give
22 notice of such reassessments within ten days to the authority
23 responsible for assessments, the borough and the property owner.
24 The property shall then be added to the duplicate and shall be
25 taxable for borough purposes at the reassessed valuation for
26 that proportionate part of the fiscal year of the borough
27 remaining after the property was improved. Any improvement made
28 during the month shall be computed as having been made on the
29 first of the month. A certified copy of the additions or
30 revisions to the duplicate shall be furnished by the borough

1 council to the borough tax collector, together with their
2 warrant for collection of the same, and within ten days
3 thereafter, the borough tax collector shall notify the owner of
4 the property of the taxes due the borough.

5 Section 163. Sections 1307 and 1308 of the act are amended
6 to read:

7 Section 1307. Preparation of Budget.--Beginning at least
8 thirty days prior to the adoption of the budget a proposed
9 budget or annual estimate of revenues and expenditures for the
10 ensuing year shall be prepared in a manner designated by the
11 council. [The budget shall be prepared on a uniform form
12 prepared and furnished as hereinafter provided.] The proposed
13 budget shall be kept on file with the borough secretary and [by
14 him] be made available for public inspection by the borough
15 secretary for a period of ten days.

16 Section 1308. Notice of Proposed Budget; Penalty.--(a)
17 Notice that the proposed budget is available for inspection
18 shall be published by the borough secretary in a newspaper [of
19 general circulation in the borough], except in boroughs where
20 the estimated budget receipts are less than [five thousand
21 dollars (\$5000)] fifty thousand dollars (\$50,000) in the year in
22 which this amendment is enacted, where in lieu of such newspaper
23 publications, notice may be conspicuously posted during the ten
24 day period, in a place readily viewable by the public at the
25 office of the borough secretary and with such further notice as
26 shall be prescribed by council.

27 (b) Failure to give the notice herein required shall not
28 invalidate the budget adopted or the tax ordinance. Any borough
29 secretary who shall fail or refuse to give the notice that the
30 proposed budget is available for inspection, as herein required,

1 shall, upon conviction [thereof] in a summary proceeding, be
2 sentenced to pay a fine not exceeding one hundred dollars (\$100)
3 and costs of prosecution.

4 Section 164. Section 1309 of the act is reenacted to read:

5 Section 1309. Revision and Completion of Budget.--After the
6 expiration of the said ten days, council shall make such
7 revision in the budget as shall be deemed advisable. The budget
8 shall be as comprehensive and exact as the information available
9 will admit. In addition to expenditures proposed for the current
10 fiscal year, council may include as proposed expenditures a sum
11 sufficient to pay any existing indebtedness and to pay the
12 ordinary operating expenses for the subsequent year until the
13 taxes of the subsequent year are received therefor, and may also
14 include a sum to provide in whole or in part for any deferred
15 maintenance, depreciation and replacements. Within the tax levy
16 and debt limitations, council may also include, in whole or in
17 part, expenditures for capital investments and purchases.

18 Expenditures of a legislative character shall be made,
19 authorized or ratified by ordinance. Other expenditures allowed
20 by law may be made or ratified by motion in council. Such
21 expenditures, whether by ordinance or motion, shall then be
22 considered as appropriations affecting the budget. Any balance
23 of revenues over expenditures may be expended in any subsequent
24 year for any lawful purpose.

25 Section 165. Section 1310 of the act, amended June 22, 2000
26 (P.L.325, No.34), is amended to read:

27 Section 1310. Adoption of Budget[; Tax Ordinance].--Upon
28 completion of the budget, containing the estimated receipts and
29 expenditures, [and its adoption] the borough council shall adopt
30 the budget by motion [in] of the borough council, which shall

1 not be later than December thirty-first[, it shall be the duty
2 of the council to adopt an ordinance levying the taxes referred
3 to in this act for the fiscal year for approval of the mayor or
4 passage over his veto].

5 Section 166. The act is amended by adding a section to read:

6 Section 1310.1. Tax Ordinance.--After borough council has
7 adopted the budget, it shall be the duty of the borough council
8 to enact an ordinance levying the taxes referred to in this act
9 for the fiscal year subject to approval of the mayor or
10 enactment over the mayor's veto pursuant to the procedure
11 established in section 3301.3(c).

12 Section 167. Section 1311 of the act, amended June 22, 2000
13 (P.L.325, No.34), is amended to read:

14 Section 1311. Amending Budget; Notice.--During the month of
15 January next following any municipal election the council of any
16 borough may amend the budget and the levy and tax rate to
17 conform with its amended budget. A period of ten days' public
18 inspection at the office of the borough secretary of the
19 proposed amended budget after notice by the borough secretary to
20 that effect is published once in a newspaper [as provided in
21 section 109 of this act], shall intervene between the proposed
22 amended budget and the adoption thereof. Any amended budget must
23 be adopted by council on or before the fifteenth day of
24 February.

25 Section 168. Sections 1312 and 1313 of the act are reenacted
26 to read:

27 Section 1312. Modification of Budget; Supplemental
28 Appropriations and Transfers.--The council in its reasonable
29 discretion may, in any year, by motion, modify the budget after
30 its final adoption. New appropriations, supplementary

1 appropriations and transfers from one appropriation to another
2 may be made during the fiscal year, either before or after the
3 expenditure is authorized or ratified after the expenditure is
4 made, provided it is within the current year's revenues, or the
5 money therefor promptly made available through borrowing as
6 allowed by law.

7 Section 1313. Payment from Borough Funds.--All payments made
8 by the council of any borough from the borough funds shall be
9 made by proper borough orders, drawn upon the treasurer; no
10 borough order shall be authorized by council or signed by the
11 president or secretary of any council unless there are
12 sufficient funds in the treasury of the borough to pay the same,
13 and no orders shall be made payable at any time in the future or
14 draw interest. A separate borough order shall be drawn for each
15 account or payment.

16 Section 169. The act is amended by adding a section to read:

17 Section 1313.1. Creation of Special Funds; Investments.--
18 Borough council may set aside in a separate fund any moneys
19 received out of or from the sale, lease or other disposition of
20 any borough property or received from any source unless such
21 money was received or acquired for a particular purpose. The
22 fund shall be controlled, invested and administered, and the
23 income arising therefrom expended, in the manner as may be
24 determined by action of the council pursuant to the ordinance
25 creating the fund. The ordinance may provide that only the
26 income from the fund may be used or expended, and that neither
27 principal, nor any part thereof, may be used or expended unless
28 upon authorization of a majority vote of the qualified electors
29 of the borough. All ordinances previously enacted by any
30 borough, creating and establishing a separate fund as is

1 authorized by this section, shall be deemed and taken as valid
2 and effectual for all purposes provided that all other
3 requirements of law concerning the enactment of the same have
4 been complied with.

5 Section 170. Section 1314 of the act, amended June 22, 2000
6 (P.L.325, No.34), is amended to read:

7 Section 1314. Uniform Financial Report; Forms.--The uniform
8 forms for the annual financial statement required to be made by
9 the auditors or the controller shall be prepared by a committee
10 consisting of four representatives from the Pennsylvania State
11 Association of Boroughs, [and] the Secretary of Community and
12 Economic Development, or [his agent] the secretary's designee
13 and any additional members appointed pursuant to statute.

14 [Such] The representatives of boroughs shall be appointed by
15 the president of the [organization. Such] Pennsylvania State
16 Association of Boroughs. The representatives shall be chosen
17 from among the finance officers or other officers of the borough
18 who have knowledge of their fiscal procedures. As far as
19 possible, they shall be chosen to represent boroughs in the
20 various population groups. The president of the organization
21 shall supply to the Department of Community and Economic
22 Development the names and addresses of [such] the
23 representatives immediately upon their appointment.

24 [Such] The representatives shall serve without compensation,
25 but shall be reimbursed by the Commonwealth for all necessary
26 expenses incurred in attending meetings of the committee. The
27 committee shall meet from time to time as conditions may warrant
28 at the call of Secretary of Community and Economic Development,
29 or [his agent] the secretary's designee, who shall serve as
30 [chairman] chair of the committee.

1 It shall be the duty of the Secretary of Community and
2 Economic Development, or [his agent] the secretary's designee,
3 to see to it that the forms required by this article are
4 prepared in cooperation with [such] the committee. In the event
5 that the committee should for any reason fail to furnish such
6 cooperation, the Secretary of Community and Economic
7 Development, or [his agent] the secretary's designee, shall
8 prepare the forms. After their preparation, [he] the secretary
9 shall issue [such] the forms and distribute them annually, as
10 needed to the proper officers of each borough.

11 Section 171. Section 1315 of the act is amended to read:

12 Section 1315. Capital Improvements to Certain Public Service
13 Facilities.--(a) For the purpose of financing the cost and
14 expense or its share of the cost and expense of capital
15 improvements by altering, improving or enlarging (i) its sewer,
16 sewer system or sewage treatment works, either singly or
17 jointly, with other municipalities [or townships, or both], or
18 (ii) its water works, either singly or jointly, with other
19 municipalities [or townships, or both], or (iii) its electric
20 light or power plant or power distribution system, or (iv) its
21 gas plant or gas distribution system for its own municipal
22 purposes, including the purchase and installation of machinery
23 and equipment, any borough owning any such plant or facility may
24 issue non-debt revenue bonds as provided in clause [(72)] (46)
25 of section 1202 of this act.

26 (b) Any borough issuing non-debt revenue bonds under the
27 authority of this section shall adjust and, where necessary,
28 increase the rates of rentals or charges pledged as security for
29 the bonds, in order to provide sufficient revenue which shall be
30 set aside as reserve funds to cover depreciation of the

1 properties involved, and for future improvements to the plant or
2 facility involved, as well as for the payment of the interest on
3 the bonds and the principal at the time of maturity.

4 Section 172. Section 1316 of the act, amended or added
5 November 2, 1979 (P.L.458, No.94) and December 13, 1982
6 (P.L.1145, No.261), is amended to read:

7 Section 1316. Investment of Funds.--(a) Council shall
8 invest borough funds consistent with sound business practice.

9 (b) Council shall provide for an investment program subject
10 to restrictions contained in this act and in any other
11 applicable statute and any rules and regulations adopted by
12 council.

13 (c) Authorized types of investments for borough funds shall
14 be:

15 (i) United States Treasury bills.

16 (ii) Short-term obligations of the United States Government
17 or its agencies or instrumentalities.

18 (iii) Deposits in savings accounts or time deposits, other
19 than certificates of deposit, or share accounts of institutions
20 insured by the Federal Deposit Insurance Corporation [or the
21 Federal Savings and Loan Insurance Corporation] or the National
22 Credit Union Share Insurance Fund [or the Pennsylvania Deposit
23 Insurance Corporation or the Pennsylvania Savings Association
24 Insurance Corporation] to the extent that such accounts are so
25 insured, and, for any amounts above the insured maximum,
26 provided that approved collateral as provided by law therefore
27 shall be pledged by the depository.

28 (iv) Obligations of the United States of America or any of
29 its agencies or instrumentalities backed by the full faith and
30 credit of the United States of America, the Commonwealth of

1 Pennsylvania or any of its agencies or instrumentalities backed
2 by the full faith and credit of the Commonwealth, or of any
3 political subdivision of the Commonwealth of Pennsylvania or any
4 of its agencies or instrumentalities backed by the full faith
5 and credit of the political subdivision.

6 (v) Shares of an investment company registered under the
7 Investment Company Act of 1940, whose shares are registered
8 under the Securities Act of 1933, provided that the only
9 investments of that company are in the authorized investments
10 for borough funds listed in (i) through (iv).

11 (vi) Certificates of deposit purchased from institutions
12 insured by the Federal Deposit Insurance Corporation [or the
13 Federal Savings and Loan Insurance Corporation] or the National
14 Credit Union Share Insurance Fund [or the Pennsylvania Deposit
15 Insurance Corporation or the Pennsylvania Savings Association
16 Insurance Corporation] to the extent that such accounts are so
17 insured. However, for any amounts above the insured maximum,
18 such certificates of deposit shall be collateralized by a pledge
19 or assignment of assets of the institution, and such collateral
20 may include loans (including interest in pools of loans) secured
21 by first mortgage liens on real property. Certificates of
22 deposit purchased from commercial banks shall be limited to an
23 amount equal to twenty percent of a bank's total capital and
24 surplus. Certificates of deposit purchased from savings and loan
25 associations or savings banks shall be limited to an amount
26 equal to twenty percent of an institution's assets minus
27 liabilities.

28 (vii) Any investment authorized by 20 Pa.C.S. Ch.73
29 (relating to fiduciaries investments) shall be an authorized
30 investment for any pension or retirement fund.

1 (viii) Bonds of a municipal authority or parking authority
2 created solely by the borough, for the purpose either of
3 investment or of possible retirement of the bonds and
4 acquisition of authority projects at an earlier date than
5 originally contemplated, using for the purpose either surplus
6 funds of the borough or money appropriated in the annual budget
7 for the purpose.

8 (d) In making investments of borough funds, council shall
9 have authority:

10 (i) To permit assets pledged as collateral under subsection
11 (c)(iii), to be pooled in accordance with the act of August 6,
12 1971 (P.L.281, No.72), relating to pledges of assets to secure
13 deposits of public funds.

14 (ii) To combine moneys from more than one fund under borough
15 control for the purchase of a single investment, provided that
16 each of the funds combined for the purpose shall be accounted
17 for separately in all respects and that the earnings from the
18 investment are separately and individually computed and
19 recorded, and credited to the accounts from which the investment
20 was purchased.

21 (iii) To join with one or more other political subdivisions
22 and municipal authorities in accordance with [the act of July
23 12, 1972 (P.L.762, No.180), entitled "An act relating to
24 intergovernmental cooperation,"] 53 Pa.C.S. Ch. 23 Subch. A
25 (relating to intergovernmental cooperation) in the purchase of a
26 single investment, provided that the requirements of subclause
27 (ii) on separate accounting of individual funds and separate
28 computation, recording and crediting of the earnings therefrom
29 are adhered to.

30 Section 173. Section 1317 of the act, added November 21,

1 2001 (P.L.843, No.85), is repealed:

2 [Section 1317. Conservation District.--The council may make
3 appropriations to the conservation district, as defined in the
4 act of May 15, 1945 (P.L.547, No.217), known as the
5 "Conservation District Law," in which the borough is located.]

6 Section 174. Article XIV heading of the act is reenacted to
7 read:

8 ARTICLE XIV

9 CONTRACTS

10 Section 175. Section 1401 of the act is amended to read:

11 Section 1401. Power to Make Contracts.--(a) Each borough
12 may make contracts for lawful purposes and for the purposes of
13 carrying into execution the provisions of this act and laws of
14 the Commonwealth.

15 (b) Except as otherwise specifically provided in this act,
16 all contracts and purchases shall be made with and from the
17 lowest qualified and responsible bidder. In awarding contracts
18 and making purchases, council shall have the right to take into
19 consideration such factors as the availability, cost and quality
20 of service, and may establish pre-qualification standards for
21 contracts and purchases. Any pre-qualification standards shall
22 be reasonably designed to assist council in determining the
23 ability of a bidder to successfully complete a contract or
24 purchase.

25 (c) A borough may permit the electronic submission of bids
26 and may receive bids electronically for competitively bid
27 purchases and contracts pursuant to 62 Pa.C.S. Ch. 46 (relating
28 to electronic bidding by local government units).

29 Section 176. Section 1402 of the act, amended or added
30 October 4, 1978 (P.L.1022, No.226), April 6, 1980 (P.L.95,

1 No.34), July 10, 1990 (P.L.383, No.90), June 26, 1995 (P.L.63,
2 No.12), December 18, 1996 (P.L.1141, No.171), December 18, 1996
3 (P.L.1156, No.175), December 20, 1996 (P.L.1497, No.193) and
4 October 27, 2010 (P.L.862, No.87), is amended to read:

5 Section 1402. Regulation of Contracts.--(a) All contracts
6 or purchases in excess of ten thousand dollars (\$10,000), except
7 those [hereinafter] mentioned[,]
8 in this section and except as
9 provided by the act of October 27, 1979 (P.L.241, No.78),
10 entitled "An act authorizing political subdivisions,
11 municipality authorities and transportation authorities to enter
12 into contracts for the purchase of goods and the sale of real
13 and personal property where no bids are received," shall not be
14 made except with and from the lowest qualified and responsible
15 bidder after due notice in one newspaper [of general circulation
16 in the borough], at least two times at intervals of not less
17 than three days where daily newspapers of general circulation
18 are available for [such] publication, in case of weekly
19 newspapers, [such] notice once a week for two successive weeks.
20 The first advertisement shall be published not more than forty-
21 five days and the second advertisement not less than ten days
22 prior to the date fixed for the opening of bids. Advertisements
23 for contracts or purchases shall also be posted in a conspicuous
24 place within the borough. Advertisements for contracts and
25 purchases shall contain the date, time and location for opening
26 of bids and shall state the amount of the performance bond
27 determined under subsection (c). The amount of the contract
28 shall in all cases, whether of straight sale price, conditional
29 sale, [bailment] lease, lease purchase or otherwise, be the
30 entire amount which the borough pays to the successful bidder or
his assigns in order to obtain the services or property, or

1 both, and shall not be construed to mean only the amount which
2 is paid to acquire title or to receive any other particular
3 benefit or benefits of the whole bargain. [In awarding
4 contracts, council shall have the right to take into
5 consideration such other factors as the availability, cost and
6 quality of service.]

7 (a.1) Written or telephonic price quotations from at least
8 three qualified and responsible contractors shall be requested
9 for all contracts that exceed four thousand dollars (\$4,000) but
10 are less than the amount requiring advertisement and competitive
11 bidding or, in lieu of price quotations, a memorandum shall be
12 kept on file showing that fewer than three qualified contractors
13 exist in the market area within which it is practicable to
14 obtain quotations. A written record of telephonic price
15 quotations shall be made and shall contain at least the date of
16 the quotation, the name of the contractor and the contractor's
17 representative, the construction, reconstruction, repair,
18 maintenance or work which was the subject of the quotation and
19 the price. Written price quotations, written records of
20 telephonic price quotations and memoranda shall be retained for
21 a period of three years. Written price quotations as used
22 throughout this section shall include electronic mail.

23 (b) (1) The award of contracts shall only be made by public
24 announcement at the meeting at which bids are received, or at a
25 subsequent meeting, the time and place of which shall be
26 publicly announced when bids are received. If for any reason one
27 or both of the above meetings shall not be held, the same
28 business may be transacted at any subsequent meeting if at least
29 five days' notice thereof shall be published in the newspaper
30 aforesaid. At council's request, all bids advertised for shall

1 be accompanied by cash, money order, a certified or cashier's
2 good faith check, or other irrevocable letter of credit drawn
3 upon a bank authorized to do business in this Commonwealth or by
4 a bond with corporate surety in such amount as council shall
5 determine, and, when requested, no bid shall be considered
6 unless so accompanied.

7 (2) Notwithstanding clause (1), council may direct that a
8 committee of council, a member of council or a member of the
9 borough staff receive, open and review bids during normal
10 business hours and forward the information to council for
11 subsequent award at a public meeting. Bidders shall be notified
12 and other interested parties, upon request, shall be notified of
13 the date, time and location of the opening of bids and may be
14 present when the bids are opened.

15 (c) The successful bidder when advertising as required
16 herein may, at the discretion of council, be required to furnish
17 a bond or irrevocable letter of credit or other security with
18 suitable reasonable requirements guaranteeing the work to be
19 done with sufficient surety in an amount as determined by
20 council which shall be not less than ten percent nor more than
21 one hundred percent of the amount of the liability under the
22 contract within twenty days after the contract has been awarded,
23 unless council shall prescribe a shorter period of not less than
24 ten days, and upon failure to furnish such [bond] security
25 within such time the previous award shall be void. Deliveries,
26 accomplishment and guarantees may be required in all cases of
27 expenditures.

28 (d) The contracts or purchases made by council, which shall
29 not require advertising, bidding or price quotations as
30 hereinbefore provided, are as follows:

1 (1) Those for maintenance, repairs or replacements for
2 water, electric light or public works of the borough, provided
3 they do not constitute new additions, extensions or enlargements
4 of existing facilities and equipment, but [a bond] security may
5 be required by council, as in other cases of work done;

6 (2) Those made for improvements, repairs and maintenance of
7 any kind, made or provided by any borough, through its own
8 [employees: Provided, That] employees, provided that all materials
9 used for street improvement, maintenance [and/or] or
10 construction in excess of [four thousand dollars (\$4,000)] the
11 amount specified or adjusted under subsection (a.1) be subject
12 to the relevant price quotation or advertising requirements
13 contained [herein] in this section;

14 (3) Those where particular types, models or pieces of new
15 equipment, articles, apparatus, appliances, computer software,
16 vehicles or parts thereof are desired by council, which are
17 patented and manufactured or copyrighted products;

18 (3.1) Those for used equipment, articles, apparatus,
19 appliances, vehicles or parts thereof being purchased from a
20 public utility[.];

21 (4) Those involving any policies of insurance or surety
22 company bonds; those made for [public] utility service [under
23 tariffs on file with the Pennsylvania Public Utility Commission]
24 for borough purposes, including, but not limited to, those made
25 for natural gas or telecommunications services; those made for
26 electricity with the entities set forth in clause 6(i), (ii),
27 (iii), (iv), (v), (vi) and (vii) (A); those made with another
28 political subdivision, or a county, or council of government,
29 consortium, cooperative or other similar entity created pursuant
30 to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental

cooperation) or the Commonwealth of Pennsylvania, the Federal Government, any agency of the Commonwealth or the Federal Government, or any municipal authority, including the sale, leasing or loan of any supplies or materials by the Commonwealth or the Federal Government or their agencies. The price thereof shall not be in excess of that fixed by the Commonwealth, the Federal Government, or their agencies;

(5) Those involving personal or professional services[.];

(6) Those made relating to the purchase of electricity and associated energy and related services by a borough owning or operating electric generation or distribution facilities on the effective date of this section with any of the following:

(i) A political subdivision.

(ii) Another state.

(iii) The Commonwealth or an agency thereof.

(iv) The Federal Government.

(v) A private corporation.

(vi) An electric cooperative corporation under 15 Pa.C.S. Ch. 73 (relating to electric cooperative corporations).

(vii) A non-profit membership corporation. As used in this subclause, the term "non-profit membership corporation" means an entity, the membership of which:

(A) consists solely of Pennsylvania boroughs, such as a consortium, buying group or municipal power agency under section 2471.2; or

(B) consists of Pennsylvania boroughs and political subdivisions of another state or states.

(viii) An electric cooperative of another state.

Nothing in this clause shall prohibit council from engaging in advertising, bidding or price quotations if the council

determines that the advertising, bidding or price quotations are in the public interest.

(e) [Every contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works shall comply with the provisions of the act of March 3, 1978 (P.L.6, No.3), known as the "Steel Products Procurement Act."] Council shall award contracts subject to the requirements of, and may exercise any powers granted by, the following acts to the extent applicable: the act of March 3, 1978 (P.L.6, No.3), known as the "Steel Products Procurement Act," the act of December 20, 1967 (P.L.869, No.385), known as the "Public Works Contractors' Bond Law of 1967," the act of August 15, 1961 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage Act," the act of January 17, 1968 (P.L.11, No.5), known as "The Minimum Wage Act of 1968," the act of February 17, 1994 (P.L.73, No.7), known as the "Contractor and Subcontractor Payment Act," the act of January 23, 1974 (P.L.9, No.4), referred to as the Public Contract Bid Withdrawal Law, 62 Pa.C.S. Pt. II (relating to general procurement provisions), and any other applicable act enacted before or after this act.

(f) No person, consultant, firm or corporation contracting with the borough for purposes of rendering personal or professional services to the borough shall share with any borough officer or employee, and no borough officer or employee shall accept, any portion of the compensation or fees paid by the borough for the contracted services provided to the borough except under the following terms or conditions:

(1) Full disclosure of all relevant information regarding the sharing of the compensation or fees shall be made to the council of the borough.

1 (2) The council of the borough must approve the sharing of
2 any fee or compensation for personal or professional services
3 prior to the performance of [said] the services.

4 (3) No fee or compensation for personal or professional
5 services may be shared except for work actually performed.

6 (4) No shared fee or compensation for personal or
7 professional services may be paid at a rate in excess of that
8 commensurate for similar personal or professional services.

9 Section 177. Section 1403 of the act, amended July 10, 1990
10 (P.L.383, No.90), is amended to read:

11 Section 1403. Evasion of Advertising Requirements.--(a) No
12 member or members of council shall evade the provisions of
13 section 1402 hereof as to advertising for bids, by purchasing or
14 contracting for services and personal properties piecemeal for
15 the purpose of obtaining prices under ten thousand dollars
16 (\$10,000) upon transactions, which transactions should, in the
17 exercise of reasonable discretion and prudence, be conducted as
18 one transaction amounting to more than ten thousand dollars
19 (\$10,000). This provision is intended to make unlawful the
20 evading of advertising requirements by making a series of
21 purchases or contracts, each for less than the advertising
22 requirement price, or by making several simultaneous purchases
23 or contracts, each below said price, when, in either case, the
24 transactions involved should have been made as one transaction
25 for one price. Any members of council who so vote in violation
26 of this provision and who know that the transaction upon which
27 they so vote is or ought to be a part of a larger transaction
28 and that it is being divided in order to evade the requirements
29 as to advertising for bids, shall be jointly and severally
30 subject to surcharge for ten percent of the full amount of the

1 contract or purchase. Whenever it shall appear that a member of
2 council may have voted in violation of this section but the
3 purchase or contract on which [he so] the member of council
4 voted was not approved by council, this section shall be
5 inapplicable.

6 (b) Any council member who votes to unlawfully evade the
7 provisions of section 1402 and who knows that the transaction
8 upon which he so votes is or ought to be a part of a larger
9 transaction and that it is being divided in order to evade the
10 requirements as to advertising for bids commits a misdemeanor of
11 the third degree for each contract entered into as a direct
12 result of that vote. This penalty shall be in addition to any
13 surcharge which may be assessed pursuant to subsection (a).

14 Section 178. Section 1404 of the act, amended June 25, 2001
15 (P.L.651, No.56), is amended to read:

16 Section 1404. [Penalty for] Personal Interest in Contracts
17 or Purchases.--[Except as otherwise provided in this act, no
18 borough official either elected or appointed, who knows or who
19 by the exercise of reasonable diligence could know, shall be
20 interested to any appreciable degree either directly or
21 indirectly in any purchase made or contract entered into or
22 expenditure of money made by the borough or relating to the
23 business of the borough, involving the expenditure by the
24 borough of more than one thousand dollars (\$1000) in any
25 calendar year, but this limitation shall not apply to cases
26 where such officer or appointee of the borough is an employe of
27 the person, firm or corporation to which the money is to be paid
28 in a capacity with no possible influence on the transaction, and
29 in which he cannot be possibly benefited thereby either
30 financially or otherwise. But in the case of a member of council

1 or mayor, if he knows that he is within the exception just
2 mentioned he shall so inform council and shall refrain from
3 voting on the expenditure or any ordinance relating thereto, and
4 shall in no manner participate therein. Any official or
5 appointee who shall knowingly violate the provisions of this
6 section shall be subject to surcharge to the extent of the
7 damage shown to be thereby sustained by the borough and to
8 ouster from office, and shall be guilty of a misdemeanor, and
9 upon conviction thereof shall be sentenced to pay a fine not
10 exceeding one thousand dollars (\$1000), or not exceeding one
11 hundred eighty days' imprisonment, or both] Elected and
12 appointed borough officials and borough employees shall be
13 restricted from any interest in borough contracts and purchases
14 to the extent provided in 65 Pa.C.S. Ch. 11 (relating to ethics
15 standards and financial disclosure).

16 Section 179. Section 1404.1 of the act, added December 1,
17 1977 (P.L.245, No.80), is amended to read:

18 Section 1404.1. Purchase Contracts for Petroleum Products;
19 Fire Company, Etc., Participation.--The council of each borough
20 shall have power to permit, subject to such terms and conditions
21 as it may, and as hereinafter specifically provided, shall,
22 prescribe any paid or volunteer fire company, paid or volunteer
23 rescue company and paid or volunteer ambulance company in the
24 borough to participate in purchase contracts for petroleum
25 products entered into by the borough. Any such company desiring
26 to participate in [such] purchase contracts shall file with the
27 borough secretary a request that it be authorized to participate
28 in contracts for the purchase of petroleum products of the
29 borough and agreeing that it will be bound by [such] the terms
30 and conditions as the borough may, and as hereinafter

1 specifically provided, shall, prescribe and that it will be
2 responsible for payment directly to the vendor under each
3 purchase contract. Among [such] the terms and conditions, the
4 borough shall prescribe that all prices shall be F.O.B.
5 destination.

6 Section 180. Section 1405 of the act, amended July 10, 1990
7 (P.L.383, No.90), is amended to read:

8 Section 1405. Separate Bids for Plumbing, Heating,
9 Ventilating and Electrical Work.--In the preparation for the
10 erection, construction and alteration of any public building,
11 when the entire cost of [such] the work shall exceed ten
12 thousand dollars (\$10,000), the architect, engineer, or other
13 person preparing [such] the specifications may, if so requested
14 by the borough council, prepare separate specifications for the
15 plumbing, heating, ventilating and electrical work. The person
16 or persons authorized to enter into contracts for the erection,
17 construction or alteration of [such] the public buildings may,
18 if [such] the separate specifications shall have been proposed,
19 receive separate bids upon each of the [said] branches of work
20 and shall [thereupon] award the contract [for the same] to the
21 lowest responsible bidder for each of [said] the branches.

22 Section 181. Section 1406 of the act, amended October 9,
23 1967 (P.L.380, No.171), is amended to read:

24 Section 1406. Bonds for the Protection of Labor and
25 [Materialmen] Materials.--[It shall be the duty of every borough
26 to require any person, copartnership, association, or
27 corporation, entering into a contract with such borough for the
28 construction, erection, installation, completion, alteration,
29 repair of, or addition to, any public work or improvement of any
30 kind whatsoever, where the amount of such contract is in excess

1 of one thousand five hundred dollars (\$1,500), before commencing
2 work under such contract, to execute and deliver to such
3 borough, in addition to any other bond which may now or
4 hereafter be required by law to be given in connection with such
5 contract, an additional bond for the use of any and every
6 person, copartnership, association, or corporation interested,
7 in a sum not less than fifty percent and not more than one
8 hundred percent of the contract price, as such borough may
9 prescribe, having as surety thereon one or more surety companies
10 legally authorized to do business in this Commonwealth,
11 conditioned for the prompt payment of all material furnished and
12 labor supplied or performed in the prosecution of the work,
13 whether or not the said material or labor enter into and become
14 component parts of the work or improvement contemplated. Such
15 additional bond shall be deposited with and held by the borough
16 for the use of any party interested therein. Every such
17 additional bond shall provide that every person, copartnership,
18 association, or corporation, who, whether as subcontractor or
19 otherwise, has furnished material or supplied or performed labor
20 in the prosecution of the work as above provided, and who has
21 not been paid therefor, may sue in assumpsit on said additional
22 bond, in the name of the borough, for his, their or its use and
23 prosecute the same to final judgment for such sum or sums as may
24 be justly due him, them, or it and have execution thereof;
25 provided, the borough shall not be liable for the payment of any
26 costs or expense of any suit.] Before any contract exceeding ten
27 thousand dollars (\$10,000) is awarded to any prime contractor or
28 construction manager for the construction, erection,
29 installation, completion, alteration, repair of or addition to
30 any public work or improvement of any kind, the contractor shall

furnish to the borough a payment bond for the protection of
claimants supplying labor or materials to the prime contractor
to whom the contract is awarded, at one hundred percent of the
contract amount, conditioned for the prompt payment of all
materials furnished or labor supplied or performed in the
prosecution of the contract under the act of December 20, 1967
(P.L.869, No.385), known as the "Public Works Contractors' Bond
Law of 1967." This bond requirement shall be in addition to any
other bond requirement that may now or hereafter be required by
law to be given in connection with the contract.

Section 182. Section 1407 of the act is repealed:

[Section 1407. Minimum Wage Specifications in Contracts.--
The specifications upon which contracts are entered into by any
borough for the construction, alteration or repair of any public
work or improvement may, at the option of the borough council,
contain the minimum wage or wages which may be paid by the
contractor or his subcontractors for the work performed by
laborers and mechanics employed on such public work or
improvement, and such laborers and mechanics shall in such cases
be paid not less than such minimum wage or wages.

Every contract for the construction, alteration or repair of
any public work or improvement, founded on specifications
containing any such stipulation for minimum wage or wages, shall
stipulate a penalty of an amount equal to twice the difference
between the minimum wage contained in said specifications and
the wage actually paid to each laborer or mechanic for each day
during which he shall have been employed at a wage less than
that prescribed in said specifications.

Every officer or person designated as an inspector of or
having supervision over the work to be performed under any such

1 contract, in order to aid in enforcing the fulfillment thereof,
2 shall, upon observation or investigation, report to the borough
3 council or agency which let the contract, all violations of
4 minimum wage stipulations, together with the name of each
5 laborer or mechanic who has been paid a wage less than
6 prescribed by the specifications, and the day or days of such
7 violation.

8 All such penalties shall be withheld and deducted for the use
9 of the borough from any moneys due the contractor by the officer
10 or person whose duty it shall be to authorize the payment of
11 moneys due such contractor, whether the violation of the minimum
12 stipulation of the specifications was by the contractor or by
13 any of his subcontractors. If any such contractor or
14 subcontractor subsequently pays to all laborers and mechanics
15 the balance of the amounts stipulated in such contract, the
16 borough shall pay to the contractor the amounts so withheld as
17 penalties.]

18 Section 183. Section 1410 of the act is amended to read:

19 Section 1410. Acceptance by Contractor of [Workmen's]
20 Workers' Compensation Act.--All contracts executed by any
21 borough, or any officer [thereof] of a borough, which involves
22 the construction or doing of any work involving the employment
23 of labor, shall contain a provision that the contractor shall
24 accept, insofar as the work covered by [any such] the contract
25 is concerned, the provisions of the [Workmen's Compensation Act
26 of 1915,] act of June 2, 1915 (P.L.736, No.338), known as the
27 "Workers' Compensation Act," and the supplements and amendments
28 [thereto] to the act, and that the [said] contractor will insure
29 his or her liability [thereunder] under the act and will file
30 with the borough with which the contract is made a certificate

1 of insurance providing evidence of such coverage, or file with
2 the borough with which the contract is made a certificate of
3 exemption from insurance from the Bureau of [Workmen's] Workers'
4 Compensation of the Department of Labor and Industry. The
5 certificate of exemption from insurance may be issued on the
6 basis of either individual self-insurance or group self-
7 insurance. Additionally, a contractor shall file with the
8 borough with which the contract is made any applications to be
9 excepted by the provisions of the "Workers' Compensation Act" in
10 respect to certain employees on religious grounds if the
11 applications have been accepted by the Department of Labor and
12 Industry.

13 Any contract executed in violation of this section shall be
14 null and void.

15 Section 184. Section 1411 of the act, amended July 10, 1981
16 (P.L.247, No.80), is repealed:

17 [Section 1411. Architects and Engineers Employed Prohibited
18 From Bidding on Public Works; Penalty.--It shall be unlawful for
19 any architect or engineer, in the employ of any borough, and
20 engaged in the preparation of plans, specifications or
21 estimates, to bid or negotiate on any public work at any letting
22 of such work by the borough, except that any such architect or
23 engineer who shall have prepared preliminary plans only shall
24 not be prohibited from bidding or negotiating on the final
25 contract for such work.

26 It shall be unlawful for the officers of any borough charged
27 with the duty of letting any public work, to award a contract to
28 any such architect or engineer, in the employ of the borough to
29 be in any way interested in any contract for public work for the
30 borough or to receive any remuneration or gratuity from any

1 person interested in such contract except under the terms and
2 conditions as provided in section 1402(f).

3 Any person violating any of the provisions of this section
4 shall forfeit his office, and shall be guilty of a misdemeanor,
5 and on conviction thereof, shall be sentenced to pay a fine not
6 exceeding five hundred dollars (\$500), or to undergo
7 imprisonment for not more than six months, or both.]

8 Section 185. Article XV heading of the act is amended to
9 read:

10 ARTICLE XV

11 EMINENT DOMAIN; ASSESSMENT OF DAMAGES [AND
12 BENEFITS]; DAMAGES FOR INJURY TO PROPERTY

13 Section 186. Article XV subdivision (a) heading of the act
14 is reenacted to read:

15 (a) General Provisions Relating to Eminent Domain

16 Section 187. Sections 1501 and 1502 of the act are amended
17 to read:

18 Section 1501. Exercise of Eminent Domain.--In the laying
19 out, opening, widening, extending, vacating, grading, or
20 changing the grades or lines of streets; the construction of
21 bridges, and the piers and abutments therefor; the construction
22 of slopes, embankments, and sewers; the erection and extension
23 of [waterworks] water systems, wharves, and docks, public
24 buildings, public auditoriums, memorials, monuments, public
25 works, filtration plants, sewerage systems, sewage treatment
26 works, [garbage] refuse disposal or incineration plants,
27 sanitary landfills, gas plants, electric light plants and
28 libraries; the establishing of parks, playgrounds and recreation
29 places; the changing of watercourses; and for all other purposes
30 authorized by this act, a borough may enter upon, appropriate,

1 injure, or destroy, private lands, property or material, or
2 lands previously granted or dedicated to public use and which
3 are no longer used for the purpose for which the lands were
4 granted, according to the proceedings set forth in the law
5 governing eminent domain.

6 Section 1502. Restrictions as to Certain Property.--(a) In
7 addition to [the] any restrictions made by other provisions of
8 this act in particular cases, no borough shall exercise the
9 right of eminent domain as against land now occupied by any
10 building which was used during the Colonial or Revolutionary
11 period as a place of assembly by the Council of the Colony of
12 Pennsylvania, the Supreme Executive Council of the Commonwealth
13 of Pennsylvania, or the Congress of the United States; or as
14 against the land occupied by any fort, redoubt, or blockhouse
15 erected during the Colonial or Revolutionary period, or any
16 building used as headquarters by the Commander-in-Chief of the
17 Continental Army; or as against the site of any building, fort,
18 redoubt, blockhouse, or headquarters, which are preserved for
19 their historic associations and not for private profit. The
20 Colonial and Revolutionary period shall be taken as ended on
21 September 3, 1783.

22 (b) No land or property used for a cemetery, burying ground
23 or place of public worship may be taken or appropriated by
24 virtue of any power contained in this article.

25 Section 188. The act is amended by adding a section to read:

26 Section 1502.1. Declaration of Intention.--A borough shall
27 declare its intention to acquire, enter upon, take, use and
28 appropriate any private property or land for any of the purposes
29 authorized by this article through a duly enacted ordinance.

30 Section 189. Section 1503 of the act, added October 9, 1967

1 (P.L.399, No.181), is amended to read:

2 Section 1503. Application of [the Act of June 22, 1964 (P.L.
3 84)] 26 Pa.C.S.--[Notwithstanding any of the provisions of this
4 act, all] All eminent domain proceedings shall conform to the
5 provisions of [the act of June 22, 1964 (P.L.84), known as the
6 "Eminent Domain Code."]
7 26 Pa.C.S. (relating to eminent domain),
8 including, but not limited to, payment of damages and costs.

8 Section 190. Article XV subdivision (b) heading and section
9 1525 of the act, repealed in part April 28, 1978 (P.L.202,
10 No.53), are repealed:

11 [(b) Procedure for the Assessment of Benefits by Viewers

12 Section 1525. Assessment of Benefits.--The viewers shall
13 assess the total cost of the improvement, or so much thereof as
14 may be just and reasonable, upon the lands or properties
15 peculiarly benefited.]

16 Section 191. Section 1547 of the act is repealed:

17 [Section 1547. Assessments to Bear Interest.--All
18 assessments for benefits, costs, and expenses shall bear
19 interest at six percent per annum from the expiration of thirty
20 days after they shall have been finally ascertained, and shall
21 be payable to the treasurer of the borough.]

22 Section 192. Article XV subdivision (c) heading of the act
23 is reenacted to read:

24 (c) Damages for Injury to Property

25 Section 193. Section 1561 of the act is amended to read:

26 Section 1561. Right to Damage Given in Certain Cases.--The
27 right to damage against boroughs is given to all owners or
28 tenants of lands, property, or material, abutting on, or through
29 which pass, streets, injured by the vacating of [such] the
30 streets, or the vacation of bridges and piers, abutments and

1 approaches therefor.

2 Section 194. Sections 1562, 1563 and 1565 and Article XVI
3 heading of the act are repealed:

4 [Section 1562. Juries of View to Assess Damages and
5 Benefits.--All juries of view for assessing damages for taking,
6 using, occupying, or injuring land, property, or material, are
7 directed to assess the damages, provided for in the preceding
8 section, against boroughs, and the benefits in connection
9 therewith, and make a report thereof to the court.

10 Section 1563. Appeals from Viewers' Reports.--The right of
11 appeal to the court of common pleas, the right of trial by jury,
12 and the right to file exceptions are given to any party not
13 satisfied with such report.

14 Section 1565. Damages for Vacations.--Whenever viewers are
15 appointed to vacate any street, and the vacation of the same
16 takes no land from the owner abutting thereon, if, in the
17 opinion of the viewers, such vacation damages the property of
18 the abutting owner, they may award damages to such owner as
19 though land has been actually taken, and such damages shall be
20 ascertained as provided in the law governing eminent domain.

21 ARTICLE XVI

22 LAND SUBDIVISION]

23 Section 195. Article XVII heading and Article XVII
24 subdivision (a) heading of the act are reenacted to read:

25 ARTICLE XVII

26 STREETS

27 (a) General Provisions Relating to Streets

28 Section 196. Section 1701 of the act is amended to read:

29 Section 1701. Definitions.--The following words and terms,
30 as used in this article, shall be construed as follows:

1 (1) "Street" shall mean and include any street, [as defined
2 in section 111 of this act] road, lane, court, cul-de-sac,
3 alley, public way and public square, either for or intended for
4 public use, and shall include the cartway, sidewalk, gutter,
5 [and/or] and the right-of-way area, whether or not [such] the
6 street, or any part [thereof] of the street, is owned in fee by
7 others than the borough. Streets shall be of two classes, opened
8 and unopened.

9 (2) "Opened streets" shall mean and include all streets
10 within the borough used as public passageways.

11 (3) "Unopened streets" shall mean and include all streets
12 within the borough [not] neither used as a public passageway,
13 nor accepted or maintained, but [placed on the] plotted in one
14 of the following:

15 (i) a borough plan [for future or prospective use, or placed
16 on the plan of a real estate project, or referred to in
17 individual deeds.] or official map adopted in accordance with
18 the "Pennsylvania Municipalities Planning Code";

19 (ii) an ordinance laying out the street in accordance with
20 this article;

21 (iii) a subdivision or land development plan; or

22 (iv) an individual deed.

23 (4) "Laying out" shall mean and include the plotting of an
24 unopened street or portion [thereof] of the street on [the] a
25 borough plan [or on the plan of a real estate development] or
26 official map adopted in accordance with the "Pennsylvania
27 Municipalities Planning Code," on a subdivision or land
28 development plan or by the enactment of an ordinance adopted in
29 accordance with this article, and shall include the plotting of
30 an unopened street in any case where any of the lines of the

1 same are proposed to be revised, or in any case where the same
2 was never previously laid out, although [such] the street may
3 have been opened and used.

4 (5) "Opening a street" shall mean and include the
5 construction and grading of a street or portion thereof and the
6 act of physically taking possession of an area or laid-out
7 street for the purpose of making the same usable to the
8 traveling public.

9 (6) "Improving a street" shall mean and include any work
10 upon any street or portion thereof done or proposed to be done
11 in order to open the same, if [such] the street shall not
12 previously have been opened, or if previously opened, to make
13 the same more usable, or more suitable for use by the traveling
14 public or safer for such use, and shall include, but shall not
15 be limited to grading, paving, curbing and macadamizing.

16 (7) "Portion [thereof]" shall mean and include a portion
17 either of the width or of the length of a street and, therefore,
18 opening a portion of a street may mean extending or widening a
19 street, and vacating a portion of a street may mean closing or
20 narrowing a street.

21 (8) "Personal notice" shall mean and include notice upon the
22 owner of a premises either by personal service upon [such] the
23 owner or by certified mail to [such] the owner at [his] the
24 owner's last known address, or where service shall not have been
25 successfully made by either of the two methods first mentioned
26 herein, then by leaving such notice at or upon [such] the
27 premises.

28 (9) "Person" shall mean and include a natural person,
29 association, firm, corporation or political subdivision.

30 Section 197. Sections 1702 and 1703 of the act are repealed:

[Section 1702. Right of Borough to Take Over Streets.--Any borough shall have the right at any time to take over, by laying out and/or opening the same--

(1) Any street as it appears upon the borough plan;

(2) Any street, or portion thereof, which the borough shall determine to acquire by the exercise of its rights under the power of eminent domain, by following the procedure set forth in the law governing eminent domain;

(3) Any street to which the public shall have acquired rights by constant use over a period exceeding twenty-one years;

(4) Any street or portion thereof, laid out or constructed by any person, which the borough shall see fit to take over or accept as provided in this article.

Section 1703. Dedication of Streets Privately Constructed.--No borough shall acquire any right in or responsibility for any street privately constructed until dedication of such street shall have been presented to and accepted by the borough and until such dedication shall have been recorded in the county office for the recording of deeds.]

Section 198. Section 1704 of the act is amended to read:

Section 1704. Streets Connecting With Street of Other Municipality [or Township].--No action shall be taken under this article that would result in the change of location or grade, or the vacation of any street or portion thereof that connects with a street of another municipality [or township], without approval of the court of [quarter sessions] common pleas of the county in which [such] the municipality [or township] is located, unless [such] the municipality [or township] shall itself first file with the borough secretary its approval of [such] the proposed action.

1 Section 199. Sections 1705 and 1706 of the act are reenacted
2 to read:

3 Section 1705. Entry on Land to Maintain Marks and
4 Monuments.--The borough council, its agents and employes, may
5 enter upon any land or property, and maintain marks and
6 monuments, so far as the council may deem necessary, in carrying
7 out its powers and duties under this article.

8 Section 1706. Exclusive Nature of Provisions.--The
9 provisions in this article, as applicable to the dedication,
10 acceptance, laying out, opening and vacation of streets, shall
11 be exclusive, and no streets shall be acquired, laid out, opened
12 or vacated by any borough except under such provisions.

13 Section 200. The act is amended by adding sections to read:

14 Section 1707. Failure of Council to Hold Hearing.--If, after
15 the filing of a petition pursuant to this article, council fails
16 to hold a required hearing, any aggrieved party may file a
17 mandamus action in the court of common pleas requesting that a
18 hearing be held.

19 Section 1708. Street Lighting, Ornamental Lighting and
20 Traffic Control Signals and Devices.--Council may provide street
21 lights and ornamental lighting and make regulations for the
22 protection of lighting. Council may assess the costs for the
23 erection of lighting in accordance with Article XXI-A. Council
24 may provide for the erection, maintenance and operation of
25 traffic control signals and devices in accordance with 75
26 Pa.C.S. (relating to vehicles).

27 Section 201. Article XVII subdivision (b) heading of the act
28 is reenacted to read:

29 (b) Plan of Streets

30 Section 202. The act is amended by adding a section to read:

1 Section 1712. Borough Street Plan.--(a) A borough that has
2 not maintained an accurate plan of borough streets adopted in
3 accordance with this act prior to the effective date of this
4 section may only adopt a plan of streets pursuant to the
5 "Pennsylvania Municipalities Planning Code," governing the
6 adoption of an official map.

7 (b) If a borough maintains a plan of streets adopted prior
8 to the effective date of this section, or maintains an official
9 map containing opened and unopened streets, a street laid out in
10 accordance with this act by ordinance or by final approval of a
11 subdivision or land development plan shall be deemed an
12 amendment to the plan. Notwithstanding any other provision of
13 law, a deemed amendment as provided in this section and any
14 subsequent placement of the street on a plan shall not be
15 subject to public notice or public hearing, provided that the
16 street has been laid out in accordance with the requirements of
17 this article.

18 (c) The maintenance of a plan of streets or official map
19 shall not be required in order for a borough to lay out streets
20 in accordance with section 1721.2(b) or lay out and open a
21 street in accordance with section 1724.

22 Section 203. Article XVII subdivision (c) heading of the act
23 is reenacted to read:

24 (c) Laying Out Streets

25 Section 204. The act is amended by adding sections to read:

26 Section 1721.1. Power to Lay Out, Open, Etc.--(a) In
27 accordance with the provisions of this article, boroughs may,
28 with or without petition of abutting property owners, lay out,
29 open, widen, straighten, alter, extend and improve, and may
30 establish or reestablish the grades of, and keep in order and

repair and in safe passable condition, any street or portion of
a street within the borough limits, or may vacate the same
whenever deemed expedient for the public good and provide for
the costs of alteration.

(b) Boroughs may lay out or open:

(1) any street, or portion of a street, as it appears upon a
borough plan, or an official map adopted in accordance with the
"Pennsylvania Municipalities Planning Code," or is described in
an ordinance adopted in accordance with this article;

(2) any street, or portion of a street, which the borough
shall determine to acquire by eminent domain;

(3) any street to which the public shall have acquired
rights by constant use over a period exceeding twenty-one years;
or

(4) any street or portion of a street, laid out or
constructed by any person, which the borough shall see fit to
open or accept as provided in this article.

Section 1721.2. Laying Out Streets; Procedure.--(a) Any
street identified in a plan of streets, an official map adopted
in accordance with the "Pennsylvania Municipalities Planning
Code," or identified in a recorded subdivision or land
development plan shall be deemed to be laid out for purposes of
this act.

(b) Boroughs shall have the authority, by ordinance, to lay
out any area for future opening as a public street. The proposed
ordinance laying out such street shall be advertised in a
newspaper once a week for two successive weeks. On or before the
publication of the first advertisement, personal notice shall be
provided to all owners of any property abutting the proposed
street or through which the proposed street is to be laid out,

1 and, if the proposed street will lead into an adjacent
2 municipality, a copy of the proposed ordinance shall be sent to
3 the adjacent municipality. The proposed ordinance shall have
4 appended to the ordinance or referenced a map sufficient to
5 apprise the public of the proposed location, profile and
6 dimensions of the street, and shall list the names of the owners
7 of any property through which the proposed street has been laid
8 out.

9 (c) Within ten days after the second publication of the
10 notice required in subsection (b), any interested party may
11 petition council for a hearing, which council shall hold within
12 sixty days after the date of the petition. Council shall give at
13 least fifteen days' notice of the hearing in a newspaper and by
14 personal notice to persons entitled to such notice under
15 subsection (b). Council may enact the ordinance no later than
16 thirty days following the date of the hearing, or, where no
17 timely petition has been filed, within thirty days of the second
18 publication of the notice required by subsection (b). The
19 enactment of the ordinance shall constitute public notice of the
20 borough's intent to recognize the street within the system of
21 borough streets and the borough's rights in the street. Within
22 thirty days of the enactment of the ordinance, any party
23 aggrieved by council's action may appeal to the court of common
24 pleas.

25 (d) If, at the time of the enactment of an ordinance in
26 accordance with subsection (c), the lines of the laid out street
27 include property not subject to use as a public passageway, the
28 ordinance shall be filed with the recorder of deeds of the
29 county where the borough is located. The recorder of deeds shall
30 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

1 laying out [thereof] of the street. Council shall thereupon,
2 following at least fifteen days' notice in a newspaper [of
3 general circulation in the borough], and at least fifteen days'
4 personal notice to the owners of all real estate abutting upon
5 the land over which [such] the street or portion [thereof] of
6 the street was laid out, hold a public hearing on the matter.
7 Council may, on motion, deny the petition, or, by ordinance,
8 grant [such] the petition and [remove such street or portion
9 thereof from the borough plan and] cancel the laying out
10 thereof. Any person aggrieved by the decision of the council,
11 either granting or denying [such] the petition, may appeal
12 therefrom. The ordinance providing for the cancellation of the
13 laying out of a street shall be filed with the recorder of deeds
14 in accordance with section 1721.2(d).

15 (b) Whenever any street shall have been laid out and shall
16 not have been opened to, or used by the public for a period of
17 twenty-one years, [such] the street shall not thereafter be
18 opened without the consent of at least fifty-one percent of the
19 number of owners of the abutting real estate and without the
20 consent of the owners of at least fifty-one percent of the
21 property abutting [such] the street, based on a front foot
22 basis.

23 Section 207. Article XVII subdivision (d) heading and
24 sections 1731, 1732, 1733, 1734 and 1735 of the act are amended
25 to read:

26 (d) Opening [and Acceptance of Streets]; Acceptance
27 and Vacation of Streets

28 Section 1731. Authority to Open and Vacate Streets;
29 Procedure.--[Any borough] (a) Council shall have authority, by
30 ordinance [(i)], to [open]:

1 (1) Open any street or portion thereof previously laid
2 out[;] or [(ii)] simultaneously to lay out and open any street
3 or portion thereof. Any street or portion [thereof] of a street
4 so opened shall be a public street of the borough. [No such
5 ordinance shall become effective until thirty days after the
6 enactment thereof. Within ten days after the enactment of any
7 such ordinance, the borough shall give personal notice to the
8 owners of all property abutting the street so proposed to be
9 opened. During such thirty-day period between the enactment and
10 taking effect of such ordinance, any interested party may
11 petition council for a hearing, which council shall hold within
12 thirty days after the date of such petition, and of which the
13 borough shall give at least fifteen days' notice in a newspaper
14 of general circulation in the borough. Any such petition shall
15 serve to stay the effective date of such ordinance, until
16 council shall have held such hearing and shall have acted upon
17 such petition by motion, or, in case of further appeal, until
18 the court shall have finally disposed of the matter. After such
19 hearing and within thirty days after action by council upon such
20 petition, any party aggrieved by council's action thereupon may
21 appeal to the court of quarter sessions.]

22 (2) Vacate or close any street or portion of a street
23 previously opened or laid out, provided that no street or
24 portion of a street providing the sole means of access to any
25 tract of land shall be vacated without the consent of those to
26 whom access would be denied. Vacation of a street shall
27 terminate all public right in or to the street but shall not
28 affect any private rights acquired by any of the owners of
29 abutting property.

30 (b) The proposed ordinance, opening or vacating any street

or portion of a street shall be advertised in a newspaper once a week for two successive weeks. On or before the publication of the first advertisement, personal notice shall be provided to all owners of any property abutting the street proposed to be opened or vacated. The proposed ordinance shall have appended to it or shall reference a map or a survey sufficient to apprise the public of the proposed location, profile and dimensions of the street, and shall list the names of the owners of any property abutting the street.

(c) Within ten days after the second publication of the notice required under subsection (b), any interested party may petition council for a hearing, which council shall hold within sixty days after the date of the petition. Council shall give at least fifteen days' notice of the hearing in a newspaper and by personal notice to persons entitled to notice under subsection (b). Council may enact the ordinance no later than thirty days following the date of the hearing or, where no timely petition has been filed, within thirty days of the second publication of the notice required under subsection (b). Within thirty days of the enactment of the ordinance, any party aggrieved by council's action may appeal to the court of common pleas.

Section 1732. Petition for Opening or Vacating Street; Action Thereon.--(a) Any person or persons, constituting a majority in number and interest of the owner of the real estate abutting upon any area not opened as a street or abutting upon an existing street or portion of a street, may petition the council to [open]:

(1) Open or lay out and open such area as a street or portion thereof.

(2) Vacate a street or portion of a street.

1 (b) Council shall hold a hearing [upon such] after receiving
2 a petition filed with council in accordance with subsection (a),
3 following at least fifteen days' personal notice to all owners
4 of abutting real estate not joining in [such] the petition, and
5 following at least fifteen days' notice thereof in a newspaper
6 [of general circulation in the borough]. Following such hearing,
7 council shall either by motion deny [such] the petition or by
8 ordinance open, [or] lay out and open [such] or vacate the
9 street or portion [thereof] of the street. All provisions of
10 section 1731 [hereof] applicable to ordinances enacted by
11 authority of that section shall apply to ordinances enacted by
12 authority of this section.

13 (c) A petition for the vacation of any street or portion of
14 a street may release the borough from all damages sustained as a
15 result of the vacation if the petition is signed by the owners
16 of all the property abutting upon the street or portion of the
17 street and, where the release shall have been included in the
18 petition, no proceedings for award of damages may be had and no
19 damages as a result of the vacation shall under any conditions
20 be awarded to any abutting property owner.

21 Section 1733. [Procedure for Opening Street;] Action for
22 Damages and Benefits; Award [Thereof].--(a) Upon the effective
23 date of an ordinance enacted to open a street or portion of a
24 street by authority of section 1731 or 1732 [hereof], the
25 borough shall have authority to enter upon and take possession
26 of the street or portion thereof opened by [such] the ordinance,
27 if no structures are upon [such] the street. If any structure
28 shall have been located upon [such] the street or portion
29 [thereof] of the street so opened, prior to the laying out of
30 [such] the street or prior to the simultaneous laying out and

opening [thereof, such] of the street, the street shall not be opened until the owner of [such] the structure shall have been given sixty days' personal notice to vacate the same. [If any of the parties cannot agree upon damages sustained by reason of the opening of any street or portion thereof, such damages shall be assessed by a jury of view under the provisions of the law governing eminent domain.] Council shall not be required to file any bond or security for the exercise of the right granted by this section.

(b) All parties whose ground is taken in the opening of a street or portion [thereof] of the street shall have three years from and after the effective date of the ordinance opening [such] the street or portion [thereof] of the street in which to bring an action for damages resulting [therefrom] from the opening of the street or portion of the street. In case of the assessment of damages for the opening of any street or portion [thereof] of the street, the award of damages, if any, shall include all damages resulting from the grade at which [such] the street or portion [thereof] of the street is to be opened; the plan attached to the report of the viewers awarding the damages shall [have therein] include a profile plan showing the existing grade as well as the grade to which [such] the street or portion [thereof] of the street is to be opened. Any costs and expenses which cannot be assessed upon property benefited shall be paid by the borough.

(c) If the parties cannot agree upon damages sustained by reason of the opening or vacation of any street or portion of a street, the damages shall be assessed by a jury of view under the law governing eminent domain.

Section 1734. Acceptance and Dedication of Streets.--(a)

Any borough may, by ordinance, accept any opened street not previously dedicated to or laid out by the borough, by following the procedure set forth in section 1731 or 1732 [hereof], and the effect of [such] the acceptance shall be the same as of opening [such street: Provided, That no] the street. No street may be accepted unless [such] the street connects with at least one other previously opened street or State highway.

(b) No borough shall acquire any right in or responsibility for any street privately constructed until dedication of the street shall have been presented to and accepted by the borough and until the dedication shall have been recorded in the county office for the recording of deeds.

Section 1735. Streets Not to Be Constructed, or Dedicated or Opened to Travel Without the Approval of Council.--(a) No person shall construct, dedicate, or open to travel any street, or any drainage facilities in connection [therewith] with the street, for public use or travel or for the common use of occupants of buildings abutting thereon in any borough, without first submitting suitable plans [thereof] to the council [for its approval. Such] and obtaining its approval. The plans shall be prepared in accordance with [such] rules and regulations as may be prescribed by the council, and shall show the profiles of [such] the street, the course, structure and capacity of any drainage facilities, and the method of drainage of the adjacent or contiguous territory, and also any other or further details that may be required under the rules or regulations adopted by the council.

(b) The provisions of the "Pennsylvania Municipalities Planning Code" shall govern the construction, security requirements and dedication of streets and connected drainage

facilities when the streets proposed to be constructed are part
of a plan required by an ordinance adopted pursuant to the
"Pennsylvania Municipalities Planning Code."

(c) Before acting upon [any such] plans not subject to
review under subsection (b), [the] council may, at its
discretion, arrange for a public hearing after giving such
notice as it may deem desirable in each case. [The council is
authorized to] Council may alter [such] the plans, and [to]
specify [any] changes or modifications of any [kinds, which it
may deem necessary with respect thereto,] kind and may make its
approval of [such] the plans subject to [any such] alterations,
changes or modifications. Any plans, when so approved, shall be
signed on behalf of the borough by such officer as the council
may designate, and shall be filed where the same shall be
available to public inspection among the records of the borough
at all reasonable times. [No street, or any drainage facilities
in connection therewith, shall be constructed or dedicated for
public use or travel, except in strict accordance with plans so
approved by the council, or with further plans subsequently
approved by it in the same manner.

In any case where council has heretofore required or shall
hereafter require the construction or improvement of streets or
parts of streets, or of any drainage facilities in connection
therewith, or the posting of a bond or other security for so
doing, within any parts or subdivisions of a borough, as a
condition to approval of any plan thereof, and the materials or
other specifications for such construction or improvements are
required by the borough to be of better quality or type or
otherwise superior to and more costly than those of most of the
already existing streets and drainage facilities in connection

1 therewith of the borough, or of the particular zone of the
2 borough, in case it has a zoning ordinance, the cost of such
3 construction or improvement shall be allocated and paid in
4 accordance with the provisions of section 1761 of this act, and
5 the submission of a plan shall not be deemed a petition for the
6 construction or improvements so required, but if the borough
7 shall require substantially the same quality or type and
8 specifications of street and drainage facilities as generally
9 exists either in the borough, or, if the borough has a zoning
10 ordinance, in the particular zone involved, the submission of a
11 plan shall be deemed a petition therefor by a majority in the
12 number of feet assessable, properties abutting thereon, and the
13 cost of such constructions and improvements shall be paid in
14 accordance with the provisions of section 1761 of this act under
15 such circumstances: Provided, That council and the person or
16 persons submitting a plan may in all cases, by agreement,
17 provided otherwise as to such costs: And provided further, That
18 this section shall not authorize the recovery or avoidance of
19 any such costs heretofore agreed to or paid. Whenever council
20 requires the construction or improvement of streets or parts
21 thereof, it shall establish or cause to be established the
22 grades of such streets or parts, or shall approve the grades
23 indicated upon the plan submitted before such streets or parts
24 are improved or constructed. Council's approval of plans,
25 whether or not such plans are subject to any such conditions as
26 to streets, parts of streets, or drainage facilities in
27 connection therewith, shall constitute the streets as shown upon
28 the plans so approved as streets of the borough, any plan so
29 approved as filed and as recorded, indicate clearly all such
30 constructions and improvements required to be made, the grades

1 thereof, the materials and other specifications required, and
2 the allocation of cost thereof, as provided by law or as agreed
3 upon.] No approval of plans by council may obligate or require
4 the borough to construct, reconstruct, maintain, repair or grade
5 any street or drainage facilities associated therewith.

6 (d) In any case where the borough council shall refuse to
7 approve any plans submitted to it, any person aggrieved by the
8 action of council may, within thirty days after the action,
9 appeal from the action, by petition to the court of common pleas
10 of the county which court shall hear the matter de novo, and,
11 after hearing, may enter decree affirming, reversing or
12 modifying the action of the council as may appear just. The
13 court shall designate the manner in which notice of the hearing
14 of an appeal shall be given to all parties interested. The
15 decision of the court shall be final.

16 Any plan approved by the action of borough council or by the
17 court on appeal shall be recorded by the person applying for
18 approval in the office of the recorder of deeds in the county.

19 (e) If any street, or any drainage facilities in connection
20 with the street, shall be opened, constructed or dedicated for
21 public use or travel, except in strict accordance with plans
22 approved by the council, or the court on appeal, as provided in
23 this article, neither the borough council nor any other public
24 authority shall place, construct or operate any sewer, drain,
25 water pipe or other facilities, or do any work of any kind in or
26 upon the street; and neither borough council nor any other
27 public authorities shall have any responsibility of any kind
28 with respect to any such street, or drainage facilities,
29 notwithstanding any use of the same by the public, provided that
30 nothing in this article shall prevent the laying of trunk

1 sewers, drains, water or gas mains, if required by engineering
2 necessity for the accommodation of other territory.

3 (f) Any person who constructs, opens or dedicates any street
4 or any drainage facilities in connection with a street, for
5 public use or travel in any borough, without having first
6 complied with the provisions of this article shall be guilty of
7 a misdemeanor of the third degree and shall be subject to a suit
8 for all costs and damages incurred by the borough or property
9 owners in the course of correcting all substantive violations of
10 State law or borough ordinance resulting from or arising out of
11 the unlawfully constructed street or facilities. Nothing in this
12 section shall be construed to apply to the Department of
13 Transportation.

14 Section 208. Sections 1736 and 1737 and Article XVII
15 subdivision (e) heading of the act are repealed:

16 [Section 1736. Appeal From Refusal of Council.--In any case
17 where the borough council shall refuse to approve any plans
18 submitted to it, any person aggrieved by the action of such
19 council may, within thirty days after such action, appeal from
20 such action, by petition to the court of quarter sessions of the
21 county which court shall hear the matter de novo, and, after
22 hearing, may enter decree affirming, reversing or modifying the
23 action of the council as may appear just in the premises. The
24 court shall designate the manner in which notice of the hearing
25 of any such appeal shall be given to all parties interested. The
26 decision of the court shall be final.

27 The action of the borough council, or the court on appeal, in
28 approving any such plan, and such approved plan, shall be
29 recorded by the person applying for such approval in the office
30 of the recorder of deeds in the county.

1 Section 1737. Streets Opened Without Approval; Penalty.--If
2 any street, or any drainage facilities in connection therewith,
3 shall be opened, constructed or dedicated for public use or
4 travel, except in strict accordance with plans approved by the
5 council, or the court on appeal, as provided in this
6 subdivision, neither the borough council nor any other public
7 authority shall place, construct or operate any sewer, drain,
8 water pipe or other facilities, or do any work of any kind in or
9 upon such street; and neither borough council nor any other
10 public authorities shall have any responsibility of any kind
11 with respect to any such street, or drainage facilities,
12 notwithstanding any use of the same by the public: Provided,
13 however, That nothing herein contained shall prevent the laying
14 of trunk sewers, drains, water or gas mains, if required by
15 engineering necessity for the accommodation of other territory.

16 Any person who shall construct, open or dedicate any street
17 or any drainage facilities in connection therewith, for public
18 use or travel in any borough, without having first complied with
19 the provisions of sections 1735 and 1736 of this act, or of any
20 borough ordinance adopted pursuant thereto, shall be guilty of a
21 misdemeanor, and, upon conviction thereof, shall be sentenced to
22 pay a fine not exceeding one thousand dollars (\$1000), or suffer
23 imprisonment not exceeding two years, or both, in the discretion
24 of the court. Nothing herein contained shall be construed to
25 apply to the Department of Highways of the Commonwealth.

26 (e) Vacating Streets]

27 Section 209. Section 1741 of the act, amended June 28, 1979
28 (P.L.55, No.23), is repealed:

29 [Section 1741. Authority to Vacate Streets; Procedure.--Any
30 borough shall have authority, by ordinance, to vacate or close

1 any street or portion thereof previously opened or laid out, but
2 no street or portion thereof providing the sole means of access
3 to any lot or tract of land shall be vacated unless those to
4 whom access would be denied shall consent. No such ordinance
5 shall become effective until forty days after the enactment
6 thereof. Within ten days after the enactment of any such
7 ordinance, the borough shall give written notice by United
8 States certified mail return receipt requested to the personal
9 address to the owners of all property abutting on the street or
10 portion thereof so proposed to be vacated. If any street or
11 portion thereof proposed to be vacated shall be on a recorded
12 plan, the borough shall also give thirty days notice in a
13 newspaper of general circulation in the borough of the proposed
14 vacation directed to all the owners of property abutting on the
15 street or portion thereof proposed to be vacated by name and
16 directed generally to all other owners of property appearing on
17 such plan. In the event any owners of property abutting on the
18 street or portion thereof so proposed to be vacated cannot be
19 found a copy of the ordinance shall be posted on the premises of
20 such property owner within ten days after the enactment of any
21 such ordinance. During such forty-day period between the
22 enactment and taking effect of such ordinance, any interested
23 party may petition council for a hearing, which council shall
24 hold within thirty days after the date of such petition, and of
25 which the borough shall give at least fifteen days' notice in a
26 newspaper of general circulation in the borough. Any such
27 petition shall serve to stay the effective date of such
28 ordinance, until council shall have held such hearing and shall
29 have acted upon such petition by motion, or, in case of further
30 appeal, until the court shall have finally disposed of the

1 matter. After such hearing and within thirty days after action
2 by council upon such petition, any party aggrieved by council's
3 action thereupon may appeal to the court of common pleas.]

4 Section 210. Sections 1742, 1743 and 1744 of the act are
5 repealed:

6 [Section 1742. Petition for Vacating Street; Action
7 Thereon.--Any person or persons constituting a majority in
8 number and interest of the owners of the real estate abutting
9 upon any street or portion thereof may petition the council to
10 vacate such street or portion thereof. Council shall hold a
11 hearing upon such petition, following at least fifteen days'
12 personal notice to all owners of abutting real estate not
13 joining in such petition, and following at least fifteen days'
14 notice thereof in a newspaper of general circulation in the
15 borough. Following such hearing the council shall either by
16 motion deny such petition or by ordinance vacate such street or
17 portion thereof. All provisions of section 1741 hereof
18 applicable to ordinances enacted by authority of that section
19 shall apply to ordinances enacted by authority of this section:
20 Provided, That any petition for the vacation of any street or
21 portion thereof may release the borough from all damages
22 sustained as a result of such vacation, if such petition is
23 signed by the owners of all the property abutting upon such
24 street or portion thereof, and, where any such release shall
25 have been included in such petition, no proceedings for award of
26 damages shall be had and no damages as a result of such vacation
27 shall under any conditions be awarded to any abutting property
28 owner.

29 Section 1743. Action for Damages.--If the parties cannot
30 agree upon the damages sustained by reason of the vacation of

any street or portion thereof, such damages shall be assessed by a jury of view under the law governing eminent domain.

Section 1744. Effect of Vacation.--When a street or portion thereof shall have been vacated, all public right in or to such street or portion thereof shall cease, but such vacation shall not affect any private rights acquired by any of the owners of abutting property.]

Section 211. Article XVII subdivision (f) heading of the act is reenacted to read:

(f) Straightening and Relocating Streets

Section 212. Section 1751 of the act is amended to read:

Section 1751. Authority to Straighten and Relocate Streets; Procedure.--[Any borough] Council may, by ordinance, provide for straightening [and/or] or relocating any street previously opened, involving the opening of a portion of [such] the straightened [and/or relocate] or relocated street over land not previously a portion of [such] the street [and/or] or the vacation of a portion of such previously opened street no longer to be used for street purposes. [In such cases, such] The straightening [and/or] or relocation shall be considered as an opening [and/or] or vacation and shall be effected in the same manner and by the same procedure as provided in [prior sections of this article for opening or vacation of streets, as the case may be, but such opening and/or vacation] section 1731 but may be considered as a single proceeding, to be effected by enactment of a single ordinance[, and it shall not be necessary to enact one ordinance for vacation and another for opening].

Section 213. Article XVII subdivision (g) heading of the act is reenacted to read:

(g) Improvement of Borough Streets

1 Section 214. Section 1761 of the act is amended to read:

2 Section 1761. Proceedings With or Without Petition.--

3 Boroughs with petition or without petition may improve streets,

4 or parts [thereof] of streets, or a particular width, or

5 additional widths [thereof] of streets, with or without the

6 assistance or contribution of the United States of America, the

7 [State] Commonwealth, the county, or a corporation occupying the

8 thoroughfare and may assess and collect the whole cost [thereof]

9 of improvement, or the whole cost not thus aided or contributed,

10 or any part [thereof] of the cost, from the owners of real

11 estate abutting on the improvement [by an equal assessment on

12 the foot-front basis or according to benefits as provided in

13 article XV of this act including the expenses of the necessary

14 drainage. The council may make equitable adjustments for corner

15 lots or lots of irregular shape where an assessment for full

16 frontage might be unjust. Property not otherwise assessable

17 shall become assessable by the petition of the owner or the

18 owners' representative. In all cases where the whole width of

19 the highway is being paved without State or County aid and more

20 than two-thirds of the total cost is proposed to be assessed on

21 abutters the borough shall for this purpose be considered as

22 owner of non-assessable property, of street intersections and of

23 the deducted frontage on equitable adjustment. At the discretion

24 of the borough council, the total cost of the improvement or a

25 lesser amount, if the borough desires, may be assessed on the

26 assessable properties abutting without any deduction for non-

27 assessable property or street intersections, or for the

28 equitable adjustments aforesaid, if the petition states that the

29 total cost may be assessed on the abutters: Provided, if in

30 connection with such proceedings any street or sidewalk is so

1 graded or changed in grade that private property is damaged
2 thereby and the damages have not been released or agreed upon,
3 then the damages shall be awarded as provided in the law
4 governing eminent domain, and benefits, costs, and expenses in
5 connection with the improvement shall be assessed as provided in
6 article XV: Provided further, That owners of all real estate
7 abutting upon any such improvement shall be assessable for the
8 cost thereof, whether such property owner be a natural person,
9 partnership, association, firm or corporation, including but not
10 limited to any nonprofit corporation or association, and any
11 public utility corporation, or political subdivision, but not
12 including the Commonwealth of Pennsylvania or the United States
13 of America] in accordance with Article XXI-A.

14 Section 215. Sections 1762 and 1763 of the act are repealed:

15 [Section 1762. Notice of Assessments.--The borough secretary
16 of the borough shall cause thirty days' personal notice of the
17 assessment to be given to each party assessed.

18 Section 1763. Collection of Assessments.--If any assessment
19 shall remain unpaid at the expiration of the notice, it shall be
20 the duty of the borough solicitor to collect the same, with
21 interest from the time of completion of the improvement, by
22 action of assumpsit, or by a lien to be filed and collected in
23 the same manner as municipal claims. When an owner has two or
24 more lots, against which there is an assessment for the same
25 improvement, all of such lots may be embraced in one claim.]

26 Section 216. Article XVII subdivision (h) heading of the act
27 is reenacted to read:

28 (h) Improvement of Streets Outside or Partly
29 Outside Borough Limits

30 Section 217. Section 1771 of the act is amended to read:

1 Section 1771. [Agreements to Improve Boundary Streets.--]
2 Improvement of Streets Outside or Partly Outside Borough
3 Limits.--(a) Any borough may enter into a written agreement,
4 with any adjoining municipality [and/or township] for improving
5 streets which may be boundaries between [such] the borough and
6 municipality [or township], and may provide in [such] the
7 contract [that] for the division of the damages, costs, and
8 expenses of [such] the improvement [shall be divided between
9 such borough, municipality, and/or township in the proportion
10 agreed upon]. The borough may assess its share of [such] the
11 costs against the owner of property abutting upon the borough's
12 side of [such] the improvement, in the manner provided in
13 [sections 1761, 1762 and 1763 of this act] Article XXI-A or may
14 agree to pay any part of the costs, damages and expenses of the
15 improvements out of the general funds.

16 The portion of the damages, costs, and expenses agreed to be
17 paid by the borough, shall be ascertained as provided in the law
18 governing eminent domain[, and the benefits incident thereto
19 shall be assessed and collected in the manner provided in
20 article XV of this act; but the borough may agree to pay any
21 part of the costs, damages, and expenses of such improvements
22 out of the general funds].

23 (b) Whenever the center line of any street constitutes the
24 dividing line between any borough and a township located in the
25 same county, any agreement to improve and maintain the street
26 shall be made with the governing bodies of the township and, if
27 necessary, the county. The improvement shall be constructed and
28 subsequent repairs shall be made under the supervision of the
29 borough, and in compliance with plans to be agreed upon, in
30 writing, by the parties. One-half of the cost of the repairs

1 shall be borne by the borough. The borough may assess its share
2 of costs against the owners of property abutting on the
3 borough's side of the improvement, in the manner provided in
4 Article XXI-A.

5 (c) Whenever any street, more than one-half the width or the
6 entire width of which is within the limits of any borough, shall
7 divide the borough from any other municipality, the street may
8 be improved by the borough. The property abutting on the side of
9 the street, which is located outside the limits of the borough
10 making the improvements, may, for a depth of one hundred and
11 fifty feet, plus one-half the width of the street, from its
12 center line, be assessed for any and all municipal improvements
13 to or on the street in accordance with Article XXI-A.

14 (d) A borough may appropriate and expend moneys for the
15 improvement of a street, not to exceed one mile in length,
16 outside the limits of the borough for the purpose of connecting
17 improved streets in the borough with State highways, interstate
18 highways and county roads.

19 Section 218. Sections 1772, 1773, 1774 and 1775 of the act
20 are repealed:

21 [Section 1772. Proceedings to Improve Boundary Streets by
22 Agreement with Counties and Townships.--Whenever the center line
23 of any street constitutes the dividing line between any borough
24 and a township located in the same county, the borough may enter
25 into a contract with the commissioners of the county and the
26 commissioners or supervisors of the township, as the case may
27 be, to improve such street. Such improvement shall be
28 constructed and subsequent repairs shall be made under the
29 supervision of the borough, and in compliance with the plans to
30 be agreed upon, in writing, between such borough and the

1 commissioners of the county and the commissioners or supervisors
2 of the township. One-half of the cost of such repairs shall be
3 borne by the borough. The borough may assess its share of such
4 costs against the owners of property abutting on the borough's
5 side of such improvement, in the manner provided in section
6 1761, 1762 and 1763 of this act.

7 Section 1773. Streets More Than One-Half the Width of Which
8 Are Within the Borough.--Whenever any street, more than one-half
9 the width of which is within the limits of any borough, shall
10 divide such borough from any other municipality or township,
11 such street may be improved by the borough within which the
12 greater width is located, in the same manner as if such street
13 were entirely located within the limits of said borough. The
14 property abutting on the side of such street, which is located
15 outside the limits of the borough making such improvements,
16 shall, for a depth of one hundred and fifty feet, plus one-half
17 the width of such street, from its center line, be assessed for
18 any and all municipal improvements to or on the said street in
19 the same manner as such property would be assessed under the
20 laws of the Commonwealth if it were entirely located within the
21 limits of such borough.

22 Section 1774. Assessment on Property Outside Limits Where
23 Boundary Line Street Entirely Within Borough.--Wherever any
24 street, entirely within the limits of any borough, shall divide
25 such borough from any other municipality or township, located in
26 the same county, the property on the side of the street opposite
27 the line of the borough shall, for the depth of one hundred and
28 fifty feet, be assessed for municipal improvements on such
29 streets on which such property shall abut, in the manner
30 provided by this article for assessments by the foot-front rule;

1 and such improvements may be made, assessed, and collected in
2 accordance with the provisions of this article for assessments
3 by the foot-front rule.

4 Section 1775. Streets Outside Limits; Appropriations to
5 Improve Connecting Links.--Any borough may, singly, or jointly
6 with any other borough, city, township and/or county,
7 appropriate and expend moneys for the improvement of streets
8 outside the limits of such borough, for the purpose of
9 connecting improved streets in such borough with State highways.
10 No such street shall be improved which shall be more than one
11 mile in length.]

12 Section 219. Article XVII subdivision (i) heading of the act
13 is amended to read:

14 (i) Acquisition [and/or] or Use of Abutting
15 Lands [for Embankments, Slopes, Fills and
16 Culverts, or for Unobstructed View]

17 Section 220. Section 1781 of the act is repealed:

18 [Section 1781. Use of Abutting Lands for Embankments,
19 Slopes, Fills, and Culverts.--In the improvement of any street
20 or portion thereof, any borough may use as much of the land
21 abutting on the same for the construction of embankments,
22 slopes, fills and culverts, as may be necessary and proper for
23 the completion of the improvement; and the assessment of
24 damages, costs, and expenses, resulting thereby, shall be
25 regarded as other assessments of damages, costs, and expenses,
26 caused by the improvement of streets, in said borough, and shall
27 be assessed and paid, as is provided by the law governing
28 eminent domain.]

29 Section 221. Section 1782 of the act is amended to read:

30 Section 1782. Acquisition of Property for Unobstructed

1 View.--(a) Any borough may, singly or jointly with another
2 [borough, city, county or township] municipality, acquire, by
3 purchase or by the right of eminent domain, a free and
4 unobstructed view down and across [such] lands located at or
5 near the intersection of any two streets or highways or a street
6 or highway and a railroad or railway or at a curve in any street
7 or highway as may be necessary to assure a free and unobstructed
8 view in all directions at such crossings, and to so prevent the
9 use of [such] the lands for any purpose or in any manner which
10 may interfere with or obstruct the view of persons traveling
11 upon any such street or highway.

12 [Upon any such] (b) After condemnation, the borough [having
13 had such view condemned] may, from time to time, abate or remove
14 or cause to be abated or removed any obstruction to the view
15 over and across [such] the lands except poles used in furnishing
16 [telephone, telegraph or electric] service to the public.

17 (c) The proceedings for the condemnation of [such] the view
18 over and across [such] lands and for the assessment of damages
19 for property taken, injured or destroyed, or the portion thereof
20 agreed to be paid by the borough if the taking is jointly with
21 another [borough, city, county or township] municipality, shall
22 be taken in the manner provided in the law governing eminent
23 domain.

24 (d) Upon the purchase or condemnation of a view, the owner
25 of [such] the lands may make every [such use thereof] use of the
26 lands as will not interfere with a free and unobstructed view at
27 the dangerous crossing or curve [and, unless specially provided
28 for in such purchase or condemnation proceedings, such purchase
29 or condemnation shall be constructed to prevent the owner
30 thereof from using the land for pasture or the growing of grass,

1 oats, wheat or other crops which will not obstruct the vision
2 more than wheat].

3 Section 222. Article XVIII heading of the act is reenacted
4 to read:

5 ARTICLE XVIII

6 SIDEWALKS

7 Section 223. Sections 1801 and 1802 of the act are amended
8 to read:

9 Section 1801. Power to Lay Out[, Ordain] and Establish
10 Sidewalks and to Compel the Construction Thereof.--Any borough
11 may, by ordinance, lay out[, ordain] and establish sidewalks,
12 curbs, gutters and surface water drains along any street, and,
13 with the consent of the Secretary of [Highways] Transportation
14 of the Commonwealth, along any State highway, and may, with or
15 without petition, require owners of property abutting on any
16 street or State highway to grade, construct, drain, pave and
17 repave the sidewalk, curb or gutter and keep [the same] them in
18 repair, and in safe and usable condition along [such] the
19 property, at such grades and under such regulations and
20 specifications as council may prescribe[: Provided, That the].
21 The word "sidewalk" as used in this article, shall mean and
22 include the portion of a street located outside the cartway, and
23 may include paved footway, unpaved grassplot, curb and gutter.

24 Section 1802. Sidewalks on Land Abutting State Highways and
25 Along Roads Outside Borough.--Any borough may [ordain and], by
26 ordinance, lay out sidewalks, gutters, [and/or] and surface
27 water drains upon land abutting the sides of State highways, and
28 upon land abutting the sides of public roads, where such roads
29 are outside the borough limits, but the land upon which [such]
30 the sidewalks, gutters [and/or] and surface water drains are to

1 be laid out is within the borough limits.

2 Section 224. Sections 1803 and 1804 of the act are reenacted
3 to read:

4 Section 1803. Establishment of Grades.--Any borough may
5 establish a grade or grades for sidewalks, which grade or grades
6 may be separate and apart from the grade or grades established
7 for the cartway or roadway.

8 Section 1804. Boroughs May Pay All or Part of Cost of
9 Grading and Curbing.--The borough may pay all or any part of the
10 cost and expenses of grading and curbing any sidewalk.

11 Section 225. Section 1805 of the act is amended to read:

12 Section 1805. Borough May Do Work; Collection of Cost.--Upon
13 the [neglect] failure of any property owner to comply with any
14 of the requirements provided in the preceding sections of this
15 article, the borough may, after notice, cause the grading,
16 paving, repairing, curbing, [and/or] and guttering to be done at
17 the cost of [such] the owner, and may collect the cost [thereof]
18 of the work and ten percent additional, together with all
19 charges and expenses, from [such] the owner, and may file a
20 municipal claim [therefor] for the amounts or collect the [same]
21 amounts by action in assumpsit.

22 All [such] notices shall be served upon the owner of the
23 premises to which the notice refers, if [such] the owner is a
24 resident of the borough. If the owner is not a resident, then
25 the notice may be served upon the agent or tenant of the owner,
26 or upon the occupant of [such] the premises[, after such
27 premises, if]. If the owner has no agent or tenant or there is
28 no occupier of [such] the premises, then service shall be by
29 notice posted upon the premises. The notice required by this
30 section shall specify a period of time of not less than thirty

1 days for the owner to complete the specified work. If the work
2 has not been completed after the specified time has elapsed, the
3 owner shall be deemed to have failed to comply.

4 Section 226. Section 1806 of the act, amended December 21,
5 1988 (P.L.1413, No.171), is amended to read:

6 Section 1806. Emergency Repairs to Sidewalks.--In addition
7 to the remedies now vested in boroughs to make repairs to
8 sidewalks, any borough shall have power to make emergency
9 repairs to any sidewalks [thereon, where, in the opinion of the
10 officer or head of the department or committee lawfully having
11 charge of sidewalk repairs, a dangerous condition exists that
12 can be repaired by an expenditure of not more than five hundred
13 dollars (\$500)] within the borough if an inspection of the
14 sidewalk discloses that, and a certificate made by the officer
15 or head of the department or committee lawfully having charge of
16 sidewalk repairs specifies that, a dangerous condition exists
17 that can be repaired by an expenditure of not more than one
18 thousand dollars (\$1,000). Before [any such] repairs are made, a
19 notice to make the repairs within forty-eight hours shall be
20 served upon the owner of the [said] property. If the owner
21 cannot be served within the county, notice may be served upon
22 the agent of the owner or the party in possession, or if there
23 is no agent or party in possession, the notice may be served by
24 posting the same upon [such] the premises.

25 Upon the completion of the work, the cost [thereof] shall be
26 a charge against the owner of the property, and shall be a lien,
27 until paid, upon the abutting property, provided a claim is
28 filed [therefor] in accordance with the law providing for the
29 filing and collection of municipal claims. [Any such] The charge
30 may also be collected by action of assumpsit. This section is

1 intended to provide an additional remedy for boroughs in
2 connection with emergency repairs, where the actual cost of
3 doing the work does not exceed [five hundred dollars (\$500)] one
4 thousand dollars (\$1,000), and the certificate of the officer or
5 head of the department or committee in charge of repairs to
6 sidewalks shall be conclusive evidence of the existence of the
7 emergency justifying the repair under the terms of this section.

8 Section 227. Article XIX heading of the act is reenacted to
9 read:

10 ARTICLE XIX

11 BRIDGES, VIADUCTS AND UNDERGROUND

12 PASSAGEWAYS

13 Section 228. Sections 1901, 1902, 1903, 1904 and 1905 of the
14 act are amended to read:

15 Section 1901. Construction or Acquisition and Maintenance of
16 Bridges and Viaducts.--Any borough may locate and build, or
17 acquire by purchase, condemnation or otherwise, any bridge or
18 viaduct and the piers, approaches and abutments therefor, to be
19 used and thereafter improved and maintained as a street, over
20 any river, creek, stream, railroad or public or private property
21 or over and across a combination of any of them, whether [such]
22 the bridge or viaduct shall be wholly or partly within[, or
23 partly within and partly without] the borough limits. The
24 proceedings for laying out and opening [any such] a bridge or
25 viaduct shall be the same as provided by this act for the laying
26 out and opening of streets, and [any such] the bridge or viaduct
27 or portion [thereof] of the bridge or viaduct may thereafter be
28 vacated under the same procedure as provided in this act for the
29 relocation or vacation of streets or portions thereof.

30 Section 1902. Right to Appropriate Property; Assessment of

1 Damages.--In any case where the borough shall not have agreed
2 with the owner or owners for damages done, or likely to be done,
3 by the erection of [any such] a bridge or viaduct, the borough
4 may take and appropriate the land and property necessary, over
5 and across which to erect [such] the bridge or viaduct and the
6 damages caused by [such] the taking and appropriation shall be
7 assessed according to the law governing eminent domain.

8 Section 1903. Boundary Bridges.--Whenever a bridge or
9 viaduct shall cross the boundary line of a borough and another
10 municipality [or township], the borough may [unite] enter into
11 an intergovernmental cooperation agreement in accordance with 53
12 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
13 cooperation) with [such] the municipality [or township] in the
14 construction and maintenance of [such] the bridge, and shall
15 [pay an equal share of the expenses incident thereto] apportion
16 the costs as per the intergovernmental agreement.

17 Section 1904. Contracts With Railroads and Other Companies
18 and With Counties.--The borough may also enter into a contract
19 with the county commissioners, and also with railroads, street
20 railways, and other companies, or parties interested, for the
21 building and maintenance of [such] bridges or viaducts, and for
22 the payment of any damages caused by the location or erection
23 thereof. [Such] The contracts may stipulate that the borough,
24 county, railroad company, street railway, or other company or
25 party interested, shall pay a certain part of the contract price
26 of the work, including damages; or may stipulate that each shall
27 construct a certain portion of the work, and may provide
28 otherwise for the payment of damages.

29 When any railroad company, street railway, or other company
30 or party interested, shall agree to pay a certain portion of the

1 cost of [such] the work, it shall pay the same into the borough
2 treasury; and the borough treasurer shall pay the same over to
3 the contractor, as may be provided in the contract; but the
4 amount to be paid by the county shall be paid directly to the
5 contractor. The agreement may provide for the maintenance of the
6 bridges and viaducts after their erection. Nothing [herein
7 contained] in this section shall authorize any borough to
8 contract with a county for the maintenance of any bridge or
9 viaduct which does not cross a place over which the county is
10 authorized to build bridges; but [such] the bridge or viaduct
11 shall be maintained as a borough structure, and the borough may
12 contract with any party interested, except the county, for the
13 maintenance of the [same.] bridge or viaduct. Nothing in this
14 section shall affect the powers or duties of the Public Utility
15 Commission to the extent otherwise provided by law.

16 Section 1905. Overhead and Underground Passageways.--
17 Whenever the comfort and safety of the residents of any borough
18 and any adjoining municipality [or township] be enhanced by any
19 overhead or underground passageway connecting with adjoining
20 streets in either borough or municipality [or township], and
21 extending to any plant or place of business where residents of
22 [such] the borough are employed, [such] the borough may jointly
23 with each adjoining municipality [or township], construct and
24 maintain any [such] passageway or they may join with other
25 interests in the construction and maintenance [thereof] of the
26 passageway.

27 Section 229. Article XX heading of the act is reenacted to
28 read:

29 ARTICLE XX
30 SANITARY SEWERS

1 Section 230. Article XX subdivision (a) heading and sections
2 2001 and 2002 of the act are amended to read:

3 (a) Laying Out, [Ordaining and] Construction
4 and Operation of Sanitary Sewers and Construction
5 of Sewage Treatment Works

6 Section 2001. Power to Lay Out[, Ordain] and Construct.--
7 [Boroughs, with the consent and permit of the Sanitary Water
8 Board, and of the Water and Power Resources Board, where

9 requested,] (a) (1) Upon enactment of an ordinance, boroughs
10 may lay out[, ordain] and construct sanitary sewers and branches
11 of sanitary sewers in streets and on public or private property,
12 and may construct sewage treatment works on land owned or
13 acquired for such purposes[, and]. Boroughs may pay the costs
14 and expenses [thereof] of sanitary sewer systems and treatment
15 works out of borough funds, or may assess the costs and expenses
16 [of sanitary sewers as herein provided] pursuant to Article XXI-
17 A.

18 (2) Boroughs may determine the location and the manner in
19 which sanitary sewer systems shall be constructed. Sanitary
20 sewers laid and constructed in streets may be located in the
21 center of the street or [on either side of the cartway] in the
22 right-of-way or [of] the curb lines [thereof] of the street in
23 any street and may be for the service and use of properties on
24 both sides of the street or on only one side of the street in
25 which they are laid, as directed by the borough council[, and
26 the costs and expenses of such sanitary sewers may be assessed
27 against properties benefited, accommodated or improved thereby
28 regardless of the property line location, and regardless of
29 whether any portion of a property so benefited, accommodated or
30 improved shall physically abut upon such sanitary sewer. The

1 term "sanitary sewer,"]. Boroughs shall have the authority to
2 lay out and construct sanitary sewers in any street, any portion
3 of which is within the limits of the borough, and which forms a
4 portion of the boundary dividing the borough from any other
5 municipal corporation within the same county, in the same manner
6 and to the same extent as if the whole of the street was within
7 the limits of the borough.

8 (3) Whenever any borough is maintaining and operating a
9 sanitary sewer system and sewage treatment works, it shall be
10 lawful for the borough to supply sewerage service to
11 municipalities, persons and corporations outside the limits of
12 the borough and to enter into contracts for service at rates not
13 less than those required to be paid by persons and corporations
14 within the limits of the borough. This privilege shall not
15 conflict with the rights of any sewer company or the rights of
16 any other borough.

17 (b) (1) If required by other law, a borough shall obtain
18 the consent and permit of the Department of Environmental
19 Protection, or other Federal, State or county entity, including
20 the Pennsylvania Turnpike Commission, for the laying out and
21 construction of a sanitary sewer and treatment works.

22 (2) Where construction beyond the limits of the borough is
23 entirely within the limits of a State or county highway or the
24 turnpike, a sanitary sewer may be constructed in or under the
25 State or county highway, or turnpike, provided that written
26 notice is given to the Department of Transportation, county
27 commissioners or Pennsylvania Turnpike Commission, respectively,
28 and its consent obtained before construction is commenced.
29 Permission shall not be unreasonably withheld.

30 (c) Borough council may by ordinance make regulations

respecting the use and maintenance of the sanitary sewer system
and treatment works. The regulations may:

(1) specify materials and substances which may or may not
enter the public sewer or sewer system;

(2) require that certain types or classes of waste be
subjected to treatment or to grinding or other reduction in size
before entering into the sewer;

(3) restrict the quantity of waste material that may enter a
sanitary sewer from any premises within any time interval; and

(4) require that property owners provide means other than
the public sanitary sewers for disposal of storm, surface and
roof water originating or accumulating upon their property.

Violations of the ordinance may be enforced by penalties.

(d) (1) "Sanitary sewer" or "sanitary sewer system," as
used in this article, shall mean [and include] a sewer or sewers
used for receiving and collecting sewage matter and liquid waste
from the inside of buildings and structures[, and, in those
boroughs where there shall be what is known as "combined
sewers," receiving, in addition to such]. Storm water shall not
be permitted to enter into a sanitary sewer. A sanitary sewer or
sanitary sewer system shall not include a combined sewer.

(2) "Combined sewer" shall mean a sewer used for the
receiving and collecting of sewage and liquid waste from the
inside of buildings and structures, storm water, roof or surface
drainage [or any of them, the term "sanitary sewer," as used in
this article, shall include such combined sewers], sump pump
discharge and draining from foundation drains.

(3) "Sewer system," as opposed to a "sanitary sewer system,"
shall be either a sanitary sewer or a combined sewer and shall
include pump stations and force mains.

1 Section 2002. [Assessment According to Benefits.--Where a
2 borough constructs sanitary sewers and desires to assess the
3 costs and expenses upon property benefited, whether or not such
4 property abuts upon such sewer, then on petition, viewers shall
5 be appointed, as provided in article XV of this act, who shall
6 assess the damages, costs, and expenses of the sanitary sewer
7 upon the property benefited, accommodated or improved according
8 to benefits, if sufficient can be found, but if not, then the
9 deficiency when finally ascertained shall be paid by the
10 borough. The proceedings of the viewers and the proceedings of
11 their report shall be as provided in article XV of this act.]

12 Assessments.--Assessments, whether based according to benefits
13 conferred or by the front foot basis, and assessment awards, if
14 any, shall be calculated pursuant to Article XXI-A.

15 Section 231. Sections 2003, 2004 and 2005 of the act are
16 repealed:

17 [Section 2003. Assessment by Foot-front Rule.--Where a
18 borough constructs sanitary sewers and desires to assess the
19 costs and expenses thereof by the foot-front rule, it may by
20 ordinance provide that the expenses shall be assessed against
21 the property benefited, improved or accommodated by any sanitary
22 sewer, whether or not such property abuts upon such sewer, by
23 the foot-front rule and may provide for equitable assessments
24 and/or adjustments when special conditions exist where an
25 assessment for the full frontage would be unjust. The secretary
26 of the borough shall cause thirty days' notice of the assessment
27 to be given to each party assessed, either by service on the
28 owner or his agent, or left on the assessed premises.

29 Section 2004. Places and Manner of Construction.--The
30 borough shall fix the places along, where such sanitary sewer

1 and branches thereof, shall be laid down, and shall prescribe
2 the manner in which they shall be constructed.

3 Section 2005. Permit from Sanitary Water Board.--No contract
4 for the construction of any sewer system or treatment works
5 shall be entered into until a permit for the construction of the
6 same shall have been obtained from the Sanitary Water Board.]

7 Section 232. Section 2006 of the act, amended October 9,
8 1967 (P.L.399, No.181), is repealed:

9 [Section 2006. Assessments of Cost.--Whenever any borough
10 shall construct any sanitary sewer and assess the cost thereof
11 by the foot-front rule, the assessment, duly certified under the
12 seal of the borough, attested by the president of council and
13 secretary, shall be collectible from the owner of property
14 benefited, improved or accommodated thereby.

15 Such certificate of assessment shall be prima facie evidence,
16 in any suit for the recovery of same, of the correctness and
17 validity of such assessment.

18 The assessment herein referred to shall be computed under the
19 terms of the ordinance, but the individual assessments need not
20 be expressed therein.]

21 Section 233. Sections 2007 and 2008 of the act are repealed:

22 [Section 2007. Collections of Assessments.--If the owners of
23 property against which a foot-front assessment has been made
24 shall refuse to pay such assessment within thirty days after
25 notice of the same, it shall be the duty of the borough
26 solicitor to collect the same, with interest from the time of
27 completion of the improvement, by action of assumpsit, or by
28 lien to be filed and collected in the same manner as municipal
29 claims. When an owner has two or more lots against which there
30 is an assessment for the same improvement, all of such lots may

1 be embraced in one claim.

2 Section 2008. Regulations of Borough.--The borough may
3 enforce by penalties, such regulations as it may ordain with
4 reference to the use and maintenance of such sanitary sewerage
5 system and treatment works.]

6 Section 234. Sections 2009 and 2010 of the act are amended
7 to read:

8 Section 2009. Extensions Beyond Borough Limits; Eminent
9 Domain.--The borough may extend the necessary sewer mains, pipes
10 and outlets beyond the limits of [such] the borough, to a point
11 where [such] the sewage is to be disposed[;] or collected and
12 received and shall have power to enter upon and condemn [such
13 lands, property and materials] land for the construction of all
14 [such] sewer mains, outlets, and treatment works as may be
15 necessary for the disposal or the collection of [such] the
16 sewage provided that the extension is in conformity with 26
17 Pa.C.S. § 206 (relating to extraterritorial takings) and any
18 other applicable requirement of 26 Pa.C.S. (relating to eminent
19 domain).

20 Section 2010. Notice of Certain Ordinances.--No ordinance
21 for any construction of sewers or treatment works beyond the
22 limits of the borough, shall be [adopted] enacted until notice
23 [thereof] of the ordinance has been given, by publication of the
24 proposed ordinance, once a week for four weeks in one newspaper
25 [of general circulation in the borough], and also by serving
26 copies of [such] the proposed ordinance upon all land owners
27 through whose land [such] the sewer is to pass, or on whose
28 lands any treatment works are to be located, at least ten days
29 before [final action thereon. But no notice, as herein provided,
30 shall be required where such construction beyond the limits of a

1 borough is entirely within the limits of any street or State
2 highway. In such cases a written notice shall be given to the
3 corporate authorities of the municipality or township having
4 jurisdiction over such street and consent of the State
5 Department of Highways shall be obtained in the case of any
6 State highway, before construction is commenced] the enactment
7 of the ordinance.

8 Section 235. Section 2011 of the act is repealed:

9 [Section 2011. Security for Damages; Assessments.--Before
10 entry shall be made upon private property without the owner's
11 consent, for the purpose of laying any sewer or constructing any
12 treatment works, security for all damages which may be done
13 shall first be given to such owner in such form and in such
14 amount as the court of common pleas of the county may direct.
15 All damages caused by the construction of any such sewer or
16 works, or by the taking of lands and materials, shall be
17 ascertained in the manner provided in the law governing eminent
18 domain for property taken, injured, or destroyed, and shall be
19 paid out of the borough treasury.]

20 Section 236. Sections 2012 and 2013 of the act are amended
21 to read:

22 Section 2012. Unlawful to Build Within Right-of-Way of
23 Sanitary Sewers.--It shall be unlawful for any person to erect
24 any building or make any improvement, within the right-of-way of
25 any sanitary sewer laid out [or ordained to be laid out], after
26 due notice [thereof;] of the laying out of the sanitary sewer,
27 and, if any [such] erection or improvement shall be made, no
28 allowance shall be had [therefor] for the building or
29 improvement in the assessment of damages.

30 Section 2013. Opening Sanitary Sewers.--(a) If any borough

1 shall lay out [or ordain] any sanitary sewer, over or under
2 private property, located in whole or in part within the limits
3 of [such] the borough, and proceedings to open the same and to
4 assess the damage arising therefrom shall not be proceeded with
5 by the borough, within two years from the enactment of the
6 ordinance, the whole proceeding shall be void.

7 (b) If any borough has laid out a sanitary sewer without the
8 enactment of an ordinance prior to the effective date of this
9 subsection and shall have not opened the same, the proceedings
10 shall not be deemed to be void but the borough shall have two
11 years from the effective date of this subsection to open the
12 sanitary sewer or the whole proceeding shall be void.

13 Section 237. Article XX subdivision (b) heading and section
14 2021 of the act are amended to read:

15 (b) Joint Sanitary Sewers

16 Section 2021. [Building Joint Sewers.--(a) Boroughs may
17 jointly with other cities, boroughs or townships build and
18 construct sanitary sewers, including trunk line sewers or drains
19 and sewage treatment works, and may connect into such system
20 existing sanitary sewers, and may assess their respective
21 portions of the cost thereof, or so much thereof as may be
22 legally assessable, upon property benefited, improved, or
23 accommodated by the improvement, either by viewers or by the
24 foot-front rule as provided in this article. Any portion of the
25 cost of such improvement not assessed or not assessable shall be
26 paid by the respective cities, boroughs, and townships joining,
27 as may be agreed upon.] Joint Sanitary Sewer Systems.--(a)
28 Pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to
29 intergovernmental cooperation), boroughs may contract with other
30 municipal corporations providing for the joint construction or

maintenance of sanitary sewer systems and for the joint construction onto existing sanitary sewer systems. The agreement shall provide for the apportionment of costs among the municipal corporations. The borough council may assess the borough's respective portion of the costs, as may be legally assessable, upon property benefited by the facilities pursuant to Article XXI-A. Any portion of the cost not assessed or assessable shall be paid by the respective municipal corporations under the agreement.

(b) The [boroughs, cities and townships] municipal corporations joining or contemplating joining in any [such] improvement, in order to facilitate the building of the [same] sanitary sewer system and in securing preliminary surveys and estimates, may by ordinance provide for the appointment of a joint sanitary sewer board composed of one representative from each of the [boroughs, cities, and townships] municipal corporations joining which shall act generally as the advisory and administrative agency in the construction of [such] the improvement[,] and its subsequent operation and maintenance. [The members of such] Members of the joint sanitary sewer board shall serve for terms of six years each from the dates of their respective appointments and until their successors are appointed. The joint sanitary sewer board shall organize by the election of a [chairman] chair, secretary, and treasurer. The secretary and treasurer may be the same person. The [several boroughs, cities, and townships] municipal corporations may in the ordinances creating the joint sanitary sewer board, authorize the board to appoint an engineer, a solicitor, and [such] other assistants as are deemed necessary, and agree to the share of the compensation of [such] those persons each

1 [borough, city, and township,] municipal corporation is to pay.
2 The members of the joint sanitary sewer board shall receive
3 [such] compensation for attending board meetings [of the board]
4 as [shall be fixed] established in the budget[,]
5 prepared by the joint sanitary sewer board [for submission to,
6 and adoption by, the several boroughs, cities, and townships, as
7 hereinafter provided,] and submitted to and adopted by the
8 municipal corporations. The members shall be entitled to actual
9 expenses to be paid by the respective [boroughs, cities and
10 townships which such] municipal corporations the members
11 represent.

12 (c) The joint sanitary sewer board [shall have powers to]
13 may adopt rules and regulations to govern its proceedings, and
14 shall prepare and suggest any practical measures and plans by
15 which the joint improvement may be carried to successful
16 completion[;] and plan the future development of the system, so
17 as to conform to a general plan. It [shall have power to] may
18 prepare a joint agreement or agreements for submission to and
19 adoption by the [several boroughs, cities and townships]
20 municipal corporations defining the advisory and administrative
21 powers of the joint sanitary sewer board[;] and setting forth
22 the consents of the [several boroughs, cities and townships]
23 municipal corporations to the proposed improvement; the manner
24 in which preliminary and final plans, specifications and
25 estimates for the proposed improvement shall be prepared and
26 adopted; how proposals for bids shall be advertised and
27 contracts let; the manner in which the costs of the improvement
28 and other incidental and preliminary expenses in connection
29 [therewith] with the improvement, and the future cost of
30 operation and maintenance shall be equitably shared, apportioned

1 and paid; and all [such] other matters, including the
2 preparation and submission of annual and other budgets, as may
3 be deemed necessary or required by law[, to carry] to complete
4 the proposed improvement [to completion] and to assure future
5 maintenance and operation thereof. [But nothing herein contained
6 shall authorize the board to make any improvement or expend any
7 public moneys which has not first been authorized by all the
8 boroughs, cities and townships] The board may not make any
9 improvement or spend any public moneys which have not first been
10 authorized by all of the municipal corporations proceeding with
11 the improvement.

12 (d) [In any case where it shall be] When it is necessary to
13 acquire, appropriate, injure, or destroy private property[,
14 lands, property, or material] to build [any such] a joint
15 sanitary sewer system or improvement[, and the [same] property
16 cannot be acquired by purchase or gift, the right of eminent
17 domain shall vest in the [borough, city, or township] municipal
18 corporation where [such] the property is located. [In any case
19 where it shall be] When it is necessary to acquire, injure, or
20 destroy property in any territory not within the limits of any
21 of the [boroughs, cities, or townships] municipal corporations
22 joining in the improvement, then the right of eminent domain
23 shall be vested in [any borough, city, or township] the
24 municipal corporation adjacent to [such] the territory where
25 [such] the property is located subject to 26 Pa.C.S. § 206
26 (relating to extraterritorial takings). Damages for any property
27 taken, injured, or destroyed shall be assessed [as provided by
28 the general laws relating to the boroughs, cities and townships]
29 under laws relating to the municipal corporation exercising the
30 right of eminent domain[;] and shall be paid by the [several

1 boroughs, cities and townships] municipal corporations
2 joining[,] in the same proportion as other costs of the
3 [improvement] improvements.

4 (e) Each of the boroughs joining in [any such] the
5 improvement shall have power to incur or increase its
6 indebtedness, not exceeding the constitutional limits, for the
7 purpose of paying its share or portion of the cost of [such] the
8 improvement in the manner now provided by law for the incurring
9 of indebtedness.

10 Section 238. Section 2022 of the act is repealed:

11 [Section 2022. Approval of Sanitary Water Board.--No such
12 sewer or sewage treatment plant shall be constructed until plans
13 and specifications have been submitted to the Sanitary Water
14 Board, and approved in accordance with provisions of existing
15 laws.]

16 Section 239. Sections 2023, 2024 and 2025 of the act are
17 amended to read:

18 Section 2023. Connections with Sanitary Sewers of Adjacent
19 Municipalities.--Any borough may connect with an existing
20 sanitary sewer, owned by any adjacent municipality [or
21 township,] for sewerage purposes[,] in the manner prescribed in
22 [the following sections of this subdivision of this article]
23 sections 2024, 2025 and 2026.

24 Section 2024. Applications to Court.--Whenever any borough
25 shall desire to connect with the existing sanitary sewer of any
26 adjacent municipality [or township,] and no agreement, either
27 upon the basis of a rental payment for the use of an existing
28 sanitary sewer or a division of the cost of the construction or
29 maintenance [thereof] of the sanitary sewer, has been reached
30 between [such] the borough and the adjacent municipality [or

township], an application shall be made by council to the court of [quarter sessions] common pleas of the county where the proposed connection is to be located, setting forth that fact.

Section 2025. Appointment of Viewers.--If the court shall be of the opinion that [such] the connection can be made without impairing the usefulness of the existing sanitary sewer, it shall appoint three viewers, who shall view the premises and investigate the facts of the case, and shall assess the proportionate part of the expense of building the original sanitary sewer upon [such] the borough, and shall fix the proportion of the expense for repairs which each municipality [or township] shall thereafter bear, and determine all other questions liable to arise in connection [therewith] with the sanitary sewer.

Section 240. Section 2026 of the act, repealed in part June 3, 1971 (P.L.118, No.6), is amended to read:

Section 2026. Report of Viewers; Appeals to Court.--The viewers shall report to the court the result of their investigation, which report shall be confirmed within thirty days unless exceptions [thereto be] are filed. After confirmation of [such] the report, or the disposal of any exceptions, any party interested may appeal from the decision of the court of [quarter sessions] common pleas.

Section 241. Article XX subdivision (c) heading and sections 2031 and 2032 of the act are repealed:

[(c) Power to Supply Sewerage Service Outside Borough Limits

Section 2031. Power to Supply Service.--Whenever any borough is maintaining and operating a sewerage system and sewage purification or treatment works, it shall be lawful for such borough to supply sewerage service to municipalities, townships,

1 persons and corporations, outside the limits of such borough,
2 and to enter into contracts for such service, at rates not less
3 than those required to be paid by persons and corporations
4 within the limits of such borough; but no such privilege shall
5 conflict with the rights of any sewer company, or the rights of
6 any other borough.

7 Section 2032. Power to Extend Lines and Condemn Property.--
8 For the purpose of supplying such sewerage facilities, any such
9 borough may extend the necessary sewer mains and pipes beyond
10 the limits of such borough, to the points where such sewage is
11 to be collected and received, and shall have the power to enter
12 upon and condemn such lands, property and materials for the
13 construction of such sewer mains, and pipes, as may be necessary
14 to the furnishing of such sewerage service.]

15 Section 243. Article XX subdivision (d) heading of the act
16 is amended to read:

17 (d) Acquisition of [Sewer] Community Collection
18 or Disposal Systems

19 Section 244. Section 2041 of the act is repealed:

20 [Section 2041. Power to Acquire Sewer Systems.--Any borough,
21 in which any person or persons, firm, or corporation are
22 maintaining sewers and culverts, with the necessary inlets and
23 appliances for surface, under surface and sewage drainage, or in
24 which any person or persons, firm or corporation are maintaining
25 a community sewage collection or disposal system as defined in
26 section 2043 of this act, may become the owner of such sewers,
27 culverts, inlets and appliances, or the owner of such community
28 collection or disposal system, by purchase or by the exercise of
29 the power of eminent domain, or by gift from the owner or owners
30 thereof.]

1 Section 245. The act is amended by adding a section to read:

2 Section 2041.1. Power to Acquire Community Collection or
3 Disposal Systems.--(a) A borough may, by ordinance, acquire
4 ownership of a community sewage collection or disposal system as
5 defined in section 2043 by purchase or by the exercise of
6 eminent domain pursuant to 26 Pa.C.S. (relating to eminent
7 domain), or by gift from the owner or owners.

8 (b) In eminent domain proceedings, the viewers shall assess
9 the costs and expenses of the community sewage collection or
10 disposal system acquired by the borough upon the property or
11 properties benefited according to benefits. Any deficiency that
12 is not assessed upon the benefited property or properties shall
13 be paid by the borough.

14 Section 246. Section 2042 of the act is repealed:

15 [Section 2042. Assessment of Damages.--In case of
16 disagreement, the amount to be paid shall be ascertained in the
17 manner provided in the law governing eminent domain. In the same
18 proceeding, the viewers shall assess the costs and expenses of
19 the sewer, culverts, inlets and appliances, or of the sewer
20 collection, or disposal system, acquired by the borough, upon
21 the property benefited, according to benefits, if sufficient can
22 be found; but, if not, then the deficiency when ascertained
23 shall be paid by the borough.]

24 Section 247. Section 2043 of the act is amended to read:

25 Section 2043. Community Sewage Collection or Disposal
26 Systems.--(a) For the purpose of this subdivision, a community
27 sewage collection or disposal system is all or part of a device
28 or devices installed on any privately or publicly owned parcel
29 of land, intended to treat or dispose of the sewage or
30 equivalent volume of domestic sewage from two or more

1 residences, buildings or occupied parcels of land, or any system
2 of piping used in collection and conveyance of sewage on private
3 or public property.

4 (b) After a community sewage collection or disposal system
5 has been acquired under the provisions of this subdivision by
6 the borough, the council shall have the power to enlarge [such]
7 the system if it deems it advisable. In such cases, the cost and
8 expenses of [such] the enlargement may be distributed or
9 assessed in the same manner as if the enlargement was a regular
10 sewer constructed by the borough under other provisions of this
11 act.

12 (c) Whenever a community sewage collection or disposal
13 system is [or shall have been] established or constructed within
14 a borough by a private owner or owners, and the borough council
15 is thereafter empowered by ordinance to acquire the ownership of
16 the sewage disposal system so established, or when [any such]
17 the system has been enlarged by the borough, [such] the
18 acquisition and ownership shall be subject to the following
19 provisions of this subsection:

20 (1) When the person or persons having established or
21 constructed a community sewage collection or disposal system, or
22 when more than one-half the number of the owners of properties
23 which are connected with, have a right to use and are using a
24 community collection or disposal system, enter into an agreement
25 with the borough for the acquisition of the system by the
26 borough, [such] the agreement shall be considered a valid
27 agreement by the owners of the sewage collection or disposal
28 system and a transfer of ownership to the borough.

29 (2) The borough shall operate and maintain any sewage
30 collection or disposal system acquired and any enlargement or

1 addition thereto for the use of persons having acquired from the
2 borough or from the former owner or owners the right to use the
3 system, and for the use of other owners of property accessible
4 thereto up to the capacity of the sewage collection or disposal
5 system.

6 (3) All persons whose property connects with the sewage
7 collection or disposal system acquired or constructed by the
8 borough shall pay to the borough treasurer, a monthly,
9 quarterly, semi-annual or annual charge prescribed by a
10 resolution of the council. The amount of the charges shall not
11 be in excess of the estimated amount necessary to maintain and
12 operate the system and to establish a reserve fund sufficient
13 for its future replacement.

14 (4) All sewer rentals or charges imposed by the council
15 against properties connected with a community sewage collection
16 or disposal system under the provisions of this section shall
17 constitute liens against the properties and may be collected in
18 the same manner as other sewer charges.

19 (5) All moneys received from the sewer charges shall be
20 deposited as a special reserve fund, and shall be used only for
21 the payment of the cost of operating and maintaining the sewage
22 collection or disposal system and the replacement [thereof] of
23 the collection or disposal system, if necessary and economically
24 desirable. If at any time after the acquisition or enlargement
25 of the community sewage system, a regular sewer system is made
26 available by the borough for connection with the properties
27 using the community sewage collection or disposal system, the
28 owners of [such] the properties shall be subject to the other
29 provisions of this act relating to sewers, and all money at that
30 time in the reserve fund which was received from charges for the

1 use of that particular sewage collection or disposal system, and
2 which is over and above the amount expended for the operation
3 and maintenance of that particular sewage collection or disposal
4 system, shall be used towards the payment of any sewer
5 assessments charged against [such] the properties under other
6 sections of this act.

7 (d) Nothing in this section may be construed to supersede
8 the requirements of the act of January 24, 1966 (1965 P.L.1535,
9 No.537), known as the "Pennsylvania Sewage Facilities Act."

10 Section 248. Article XX subdivision (e) heading and section
11 2051 of the act are amended to read:

12 (e) Connection and Use of Sanitary Sewers

13 Section 2051. Ordinances to Require Sanitary Sewer
14 Connections.--Any borough may, by ordinance, require any owner
15 of property, benefited, improved or accommodated by a sanitary
16 sewer, to make connections with [such] the sanitary sewer, in
17 [such] the manner as the borough may order, for the purpose of
18 discharge of [such] drainage or waste matter as the borough may
19 specify. All connections required shall be uniform. The owner
20 shall be given at least forty-five days' notice of any ordinance
21 requiring a sanitary sewer connection and, upon failure of the
22 owner to make the connection, the borough may make the
23 connection and collect the cost from the owner by a municipal
24 claim or by an action of assumpsit. The borough may by penalties
25 enforce any [regulation] ordinance it may [ordain] enact with
26 reference to any sanitary sewer connections.

27 Section 249. Section 2052 of the act is repealed:

28 [Section 2052. Notice of Ordinances; Failure to Comply With
29 Ordinance.--The owner shall be given at least forty-five days'
30 notice of any ordinance requiring such sewer connection, and,

1 upon failure of such owner to make such connection, the borough
2 may make the same, and collect the cost thereof from the owner
3 by a municipal claim or in an act of assumpsit. All connections
4 required shall be uniform.]

5 Section 250. Section 2053 of the act is amended to read:

6 Section 2053. Tapping Fees.--Any borough may by ordinance
7 provide for charging a tapping fee whenever the owner of any
8 property connects [such] the property with a sanitary sewer
9 system constructed or acquired by the borough provided that the
10 tapping fee is calculated in accordance with 53 Pa.C.S. § 5607
11 (relating to purposes and powers), which fee shall be in
12 addition to any charges assessed and collected against [such]
13 the property in the construction or acquisition of [such] the
14 sanitary sewer by the borough. Whenever a sanitary sewer system
15 or any part or extension [thereof] of a sanitary sewer system,
16 owned by a borough, has been constructed by the borough at the
17 expense of a private person or corporation or has been
18 constructed by a private person or corporation under the
19 supervision of the borough at the expense of the private person
20 or corporation, the borough shall have the right to charge a
21 tapping fee calculated in accordance with 53 Pa.C.S. § 5607 and
22 refund [said] the tapping fee or any part [thereof] of the fee
23 to the person or corporation who has paid for the construction
24 of [said] the sanitary sewer system or any part or extension
25 [thereof] of the sanitary sewer system in accordance with 53
26 Pa.C.S. § 5607. The total of [said] the refunds shall never
27 exceed the cost of [said] the system or any part or extension
28 [thereof] of the system to the person or corporation paying for
29 the construction [thereof] of the system or any part or
30 extension of the system. In any case, where the property

1 connected or to be connected with the sanitary sewer system of
2 the borough is not equipped with a water meter the borough may
3 install [such] a meter at its own cost and expense. If the
4 property is supplied with water from the facilities of a public
5 water supply agency, the borough shall not install [such] a
6 meter without the consent and approval of the public water
7 supply agency.

8 Section 251. Section 2054 of the act is repealed:

9 [Section 2054. Regulations and Restrictions in Use of
10 Sanitary Sewers.--Any borough in which there is any public
11 sanitary sewer or sewer system shall have authority, by
12 ordinance, to make regulations and restrictions pertaining to
13 the use of such sewer or sewer system. Such regulations and
14 restrictions: (i) may specify materials and/or substances which
15 may or may not enter the public sewer or sewer system; (ii) may
16 require that certain types or classes of waste be subjected to
17 treatment or to grinding or other reduction in size before
18 entering into the sewer; (iii) may restrict the quantity of
19 waste material that may enter a sanitary sewer from any premises
20 within any time interval; and (iv) may require that property
21 owners provide means other than the public sanitary sewers for
22 disposal of storm, surface and roof water originating or
23 accumulating upon their property.]

24 Section 252. Article XX subdivision (f) heading of the act,
25 amended July 13, 1988 (P.L.521, No.91), is reenacted to read:

26 (f) Monthly, Quarterly or Annual Rentals

27 Section 253. Sections 2061, 2062 and 2063 of the act,
28 amended July 13, 1988 (P.L.521, No.91), are amended to read:

29 Section 2061. Ordinance for Monthly, Quarterly or Annual
30 Rental.--Whenever any borough shall have constructed any

1 sanitary sewer, sewer system or sewage treatment works, or shall
2 have acquired wholly or partially the same at public expense, as
3 authorized in this article, the [council of such] borough
4 council may provide, by ordinance, for the collection of a
5 monthly, quarterly or annual rental or charge or a fixed sum,
6 for the use of [such] the sanitary sewer, sewer system or sewage
7 treatment works, from the owner of property served by it. [The
8 council may, at its discretion, in lieu of such monthly,
9 quarterly or annual rental or charge, provide for the payment by
10 such owner of a fixed sum.]

11 Section 2062. How Rental Fixed.--[Such] The monthly,
12 quarterly or annual rental may include the amount expended
13 monthly, quarterly or annually by the borough in maintenance,
14 repair, alteration, inspection, depreciation, or other expense,
15 of [such] the sanitary sewer, sewer system or sewage treatment
16 works, and may include interest on money expended or borrowed by
17 the borough in the construction of the sanitary sewer, sewer
18 system or sewage treatment works, or in the acquisition,
19 enlargement or extension of the sanitary sewer or sewer system,
20 and may also include an amount sufficient for the amortization
21 of debt incurred by the borough for [any such] those purposes,
22 including the construction of sewage treatment works according
23 to law. The [said] monthly, quarterly or annual amount or fixed
24 sum shall be apportioned equitably among the [several]
25 properties served by the [said] sanitary sewers, sewer system or
26 sewage treatment works.

27 Section 2063. Collection of Rental.--[Such] The monthly,
28 quarterly or annual rental or charge, or [such] the fixed sum,
29 shall be authorized and collected as provided by general
30 ordinances, and, when so levied and charged, shall be a lien on

1 the properties charged[. The collection thereof shall be made
2 and enforced in the manner municipal claims are collected.] from
3 the date set forth in the ordinance. If the rental, charge or
4 fixed sum is not paid after thirty days' notice, it may be
5 collected by an action of assumpsit, in the name of the borough
6 against the owner of the property charged, or by a lien filed in
7 the nature of a municipal lien.

8 The borough council [of such borough] shall execute a warrant
9 or warrants, authorizing the collection of [such] the monthly,
10 quarterly or annual sewer rentals or charges, or [such] the
11 fixed sum, to the officer employed by council to collect the
12 same. [Such] The officer shall have the authority now vested by
13 law for the collection of borough taxes.

14 Section 254. Section 2064 of the act, amended July 13, 1988
15 (P.L.521, No.91), is repealed:

16 [Section 2064. Lien.--Such monthly, quarterly or annual
17 sewer rentals or charges, or such fixed sum, shall be a lien on
18 the properties charged with the payment thereof, from the date
19 set forth in the ordinance, and, if not paid after thirty days'
20 notice, may be collected by an action of assumpsit, in the name
21 of the borough against the owner of the property charged, or by
22 distress of personal property on the premises, or by a lien
23 filed in the nature of a municipal lien.]

24 Section 255. Article XX subdivision (g) heading, sections
25 2071 and 2072, Article XXI heading and sections 2101, 2102,
26 2103, 2104 and 2105 of the act are repealed:

27 [(g) Sewers on Boundary Streets

28 Section 2071. Power to Lay and Construct.--Boroughs shall
29 have authority to lay and construct sewers in any street, any
30 portion of which is within the limits of the borough, and which

1 forms a portion of the boundary dividing the borough from any
2 other city, borough, or township within the same county, in the
3 same manner and to the same extent as if the whole of said
4 street was within the limits of the said borough.

5 Section 2072. Assessment of Benefits.--The property
6 benefited, improved or accommodated, which is located outside
7 the limits of the borough constructing such sanitary sewers,
8 shall, for a depth of one hundred fifty feet, be assessed for
9 the cost of such sewer, in the same manner as such property
10 would be assessed, under the laws of the Commonwealth, if it
11 were entirely located within the limits of such borough, if such
12 property is given permission to use such sanitary sewer and is
13 not, at the time such sanitary sewer is constructed, provided
14 with sanitary sewer facilities.

15 ARTICLE XXI

16 COLLECTION BY INSTALMENT OF STREET

17 AND SEWER ASSESSMENTS

18 Section 2101. Authority for Instalment Payments.--Whenever
19 any borough shall authorize the construction or acquisition of
20 any sanitary sewer or system of sanitary sewers, or the
21 improvement of any street or portion thereof, and the entire
22 cost, or any part thereof, shall be assessed against the
23 properties benefited, improved or accommodated by such sewer or
24 system of sewers, or abutting upon such street or portion
25 thereof, such borough may authorize the payment of such
26 assessment in equal annual, or more frequent instalments. Such
27 instalment payments may be authorized by a general ordinance
28 applicable to all sanitary sewers or systems thereof and/or all
29 streets thereafter acquired, constructed or improved, as the
30 case may be, or by one or more specific ordinances applicable to

1 a specific sewer, system of sewers or street or portion thereof.
2 Every such ordinance shall specify the length of time over which
3 such instalments may be extended and whether payments are to be
4 made by annual or more frequent instalments. All such
5 instalments shall bear interest, as provided in the applicable
6 ordinance, at a rate not to exceed six percent, commencing at
7 such time as may be fixed or regulated by ordinance: Provided,
8 That where bonds shall have been issued and sold in the manner
9 provided by law, to provide for the payment of any street
10 improvement, such assessments shall be payable in equal
11 instalments during the term for which such bonds are issued, and
12 the expenditures for such improvements, and interest thereon to
13 the first day when interest is payable on such bonds, shall be
14 taken as the cost of such improvement to be assessed on the
15 property benefited.

16 Section 2102. Entry of Liens.--Claims to secure the
17 assessments shall be entered in the prothonotary's office of the
18 county at the same time and in the same form and shall be
19 collected in the same manner as municipal claims are filed and
20 collected, notwithstanding the provisions of this article on
21 instalment payments.

22 Section 2103. Assessments; Where Payable.--Such assessments
23 shall be payable at the office of the borough treasurer, or such
24 other place as the ordinance shall provide, in semi-annual or
25 annual instalments, with interest at the rate provided from the
26 date from which interest is computed on the amount of the
27 assessments.

28 Section 2104. Default in Payment of Instalment.--In case of
29 default in the payment of any instalment and interest for a
30 period of sixty days after the same shall become due, the entire

1 assessment and accrued interest shall become due; and the
2 borough solicitor shall proceed to collect the same under the
3 general laws relating to the collection of municipal claims.

4 Section 2105. Payments in Full.--Any owner of property,
5 against whom any such assessment shall have been made, may pay
6 the same in full, at any time, with interest and costs thereon
7 to the due date of the next instalment, and such payment shall
8 discharge the lien.]

9 Section 256. The act is amended by adding an article to
10 read:

11 ARTICLE XXI-A

12 ASSESSMENTS AND CHARGES FOR PUBLIC IMPROVEMENTS

13 Section 2101-A. Authority to assess.

14 (a) General rule.--Borough council shall have the power to
15 pay the cost, in whole or in part, of any and all public
16 improvements of all natures and descriptions, including, but not
17 limited to, the grading, building, paving, regrading, rebuilding
18 and repaving of streets as defined in section 1701, the
19 creation, extension, renovation or enlargement of water mains
20 and sewage collection, transmission, treatment and disposal
21 systems and the creation, extension and renovation of storm,
22 surface and subsurface drainage systems, the construction,
23 reconstruction and repair of wharves and docks, the installation
24 of ornamental street lighting, or the planting, removal,
25 maintenance and protection of shade trees by any of the
26 following methods:

27 (1) from general borough funds;

28 (2) from special borough funds created for that purpose;

29 or

30 (3) by assessment of costs against the benefited

1 properties either on the front foot or benefit conferred
2 method of assessment.

3 Except as provided in subsection (c), the costs and expenses of
4 sanitary sewers may be assessed against properties benefited,
5 accommodated or improved regardless of the property line
6 location and regardless of whether any portion of a property so
7 benefited, accommodated or physically improved abuts upon the
8 sanitary sewer.

9 (b) Payment of indebtedness.--

10 (1) If a borough that incurs authorized indebtedness
11 pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to
12 indebtedness and borrowing) for the purposes of funding the
13 cost and expense of making public improvements for which
14 assessments can be made in accordance with this article,
15 payments made on the assessment must be applied to pay the
16 debt service for the indebtedness incurred for funding the
17 cost and expense of making the public improvement.

18 (2) Notwithstanding section 2107-A, when bonds are
19 issued in a manner provided by law and an assessment is to be
20 paid in installments, the assessment shall be payable in
21 equal installments during the term for which the bond is
22 issued, and the cost of the improvement plus interest
23 beginning the first day when interest is payable on the bond
24 shall be the cost of the improvement to be assessed on a
25 property.

26 (c) Property outside borough.--Property benefited, improved
27 or accommodated which is located outside the limits of the
28 borough that constructed a sanitary sewer may, if located no
29 more than 150 feet from the sewer main, be assessed for the cost
30 of the sewer in the same manner as the property would be

1 assessed under the laws of this Commonwealth if it were entirely
2 located within the limits of the borough, if the property is
3 given permission to use the sanitary sewer and is not, at the
4 time the sanitary sewer is constructed, provided with sanitary
5 sewer facilities.

6 (d) Water mains.--Boroughs shall have power to assess the
7 whole cost or any part of the cost of construction of new water
8 mains built in connection with the establishment or extension of
9 a municipally owned water supply system, even if the mains are
10 located outside the limits of the borough, and that serve
11 abutting properties, against the properties abutting the
12 boundary line. The borough may provide that the assessment be
13 rebated to the owner of the assessed property out of rates
14 charged for water consumed in serving the assessed property. The
15 borough may also issue a negotiable credit memorandum in the
16 amount of the assessment which may be used for the payment of
17 any water service to the extent of the assessment.

18 Section 2102-A. Notice of assessments.

19 The borough secretary shall cause 30 days' personal notice of
20 the assessment to be served upon each property owner assessed.
21 If a certificate is required to be filed with council relating
22 to the public improvement as otherwise provided in this act,
23 then a copy of the certificate shall accompany the notice.
24 "Personal notice" as used in this article shall mean and include
25 notice upon the owner of a property either by personal service
26 upon the owner or by certified mail to the owner at the owner's
27 last known address, or where service, after a reasonable
28 attempt, shall not have been successfully made by either of
29 these two methods, then by leaving notice at or upon the
30 property.

1 Section 2103-A. Assessment based on front foot basis.

2 (a) General rule.--If borough council elects to collect the
3 cost, including any administrative fees, of any improvement on
4 the front foot basis, the cost to be collected shall be divided
5 by the total number of linear feet of street frontage of each
6 property benefited and there shall be assessed against each
7 property that portion of the cost which is determined by
8 multiplying the dividend of the prior calculation by the number
9 of linear feet for street frontage of that property.

10 (b) Certificate of assessment.--Council shall issue a
11 certificate of assessment when assessing on the front foot
12 basis, duly certified under the seal of the borough and attested
13 by the president of council and secretary. The certificate of
14 assessment shall be prima facie evidence in any suit for
15 recovery of the same of the correctness and validity of the
16 assessment.

17 (c) Adjustments in assessments.--Notwithstanding subsection
18 (a), council may make equitable adjustments for corner lots,
19 lots of irregular shape, or, where special conditions exist,
20 where an assessment for full frontage would be unjust.

21 Section 2104-A. Assessment of benefits conferred.

22 (a) General rule.--In lieu of the front foot basis, borough
23 council may elect to have the benefits of public improvements
24 assessed, in whole or in part, upon property benefited, improved
25 or accommodated by assessing an equal assessment on the
26 properties benefited, improved or accommodated in proportion to
27 the total cost of construction of the improvement. The amount of
28 the charge on each property shall be determined by borough
29 council.

30 (b) Certificate.--Council shall issue a certificate of

assessment when assessing benefits upon property benefited,
improved or accommodated, duly certified under the seal of the
borough and attested by the president of council and secretary.
The certificate of assessment shall be prima facie evidence in
any suit for recovery of the same of the correctness and
validity of the assessment.

Section 2105-A. Assessment awards.

In proceedings to assess benefits, if the land or property is
both benefited and damaged by the public improvements, the
excess of damages over benefits, or the excess of benefits over
damages, or nothing in case the benefits and damages are equal,
shall be awarded to or assessed against the owner of land and
property affected thereby. Damages shall be calculated pursuant
to 26 Pa.C.S. (relating to eminent domain).

Section 2106-A. Petition for viewers.

(a) Petition.--Taxpayers of the borough whose property is
being assessed for benefits for a public improvement may present
a petition to the court of common pleas stating that the
assessment insufficiently represents the benefits accruing to
abutting, benefited or accommodated properties and may include
in the petition a request for the appointment of viewers to
assess benefits provided that at least 50% of the taxpayers
whose parcels are abutting, benefited or accommodated by the
public improvement in question join the petition or provided
that taxpayers whose property valuation as assessed for taxable
purposes within the borough amounts to at least 50% of the total
property valuation of the properties being assessed for the
public improvement join the petition. The petition must be
presented within three months of the adoption of the resolution
or enactment of the ordinance levying the assessment.

1 (b) Viewers.--The court shall appoint three disinterested
2 viewers, none of whom shall be a resident of that portion of the
3 borough that is benefited or accommodated by the public
4 improvement in question, and the viewers shall proceed under
5 this act and 26 Pa.C.S. (relating to eminent domain) for the
6 assessment of damages and benefits by viewers. Upon the filing
7 of the petition by taxpayers for the appointment of viewers, any
8 assessment made by the borough council and any proceedings shall
9 be stayed pending the disposition of the petition by the court.

10 Section 2107-A. Payment of assessments in installments.

11 (a) Installments.--Whenever any ordinance is passed
12 providing for a public improvement the expense of which is to be
13 defrayed by an assessment against properties benefited by the
14 improvement, either by the front foot or benefit conferred
15 methods, the ordinance shall specify the length of time over
16 which the installments may be extended and whether payments are
17 to be made by equal annual or more frequent installments. If the
18 provisions of section 2101-A(b)(2) and this subsection conflict,
19 the provisions of section 2101-A(b)(2) shall prevail to the
20 extent of the conflict.

21 (b) Commencement of payments and rate of interest.--The
22 ordinance shall set a time when the installment payments shall
23 commence and shall set forth the rate of interest for the
24 installments which shall not be more than 6% per year.

25 (c) Installment agreement.--The borough shall enter into a
26 written installment agreement with each property owner, subject
27 to the requirements of the ordinance pertaining to such
28 agreements and this article.

29 (d) Unpaid installments.--If any of the installments shall
30 remain unpaid for 60 days after the same has become due and

1 payable, the entire unpaid assessment, plus unpaid accrued
2 interest and any costs, shall be due and payable and the borough
3 solicitor shall proceed to collect the same by filing a lien in
4 the same manner as municipal claims are filed or by action in
5 assumpsit.

6 (e) Prepayment.--A property owner upon whom an assessment
7 has been made may pay all or as many of the installments before
8 the same are due, with interest and costs to the due date of the
9 next installment.

10 Section 2108-A. Collection of assessments.

11 (a) Collection methods.--If any assessment remains unpaid at
12 the expiration of the 30-day personal notice, and an installment
13 agreement has not been entered into pursuant to section 2106-A,
14 the borough solicitor shall collect the unpaid assessment, with
15 interest from the time of completion of the improvement, or from
16 the time of filing a certificate of assessment with council,
17 plus costs, by filing a lien to be collected in the same manner
18 as municipal claims or by action in assumpsit. When a property
19 owner has two or more lots, against which there is an assessment
20 for the same improvement, all of the lots may be embraced in one
21 claim.

22 (b) Payment location.--Assessments, whether paid one time or
23 by installments, shall be payable at the office of the borough
24 treasurer or any other place as the applicable ordinance shall
25 provide.

26 Section 257. Article XXII heading of the act is reenacted to
27 read:

28 ARTICLE XXII

29 STORM SEWERS AND WATER COURSES

30 Section 258. Sections 2201, 2202, 2203 and 2204 of the act

1 are amended to read:

2 Section 2201. Authority of Boroughs.--Any borough may, by
3 ordinance, after [a permit shall have been obtained from the
4 Water and Power Resources Board, and from the Federal
5 Government, where required] obtaining any required permit from
6 the Department of Environmental Protection, or other Federal or
7 State entity, do the following:

8 (1) Widen and deepen any water course running through or
9 within the borough, erecting [such] dykes, retaining walls and
10 embankments along the [same] water course as may be necessary to
11 prevent the water from overflowing the banks [thereof];

12 (2) Confine and pave any water course or portion thereof,
13 other than a navigable stream;

14 (3) Engage in channel improvement through the construction
15 and maintenance of storm sewers and the accumulation and
16 discharge of water [thereinto] into storm sewers;

17 (4) Vacate or alter the course or channel of any water
18 course, other than a navigable stream.

19 For any of [such] these purposes, a borough may enter upon
20 and condemn [such] property and materials as may be necessary.
21 No borough may confine and pave, vacate or alter any water
22 course used by any municipality, municipal authority or water
23 company as a source of supply, unless [such] the municipality,
24 municipal authority or water company shall first consent to
25 [such] the confining and paving, vacation or alteration.

26 Section 2202. Right of Entry Upon Lands.--Any borough may
27 enter upon any land lying near any water course, and secure such
28 material as may be necessary for the purpose of making and
29 repairing the embankments along [such] the water course, when
30 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 Appraisalment.--Within ten days
10 after notice of the filing of any report in court, either party
11 may appeal from [such] the appraisalment 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

outside the borough limits shall be in conformity with 26
Pa.C.S. § 206 (relating to extraterritorial takings).

(b) A borough may acquire, by purchase or condemnation, land
along and contiguous to streams of water or reservoirs from
which water is taken for public use if necessary to preserve the
water from contamination.

Section 2442. Filing Maps and Plans.--[After such] If a
change is made pursuant to section 2441(a), the borough shall
file in the court of [quarter sessions of the county] common
pleas a map or plan showing [such] the change of road, and if
the road is outside the limits of the borough, it shall furnish
to the [supervisors or other authorities of the township, or
municipal corporation] governing body of the municipal
corporation, a copy of [such] the map.

Section 279. Sections 2443 and 2444 of the act are repealed:
[Section 2443. Condemnation of Lands to Prevent
Contamination.--Any borough may acquire, by purchase or
condemnation, such land along and contiguous to the streams of
water or reservoirs from which water is taken for public use, as
may be necessary to preserve the same from contamination.]

Section 2444. Condemnation Proceedings.--The damages
incurred in changing the location of any such public road, and
in condemning land to preserve water from contamination, shall
be ascertained in the manner provided in the law governing
eminent domain, and shall be paid by the borough.]

Section 280. Article XXIV subdivision(a) (7) heading of the
act is renumbered and amended to read:

[(7)] (a.6) Commission of [Waterworks] the Water System

Section 281. Sections 2451 and 2452 of the act, amended July
11, 1996 (P.L.549, No.97), are amended to read:

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 let contracts
20 [therefor] to the lowest responsible bidder, and shall take
21 adequate security for the performance of all such contracts and
22 for the payment of all labor and materials.

23 Section 2457. Reports by Commission.--The commissioners
24 shall make a monthly report to the borough council of the
25 receipts and disbursements during the preceding month, and
26 annually make a detailed report of the condition of the
27 [waterworks, which shall be published or otherwise made
28 available by the council for the information of the public.]
29 water system. Both the monthly and annual reports shall be
30 deemed to be public records.

1 Section 2458. Care of Funds.--[The commissioners shall cause
2 all moneys collected to be deposited weekly, by the collectors,]
3 Collectors shall be appointed by the commissioners, pursuant to
4 section 2454, who shall collect all moneys for water rents. The
5 moneys collected shall be deposited weekly with the borough
6 treasurer, who shall return a receipt [therefor] to the
7 commissioners. All moneys [so] collected shall be kept in a
8 separate fund, and shall be used for the purpose of repairing,
9 maintaining and extending [such waterworks] the water system,
10 and the [erection] construction of a new [waterworks] water
11 system. All moneys remaining after [such] the expenditures shall
12 be used solely for the payment of any indebtedness on [said
13 waterworks] the water system and any indebtedness incurred by
14 the borough for constructing, maintaining, improving, enlarging
15 or extending [said waterworks] the water system. [Said moneys
16 shall be used for no purpose other than as provided in this
17 section.] No money shall be drawn from [such] the fund except
18 upon order countersigned by the president and secretary of the
19 commission.

20 Section 283. Article XXIV subdivision (a)(8) heading of the
21 act is renumbered and amended to read:

22 [(8)] (a.7) Water Connections

23 Section 284. Sections 2461, 2462 and 2463 of the act are
24 amended to read:

25 Section 2461. Ordinances to Require Water Connections.--[Any
26 borough supplying water for the use of the public within such
27 borough, in any manner mentioned in section 2401 of this act,]
28 (a) Borough council may, by ordinance, require any owner of
29 property [abutting upon any street in which there is a water
30 main constructed or acquired by the borough, to make connections

1 with such water line, for the purpose of conducting water to
2 such property. The borough may by penalties enforce any
3 regulation it may ordain with reference to such water
4 connections.] to connect with and use a water system of the
5 borough or municipal authority or a joint water board in either
6 of the following cases:

7 (1) Except as provided in subsection (b), if the property
8 owner's principal building is located within one hundred fifty
9 feet of a water system or any part or extension of the system.

10 (2) If the property owner's principal building has no supply
11 of water which is safe for human consumption.

12 (b) A property owner who, after the effective date of this
13 subsection, is subject to mandatory connection pursuant to
14 subsection (a)(1) shall not be required to connect to the water
15 system pursuant to that subsection if all of the following
16 conditions exist:

17 (1) The water system or part or extension of the system that
18 is within one hundred fifty feet of the principal building was
19 in existence on the effective date of this subsection.

20 (2) The principal building has its own supply of water which
21 is safe for human consumption.

22 (3) Prior to the effective date of this subsection, the
23 property owner was not required to connect to the existing
24 system.

25 (c) A borough may also require any owner of property to
26 install and maintain a backflow prevention device based on the
27 degree of potential hazard of the connected property.

28 (d) A borough may assess penalties for the violation of
29 ordinances pertaining to water connections or backflow
30 prevention devices.

1 Section 2462. Notice of Ordinance; Failure to Comply With
2 Ordinance.--The owner shall be given at least forty-five days'
3 notice of any ordinance requiring [such] a water connection,
4 and, upon failure of [such] the owner to make [such] the
5 required connection, the borough may make the [same] connection,
6 and collect the cost [thereof] from the owner by a municipal
7 claim or in an action of assumpsit. All connections required
8 shall be uniform.

9 Section 2463. Water Main Tapping Fees.--Any borough may, by
10 ordinance, provide for charging a tapping fee calculated in
11 accordance with 53 Pa.C.S. § 5607 (relating to purposes and
12 powers) whenever the owner of any property connects [such] the
13 property with a water main constructed or acquired by the
14 borough[, which]. The tapping fee shall be in addition to any
15 charges assessed and collected against [such] the property in
16 the construction or acquisition of [such] the water main by the
17 borough. Whenever a water main or part or extension [thereof]
18 owned by a borough has been constructed by the borough at the
19 expense of a private person or corporation or has been
20 constructed by a private person or corporation under the
21 supervision of the borough at the expense of the private person
22 or corporation, the borough shall have the right to charge a
23 tapping fee calculated in accordance with 53 Pa.C.S. § 5607 and
24 refund [said] the tapping fee or any part [thereof] of the
25 tapping fee to the person or corporation who has paid for the
26 construction of [said] the water main or any part or extension
27 [thereof]. The total of [said] the refunds shall never exceed
28 the cost of [said] the system or any part or extension [thereof]
29 to the person or corporation paying for the construction
30 [thereof].

1 Section 285. Article XXIV subdivision (b) heading of the act
2 is repealed:

3 [(b) Manufacture and Supply of Electricity]

4 Section 286. Section 2471 of the act, amended December 16,
5 1992 (P.L.1215, No.158), is repealed:

6 [Section 2471. Manufacture and Purchase of Electricity.--Any
7 borough may manufacture or purchase electricity for the use of
8 the inhabitants of such borough. Any borough owning or operating
9 electric light plants may make contracts for supplying
10 electricity for commercial purposes outside the limits of such
11 borough, with the consent of the municipal and township
12 authorities. Nothing in this section shall conflict with the
13 corporate rights of any corporation empowered to supply
14 electricity in territory adjacent to such boroughs, or with the
15 rights of any other borough. No person, firm, or corporation
16 shall introduce electric current for light, heat, or power
17 purposes, without the consent of the borough authorities, into
18 the limits of any borough which is furnishing electric current
19 to the inhabitants: Provided, however, That this section shall
20 not apply to any person, firm, or corporation manufacturing
21 electricity exclusively for its own use: And provided further,
22 That any borough which constructs an electric light plant, or
23 purchases the property of any person, copartnership, or electric
24 light company, and incurs debt for any of such purposes, shall
25 incur such debt in accordance with and to the extent permitted
26 by the act of July 12, 1972 (P.L.781, No.185), known as the
27 "Local Government Unit Debt Act." Nothing in this act shall be
28 construed so as to disallow any borough from operating a cable
29 television system.]

30 Section 287. Sections 2471.1 and 2471.2 of the act, added

1 December 30, 1982 (P.L.1465, No.333), are repealed:

2 [Section 2471.1. Operation of Electric Plants.--(a) The
3 following words and phrases when used in this section shall
4 have, unless the context clearly indicates otherwise, the
5 meanings given to them in this subsection:

6 (1) "Project" means any electric plants, hydroelectric plant
7 works, system, facilities, or real or personal property,
8 together with all parts thereof and appurtenances thereto, used
9 or useful in connection with the generation, production,
10 transmission, purchase, sale, exchange or interchange of
11 electric power or energy, or any interest therein or right to
12 capacity thereof.

13 (2) "Revenue bond" means an instrument imposing an
14 obligation for the repayment of money borrowed, payable as to
15 both principal and interest exclusively from the income and
16 revenues derived from an interest in an electric light plant or
17 project.

18 (b) A borough may own, construct, acquire by lease, purchase
19 or otherwise gain an interest as co-owner or tenant in common
20 and operate and manage or cause to be operated and managed an
21 electric light plant or project located within or without this
22 Commonwealth jointly with any other borough, political
23 subdivision, subdivision of the Federal Government, State,
24 political subdivision of another state, private corporation
25 empowered to supply electricity, electric cooperative
26 corporation formed under the act of June 21, 1937 (P.L.1969,
27 No.389), known as the "Electric Cooperative Corporation Act," or
28 electric cooperative corporation in another state.

29 (c) A borough which jointly owns, constructs, leases,
30 purchases or otherwise gains an interest in an electric light

1 plant or project shall have the power to do and accomplish all
2 actions reasonably necessary and incident to the administration,
3 operation and management of the plant or project. This power
4 shall be vested in the corporate authorities: Provided, however,
5 That a borough shall not become a stockholder in, obtain or
6 appropriate money for or loan its credit to any corporation,
7 association, institution or individual or otherwise act contrary
8 to the provisions of section 9 of Article IX of the Constitution
9 of Pennsylvania. In addition to the powers enjoyed by all
10 boroughs, a borough which gains an interest in an electric light
11 plant or project under subsection (b) shall have the following
12 powers:

13 (1) to cooperate with private power companies, other
14 boroughs, electric cooperative corporations and other public or
15 private electric power entities, inside and outside of this
16 Commonwealth, in the development of electric power and energy;

17 (2) to make such studies as may be necessary to determine
18 the feasibility and cost of any additional sources and supplies
19 of electric power and energy;

20 (3) to contract for the purchase, sale, exchange,
21 interchange, wheeling, pooling or transmission of electric power
22 and energy or for the right to the capacity thereof, inside and
23 outside of this Commonwealth, to and from any public or private
24 power entities, private power companies, other boroughs and
25 electric cooperative corporations;

26 (4) to procure insurance against any losses in connection
27 with its property, operations or assets in such amounts and from
28 such insurers as the corporate authorities deem desirable;

29 (5) to contract for and to accept any gifts or grants or
30 loans of funds or property or financial or other aid in any form

1 from the United States of America or any agency or
2 instrumentality thereof, or from any other source;

3 (6) to grant the use, by lease or otherwise, and to make
4 charges for the use, of any property or facility owned or
5 controlled by it;

6 (7) to procure from the United States of America or any
7 agency or instrumentality thereof, or from any state or agency
8 or instrumentality thereof, any consents, authorizations or
9 approvals which may be requisite to enable ownership, operation,
10 construction or repair;

11 (8) to borrow money and from time to time to issue revenue
12 bonds, and to enter into agreements with the purchasers of such
13 revenue bonds; and

14 (9) to mortgage any property acquired or owned under
15 subsection (b) to secure the payment of its revenue bonds, or
16 other obligations issued to finance such acquisition, ownership
17 or repair.

18 (d) In the erection and extension of an electric light plant
19 or project under subsection (b) and for all other purposes
20 authorized by this act, a borough may enter upon, appropriate,
21 injure, or destroy private lands, property or material according
22 to the proceedings set forth in the law governing eminent
23 domain: Provided, however, That a borough shall not have the
24 power of condemnation with regard to any property of a private
25 or public retail electric supplier which geographically lies
26 beyond the boundaries of the corporate limits of the borough.

27 (e) A borough which gains an interest in an electric light
28 plant or project under subsection (b) may fix, establish,
29 maintain and collect or authorize by contract or otherwise the
30 establishment, levying and collection of such rates, fees,

1 rental or other charges, including connection charges, for the
2 services afforded by or in connection with any properties which
3 it constructs, erects, owns, acquires, operates or manages, and
4 for the sale or transmission of electric energy and power as it
5 may deem necessary, proper, desirable and reasonable.

6 (f) A borough which gains an interest in an electric light
7 plant or project under subsection (b) may pay all or part of the
8 cost therefor from the revenues derived from the sale of revenue
9 bonds issued in the manner provided by the act of July 12, 1972
10 (P.L.781, No.185), known as the "Local Government Unit Debt
11 Act."

12 (g) Interest and principal paid on revenue bonds issued by a
13 borough under subsection (f) shall be exempt from all State
14 taxes of whatsoever kind or nature.

15 Section 2471.2. Municipal Power Agencies.--(a) The
16 following words and phrases when used in this section shall
17 have, unless the context clearly indicates otherwise, the
18 meanings given to them in this subsection:

19 (1) "Municipal power agency" means a separate body politic
20 and corporate under the laws of the Commonwealth of Pennsylvania
21 created by agreement between or among two or more boroughs
22 pursuant to this section.

23 (2) "Project" means any electric plant or plants,
24 hydroelectric plant works, system, facilities or real or
25 personal property, together with all parts thereof and
26 appurtenances thereto, used or useful in connection with the
27 generation, production, transmission, purchase, sale, exchange
28 or interchange of electric power or energy, or any interest
29 therein or right to capacity thereof.

30 (3) "Revenue bond" means an instrument imposing an

1 obligation for the repayment of money borrowed, payable as to
2 both principal and interest exclusively from the income and
3 revenues derived from an interest in an electric light plant or
4 project.

5 (b) Any two or more boroughs may form a municipal power
6 agency by the execution of any agency agreement authorized by a
7 resolution of the corporate authorities of each borough. Such
8 agency agreement shall state:

9 (1) The name of the agency, which shall include the words
10 "municipal power agency."

11 (2) The names of the boroughs which have approved the agency
12 agreement and are initial members of the municipal power agency.

13 (3) That the municipal power agency is created pursuant to
14 the authority granted by this act.

15 (4) The names and addresses of the persons initially
16 appointed by the corporate authorities to act as representatives
17 to the municipal power agency from the member boroughs.

18 (5) The limitations, if any, placed on the powers or terms
19 of representatives appointed by the corporate authorities of the
20 member boroughs.

21 (6) The names and addresses of the initial board of
22 directors of the municipal power agency, if known by the time of
23 filing, which shall be constituted by not less than five persons
24 who are representatives of the member boroughs, selected by the
25 vote of a majority of such representatives.

26 (c) The agency agreement referred to in subsection (b) and a
27 certified copy of the resolution of the corporate authorities of
28 each borough shall be filed for record with the Secretary of the
29 Commonwealth. If the agency agreement meets the requirements of
30 this subsection, the Secretary of the Commonwealth shall record

1 it and issue and record a certificate of incorporation which
2 shall be conclusive proof of a substantial compliance with the
3 requirements of this subsection. The certificate shall state the
4 name of the municipal power agency and the fact and date of
5 incorporation. Upon the issuance of the certificate of
6 incorporation the existence of the municipal power agency as a
7 political instrumentality of the Commonwealth shall begin.

8 (d) The bylaws of the municipal power agency and any
9 amendments thereto, shall be proposed by the board of directors
10 and shall be adopted by a majority vote of the representatives
11 of the member boroughs, unless the agency agreement requires a
12 greater vote, at a meeting held after notice. Subject to the
13 provisions of the agency agreement, the bylaws shall state:

14 (1) the qualifications of member boroughs, and limitations,
15 if any, upon their number;

16 (2) conditions of membership, if any;

17 (3) manner and time of calling regular meeting of
18 representatives of member boroughs;

19 (4) manner and conditions of termination of membership; and

20 (5) such other provisions for regulating the affairs of the
21 municipal power agency as the representatives of the member
22 boroughs shall determine to be necessary.

23 (e) Every municipal power agency shall maintain an office in
24 this Commonwealth to be known as its registered office. When a
25 municipal power agency desires to change the location of its
26 registered office, it shall file with the Secretary of the
27 Commonwealth a certificate of change of location of registered
28 office, stating the new location by city, town or other
29 community and effective date of change. When the certificate of
30 change of location has been duly filed, the board of directors

1 may make the change without any further action.

2 (f) Each of the directors shall hold office for the term for
3 which he has been selected and until a successor has been
4 selected and has qualified. Directors shall discharge their
5 duties in good faith, and with that diligence and care which an
6 ordinary prudent person in a like position would exercise under
7 similar circumstances. The agency agreement, or the bylaws may
8 prescribe the number, term of office, powers, authority and
9 duties of directors, the time and place of their meetings and
10 other regulations concerning directors. Except where the agency
11 agreement or bylaws prescribe otherwise, the term of office of a
12 director shall be for one year. Except where the agency
13 agreement or bylaws prescribe otherwise, a meeting of the board
14 of directors may be held at any place, within the Commonwealth,
15 designated by the board, after notice, and an act of the
16 majority of the directors present at a meeting at which a quorum
17 is present is the act of the board. Except where the agency
18 agreement or bylaws prescribe otherwise, any vacancy occurring
19 on the board shall be filled by a person nominated by the
20 remaining members of the board and elected by a majority of
21 representatives of the member boroughs.

22 (g) Except where the agency agreement or bylaws prescribe
23 otherwise, the board of directors shall appoint a president from
24 its membership, and a secretary and treasurer, and any other
25 officers or agents deemed to be necessary, who may but need not
26 be borough representatives or directors. An officer may be
27 removed with or without cause by the board of directors.
28 Officers of the municipal power agency shall have the authority
29 and duties in the management of the business of the municipal
30 power agency that the agency agreement or bylaws prescribe, or,

1 in the absence of such prescription, as the board of directors
2 determines.

3 (h) Except as otherwise provided in the agency agreement or
4 the bylaws, the duly authorized representatives of each member
5 borough shall act as, and vote on behalf of, such borough.
6 Except where the agency agreement or bylaws provide otherwise,
7 representatives of the member boroughs shall hold at least one
8 meeting each year for the election of directors and for the
9 transaction of any other business. Except where the agency
10 agreement or bylaws prescribe otherwise, special meetings of the
11 representatives may be called for any purpose upon written
12 request to the president or secretary to call the meeting. Such
13 officer shall give notice of the meeting to be held between ten
14 and sixty days after receipt of such request. Unless the agency
15 agreement or bylaws provide for a different percentage, a quorum
16 for a meeting of the representatives of the member boroughs is a
17 majority of the total members and a quorum for meetings of the
18 board of directors is a majority of the membership of such
19 board.

20 (i) The agency agreement may be amended as proposed at any
21 meeting of the representatives of the members for which notice,
22 stating the purpose, shall be given to each representative and,
23 unless the agency agreement or bylaws require otherwise, shall
24 become effective when ratified by resolutions of a majority of
25 the corporate authorities of the member boroughs. Each amendment
26 and the resolutions approving it shall be filed for record with
27 the Secretary of the Commonwealth.

28 (j) Each member borough shall have full power and authority,
29 within budgetary limits applicable to it, to appropriate money
30 for the payment of expenses of the formation of the municipal

power agency and of its representative in exercising its functions as a member of the agency.

(k) A municipal power agency may own, construct, acquire by lease, purchase or otherwise gain an interest by itself or as co-owner or tenant in common and operate and manage or cause to be operated and managed an electric light plant or project located within or without this Commonwealth jointly with any political subdivision, subdivision of the Federal Government, State, political subdivision of another state, private corporation empowered to supply electricity, electric cooperative corporation formed under the act of June 21, 1937 (P.L.1969, No.389), known as the "Electric Cooperative Corporation Act," or electric cooperative corporation in another state.

(l) All powers of a municipal power agency shall be exercised by its board of directors, unless otherwise provided by the agency agreement or bylaws. A municipal power agency shall have the power to do and accomplish all actions reasonably necessary and incident to the ownership, construction, acquisition, administration, operation and management of an electric light plant or project. Among the specific powers of a municipal power agency shall be the following:

(1) to sue and be sued;

(2) to enter into contracts;

(3) to cooperate with private power companies, boroughs, electric cooperative corporations and other public or private electric power entities, inside and outside of this Commonwealth, in the development of electric power and energy;

(4) to make such studies as may be necessary to determine the feasibility and cost of any additional sources and supplies

1 of electric power and energy;

2 (5) to contract for the purchase, sale, exchange,
3 interchange, wheeling, pooling or transmission of electric power
4 and energy or for the right to the capacity thereof, inside and
5 outside of this Commonwealth, to and from any public or private
6 power entities, private power companies, other boroughs and
7 electric cooperative corporations;

8 (6) to procure insurance against any losses in connection
9 with its property, operations or assets in such amounts and from
10 such insurers as the board of directors deems desirable;

11 (7) to contract for and to accept any gifts or grants or
12 loans of funds or property or financial or other aid in any form
13 from the United States of America or any agency or
14 instrumentality thereof, or from any other source;

15 (8) to acquire, hold, use, operate and dispose of personal
16 property;

17 (9) to acquire, hold, use and dispose of its income,
18 revenues, funds and moneys;

19 (10) to acquire, own, use, lease, operate and dispose of
20 real property and interests in real property and to make
21 improvements thereon;

22 (11) to grant the use, by lease or otherwise, and to make
23 charges for the use, of any property or facility owned or
24 controlled by it;

25 (12) to procure from the United States of America or any
26 agency or instrumentality thereof, or from any state or agency
27 or instrumentality thereof, any consents, authorizations or
28 approvals which may be requisite to enable ownership, operation,
29 construction or repair;

30 (13) to borrow money and from time to time to issue revenue

1 bonds and to enter into agreements with the purchasers of such
2 revenue bonds;

3 (14) to invest funds not required for immediate use,
4 including but not limited to proceeds from the sale of revenue
5 bonds: Provided, however, That the power of a municipal power
6 agency to invest shall be the same as that of a borough, as
7 exercised by the borough council pursuant to clause (6) of
8 section 1005 and section 1316; and

9 (15) to mortgage any property acquired or owned to secure
10 the payment of its revenue bonds or other obligations issued to
11 finance such acquisition, ownership or repair.

12 (m) In the erection and extension of an electric light plant
13 or project, and for all other purposes authorized by this act, a
14 municipal power agency may enter upon, appropriate, injure or
15 destroy private lands, property or material according to the
16 proceedings set forth in the law governing eminent domain:
17 Provided, however, That a municipal power agency shall not have
18 the power of condemnation with regard to any property of a
19 private or public retail electric supplier which geographically
20 lies beyond the boundaries of the corporate limits of its member
21 boroughs.

22 (n) A municipal power agency which gains an interest in an
23 electric light plant or project may pay all or part of the cost
24 therefor from the revenues derived from the sale of revenue
25 bonds issued in the manner provided by the act of July 12, 1972
26 (P.L.781, No.185), known as the "Local Government Unit Debt
27 Act."

28 (o) A municipal power agency may make and enforce bylaws or
29 rules which it deems necessary or desirable and may establish,
30 fix, levy and collect or may authorize, by contract, franchise,

1 lease or otherwise, the establishment, levying and collection
2 of, rents, rates and other charges for the services afforded by
3 the municipal power agency, including connection for the
4 services afforded by the municipal power agency, including
5 connection charges or by or in connection with any project or
6 properties which it may construct, erect, acquire, own, operate
7 or control, or with respect to which it may have any interest or
8 any right to capacity thereof and for the sale of electric
9 energy or of generation or transmission capacity or services as
10 it may deem necessary, proper, desirable and reasonable. Rents,
11 rates and other charges shall be at least sufficient to meet
12 expenses thereof, including reasonable reserves, interest and
13 principal payments.

14 (p) Interest and principal paid on revenue bonds, issued by
15 a municipal power agency shall be exempt from all State taxes of
16 whatsoever kind or nature.]

17 Section 288. Section 2471.3 of the act, added October 27,
18 2010 (P.L.862, No.87), is repealed:

19 [Section 2471.3. Additional Contracting Authority for
20 Electric Power and Energy.--(a) In addition to the authority
21 provided under section 2471, a borough that, on the effective
22 date of this section, owns or operates electric generation or
23 distribution facilities and a borough that is a member of a non-
24 profit membership corporation may contract with the non-profit
25 membership corporation for the following:

26 (1) The development of electric power and associated energy,
27 including the conduct of investigations or studies necessary to
28 determine the feasibility and cost of additional sources and
29 supplies of electric power and associated energy.

30 (2) The purchase, sale, exchange, interchange, wheeling,

1 pooling or transmission of electric power and associated energy
2 or the right to the capacity from sources and projects in this
3 Commonwealth or another state for a period not to exceed fifty
4 years.

5 (b) A contract under subsection (a)(2) shall include the
6 purpose of the contract, the duration of the contract and
7 available procedures to terminate the contract subsequent to the
8 repayment of all indebtedness secured under the contract.

9 (c) If a borough is a member of a non-profit membership
10 corporation, a contract under subsection (a)(2) may, if
11 specifically set forth in the contract, obligate the borough to:

12 (1) take and pay for a minimum quantity of electric power
13 and associated energy if the power and energy is available for
14 delivery;

15 (2) in connection with a project owned by the non-profit
16 membership corporation or in which the non-profit membership
17 corporation obtains an undivided ownership interest, to take or
18 pay for a minimum amount of electric power and energy; or

19 (3) pay for electric power and energy only if utilized by
20 the borough.

21 (d) (1) The authority under subsection (c)(1) shall apply
22 whether or not the borough accepts delivery of the power and
23 energy.

24 (2) The authority under subsection (c)(2) shall apply
25 notwithstanding the suspension, interruption, interference or
26 reduction or curtailment of the output of the project or the
27 electric power and energy contracted for and whether or not:

28 (i) the electric power and energy is available for delivery
29 to the borough; or

30 (ii) the borough accepts delivery of the electric power and

1 energy.

2 (e) No borough may be obligated under a take-or-pay or take-
3 and-pay arrangement entered into with a non-profit membership
4 corporation in which the borough maintains membership unless
5 that obligation is expressly authorized by an act of the borough
6 council.

7 (f) A non-profit membership corporation shall not:

8 (1) condition membership in the non-profit membership
9 corporation on the inclusion of any take-or-pay or take-and-pay
10 obligations in a contract under subsection (a)(2); or

11 (2) except as set forth in subsection (g), require take-or-
12 pay or take-and-pay obligations in a contract with a borough
13 unless the contract meets the criteria of subsection (c)(1) or
14 (2).

15 (g) A borough which is a member of a non-profit membership
16 corporation may enter into future power supply contracts,
17 contract renewals or contract extensions with the non-profit
18 membership corporation under subsection (c)(3):

19 (1) with no take-or-pay or take-and-pay obligations as
20 permitted by subsection (c)(1) and (2); and

21 (2) without prejudice or discrimination as compared to any
22 other borough which chooses to enter into contracts permitted by
23 subsection (c)(1) and (2) with the non-profit membership
24 corporation.

25 (h) In order to carry out subsection (g), a non-profit
26 membership corporation which provides or offers electric power
27 and associated energy to a member borough in this Commonwealth
28 under subsection (a)(2) shall offer, to all of its member
29 boroughs in this Commonwealth, future power supply contract
30 terms, contract renewals or contract extensions under subsection

(c) (3) on a comparable and nondiscriminatory basis and with similar terms and conditions to future power supply contract terms, contract renewals or contract extensions that would be appropriate under subsection (c) (3) which the non-profit membership corporation contemporaneously offers to its members in other states.

(i) All obligations under a contract under subsection (a) (2) shall be paid from revenues derived from the operation of the borough's electric system, and payments shall be an operating expense of the borough's electric system.

(j) If explicitly set forth in a contract under subsection (a) (2), a borough may agree to assume, prorate or otherwise become liable for the obligations of another borough of this Commonwealth or of a political subdivision of another state that is a member of the non-profit membership corporation if the borough or other political subdivision defaults in the payment of its obligations for the purchase of the electric power and associated energy. The contract may include provisions to permit a borough to succeed to the rights and interests of the defaulting borough or political subdivision to purchase electric power and associated energy. A borough's liability for the obligations of a defaulting borough of this Commonwealth or a political subdivision of another state shall not exceed twenty-five percent of a borough's initial nominal entitlement to electric power and associated energy under the contract.

(k) None of the obligations under the contract shall constitute a legal or equitable pledge, charge, lien or encumbrance on any property of the borough or on any of its income, receipts or revenues, except revenues of its electric system. The full faith and credit and the taxing power of the

1 borough shall not be pledged for the payment of an obligation
2 under the contract.

3 (1) The provisions of this section are intended to add to
4 the powers and rights of a borough, and nothing in this section
5 shall be construed to limit either the general or specific
6 powers or rights of a borough set forth in this act.

7 (m) As used in this section, the term "non-profit membership
8 corporation" means an entity the membership of which:

9 (1) consists solely of Pennsylvania boroughs, such as a
10 consortium, buying group or municipal power agency under section
11 2471.2; or

12 (2) consists of Pennsylvania boroughs and political
13 subdivisions of another state or states.]

14 Section 289. Sections 2472, 2473, 2474, 2475 and 2476 of the
15 act are repealed:

16 [Section 2472. May Regulate Use and Prices.--Any borough
17 furnishing electricity may regulate the use of electricity in
18 dwellings, business places, and other places in such borough,
19 and the rate to be charged for the same.

20 Section 2473. Sale of Electric Light Works.--By ordinance, a
21 borough may sell all or part of its electric light works to a
22 purchaser for such sale price as the parties may agree upon, and
23 thereafter for all purposes that price shall be deemed to be the
24 purchaser's original cost less accrued depreciation of the plant
25 at the date of purchase.

26 Section 2474. Purchase of Electric Light Works.--Whenever
27 any person, copartnership, or any electric light company
28 organized under the laws of the Commonwealth, is furnishing
29 light to any borough or the public within such borough, such
30 borough may purchase the works of such person, copartnership, or

1 corporation, at such price as may be agreed upon by the borough
2 and such person or copartnership, or a majority in value of the
3 stockholders of such corporation.

4 Section 2475. Petition for Viewers.--Upon failure so to
5 agree on purchase price the borough may present a petition to
6 the court of common pleas, asking for the appointment of viewers
7 to assess the value of the plant and works so proposed to be
8 purchased whereupon the court shall appoint three viewers from
9 the county board of viewers, neither of whom shall be interested
10 in such works, or be stockholders in such corporation, or
11 taxpayers in such borough, and shall appoint a time for their
12 meeting, of which ten days' notice shall be given to all parties
13 in interest.

14 Section 2476. Duty of Viewers.--The viewers, having been
15 sworn or affirmed justly and impartially to appraise the
16 property, and having viewed the premises and taken such
17 testimony as may be offered by any party touching the value of
18 the property and franchises, they shall determine the amount of
19 damages that such person, copartnership, or corporation will
20 sustain, and to whom payable, and make report thereof to the
21 court; which report shall be confirmed "nisi" by the court, and
22 if no appeal is taken as hereinafter provided, shall be
23 confirmed absolutely.]

24 Section 290. Section 2477 of the act, repealed in part June
25 3, 1971 (P.L.118, No.6), is repealed:

26 [Section 2477. Appeal from Report; Trial by Jury.--Either
27 party may, at any time within thirty days after the confirmation
28 "nisi" of any such report, appeal therefrom to the court of
29 common pleas of the county. After such appeal, either party may
30 put the cause at issue, in the form directed by the court, and

1 the same shall be tried before a jury.]

2 Section 291. Sections 2478 and 2479, Article XXIV
3 subdivision (c) heading, section 2481, subdivision (d) heading
4 and sections 2491, 2492 and 2493 of the act are repealed:

5 [Section 2478. Exceptions to Report.--If any exceptions are
6 filed with any appeal, they shall be speedily disposed of, and,
7 if allowed, a new view shall be ordered; but if disallowed, the
8 appeal shall proceed as before provided.

9 Section 2479. Notices.--The court shall have power to order
10 what notice shall be given in connection with any part of such
11 proceedings.

12 (c) Operation of Gas Wells; Gas Works

13 Section 2481. Authority to Purchase Natural Gas Well.--Any
14 borough shall have authority to purchase, own, use, operate and
15 control any natural gas well, or wells, for the purpose of
16 supplying natural gas for its own municipal purposes.

17 (d) Airports

18 Section 2491. Authority to Secure Lands for Airports.--Any
19 borough is hereby authorized and empowered to acquire, by lease
20 or purchase, any land, lying either within or without the limits
21 of such borough, which, in the judgment of the council thereof,
22 may be necessary and desirable for the purpose of establishing
23 and maintaining municipal airport facilities. The proceedings
24 for the condemnation of land under the provisions of this
25 subdivision, and for the assessment of damages for property
26 taken, injured or destroyed, shall be conducted in the manner
27 provided by the law governing eminent domain. The title acquired
28 by the borough exercising the power of condemnation shall be a
29 title in fee simple.

30 Section 2492. Authority to Establish Airports and Lease the

1 Same.--Any borough, acquiring land under the provisions of this
2 subdivision, is authorized and empowered to establish, equip,
3 condition, operate and maintain the same as a municipal airport,
4 and may lease the same, or any part thereof, to any individual
5 or corporation desiring to use the same for aviation purposes;
6 and any borough may enter into a contract, in the form of a
7 lease, providing for the use of said land, or any part thereof,
8 by the Government of the United States, for the use by said
9 Government of said land for aviation purposes upon nominal
10 rental or without consideration.

11 Section 2493. Joint Airports.--Any borough, acquiring land
12 under the provisions of this subdivision, is authorized and
13 empowered to acquire, by lease or purchase, land for aviation
14 purposes, as hereinbefore provided, jointly with any county,
15 city, borough, township, or political subdivision of this
16 Commonwealth, and is hereby authorized and empowered to operate
17 and maintain said airport, jointly, with any county, city,
18 borough, township, or other political subdivision of this
19 Commonwealth, upon such terms and conditions as may be agreed
20 upon between the proper authorities of the county, city,
21 borough, township, or other political subdivision of this
22 Commonwealth.]

23 Section 292. The act is amended by adding an article to
24 read:

25 ARTICLE XXIV-A

26 MANUFACTURE AND SUPPLY OF ELECTRICITY

27 Section 2401-A. Definitions.

28 The following words and phrases when used in this article
29 shall have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

1 "Municipal power agency." A separate body politic and
2 corporate under the laws of this Commonwealth created by
3 agreement between or among two or more boroughs pursuant to
4 section 2404-A.

5 "Project." Electric plants, hydroelectric plant works,
6 system, facilities or real or personal property, together with
7 their parts and appurtenances, used or useful in connection with
8 the generation, production, transmission, purchase, sale,
9 exchange or interchange of electric power or energy, or any
10 interest therein or right to capacity thereof.

11 "Revenue bond." An instrument imposing an obligation for the
12 repayment of money borrowed, payable as to both principal and
13 interest exclusively from the income and revenues derived from
14 an interest in an electric plant or project.

15 Section 2402-A. General powers.

16 (a) Electric plants and projects.--A borough may, either
17 singly or jointly, manufacture or purchase electricity for the
18 use of its inhabitants, own, construct, acquire by lease,
19 purchase or otherwise gain an interest in, operate and manage or
20 cause to be operated and managed, an electric plant or project
21 located within or without this Commonwealth. In the exercise of
22 any of the foregoing powers, a borough may join with any other
23 borough, political subdivision, agency or instrumentality of the
24 Federal Government, State government, political subdivision of
25 another state, private corporation empowered to supply
26 electricity, electric cooperative corporation formed under 15
27 Pa.C.S. Ch. 73 Subchs. A (relating to preliminary provisions)
28 and B (relating to powers, duties and safeguards), or previously
29 formed under the act of June 21, 1937 (P.L.1969, No.389), known
30 as the Electric Cooperative Corporation Act (REPEALED 1990-198),

1 or electric cooperative corporation in another state.

2 (b) Contracts for supplying electricity.--A borough owning
3 or operating an electric plant may make contracts for supplying
4 electricity for commercial purposes outside the limits of the
5 borough, provided that the borough has received the consent of
6 the other municipal governing body and, if applicable, subject
7 to 66 Pa.C.S. Pt. I (relating to Public Utility Code).

8 (c) Additional sources.--A borough may conduct studies as
9 necessary to determine the feasibility and cost of any
10 additional sources and supplies of electric power and energy and
11 may cooperate with private power companies, other boroughs,
12 electric cooperative corporations and other public or private
13 electric power entities, within or without this Commonwealth, in
14 the development of electric power and energy.

15 (d) Consent of borough to supply electricity.--No person,
16 partnership or corporation may introduce electric current for
17 light, heat or power purposes, without the consent of the
18 borough council, into the limits of any borough that is
19 furnishing electric current to its inhabitants, provided,
20 however, that this subsection shall not apply to any person,
21 partnership or corporation manufacturing electricity exclusively
22 for its own use.

23 (e) Corporate rights.--Nothing in this article may conflict
24 with the corporate rights of any corporation empowered to supply
25 electricity in the territory adjacent to the borough, or with
26 the rights of any other municipality.

27 (f) Restrictions.--A borough shall not become a stockholder
28 in, obtain or appropriate money for or loan its credit to any
29 corporation, association, institution or individual or otherwise
30 act contrary to the provisions of section 9 of Article IX of the

1 Constitution of Pennsylvania.

2 (g) General powers.--A borough, through its governing body,
3 shall have the power to do and accomplish all actions reasonably
4 necessary and incident to the administration, operation and
5 management of a plant or project.

6 Section 2403-A. Specific powers.

7 (a) Specific powers enumerated.--In addition to exercising
8 its general powers under section 2402-A, a borough, through its
9 governing body, shall have the following powers:

10 (1) To contract for the purchase, sale, exchange,
11 interchange, wheeling, pooling or transmission of electric
12 power and energy or for the right to the capacity thereof,
13 inside and outside of this Commonwealth, to and from any
14 public or private power entities, private power companies,
15 other boroughs and electric cooperative corporations.

16 (2) To regulate the use of and the charge for
17 electricity furnished by the borough for use throughout the
18 borough. A borough may fix, establish, maintain and collect
19 or authorize by contract or otherwise the establishment,
20 levying and collection of the rates, fees, rental or other
21 charges, including connection charges, for the services
22 afforded by or in connection with any properties which the
23 borough constructs, erects, owns, acquires, operates or
24 manages, and for the sale or transmission of electric energy
25 and power as it deems necessary, proper, desirable and
26 reasonable.

27 (3) To procure insurance against any losses in
28 connection with its property, operations or assets in the
29 amounts and from such insurers as the governing body or
30 bodies deem desirable.

1 (4) To contract for and to accept any gifts, grants or
2 loans of funds or property, or financial or other aid in any
3 form from the United States of America or any agency or
4 instrumentality of the United States of America, or from any
5 other source.

6 (5) To lease, or otherwise grant the use of, and to make
7 charges for the use of any property or facility owned or
8 controlled by the borough.

9 (6) To procure from the United States of America or any
10 agency or instrumentality of the United States of America, or
11 from any state or agency or instrumentality of the State, any
12 consents, authorizations or approvals which may be requisite
13 to enable ownership, operation, construction or repair.

14 (7) To borrow money and from time to time to issue
15 revenue bonds, and to enter into agreements with the
16 purchasers of the revenue bonds. Any borough that incurs debt
17 for the construction or purchase of an electric plant, or
18 land on which to construct an electric plant, or gains an
19 interest in an electric plant or project under section 2402-A
20 shall incur the debt in accordance with and to the extent
21 permitted by 53 Pa.C.S. Pt. VII Subpt. B (relating to
22 indebtedness and borrowing). Interest and principal paid on
23 revenue bonds issued by a borough under this article shall be
24 exempt from all State taxes of whatsoever kind or nature.

25 (8) To mortgage any property acquired or owned under
26 section 2402-A to secure the payment of its revenue bonds or
27 other obligations issued to finance the acquisition,
28 ownership or repair.

29 (9) To sell, by ordinance, all or part of its electric
30 works to a purchaser for the sale price agreed upon by the

1 parties, and thereafter, for all purposes, that price shall
2 be deemed to be the purchaser's original cost less accrued
3 depreciation of the plant at the date of purchase.

4 (10) To purchase the electric works of any person,
5 partnership, or electric company organized under the laws of
6 this Commonwealth that is furnishing light to the borough or
7 the public within the borough. The borough and the person,
8 partnership or a majority in value of the stockholders of a
9 corporation, may agree upon the purchase price, but upon
10 failure of the parties to agree on the price, the borough may
11 proceed according to the laws of eminent domain.

12 (b) Eminent domain.--In the erection and extension of an
13 electric plant or project under this article, and for all other
14 purposes authorized by this act, a borough may enter upon,
15 appropriate, injure or destroy private lands, property or
16 material according to the proceedings set forth in 26 Pa.C.S.
17 (relating to eminent domain). A borough, however, shall not have
18 the power of condemnation with regard to any property of a
19 private or public retail electric supplier which geographically
20 lies beyond the boundaries of the corporate limits of the
21 borough.

22 Section 2404-A. Municipal power agencies.

23 (a) General rule.--Two or more boroughs may form a municipal
24 power agency by the execution of an agency agreement authorized
25 by a resolution of the governing bodies of each borough. The
26 agency agreement shall state:

27 (1) The name of the agency, which shall include the
28 words "municipal power agency."

29 (2) The names of the boroughs which have approved the
30 agency agreement and are initial members of the municipal

1 power agency.

2 (3) That the municipal power agency is created pursuant
3 to the authority granted by this act.

4 (4) The names and addresses of the persons initially
5 appointed by the governing bodies to act as representatives
6 to the municipal power agency from the member boroughs.

7 (5) The limitations, if any, placed on the powers or
8 terms of representatives appointed by the governing bodies of
9 the member boroughs.

10 (6) The names and addresses of the initial board of
11 directors of the municipal power agency, if known by the time
12 of filing, which shall be constituted by not less than five
13 persons who are representatives of the member boroughs,
14 selected by the vote of a majority of the representatives.

15 (b) Certificate of incorporation.--The agency agreement
16 under subsection (a) and a certified copy of the resolution of
17 the governing body of each borough shall be filed for record
18 with the Secretary of the Commonwealth. If the agency agreement
19 meets the requirements of this section, the Secretary of the
20 Commonwealth shall record the agreement and issue and record a
21 certificate of incorporation which shall be conclusive proof of
22 substantial compliance with the requirements of this section.
23 The certificate shall state the name of the municipal power
24 agency and the fact and date of incorporation. Upon the issuance
25 of the certificate of incorporation, the existence of the
26 municipal power agency as a political instrumentality of the
27 Commonwealth shall begin.

28 (c) Bylaws.--The bylaws of the municipal power agency and
29 any amendments, shall be proposed by the board of directors and
30 shall be adopted by a majority vote of the representatives of

1 the member boroughs, unless the agency agreement requires a
2 greater vote at a meeting held after notice. Subject to the
3 provisions of the agency agreement, the bylaws shall state:

4 (1) the qualifications of member boroughs, and
5 limitations, if any, upon their number;

6 (2) conditions of membership, if any;

7 (3) the manner and time of calling regular meetings of
8 representatives of member boroughs;

9 (4) the manner and conditions of termination of
10 membership; and

11 (5) such other provisions for regulating the affairs of
12 the municipal power agency as the representatives of the
13 member boroughs shall determine to be necessary.

14 (d) Registered office.--Every municipal power agency shall
15 maintain an office in this Commonwealth to be known as its
16 registered office. When a municipal power agency desires to
17 change the location of its registered office, it shall file with
18 the Secretary of the Commonwealth a certificate of change of
19 location of registered office, stating the new location by
20 address, including street and number, if any, and effective date
21 of change. When the certificate of change of location has been
22 duly filed, the board of directors may make the change without
23 any further action.

24 (e) Directors.--Each of the directors shall hold office for
25 the term for which the director has been selected and until a
26 successor has been selected and has qualified. Directors shall
27 discharge their duties in good faith, and with that diligence
28 and care which an ordinary prudent person in a like position
29 would exercise under similar circumstances. The agency agreement
30 or the bylaws may prescribe the number, term of office, powers,

authority and duties of directors, the time and place of their meetings and other regulations concerning directors. Except where the agency agreement or bylaws prescribe otherwise, the term of office of a director shall be for one year. Except where the agency agreement or bylaws prescribe otherwise, a meeting of the board of directors may be held at any place within this Commonwealth designated by the board, after notice, and an act of the majority of the directors present at a meeting at which a quorum is present is the act of the board. Except where the agency agreement or bylaws prescribe otherwise, any vacancy occurring on the board shall be filled by a person nominated by the remaining members of the board and elected by a majority of representatives of the member boroughs.

(f) Officers.--Except where the agency agreement or bylaws prescribe otherwise, the board of directors shall appoint a president from its membership, and a secretary, treasurer and any other officers or agents deemed necessary who may, but need not be, borough representatives or directors. An officer may be removed with or without cause by the board of directors.

Officers of the municipal power agency shall have the authority and duties in the management of the business of the municipal power agency that the agency agreement or bylaws prescribe or, in the absence of such prescription, as the board of directors determines.

(g) Representatives of member boroughs.--Except as otherwise provided in the agency agreement or the bylaws, the duly authorized representatives of each member borough shall act as and vote on behalf of that borough. Except where the agency agreement or bylaws provide otherwise, representatives of the member boroughs shall hold at least one meeting each year for

1 the election of directors and for the transaction of any other
2 business. Except where the agency agreement or bylaws prescribe
3 otherwise, special meetings of the representatives may be called
4 for any purpose upon written request to the president or
5 secretary to call the meeting. Such officer shall give notice of
6 the meeting to be held between ten and 60 days after receipt of
7 the request. Unless the agency agreement or bylaws provide for a
8 different percentage, a quorum for a meeting of the
9 representatives of the member boroughs is a majority of the
10 total members and a quorum for meetings of the board of
11 directors is a majority of the membership of the board.

12 (h) Amendment of agency agreement.--The agency agreement may
13 be amended as proposed at any meeting of the representatives of
14 the members for which notice stating the purpose shall be given
15 to each representative and, unless the agency agreement or
16 bylaws require otherwise, shall become effective when ratified
17 by resolutions of a majority of the governing bodies of the
18 member boroughs. Each amendment and the resolutions approving it
19 shall be filed for record with the Secretary of the
20 Commonwealth.

21 (i) Appropriations.--Each member borough shall have full
22 power and authority, within budgetary limits applicable to it,
23 to appropriate money for the payment of expenses of the
24 formation of the municipal power agency and of its
25 representative in exercising its functions as a member of the
26 agency.

27 (j) General powers.--A municipal power agency may own,
28 construct, acquire by lease, purchase or otherwise gain an
29 interest by itself or as co-owner or tenant in common and
30 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
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,

1 other boroughs and electric cooperative corporations;

2 (6) to procure insurance against any losses in
3 connection with its property, operations or assets in such
4 amounts and from such insurers as the board of directors
5 deems desirable;

6 (7) to contract for and to accept any gifts or grants or
7 loans of funds or property or financial or other aid in any
8 form from the United States of America or any agency or
9 instrumentality of the United States of America, or from any
10 other source;

11 (8) to acquire, hold, use, operate and dispose of
12 personal property;

13 (9) to acquire, hold, use and dispose of its income,
14 revenues, funds and moneys;

15 (10) to acquire, own, use, lease, operate and dispose of
16 real property and interests in real property and to make
17 improvements thereon;

18 (11) to grant the use, by lease or otherwise, and to
19 make charges for the use of any property or facility owned or
20 controlled by it;

21 (12) to procure from the United States of America or any
22 agency or instrumentality of the United States of America, or
23 from any state or agency or instrumentality of a state, any
24 consents, authorizations or approvals which may be requisite
25 to enable ownership, operation, construction or repair;

26 (13) to borrow money and from time to time to issue
27 revenue bonds and to enter into agreements with the
28 purchasers of such revenue bonds;

29 (14) to invest funds not required for immediate use,
30 including, but not limited to, proceeds from the sale of

1 revenue bonds, provided, however, that the power of a
2 municipal power agency to invest shall be the same as that of
3 a borough, as exercised by the borough council pursuant to
4 clause (6) of section 1005 and section 1316; and

5 (15) to mortgage any property acquired or owned to
6 secure the payment of its revenue bonds or other obligations
7 issued to finance the acquisition, ownership or repair.

8 (l) Eminent domain.--In the erection and extension of an
9 electric plant or project, and for all other purposes authorized
10 by this act, a municipal power agency may enter upon,
11 appropriate, injure or destroy private lands, property or
12 material according to the proceedings set forth in the law
13 governing eminent domain, provided, however, that a municipal
14 power agency shall not have the power of condemnation with
15 regard to any property of a private or public retail electric
16 supplier which geographically lies beyond the boundaries of the
17 corporate limits of its member boroughs.

18 (m) Revenue bonds.--A municipal power agency which gains an
19 interest in an electric plant or project may pay all or part of
20 the cost from the revenues derived from the sale of revenue
21 bonds issued in the manner provided by 53 Pa.C.S. Pt. VII Subpt.
22 B (relating to indebtedness and borrowing).

23 (n) Bylaws.--A municipal power agency may make and enforce
24 bylaws or rules which it deems necessary or desirable and may
25 establish, fix, levy and collect or may authorize, by contract,
26 franchise, lease or otherwise, the establishment, levying and
27 collection of rents, rates and other charges for the services
28 afforded by the municipal power agency, including connection for
29 the services afforded by the municipal power agency, including
30 connection charges or by or in connection with any project or

1 properties which it may construct, erect, acquire, own, operate
2 or control, or with respect to which it may have any interest or
3 any right to capacity thereof and for the sale of electric
4 energy or of generation or transmission capacity or services as
5 it may deem necessary, proper, desirable and reasonable. Rents,
6 rates and other charges shall be at least sufficient to meet
7 expenses thereof, including reasonable reserves, interest and
8 principal payments.

9 (o) State tax exemptions.--Interest and principal paid on
10 revenue bonds issued by a municipal power agency shall be exempt
11 from all State taxes of whatsoever kind or nature.

12 Section 2405-A. Additional contracting authority for electric
13 power and energy.

14 (a) Additional contracting authority.--In addition to the
15 authority provided under section 2402-A, a borough that, on
16 October 27, 2010, owns or operates electric generation or
17 distribution facilities and a borough that is a member of a
18 nonprofit membership corporation may contract with the nonprofit
19 membership corporation for the following:

20 (1) The development of electric power and associated
21 energy, including the conduct of investigations or studies
22 necessary to determine the feasibility and cost of additional
23 sources and supplies of electric power and associated energy.

24 (2) The purchase, sale, exchange, interchange, wheeling,
25 pooling or transmission of electric power and associated
26 energy or the right to the capacity from sources and projects
27 in this Commonwealth or another state for a period not to
28 exceed 50 years.

29 (b) Contract requirements.--A contract under subsection (a)
30 (2) shall include the purpose of the contract, the duration of

1 the contract and available procedures to terminate the contract
2 subsequent to the repayment of all indebtedness secured under
3 the contract.

4 (c) Minimum quantity of electric power and energy.--If a
5 borough is a member of a nonprofit membership corporation, a
6 contract under subsection (a)(2) may, if specifically set forth
7 in the contract, obligate the borough to:

8 (1) take and pay for a minimum quantity of electric
9 power and associated energy if the power and energy is
10 available for delivery;

11 (2) in connection with a project owned by the nonprofit
12 membership corporation or in which the nonprofit membership
13 corporation obtains an undivided ownership interest, to take
14 or pay for a minimum amount of electric power and energy; or

15 (3) pay for electric power and energy only if utilized
16 by the borough.

17 (d) Applicability of minimum requirements.--

18 (1) The authority under subsection (c)(1) shall apply
19 whether or not the borough accepts delivery of the power and
20 energy.

21 (2) The authority under subsection (c)(2) shall apply
22 notwithstanding the suspension, interruption, interference or
23 reduction or curtailment of the output of the project or the
24 electric power and energy contracted for, and whether or not:

25 (i) the electric power and energy is available for
26 delivery to the borough; or

27 (ii) the borough accepts delivery of the electric
28 power and energy.

29 (e) Take-or-pay or take-and-pay arrangements.--No borough
30 may be obligated under a take-or-pay or take-and-pay arrangement

1 entered into with a nonprofit membership corporation in which
2 the borough maintains membership unless that obligation is
3 expressly authorized by an act of the borough council.

4 (f) Restrictions.--A nonprofit membership corporation shall
5 not:

6 (1) condition membership in the nonprofit membership
7 corporation on the inclusion of any take-or-pay or take-and-
8 pay obligations in a contract under subsection (a)(2); or

9 (2) except as set forth in subsection (g), require take-
10 or-pay or take-and-pay obligations in a contract with a
11 borough unless the contract meets the criteria of subsection
12 (c)(1) or (2).

13 (g) Future contracts.--A borough that is a member of a
14 nonprofit membership corporation may enter into future power
15 supply contracts, contract renewals or contract extensions with
16 the nonprofit membership corporation under subsection (c)(3):

17 (1) with no take-or-pay or take-and-pay obligations as
18 permitted by subsection (c)(1) and (2); and

19 (2) without prejudice or discrimination as compared to
20 any other borough which chooses to enter into contracts
21 permitted by subsection (c)(1) and (2) with the nonprofit
22 membership corporation.

23 (h) Future power supply contract terms.--In order to carry
24 out subsection (g), a nonprofit membership corporation which
25 provides or offers electric power and associated energy to a
26 member borough in this Commonwealth under subsection (a)(2)
27 shall offer, to all of its member boroughs in this Commonwealth,
28 future power supply contract terms, contract renewals or
29 contract extensions under subsection (c)(3) on a comparable and
30 nondiscriminatory basis and with similar terms and conditions to

future power supply contract terms, contract renewals or
contract extensions that would be appropriate under subsection
(c) (3) which the nonprofit membership corporation
contemporaneously offers to its members in other states.

(i) Payments.--All obligations under a contract under
subsection (a) (2) shall be paid from revenues derived from the
operation of the borough's electric system, and payments shall
be an operating expense of the borough's electric system.

(j) Obligations of other entities.--If explicitly set forth
in a contract under subsection (a) (2), a borough may agree to
assume, prorate or otherwise become liable for the obligations
of another borough of this Commonwealth or of a political
subdivision of another state that is a member of the nonprofit
membership corporation if the borough or other political
subdivision defaults in the payment of its obligations for the
purchase of the electric power and associated energy. The
contract may include provisions to permit a borough to succeed
to the rights and interests of the defaulting borough or
political subdivision to purchase electric power and associated
energy. A borough's liability for the obligations of a
defaulting borough of this Commonwealth or a political
subdivision of another state shall not exceed 25% of a borough's
initial nominal entitlement to electric power and associated
energy under the contract.

(k) Pledge of borough property prohibited.--None of the
obligations under the contract may constitute a legal or
equitable pledge, charge, lien or encumbrance on any property of
the borough or on any of its income, receipts or revenues,
except revenues of its electric system. The full faith and
credit and the taxing power of the borough shall not be pledged

1 for the payment of an obligation under the contract.

2 (l) Construction.--The provisions of this section are
3 intended to add to the powers and rights of a borough, and
4 nothing in this section may be construed to limit either the
5 general or specific powers or rights of a borough set forth in
6 this act.

7 (m) Definition.--As used in this section, the term "non-
8 profit membership corporation" means an entity the membership of
9 which:

10 (1) consists solely of Pennsylvania boroughs, such as a
11 consortium, buying group or municipal power agency under
12 section 2404-A; or

13 (2) consists of Pennsylvania boroughs and political
14 subdivisions of another state or states.

15 Section 293. Article XXV and subdivision (a) headings,
16 sections 2501, 2502, 2503, 2504 and 2505, Article XXV
17 subdivision (b) heading and sections 2511 and 2512 of the act
18 are repealed:

19 [ARTICLE XXV

20 PUBLIC BUILDINGS AND WORKS

21 (a) Eminent Domain; General Provisions

22 Section 2501. Exercise of Eminent Domain.--Any borough may
23 enter upon and appropriate private property, and also land
24 previously granted or dedicated to public use or other use, and
25 which is no longer used for the purpose for which the same was
26 granted or dedicated, and also land where the title may be
27 defective, disputed, or doubtful, for the erection thereon of
28 public auditoriums, public libraries, public memorial buildings
29 and monuments and such other public buildings and works as are
30 necessary for municipal purposes within the limits of such

1 borough.

2 Section 2502. Lands Excepted.--No land or property used for
3 any cemetery, burying-ground, or place of public worship, shall
4 be taken or appropriated by virtue of any power contained in the
5 preceding section of this article.

6 Section 2503. Declaration of Intention.--Whenever the
7 borough shall desire to acquire, enter upon, take, use and
8 appropriate any such private property or land, for any such
9 purposes, it shall declare such intention by an ordinance duly
10 enacted.

11 Section 2504. Proceedings.--The compensation and damages
12 arising from such taking, using and appropriating of private
13 property for the purposes aforesaid, shall be considered,
14 ascertained, determined, awarded and paid in the manner provided
15 in the law governing eminent domain.

16 Section 2505. Payment of Damages and Costs.--All damages
17 when ascertained, the costs of the viewers, and all court costs
18 incurred in such proceedings, including advertising, printing
19 and posting notices, shall be paid by the borough.

20 (b) Refuse Disposal Facilities

21 Section 2511. Power to Purchase Real Estate.--Any borough,
22 separately, or jointly, with another borough, city or township,
23 may purchase any real estate within or without the limits of
24 such borough or of any such other boroughs, cities, or
25 townships, as the case may be, upon which to erect and maintain
26 garbage or incinerating plants, or for sanitary landfill.

27 Section 2512. Approval of Site.--Boroughs desiring to locate
28 any garbage or incinerating plant or sanitary landfill, shall
29 first apply separately or jointly as the case may be to the
30 court of common pleas for its approval of the location thereof;

1 whereupon the court shall fix a date when objections to the
2 location will be heard and shall prescribe what notice of such
3 hearing shall be given. If at the time fixed for such hearing no
4 objections shall be made to such location, the same shall be
5 approved; but, if objection is made, the court shall proceed to
6 hear the matter and determine whether the location is a
7 detriment to neighboring properties. The finding of the court
8 shall be conclusive, but shall in no way adjudicate any question
9 relating to damages for injury to property.]

10 Section 294. Section 2513 of the act, amended December 21,
11 1984 (P.L.1263, No.239), is repealed:

12 [Section 2513. Authority to Take or Appropriate Real
13 Estate.--In case the borough or boroughs cannot agree with the
14 owner of such property as to the price, the borough or boroughs,
15 separately or jointly, may take and appropriate, for any of such
16 purposes, any real estate, after an ordinance or ordinances
17 shall have been enacted providing for such taking and
18 appropriating. Notwithstanding the provisions of this section,
19 no borough or boroughs, separately or jointly, may take or
20 appropriate any real estate that is located outside the limits
21 of the borough or boroughs and contains or is being utilized as
22 an existing garbage dump or sanitary landfill.]

23 Section 295. Section 2514 of the act is repealed:

24 [Section 2514. Proceedings.--The proceedings before the
25 viewers for the assessment of damages for property taken,
26 injured, or destroyed under this subdivision of this article and
27 the proceedings upon their report shall be as provided in the
28 law governing eminent domain.]

29 Section 296. The act is amended by adding an article to
30 read:

1 ARTICLE XXV-A

2 AIRPORTS

3 Section 2501-A. Authority to secure lands for airports.

4 Any borough is hereby authorized and empowered to acquire, by
5 lease, purchase or condemnation, any land lying either within or
6 without the limits of the borough which, in the judgment of the
7 council, may be necessary and desirable for the purpose of
8 establishing and maintaining municipal airport facilities. The
9 proceedings for the condemnation of land under the provisions of
10 this article and for the assessment of damages for property
11 taken, injured or destroyed, shall be conducted in the manner
12 provided by the law governing eminent domain. The title acquired
13 by the borough exercising the power of condemnation shall be a
14 title in fee simple.

15 Section 2502-A. Authority to establish and lease airports.

16 Any borough acquiring land under the provisions of this
17 article is authorized and empowered to establish, equip,
18 condition, operate and maintain the land as a municipal airport,
19 and may lease the land, or any part, to any individual or
20 corporation desiring to use the same for aviation purposes. Any
21 borough may enter into a contract, in the form of a lease,
22 providing for the use of the land, or any part, by the Federal
23 Government, for its use of the land for aviation purposes upon
24 nominal rental or without consideration.

25 Section 2503-A. Joint airports.

26 Pursuant to the powers in this article, any borough may,
27 jointly with another municipality, acquire land for aviation
28 purposes, and may jointly operate and maintain the airport on
29 the terms and conditions as agreed upon by the governing bodies
30 of the borough and other municipality.

1 Section 297. Article XXVI heading of the act is reenacted to
2 read:

3 ARTICLE XXVI

4 WHARVES AND DOCKS

5 Section 298. Section 2601 of the act is amended to read:

6 Section 2601. Power With Regard to Wharves and Docks.--[Any
7 borough may erect and repair wharves and docks, regulate and fix
8 the rate of wharfage for all public wharves and docks within its
9 limits, and enforce the collection of wharfage for the use of
10 the same, and may also regulate the anchoring of vessels, boats,
11 or rafts within the borough limits, and the depositing of
12 freight on such public wharves.] (a) Boroughs shall have the
13 power to construct and repair wharves and docks and may acquire,
14 by purchase or condemnation, real estate along navigable waters
15 and within the borough limits as needed for the construction.
16 Prior to any condemnation, a borough shall enact an ordinance
17 authorizing the same.

18 (b) Boroughs shall also have the following powers:

19 (1) To regulate, fix, and enforce the collection of the rate
20 of wharfage for all public wharves and docks within its limits.

21 (2) To regulate the anchoring of vessels, boats or rafts
22 within the borough limits.

23 (3) To regulate the depositing of freight on the public
24 wharves.

25 Section 299. Section 2602 of the act is repealed:

26 [Section 2602. Purchase and Condemnation of Real Estate.--
27 Any such borough may acquire, by purchase or condemnation, such
28 real estate as it may need for the construction of wharves and
29 docks within the limits of the borough, along navigable waters.
30 No real estate for the erection of wharves and docks shall be so

1 taken or appropriated until an ordinance authorizing the same
2 shall have been enacted.]

3 Section 300. Section 2603 of the act is reenacted to read:

4 Section 2603. Proceedings.--The proceedings before the
5 viewers for the assessment of damages for property taken,
6 injured, or destroyed under this article, and the proceedings on
7 their report shall be as provided in the law governing eminent
8 domain. The costs of all proceedings, including the compensation
9 of the viewers, shall be paid by the borough.

10 Section 301. Sections 2604, 2605 and 2606 of the act are
11 amended to read:

12 Section 2604. How Damages Assessed.--The damages for the
13 taking or injury of any property for use as a wharf, pier, or
14 bulkhead, shall include full compensation for the value of the
15 property taken or injured[; and if]. If the property [so] taken
16 or injured shall constitute a part of a plant used as an
17 entirety, the damage to the owner or tenant shall be assessed by
18 taking the difference in market value of [such] the plant as a
19 whole, including buildings and all equipment installed and used
20 in [such] the plant, before and after taking or injury, and
21 notwithstanding that part of [such] the plant may be separated
22 by a street or highway.

23 Section 2605. Leases.--Any borough may lease any wharf or
24 part [thereof] and collect rent [therefor] by distress or
25 otherwise. No one term of [any such] a lease shall be for a
26 period longer than three years.

27 Section 2606. Market-Houses and Terminal Sheds.--Boroughs
28 may erect and maintain market-houses and terminal sheds on
29 wharves, for the receipt and distribution of freight and
30 express. Boroughs may also construct railroad and street railway

1 tracks, or other facilities, on wharves, to provide for the
2 convenient hauling of [such] freight or express matter and may
3 collect rents, tolls, or charges for the use of [such] market-
4 houses, terminal sheds, tracks and facilities. No permit other
5 than a license revocable at will shall be granted, and no
6 exclusive permit for the use of such facilities shall be
7 granted.

8 Section 302. Section 2607 of the act is reenacted to read:

9 Section 2607. Public Use Preserved.--No structure erected,
10 and no right granted under the powers conferred by any of the
11 preceding sections of this article, shall interfere with the
12 public use of wharves for water-borne commerce.

13 Section 303. Section 2608 of the act is amended to read:

14 Section 2608. Saving Clause.--Nothing contained in this
15 article shall be construed as conferring upon boroughs any power
16 conferred by existing law on the Navigation [Commissioners]
17 Commission for the Delaware River and its Navigable Tributaries,
18 or to permit boroughs to do any act, or to enact any ordinance,
19 inconsistent with the laws, rules and regulations relating to
20 [said board, or the rules and regulations of said board] the
21 commission.

22 Section 304. Article XXVII and subdivision (a) headings of
23 the act are reenacted to read:

24 ARTICLE XXVII

25 RECREATION PLACES, SHADE TREES, FORESTS

26 (a) Parks and Playgrounds, Et Cetera

27 Section 305. Sections 2701, 2702 and 2703 of the act are
28 amended to read:

29 Section 2701. Power to Maintain [and Improve], Improve and
30 Acquire.--(a) Any borough may provide, improve, maintain and

1 regulate public parks, parkways and playgrounds, playfields,
2 open space, swimming pools, public baths, bathing places, indoor
3 recreation centers and gymnasiums, hereinafter called
4 "recreation places," within the borough limits or in any
5 adjacent [township or in any city or other borough] municipal
6 corporation if the other [borough or city] municipal corporation
7 shall, by ordinance, signify its consent thereto. [Two or more
8 boroughs may jointly provide, improve, maintain and regulate
9 such recreation places within the limits of any township
10 adjacent to any one of such boroughs. All expenses relative
11 thereto shall be borne by the respective boroughs, in such
12 proportion as may be agreed upon by the councils thereof.

13 Section 2702. Power to Acquire.--Any] (b) Any borough may
14 enter upon, appropriate and acquire by gift, devise, purchase,
15 lease, or otherwise, private property [within the limits of the
16 borough, or in any adjacent township,] or [any borough] may
17 designate and set apart any lands or buildings, owned by the
18 borough and not dedicated or devoted to other public uses[; and
19 two or more boroughs may jointly appropriate and acquire by
20 gift, devise, purchase, lease, or otherwise, private property
21 within the limits of any township adjacent to any of such
22 boroughs,] for the purpose of making, enlarging and maintaining
23 recreation places. [All the costs and expenses relative to any
24 such property, acquired by two or more boroughs jointly, shall
25 be paid by the respective boroughs in such proportions as may be
26 agreed upon by the councils thereof.

27 Any]

28 (c) Any borough may join with one or more political
29 subdivisions to acquire, create, equip, improve, regulate,
30 maintain and operate any recreation place in accordance with 53

1 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
2 cooperation).

3 (d) No borough, acting individually or jointly, may
4 [likewise] acquire private property within the limits of another
5 [borough or city,] municipal corporation for the purposes
6 designated in this section, [if the other borough or city shall,
7 by ordinance, signify its consent thereto] without the consent
8 of the governing body of the municipal corporation in which the
9 property is located in accordance with the law governing eminent
10 domain.

11 (e) All expenses incurred in the maintenance, improvement,
12 acquisition or operation of recreation places, as provided in
13 this section, shall be payable from the treasury of the borough,
14 or the borough and other political subdivisions as may be
15 provided for by agreement of the governing bodies. The borough
16 council may annually appropriate, and cause to be raised by
17 taxation, an amount necessary for the purpose of maintaining and
18 operating recreation places, or for paying its share of such
19 amount.

20 Section 2703. Appropriations for Public Purposes.--The
21 appropriation of private property for the purpose of making,
22 enlarging and maintaining recreation places, is declared to be
23 the taking of private property for public use, and for all
24 damage suffered by the owners of any property so taken, the
25 funds of the borough raised by taxation shall be pledged as
26 security. The proceedings for the taking of private property and
27 the assessment of damages for private property taken, injured or
28 destroyed under this article shall be as provided in the law
29 governing eminent domain.

30 Section 306. Sections 2704 and 2705 of the act are repealed:

1 [Section 2704. Proceedings.--The proceedings before the
2 viewers for the assessment of damages for property taken,
3 injured or destroyed under this article and the proceedings upon
4 their report shall be as provided in the law governing eminent
5 domain.

6 Section 2705. Validation of Prior Acquisitions.--Whenever,
7 prior to June 1, 1911, any borough acquired land outside its
8 corporate limits for park purposes, such borough may own and
9 possess such land for park purposes, and is authorized to lay
10 out and maintain the same and to appropriate money to defray
11 expenses incident to such work.]

12 Section 307. Sections 2708, 2709 and 2710 of the act are
13 amended to read:

14 Section 2708. Creation of Recreation Board.--(a) The
15 authority to supervise and maintain recreation places, may be
16 vested in any existing body or board, including the borough
17 council, or in a recreation board, as the borough council shall
18 determine. The council of any such borough may equip, operate
19 and maintain the recreation places, as authorized by this
20 article, and may, for the purpose of carrying out the provisions
21 of this article, employ [play leaders, recreation directors,
22 supervisors, superintendents, or] any [other] officers or
23 employes, as it may deem proper.

24 (b) Notwithstanding subsection (a), a borough council shall
25 not delegate the power to maintain accounts or expend funds from
26 the borough treasury for the purposes authorized by this
27 subdivision to any existing or newly created body or board.

28 (c) Any borough may join or create, with one or more
29 municipalities, a joint recreation board in accordance with 53
30 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental

1 cooperation). The composition of the board and its powers and
2 duties shall be as provided by agreement of the governing bodies
3 of the municipalities.

4 Section 2709. Composition of Board.--[(a)] If the borough
5 council shall determine that the power to equip, operate, and
6 maintain recreation places, shall be exercised by a recreation
7 board, it may, by ordinance, establish in [said] the borough
8 [such] a recreation board, which shall possess [all the powers,
9 and be subject to all the responsibilities, of the respective
10 authorities under this article. Such] those powers and duties as
11 may be delegated to it by ordinance. The board shall consist of
12 a minimum of five and a maximum of nine persons. Two of the
13 members may be members or appointees of the school board of the
14 school district in which the borough is located. If the board
15 [consist] consists of seven members, three of the members may be
16 members or appointees of [such] the school board. The borough
17 members of the board shall be appointed by the borough council,
18 and shall serve no longer than five years and the terms of the
19 members shall be staggered in such a manner that at least one
20 expires annually. Members of [such] the board shall serve
21 without pay. Vacancies in [such] the board, occurring otherwise
22 than by expiration of term, shall be filled for the unexpired
23 term in the same manner as original appointments.

24 [(b) In addition to the establishment of a borough
25 recreation board, the borough council may appoint persons to
26 serve as members of a school district recreation board
27 established by the school district wherein the borough is
28 located.]

29 Section 2710. Organization of Board; Employees.--The members
30 of a recreation board, established pursuant to this article,

1 shall elect their own [chairman] chair and secretary and select
2 all other necessary officers, to serve for a period of one
3 year[, and may employ such persons as may be needed, as
4 authorized by this article. Such] The recreation board may, with
5 the approval of council, establish employment positions and hire
6 employees to fill the approved positions. The board shall have
7 power to adopt rules and regulations for the conduct of all
8 business within its jurisdiction.

9 Section 308. Sections 2711 and 2712 of the act are repealed:

10 [Section 2711. Joint Ownership and Maintenance.--Any two or
11 more boroughs, or a borough with any city or township, or a
12 borough with a county, may jointly acquire property for, and
13 operate and maintain, any recreation places. Any borough or
14 boroughs shall have power to join with any school district in
15 equipping, operating and maintaining recreation places, and may
16 appropriate money therefor.]

17 Section 2712. Maintenance and Tax Levy.--All expenses
18 incurred in the operation of such recreation places, established
19 as herein provided, shall be payable from the treasury of such
20 borough, or boroughs, township, city, county or school districts
21 as may be provided for by agreement of the corporate
22 authorities. The borough council may annually appropriate, and
23 cause to be raised by taxation, an amount necessary for the
24 purpose of maintaining and operating recreation places, or for
25 paying its share of such amount.]

26 Section 309. Section 2713 of the act is amended to read:

27 Section 2713. Lease for School Athletics.--Any borough
28 maintaining a recreation place, may lease [such] a recreation
29 place or [such] a portion [thereof] of a recreation place,
30 suitable for athletic sports and athletic games, to any school

1 board, or school athletic association organized by a school
2 board, and organized for the purpose of conducting amateur
3 athletic sports and games among pupils of the public school, and
4 may permit [such] a school board or school athletic association
5 to charge admission to [such] sports and games and to deny
6 persons refusing to pay admission access to the grounds where
7 [such] sports or games are being conducted, if [such] sports and
8 games are not conducted for individual profit.

9 Section 310. Article XXVII subdivision (b)(1) heading of the
10 act is amended to read:

11 (b) Shade Trees

12 (1) [Shade Tree Commission] Power of Boroughs
13 as to Shade Trees

14 Section 311. The act is amended by adding sections to read:

15 Section 2720. Care, Custody and Control of Shade Trees.--(a)
16 Council shall have exclusive care, custody and control of shade
17 trees in the borough. Council may plant, transplant, remove,
18 maintain and protect shade trees on the streets and highways in
19 the borough, employ and pay persons and make and enforce
20 regulations as may be necessary for the care and protection of
21 the shade trees of the borough.

22 (b) Council may, by ordinance, and with or without the
23 petition of a majority of the property owners upon any public
24 street in the borough, plant, transplant or remove shade trees.
25 Council may, with or without petition, require the planting and
26 replanting of suitable shade trees along and upon the sides of
27 the streets, upon such alignment and at such points as may be
28 designated by ordinance, by the owners of property abutting the
29 street at the points designated. Nothing in this act may
30 authorize council to plant or replant, or require the planting

1 or replanting, of trees at any point which may interfere with
2 the necessary or reasonable use of any street or abutting
3 property or the business conducted on the property. On failure
4 of any owner, after reasonable notice, to comply with the terms
5 of an ordinance requiring the planting or replanting of shade
6 trees, the borough may cause such trees to be planted or
7 replanted and assess the cost against the owner in accordance
8 with section 2720.2.

9 (c) Council may, upon notice as may be provided by
10 ordinance, require owners of property to cut and remove plants,
11 shrubs and trees afflicted with any disease that threatens to
12 injure or destroy plants, shrubs and shade trees in the borough
13 under regulations prescribed by ordinance. Upon failure of any
14 owner to comply with the notice, the borough may cause the work
15 to be done by the borough, and assess the cost against the owner
16 in accordance with section 2720.2.

17 Section 2720.1. Maintenance by Borough; Tax Levy.--(a) The
18 cost and expenses of caring for shade trees after having been
19 planted or transplanted and the expense of publishing any notice
20 required by this subdivision shall be paid by the borough.

21 (b) Council may levy a general tax, not to exceed the sum of
22 one-tenth of one mill on the dollar on the assessed valuation of
23 the property in the borough taxable for county purposes, for the
24 purpose of defraying the cost and expenses of caring for the
25 shade trees and the expense of publishing notices; or it may
26 provide for the expense of the caring for trees already planted
27 and of publishing the notice by appropriations.

28 Section 2720.2. Payment by Owners; Assessments.--The cost of
29 planting, transplanting or removing any shade trees or the
30 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 once a week for two
weeks immediately preceding the time of the meeting. The notice
shall specify in detail the streets or portions upon which trees
are proposed to be planted, transplanted or removed. In the
event that a shade tree commission is to undertake the work, the
commission shall provide the notice.

Section 2720.4. Penalties.--(a) To the extent provided by
ordinance, council may assess penalties for the violation of
regulations relating to shade trees or delegate the power to
assess such penalties to a shade tree commission. Any penalty so
assessed shall be a lien upon the real estate of the offender
and may be collected as municipal claims are collected.

(b) All penalties or assessments imposed under this
subdivision shall be paid to the borough treasurer, to be kept
in a separate fund and utilized only for the purposes authorized
by this subdivision.

Section 312. Article XXVII subdivision (b) of the act is
amended by adding a subdivision to read:

(2) Shade Tree Commission

Section 313. Section 2721 of the act is amended to read:

1 Section 2721. Shade Tree Commission.--[A borough] (a)
2 Council by ordinance may establish a commission to be known as
3 the shade tree commission, [but in boroughs where the council
4 shall not elect by ordinance a shade tree commission council may
5 exercise all the rights and perform the duties and obligations
6 imposed by this subdivision of this article upon the shade tree
7 commission.] and delegate to the commission the exclusive care,
8 custody and control of shade trees and authorization to plant,
9 transplant, remove, maintain and protect shade trees on the
10 streets and highways in the borough. The commission may make and
11 enforce regulations for the care and protection of shade trees.
12 No regulation may be in force until it has been approved by the
13 council and enacted as an ordinance.

14 (b) Whenever in any borough there exists a commission for
15 the care of public parks, the council may, by ordinance, confer
16 on the park commission all the powers and all the duties
17 prescribed by this article for the shade tree commission.

18 Section 314. Section 2722 of the act, amended April 17, 2002
19 (P.L.243, No.31), is reenacted to read:

20 Section 2722. Composition of Commission.--(a) Except as
21 provided in subsection (b), the commission shall be composed of
22 three residents of the borough, who shall be appointed by the
23 council and shall serve without compensation.

24 (b) The council, by ordinance, may provide that the
25 commission be composed of five members who shall be residents of
26 the borough, shall be appointed by the council and shall serve
27 without compensation.

28 (c) Whenever a shade tree commission of three members is
29 established by any borough, the council shall appoint one member
30 for a term of three years, one for a term of four years, and one

1 for a term of five years. On the expiration of the term of any
2 commissioner, a successor shall be appointed by the council to
3 serve for a term of five years.

4 (d) Whenever a shade tree commission of five members is
5 established by any borough, the council shall appoint members to
6 staggered terms so that one term expires every year. On the
7 expiration of the term of any commissioner, a successor shall be
8 appointed by the council to serve for a term of five years.

9 (e) Vacancies in the office of commissioner shall be filled
10 by the council for the unexpired term.

11 Section 315. Sections 2723 and 2724 of the act are repealed:

12 [Section 2723. Powers May Be Vested in Park Commission.--
13 Whenever in any borough there exists a commission for the care
14 of public parks, the council may by ordinance, confer on the
15 park commission all the powers and all the duties prescribed by
16 this article for the shade tree commission.

17 Section 2724. Powers of Commission.--The commission shall
18 have exclusive custody and control of the shade trees in the
19 borough, and is authorized to plant, remove, maintain and
20 protect shade trees on the streets and highways in the borough.

21 The commission may employ and pay such superintendents,
22 engineers, foresters, tree-wardens, or other assistants, as the
23 proper performance of the duties devolving upon it shall
24 require, and may make, and enforce regulations for the care and
25 protection of the shade trees of the borough. No such regulation
26 shall be in force until it has been approved by the council and
27 enacted as an ordinance.]

28 Section 316. The act is amended by adding a section to read:

29 Section 2724.1. Duties of Commission.--(a) The shade tree
30 commission shall annually report in full to the council its

1 transactions and expenses for the last fiscal year of the
2 borough.

3 (b) Whenever any shade tree commission proposes to plant,
4 transplant or remove shade trees on any street, notice of the
5 time and place of the meeting at which such work is to be
6 considered shall be given by the commission in accordance with
7 section 2720.3.

8 (c) The commission shall each year certify to council an
9 amount needed for the care of shade trees and for the
10 publication of notices required by this subdivision. The
11 commission shall use funds appropriated or raised by taxation in
12 accordance with section 2720.1 for any purpose authorized by
13 council.

14 (d) The commission shall ascertain and certify to council
15 and the borough treasurer the amount of any assessment imposed
16 in accordance with this subdivision for the planting,
17 transplanting or removal of plants, shrubs and trees.

18 Section 317. Sections 2725, 2726, 2727, 2728, 2729 and 2730,
19 Article XXVII(b)(2) heading and sections 2741, 2742 and 2743 of
20 the act are repealed:

21 [Section 2725. Report of Commission.--The shade tree
22 commission shall annually report in full to the council its
23 transactions and expenses for the last fiscal year of the
24 borough.

25 Section 2726. Notices by Commission.--Whenever any shade
26 tree commission proposes to plant, transplant, or remove shade
27 trees on any street, notice of the time and place of the meeting
28 at which such work is to be considered shall be given in one
29 newspaper of general circulation in the borough once a week for
30 two weeks immediately preceding the time of the meeting. The

1 notice shall specify in detail the streets or portions upon
2 which trees are proposed to be so planted, replanted, or
3 removed.

4 Section 2727. Payment by Owners.--The cost of planting,
5 transplanting, or removing any shade trees in and along the
6 streets and highways in the borough, of the necessary and
7 suitable guards, curbing or grading for the protection thereof,
8 and of the replacing of any pavement or sidewalk necessarily
9 disturbed in the execution of such work, shall be paid by the
10 owner of the real estate abutting which the work is done.

11 The amount each owner is to pay shall be ascertained and
12 certified by the commission to council and to the borough
13 treasurer.

14 Section 2728. Assessments; Liens.--Upon the filing of the
15 certificate with the council, the borough secretary shall cause
16 thirty days' written notice to be given to every person against
17 whose property an assessment has been made. The notice shall
18 state the amount of the assessment, and the time and place of
19 payment, and shall be accompanied with a copy of the
20 certificate.

21 The amount assessed against the real estate shall be a lien
22 from the time of the filing of the certificate with the council,
23 and if not paid within the time designated in the notice, a
24 claim may be filed and collected by the borough solicitor in the
25 same manner as municipal claims are filed and collected.

26 Section 2729. Maintenance by Borough; Tax Levy.--The cost
27 and expenses of caring for such trees after having been planted
28 and the expense of publishing the notice hereinbefore provided
29 for shall be paid by the borough.

30 The needed amount shall each year be certified by the

1 commission to the council and shall be drawn against, as
2 required by the commission, in the same manner as money
3 appropriated for borough purposes.

4 The council may levy a general tax, not to exceed the sum of
5 one-tenth of one mill on the dollar on the assessed valuation of
6 the property in said borough taxable for county purposes, for
7 the purpose of defraying the cost and expenses of caring for
8 such shade trees and the expense of publishing the notice; or it
9 may provide for the expense of the caring for trees already
10 planted and of publishing the notice by appropriations equal to
11 the amount certified to be required by the commission.

12 Section 2730. Penalties.--The commission, to the extent as
13 may be provided by ordinance of the borough, may assess
14 penalties for the violation of its regulations and of this
15 article so far as it relates to shade trees. Any penalty so
16 assessed shall be a lien upon the real estate of the offender
17 and may be collected as municipal claims are collected.

18 All penalties or assessments imposed under this article shall
19 be paid to the borough treasurer, to be placed to the credit of
20 the commission, subject to be drawn upon by the commission for
21 the purposes of the preceding sections of this subdivision of
22 this article.

23 (2) Power of Boroughs as to Shade Trees

24 Section 2741. Ordinances to Require Planting and
25 Replanting.--Any borough may, by ordinance, upon the petition of
26 a majority of the property owners upon any public street
27 thereof, require the planting and replanting of suitable shade
28 trees along and upon the sides of such streets, upon such
29 alignment and at such points as may be designated by such
30 ordinance, by the owners of property abutting the street at the

1 points designated. This section shall not authorize any borough
2 to require the planting or replanting of trees at any point
3 which may interfere with the necessary or reasonable use of any
4 street or abutting property or unreasonably interfere with any
5 business conducted thereon.

6 Section 2742. Power of Borough Where Owners Fail to
7 Comply.--On failure of any owner, after reasonable notice, to
8 comply with the terms of any such ordinance, the borough may
9 cause such trees to be planted or replanted at the expense of
10 the borough, and thereupon, in the name of the borough, collect
11 the cost of such work from the owners in default, as debts of
12 like amount are by law collectible.

13 Section 2743. Removal of Diseased Plants, Shrubs and
14 Trees.--The commission may upon such notice as may be provided
15 by ordinance, require owners of property to cut and remove
16 plants, shrubs and trees, afflicted with the Dutch elm or other
17 disease, which threatens to injure or destroy plants, shrubs and
18 shade trees, in the borough under regulations prescribed by
19 ordinance. Upon failure of any such owner to comply with such
20 notice, the borough may cause the work to be done by the
21 borough, and levy and collect the cost thereof from the owner of
22 the property. The cost of such work shall be a lien upon the
23 premises from the time of the commencement of the work, which
24 date shall be fixed by the borough engineer and shall be filed
25 with the borough secretary. Any such lien may be collected by
26 action in assumpsit or by lien filed in the manner provided by
27 law for the filing and collection of municipal claims.]

28 Section 318. Article XVII subdivision (c) heading of the act
29 is reenacted to read:

30 (c) Forests

Section 319. Section 2751 of the act is amended to read:

Section 2751. Acquisition of Land for Forest Purposes.--Any borough may acquire, by purchase, gift, or lease, and hold tracts of land covered with forest or tree growth or suitable for the growth of trees, and administer the same[, under the direction of the Department of Forests and Waters,] in accordance with the practices and principles of scientific forestry, for the benefit of the borough. Such tracts may be of any size suitable for the purpose and may be located within or without the borough limits.

Section 320. Section 2752 of the act is repealed:

[Section 2752. Approval of Department of Forests and Waters.--Before the passage of any ordinance for the acquisition of land to be used as a municipal forest, the borough shall submit to the Department of Forests and Waters, and secure its approval of, the area and location of such land.]

Section 320.1. section 2753 of the act is reenacted to read:

Section 2753. Ordinance Declaring Intention.--Whenever the council of any borough deems it expedient to acquire any land for the purposes of municipal forests, it shall so declare in an ordinance wherein shall be set forth all facts and conditions relating to the proposed action.

Section 321. Sections 2754, 2755, 2756 and 2757 of the act are amended to read:

Section 2754. Appropriations of Money.--All moneys necessary for the purchase of such tracts shall be appropriated in the same manner as appropriations for borough purposes, and [such] the funds may be provided from the current revenue or by the proceeds of a sale of general obligation bonds in accordance with existing law.

1 Section 2755. Rules and Regulations.--Upon the acquisition
2 of any municipal forest or land suitable [therefor] for
3 municipal forests, the council [shall notify the Department of
4 Forests and Waters, which shall] may make [such] rules for the
5 government and proper administration of the same as may be
6 deemed necessary[, and the council shall publish such rules,
7 declare the uses of the forest in accordance with the intent of
8 this subdivision of this article, and make such provision for
9 its administration, maintenance, protection and development as
10 shall be necessary or expedient]. The rules governing the
11 administration of [such] the forest shall have for their main
12 purpose the [producing of a] production of continuing borough
13 revenue by the sale of forest products.

14 Section 2756. Appropriations and Revenues.--All moneys
15 necessary to be expended for the administration, maintenance,
16 protection and development of [such] forests, shall be
17 appropriated and applied as is now done for borough purposes[;].
18 [all] All revenue and emoluments arising from [such] the forests
19 shall be paid into the borough treasury to be used for general
20 borough purposes.

21 Section 2757. Use of Forests.--Municipal forests may be used
22 by the public as general outing or recreation grounds subject to
23 the rules [of the Department of Forests and Waters governing
24 their administration as municipal forests and rules] adopted by
25 the council [of the borough not inconsistent with law or the
26 regulations of the department].

27 Section 322. Section 2758 of the act is reenacted to read:

28 Section 2758. Ordinance of Sale.--Whenever the council of
29 any borough deems it expedient to sell or lease any municipal
30 forest or part thereof, or products therefrom, it shall so

1 declare in an ordinance wherein shall be set forth all the facts
2 and conditions relating to the proposed action. No ordinance for
3 the sale of a municipal forest, or part thereof, shall be
4 enacted until the provisions of this act relative to the sale of
5 borough-owned real estate have been complied with.

6 Section 323. Section 2759 of the act is amended to read:

7 Section 2759. Pruning or Thinning Out; Sale of Products
8 Thereof.--In order to comply with the practices and principles
9 of scientific forestry, the council, by resolution, shall have
10 the power to prune or thin out any municipal forest or portion
11 [thereof] of a municipal forest, and shall have the right to
12 sell the products of [such] the pruning or thinning out without
13 complying with the provisions of this act relative to
14 advertising and bidding. In doing so, the borough may either use
15 its own personnel or hire or contract with skilled personnel,
16 and in [such] the hiring or contracting, council shall not be
17 required to obtain bids or to advertise.

18 Section 324. Article XXVIII heading of the act is reenacted
19 to read:

20 ARTICLE XXVIII

21 CEMETERIES

22 Section 325. The act is amended by adding sections to read:

23 Section 2800. Appropriations for Burial Ground
24 Maintenance.--Any borough may appropriate annually, out of the
25 general funds of the borough, a sum for the care, upkeep,
26 maintenance and beautifying of cemeteries, burial grounds and
27 private roads in or leading to those areas, lying wholly or
28 partly within the boundary limits of the borough or in the
29 territory immediately adjacent to the borough.

30 Section 2800.1. Burial of Deceased Persons.--Any borough may

1 prohibit, within the borough limits, or within any described
2 territory within the limits, the burial or interment of deceased
3 persons.

4 Section 326. Sections 2801 and 2802 of the act are amended
5 to read:

6 Section 2801. Management by Commission[; Transfer from
7 Borough to Company].--When the title and management of any
8 cemetery is vested in a borough, the council of [such] the
9 borough may [in its discretion], by ordinance, vest the care,
10 management and operation of [such] the cemetery in a commission
11 of three citizens to be appointed by the council[, such care,
12 management and operation, and the terms of the commissioners to
13 be as provided in the ordinance establishing such cemetery
14 commission. Upon petition of at least ten lot owners in such
15 cemetery, the council may, in its discretion, transfer such
16 cemetery and the management thereof to an incorporated cemetery
17 company in the manner hereinafter provided]. The ordinance shall
18 provide for the terms of the cemetery commissioners.

19 Section 2802. [Vesting Title.--] Transfer from Borough to
20 Company.--(a) Upon petition of at least ten per centum of
21 living cemetery lot owners, the council may, in its discretion,
22 transfer the cemetery and the management thereof to an
23 incorporated cemetery company.

24 (b) Upon the presentation to council of [such] the petition,
25 the council may enact an ordinance declaring that, upon the
26 acceptance of the provisions of [such] the ordinance by the
27 incorporated cemetery company, filed with the borough secretary,
28 the title and control of [such] the cemetery shall vest in
29 [such] the incorporated cemetery company.

30 (c) A copy of the ordinance and the acceptance thereof,

certified by the borough secretary, shall be recorded in the
office of the recorder of deeds of the county.

Section 327. Sections 2803 and 2804 of the act are repealed:

[Section 2803. Recording of Ordinance and Acceptance.--A
copy of the ordinance and the acceptance thereof, certified by
the borough secretary, shall be recorded in the office of the
recorder of deeds of the county.

Section 2804. Orders of Court as to Neglected Cemeteries.--

(a) Authority is vested in the court of quarter sessions to
make such orders for the regulation of cemeteries, situated in
or adjacent to boroughs, as the public good shall require; and
when any cemetery shall become so neglected as, in the opinion
of the court, to become a public nuisance, the court may direct
the removal of the dead therefrom by the borough authorities to
some other cemetery.

(b) When any cemetery situated in a borough shall become so
neglected as, in the opinion of the court of quarter sessions,
to become a public nuisance, such court, upon petition of the
borough council and after such notice as is required in
subsection (c) of this section, may authorize the borough
without the removal of any dead from the cemetery to improve and
maintain the cemetery by the restoration, improvement or removal
of some or all of the gravestones, posts, railings, fences or
other structures and improvements. If the court authorizes the
removal of gravestones, it shall direct the borough to erect and
maintain at a prominent location in the cemetery a suitable
memorial of stone, bronze or similar material having inscribed
thereon the available names and dates of all persons in the
cemetery the gravestones for whom have been authorized to be
removed. The petition filed by the council shall include such

1 facts as to the ownership of the cemetery as are known to the
2 borough and shall set forth the proposed plans of the borough
3 for the improvement of the cemetery including, if it proposes to
4 remove the gravestones, a description of the memorial it intends
5 to erect.

6 (c) Whenever the council shall file a petition as
7 hereinbefore provided, the court shall direct such notice of the
8 filing of the petition to be given in such manner as it shall
9 deem appropriate and shall afford the owner or owners of the
10 cemetery or the owners of any burial rights therein, if any
11 appear, an opportunity to be heard before making an order
12 authorizing the borough to improve and maintain the burial
13 ground.]

14 Section 328. Section 2805 of the act is amended to read:

15 Section 2805. Transfer from Company to Borough.--(a) Upon
16 the petition of any incorporated cemetery company and the owners
17 of a majority of the taxable real estate in any borough, the
18 court of [quarter sessions] common pleas may authorize the
19 transfer of any cemetery to any borough in which [such] the
20 cemetery may be located or [be adjacent thereto.] which is
21 adjacent to the borough. A copy of the court order authorizing
22 the transfer shall be filed with the recorder of deeds.

23 (b) The transfer shall be made without cost to the borough
24 and upon being made the borough shall exercise the powers and
25 privileges of the incorporated company, and may purchase land
26 within or adjacent to the borough limits, not to exceed thirty
27 acres, for the extension of the cemetery, and may raise the
28 means to pay for the same, by the sale of lots or otherwise, but
29 in no event by taxation. The borough may lay out lots so
30 purchased and alter the original plot of the cemetery, and may

1 dispose of such grounds in the same manner as the incorporated
2 company could have done.

3 (c) A deed for any lot, made by the borough, shall be of the
4 same validity as the deed of the incorporated cemetery company
5 and the borough may make deeds to those who theretofore
6 purchased lots, but had not been furnished with deeds by the
7 cemetery company.

8 Section 329. The act is amended by adding a section to read:

9 Section 2805.1. Neglected or Abandoned Cemeteries.--Borough
10 council shall have the power to direct the removal of weeds,
11 refuse and debris from an abandoned or neglected cemetery. To
12 exercise this power, council shall give personal notice to the
13 owner, if known, directing the removal of weeds, refuse and
14 debris from the cemetery within thirty days from the giving of
15 personal notice. Personal notice shall be by any of the
16 following means: (1) personal service on the owner, (2)
17 certified mail, addressee only, return receipt requested, to the
18 owner at the owner's last known address, or (3) posting notice
19 at or upon the property after reasonable attempts to give
20 personal notice pursuant to (1) or (2) has failed. If the
21 removal is not completed within thirty days after personal
22 notice was effected, borough council shall provide for the
23 removal to be done by employees of the borough or persons hired
24 for that purpose at the expense of the borough. The costs of
25 removal shall be assessed against the owner of the cemetery, if
26 known, and collected pursuant to Article XXI-A.

27 Section 330. Sections 2806 and 2807 of the act are repealed:

28 [Section 2806. Powers of Borough.--Such transfer shall be
29 made without cost to the borough and upon being made the borough
30 shall exercise the powers and privileges of such incorporated

1 company, and may purchase land within or beyond the borough
2 limits, not to exceed thirty acres, for the extension of such
3 cemetery, and may raise the means to pay for the same, by the
4 sale of lots or otherwise, but in no event by taxation; the
5 borough may lay out lots so purchased and alter the original
6 plot of such cemetery, and may dispose of such grounds in the
7 same manner as such incorporated company could have done.

8 Section 2807. Deeds to Lots.--A deed for any lot, made by
9 the borough, shall be of the same validity as the deed of such
10 incorporated cemetery company; and the borough is authorized to
11 make deeds to those who theretofore purchased lots, but had not
12 been furnished with deeds by the cemetery company.]

13 Section 331. Sections 2808 and 2809 of the act are amended
14 to read:

15 Section 2808. Removing Bodies to Alter Plots.--In altering
16 the plot of any [such] cemetery, the bodies may be removed and
17 reinterred in a suitable place, but without cost to surviving
18 relatives.

19 Section 2809. Removal of Bodies to Other [Cemeteries.--
20 Whenever any cemetery privately owned and in charge of no
21 person, or any cemetery in charge of any religious society or
22 church, has ceased to be used for interments, or has become so
23 neglected as to become a public nuisance; or when such cemetery
24 hinders the improvement and progressive interests of any
25 borough, or is desired by the borough as a site for any free
26 public library building, or for any other public purpose, the
27 court of quarter sessions of the county, upon petition of the
28 managers of such cemetery; or upon the petition of fifty
29 residents in the vicinity in case such cemetery is not in charge
30 of anyone, setting forth that the improvements and progressive

1 interests of such borough are hampered and the welfare of such
2 borough is injured; or upon the petition of such borough setting
3 forth that such cemetery is desired by the borough for the
4 erection thereon of a free public library building, or for use
5 as a recreation place, or the opening, laying out or extension
6 through said land of any street, or for any other public
7 purpose; and after three successive weeks of advertisement in a
8 newspaper of general circulation in the borough may direct the
9 removal of the remains of the dead from such cemetery.]

10 Cemeteries.--(a) The court of common pleas may, upon petition
11 and notice as set forth in this section, direct the removal of
12 the remains of the dead from a privately owned cemetery,
13 borough-owned cemetery, any cemetery affiliated with any
14 religious society or church or with any other organization, when
15 the cemetery has ceased to be used for interments, or has become
16 so neglected as to become a public nuisance, or when the
17 cemetery hinders the improvement and progressive interests of
18 the borough, or is desired by the borough as a site for any
19 public purpose.

20 (b) The petition to the court for the removal of the remains
21 of the dead shall be made in accordance with any of the
22 following:

23 (1) The managers of the cemetery in charge of a religious
24 society or church or any other organization, but only in
25 pursuance of the wishes of a majority of the members of the
26 society or church or any other organization, expressed at a
27 meeting held for that purpose after two weeks' public notice.
28 The managers' petition shall set forth that the cemetery has
29 ceased to be used for interments.

30 (2) Approval of fifty residents of the borough if the

1 cemetery is not in charge of anyone, setting forth that the
2 improvements and progressive interests of the borough are
3 hampered and the welfare of the borough is injured by the
4 presence of the cemetery.

5 (3) Borough council setting forth that the cemetery has
6 become so neglected as to become a public nuisance, or that the
7 improvements and progressive interests of the borough are
8 hampered and the welfare of the borough is injured by the
9 presence of the cemetery, or that the land is desired for a
10 public purpose.

11 (c) Prior to the court authorizing the removal of the
12 remains of the dead from a cemetery, notice shall be given by
13 advertisement in a newspaper once a week for three successive
14 weeks.

15 (d) The removal shall be made by the managers of the
16 cemetery, or by the borough when the cemetery is in charge of no
17 one or is a borough-owned cemetery, in a careful manner, at the
18 expense of the party making the removal, to another cemetery as
19 may be selected, or if so desired by relatives or other
20 interested parties, to some cemetery in the vicinity.

21 (e) Relatives or other interested parties of the dead may
22 remove the remains, at any time during the proceedings, at their
23 own expense, before removal by the managers or the borough.

24 (f) All bodies, when so removed, shall be placed in separate
25 caskets and graves, and the markers placed over the remains of
26 the bodies shall be taken by the persons authorized to make the
27 removal, and placed as near as can be in the same relative
28 position as before removal.

29 (g) After the removal of all dead bodies from any such
30 cemetery, the land shall cease to be a cemetery or burial

ground, and may be acquired by the borough as other real estate
is acquired for borough purposes.

Section 332. Sections 2810, 2811, 2812, 2813, 2814 and 2815
of the act are repealed:

[Section 2810. Applications for Removal.--No application, as
provided in the preceding section, shall be made by the managers
of any cemetery, in charge of any society or church, except in
pursuance of the wishes of a majority of the members of such
society or church, expressed at a meeting held for that purpose
after two weeks' public notice.

Section 2811. Removals; How Made.--Such removal shall be
made by the managers of such cemetery, or by the borough when
such cemetery is in charge of no one, in a careful manner, at
the expense of the party making such removal, to such other
cemetery as may be selected; or if so desired by relatives or
friends, to some cemetery in the vicinity.

Section 2812. Notice of Removal.--The parties making such
removal shall publish, for two successive weeks, in a newspaper
of general circulation in the borough, a notice declaring their
intention to remove such remains.

Section 2813. Removal by Relatives and Friends.--Relatives
and friends of such dead may remove such remains, at any time
during such proceedings, at their own expense, before removal by
the managers.

Section 2814. Care in Removal.--All bodies, when so removed,
shall be placed in separate caskets and graves, and the markers
placed over the remains of such bodies shall be taken by the
persons authorized to make such removal, and placed as near as
can be in the same relative position as before removal.

Section 2815. Right to Use Property From Which Bodies

1 Removed.--After the removal of all dead bodies from any such
2 cemetery, the said land shall cease to be a cemetery or burial
3 ground for all and any purpose whatsoever; and may be acquired
4 by the borough as other real estate is acquired for borough
5 purposes.]

6 Section 333. Section 2816 of the act, amended October 4,
7 1978 (P.L.962, No.189), is amended to read:

8 Section 2816. Purchase of Plots for Burial of Deceased
9 Service Persons.--Any borough may purchase plots of ground, in
10 any cemetery or burial ground within its limits, for the
11 interment of [such] deceased members of the armed forces, as
12 have [heretofore] died before or shall [hereafter] die later
13 within [such] the borough, or shall die beyond [such] the
14 borough and shall have a legal residence within the borough at
15 the time of their death, and whose bodies are entitled to be
16 buried by the county under the provisions of existing law.
17 [Such] The plots of ground shall be paid for out of the treasury
18 of [such] the borough.

19 Section 334. Article XXIX heading of the act is reenacted to
20 read:

21 ARTICLE XXIX

22 LICENSES AND LICENSE FEES

23 Section 335. Sections 2901 and 2902 of the act are amended
24 to read:

25 Section 2901. Licensing Transient Retail Business.--[Every
26 borough shall have power] (a) Any borough may, by ordinance,
27 [to] regulate and license [each and every person, firm or
28 corporation] transient merchants engaged in any transient retail
29 business[,] within [such] the borough[,]. Transient merchants
30 shall include any person, partnership or corporation engaged in

1 any transient retail business for the sale of goods, wares, or
2 merchandise, whether [such] the business [shall be] is conducted
3 from a fixed location within the borough or by any person or
4 persons engaged in peddling, soliciting, or taking of orders
5 from house to house[, and to]. The ordinance may prohibit the
6 commencement or doing of any [such] transient retail business
7 [or] unless the license required by [such] the ordinance has
8 been procured from the proper authorities by the person, firm,
9 or corporation desiring to commence [such] the transient retail
10 business[, and to enforce such ordinances]. The ordinance may
11 provide for enforcement by penalties or [by] other appropriate
12 means. The amount of any [such] license fee shall bear a
13 reasonable relationship to the cost of administering [such] the
14 ordinance and regulating[, investigating,] and inspecting [and
15 supervising such] the transient retail business.

16 (b) No license fee shall be charged under this section to
17 the following transient merchants, unless such transient
18 merchant is also selling other goods, wares and merchandise not
19 excepted:

20 (i) [to farmers] Farmers selling their own produce[,].

21 (ii) [for the sale of] Persons selling goods, wares and
22 merchandise[, donated by the owners thereof,] if the proceeds
23 [whereof] of the sale are to be applied to any charitable or
24 philanthropic purpose[, or].

25 (iii) [to any manufacturer or producer] Manufacturers or
26 producers in the sale of bread and bakery products, meat and
27 meat products, or milk [or] and milk products, [but the]
28 provided that milk and milk products shall not include or apply
29 to ice cream or other frozen desserts.

30 (c) The ordinance may require [any person, partnership, firm

1 or corporation in any or all of these excepted categories to]
2 that the transient merchants excepted from payment of a license
3 fee in subsection (b) must register with the borough[,] and
4 otherwise be subject to all other provisions of the ordinance
5 [except those pertaining to the payment of license fees:
6 Provided, the term "milk or milk products" shall not include or
7 apply to ice cream or other frozen desserts: And provided
8 further, That any transient retail business dealing in one or
9 more of the excepted categories and selling other goods, wares
10 and merchandise not excepted shall be subject to the license fee
11 fixed by the ordinance for its activities in connection with the
12 sale of goods, wares and merchandise not in any of the excepted
13 categories].

14 Section 2902. Commonwealth Licenses Saved.--Nothing
15 contained in [section 2901 of this act] this article shall be
16 construed to relieve any person, partnership, or corporation
17 from the duty of taking out a license, or from the payment of
18 any license tax or fee imposed or authorized by any other
19 statute of this Commonwealth, nor shall any Commonwealth license
20 tax or fee preempt the registration, license, or regulatory
21 powers of a borough in accordance with this article, unless the
22 preemption is expressly authorized.

23 Section 336. Section 2903 of the act, amended October 5,
24 1979 (P.L.197, No.66), is amended to read:

25 Section 2903. Licensing Parking Lots and Parking Garages
26 Operated for Profit.--Any borough may, by ordinance, regulate
27 the business of operating parking lots or parking garages for
28 profit within the borough and may require such lots or garages
29 to reserve areas exclusively for parking by handicapped
30 individuals. Ordinances shall be consistent with 75 Pa.C.S.

1 (relating to vehicles). Nothing in this section may be construed
2 to limit the protections and prohibitions contained in any law
3 or regulation relating to the rights of the disabled. License or
4 permit fees may be charged and collected from the operators of
5 [such] the parking lots or parking garages. Any borough adopting
6 such a regulatory plan shall require from each operator of
7 [such] a parking lot or parking garage a bond to be approved by
8 council for the protection of the public from loss of or damage
9 to vehicles parked, stored or placed under the jurisdiction of
10 [such] a parking lot or parking garage operator[: Provided,
11 That], provided that nothing in this section shall apply to
12 parking lots or parking garages operated by a municipal
13 authority or a parking authority.

14 Section 337. Sections 2904 and 2905 of the act are amended
15 to read:

16 Section 2904. Persons Taking Orders by Samples.--It shall be
17 unlawful for any borough to impose, levy or collect any license
18 fee or mercantile tax upon any persons taking orders for
19 merchandise by sample, from dealers or merchants[,] for
20 individuals or companies who pay a license fee or mercantile tax
21 at their chief places of business. Nothing in this section shall
22 authorize any such person, firm or corporation to sell by retail
23 to others than dealers or merchants without payment of a license
24 or permit fee.

25 Section 2905. Equality of Residents and Non-Residents.--It
26 shall be unlawful for any borough to impose, by ordinance, [or
27 exact] or collect under the provisions of any ordinance
28 [heretofore or hereafter enacted], any license [tax or] fee upon
29 or from any manufacturer, or the agent, representative or
30 employe of any manufacturer who is a resident of the

1 Commonwealth, for soliciting orders for, or for selling, any
2 goods, merchandise or wares manufactured within this
3 Commonwealth, that is not or cannot legally be imposed upon, [or
4 exacted,] or collected from, any manufacturer or dealer, or the
5 agent, representative, or employe of any manufacturer, who is a
6 non-resident of the Commonwealth, for soliciting orders for or
7 for selling any goods, merchandise, or wares manufactured
8 [without the] outside this Commonwealth.

9 Section 338. Section 2906 of the act is reenacted to read:

10 Section 2906. Insurance Business.--It shall be unlawful for
11 any borough to impose or collect any license fee upon any
12 insurance company or its agents, or insurance broker, authorized
13 to transact business under the laws of the Commonwealth.

14 Section 339. The act is amended by adding an article to
15 read:

16 ARTICLE XXIX-A

17 VETERANS' AFFAIRS

18 (a) Pennsylvania National Guard

19 Section 2901-A. Eminent domain for National Guard purposes.

20 Borough council may take, by right of eminent domain, for the
21 purpose of appropriating to the borough for the use of the
22 Pennsylvania National Guard, public lands, easements and public
23 property, as may be in its possession or control and used or
24 held by the borough for any other purpose. The right, however,
25 shall not be exercised as to any street or wharf.

26 Section 2902-A. Lands for armory purposes.

27 Borough council may acquire, by purchase or by gift or by the
28 right of eminent domain, any land for the use of the
29 Pennsylvania National Guard, to convey the lands so acquired to
30 the Commonwealth in order to assist the State Armory Board in

1 the erection of armories. The power conferred by this section
2 shall not be exercised to take any church property, graveyard,
3 cemetery or any dwelling-house or the curtilage of the same in
4 the actual occupancy of the owner.

5 Section 2903-A. Appropriation to assist in erection of
6 armories.

7 Borough council may appropriate money or convey land, either
8 independently or in conjunction with any municipality for the
9 purpose of assisting the State Armory Board in the erection of
10 armories for the use of the Pennsylvania National Guard and to
11 furnish water, sewer service, light or fuel, free of cost, to
12 the Commonwealth for use in any armory of the Pennsylvania
13 National Guard, and to do all things necessary to accomplish the
14 purpose of this section.

15 Section 2904-A. Support of Pennsylvania National Guard units.

16 Borough council may appropriate annually a sum to be used and
17 expended exclusively for the support and maintenance, discipline
18 and training of any company, battalion, regiment or similar unit
19 of the Pennsylvania National Guard. Where the units are
20 organized as a company, battalion, regiment or similar
21 organization, the total amount due may be paid to the commanding
22 officer of the company, battalion, regiment or similar
23 organization. Any moneys so appropriated shall be paid by
24 warrant drawn to the order of the commanding officer of the
25 company, battalion, regiment or similar organization, only when
26 it shall be certified to the borough, by the Adjutant General,
27 that the company or companies have satisfactorily passed the
28 annual inspection provided by law. The commanding officer shall
29 account, by proper vouchers to the borough each year, for the
30 expenditure of the money appropriated, and no appropriation

1 shall be made for any subsequent year until the expenditure of
2 the previous year is duly and satisfactorily accounted for. The
3 accounts of the expenditures shall be subject to the inspection
4 of the Department of Military and Veterans Affairs, and shall be
5 audited by the Auditor General in the manner provided by law for
6 the audit of accounts of State moneys.

7 (b) Support of Veterans' Organizations

8 Section 2911-A. Appropriations to organizations of veterans and
9 American Gold Star Mothers.

10 Borough council may appropriate annually a sum to be divided
11 in amounts as council deems proper to organizations composed of
12 veterans of any war in which the United States was engaged or
13 the American Gold Star Mothers' Organization, to aid in
14 defraying the expenses of Memorial Day, Veterans' Day or any
15 similar day hereafter provided for by Federal or State law. The
16 payments shall be made to defray actual expenses only. Before
17 any payment is made, the organization receiving the
18 appropriation shall submit verified accounts of its
19 expenditures.

20 Section 2912-A. Payment of rent for veterans' organizations.

21 Borough council may appropriate annually a sum as council
22 deems proper to incorporated organizations of American veterans
23 of any war in which the United States was engaged, to be used in
24 the payment of the rent of any building or room or rooms in
25 which the post, branch, camp, detachment or lodge has its
26 regular meetings.

27 Section 2913-A. Rooms for veterans' and children of veterans'
28 organizations.

29 Borough council may furnish without charge to each
30 organization composed of American veterans of any war in which

1 the United States was engaged and children of such veterans, a
2 room or rooms in any public building of the borough.

3 Section 2914-A. Care and erection of memorials.

4 Borough council may take charge of, care for, maintain and
5 keep in good order and repair, at the expense of the borough,
6 any soldiers' monument, gun or carriage or similar memorial
7 situated in the borough, and not in the charge or care of any
8 person, body or organization, and not put up or placed by the
9 Government of the United States, the Commonwealth of

10 Pennsylvania, or the commissioners of the county, or by the
11 direction or authority of any other state. Borough council may
12 also receive and expend any moneys or funds from any person or
13 organization to be used for the maintenance of the memorials.
14 Additionally, borough council may contribute to the erection of
15 memorials in honor of those who served in any war in which the
16 United States was engaged and thereafter to properly and
17 adequately maintain the same.

18 Section 340. Article XXX heading and sections 3001, 3002,
19 3003, 3004 and 3005 of the act are repealed:

20 [ARTICLE XXX

21 REAL ESTATE REGISTRY

22 Section 3001. Real Estate Registry Established.--For the
23 purpose of procuring accurate information in reference to the
24 ownership of real estate the council of any borough may provide
25 by ordinance for a registry thereof.

26 Section 3002. Maintenance of Real Estate Registry.--The
27 borough council in any borough in which a registry shall be
28 established shall appoint or designate any officer of the
29 borough or any other person to have charge of the real estate
30 registry, who shall, under the direction of the council, cause

1 to be made all necessary books, maps and plans, as will show the
2 situation and dimensions of each property thereon; which books,
3 maps, or plans shall be so prepared as to show the location and
4 the name of the owner or owners thereof, with blank spaces for
5 the name of the owner of each lot, and with provision for the
6 names of future owners and the dates of future transfers of
7 title.

8 Section 3003. Access to Public Records.--For the purpose of
9 establishing such registry, the person in charge of the real
10 estate registry of any borough shall have access without charge
11 to any public records wherein the necessary information may be
12 obtainable, and may also cause a search to be made in other
13 places for any muniments or evidences of title, not reported to
14 him as herein provided, and requisite for the completion of such
15 books, maps, or plans.

16 Section 3004. Keeping of Records.--The registry, books, maps
17 and plans shall be carefully preserved, and shall be so kept, by
18 additions from time to time, as to show the ownership of every
19 lot, or piece of real estate, or subdivision thereof, within the
20 limits of the borough, with the succeeding transmissions of
21 title from the time of the commencement of such plans, but
22 nothing contained therein shall, at any time, invalidate any
23 municipal or tax claim by reason of the fact that the same is
24 not assessed or levied against the registered owner.

25 Section 3005. Duties of Owners of Real Estate.--It shall be
26 the duty of all owners of real estate within the limits of the
27 borough, within one month after the date of the enactment of any
28 ordinance establishing such registry, and of every subsequent
29 purchaser, devise, or other owner, within one month after
30 acquiring title in any manner whatsoever to any real estate in

1 such borough, to furnish to the person in charge of the real
2 estate registry, at his office, descriptions of their respective
3 properties upon blanks to be furnished by the borough, and at
4 the same time to present their conveyances to be stamped as
5 evidence of the registry thereof.]

6 Section 341. Section 3006 of the act, amended October 9,
7 1967 (P.L.360, No.158), is repealed:

8 [Section 3006. Registry Required Before Recording.--The
9 sheriffs of the respective counties in which any such borough is
10 situated shall present for registry the deeds of all properties
11 within such borough sold by them at judicial sales; and the
12 recorders of deeds of such counties shall not admit for record
13 any deed of any property in such borough, bearing dates
14 subsequent to the enactment of an ordinance providing for the
15 establishment of such registry, unless the same shall first have
16 been duly stamped as herein provided.]

17 Section 342. Article XXXI heading of the act is reenacted to
18 read:

19 ARTICLE XXXI

20 HEALTH AND SANITATION

21 Section 343. Sections 3101 and 3102 of the act are amended
22 to read:

23 Section 3101. Establishment of Board of Health; Health
24 Officers.--[The administration of the health laws and ordinances
25 in boroughs shall be enforced by a board of health, or by a
26 health officer or officers, as the case may be, appointed by the
27 borough council.

28 Where the borough council elects to appoint a health officer
29 or officers the said health officer or officers] (a) Borough
30 council may, by ordinance, appoint a board of health, or a

1 health officer or officers in lieu of a board of health, to
2 administer and enforce the health laws and related ordinances of
3 the borough. Health officers appointed by borough council shall
4 have the same powers and duties, and exercise the same
5 authority, as is prescribed for boards of health in boroughs.
6 All health officers, whether appointed by boards of health
7 pursuant to section 3106(b) or by the borough council, shall
8 have had some experience or training in public health work [in
9 accordance with rules and regulations established by the
10 Advisory Health Board of the State] and shall be, or within six
11 months of taking the oath of office, shall become certified for
12 the office of health officer by the Department of Health. [Such
13 health officers shall not enter upon the performance of their
14 duties until they are certified so to do by the State Department
15 of Health.]

16 (b) All expenses incurred by the board of health, its
17 officers or employes in the performance of the duties required
18 by law or by ordinance, shall be paid by the borough where the
19 duties are performed, in the same manner as other expenses of
20 the borough are paid.

21 (c) A borough may, by ordinance, dissolve a board of health
22 and decide to become subject to the jurisdiction of a county
23 department of health or joint county department of health in
24 accordance with the act of August 24, 1951 (P.L.1304, No.315),
25 known as the "Local Health Administration Law."

26 Section 3102. Members of Board of Health.--(a) Where the
27 borough council decides to appoint a board of health [such], the
28 board shall be composed of three or five members, appointed by
29 borough council, at least one of whom shall be a [physician]
30 professional health care provider of not less than two years'

1 experience in the practice of [his] the respective profession.
2 [The members of the board shall be appointed by the borough
3 council.] If no professional health care provider can be
4 identified to serve on the board, council may, instead, appoint
5 an individual who has experience in or is knowledgeable of
6 public health issues. At the first appointment one member shall
7 be appointed to serve for one year, one for two years, one for
8 three years, and, in the case of boards with five members, one
9 for four years, and one for five years; and thereafter one
10 member shall, in like manner, be appointed each year to serve
11 for three years or, in the case of boards with five members,
12 five years. The members of the board of health shall serve
13 without compensation, but if any member of the board shall be
14 elected to the office of secretary of the board of health, [he]
15 the member shall be entitled to receive a salary fixed by the
16 board for that office.

17 (b) "Professional health care provider" as described in this
18 section shall mean an individual who is approved, licensed,
19 certified or otherwise regulated to practice or operate in the
20 health care field under the laws of this Commonwealth,
21 including, but not limited to, a physician, a dentist, a
22 podiatrist, a chiropractor, an optometrist, a psychologist, a
23 pharmacist, a registered or practical nurse, a physical
24 therapist, a physician's assistant, a paramedic, an
25 administrator of a hospital, nursing or convalescent home or
26 other health care facility or individuals licensed to practice
27 veterinary medicine under the laws of this Commonwealth.

28 Section 344. Section 3103 of the act, amended June 25, 2001
29 (P.L.651, No.56), is amended to read:

30 Section 3103. Oaths of Members, Secretary and Health

1 Officer; Organization; Bonds.--The members of the board shall
2 severally take and subscribe to the oath prescribed for borough
3 members of council [together with such loyalty oath as is
4 prescribed and required by law;] and shall annually organize by
5 electing a president from among the members of the board, a
6 secretary who may or may not be a member of the board, and a
7 health officer. The secretary and the health officer shall
8 receive such salary as may be fixed by the board, and ratified
9 by the borough council, and shall serve [for a period] until
10 such time as their successors may be elected and qualified. If
11 the borough council shall so require, they shall severally give
12 bond to the borough in such sums as council shall prescribe for
13 the faithful discharge of their duties. They shall take and
14 subscribe to the oaths required of members of the board.

15 Section 345. Sections 3104, 3105, 3106, 3107, 3108, 3109,
16 3110 and 3111 of the act are amended to read:

17 Section 3104. Duties of Secretary.--The secretary of the
18 board shall [keep]:

19 (1) Keep and maintain, in accordance with 53 Pa.C.S. Ch. 13
20 Subch. F (relating to municipal records), the minutes of the
21 proceedings of the board[; shall] and keep accurate accounts of
22 the expenditures of the board[; shall draw].

23 (2) Draw all requisitions for the payment of moneys on
24 account of the board of health from appropriations made by the
25 borough council [of] to the board, and [shall] present the same
26 to the president of the board for [his] the president's
27 approval[; shall render].

28 (3) Render statements of the expenditures to the board at
29 each stated meeting, or as frequently as the board may require[;
30 shall prepare,].

1 (4) Prepare, under the directions of the board, the annual
2 report to the borough council together with the estimate of
3 appropriation needed for the ensuing year. [He shall report]

4 (5) Report to the State Department of Health at such
5 intervals as shall be specified by [the State] law or
6 regulation, the cases of communicable disease reported to the
7 board of health, on the form provided for that purpose by [such]
8 the department[;] and [shall also] make an annual report to
9 [such] the department[; and shall make].

10 (6) Make such other reports and perform such other duties as
11 the board may require.

12 Section 3105. Powers and Duties of Health Officer.--It shall
13 be the duty of the health officer to attend all [stated] regular
14 and special meetings of the board of health, and at all times be
15 ready and available for the prompt performance of [his] the
16 officer's official duties[. He shall perform], including such
17 duties as are vested in local health officers by State laws and
18 regulations. [He] The health officer shall make sanitary
19 inspection and shall execute the orders of the board of health
20 and shall, in the performance of [his] the health officer's
21 duties, have the power and authority [of a policeman] to issue
22 citations for the violation of applicable laws and ordinances.

23 Section 3106. Powers of Board of Health.--(a) The board of
24 health shall have the power, and it shall be its duty to
25 [enforce]:

26 (1) Enforce the laws of the Commonwealth, the regulations of
27 the State Department of Health, and all ordinances of the
28 borough enacted to promote public health and prevent the
29 introduction and spread of infectious or contagious disease[; to
30 abate].

1 (2) Abate and remove all nuisances [which] that the board
2 shall deem [prejudicial] detrimental to the public health[;] and
3 to mark infected houses or places[; to recommend].

4 (3) Recommend rules [for the construction and maintenance of
5 house-drains, wash-pipes, soil-pipes and cesspools; and to
6 recommend all such other rules] and regulations as shall be
7 deemed necessary for the preservation of the public health and
8 for carrying into effect the powers and functions of the board.

9 [Such] The rules and regulations shall not become effective
10 until they have been approved by the borough council and enacted
11 as ordinances of the borough. [The board shall also have power,
12 with the consent of council, in case of a prevalence of any
13 contagious or infectious disease to establish one or more
14 emergency hospitals, and to make provisions and regulations for
15 the maintenance and management of the same.

16 The board shall also have the power to recommend to council
17 all necessary rules and regulations not inconsistent with law,
18 for carrying into effect the powers and functions with which the
19 board is invested by law, and the power and authority relating
20 to the public health conferred on boroughs. Such rules and
21 regulations shall not become effective until they have been
22 approved by the borough council and enacted as ordinances of the
23 borough.]

24 (b) The board of health may appoint a health officer or
25 officers.

26 Section 3107. Entry Upon Premises.--(a) The board of health
27 as a body, or by committee, as well as the health officer,
28 together with their assistants, subordinates, and [workmen]
29 employes, under and by order of the [said] board, shall have the
30 power to enter at [any time] a reasonable time and in a

1 reasonable manner upon any premises in the borough upon which
2 there is suspected to be any infectious or contagious disease,
3 or nuisance detrimental to the public health, for the purpose of
4 examining and abating the same.

5 (b) In the event that entry upon any premises is refused by
6 an owner, an agent of an owner or a tenant, the board of health
7 or health officer shall obtain an administrative search warrant
8 from any magisterial district judge within the judicial district
9 where the premises to be inspected is located.

10 (c) It shall be sufficient to support the issuance of a
11 warrant for the board of health or health officer to provide to
12 the magisterial district judge evidence of any of the following:

13 (1) Reasonable standards and an administrative plan for
14 conducting inspections.

15 (2) The condition of the premises or general area and the
16 passage of time since the last inspection.

17 (3) Facts, supported by oath or affirmation, alleging that
18 probable cause exists that a law, regulation or ordinance
19 subject to enforcement by the board of health or health officer
20 has been violated.

21 Section 3108. Inspections; Abatement of Nuisances.--The
22 board of health [may inspect house-drains, waste and soil-pipes,
23 cesspools, water-closets, slaughter-houses, hog-pens, stable-
24 yards and] shall have the power to inspect any conditions or
25 places [whatsoever] in the borough which may constitute a
26 nuisance or a menace to public health[; and whenever]. Whenever
27 any condition or place in the borough is found by the board to
28 be a nuisance or a menace to the health of the people of the
29 borough it shall issue a written order of abatement, directed to
30 the owner, or agent of the owner, of the premises, stating that

1 the conditions specified [therein] in the premises constitute a
2 nuisance or a menace to health, and ordering an abatement
3 thereof within [such] reasonable time as may be specified by the
4 board in [such] the order. [In case such] If the order of
5 abatement is not obeyed within the time specified [therein], the
6 board shall [thereupon] issue a further written order to the
7 health officer, directing [him] the health officer to remove or
8 abate the same[; which]. The order shall be executed by [him and
9 his] the health officer and subordinates and [workmen] agents,
10 and the expense [thereof] of execution with a penalty of ten
11 percent [thereof added thereto], shall be recoverable from the
12 owner of the premises upon or from which the nuisance or menace
13 to health is abated or removed, in the same manner as debts of
14 like character are now collected by law[; or the said board of
15 health may proceed to enforce such other remedy, or inflict such
16 penalty, as may be provided by ordinance of the borough]. In
17 lieu of, or in addition to the above procedure, borough council
18 may seek relief from a nuisance or threatened nuisance by an
19 action at law or in equity. Council may seek the guidance of the
20 board of health or the health officer in determining the nature
21 of the relief requested.

22 Section 3109. Estimates of Expenditures; Report.--It shall
23 be the duty of the board of health or of the health officer or
24 officers appointed by borough council to submit annually to the
25 council, before the commencement of the fiscal year, an estimate
26 of the probable expenditures of the board or the health officer
27 or officers during the ensuing year; and council shall then
28 proceed to make [such] appropriations as may be deemed
29 necessary. The board of health, or the health officer or
30 officers, shall, in the month of January of each year, submit a

1 report, in writing, to council of its appropriation and
2 expenditures for the preceding year, together with such other
3 information on subjects relative to the sanitary conditions or
4 requirements of the borough as may be necessary.

5 Section 3110. Cooperation With Other Units.--Any borough may
6 cooperate with the county or counties in which it is located, or
7 with any [city, borough, or township] municipal corporation, as
8 well as with the State Department of Health, in the
9 administration and enforcement of health laws.

10 Section 3111. Powers of [Secretary of Health.--Whenever, in
11 the opinion of the Secretary of Health, conditions found by him
12 to exist in any borough shall constitute a menace to the lives
13 and health of people living outside the corporate limits of such
14 borough or if it be known by him that any borough is without an
15 existing or efficient board of health, he or his agents may take
16 full charge of and administer the health laws, regulations and
17 ordinances in such borough; and may continue in charge thereof
18 until he shall decide that a competent and efficient board of
19 health, or health officer or officers, has been appointed and
20 qualified for such borough and is ready, able and willing to
21 assume and carry into effect the duties imposed upon it by law.]

22 Department of Health to Administer Health Laws; Expenses.--(a)
23 Nothing in this act may be construed as to limit any power or
24 duty of the Department of Health, including the power to take
25 full charge of the administration of health laws, regulations
26 and ordinances in a borough and collect any costs associated
27 therewith in accordance with Article XXI of the act of April 9,
28 1929 (P.L.177, No.175), known as "The Administrative Code of
29 1929."

30 (b) Any expenses of the Department of Health for which the

borough is liable shall be paid by the borough where the
expenses have been incurred, in the same manner as other
expenses of the borough are paid. All expenses incurred by the
Department of Health, when paid or when collected, shall be
returned by the department to the State Treasurer, who shall
credit the amount so received to the appropriation made to the
Department of Health.

(c) Whenever expenses incurred in accordance with the
provisions of subsection (b) shall remain unpaid by a borough
for a period over three months after a statement of the expense
has been rendered to the borough and demand for payment is made,
the Secretary of Health shall, with the approval of the
Governor, institute, in the name of the Commonwealth as
plaintiff, an action of assumpsit against the borough for the
collection of the expense from the borough in the same manner as
debts of like amount are collected by law. Upon the trial of the
action, the reasonableness of the expenditures made by the
secretary shall be submitted to the jury for its determination.

Section 346. Sections 3112, 3113 and 3114 and Article XXXIII
heading of the act are repealed:

[Section 3112. Expenses of Board or Secretary of Health.--
All expenses incurred by any local board of health, its officers
or employes, in the performance of the duties imposed upon it by
law, and all expenses incurred by the Secretary of Health or his
agents in accordance with the provisions of this article shall
be paid by the borough wherein such duties are performed, in the
same manner as other expenses of such borough are paid.

Section 3113. Failure to Pay Expenses Incurred by State
Secretary.--Whenever expenses incurred by the Secretary of
Health or his agents in the administration of health laws in any

1 borough in accordance with the provisions of this article, shall
2 remain unpaid by said borough for a period over three months
3 after a statement of such expense has been rendered by him to
4 such borough and demand for payment by him made, he shall, with
5 the approval of the Governor, institute, in the name of the
6 Commonwealth as plaintiff, an action of assumpsit against such
7 borough for the collection of such expense from the borough in
8 the same manner as debts of like amount are collected by law:

9 Provided, That upon the trial of any such action of assumpsit,
10 the reasonableness of the expenditures made by the Secretary of
11 Health shall be submitted to the jury for its determination.

12 Section 3114. Disposition of Collected Funds.--All expenses
13 incurred by the Secretary of Health in the administration of
14 health laws in any borough, when paid to him by such borough, or
15 when collected by him, shall be returned by him to the State
16 Treasurer, who shall credit the amount so received to the
17 appropriation made to the Department of Health.

18 ARTICLE XXXII

19 ZONING]

20 Section 347. The act is amended by adding an article to
21 read:

22 ARTICLE XXXII-A

23 UNIFORM CONSTRUCTION CODE, PROPERTY MAINTENANCE

24 CODE AND RESERVED POWERS

25 Section 3201-A. Primacy of Uniform Construction Code.

26 (a) General rule.--The act of November 10, 1999 (P.L.491,
27 No.45), known as the Pennsylvania Construction Code Act, and the
28 Uniform Construction Code adopted under section 301 of the
29 Pennsylvania Construction Code Act shall apply to the
30 construction, alteration, repair and occupancy of all buildings

and structures within a borough that are used or intended for supporting or sheltering any occupancy.

(b) Primacy.--This section and any ordinance, rule or regulation adopted pursuant to this section shall not supersede or abrogate the Pennsylvania Construction Code Act or the Uniform Construction Code and shall be construed and read in pari materia with them.

Section 3202-A. Changes in Uniform Construction Code.

A borough may propose and enact an ordinance to equal or exceed the minimum requirements of the Uniform Construction Code in accordance with section 503 of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act.

Section 3203-A. Public nuisance.

Any building, housing or property, or part of any building, housing or property erected, altered, extended, reconstructed, removed or maintained, contrary to any of the provisions of any ordinance passed for any of the purposes specified in this article may be declared, by a court of law, a public nuisance, and may be abatable as such.

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 at least one week and not more than three weeks prior
to the presentation of the proposed property maintenance code to
council. No fewer than three copies of the ordinance adopted by
council shall be made available for public inspection and use
during business hours or be made available to any interested
party at the cost of the copies, or may be furnished or lent
without charge. A property maintenance code adopted by reference
need not be recorded in or attached to the ordinance book, but
shall be deemed to have been legally recorded if the ordinance
by which the code was adopted by reference shall have been
recorded, with an accompanying notation stating where the full
text of the code shall have been filed. The ordinance may
provide for reasonable property fines and penalties for
violations of the ordinance. The procedure under this section
relating to the adoption of the ordinance may likewise be
utilized in amending, supplementing or repealing any of the
provisions of the ordinance.

(b) Property maintenance inspectors.--Council may appoint
property maintenance inspectors who shall have the right to
enter upon, subject to constitutional standards in a similar
manner as provided in section 3107, and inspect any premises at
all reasonable hours and in a reasonable manner for the
administration and enforcement of the borough's property

1 maintenance code or ordinance incorporating a standard or
2 nationally recognized property maintenance code. Any fees
3 payable to property maintenance inspectors under the ordinance
4 shall be paid by the property maintenance inspectors to the
5 borough treasurer for the use of the borough as promptly as may
6 be.

7 (c) Legal actions.--In addition to the penalties provided by
8 the property maintenance ordinance, the borough may institute
9 appropriate actions or proceedings at law or in equity to
10 prevent or restrain property maintenance violations.

11 (d) Construction.--The powers of a borough as provided in
12 this section shall be in addition to, but not limited to, the
13 powers provided in the act of November 26, 2008 (P.L.1672,
14 No.135), known as the Abandoned and Blighted Property
15 Conservatorship Act, and 53 Pa.C.S. Ch. 61 (relating to
16 neighborhood blight reclamation and revitalization).
17 Section 3205-A. Reserved powers.

18 (a) Police powers.--Nothing in this article may be construed
19 as limiting or restricting the police power which boroughs may
20 be authorized to exercise in conformity with the act of November
21 10, 1999 (P.L.491, No.45), known as the Pennsylvania
22 Construction Code Act, and the Uniform Construction Code,
23 including the exercise of those powers set forth in subsection
24 (b) that are not prohibited by or inconsistent with the
25 Pennsylvania Construction Code Act or the Uniform Construction
26 Code.

27 (b) Preserved powers.--If, as a result of legislative action
28 or otherwise, the Uniform Construction Code or any replacement
29 code is no longer made applicable to boroughs, a borough may:

30 (1) Enact and enforce ordinances to govern and regulate

1 the construction, reconstruction, alteration, extension,
2 repair, conversion, maintenance, occupation, sanitation,
3 ventilation, heating, egress, lighting, electric wiring,
4 water supply, toilet facilities, drainage, plumbing, fire
5 prevention, fireproofing, including prescribing limitations
6 wherein only buildings of noncombustible material and
7 fireproofed roofs are used in construction, erection or
8 substantial reconstruction, use and inspection of all
9 buildings and housing or parts of buildings and housing and
10 the roofs, walls and foundations of buildings and housing,
11 and all facilities and services in or about the buildings or
12 housing constructed, erected, altered, designed or used, in
13 whole or in part, for any use or occupancy, and the
14 sanitation and inspection of land appurtenant to the
15 buildings or housing. The codes may be combined or separately
16 enacted or combined with the property maintenance code. A
17 borough may adopt, amend or incorporate by reference any
18 standard or nationally recognized code or any variations or
19 changes or parts of the code as its ordinance in the manner
20 provided in section 3204-A. The ordinance may provide for
21 reasonable fines and penalties for violations of the
22 ordinance in compliance with Article XXXIII.

23 (2) Require that before any work of construction,
24 reconstruction, alteration, extension, repair or conversion
25 of any building is begun, approval of the plans and
26 specifications be secured.

27 (3) Council may appoint building inspectors, housing
28 inspectors, property maintenance inspectors, fire prevention
29 inspectors, electrical inspectors and plumbing inspectors,
30 and fix their compensation. The inspectors shall have the

1 right to enter upon, subject to constitutional standards in a
2 similar manner as provided in section 3107, and inspect any
3 premises at all reasonable hours and in a reasonable manner,
4 for the administration and enforcement of the borough's
5 adopted codes or ordinances incorporating standard or
6 nationally recognized codes. Any fees payable to inspectors
7 under the ordinances shall be paid by them to the borough
8 treasurer for the use of the borough as promptly as may be.

9 (4) In addition to the penalties provided by ordinances,
10 the borough may institute appropriate actions or proceedings
11 at law or in equity to prevent or restrain the unlawful
12 construction, reconstruction, alteration, extension, repair,
13 conversion, maintenance, use or occupation of property
14 located within the borough, to restrain, correct or abate the
15 violation and to prevent the use or occupancy of the
16 building, housing or structure.

17 Section 348. Article XXXIII heading of the act is amended to
18 read:

19 ARTICLE XXXIII

20 [ENFORCEMENT OF] ORDINANCES

21 Section 349. Section 3301 of the act, amended October 9,
22 1967 (P.L.399, No.181) and repealed in part April 28, 1978
23 (P.L.202, No.53), is repealed:

24 [Section 3301. Prosecution of Ordinance Violators;
25 Disposition of Fines, Penalties and Costs.--Any violation or
26 failure to comply with any provision of any borough ordinance
27 shall constitute a summary offense and prosecution for every
28 such offense shall be according to the practice in the case of
29 summary convictions.]

30 Section 350. The act is amended by adding subdivisions to

1 read:

2 (a) General Provisions

3 Section 3301.1. Ordinances; resolutions.

4 (a) General rule.--Borough council shall enact ordinances in
5 accordance and not inconsistent with the provisions of this act
6 and with the laws of this Commonwealth, in which general or
7 specific powers of the borough shall be exercised as it shall
8 deem beneficial to the borough and to provide for the
9 enforcement of the same. Borough council may amend, repeal or
10 revise existing ordinances by the enactment of subsequent
11 ordinances.

12 (b) Legislative acts.--Every legislative act of council
13 shall be by ordinance and these legislative acts shall include,
14 but not be limited to, tax ordinances, general appropriation
15 ordinances, capital expenditures not payable out of current
16 funds, and all legislation exercising the police power of the
17 borough, regulating land use, development and subdivision,
18 imposing building, plumbing, electrical, property maintenance,
19 housing and similar standards, and otherwise regulating the
20 conduct of persons or entities within the borough and imposing
21 penalties for the violation thereof.

22 (c) Resolutions.--Borough council shall adopt resolutions in
23 accordance and not inconsistent with the provisions of this act.
24 The purposes for which resolutions may be adopted shall include,
25 but not be limited to, ceremonial or congratulatory expressions
26 of the good will of the council, statements of public policy of
27 the council, approval of formal agreements of the borough, other
28 than agreements arising under an established purchasing system
29 of the borough, the approval, when required, of administrative
30 rules, regulations and bylaws arising under State statutes or

borough ordinances and the filling of borough-appointed positions and of vacancies of elected officials unless otherwise provided.

(d) Real and personal property matters.--Borough council's approval of the acquisition, disposition and leasing of real or personal property shall be by adoption of a resolution.

Section 3301.2. Publication of proposed ordinances.

(a) Publication requirements.--Except where otherwise provided in this act or in other law, borough council shall publish every proposed ordinance once in one newspaper no more than 60 days nor fewer than seven days prior to enactment, which the seventh day shall fall on the day prior to the day when council shall vote on the proposed ordinance. Publication of any proposed ordinance shall include either the full text or the title and a brief summary prepared by the borough solicitor setting forth all the provisions in reasonable detail and a reference to a place within the borough where copies of the proposed ordinance may be examined.

(b) Publication of summary.--If the full text is not included in the publication of the proposed ordinance, the following shall apply:

(1) The newspaper in which the proposed ordinance is published shall, upon request, be furnished a copy of the full text.

(2) An attested copy of the full text shall be filed in the county law library or other county office designated by the county commissioners who may impose a fee no greater than that necessary to cover the actual costs of storing the proposed ordinance.

(3) The date of the filing with the county, as provided

1 in paragraph (2), shall not affect the effective date of the
2 ordinance and shall not be deemed a defect in the process of
3 the enactment of the ordinance.

4 (c) Notice of amendments.--In the event substantial
5 amendments are made in the proposed ordinance, before voting
6 upon enactment, council shall within ten days readvertise in one
7 newspaper, a brief summary setting forth all the provisions in
8 reasonable detail together with a summary of the amendments.

9 Section 3301.3. Enactment, approval and veto of ordinances;
10 effective date.

11 (a) Approval by mayor.--

12 (1) Every ordinance enacted by council shall be
13 presented to the mayor for the mayor's approval. As a matter
14 of law, presented to the mayor shall be deemed to mean
15 delivery to the mayor by hand delivery or certified mail,
16 addressee only, to the mayor at the mayor's last known
17 address. Delivery shall be deemed complete upon depositing in
18 the mail, postage or charges prepaid, as evidenced by a
19 certificate of mailing.

20 (2) If the mayor approves the ordinance, he or she shall
21 sign it. If the mayor does not approve the ordinance, the
22 mayor shall return it with his or her objections which shall
23 be entered upon the minutes, to the council at its next
24 scheduled meeting occurring at least ten days after the
25 meeting at which the ordinance was enacted by council.
26 Council shall proceed to a reconsideration of the ordinance
27 either at the meeting at which the vetoed ordinance was
28 returned or no later than ten days thereafter at any other
29 scheduled meeting. If, after reconsideration, a majority of
30 all elected council members plus one votes to override the

1 mayor's veto, the ordinance shall have full force and effect
2 as if it had received the approval of the mayor. The vote
3 shall be determined by yeas and nays, and the names and votes
4 of the members shall be entered upon the minutes. A scheduled
5 meeting, as used in this section, may be either a regular,
6 special or reconvened meeting.

7 (3) If any ordinance shall not be returned by the mayor
8 at council's next scheduled meeting occurring at least ten
9 days after its presentation to the mayor, the ordinance shall
10 have full force and effect as if it had been approved by the
11 mayor.

12 (b) Effective date.--The effective date of an enacted
13 ordinance, except as otherwise provided in the ordinance, shall
14 be the date when the mayor shall approve it or the date of
15 enactment by the council over the veto of the mayor, or in the
16 case of any ordinance not returned by the mayor at the next
17 scheduled meeting of council occurring at least ten days after
18 the meeting at which the ordinance was enacted by the council,
19 the date of enactment shall be the date of the succeeding
20 scheduled meeting of council.

21 (c) Tax ordinance.--When council shall present the mayor
22 with the annual tax ordinance referred to in section 1310.1, the
23 mayor shall, within ten days of receiving the tax ordinance
24 approve or return the tax ordinance to the borough secretary
25 with a statement setting forth the mayor's objections. Council
26 shall proceed to a reconsideration at any scheduled meeting held
27 no later than ten days after the mayor has returned the tax
28 ordinance to the secretary with the mayor's objections. The
29 mayor's objections shall be entered upon the minutes of the
30 meeting. A veto of the tax ordinance of the borough may be

overridden by a vote of a majority of all elected council
members plus one. After that action, the ordinance shall have
full force and effect as if it had received the approval of the
mayor. If the mayor neither approves the tax ordinance nor
returns it with objections, the date of enactment of the tax
ordinance shall be the date of the adoption of the tax ordinance
by council.

Section 3301.4. Recording, advertising and proof of ordinances.

All borough ordinances shall, within 30 days after (1)
approval by the mayor, or (2) council's override of the mayor's
veto or (3) council's next scheduled meeting after its
presentation to the mayor, be recorded by the borough secretary
in a book provided for that purpose, which shall be open to the
inspection of citizens during normal business hours. All
ordinances may be proved by the certificate of the borough
secretary, under the corporate seal. When printed or published
in book or pamphlet form by the authority of the borough, the
ordinances or resolutions 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.

1 Section 3301.5. Codification of ordinances.

2 (a) Consolidation, codification and revision.--When a
3 borough has prepared a consolidation, codification or revision
4 of the general body of borough ordinances, or the ordinances on
5 a particular subject, the borough council may adopt the
6 consolidation, codification or revision as an ordinance of the
7 borough in accordance with section 3301.1(a), except as
8 hereinafter provided.

9 (b) Enactment.--Any consolidation, codification or revision
10 of borough ordinances to be enacted as a single ordinance shall
11 be introduced in the borough council at least 30 days before its
12 final enactment. At least 15 days before its final enactment,
13 notice of the introduction of any consolidation, codification or
14 revision, specifying its general nature and listing its table of
15 contents, shall be given by advertisement in a newspaper.

16 (c) Notice.--When any consolidation, codification or
17 revision has been enacted as an ordinance, it shall not be
18 necessary to advertise the entire text, but it shall be
19 sufficient in any case, to publish a notice stating that the
20 consolidation, codification or revision, notice of the
21 introduction of which had previously been given, was finally
22 enacted.

23 (d) Contents of notice.--In the course of preparing a
24 consolidation, codification or revision of ordinances, a borough
25 may utilize the procedure set forth in subsections (a), (b) and
26 (c) to enact a complete group or body of ordinances, repealing
27 or amending existing ordinances as may be necessary. In such
28 cases, the advertisement giving notice of the introduction shall
29 list, in lieu of a table of contents, the titles only of each of
30 the ordinances in a complete group or body of ordinances, as was

1 finally enacted.

2 Section 3301.6. Appeals from ordinances.

3 Complaint as to the legality of any ordinance or resolution
4 may be made to the court of common pleas. In cases of ordinances
5 laying out streets over private lands, the court shall have
6 jurisdiction to review the propriety as well as the legality of
7 the ordinance.

8 Section 3301.7. Lost ordinance books to be replaced; recording
9 ordinances.

10 (a) Lost ordinance books.--Whenever any ordinance book or
11 books are lost, destroyed or become unserviceable, the borough
12 council may provide by ordinance for a new ordinance book or
13 books into which shall be recorded by the secretary all of the
14 ordinances contained in the lost, destroyed or unserviceable
15 ordinance book or books. The secretary, in recording the
16 ordinances, shall make complete copies of the ordinances,
17 including the date of enactment and approval and the names of
18 the officers who signed the same, and, after notice given, as
19 provided in this section, and corrections made, shall certify
20 each ordinance as a correct copy of the original.

21 (b) Recording ordinances.--The ordinance providing for the
22 recording of ordinances shall be recorded in the ordinance book,
23 immediately following the ordinances so recorded and it shall
24 provide that the secretary of the borough, upon the completion
25 of the recording, shall publish once, in one newspaper, a notice
26 stating that ordinances of the borough contained in lost,
27 destroyed or unserviceable ordinance book or books, and that the
28 old books and records of borough ordinances and the new
29 ordinance book are open to public inspection for the purpose of
30 verification and correction for a period of 30 days from the

1 date of the notice.

2 (c) Certification by secretary of borough.--The secretary of
3 the borough, at the expiration of the notice, shall make all
4 corrections, and shall then certify that all of the ordinances
5 have been compared with the originals and that they are correct
6 copies. After the ordinances are recorded, notice given, and the
7 certificate of correction made, the ordinances so recorded shall
8 take the place of the original record and shall be the valid and
9 legal ordinances of the borough for the period covered by the
10 new ordinance book.

11 (b) Enforcement

12 Section 3321. Fines and penalties.

13 An ordinance enacted by borough council pursuant to this act
14 shall prescribe the fines and penalties which may be imposed for
15 its violation and shall, unless otherwise specified in any other
16 law of this Commonwealth, designate the method of its
17 enforcement in accordance with the following:

18 (1) Except as provided in paragraph (2), when the
19 penalty imposed for the violation of an ordinance enacted
20 pursuant to the provisions of this act is not voluntarily
21 paid to the borough, the borough shall initiate a civil
22 enforcement proceeding before a magisterial district judge.
23 The civil enforcement proceeding shall be initiated by
24 complaint or by such other means as may be provided by the
25 Pennsylvania Rules of Civil Procedure. An ordinance which is
26 to be enforced through a civil enforcement proceeding may
27 prescribe civil penalties not to exceed \$600 per violation. A
28 borough shall be exempt from the payment of costs in any
29 civil case brought by the borough to enforce an ordinance in
30 accordance with this paragraph.

1 (2) For an ordinance regulating building, housing,
2 property maintenance, health, fire, public safety, parking,
3 solicitation, curfew, water, air or noise pollution, borough
4 council shall provide that its enforcement shall be by action
5 brought before a magisterial district judge in the same
6 manner provided for the enforcement of summary offenses under
7 the Pennsylvania Rules of Criminal Procedure. The municipal
8 solicitor may assume charge of the prosecution without the
9 consent of the District Attorney as required under
10 Pa.R.Crim.P. No. 454 (relating to trial in summary cases).
11 Borough council may prescribe criminal fines not to exceed
12 \$1,000 per violation and may prescribe imprisonment to the
13 extent allowed by law for the punishment of summary offenses.
14 Violations of the property maintenance code or ordinance may
15 also be enforced pursuant to section 3204-A(c).

16 (3) All ordinances enacted prior to the effective date
17 of this clause, other than those regulating building,
18 housing, property maintenance, health, fire, public safety,
19 parking, solicitation, curfew, water, air or noise pollution,
20 shall be deemed automatically amended so that they shall be
21 enforced through a civil enforcement proceeding in accordance
22 with paragraph (1).

23 (4) In addition to or in lieu of enforcement of an
24 ordinance through a civil action or as a summary offense, as
25 provided in this section, boroughs may enforce ordinances
26 through an action in equity brought in the court of common
27 pleas of the county where the borough is situate.

28 (5) Ordinances, whether enforced through civil
29 proceedings or as a summary offense, may provide that a
30 separate offense shall arise for each day or portion of a day

1 in which a violation is found to exist or for each section of
2 the ordinance which is found to have been violated. In the
3 event that such claims for fines and penalties exceed the
4 monetary jurisdiction of a magisterial district judge as set
5 forth in 42 Pa.C.S. § 1515(a) (relating to jurisdiction and
6 venue), exclusive of interest, costs or other fees, the
7 borough may bring such action in the court of common pleas or
8 may, pursuant to 42 Pa.C.S. § 1515(a), waive that portion of
9 fines or penalties that exceed the monetary jurisdictional
10 limits so as to bring the matter within the monetary
11 jurisdiction of the magisterial district judge.

12 (6) Ordinances may provide that any person found guilty
13 of violating an ordinance may be assessed court costs and
14 reasonable attorney fees incurred by the borough in the
15 enforcement proceedings.

16 (7) All fines, costs, penalties, and fees collected for
17 the violation of any borough ordinance shall be paid to the
18 borough treasurer.

19 (8) Borough council may delegate the initial
20 determination of ordinance violation and the service of
21 notice of violation to such officers or agents as the borough
22 shall deem qualified for that purpose.

23 Section 351. Sections 3306 and 3307 of the act are
24 renumbered and amended to read:

25 Section [3306] 3322. Commitments Pending Hearings.--Any
26 person arrested for the violation of a borough ordinance that
27 may be enforced as a summary offense may be committed to the
28 borough lockup, pending a hearing or trial, but in case there is
29 no suitable lockup in which to detain prisoners the person
30 arrested may be committed to the county jail.

(a) Municipal Claims]

Section 355. Section 3401 of the act, repealed in part April 28, 1978 (P.L.202, No.53), is repealed:

[Section 3401. Collection of Municipal Claims.--In all proceedings for the recovery of municipal claims an attorney's commission of five percent may be included.]

Section 356. Article XXXIV subdivision (b) heading and section 3415 of the act are repealed:

[(b) Defenses by Taxpayers

Section 3415. Liability in Bond Transfers.--All certificates of loans, issued by a borough, shall be transferable by the legal owner thereof without any liability on the part of the transfer agents of the borough to recognize or see to the execution of any trust, whether expressed, implied, or constructive, to which such loans may be subject, unless such transfer agents of the borough shall have previously received notice in writing signed by or on behalf of the person for whom such loans appear by the certificate thereof to be held in trust, that the proposed transfer would be a violation of such trust.]

Section 357. Article XXXV heading of the act is reenacted to read:

ARTICLE XXXV

ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE

Section 358. Section 3501 of the act is amended to read:

Section 3501. Acts of Assembly Repealed; Saving Clause.--(a)
The following acts and parts of acts are hereby repealed as set forth:

(1) The act of May 4, 1927 [(P.L.519)] (P.L.519, No.336), known as "The Borough Code," and its reenactments and amendments

are repealed, except that section 2, act of May 23, 1961
[(P.L.210)] (P.L.210, No.109), shall not be construed to be
repealed.

(2) The act of April 14, 1875 (P.L.55, No.58), entitled "An
act authorizing the burgess and town council of each of the
several boroughs throughout this commonwealth to levy and
collect a gas, kerosene oil and water tax," absolutely.

(3) The act of April 18, 1877 (P.L.55, No.55), entitled "An
act to provide through the courts of this commonwealth for the
erection of boroughs out of territory now included in cities of
the third class that have been formed by joining together two or
more boroughs," absolutely.

(4) The act of June 16, 1891 (P.L.302, No.232), entitled "A
further supplement to an act approved the sixteenth of April,
Anno Domini one thousand eight hundred and seventy-five,
entitled 'An act authorizing the burgess and town council of
each of the several boroughs throughout this Commonwealth to
levy and collect a gas, kerosene oil and water tax,' amended by
the act approved the eighth day of May, Anno Domini one thousand
eight hundred and seventy-six, providing for a further amendment
of section second, as amended by said last mentioned act, to
authorize the use of the money so raised and collected for the
purpose of illuminating said boroughs with electric light,"
absolutely.

(5) The act of May 2, 1901 (P.L.120, No.87), entitled "An
act to prevent burgesses and councilmen of the several boroughs
within this Commonwealth from soliciting or receiving bribes,
and to punish any person who may offer to bribe the same,"
absolutely.

(6) The act of May 4, 1927 (P.L.673, No.337), entitled "An

1 act relating to purchases by boroughs," absolutely.

2 (7) The act of April 26, 1929 (P.L.823, No.354), entitled
3 "An act permitting boroughs to provide a method of assessment
4 for borough taxes," absolutely.

5 (8) The act of April 11, 1931 (P.L.26, No.24), entitled "An
6 act to validate certain proceedings for municipal improvements,
7 municipal assessments, municipal claims, and municipal liens, in
8 the several boroughs of this Commonwealth, and validating such
9 improvements, assessments, claims, and liens; providing for the
10 filing of claims and liens therefor; and the proceedings for the
11 collection of such assessments and claims," absolutely.

12 (9) The act of June 12, 1931 (P.L.559, No.192), entitled "An
13 act to authorize boroughs to sue out writs of scire facias on
14 certain municipal claims, where more than five years have
15 elapsed since said claims were filed, and to reduce such claims
16 to judgment; and providing for the revival and collection of
17 such judgments," absolutely.

18 (10) The act of March 3, 1933 (P.L.8, No.5), entitled "An
19 act validating, ratifying and confirming acts and municipal
20 functions done, executed and performed, municipal works and
21 improvements instituted and completed, and affairs regulated by
22 boroughs in accordance with general borough laws, where such
23 boroughs were incorporated under local law, and no official
24 record of the acceptance of the general borough law is in
25 existence or can be found," absolutely.

26 (11) The act of July 12, 1935 (P.L.721, No.282), entitled
27 "An act authorizing boroughs to construct, reconstruct, and
28 repair sidewalks, gutters, curbs, and grass plots, in cases
29 where material is paid by the abutters, and labor is furnished
30 without cost to the borough," absolutely.

1 (12) The act of July 18, 1935 (P.L.1305, No.408), entitled
2 "An act authorizing boroughs to repay certain surcharges
3 heretofore made against councilmen for the purchase of any fire
4 apparatus where there was no fraud, corruption, or dishonesty,
5 or profit to such councilmen, and where the borough is in
6 possession of and uses such fire apparatus," absolutely.

7 (b) All other acts or parts of acts of Assembly supplied by,
8 inconsistent with or appertaining to the subject matter covered
9 by this act are hereby repealed. It is the intention that this
10 act shall furnish a complete and exclusive system for the
11 government and regulation of boroughs, except as to the several
12 matters enumerated in section 102 of article I of this act.

13 (c) Nothing contained in this act shall be construed to
14 repeal:

15 (1) Any local or special law.

16 (2) Any of the provisions of the Public Utility [Law] Code.

17 (3) Any of the provisions of any law relating to the
18 Navigation Commission for the Delaware River and its navigable
19 tributaries.

20 (4) Any of the provisions of any law, the enforcement of
21 which is vested in the Department of Health of the Commonwealth
22 or of the [Sanitary Water Board] Department of Environmental
23 Protection.

24 (5) Any of the provisions of any law the enforcement of
25 which is vested in the Department of [Forests and Waters or the
26 Water and Power Resources Board] Conservation and Natural
27 Resources.

28 (6) Any of the provisions of the act of [June 25, 1947 (P.L.
29 1145), entitled, as amended, "An act empowering cities of the
30 second class, cities of the second class A, cities of the third

1 class, boroughs, towns, townships of the first class, townships
2 of the second class, school districts of the second class,
3 school districts of the third class and school districts of the
4 fourth class to levy, assess, and collect or to provide for the
5 levying, assessment and collection of certain additional taxes
6 subject to maximum limitations for general revenue purposes;
7 authorizing the establishment of bureaus and the appointment and
8 compensation of officers and employes to assess and collect such
9 taxes; and permitting penalties to be imposed and enforced;
10 providing an appeal from the ordinance or resolution levying
11 such taxes to the court of quarter sessions and to the Supreme
12 Court and Superior Court," or of any of the amendments or
13 supplements to the said act.] December 31, 1965 (P.L.1257,
14 No.511), known as "The Local Tax Enabling Act."

15 (d) Nothing contained in this act shall be construed to
16 revive any act or part of an act heretofore repealed.

17 Section 359. This act shall take effect in 60 days.