

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1719 Session of 2013

INTRODUCED BY GINGRICH, ROSS, HARPER, FREEMAN AND M. DALEY, SEPTEMBER 26, 2013

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 20, 2013

AN ACT

1 Amending Titles 8 (Boroughs and Incorporated Towns) and 44 (Law
2 and Justice) of the Pennsylvania Consolidated Statutes,
3 consolidating The Borough Code; making revisions concerning
4 definitions, applications, certificates, eligibility,
5 collection of taxes, appointments and incompatible offices,
6 council's powers, specific powers, preparation of plans and
7 specifications and contracts, assessments, removal of elected
8 official and appointee, recreation board and authority,
9 ordinances and resolutions; making an editorial change; and
10 making a related repeal.

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

13 Section 1. Title 8 of the Pennsylvania Consolidated Statutes
14 is amended by adding a part to read:

15 PART I

16 BOROUGHS

17 Chapter

- 18 1. Preliminary Provisions
19 2. Creation and Alteration
20 3. Annulment of Charters and Change of Corporate Names
21 (Reserved)

- 1 4. Change of Limits (Reserved)
- 2 5. Boundaries
- 3 6. Wards
- 4 7. Associations and Organizations
- 5 8. Elections of Officers
- 6 9. Vacancies in Office
- 7 10. Powers and Duties of Elected Officials
- 8 10A. Mayor
- 9 11. Powers, Duties and Rights of Appointed Officers and
10 Employees
- 11 12. Corporate Powers
- 12 13. Taxation and Finance
- 13 14. Contracts
- 14 15. Eminent Domain, Assessment of Damages and Damages for
15 Injury to Property
- 16 16. Land Subdivision (Reserved)
- 17 17. Streets
- 18 18. Sidewalks
- 19 19. Bridges, Viaducts and Underground Passageways
- 20 20. Sanitary Sewers
- 21 21. Collection by Installment of Street and Sewer
22 Assessments (Reserved)
- 23 21A. Assessments and Charges for Public Improvements
- 24 22. Storm Sewers and Watercourses
- 25 23. Underground Conduits (Reserved)
- 26 24. Water System
- 27 24A. Manufacture and Supply of Electricity
- 28 25. (Reserved)
- 29 25A. Airports
- 30 26. Wharves and Docks

- 1 27. Recreation Places, Shade Trees and Forests
- 2 28. Cemeteries
- 3 29. Licenses and License Fees
- 4 29A. Veterans' Affairs
- 5 30. Real Estate Registry (Reserved)
- 6 31. Health and Sanitation
- 7 32. Zoning (Reserved)
- 8 32A. Uniform Construction Code, Property Maintenance Code
9 and Reserved Powers
- 10 33. Ordinances
- 11 34. Actions By and Against Boroughs (Reserved)
- 12 35. Acts of Assembly Repealed and Saving Clause

13 CHAPTER 1

14 PRELIMINARY PROVISIONS

15 Sec.

16 101. Short title of part.

17 101.1. Definitions.

18 102. Excluded provisions.

19 103. Construction of part.

20 104. Constitutional construction.

21 105. Construction of references.

22 106. Application.

23 107. Acceptance.

24 107.1. Acceptance by incorporated towns.

25 108. (Reserved).

26 109. Publication of notices.

27 110. Terms of existing officers.

28 § 101. Short title of part.

29 This part shall be known and may be cited as the Borough
30 Code.

1 § 101.1. Definitions.

2 The following words and phrases when used in this part shall
3 have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 "Abutting property" or "abutting real estate." In reference
6 to any street, the term shall mean any property physically
7 adjoining the street, regardless of what the reversion rights in
8 the street may be and regardless of where the lot lines may be
9 in relation to the street.

10 "Council." A borough council.

11 "Highway." A State highway of this Commonwealth.

12 "Latest official census." The later of any of the following:

13 (1) The most recent Federal decennial census.

14 (2) A census conducted later in time than the census
15 under paragraph (1) by the United States Census Bureau.

16 "Municipal corporation." A city, borough, incorporated town,
17 township of the first or second class or any home rule
18 municipality other than a county.

19 "Municipality." A municipal corporation or a county.

20 "Pennsylvania Construction Code." The act of November 10,
21 1999 (P.L.491, No.45), known as the Pennsylvania Construction
22 Code Act.

23 "Pennsylvania Municipalities Planning Code." The act of July
24 31, 1968 (P.L.805, No.247), known as the Pennsylvania
25 Municipalities Planning Code.

26 "Street." Any street, road, lane, court, cul-de-sac, alley,
27 public way and public square.

28 § 102. Excluded provisions.

29 This part shall not include any provisions and shall not be
30 construed to repeal any acts relating to:

1 (1) The assessment and valuation of property and persons
2 for the purpose of taxation and the collection of taxes,
3 except as provided in this part.

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

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

6 (4) Conduct of elections.

7 (5) Public schools.

8 (6) The powers and duties of borough and ward
9 constables.

10 (7) Magisterial district judges.

11 (8) The giving of municipal consent to public utilities.

12 (9) State highways.

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

15 (11) 18 Pa.C.S. (relating to crimes and offenses).

16 (12) 75 Pa.C.S. (relating to vehicles).

17 § 103. Construction of part.

18 (a) Continuation.--The following shall apply:

19 (1) The provisions of this part that are the same as
20 those of laws existing on January 1, 1966, are intended as a
21 continuation of laws existing on January 1, 1966, and not as
22 new enactments.

23 (2) The repeal by this part of any act or part of an act
24 shall not revive any act or part repealed or superseded nor
25 affect the corporate existence of any incorporated borough.

26 (3) The provisions of this part shall not affect any of
27 the following:

28 (i) Any act done, liability incurred or right
29 accrued or vested.

30 (ii) Any suit or prosecution pending or to be

1 instituted to enforce any right or penalty or punish any
2 offense under the authority of the repealed laws.

3 (4) All ordinances, resolutions, regulations and rules
4 made under any act repealed under this part shall continue
5 with the same force and effect as if the act had not been
6 repealed to the extent that the ordinances, resolutions,
7 regulations and rules could have been made under this part.

8 (5) Any individual holding office under any act repealed
9 by this part shall continue to hold office until the
10 expiration of the term, subject to the conditions attached to
11 the office prior to January 1, 1966.

12 (b) Powers and duties.--Borough council shall have the
13 corporate powers and duties and borough officials shall have the
14 powers and duties under this part and as provided in other laws
15 to the extent that the powers and duties are not repealed under
16 this part.

17 § 104. Constitutional construction.

18 The provisions of this part are severable. If any provision
19 of this part or its application to any person or circumstance is
20 held invalid, the invalidity shall not affect other provisions
21 or applications of this part which can be given effect without
22 the invalid provision or application.

23 § 105. Construction of references.

24 If reference is made in this part to any act, the reference
25 shall apply to and include any codification in which the
26 provisions of the act referred to are substantially reenacted.

27 § 106. Application.

28 (a) General.--This part shall apply to all boroughs.

29 (b) Prior acts.--This part shall not annul or repeal any
30 local or special act or part of a local or special act in force

1 on January 1, 1966.

2 (c) Local law.--The following shall apply:

3 (1) The provisions of this part similar to the
4 provisions of the former act of May 14, 1915 (P.L.312,
5 No.192), entitled "An act providing a system of government
6 for boroughs, and revising, amending, and consolidating the
7 law relating to boroughs," shall apply to boroughs
8 incorporated under local laws in the same manner as similar
9 provisions of the former act of May 4, 1927 (P.L.519,
10 No.336), entitled "An act concerning boroughs, and revising,
11 amending and consolidating the law relating to boroughs,"
12 were extended to boroughs acting under local laws.

13 (2) If a provision of this part conflicts with a special
14 or local law applicable to a borough that has not been
15 surrendered, the provisions shall be construed so that effect
16 may be given to both. If the conflict between the provisions
17 is irreconcilable, the provision in the local or special law
18 shall prevail.

19 § 107. Acceptance.

20 (a) Petition.--The following shall apply:

21 (1) A borough incorporated or acting under any local or
22 special act may surrender the provisions of its special and
23 local acts in their entirety or as they are inconsistent with
24 this part and be governed by this part by presenting a
25 petition to the court of common pleas of the county setting
26 forth the desire of the borough to accept the provisions of
27 this part.

28 (2) The petition under paragraph (1) shall indicate
29 whether it is the desire of the borough to surrender all of
30 its special and local acts or to retain its special and local

1 acts that are not inconsistent with this part.

2 (3) If the petition indicates a desire to retain local
3 or special acts, it shall indicate the local or special acts
4 to be retained. The petition shall be made by the council or
5 by at least 10% of the registered electors of the borough as
6 of the date the petition is filed.

7 (b) Hearing.--The following shall apply:

8 (1) Upon the presentation of a petition under subsection
9 (a), the court shall set and provide notice of a hearing
10 date. An inhabitant of the borough may remonstrate against
11 the granting of the petition at the hearing.

12 (2) If the court grants the petition, the decree of the
13 court shall be recorded in the office for the recording of
14 deeds, and the borough shall be subject to this part and any
15 local or special acts retained as set forth in the petition.
16 On and after the date of the decree, any local or special act
17 applicable to the borough shall no longer apply to the
18 borough if it is inconsistent with this part or has been
19 surrendered.

20 (c) Force and effect.--If a borough accepts this part under
21 this section, all of the following shall continue with the same
22 force and effect as if no acceptance had been made:

23 (1) Liabilities incurred.

24 (2) Rights accrued or vested.

25 (3) Obligations issued or contracted.

26 (4) Suits and prosecutions pending or to be instituted
27 to enforce any right or penalty accrued or to punish any
28 offense committed prior to the acceptance.

29 (5) Ordinances.

30 § 107.1. Acceptance by incorporated towns.

1 (a) Partial acceptance.--The following shall apply:

2 (1) An incorporated town incorporated or acting under a
3 local or special act may, by ordinance, elect to be governed
4 by the provisions of this part and shall surrender any
5 provisions of its special and local acts that are
6 inconsistent with this part adopted by the incorporated town.

7 (2) An ordinance under paragraph (1) shall indicate the
8 provisions of this part to be adopted and, if applicable, the
9 provisions of the incorporated town's special and local acts
10 to be surrendered.

11 (3) On and after the effective date of the ordinance and
12 until the ordinance may be repealed or amended, the
13 provisions of this part indicated in the ordinance shall be
14 the law applicable to the incorporated town, and the
15 provisions of any local or special acts, to the extent
16 surrendered as indicated in the ordinance, shall not apply to
17 the incorporated town.

18 (b) Full acceptance.--An incorporated town incorporated or
19 acting under any local or special act may elect to accept this
20 part in its entirety and surrender all local and special acts by
21 petition as set forth in section 107 (relating to acceptance).
22 If an incorporated town accepts this part in its entirety and
23 surrenders all local and special acts, the incorporated town
24 shall become a borough, and the decree of the court permitting
25 the acceptance shall indicate the name of the new borough.

26 (c) Force and effect.--The following shall apply:

27 (1) If an incorporated town accepts this part under this
28 section, all of the following shall continue with the same
29 force and effect as if no acceptance had been made:

30 (i) Liabilities incurred.

1 (ii) Rights accrued or vested.

2 (iii) Obligations issued or contracted.

3 (iv) Suits and prosecutions pending or to be
4 instituted to enforce any right or penalty accrued or
5 punish any offense committed prior to acceptance.

6 (v) Ordinances.

7 (2) An incorporated town shall not have the power to
8 alter or amend any provision of this part that has been
9 adopted in accordance with this section or section 107.

10 § 108. (Reserved).

11 § 109. Publication of notices.

12 (a) Newspaper of general circulation.--If in this part
13 notice is required to be given in one newspaper of general
14 circulation, the notice shall be published in one of the
15 following:

16 (1) A newspaper of general circulation as defined in 45
17 Pa.C.S. § 101 (relating to definitions) which is published
18 and circulated in each borough affected.

19 (2) A newspaper of general circulation, circulated in
20 each borough affected, which has a bona fide paid circulation
21 equal to or greater than any newspaper published in each
22 borough affected by the notice.

23 (b) Legal newspaper.--Unless dispensed with by special order
24 of court, the notice required to be published in a newspaper of
25 general circulation shall also be published in the legal
26 newspaper for the county of the borough affected, if the notice
27 refers to any of the following:

28 (1) Any proceeding in any court.

29 (2) The holding of elections for the increase of
30 indebtedness or the sale of bonds.

1 § 110. Terms of existing officers.

2 This part shall not be construed as affecting or terminating
3 the term of any officer of a borough holding office on January
4 1, 1966.

5 CHAPTER 2

6 CREATION AND ALTERATION

7 Subchapter

8 A. Incorporation

9 B. Consolidation (Reserved)

10 C. Creation From Cities of the Third Class

11 D. Consolidation or Merger and Change of Corporate Name

12 SUBCHAPTER A

13 INCORPORATION

14 Sec.

15 200. Definitions.

16 201. Contiguous areas.

17 202. Applications.

18 202.1. Borough advisory committee.

19 202.2. Advisability of incorporation, certification of question
20 for referendum and decree.

21 203. (Reserved).

22 204. (Reserved).

23 205. Borough government and requisites of charter.

24 206. Farmlands.

25 207. Corporate name.

26 208. (Reserved).

27 209. (Reserved).

28 210. Certificates.

29 211. Temporary preservation, organization and election of
30 officers.

- 1 212. Boundaries.
- 2 213. Adjustment of indebtedness.
- 3 214. Judicial adjustment.
- 4 215. Judicial adjustment award proceedings.
- 5 216. Exceptions.
- 6 217. Compensation, expenses and costs.
- 7 218. Territory located in multiple counties.
- 8 219. Bond issues and taxation.
- 9 § 200. Definitions.

10 The following words and phrases when used in this subchapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Committee." A borough advisory committee.

14 "Freeholder." A person enjoying a continuous right of
15 ownership and possession of real property for an indeterminate
16 period by fee simple or life estate.

17 "Township." A township of the second class.

18 § 201. Contiguous areas.

19 A court of common pleas may incorporate as a borough any
20 contiguous area from one or more townships within the court's
21 jurisdiction having a population of at least 500 residents.
22 After having been incorporated as a borough, the area shall be a
23 body corporate and politic and shall have the name decreed by
24 the court.

25 § 202. Applications.

26 (a) Petition.--The following shall apply:

27 (1) The application for incorporation shall be by a
28 petition signed by a majority of the freeholders residing
29 within the limits of the proposed borough and by the
30 freeholders of a majority of the territory within the limits

1 of the proposed borough, if all parts of the proposed borough
2 are in the same township.

3 (2) If portions of the proposed borough are in different
4 townships, the petition shall be signed by a majority of the
5 freeholders residing in each of the separate portions and by
6 the freeholders of a majority of the territory in each of the
7 separate portions. The following shall apply:

8 (i) The signatures must be secured within three
9 months immediately preceding the presentation of the
10 signatures to the court.

11 (ii) The petition shall be subscribed by and sworn
12 to by at least one of the signers.

13 (iii) The number of signers required to sign the
14 petition shall be ascertained as of the date the petition
15 was presented to court.

16 (b) (Reserved).

17 (c) (Reserved).

18 (d) (Reserved).

19 (e) Filing and notice.--Upon presentation to the court, a
20 petition shall be filed with the clerk of court, and notice of
21 the petition shall be published under section 109 (relating to
22 publication of notices) once a week for four consecutive weeks
23 immediately following the filing of the petition, during which
24 time exceptions may be filed to the petition by any person
25 interested. The notice shall state when and where the petition
26 was filed and the time during which exceptions may be filed to
27 the petition.

28 (f) Contents of petition.--The petition under subsection (e)
29 shall indicate the name of the proposed borough with a
30 particular description of the boundaries of the borough and be

1 accompanied with a plot of the proposed borough. The following
2 shall apply:

3 (1) If the boundaries of the proposed borough are not
4 the same as an existing township the description shall
5 contain the courses and distances of the boundaries.

6 (2) If the boundaries of the proposed borough are the
7 same as an existing township, the description:

8 (i) may contain the courses and distances of the
9 boundaries; and

10 (ii) shall refer to the name and location of the
11 existing township.

12 § 202.1. Borough advisory committee.

13 (a) Establishment.--The court shall establish a borough
14 advisory committee when a petition is received by the court for
15 the creation of a borough. The following shall apply to
16 committee members:

17 (1) Members shall be appointed by and shall serve at the
18 pleasure of the court.

19 (2) The committee shall consist of the following:

20 (i) Two residents of the proposed borough.

21 (ii) Two residents from each of the existing
22 townships recommended by the respective governing body of
23 the township who are not residing within the proposed
24 borough.

25 (iii) One resident of the county not residing in any
26 area under subparagraphs (i) and (ii) who shall serve as
27 the chair of the committee.

28 (3) Members shall serve without salary. The court may
29 entitle each member to reimbursement for the member's actual
30 and necessary expenses incurred in the performance of the

1 member's official duties.

2 (4) Members may consult with the director of the county
3 planning commission who may advise the committee.

4 (b) Duties.--The committee shall, within 60 days of its
5 creation, advise the court in relation to the establishment of
6 the proposed borough. The committee shall render expert advice
7 and findings of fact relating to the desirability of an
8 incorporation, including advice as to:

9 (1) The proposed borough's ability to obtain or provide
10 adequate and reasonable community support services such as
11 police protection, fire protection and other appropriate
12 community facility services.

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

19 (3) The existing and potential commercial, residential
20 and industrial development of the proposed borough.

21 (4) Whether the proposed borough would provide for land
22 use regulations to meet the legitimate needs for all
23 categories of residents or whether the plan is exclusionary
24 or would result in economic segregation.

25 (5) The financial or tax effect on the proposed borough
26 and existing township.

27 § 202.2. Advisability of incorporation, certification of
28 question for referendum and decree.

29 (a) Process.--After receiving the findings-of-fact and the
30 advice of the committee, the court shall conduct a hearing. If,

1 after the hearing, the court deems further investigation
2 necessary to determine the advisability of incorporation, it may
3 issue an order to obtain the additional information. When the
4 court has obtained all reasonably necessary information and has
5 determined that the conditions required under this section have
6 been met, the court shall determine the desirability of the
7 proposed incorporation based upon the following:

8 (1) The evidence submitted at the hearing and by the
9 committee.

10 (2) Any additional information obtained after the
11 hearing.

12 (3) Any other applicable factors the court deems
13 relevant.

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

26 (c) Expenses.--The petition and the final decree granting or
27 denying the petition shall be recorded in the recorder of deeds
28 office of the county at the expense of the petitioners. The
29 petitioners shall pay all other expenses and costs in connection
30 with the proceedings.

1 § 203. (Reserved).

2 § 204. (Reserved).

3 § 205. Borough government and requisites of charter.

4 (a) Time.--When the petition and the final decree granting
5 the petition have been recorded, the area shall become an
6 incorporated borough and shall be entitled to the rights,
7 privileges and immunities conferred under this part, except as
8 provided under section 211 (relating to temporary preservation,
9 organization and election of officers).

10 (b) Charter.--The final decree of the court granting the
11 petition shall constitute the charter of the borough. All
12 charters granted under this part shall include:

13 (1) The corporate name of the borough.

14 (2) The boundaries of the borough.

15 § 206. Farmlands.

16 If, in any petition for the incorporation of a borough, the
17 boundaries fixed by the petitioners embrace lands exclusively
18 used for the purposes of farming, the court may, if it deems the
19 land does not properly belong to the proposed borough and at the
20 request of any party aggrieved, change the boundaries to exclude
21 the land used for farming.

22 § 207. Corporate name.

23 The corporate name of a borough incorporated under this part
24 shall be "The Borough of _____."

25 § 208. (Reserved).

26 § 209. (Reserved).

27 § 210. Certificates.

28 (a) Decree.--When a borough is created, the clerk of courts
29 in each county affected shall, within 30 days of the creation,
30 certify to the Department of State, the Department of

1 Transportation, the Department of Community and Economic
2 Development and the county planning commission a copy of the
3 decree of court incorporating the borough. The clerk may impose
4 a fee of \$3.50 as part of the costs of the proceeding for the
5 services under this subsection.

6 (b) Penalty.--Any clerk of the court who fails, neglects or
7 refuses to furnish the certifications as provided under this
8 part commits a summary offense and shall pay a fine of not more
9 than \$50.

10 § 211. Temporary preservation, organization and election of
11 officers.

12 (a) Government.--The following shall apply:

13 (1) A newly incorporated area under section 201
14 (relating to contiguous areas) shall continue to be governed
15 as before the incorporation until the first Monday of January
16 following the municipal election after the issuance of the
17 final decree establishing the new borough.

18 (2) After a newly incorporated area is no longer
19 governed as before the incorporation under paragraph (1), the
20 officers of the borough who are elected, under section 805
21 (relating to election after creation), at the municipal or
22 special election shall begin their terms of office, and the
23 borough government shall be considered to be duly organized
24 under this part.

25 (b) Election.--Borough officers shall be elected at:

26 (1) the next municipal election occurring at least 90
27 days following the issuance of the decree establishing the
28 borough; or

29 (2) at the request of the petitioners, a special
30 election called by the court of common pleas.

1 (c) Special election.--If a special election is held under
2 subsection (b) (2), the court shall do all of the following:

3 (1) Fix the time, place and manner of holding the
4 special election.

5 (2) Designate an individual to give notice of the
6 special election and the manner of the special election.

7 (3) Appoint from among the electors of the newly
8 established borough a judge and inspectors to hold the
9 election.

10 (d) Terms.--The following shall apply:

11 (1) Municipal officers elected at a special election
12 held under subsection (c) shall serve until the first Monday
13 in January following the next succeeding municipal election.

14 (2) The successors of municipal officers under paragraph
15 (1) shall be elected as provided under section 805 and shall
16 take office upon completion of municipal officer's service
17 under paragraph (1).

18 § 212. Boundaries.

19 The boundaries of the borough shall, as soon as practicable
20 after its incorporation, be appropriately marked. Prior to
21 marking the boundaries, notice shall be provided, as directed by
22 the court, to the governing bodies of adjoining municipal
23 corporations.

24 § 213. Adjustment of indebtedness.

25 (a) Property.--The following shall apply:

26 (1) After the election of a council under section 211
27 (relating to temporary preservation, organization and
28 election of officers) when a borough is newly incorporated,
29 the council and the governing body of the township from which
30 the borough was created shall make an equitable adjustment

1 and apportionment of all the public real and personal
2 property owned by the township at the time of the
3 incorporation of the borough.

4 (2) Except as provided under paragraph (3), the property
5 under paragraph (1) shall include funds and indebtedness.

6 (3) If adjusting property and indebtedness under
7 paragraph (1), streets, sewers and utilities may not be
8 considered except to the extent that current and unpaid
9 indebtedness was incurred for the construction and
10 improvement of the property.

11 (b) Proportion.--In making the adjustment and apportionment
12 under subsection (a), the following shall apply:

13 (1) The borough shall be entitled to a division of the
14 property and indebtedness in the same proportion that the
15 assessed valuation of the taxable real estate included within
16 the territorial limits of the newly incorporated borough
17 bears to the assessed valuation of the taxable real estate in
18 the entire township immediately prior to the incorporation of
19 the borough. The township shall be entitled to the remainder
20 of the property and indebtedness.

21 (2) If indebtedness was incurred by the township for an
22 improvement located wholly within the territorial limits of
23 the newly incorporated borough, the indebtedness shall be
24 assumed by the borough.

25 (3) If only part of the improvement is located within
26 the newly incorporated borough, the part of the indebtedness
27 representing the part of the improvement located within the
28 borough shall be assumed by the borough, and the adjustment
29 and apportionment of any remaining debt shall be retained by
30 the township.

1 (c) Form.--The adjustment and apportionment made under this
2 section must meet all of the following:

3 (1) Be in writing and duly executed and acknowledged by
4 the secretary or clerk of the township and the secretary of
5 the borough.

6 (2) Be filed in the office of the clerk of the court of
7 common pleas of the county.

8 (3) Be filed as a copy with the Department of Community
9 and Economic Development.

10 § 214. Judicial adjustment.

11 (a) Petition.--If the governing bodies of the township and
12 the borough cannot make an amicable adjustment and apportionment
13 of the property and indebtedness within six months after the
14 government of the newly incorporated borough is established, the
15 supervisors of the township or the council of the borough may
16 present a petition to the court of common pleas requesting a
17 judicial adjustment.

18 (b) Appointment.--After receiving a petition under
19 subsection (a), the court shall appoint three disinterested
20 commissioners who meet all of the following requirements:

21 (1) Are residents and taxpayers of the county.

22 (2) Are not residents of or own real estate in the
23 township or borough.

24 (c) Report.--The individuals appointed under subsection (b)
25 shall hold a hearing and make a report to the court containing
26 an adjustment and apportionment of all the property and the
27 indebtedness between the township and the borough. Notice shall
28 be made to the township and borough as provided by the court.
29 The report shall state the amount due and payable from the
30 borough or the township to the other entity and the amount of

1 indebtedness that shall be assumed by the borough or the
2 township.

3 § 215. Judicial adjustment award proceedings.

4 (a) Notice.--The commissioners shall give the township and
5 the borough at least five days' notice of the filing of the
6 report under section 214(c) (relating to judicial adjustment).

7 (b) Exceptions.--Unless exceptions are filed to the report
8 within 30 days after the date of the filing, the report shall be
9 confirmed by the court.

10 (c) Effect.--The following shall apply:

11 (1) Any sum awarded by the report to the township or
12 borough shall be a legal and valid claim in its favor against
13 the borough or township charged with the sum.

14 (2) Any real or personal property given to the township
15 or borough shall become its respective property.

16 (3) Any claim or indebtedness charged against the
17 borough or township may be collected from the borough or the
18 township.

19 § 216. Exceptions.

20 If exceptions are filed to the report under section 214(c)
21 (relating to judicial adjustment), the court shall dispose of
22 the exceptions and shall enter its decree confirming or
23 modifying the award.

24 § 217. Compensation, expenses and costs.

25 The commissioners under section 214(b) (relating to judicial
26 adjustment) shall receive compensation and expenses for their
27 services as provided by the court. The costs of the proceedings,
28 including the compensation and expenses of the commissioners,
29 shall be apportioned by the court between the borough and
30 township.

1 § 218. Territory located in multiple counties.

2 If territory included within the limits of a newly
3 incorporated borough is located in at least two counties, the
4 court of common pleas of the county where the larger part of the
5 territory of the borough is located shall have exclusive
6 jurisdiction over the proceedings to adjust and apportion the
7 indebtedness between the borough and township.

8 § 219. Bond issues and taxation.

9 In any proceeding to adjust and apportion indebtedness, the
10 township or the borough shall have power to issue and deliver to
11 the borough or township interest-bearing bonds in liquidation of
12 the indebtedness ascertained, to be its proportionate share
13 payable, if the bonds are acceptable to the borough or township
14 or townships entitled to receive the bonds. The court may make
15 necessary orders for the collection and payment by the township
16 or townships or borough of the amount needed to pay its share of
17 any indebtedness apportioned to it by special taxes to be
18 collected in one year, or by annual installments.

19 SUBCHAPTER B

20 CONSOLIDATION

21 (Reserved)

22 SUBCHAPTER C

23 CREATION FROM CITIES OF THE THIRD CLASS

24 Sec.

25 231. Procedure.

26 232. Filing, notice and return.

27 233. Borough government.

28 234. Effect.

29 235. Costs and expenses.

30 § 231. Procedure.

1 (a) Petition.--The court of common pleas shall, upon
2 petition of at least 10% of the registered electors of any city
3 of the third class, order an election to be held at the next
4 general, municipal or primary election occurring at least 90
5 days after the presentation of the petition.

6 (b) Vote.--The electors shall, at the election under
7 subsection (a), vote for or against the change of the charter of
8 the city to a borough charter and the adoption of the borough
9 form of government.

10 (c) Contents.--A petition under subsection (a) shall
11 indicate all of the following:

12 (1) The inhabitants of the city desire to do all of the
13 following:

14 (i) Change the charter of the city to a borough
15 charter.

16 (ii) Be governed by the laws of the Commonwealth
17 relating to boroughs.

18 (2) The city has had a city form of government for a
19 period of at least five years.

20 (3) The name of the proposed borough.

21 (d) Required electors.--The number of registered electors
22 required to sign the petition shall be determined as of the date
23 the petition is filed.

24 § 232. Filing, notice and return.

25 (a) Filing.--Upon presentation of a petition under section
26 231 (relating to procedure), the court shall determine whether
27 the petition meets the requirements under section 231. If the
28 requirements are met, the court shall:

29 (1) Enter an appropriate order requiring an election.

30 (2) Direct that the petition shall be filed with the

1 clerk of the court and that a copy of the petition and order
2 of court shall be filed with the county board of elections.

3 (b) Notice.--Notice of the time and purpose of the election
4 under subsection (a) shall be given in at least one newspaper of
5 general circulation of the proper county once a week for four
6 consecutive weeks. The publication of the notice shall be made
7 on behalf of the petitioners and shall be in the form approved
8 by the court.

9 (c) Return.--The following shall apply:

10 (1) The county board of elections shall frame the proper
11 question to be submitted to the electors at the election
12 ordered by the court.

13 (2) The county board of elections shall make a return of
14 the vote cast on the question submitted to the clerk of the
15 court of common pleas. The return shall be filed with the
16 petition.

17 (3) If a majority of those voting on the question
18 submitted were in favor of the change of the city charter to
19 a borough charter, the court shall order that the record of
20 the proceedings be recorded in the office for the recording
21 of deeds of the county, and the record shall constitute the
22 charter of the borough under the name provided in the
23 petition. The recorder of deeds in each county affected shall
24 certify to the Department of State, the Department of
25 Transportation, the Department of Community and Economic
26 Development and the county planning commission a copy of the
27 record constituting the charter of the borough.

28 (4) If a majority of those voting on the question
29 submitted were against the change of the city charter to a
30 borough charter, the same question may not be submitted for a

1 period of five years following the election.

2 § 233. Borough government.

3 (a) City.--When the record of the proceedings under section
4 232 (relating to filing, notice and return) is recorded, the
5 city form of government shall continue in operation until the
6 first Monday of January after the first municipal election,
7 occurring at least 90 days after the recording of the record.

8 (b) Borough.--After the city form of government is no longer
9 in operation under subsection (a), the borough government shall
10 be organized by the officers elected at the municipal election
11 in accordance with section 805 (relating to election after
12 creation).

13 § 234. Effect.

14 (a) Property.--When the borough government is formed, the
15 property and assets of the city shall become the property of the
16 borough, and the change of government shall not do any of the
17 following:

18 (1) Affect any of the following:

19 (i) Liabilities incurred.

20 (ii) Rights accrued or vested.

21 (iii) Obligations issued or contracted.

22 (iv) Suits or prosecutions pending or instituted to
23 enforce any right or penalty accrued.

24 (2) Punish any offense committed prior to the formation.

25 (b) Ordinances.--Ordinances of the former city shall
26 continue in force in the new borough until altered or repealed.

27 (c) Wards and districts.--Wards and election districts of
28 the city shall become the wards and election districts of the
29 borough until altered or changed. In the election of members of
30 council from the several wards, two members of council shall be

1 elected from each ward, unless changed as provided by law.

2 (d) Office.--All constables and election officers in office
3 in the city at the time the borough government is organized
4 shall remain in office until the expiration of their respective
5 terms of office.

6 § 235. Costs and expenses.

7 (a) Petitioners.--Except as provided under subsection (b),
8 the costs and expenses of proceedings to change the charter of a
9 city to a borough, including all costs of advertising, shall be
10 paid by the petitioners.

11 (b) Exception.--If the vote of electors to change the
12 charter of a city to a borough is in favor of the change, the
13 cost and expenses under subsection (a) shall be paid by the
14 city.

15 SUBCHAPTER D

16 CONSOLIDATION OR MERGER AND

17 CHANGE OF CORPORATE NAME

18 Sec.

19 241. Consolidation or merger.

20 242. Change of corporate name.

21 § 241. Consolidation or merger.

22 A borough may be merged or consolidated into a new or
23 existing municipal corporation in accordance with 53 Pa.C.S. Ch.
24 7 Subch. C (relating to consolidation and merger).

25 § 242. Change of corporate name.

26 (a) General rule.--The following shall apply:

27 (1) If the corporate name of a borough differs from the
28 name of the borough in general usage or from the post office
29 designation due to minor discrepancies in spelling,
30 capitalization or the manner of compounding the elements of

1 the name, the court of common pleas, upon petition, may
2 change the name of the borough to conform to the name in
3 general usage or to the post office designation.

4 (2) The petition under paragraph (1) may be presented by
5 any of the following:

6 (i) Council, pursuant to a resolution.

7 (ii) At least 5% of the registered electors of the
8 borough.

9 (b) Petition.--The following shall apply:

10 (1) Upon the presentation of a petition under subsection
11 (a), the court shall set and provide notice of a hearing
12 date. An inhabitant of the borough may remonstrate against
13 the granting of the petition at the hearing.

14 (2) If the court grants the petition, the decree of the
15 court shall be recorded, and the corporate name of the
16 borough shall be as provided in the petition from the date of
17 recording.

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

23 (d) Force and effect.--A change of corporate name shall not
24 affect any of the following:

25 (1) Liabilities incurred.

26 (2) Rights accrued or vested.

27 (3) Obligations issued or contracted.

28 (4) Any suits or prosecutions pending or instituted to
29 enforce any right or penalty accrued or to punish any offense
30 committed prior to the change.

1 CHAPTER 3

2 ANNULMENT OF CHARTERS AND

3 CHANGE OF CORPORATE NAMES

4 (Reserved)

5 CHAPTER 4

6 CHANGE OF LIMITS

7 (Reserved)

8 CHAPTER 5

9 BOUNDARIES

10 Sec.

11 501. Stream boundaries.

12 502. Petition and establishment of disputed boundaries.

13 503. Commissioners and report.

14 504. Exceptions and procedure.

15 505. Compensation, expenses and costs.

16 506. Boundary monuments.

17 § 501. Stream boundaries.

18 If a borough is bounded by the nearest margin of a navigable
19 stream and the opposite municipal corporation is also bounded by
20 the nearest margin of the same stream, the middle of the stream
21 shall be the boundary between the borough and the opposite
22 municipal corporation. Nothing under this section shall be
23 construed to repeal any local or special law contrary to this
24 section.

25 § 502. Petition and establishment of disputed boundaries.

26 The court of common pleas may, upon presentation of a
27 petition, ascertain and establish disputed boundaries between a
28 borough and another municipal corporation. If a petition is
29 presented, the court may require the petitioners to file a bond
30 in a sufficient amount to secure the payment of all costs of the

1 proceeding.

2 § 503. Commissioners and report.

3 (a) Appointment.--Upon application by petition under section
4 502 (relating to petition and establishment of disputed
5 boundaries), the court shall appoint three impartial individuals
6 as commissioners, one of whom must be a surveyor or registered
7 engineer.

8 (b) Hearing.--After giving notice to interested parties and
9 upon publication of the petition, as directed by the court, the
10 commissioners shall hold a hearing and view the disputed lines
11 and boundaries.

12 (c) Report.--A majority of the commissioners shall issue the
13 report and recommendations to the court, accompanied by a plot
14 or draft of the lines and boundaries proposed to be ascertained
15 and established if the lines and boundaries cannot be fully
16 designated by natural lines or boundaries.

17 (d) Confirmation.--The court shall confirm the report under
18 subsection (c) upon filing and subject to exceptions filed under
19 section 504 (relating to exceptions and procedure). The court
20 may direct publication of the report and require notice to be
21 given by the petitioners to the interested parties.

22 § 504. Exceptions and procedure.

23 (a) Filing.--Exceptions to the report under section 503(c)
24 (relating to commissioners and report) may be filed within 30
25 days after the filing of the report by an interested person or
26 political subdivision. The court shall set and provide notice of
27 a hearing on the exceptions.

28 (b) Hearing.--After a hearing under subsection (a), the
29 court may sustain or dismiss the exceptions and confirm the
30 report or refer the report back to the same or new commissioners

1 with the authority to make another report.

2 (c) Decree.--If no exceptions are filed within 30 days after
3 the filing of the report, the court shall confirm the report. If
4 a report is confirmed, the court shall:

5 (1) Enter a decree ascertaining and establishing the
6 lines and boundaries as shown in the report.

7 (2) Direct publication of the decree under paragraph
8 (1).

9 § 505. Compensation, expenses and costs.

10 The compensation and expenses of commissioners appointed
11 under section 503(a) (relating to commissioners and report)
12 shall be in a reasonable amount as approved by the court. The
13 court shall, by order, provide how costs and expenses of the
14 proceedings, including the furnishing and placing of monuments,
15 shall be paid and may assess the costs individually or in
16 apportioned amounts against the following:

17 (1) The petitioners.

18 (2) The borough.

19 (3) Any interested municipal corporation.

20 § 506. Boundary monuments.

21 The court shall order that a borough line ascertained and
22 established under this chapter will be appropriately marked.

23 CHAPTER 6

24 WARDS

25 Sec.

26 601. Creation and alteration.

27 602. Petition of electors.

28 603. Notice of ordinance.

29 604. (Reserved).

30 605. (Reserved).

1 606. Terms of officers.

2 606.1. Construction of chapter.

3 607. (Reserved).

4 § 601. Creation and alteration.

5 (a) Council.--In addition to reapportionment initiated in
6 accordance with 53 Pa.C.S. Pt. II Ch. 9 (relating to municipal
7 reapportionment) and section 11 of Article IX of the
8 Constitution of Pennsylvania, a council may, by ordinance, do
9 any of the following:

10 (1) Divide boroughs into wards.

11 (2) Erect new wards out of two or more adjoining wards
12 or parts of wards.

13 (3) Consolidate two or more wards into one ward.

14 (4) Divide any ward already erected into two or more
15 wards.

16 (5) Alter the lines of two or more adjoining wards or
17 cause the lines or boundaries of wards to be ascertained or
18 established.

19 (6) Abolish all wards.

20 (b) Restrictions.--The following shall apply:

21 (1) No borough may be divided or redivided into more
22 than 13 wards.

23 (2) The following shall apply:

24 (i) No ward may be created containing less than 300
25 registered electors.

26 (ii) Any ward which contains less than 350
27 registered electors after December 31, 1965, may be
28 abolished, and the territory of the ward shall be
29 distributed among the remaining wards as determined by
30 council.

1 (iii) All wards in existence prior to January 1,
2 1966, shall remain as established, until altered or
3 divided as provided under this chapter.

4 (c) Members of council.--If a ward is abolished under this
5 section and the number of wards in a borough is reduced to less
6 than five, a member of council in an abolished ward shall
7 continue in office for his elected term and shall become a
8 member of council at large from the borough.

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

13 § 602. Petition of electors.

14 (a) Council.--At least 5% of registered electors of the
15 borough or, for a proposal affecting only a portion of the
16 borough, at least 5% of the registered electors of the ward
17 which would be affected by the proposal may petition council to
18 initiate proceedings under section 601 (relating to creation and
19 alteration) and may present to council a plot showing the
20 boundaries of the proposed wards of the borough. Council shall,
21 by motion approved by a majority of council and within 90 days
22 of presentment of the petition, determine whether to initiate
23 proceedings under section 601.

24 (b) Court of common pleas.--If council has not approved a
25 motion within 90 days after the presentment of a petition under
26 subsection (a), ten registered electors may petition the court
27 of common pleas and contest the existing apportionment as
28 violating section 601(b) or (d). The proceedings before the
29 court shall be conducted in accordance with 53 Pa.C.S. §§ 906
30 (relating to contest of reapportionment by governing body) and

1 907 (relating to costs and expenses of contest).

2 § 603. Notice of ordinance.

3 (a) Requirement.--Notice of an ordinance enacted in
4 accordance with section 601 (relating to creation and
5 alteration) shall be given by publication once in a newspaper of
6 general circulation.

7 (b) County board of elections.--A copy of the ordinance,
8 along with a plot showing the boundaries of the wards
9 established, shall be forwarded to the county board of
10 elections.

11 § 604. (Reserved).

12 § 605. (Reserved).

13 § 606. Terms of officers.

14 (a) Appointment.--Except as provided under subsection (b),
15 if council divides a borough into wards, it shall request the
16 court of common pleas to appoint for each ward a judge and two
17 inspectors of election to hold elections until the officers of
18 the ward may be elected.

19 (b) Expiration.--Except as provided under subsection (a),
20 officers in office at the time any changes are made under this
21 chapter shall remain in office until the expiration of the terms
22 for which they have been elected. If a vacancy occurs, the
23 vacancy shall be filled by the council, until the first Monday
24 of January next succeeding the election at which the officers
25 are to be elected, as provided under Chapter 8 (relating to
26 elections of officers).

27 § 606.1. Construction of chapter.

28 Nothing under this chapter shall be construed as affecting
29 any of the following:

30 (1) The powers and duties of the court of common pleas

1 or the county board of elections.

2 (2) Restrictions on alteration of election districts as
3 provided under Article V of the act of June 3, 1937

4 (P.L.1333, No.320), known as the Pennsylvania Election Code.

5 § 607. (Reserved).

6 CHAPTER 7

7 ASSOCIATIONS AND ORGANIZATIONS

8 Sec.

9 701. State Association of Boroughs.

10 701.1. Authorization and expenses.

11 701.2. Compensation.

12 702. County and regional associations of boroughs.

13 703. Other associations and organizations.

14 704. Associations and organizations for mayors.

15 705. National or State lodge of police officers.

16 § 701. State Association of Boroughs.

17 (a) Organization.--The boroughs of the Commonwealth may
18 organize a State Association of Boroughs for the purpose of
19 advancing the interests of the boroughs. A borough may join the
20 State Association of Boroughs by motion of council and payment
21 of the annual dues. Each borough, after becoming a member, shall
22 pay reasonable dues as determined by the State Association of
23 Boroughs.

24 (b) Revenue.--Revenue received by the State Association of
25 Boroughs shall be used to pay for services, publications and
26 other expenses authorized or ratified by the State Association
27 of Boroughs, or incurred on behalf of the State Association of
28 Boroughs by its officers and committees.

29 § 701.1. Authorization and expenses.

30 (a) Delegates.--Council may, by motion, designate one or

1 more delegates from the elected or appointed officers of the
2 borough to attend the annual meeting of the State Association of
3 Boroughs, which shall be held in this Commonwealth in accordance
4 with the procedure adopted by the State Association of Boroughs.

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

11 (c) Expenses.--The following shall apply:

12 (1) In addition to any compensation allowed under
13 section 701.2 (relating to compensation), council may, for
14 each delegate, elected or appointed officer or employee under
15 subsection (a) or (b), pay the following expenses upon
16 receipt of an itemized account of expenses:

17 (i) The registration fee.

18 (ii) Mileage for use of a personal vehicle or
19 reimbursement of actual transportation expenses going to
20 and returning from the annual meeting, conference,
21 educational training or committee meeting of the State
22 Association of Boroughs.

23 (iii) Any actual expenses that the council may have
24 agreed to pay.

25 (2) Notwithstanding this subsection, at least one member
26 of council shall be allowed the following expenses:

27 (i) The registration fee.

28 (ii) Lodging, meals, mileage for use of a personal
29 vehicle or reimbursement of actual transportation
30 expenses going to and returning from the meeting.

1 (iii) Any actual expenses that the council may have
2 agreed to pay.

3 § 701.2. Compensation.

4 (a) Employees.--Council may authorize borough employees,
5 including the mayor and members of council if they are employees
6 of the borough, to be compensated at their regular employee
7 rates during their attendance at the annual meeting or a
8 conference, educational training or committee meeting of the
9 State Association of Boroughs.

10 (b) Nonemployees.--Council may authorize the mayor and any
11 council member who is not employed by the borough to receive
12 total or partial reimbursement for lost wages or salary,
13 including those from self-employment, while attending the annual
14 meeting or a conference, educational training or committee
15 meeting of the State Association of Boroughs if sufficient
16 documentation is presented to council to justify the
17 reimbursement.

18 (c) Amount.--The maximum time for which a borough employee
19 or mayor or council member not employed by the borough shall be
20 reimbursed for lost wages or salary while attending the annual
21 meeting or a conference, educational training or committee
22 meeting of the State Association of Boroughs shall be not more
23 than four days, including time spent traveling to and from the
24 event.

25 (d) Executive members.--The council may authorize a mayor or
26 any council member employed by the borough to be compensated at
27 the mayor's or council member's regular employee rate and a
28 mayor or council member who is not employed by the borough to
29 receive total or partial reimbursement for lost wages or salary,
30 including those from self-employment, if the mayor or council

1 member attends a meeting for which the mayor or council member
2 is an officer, a member of the board of directors, a member of
3 the executive committee, a member of a standing committee or a
4 trustee of the State Association of Boroughs, subject to the
5 following which shall include time spent traveling to and from
6 the event:

7 (1) The compensation of a mayor or council member for
8 attending a meeting of a standing committee of the State
9 Association of Boroughs shall be limited to two days per year
10 of regular employee rate compensation or lost wages or
11 salary.

12 (2) The compensation of a mayor or council member for
13 attending a meeting for which the mayor or council member is
14 a trustee for the State Association of Boroughs shall be
15 limited to four days per year of regular employee rate
16 compensation or lost wages or salary.

17 (3) The compensation of a mayor or council member for
18 attending a meeting for which the mayor or council member is
19 an officer, member of the board of directors or a member of
20 the executive committee of the State Association of Boroughs
21 shall be limited to 15 days per year of regular employee rate
22 compensation or lost wages or salary.

23 (4) A mayor or council member identified under paragraph
24 (1), (2) or (3) may not be compensated by the borough under
25 this subsection if the mayor or council member receives
26 compensation from the State Association of Boroughs or a
27 board or committee of the State Association of Boroughs for
28 attending the meeting.

29 § 702. County and regional associations of boroughs.

30 (a) Organization.--The boroughs of any county or of two or

1 more adjoining or nearby counties may organize a county or
2 regional association of boroughs, composed of elected and
3 appointed borough officers in the county, organized for the
4 purpose of furthering the interests of the boroughs in the
5 county or regional association of boroughs and their
6 inhabitants.

7 (b) Appropriation.--A borough may annually appropriate no
8 more than \$100 for the support of the county or regional
9 association of boroughs.

10 (c) Expenses.--The following shall apply:

11 (1) The borough may pay the following expenses of each
12 delegate for attendance at a meeting of the county or
13 regional association of which the borough is a member:

14 (i) The registration fee.

15 (ii) Mileage for use of a personal vehicle or
16 reimbursement of actual transportation expense going to
17 and returning from the meeting.

18 (iii) Any actual expenses that the council may have
19 agreed to pay.

20 (2) Every delegate attending the meeting shall submit to
21 the council an itemized account of expenses incurred.

22 (d) Compensation.--The council may authorize borough
23 employees to be compensated at their regular employee rate
24 during their attendance at a meeting of the county or regional
25 association. The council solely may authorize the mayor and any
26 council member who is not employed by the borough to receive
27 total or partial reimbursement for lost wages or salary while
28 attending the meeting if sufficient documentation is presented
29 to the council to justify the reimbursement.

30 (e) Other members.--A county or regional association of

1 boroughs may admit representatives of political subdivisions
2 other than boroughs within the county as members. Members
3 admitted under this subsection shall may not participate in any
4 matter of concern solely to boroughs.

5 § 703. Other associations and organizations.

6 (a) Authorization.--A borough, by motion of council, may do
7 any of the following:

8 (1) Join associations and organizations other than
9 associations and organizations referred to under this chapter
10 concerned with municipal or governmental affairs.

11 (2) Pay dues to and appropriate funds for the support of
12 and participation in associations and organizations under
13 paragraph (1).

14 (3) Send delegates to meetings or conferences of
15 associations and organizations under paragraph (1).

16 (a.1) Compensation and expenses.--The following shall apply:

17 (1) In addition to any compensation allowed by law for a
18 delegate, the borough may pay the following expenses for each
19 delegate under subsection (a)(3):

20 (i) The registration fee.

21 (ii) Mileage for use of a personal vehicle or
22 reimbursement of actual transportation expense going to
23 and returning from the meeting or conference.

24 (iii) Any expenses that the council may have agreed
25 to pay.

26 (2) Every delegate under subsection (a)(3) shall submit
27 to the council an itemized account of expenses incurred.

28 (3) The council may authorize borough employees to be
29 compensated at their regular employee rate during their
30 attendance at an annual meeting or conference of an

1 association or organization under paragraph (1). The time
2 spent in attending the meeting or conference may not be more
3 than four days, including the time traveling to and from the
4 meeting or conference.

5 (b) Professional and educational meetings.--A borough may,
6 by motion of council, do any of the following:

7 (1) Authorize any of its officers and employees to
8 attend any of the following:

9 (i) Meetings of professional organizations and
10 associations.

11 (ii) Educational training sessions for individuals
12 holding the same or similar office or employment.

13 (2) Pay all or a portion of the necessary expenses
14 incident to an individual's attendance at meetings or
15 sessions under paragraph (1).

16 (c) Itemized account.--Every individual attending a
17 conference, meeting or educational training session under this
18 section shall submit to the council an itemized account of the
19 individual's expenses, including traveling expenses or mileage,
20 that council may have agreed to pay.

21 § 704. Associations and organizations for mayors.

22 (a) Authorization.--A mayor may join a mayors' association,
23 and council shall pay reasonable dues of up to \$100 for each
24 mayor belonging to the mayors' association. The mayor may attend
25 the annual meeting of the mayors' association, which shall be
26 held in this Commonwealth in accordance with the procedure
27 adopted by the mayors' association.

28 (b) Expenses.--A mayor may receive the following expenses
29 for attending the annual meeting under subsection (a):

30 (1) The registration fee.

1 (2) Lodging, meals, mileage for use of a personal
2 vehicle or reimbursement of actual transportation expense
3 going to and returning from the meeting.

4 (3) Any actual expenses that the council may have agreed
5 to pay.

6 (c) Itemized account.--Every mayor attending the annual
7 meeting under subsection (a) shall submit to the council an
8 itemized account of expenses incurred at the annual meeting of
9 the mayors' association. The time spent in attending the annual
10 meeting may not be more than four days, including time
11 traveling to and from the meeting.

12 § 705. National or State lodge of police officers.

13 (a) Authorization.--A council may grant a borough employee
14 who is a duly elected representative of a State lodge of police
15 officers or a local lodge which is a part of any national or
16 State lodge of police officers a leave of absence with pay to
17 attend an annual national or State convention or conference of
18 the lodge, for a period not to exceed four days, including
19 necessary time for travel to and from the convention or
20 conference.

21 (b) Certification.--An employee receiving time off with pay
22 under subsection (a) shall, upon return, submit to the
23 employee's immediate superior a certificate testifying to the
24 employee's attendance at the convention or conference, signed by
25 at least two responsible officers of the convention or
26 conference.

27 (c) Limitation.--No more than two elected representatives
28 who are employees of the same borough may attend a convention or
29 conference on behalf of a lodge under this section.

30 CHAPTER 8

1 ELECTIONS OF OFFICERS

2 Subchapter

3 A. General Provisions

4 B. Members of Council

5 C. Mayor (Reserved)

6 D. Auditors (Reserved)

7 E. Controller (Reserved)

8 F. Assessors (Reserved)

9 G. Tax Collector (Reserved)

10 SUBCHAPTER A

11 GENERAL PROVISIONS

12 Sec.

13 801. Eligibility.

14 802. Time and place.

15 803. Certificates.

16 804. Term and bonds.

17 805. Election after creation.

18 806. Officers elected.

19 § 801. Eligibility.

20 (a) Residency.--The following shall apply:

21 (1) Except as provided under subsection (c), only
22 registered electors of the borough shall be eligible to
23 elective borough offices.

24 (2) Before being sworn into office, each elected borough
25 officer shall present a signed affidavit to the borough
26 secretary that states that the officer resides in the
27 borough, OR WITHIN THE WARD IN THE CASE OF A WARD OFFICE, <--
28 from which elected and has resided in the borough
29 continuously for at least one year immediately prior to the
30 officer's election.

1 (b) Incompatible offices.--A school director or a trustee of
2 a charter school may not be elected to an elective borough
3 office. No individual may hold more than one elective borough
4 office at the same time.

5 (c) Exception.--A borough with a population of less than 150
6 may permit residents that have not resided in the borough
7 continuously for at least one year immediately before the
8 election to be eligible to hold office.

9 § 802. Time and place.

10 Elections for borough officers shall be at the time and place
11 designated by law for the holding of municipal elections.

12 § 803. Certificates.

13 Certificates of election of all borough officers shall be
14 filed with the borough secretary and preserved among the records
15 of the borough for a period of six years.

16 § 804. Term and bonds.

17 (a) Terms.--The following shall apply:

18 (1) Except as provided under paragraph (2), an
19 individual elected to a borough office shall serve for the
20 term for which the individual was elected.

21 (2) If a vacancy in office occurs, it shall be filled in
22 the manner provided under this part.

23 (b) Bonds.--The following shall apply:

24 (1) Except as provided under paragraph (2), if an
25 elected official of a borough is required to give a bond for
26 the faithful performance of the elected official's duties,
27 the borough may pay the premium for the bond.

28 (2) A borough shall pay a proportionate share of the
29 cost of a tax collector's bond within the same ratio as the
30 amount of borough taxes bears to the total amount of all

1 taxes indicated by the tax duplicate to be collected by the
2 tax collector during the year preceding the date the premium
3 is due.

4 § 805. Election after creation.

5 (a) Officers.--The officers of a borough provided for under
6 section 806 (relating to officers elected) shall be elected at
7 the appropriate municipal election and take office on the first
8 Monday of January succeeding the election if any of the
9 following occur:

10 (1) A borough is incorporated under Subchapter A of
11 Chapter 2 (relating to incorporation).

12 (2) At least two boroughs are consolidated under 53
13 Pa.C.S. Ch. 7 Subch. C (relating to consolidation and
14 merger).

15 (3) A borough is created from a city of the third class
16 under Subchapter C of Chapter 2 (relating to creation from
17 cities of the third class).

18 (b) Terms.--The following shall apply:

19 (1) Except as provided under paragraph (2) and at the
20 election under subsection (a), if a borough is not divided
21 into wards, the following members shall be elected to
22 coincide with the number of members of council elected in
23 boroughs existing on January 1, 1966, under section 811
24 (relating to election):

25 (i) Three or four members of council shall be
26 elected for terms of two years each.

27 (ii) Three or four members of council shall be
28 elected for terms of four years each.

29 (2) One member of council shall be elected from each
30 ward for a term of two years and one member of council shall

1 be elected from each ward for a term of four years in any of
2 the following:

3 (i) A consolidation of two or more boroughs into one
4 borough.

5 (ii) The creation of a borough from a city of the
6 third class.

7 (iii) If two members of council are to be elected
8 from each ward.

9 (3) In any borough under subsection (a), three auditors
10 shall be elected as follows:

11 (i) One for a term of two years.

12 (ii) One for a term of four years.

13 (iii) One for a term of six years.

14 (4) Any officers of a borough not listed under this
15 section shall be elected for terms of two or four years to
16 coincide with the terms of officers elected under this part
17 in the existing boroughs.

18 § 806. Officers elected.

19 (a) Officers.--The electors of the borough may elect:

20 (1) A mayor, who shall be elected at municipal elections
21 every four years.

22 (2) A tax collector, who shall be elected at municipal
23 elections every four years and must be a properly qualified
24 individual. A magisterial district judge may not hold the
25 office of tax collector and the office of magisterial
26 district judge at the same time.

27 (3) Unless the borough provides for one appointed
28 auditor under section 1005(7) (relating to powers of
29 council), three auditors or one controller. The following
30 shall apply:

1 (i) In boroughs providing for three elected
2 auditors, one auditor shall be elected at each municipal
3 election for a term of six years.

4 (ii) In boroughs providing for one elected
5 controller, the controller shall:

6 (A) be elected at the municipal election;

7 (B) be a competent accountant and a registered
8 elector of the borough for at least four years prior
9 to the individual's election; and

10 (C) serve for a term of four years.

11 (4) As follows:

12 (i) Except as provided under subparagraph (ii), in
13 boroughs not divided into wards, seven members of
14 council.

15 (ii) In a borough with a population of less than
16 3,000 as determined by the latest official census, the
17 total number of members of council may be reduced from
18 seven to five or to three upon petition to the court of
19 common pleas, as provided under section 818 (relating to
20 decrease in number of members of council).

21 (5) As follows:

22 (i) Except as provided under subparagraph (ii), in
23 boroughs divided into wards, at least one and not more
24 than two members of council in each ward.

25 (ii) In boroughs in which prior to January 1, 1966,
26 three members of council were elected in each ward, three
27 members of council in each ward unless the number is
28 reduced as provided under this part. Members of council
29 shall:

30 (A) be residents of the ward from which they are

1 elected; and
2 (B) be chosen by the electors of the ward.
3 (b) Terms.--The term of an elected officer under this
4 section shall begin the first Monday of January succeeding the
5 individual's election.

6 SUBCHAPTER B

7 MEMBERS OF COUNCIL

8 Sec.

9 811. Election.

10 812. Election of members of council.

11 813. Fixing number of members of council.

12 814. Increase in number of ward council members.

13 815. Decrease of number of ward council members.

14 816. Election of members of council where wards abolished.

15 817. Vacancies created after a primary election.

16 818. Decrease in number of members of council.

17 § 811. Election.

18 Biennially, at the municipal election, a sufficient number of
19 members of council shall be elected to fill the places of
20 members whose terms shall, under this part, expire on the first
21 Monday of January following the election. Members elected under
22 this section shall serve for a term of four years from the first
23 Monday of January succeeding the municipal election.

24 § 812. Election of members of council.

25 (a) General rule.--If council, by ordinance, divides any
26 borough into wards, erects new wards out of two or more wards or
27 parts of wards or divides a ward already erected into two or
28 more wards, the ordinance shall provide for the election of an
29 equal number of members of council, in each of the wards, in a
30 manner as not to interfere with the terms of those previously

1 elected.

2 (b) Election of members.--The following shall apply:

3 (1) If a borough is first divided into wards, the
4 ordinance providing for the division shall fix the number of
5 members of council in each ward at not more than two. If the
6 entire number of council is to be composed of an even number,
7 one-half of the entire number must be elected at each
8 municipal election. If the entire number of council is to be
9 an odd number, the ordinance shall establish two classes and
10 provide that one-half of the entire number of members of
11 council, less one, shall, as soon as possible, take their
12 office in a year divisible by four, and the remaining number
13 of members of council shall take their office in an even-
14 numbered year not divisible by four.

15 (2) The apportionment under paragraph (1) shall be equal
16 or as nearly equal as possible representation by wards in
17 each class. Biennially, at each municipal election, a
18 sufficient number of members of council shall be elected, for
19 the term of four years from the first Monday of January
20 succeeding the election, to fill the places of those whose
21 terms shall expire on the first Monday of January following
22 the election.

23 § 813. Fixing number of members of council.

24 If, upon the division of a borough into wards or the creation
25 of a new ward, the number of members of council cannot be
26 equally divided among the wards of the borough, it shall be
27 lawful for council to increase the number of council members to
28 and not exceeding a number that will enable equal apportionment
29 of the members among the several wards of the borough. If a
30 borough is first divided into wards, the number of members of

1 council provided for a ward may not exceed two.

2 § 814. Increase in number of ward council members.

3 Council may, upon petition of at least 5% of the registered
4 electors of the borough, increase the number of members of
5 council to any number not exceeding two for each ward. The
6 sufficiency of the number of signers to the petition shall be
7 ascertained as of the date when the petition is presented to
8 council.

9 § 815. Decrease of number of ward council members.

10 (a) General rule.--If, in any borough divided into wards,
11 the council consists of more than seven members, at least 5% of
12 the registered electors of the borough shall have the power to
13 petition council for a decrease in the number of members of
14 council from each ward, except that the council may not consist
15 of less than seven members. The purpose of the decrease may be
16 to achieve any of the following results:

17 (1) A council which is less unwieldy in size.

18 (2) A council which is comparable in size to those in
19 boroughs not divided into wards.

20 (3) A council consisting of an odd number of members
21 instead of an even number.

22 (4) A reduction in borough expenditures.

23 (5) The expedition of the conduct of council meetings.

24 (b) Petitions.--A petition under subsection (a) shall
25 clearly state whether the petitioners request that the number of
26 members of the council to be elected in each ward shall be
27 reduced from two to one, or from three to two or one, and the
28 reasons why the reduction in number is desired. The petition may
29 state whether it is necessary to add a council member or members
30 to be elected at large in order to achieve or maintain a council

1 consisting of at least seven members or to achieve or maintain a
2 council consisting of an odd number of members. The sufficiency
3 of the number of signers to the petition shall be ascertained as
4 of the date the petition is presented to council.

5 (c) Notice.--The council shall give notice of the filing of
6 the petition by advertisement in the legal newspaper of the
7 county, if one is published in the county, and in one newspaper
8 of general circulation, and a day and time for a public meeting.
9 After the public meeting council may, by ordinance, decrease the
10 number of council members elected from each ward from two to
11 one, or from three to two or one, and may also provide for the
12 election at large of a member or members of council.

13 (d) Terms.--Council shall, if necessary, establish a
14 schedule for the subsequent at-large election of council
15 members. The schedule may provide that the initial term of one
16 or more of the council members subsequently elected at large
17 shall be reduced to accommodate a schedule of staggered at-large
18 elections to eventually ensure that, as nearly as possible, one-
19 half of the members of council elected at large will be elected
20 at each municipal election. The following shall apply:

21 (1) At each municipal election in the borough, if there
22 are two members from each ward, the electors of each ward
23 shall elect one council member to hold office for a term of
24 four years from the first Monday of January succeeding the
25 election.

26 (2) At each municipal election in the borough, if there
27 is one member from each ward, the electors from each of the
28 odd-numbered wards shall, at the first municipal election,
29 elect one council member for a term of four years, and the
30 electors from each of the even-numbered wards shall elect one

1 council member for a term of two years. At each succeeding
2 municipal election, the electors of the even-numbered wards
3 or odd-numbered wards shall each elect one council member for
4 a term of four years to take the place of those whose terms
5 are about to expire. The council members shall take office on
6 the first Monday of January following their election.

7 (e) Reduction.--In a borough where, under this section, the
8 number of council members shall be reduced, the council members
9 then in office shall remain in office until the end of their
10 respective terms.

11 § 816. Election of members of council where wards abolished.

12 (a) Abolishing.--If council, by ordinance, abolishes all
13 wards in a borough, the ordinance shall provide for the election
14 of seven members of council at large for the borough in a manner
15 as not to interfere with the terms of those ward members of
16 council previously elected. If there were previously:

17 (1) Seven members of council, the ordinance shall
18 provide that, at the first municipal election, the electors
19 shall elect three or four members of council, as the case may
20 be, the number to be elected shall be that which, when added
21 to the number of members of council already in office whose
22 terms are not about to expire, shall bring the membership of
23 the council to seven. The newly elected members of council
24 shall serve for terms of four years from the first Monday of
25 January following the first municipal election, except that,
26 in any case where the election of four members of council
27 shall be required to bring the membership of council to its
28 full complement of seven and only three members of council
29 are elected at the municipal election in the other boroughs
30 of the Commonwealth not divided into wards, three members of

1 council shall be elected for four-year terms and one for a
2 two-year term. At every succeeding municipal election, the
3 electors shall elect three or four members of council, as the
4 case may be, each to serve for a term of four years from the
5 first Monday of January following the municipal election.

6 (2) Eight or more members of council, the ordinance
7 shall provide that, at the first municipal election, the
8 electors shall elect a sufficient number of members of
9 council that, when added to the number of members of council
10 already in office whose terms are not about to expire, will
11 bring the membership of the council to seven. The following
12 shall apply:

13 (i) The newly elected members of council shall serve
14 for terms of four years from the first Monday of January
15 following the first municipal election. At the second
16 municipal election after the effective date of the
17 ordinance, the electors shall elect a sufficient number
18 of members of council, that, when added to the number of
19 members of council elected at the previous municipal
20 election, shall bring the membership of council to its
21 full complement of seven. Some of the members of council
22 elected at the second municipal election shall serve for
23 a four-year term following the first Monday of January
24 following the municipal election and the remainder shall
25 serve for a two-year term, in an amount to bring the
26 number to be elected in the borough in succeeding
27 municipal elections into conformity with the number
28 elected in the other boroughs of the Commonwealth not
29 divided into wards.

30 (ii) In the third and all subsequent municipal

1 elections following the effective date of the ordinance,
2 the electors shall elect three or four members of
3 council, as the case may be, each to serve for a term of
4 four years from the first Monday of January following the
5 municipal election.

6 (iii) In any borough in which, under the ward system
7 of electing members of council, there shall be seven or
8 more members of council whose terms shall not expire on
9 the first Monday of January following the first municipal
10 election after the effective date of the ordinance, no
11 members of council shall be elected at the first
12 municipal election, and the members of council remaining
13 in office shall constitute the council until the first
14 Monday of January following the second municipal election
15 following the effective date of the ordinance.

16 (iv) At the second municipal election, seven members
17 of council shall be elected in the borough, some to serve
18 for a four-year term of office from the first Monday of
19 January following the second municipal election and the
20 remainder to serve for a two-year term, in an amount to
21 bring the number of members of council to be elected in
22 the borough in succeeding elections into conformity with
23 the number elected in other boroughs of the Commonwealth
24 not divided into wards.

25 (v) At the third and all subsequent municipal
26 elections following the effective date of the ordinance,
27 the electors shall elect three or four members of
28 council, as the case may be, each to serve for a term of
29 four years from the first Monday of January following the
30 subsequent municipal election.

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

21 (b) Vacancies.--At any time following the effective date of
22 the ordinance, when a vacancy may occur in the office of a
23 member of council originally elected or appointed from a
24 particular ward, the individual appointed to fill the vacancy
25 shall not be required to be a resident of the area formerly
26 comprising the ward but shall be otherwise qualified for office
27 as provided in section 801 (relating to eligibility).

28 § 817. Vacancies created after a primary election.

29 If a vacancy is created in the office of a member of council
30 by any ordinance or decree of court as provided in this

1 subchapter after a primary election, it may be filled by
2 nomination made by the committee as is authorized by the rules
3 of the party to make nominations in the event of vacancies on
4 the party ticket.

5 § 818. Decrease in number of members of council.

6 (a) Petition by electors.--The court of common pleas may,
7 upon petition of at least 5% of the registered electors of any
8 borough not divided into wards, which, according to the latest
9 official census, had a population of not more than 3,000, reduce
10 the total number of members of council for the borough from
11 seven to five or to three. The sufficiency of the number of
12 signers to the petition shall be ascertained as of the date when
13 the petition is presented to court.

14 (b) Notice.--The court shall give notice of the filing of
15 the petition by advertisement in the legal newspaper of the
16 county, if one is published in the county, and in one newspaper
17 of general circulation and fix a day and time for hearing. After
18 the hearing, the court may decrease the number of members of
19 council elected in the borough from seven to five or to three,
20 as requested in the petition.

21 (c) Number to be elected.--

22 (1) At the municipal election following the decrease in
23 the number of members of council from seven to five:

24 (i) If four members of council would otherwise have
25 been elected, three members shall be elected.

26 (ii) If three members of council would otherwise
27 have been elected, two members shall be elected.

28 (2) At the second municipal election following the
29 decrease in the number of members of council:

30 (i) If four members of council would otherwise have

1 been elected, three members shall be elected.

2 (ii) If three members of council would otherwise
3 have been elected, two members shall be elected.

4 (3) At all following municipal elections, the proper
5 number of members of council shall be elected to correspond
6 to the number of members of council whose terms are to expire
7 the first Monday of the following January.

8 (d) Election.--

9 (1) At the municipal election following the decrease in
10 the number of members of council from seven to three:

11 (i) If four members of council would otherwise have
12 been elected, two members shall be elected.

13 (ii) If three members of council would otherwise
14 have been elected, one member shall be elected.

15 (2) At the second municipal election following the
16 decrease in the number of members of council in the borough:

17 (i) If four members of council would otherwise have
18 been elected, two members shall be elected.

19 (ii) If three members of council would otherwise
20 have been elected, one member shall be elected.

21 (3) At all the following municipal elections, the proper
22 number of members of council shall be elected to correspond
23 to the number of members of council whose terms are to expire
24 the first Monday of the following January.

25 (f) Terms.--In any borough in which, under this section, the
26 number of members of council shall be reduced, the members of
27 council then in office shall remain in office until the end of
28 their respective terms. If a borough attains a population in
29 excess of 3,000, according to the latest official census, the
30 number of members of council shall automatically be increased

1 from three or five to seven, following the reverse of the
2 procedure set forth in subsection (c) or (d).

3 SUBCHAPTER C

4 MAYOR

5 (Reserved)

6 SUBCHAPTER D

7 AUDITORS

8 (Reserved)

9 SUBCHAPTER E

10 CONTROLLER

11 (Reserved)

12 SUBCHAPTER F

13 ASSESSORS

14 (Reserved)

15 SUBCHAPTER G

16 TAX COLLECTOR

17 (Reserved)

18 CHAPTER 9

19 VACANCIES IN OFFICE

20 Sec.

21 901. Filling vacancies in elective borough offices.

22 902. Collection of taxes where vacancy in office of tax
23 collector not filled.

24 903. Right of council to declare seat of member vacant for
25 failure to qualify.

26 904. (Reserved).

27 904.1. Removal of elected official and appointee.

28 905. Temporary auditor.

29 § 901. Filling vacancies in elective borough offices.

30 (a) Vacancies.--If any vacancy occurs in the office of the

1 mayor, member of council, auditor, controller or tax collector,
2 by death, resignation UNDER SUBSECTION (A.1) or termination of <--
3 residency from the borough, or from a ward in the case of a ward
4 office, or by failure to take the required oath, to give bond as
5 provided by law or ordinance or to provide the affidavit
6 required under section 801 (relating to eligibility), or in any
7 other manner whatsoever, the council shall fill the vacancy
8 within 30 days by appointing, by resolution, a registered
9 elector of the borough, or of the ward in case of a ward office,
10 to hold the office, if the term continues that long, until the
11 first Monday in January after the first municipal election
12 occurring more than 60 days after the vacancy occurs, at which
13 election an eligible individual shall be elected to the office
14 for the remainder of the term. Except as provided in section
15 801(c), no individual shall be appointed to fill a vacancy in an
16 elected borough or ward office unless the individual has resided
17 within the borough, or within the ward in the case of a ward
18 office, continuously for at least one year immediately prior to
19 the individual's appointment.

20 (A.1) VACANCY BY RESIGNATION.-- <--

21 (1) A VACANCY SHALL NOT BE CREATED BY A RESIGNATION
22 UNTIL THE DATE THAT THE RESIGNATION IS ACCEPTED BY A MAJORITY
23 VOTE OF A QUORUM OF COUNCIL AT A PUBLIC MEETING OR THE
24 EFFECTIVE DATE OF THE TENDERED RESIGNATION, WHICHEVER IS
25 LATER. A COUNCIL MUST ACCEPT A RESIGNATION NO LATER THAN 45
26 DAYS AFTER IT HAS BEEN TENDERED IN WRITING TO COUNCIL, UNLESS
27 IT IS WITHDRAWN IN WRITING PRIOR TO ACCEPTANCE.

28 (2) A RESIGNATION WHICH IS NOT ACCEPTED AS PROVIDED
29 UNDER PARAGRAPH (1) SHALL BE DEEMED ACCEPTED AFTER 45 DAYS.

30 (b) Bond.--The individual appointed shall give bond if

1 required by law or ordinance. If the individual elected to the
2 office fails to give any bond required, to provide the affidavit
3 required under section 801 or to take the required oath, the
4 council, before making the appointment, shall declare the office
5 vacant.

6 (c) Unfilled vacancies.--If the council of any borough
7 refuses, fails, neglects or is unable, for any reason
8 whatsoever, to fill any vacancy within 30 days after the vacancy
9 happens, as provided in this section, the vacancy shall be
10 filled within 15 additional days by the vacancy board. The
11 vacancy board shall consist of the council, exclusive of the
12 mayor, and one registered elector of the borough who shall be
13 appointed by the council at the council's first meeting each
14 calendar year or as soon as practical and who shall act as chair
15 of the vacancy board. The vacancy board shall appoint a
16 registered elector of the borough, or ward in the case of a ward
17 office, to hold the office, if the term continues that long,
18 until the first Monday in January after the first municipal
19 election occurring more than 60 days after the vacancy occurs,
20 at which election an eligible individual shall be elected to the
21 office for the remainder of the term.

22 (d) Board petition.--If the vacancy is not filled by the
23 vacancy board within 15 days, the chair shall, or in the case of
24 a vacancy in the chair, the remaining members of the vacancy
25 board shall petition the court of common pleas to fill the
26 vacancy by the appointment of a registered elector of the
27 borough, or ward in the case of a ward, to hold the office, if
28 the term continues that long, until the first Monday in January
29 after the first municipal election occurring more than 60 days
30 after the vacancy occurs, at which election an eligible

1 individual shall be elected to the office for the remainder of
2 the term.

3 (e) Elector petition.--If vacancies exist in more than a
4 majority of the offices of council, the court of common pleas
5 shall fill the vacancies upon presentation of petition signed by
6 not less than 15 registered electors of the borough.

7 § 902. Collection of taxes where vacancy in office of tax
8 collector not filled.

9 If a vacancy in the office of tax collector exists and no
10 registered elector of the borough has, within 30 days, received
11 the appointment to fill the vacancy, the county commissioners,
12 the council and the board of school directors of the school
13 district shall collect the tax for the county, the borough and
14 the school district, respectively, through their respective
15 treasurers, or for school districts, at the option of the
16 district, through their secretaries, and for boroughs, at the
17 option of the council, through their secretaries or borough
18 managers. Nothing in this section shall prohibit a borough from
19 providing for agreements or the joint collection of taxes in
20 accordance with ~~section~~ SECTIONS 4.2 AND 4.4 of the act of May <--
21 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection
22 Law.

23 § 903. Right of council to declare seat of member vacant for
24 failure to qualify.

25 If an individual, elected or appointed as a member of council
26 and notified of election or appointment refuses or neglects to
27 qualify as a member of council within ten days following the
28 beginning of the individual's term of office, unless prevented
29 by sickness or necessary absence from the borough, the council,
30 acting without the individual, may declare the individual's

1 office as member of council vacant and may fill the vacancy as
2 provided in section 901 (relating to filling vacancies in
3 elective borough offices). For these actions, a majority of the
4 remaining members of the council shall constitute a quorum.

5 § 904. (Reserved).

6 § 904.1. Removal of elected official and appointee.

7 (a) Rule.--A borough officer who is elected or appointed to
8 fill a vacancy in elective office may be removed from office as
9 follows:

10 (1) By impeachment.

11 (2) By the Governor for reasonable cause after notice
12 and full hearing on the advice of two-thirds of the Senate.

13 (3) On conviction of misbehavior in office or of an
14 infamous crime.

15 (b) Title.--The title to office of a borough officer under
16 subsection (a) may be tried by quo warranto.

17 § 905. Temporary auditor.

18 If for any reason two or three vacancies exist in the office
19 of borough auditors, the council may temporarily appoint and
20 reasonably compensate a qualified individual, who need not be an
21 elector of the borough, who shall have all the powers and duties
22 of the two or three auditors whose offices are vacated.

23 CHAPTER 10

24 POWERS AND DUTIES

25 OF ELECTED OFFICIALS

26 Subchapter

27 A. Council

28 B. Mayor (Reserved)

29 C. Auditors

30 D. Controller

1 E. (Reserved)

2 F. Tax Collector

3 SUBCHAPTER A

4 COUNCIL

5 Sec.

6 1001. Organization of council, quorum, participation by
7 telecommunication device, voting, compensation and
8 eligibility.

9 1002. Oath of members of council.

10 1003. When the mayor may preside over council and vote,
11 attendance of mayor at council meetings and breaking
12 tie votes.

13 1004. Failure of council to organize.

14 1005. Powers of council.

15 1006. Duties of council.

16 1007. (Reserved).

17 1008. (Reserved).

18 1009. Typewritten, printed, photocopied, microfilmed and
19 electronically or digitally stored records valid and
20 recording or transcribing records.

21 1010. (Reserved).

22 1011. (Reserved).

23 1012. (Reserved).

24 1013. (Reserved).

25 1014. Hearings before council; witnesses.

26 1015. Witness fees and mileage.

27 1016. Examination of witnesses; penalty.

28 § 1001. Organization of council, quorum, participation by
29 telecommunication device, voting, compensation and
30 eligibility.

1 (a) Organization.--The council shall organize on the first
2 Monday of January of each even-numbered year by electing one
3 member as president and one member as vice-president, who shall
4 hold the offices at the pleasure of the council. If the first
5 Monday is a legal holiday, the meeting and organization shall
6 take place the following day. Any action taken by any council at
7 any time between 12:01 a.m. on January 1 of an even-numbered
8 year and the organization of council in that year shall be
9 subject to reconsideration by the new council at any time within
10 ten days after organization. The council may, at the
11 organizational meeting, appoint other officers as may be
12 provided for by law or ordinance, or as may be deemed necessary
13 for the conduct of affairs of the borough, and may transact any
14 other business as may come before the meeting. The president,
15 and during the president's absence or incapacity, the vice-
16 president, shall preside over the meetings of council and
17 perform other duties as are prescribed by this part or by
18 ordinance.

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

24 (c) Telecommunication.--Council may provide for the
25 participation of council members in council meetings by means of
26 telecommunication devices, such as telephones or computer
27 terminals, which permit, at a minimum, audio communication
28 between locations, if the following apply:

29 (1) A majority of the membership of council then in
30 office is physically present at the advertised meeting place

1 within the borough and a quorum is established at the
2 convening or reconvening of the meeting. If, after the
3 convening or reconvening of a meeting, a member has been
4 disqualified from voting as a matter of law, but is still
5 physically present, council members participating by
6 telecommunication device in accordance with this section
7 shall be counted to maintain a quorum.

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

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

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

19 (3) The telecommunication device used permits the
20 members of council and the members of the public who are
21 physically present at the meeting to speak to and hear the
22 comments and the vote, if any, of the member or members of
23 council who are not physically present at the meeting.

24 (4) Physical absence of a council member. Council may
25 only authorize participation by telecommunication device for
26 one or more of the following reasons:

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

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

30 (iii) emergency; and

1 (iv) family or business travel.

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

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

9 (e) Compensation.--Members of council may receive
10 compensation to be fixed by ordinance as follows:

11 (1) In boroughs with a population of less than 5,000, a
12 maximum of \$1,875 per year.

13 (2) In boroughs with a population of 5,000 or more but
14 less than 10,000, a maximum of \$2,500 per year.

15 (3) In boroughs with a population of 10,000 or more but
16 less than 15,000, a maximum of \$3,250 per year.

17 (4) In boroughs with a population of 15,000 or more but
18 less than 25,000, a maximum of \$4,125 per year.

19 (5) In boroughs with a population of 25,000 or more but
20 less than 35,000, a maximum of \$4,375 per year.

21 (6) In boroughs with a population of 35,000 or more, a
22 maximum of \$5,000 per year.

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

1 of council.

2 (f) Eligibility for compensation.--The population shall be
3 determined by the latest available official census figures. In
4 no case shall the compensation for any member of council exceed
5 that of the mayor in any given borough, but, if the mayor's
6 compensation exceeds that authorized by this section for members
7 of council, the president of council may receive compensation
8 not to exceed that of the office of mayor.

9 § 1002. Oath of members of council.

10 Before entering upon the duties of their offices, the members
11 of council shall take and subscribe an oath or affirmation of
12 office under 53 Pa.C.S. § 1141 (relating to form of oaths of
13 office). The oath or affirmation may be taken before any judge
14 or magisterial district judge of the county, a notary public or
15 the mayor of the borough when the individual has qualified, and
16 the oath or affirmation shall be filed with the borough
17 secretary and preserved among the records of the borough for a
18 period of six years.

19 § 1003. When the mayor may preside over council and vote,
20 attendance of mayor at council meetings and breaking
21 tie votes.

22 (a) Presiding over meetings.--The mayor shall preside over
23 the organization of the council until it is organized as
24 provided in section 1001 (relating to organization of council,
25 quorum, participation by telecommunication device, voting,
26 compensation and eligibility), and shall be deemed a member of
27 council at the organizational meeting if the mayor's membership
28 becomes necessary to constitute a quorum.

29 (b) Voting at meetings.--The mayor shall not vote at the
30 meeting unless the mayor's vote shall, for any reason, be

1 required to effect the organization of council or to elect any
2 officer who is required to be or may be elected at the
3 organizational meeting. If the mayor is absent from the
4 organizational meeting, one of the members of council physically
5 present at the meeting and chosen by the members eligible to
6 vote at the meeting shall preside.

7 (c) Attendance.--The mayor may attend any or all regular and
8 special meetings of council and take part in the discussions of
9 the council on matters pertaining to borough affairs, subject to
10 any restrictions applicable to members of council contained in
11 the rules of order or bylaws of the council.

12 (d) Tie votes.--

13 (1) If, by reason of a tie or split vote, the council
14 shall be unable to:

15 (i) enact or pass any ordinance, resolution or
16 motion;

17 (ii) declare any vacancy pursuant to section 903
18 (relating to right of council to declare seat of member
19 vacant for failure to qualify);

20 (iii) fill any other vacancy in its membership or in
21 any other borough office.

22 (iv) take any action on any matter lawfully brought
23 before it;

24 the mayor, if in attendance at the meeting, may, at the
25 mayor's option, cast the deciding vote or shall direct that
26 the matter be tabled until a special meeting of council.

27 (2) The special meeting of council shall be held within
28 not less than five days or more than ten days at which time
29 the matter shall be reconsidered by council.

30 (3) If a tie or split vote still exists, it shall be the

1 duty of the mayor at that time to cast the deciding vote.

2 (4) If a tie or split vote occurs at any meeting when
3 the mayor is not in attendance, the matter shall be tabled to
4 a special meeting to be held within not less than five days
5 or more than ten days as set by the president of council, and
6 the mayor shall be given at least five days' notice of the
7 meeting, at which meeting it shall be the duty of the mayor
8 to cast the tie-breaking vote.

9 § 1004. Failure of council to organize.

10 If the council of any borough fails to organize within ten
11 days from the time prescribed in this chapter, the court of
12 common pleas, upon the petition of at least ten registered
13 electors of the borough verified by the affidavit of one of the
14 petitioners, shall issue a rule upon the delinquent members of
15 council to show cause why their seats should not be declared
16 vacant. The rule shall be returnable not less than five days
17 from the time of its issue, and, after hearing, the court may
18 declare the seats of the members of council responsible for the
19 failure to organize vacant and shall appoint others in their
20 place, who shall hold office for the respective unexpired terms.

21 § 1005. Powers of council.

22 The council shall have power:

23 (1) To, by motion, ordinance or resolution, create the
24 offices of and appoint, a treasurer, a secretary, a
25 solicitor, an engineer, a street commissioner and other
26 officers as it deems necessary. The treasurer and the
27 secretary shall not be members of council. A bank or bank and
28 trust company may be appointed as treasurer. All officers and
29 employees appointed by the council, with the exception of
30 those who under this part or any other act are under civil

1 service or have a definite term of office, shall serve for an
2 indefinite term at the pleasure of the council.

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

5 (3) By resolution, to make temporary loans on the credit
6 of the borough in anticipation of taxes to be collected and
7 issue certificates of indebtedness. The loans shall be repaid
8 from the first money available from taxes in anticipation of
9 which the loans were made.

10 (4) With respect to depositories and securities, to:

11 (i) Appoint and revoke the appointment of one or
12 more depositories for borough funds and to fix and
13 approve security to be furnished by the depository. The
14 security may be bonds with corporate or individual
15 securities to be approved by council, or collateral
16 security consisting of obligations of the United States
17 or the Commonwealth or any political subdivision,
18 deposited with the borough or with any bank or trust
19 company within this Commonwealth and of a market value of
20 120% of the amount of the deposit to be secured. Any
21 deposit of collateral shall be under proper agreement and
22 be accompanied by proper assignment or power of attorney
23 for the transfer of the collateral. The borough treasurer
24 shall deposit all borough funds in a depository
25 designated under this subparagraph. If borough funds are
26 deposited under this subparagraph, the borough treasurer
27 shall be released and discharged from further liability
28 on account of the deposit.

29 (ii) Subparagraph (i) shall not be construed to
30 require a depository to furnish bond or collateral

1 security to cover the amount of any deposit to the extent
2 that the deposit is insured with the Federal Deposit
3 Insurance Corporation.

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

10 (6) With respect to investments, to:

11 (i) make investment of borough sinking funds as
12 authorized by 53 Pa.C.S. Pt. VII Subpt. B (relating to
13 indebtedness and borrowing);

14 (ii) make investment of money in the general fund
15 and in special funds of the borough other than the
16 sinking funds as authorized by Chapter 13 (relating to
17 taxation and finance); and

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

23 (7) To provide, by ordinance passed by a two-thirds vote
24 of the entire number of members of council elected, for the
25 appointment of an independent auditor who shall be a
26 certified public accountant registered in this Commonwealth,
27 a firm of certified public accountants registered in this
28 Commonwealth or a competent public accountant or a competent
29 firm of public accountants.

30 (i) When an ordinance has been adopted, an

1 independent auditor shall be appointed annually, by
2 resolution before the close of the fiscal year, to make
3 an independent examination of the accounting records of
4 the borough for the fiscal year, and the independent
5 auditor shall also perform the other duties and exercise
6 the powers as conferred upon the independent auditor
7 under Subchapter C (relating to auditors).

8 (ii) When an independent auditor is appointed as
9 provided in this paragraph, the office of elected borough
10 auditor or controller is abolished, but the borough
11 auditors or controller then in office shall continue to
12 hold their office during the term for which elected, and
13 the borough auditors or controller shall not audit,
14 settle or adjust the accounts audited by the independent
15 auditor, but shall perform the other duties of their
16 office.

17 (iii) If any borough has provided by ordinance for
18 the audit of its accounts by an appointed auditor, the
19 borough shall have the right at any time to repeal the
20 ordinance, and the office of appointed auditor shall be
21 abolished as of the date set in the ordinance. The
22 borough shall have the further right at the next
23 municipal election following the repeal of the ordinance
24 to elect three auditors, one for a term of two years, one
25 for a term of four years and one for a term of six years,
26 from the first Monday of January following the election,
27 which auditors shall succeed the appointed auditor and
28 shall have and possess all the powers and perform all the
29 duties provided in this part for elected auditors. If, at
30 any time after the effective date of any ordinance

1 abolishing the office of appointed auditor, there shall
2 be a vacancy in the office of elected auditor, council
3 shall fill the vacancies in the manner prescribed in
4 section 901 (relating to filling vacancies in elective
5 borough offices).

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

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

12 § 1006. Duties of council.

13 It shall be the duty of the council:

14 (1) To organize, under section 1001 (relating to
15 organization of council, quorum, participation by
16 telecommunication device, voting, compensation and
17 eligibility), in even-numbered years.

18 (2) To meet at a stated time at least once a month.
19 Council may adjourn to a stated time for general business or
20 for special businesses. If no quorum is present at a regular,
21 special or reconvened meeting, a majority of those who do
22 meet may agree upon another date for like business in a
23 manner consistent with 65 Pa.C.S. Ch. 7 (relating to open
24 meetings). Special meetings may be called by the president of
25 council or upon written request of at least one-third of the
26 members of council. Members shall have at least 24 hours'
27 notice of the special meetings. The notice shall state
28 whether it is for general or special purposes, and, if it is
29 for special purposes, the notice shall contain a general
30 statement of the nature of the business to be transacted.

1 Presence at a meeting constitutes waiver of notice. Council
2 may adopt rules relating to the calling and holding of
3 special meetings, which rules shall supersede the provisions
4 of this section, provided that the rules comply with the
5 provisions of 65 Pa.C.S. Ch. 7.

6 (3) To make and preserve records of its proceedings.

7 (4) To enact, revise, repeal and amend ordinances and
8 resolutions under Chapter 33 (relating to ordinances), and
9 bylaws, rules and regulations, not inconsistent with the laws
10 of this Commonwealth, as it deems beneficial to the borough
11 and to provide for the enforcement of the same. Unless
12 otherwise provided, all powers shall be exercised by vote of
13 the majority of council eligible to vote at a meeting.

14 Routine, ministerial or administrative purchases and powers
15 may be made and exercised by officers or committees if
16 authority for the action was previously given or if the
17 action is subsequently ratified by council. If any action by
18 the council results in a specific written contract or
19 agreement, the contract or agreement shall be signed by the
20 president of the council.

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

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

26 (7) To fix the amount of security to be given by the
27 treasurer, and of other officers, appointees and employees as
28 it may designate.

29 § 1007. (Reserved).

30 § 1008. (Reserved).

1 § 1009. Typewritten, printed, photocopied, microfilmed and
2 electronically or digitally stored records valid and
3 recording or transcribing records.

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

21 (b) Requirements.--If recording or transcribing in a
22 specified book of record is required, including minutes of the
23 proceedings of the council, the records 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 on it 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
30 numbered by transcribing directly upon the pages of the book

1 of record or by permanently attaching the records or copies
2 to the book of record with the borough seal being impressed
3 upon each page to which the record is attached, with each
4 impression covering both a portion of the attached record and
5 a portion of the page of the book of record to which the
6 record is attached.

7 (c) Previously recorded documents.--All records previously
8 recorded or transcribed in any manner authorized by this part at
9 the time the records were recorded or transcribed are validated.

10 § 1010. (Reserved).

11 § 1011. (Reserved).

12 § 1012. (Reserved).

13 § 1013. (Reserved).

14 § 1014. Hearings before council; witnesses.

15 Councils may compel the attendance of witnesses and the
16 production of books, papers or other evidence at any meeting of
17 the council or any committee of the council and for that purpose
18 may issue subpoenas, signed by the president of council or the
19 chair of the committee, which shall be served in any part of
20 this Commonwealth. If a witness refuses to testify to any fact
21 within the witness's knowledge or to produce any books or papers
22 in the witness's possession or control required to be used as
23 evidence in any case, the borough solicitor shall report the
24 facts relating to the refusal to the court of common pleas. If
25 the court determines the evidence required of the witness to be
26 legal and competent, it shall order the witness to testify or
27 produce the evidence required.

28 § 1015. Witness fees and mileage.

29 No individual residing outside the borough and subpoenaed
30 under section 1014 (relating to hearings before council,

1 witnesses) shall be required to respond to the subpoena until
2 mileage to and from the borough at the rate established by the
3 council under the act of July 20, 1979 (P.L.156, No.51),
4 referred to as the Uniform Mileage Fee Law, and witness fees as
5 required by law relating to witnesses have been paid.

6 § 1016. Examination of witnesses; penalty.

7 An individual called as a witness, as provided in this
8 chapter, may be examined under oath, administered by the
9 president of council or chair of the committee and, for the
10 giving of false testimony, shall be liable for prosecution under
11 applicable laws for perjury.

12 SUBCHAPTER B

13 MAYOR

14 (Reserved)

15 SUBCHAPTER C

16 AUDITORS

17 Sec.

18 1041. Auditors to meet yearly and audit accounts.

19 1042. (Reserved).

20 1043. (Reserved).

21 1044. (Reserved).

22 1045. (Reserved).

23 1046. (Reserved).

24 1047. (Reserved).

25 1048. (Reserved).

26 1049. (Reserved).

27 1050. (Reserved).

28 1051. (Reserved).

29 1052. (Reserved).

30 1053. Compensation of auditors.

1 1054. (Reserved).
2 1055. Subpoenas, oath and perjury.
3 1056. (Reserved).
4 1057. (Reserved).
5 1058. Pay of witnesses.
6 1059. Auditors to settle accounts where witnesses do not
7 appear.
8 1059.1. Completion, filing and publication of auditor's report
9 and financial statement.
10 1059.2. Attorney to auditors.
11 1059.3. Surcharge by auditors.
12 1059.4. Appeals from audit.
13 1059.5. Taxpayers appealing to enter bond.
14 1059.6. Procedure on appeals.
15 1059.7. Findings of fact and law, judgment and appeals.
16 1059.8. Attorney fees.
17 1059.9. Balances due to be entered as judgments.
18 1059.10. Penalty for failure to comply with law.
19 1059.11. General powers and duties of independent auditor.
20 § 1041. Auditors to meet yearly and audit accounts.
21 (a) First meeting.--The auditors of the borough shall meet
22 on the first Tuesday of January of each year and shall organize
23 by the election of a chair and a secretary. If the first Tuesday
24 is a legal holiday, the meeting and organization shall take
25 place the following day. Two auditors shall constitute a quorum.
26 (b) Audits.--The auditors:
27 (1) Shall audit, adjust and settle the accounts of the
28 tax collectors, the magisterial district judge and all
29 officers of the borough.
30 (2) May audit, adjust and settle the accounts of any

1 person, corporation, association, organization, committee or
2 commission receiving or expending borough funds.

3 (3) Audit and report to the council, upon the accounts
4 of every officer of the borough, upon the death, resignation,
5 removal or expiration of the term of the officer.

6 Unless otherwise agreed to by the auditors and the person being
7 audited, the audit shall be conducted at the place the records
8 of the person are normally kept.

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

13 (c) (Reserved).

14 (d) (Reserved).

15 (e) (Reserved).

16 (f) (Reserved).

17 (g) (Reserved).

18 § 1042. (Reserved).

19 § 1043. (Reserved).

20 § 1044. (Reserved).

21 § 1045. (Reserved).

22 § 1046. (Reserved).

23 § 1047. (Reserved).

24 § 1048. (Reserved).

25 § 1049. (Reserved).

26 § 1050. (Reserved).

27 § 1051. (Reserved).

28 § 1052. (Reserved).

29 § 1053. Compensation of auditors.

30 (a) General compensation.--Subject to the limitations set

1 forth in subsection (b), each auditor shall receive \$10 per hour
2 for each hour or portion of an hour necessarily employed in the
3 discharge of the auditor's duties, to be paid by the borough.

4 (b) Limits.--No auditor in a borough having a population of
5 10,000 or less shall be entitled to receive more than \$1,000 for
6 completing the annual audit, settlement and adjustment. No
7 auditor in a borough having a population in excess of 10,000
8 shall be entitled to receive more than \$2,000 for completing the
9 annual audit, settlement and adjustment.

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

17 § 1054. (Reserved).

18 § 1055. Subpoenas, oath and perjury.

19 (a) Subpoenas.--A majority of the auditors of any borough
20 shall have the power to issue subpoenas to obtain the attendance
21 of the persons whose accounts they are required to adjust, their
22 executors and administrators, and of any persons whom it may be
23 necessary to examine as witnesses and to compel their
24 attendance, and may also compel the production of all documents,
25 including books, vouchers and papers relative to borough
26 accounts. If any person refuses or neglects to appear, to
27 produce documents or to testify, the auditors shall petition the
28 court of common pleas of the county to issue a subpoena to the
29 person and to require the person to produce documents or to
30 appear and to testify before the court. The court shall issue

1 the subpoena if it deems the documents or testimony relevant to
2 the issue.

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

8 § 1056. (Reserved).

9 § 1057. (Reserved).

10 § 1058. Pay of witnesses.

11 Witnesses, other than officers of the borough, appearing
12 before the auditors and individuals or officers serving
13 subpoenas shall be paid, out of the borough treasury upon
14 authorization signed by a majority of the auditors and orders
15 drawn on the borough treasury, the same fees as are payable for
16 rendering similar services in civil proceedings before a
17 magisterial district judge. The amount paid shall be made a part
18 of the charge against any officer who shall be charged by the
19 auditors with any balance, if the costs have been incurred in
20 establishing the balance. The costs collected from any officer
21 shall be repaid into the borough treasury.

22 § 1059. Auditors to settle accounts where witnesses do not
23 appear.

24 If any person in possession of documents relative to public
25 accounts before auditors refuses to produce the same or if any
26 officer whose accounts are to be settled and adjusted by the
27 auditors refuses to appear or submit to examination as directed
28 by this subchapter, the auditors or a majority of them may
29 proceed, by the examination of witnesses and other evidence, to
30 ascertain and settle, as near as may be, the amount of public

1 money received by the officer and its application to public
2 purposes or otherwise.

3 § 1059.1. Completion, filing and publication of auditor's
4 report and financial statement.

5 (a) Reports.--The auditors shall complete the annual audit,
6 adjustment and settlement as soon as possible after the end of
7 the fiscal year. The auditors shall, within ten days after
8 completing the annual audit, publish once, in at least one
9 newspaper of general circulation, a concise financial statement
10 setting forth all of the following:

11 (1) The balance in the treasury at the beginning of the
12 fiscal year.

13 (2) All revenue received during the fiscal year by major
14 classifications.

15 (3) All expenditures made during the fiscal year by
16 major functions and the current resources and liabilities of
17 the borough at the end of the fiscal year.

18 (4) The gross liability and net debt of the borough.

19 (5) The amount of assessed valuation of the borough.

20 (6) The assets of the borough with their character and
21 value.

22 (7) The date of the last maturity of the respective
23 forms of funded debt.

24 (8) The assets in each sinking fund.

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

29 (1) The actual indebtedness.

30 (2) The amount of funded debt.

1 (3) The amount of floating debt.

2 (4) The valuation of taxable property in the borough.

3 (5) The assets of the borough with their character and
4 value.

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

7 (b.1) Filing of reports and penalties.--The reports shall be
8 prepared no later than 90 days after the close of the fiscal
9 year. It shall be the duty of the secretary of the auditors to
10 file a copy of the report with the secretary of the borough,
11 with the clerk of the court of common pleas of the county or the
12 prothonotary under local rules of court, with the Department of
13 Transportation and with the Department of Community and Economic
14 Development no later than 90 days after the close of the fiscal
15 year. Any secretary of the auditors refusing or willfully
16 neglecting to file the report commits a summary offense. If the
17 failure to file the report within the period specified is due to
18 the failure of any or all of the auditors to prepare the
19 statement upon which the report is to be based, the auditor
20 commits a summary offense.

21 (c) Service of report.--The secretary of the auditors shall
22 serve, by registered or certified mail, notice to every elected
23 or appointed official against whom a balance or shortage appears
24 in the report required under subsection (b). The notice shall be
25 served prior to the filing of the report and shall indicate the
26 amount of the balance or shortage and a brief description of how
27 the balance or shortage was derived. The notice shall indicate
28 that the balance or shortage is deemed a surcharge under section
29 1059.3 (relating to surcharge by auditors) and shall apprise the
30 officer served of the right to appeal under section 1059.4

1 (relating to appeals from audit). Service of notice is complete
2 when the notice is properly addressed, postage prepaid and
3 mailed. Failure to receive the notice required by this
4 subsection shall not constitute grounds for relief from any
5 judgment entered under this chapter.

6 (d) Presentation.--The annual auditors report and the annual
7 financial statement shall be presented on a uniform form
8 prepared by a committee as provided in Chapter 13 (relating to
9 taxation and finance).

10 § 1059.2. Attorney to auditors.

11 The borough auditors may employ an attorney if deemed
12 advisable by a majority of the auditors. The auditors, with the
13 agreement of council, shall determine the compensation to be
14 paid to the attorney. If the auditors and council cannot agree
15 on the compensation, upon petition of the auditors, the court of
16 common pleas shall establish the compensation for the attorney
17 employed by the auditors. The compensation for the attorney
18 shall be paid out of the borough general fund.

19 § 1059.3. Surcharge by auditors.

20 (a) Surcharges.--

21 (1) The amount of any balance or shortage or of any
22 expenditure of a kind or made in a manner prohibited or not
23 authorized by statute which causes a financial loss to the
24 borough shall be a surcharge against any officer against whom
25 the balance or shortage shall appear, or who by vote, act or
26 neglect has permitted or approved the expenditure.

27 (2) The following shall apply:

28 (i) No elected or appointed official of a borough
29 may be surcharged for any act, error or omission in
30 excess of the actual financial loss sustained by the

1 borough.

2 (ii) A surcharge shall take into consideration as
3 its basis the results of the act, error or omission and
4 the results had the procedure been strictly in accordance
5 with law.

6 (iii) Subparagraph (i) shall not apply to cases
7 involving fraud or collusion on the part of officers nor
8 to any penalty enuring to the benefit of or payable to
9 the Commonwealth. Notwithstanding this section, the
10 procedures in the act of May 25, 1945 (P.L.1050, No.394),
11 known as the Local Tax Collection Law, shall apply to
12 balances and shortages in the tax accounts of the tax
13 collector.

14 (b) Illegal acts.--In any matter involving a financial
15 transaction, any official knowingly and willfully acting
16 contrary to law commits a misdemeanor and, upon conviction, may
17 be sentenced to pay a fine not exceeding \$100.

18 § 1059.4. Appeals from audit.

19 It shall be lawful for the borough, or any taxpayer of the
20 borough on its behalf, or any person whose account is settled or
21 audited, to appeal from the settlement or audit, as shown in the
22 auditors report, to the court of common pleas of the county no
23 later than 40 days from the date of the filing of the auditor's
24 report with the clerk of common pleas.

25 § 1059.5. Taxpayers appealing to enter bond.

26 No appeal by a taxpayer or officer may be allowed unless,
27 within the time of taking the appeal, the appellant secures a
28 bond in the sum of \$1,000 with sufficient surety to prosecute
29 the appeal and to pay all costs of appeal, in case, if the
30 appellant is a taxpayer, the appellant fails to obtain a final

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

7 § 1059.6. Procedure on appeals.

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

19 (b) Multiple appeals.--If more than one appeal from a report
20 of the auditors has been taken, the court shall, on its own
21 motion or upon motion of any interested party, direct the
22 several appeals to be disposed of in a single proceeding.

23 § 1059.7. Findings of fact and law, judgment and appeals.

24 After the hearing, the court shall file its findings of fact
25 and law and enter judgment accordingly, and the judgment so
26 entered may be enforced by the prevailing party by any
27 appropriate proceeding. Appeals from the court's ruling may be
28 taken in accordance with law.

29 § 1059.8. Attorney fees.

30 (a) Fees awarded.--Upon final determination of an appeal

1 taken under section 1059.4 (relating to appeals from audit) from
2 any report, audit or settlement of the account of any borough
3 officer, attorney fees shall be awarded as follows:

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

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

18 (3) If, in the opinion of the court, the final
19 determination is in part more favorable to the borough and in
20 part more favorable to the borough officer involved in the
21 surcharge proceeding than that awarded by the auditors, the
22 court may order:

23 (i) the borough to pay a portion of reasonable
24 attorney fees incurred by the officer in connection with
25 the surcharge proceeding; or

26 (ii) the borough officer who is the subject of the
27 surcharge proceeding to pay a portion of reasonable
28 attorney fees incurred by the borough or taxpayer in
29 connection with the surcharge proceeding.

30 (b) Other accounts.--The attorney fees in case of appeals

1 involving accounts other than those of borough officers shall be
2 allocated in the court's discretion.

3 § 1059.9. Balances due to be entered as judgments.

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

26 § 1059.10. Penalty for failure to comply with law.

27 (a) Neglect.--An auditor neglecting or refusing to comply
28 with this chapter commits a summary offense.

29 (b) Financial interest.--An auditor who is financially
30 interested, directly or indirectly, in a borough transaction

1 commits a summary offense.

2 § 1059.11. General powers and duties of independent auditor.

3 (a) Powers and duties.--If an independent auditor is
4 appointed under section 1005(7) (relating to powers of council),
5 the independent auditor shall have the same powers and duties
6 and be subject to the same penalties as the auditors under this
7 chapter. The independent auditor shall annually examine, audit
8 and settle all accounts in which the borough is concerned. The
9 audit shall consist of an examination in accordance with
10 generally accepted auditing standards and shall include tests of
11 the accounting records and other auditing procedures as the
12 independent auditor considers necessary in the circumstances.

13 The independent auditor shall make and publish the annual
14 financial report in the same form and manner and at the same
15 time as required in this part of the auditors of the borough.

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

21 (1) The scope of the examination.

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

1 (3) The amount of any balance or shortage or any
2 expenditure of any kind or made in a manner prohibited or not
3 authorized by a statute which came to the independent
4 auditor's attention during the course of the examination and
5 which, in the independent auditor's opinion, causes a
6 financial loss to the borough as provided in section 1059.3
7 (relating to surcharge by auditors) shall be a surcharge
8 against an officer against whom the balance or shortage shall
9 appear, subject to appeal, entry as judgment, certification
10 and enforcement as provided in this chapter.

11 (c) Hiring attorney.--The independent auditor may employ an
12 attorney subject to the provisions of section 1059.8 (relating
13 to attorney fees), except that the employment shall be with the
14 consent of council.

15 (d) Other applicable laws.--Sections 1055 (relating to
16 subpoenas, oath, perjury), 1058 (relating to pay of witnesses)
17 and 1059 (relating to auditors to settle accounts where
18 witnesses do not appear) shall apply to proceedings initiated by
19 independent auditors.

20 (e) Compensation.--The compensation of the independent
21 auditor shall be determined by council and paid by borough
22 funds.

SUBCHAPTER D

CONTROLLER

25 Sec.

26 1061. Oath and bond of controller.

27 1062. Salary of controller.

28 1063. General powers and duties of controller.

29 1064. (Reserved).

30 1065. Countersigned warrants.

1 1066. Prevention of appropriation overdrafts.

2 1067. Amount of contracts to be charged against appropriations.

3 1068. Controller's recommendations on borough finances.

4 1069. Books to be kept by controller.

5 1070. Appeals from controller's report.

6 1071. Acceptance by ordinance.

7 § 1061. Oath and bond of controller.

8 The borough controller shall, before entering upon the duties
9 of office, take the required oath or affirmation of office under
10 53 Pa.C.S. § 1141 (relating to form of oaths of office). The
11 controller shall give bond to the borough with a surety company
12 to be approved by the council, in a sum as council may direct by
13 ordinance, conditioned for the faithful discharge of the
14 controller's duties. The amount of the bond shall be sufficient
15 to adequately protect the borough from any illegal or unfaithful
16 action by the controller. The cost of the bond shall be paid by
17 the borough.

18 § 1062. Salary of controller.

19 The council shall fix the annual salary of the controller.
20 Any change in salary, compensation or emoluments of the elected
21 office shall become effective at the beginning of the next term
22 of the controller.

23 § 1063. General powers and duties of controller.

24 (a) General duties and powers.--The borough controller shall
25 manage the fiscal affairs of the borough. The controller shall
26 examine, audit and settle all accounts in which the borough is
27 concerned either as debtor or creditor if provision for the
28 settlement is made by law. If no provision or an insufficient
29 provision has been made, the controller shall examine the
30 accounts and report to the council the relevant facts and

1 opinion on the accounts.

2 (b) Accounts.--In the examination, audit and settlement of
3 accounts, the controller shall have all of the powers and
4 perform all of the duties vested in and imposed on the auditors
5 by this part. A person guilty of swearing or affirming falsely
6 before the controller commits perjury. The controller shall make
7 and file an annual report of the audit and make and publish the
8 annual financial report in the same form and manner and at the
9 same time as required in this part of the auditors of the
10 borough.

11 (c) Scope.--The controller shall:

12 (1) have supervision and control of the accounts of all
13 departments, bureaus and officers of the borough authorized
14 to collect, receive or disburse the public money or who are
15 charged with the management or custody of the accounts;

16 (2) audit their respective accounts and may at any time
17 require from any of them a statement in writing of any money
18 or property of the borough in their possession or under their
19 control, showing the amount of cash on hand and the amount
20 deposited in banks and banking institutions together with the
21 names of the institutions;

22 (3) have power to examine every account of a borough
23 officer in any bank or banking institution to verify the
24 accuracy of the statement of the borough, department, bureau
25 or officer, and it shall be the duty of every department,
26 bureau or officer, and of every bank and banking institution,
27 its officers and agents, to furnish full information to the
28 controller in relation to the account. No banker or banking
29 institution, its officers or agents shall be subject to
30 prosecution under other laws of this Commonwealth for

1 disclosing information with respect to an account;

2 (4) immediately upon the discovery of any default,
3 irregularity or delinquency, report the discovery to the
4 council; and

5 (5) audit and report upon the accounts of an officer
6 upon the death, resignation, removal or expiration of the
7 term of the officer.

8 § 1064. (Reserved).

9 § 1065. Countersigned warrants.

10 The controller shall countersign all warrants upon the
11 borough treasurer, with the form of the warrant to be prescribed
12 by council, except that no warrant shall be countersigned unless
13 there is money in the treasury to pay the warrant. If a warrant
14 on the treasurer shall be presented to the controller to be
15 countersigned, the person presenting the warrant shall, if the
16 controller requires, produce evidence that:

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

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

22 § 1066. Prevention of appropriation overdrafts.

23 The controller shall not permit any appropriation made by the
24 council to be overdrawn. If an appropriation is exhausted, the
25 object of which is not complete, the controller shall
26 immediately report the fact to the council and accompany the
27 report with a statement of the money which have been drawn on
28 the appropriation and the particular purpose for which they are
29 drawn.

30 § 1067. Amount of contracts to be charged against

1 appropriations.

2 (a) General rule.--A contract involving appropriation of
3 money shall designate the item of appropriation on which it is
4 founded, and the estimated amount of the expenditure which shall
5 be charged against the item, and certified by the borough
6 controller on the contract, before it shall take effect as a
7 contract. Payment required by the contract shall be made from
8 the fund appropriated.

9 (b) Liability for excess.--If the controller certifies a
10 contract in excess of the appropriation made, the borough shall
11 not be liable for the excess, but the controller and the
12 controller's sureties shall be liable for the same, which may be
13 recovered in an action at law by the aggrieved contracting
14 party.

15 (c) Certification by controller.--The controller shall
16 certify contracts for the payment of which sufficient
17 appropriations have been made.

18 § 1068. Controller's recommendations on borough finances.

19 The borough controller shall, as often as the controller may
20 deem expedient or the council shall direct, suggest plans to the
21 council for the management and improvement of the borough
22 finances.

23 § 1069. Books to be kept by controller.

24 The borough controller shall keep a regular set of books
25 which shall be opened and keep as many accounts, under
26 appropriate titles, as may be necessary to show separately and
27 distinctly all the estates and property, real and personal,
28 vested in the borough, all trusts in the care of the borough,
29 all debts due and owing the borough, all receipts and
30 expenditures of the various departments of the borough

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

3 § 1070. Appeals from controller's report.

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

11 § 1071. Acceptance by ordinance.

12 (a) General rule.--This subchapter shall not become
13 operative or effective in any borough not having a controller
14 until the borough shall, by ordinance, accept this chapter. If a
15 borough accepts this subchapter, the court of common pleas, upon
16 petition of council, shall appoint a controller to hold office
17 until the first Monday of January following the next municipal
18 election at which a controller shall be elected under this part.

19 (b) Continuation of borough auditors.--In all boroughs
20 accepting this subchapter, the borough auditors then in office
21 or the appointed auditor serving as borough auditor shall
22 continue to hold their offices until the first day of January
23 following the election of a borough controller after which date
24 the office of borough auditor shall be abolished.

25 (c) Discontinuation.--A borough may discontinue the office
26 of controller and either reestablish the office of elected
27 auditors or the position of appointed auditor by repealing the
28 ordinance under which the office of controller was created. The
29 controller in office at the time of the repeal shall continue in
30 office until the end of the controller's term.

1 SUBCHAPTER E

2 (RESERVED)

3 SUBCHAPTER F

4 TAX COLLECTOR

5 Sec.

6 1086. Powers and duties of tax collector.

7 § 1086. Powers and duties of tax collector.

8 (a) General rule.--Except as otherwise provided in
9 subsection (b), the tax collector shall be the collector of all
10 State, county, borough, school, institution district and other
11 taxes levied within the borough by the authorities empowered to
12 levy taxes.

13 (b) Exception.--

14 (1) No tax collector may collect any tax levied and
15 imposed under the act of December 31, 1965 (P.L.1257,
16 No.511), known as The Local Tax Enabling Act, unless the
17 ordinance imposing the tax provides that the tax collector
18 shall be the collector of the tax.

19 (2) No ordinance, however, may authorize the collection
20 of income taxes in a manner other than that provided in
21 Chapter 5 of The Local Tax Enabling Act.

22 (c) Other laws.--The tax collector shall, in addition to the
23 powers, authority, duties and responsibilities provided for by
24 this part, have all the powers, perform all the duties and be
25 subject to all the obligations and responsibilities for the
26 collection of taxes as are now vested in, conferred upon or
27 imposed upon tax collectors by law.

28 CHAPTER 10A

29 MAYOR

30 Sec.

1 10A01. Eligibility of mayor.

2 10A02. Incompatible offices.

3 10A03. Oath of mayor.

4 10A04. Salary of mayor.

5 10A05. Salaried mayor not to receive certain fees.

6 10A06. General powers of mayor.

7 10A07. Duties of mayor.

8 10A08. President or vice president of council to act as mayor.

9 § 10A01. Eligibility of mayor.

10 No mayor may hold any other borough office or appointment
11 during the term for which the mayor is elected, except as is
12 permitted under section 1104 (relating to appointments and
13 incompatible offices). The mayor shall be eligible to succeed
14 himself. The mayor shall not be a member of council, nor shall
15 the mayor preside over or vote at any meeting of council, except
16 as provided in section 1003 (relating to when the mayor may
17 preside over council and vote, attendance of mayor at council
18 meetings and breaking tie votes).

19 § 10A02. Incompatible offices.

20 No member of Congress or any person holding any office or
21 appointment of profit or trust under the Federal Government or
22 any person holding the office of magisterial district judge may
23 at the same time be capable of holding the office of mayor.

24 § 10A03. Oath of mayor.

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

1 borough for a period of six years.

2 § 10A04. Salary of mayor.

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

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

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

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

11 (4) In a borough with a population in excess of 15,000,
12 a maximum of \$500 per year per 1,000 residents or fraction of
13 1,000, the population to be determined by the latest official
14 census figures.

15 (a.1) Treatment of benefits.--Benefits provided to the mayor
16 under section 1202(26) (relating to specific powers) shall not
17 be considered pay, salary or compensation, but payment for all
18 or a part of the premiums or charges for the benefits shall be
19 in accordance with section 1202(26).

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

23 § 10A05. Salaried mayor not to receive certain fees.

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

28 (b) Marriage ceremony fees.--

29 (1) Nothing in this part shall be construed to prevent a
30 mayor from receiving a monetary fee for the performance of a

1 marriage ceremony in this Commonwealth, if the fee does not
2 exceed \$150 for each ceremony performed.

3 (2) Prior to performing these ceremonies, the mayor
4 shall notify council in writing of the mayor's intention to
5 perform marriage ceremonies.

6 (3) The notification to council shall remain in effect
7 for the term of the mayor or until the notification is
8 rescinded by the mayor.

9 (4) The mayor shall maintain accurate accounts of the
10 fees received relating to the performance of marriage
11 ceremonies and provide council each quarter with a report of
12 money received for that period. The quarterly report shall
13 include the amount of money received and the names of persons
14 from whom money was received, along with the date and the
15 location of the performed ceremony, and the quarterly report
16 shall be considered a public record.

17 (5) The receipt of a fee under this subsection shall not
18 be considered a violation of 65 Pa.C.S. Ch. 11 (relating to
19 ethics standards and financial disclosure) and shall not be
20 considered compensation under this part.

21 § 10A06. General powers of mayor.

22 (a) Oaths and affirmations.--The mayor may administer oaths
23 and affirmations in matters pertaining to borough affairs.

24 (b) Emergencies.--

25 (1) In addition to the power granted to mayors by 35
26 Pa.C.S. Pt. V (relating to emergency management services) and
27 in order to enable the mayor to effectually preserve the
28 public peace within the borough, the mayor shall have the
29 power to prevent and suppress mobs, riots and unlawful and
30 tumultuous assemblies.

1 (2) In the event that a state of emergency exists, a
2 mayor shall have the authority to request aid and assistance
3 from law enforcement officers and agencies from a neighboring
4 municipality.

5 (3) In response to a request of a mayor made in
6 accordance with this subsection, a municipal police officer
7 shall, within the borough from which the request was made,
8 have the power and authority to enforce the laws of this
9 Commonwealth or otherwise perform the functions of that
10 office as if enforcing those laws or performing those
11 functions within the territorial limits of the officer's
12 primary jurisdiction, subject to the limitations and
13 conditions set forth in 42 Pa.C.S. § 8953(b), (c), (d) and
14 (e) (relating to Statewide municipal police jurisdiction).

15 (4) If the mayor considers that a state of emergency
16 exists, the mayor may issue a proclamation, which shall be in
17 writing and posted in one or more conspicuous places and the
18 contents of which shall be made available to all news media,
19 declaring a state of emergency for a period not to exceed
20 seven days unless sooner rescinded, modified or ratified or
21 extended by resolution of council.

22 (5) The mayor may prohibit in the proclamation for all
23 or part of the borough:

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

27 (ii) The entry or departure of persons into or from
28 any restricted area.

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

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

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

9 (6) The proclamation shall describe the specific
10 restricted area with particularity and shall specify the
11 hours when restrictions are to be in effect.

12 (7) A person violating the proclamation of emergency
13 commits a summary offense and shall, upon conviction, be
14 sentenced to pay a fine not to exceed \$300 and costs or to a
15 term of imprisonment not to exceed 30 days.

16 § 10A07. Duties of mayor.

17 The mayor shall have the following duties:

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

23 (2) Except as provided in section 1006(4) (relating to
24 duties of council), to sign papers, contracts, obligations
25 and documents as may be required by law.

26 (3) To collect any costs and fees received and to pay
27 the money into the treasury, except as provided in section
28 10A05(b) (relating to salaried mayor not to receive certain
29 fees), to report to the council from time to time on the
30 state of the borough and to make recommendations to the

1 council on matters of borough concern. The borough shall
2 furnish the mayor with the necessary dockets, books, forms
3 and files as are necessary for the conduct of the mayor's
4 office and which shall be and remain the property of the
5 borough and be surrendered to the mayor's successor in
6 office.

7 § 10A08. President or vice president of council to act as
8 mayor.

9 (a) General rule.--If the mayor is absent or incapacitated
10 or there is a vacancy in the office, the duties of the office
11 shall be discharged by the president of council or, in the
12 absence or incapacity of the president of council or if there is
13 a vacancy in the office, by the vice president of council.

14 (b) Salary.--While discharging the duties of mayor, the
15 president or vice president of council shall be entitled to the
16 same salary as the mayor would receive and, during the time the
17 salary is paid to the president or vice president of council as
18 acting mayor, the mayor shall not be paid compensation.

19 (c) Veto and voting power.--The president or vice president
20 of council while acting as mayor shall have power to veto a
21 proposed ordinance or to break a tie but shall not have power to
22 vote as a member of council.

23 CHAPTER 11

24 POWERS, DUTIES AND RIGHTS OF

25 APPOINTED OFFICERS AND EMPLOYEES

26 Subchapter

27 A. General Provisions

28 B. Treasurer

29 C. Secretary

30 D. Solicitor

- 1 E. Police
- 2 F. Police Pension Fund in Boroughs Having Police Force of
- 3 Less Than Three Members
- 4 G. Manager
- 5 H. Planning Commission (Reserved)
- 6 I. Mine and Quarry Inspection and Surface Support (Reserved)
- 7 J. Civil Service for Police and Fire Apparatus Operators
- 8 K. Independent Auditor (Reserved)

9 SUBCHAPTER A

10 GENERAL PROVISIONS

11 Sec.

12 1101. Compensation, hours and days of work and outside
13 employment.

14 1102. Accounts.

15 1103. Bonds.

16 1104. Appointments and incompatible offices.

17 1105. Compensation of certain employees.

18 1105.1. Retirement benefits of employees transferred to
19 authorities.

20 § 1101. Compensation, hours and days of work and outside
21 employment.

22 Appointed officers and employees of the borough shall receive
23 compensation for their services as the council shall prescribe.
24 Council may also establish the hours and days of work and may
25 restrict the outside employment of borough employees or any
26 class or category of employment.

27 § 1102. Accounts.

28 All officers and employees appointed by a council shall, if
29 directed, render their accounts to the council for settlement.

30 § 1103. Bonds.

1 If an appointed officer or employee of a borough is required
2 by law or action of council to give bond for the faithful
3 performance of the officer's or employee's duties, the borough
4 may pay the premium on the bond. All bonds required to be given
5 by borough officials or employees shall be with a surety company
6 authorized by law to act as surety. The borough shall pay a
7 proportionate share of the cost of the bond of an appointed tax
8 collector in the same ratio as provided in section 804 (relating
9 to term and bonds) for elected tax collectors.

10 § 1104. Appointments and incompatible offices.

11 (a) General rule.--Unless there is incompatibility in fact,
12 an elective or appointive officer of the borough shall be
13 eligible to serve on any board, commission, bureau or other
14 agency created by or for the borough or any borough office
15 created or authorized by statute and may accept appointments
16 under the statute.

17 (b) Prohibition.--

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

21 (2) Paragraph (1) shall not apply to a borough official
22 serving as an employee of that borough prior to the
23 certification of the 2010 official census or a subsequent
24 latest official census which indicates an increase in the
25 population of that borough to 3,000 or more.

26 (c) Multiple offices.--If there is no incompatibility in
27 fact and subject to subsection (a) as to compensation,
28 appointees of council may hold two or more appointive borough
29 offices, but no mayor or member of council may serve as borough
30 manager, secretary or treasurer.

1 (d) Magisterial district judges.--No person holding the
2 office of magisterial district judge may at the same time hold
3 any elected or appointed borough office.

4 (e) Secretary and treasurer.--The offices of secretary and
5 treasurer may be held by the same person if authorized by
6 ordinance.

7 (f) Police officers and firefighters.--

8 (1) No police officer or firefighter may hold an
9 elective office of the borough that employs the police
10 officer or firefighter.

11 (2) No police officer or firefighter who is employed by
12 a regional department, council of government or other
13 cooperative venture may hold an elective office of any
14 municipality that participates in the regional department,
15 council of government or other cooperative venture.

16 (3) No police officer or firefighter may hold an
17 elective office of the borough in which the police officer or
18 firefighter resides if the department employing the police
19 officer or firefighter is providing police or fire protection
20 service to that borough by contract.

21 (g) Majority vote required.--All appointments to be made by
22 the council shall be made by a majority of the members of
23 council unless a different vote is required by statute.

24 (h) Construction.--Nothing contained in this section shall
25 be construed to affect the eligibility of a borough official to
26 hold any other public office or receive compensation.

27 § 1105. Compensation of certain employees.

28 (a) General rule.--A borough may provide, by ordinance, to
29 appointees and employees of not less than ten years of
30 satisfactory service and who are not less than 60 years of age

1 upon termination of active employment with the borough, a
2 proportion of the compensation last paid to them but not in
3 excess of 50% of the compensation, including benefits received
4 under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et
5 seq.), if any, as fixed in the ordinance or amendment of the
6 ordinance.

7 (b) Postretirement compensation.--Any arrangement to provide
8 postretirement compensation to retired appointees and employees
9 under this section shall be a pension plan within the meaning of
10 that term under the act of December 18, 1984 (P.L.1005, No.205),
11 known as the Municipal Pension Plan Funding Standard and
12 Recovery Act, and the borough establishing such plan shall
13 provide funding of the pension plan in an amount sufficient to
14 meet the minimum obligation of the municipality with respect to
15 the pension plan under that act.

16 (c) Funding.--The expenditures authorized in this section
17 shall be paid out of the general tax levy for the current
18 expenditures of the year and not by any special tax.

19 (d) Construction.--Nothing in this section shall be
20 construed to preclude an appointee or employee of the borough
21 from joining in any pension system or municipal retirement
22 system that the borough may adopt.

23 § 1105.1. Retirement benefits of employees transferred to
24 authorities.

25 (a) Required membership.--The following employees of
26 municipal authorities shall be members of the borough retirement
27 system upon a written election as provided in this section:

28 (1) An employee of a wastewater authority created by a
29 borough and one or more townships under 53 Pa.C.S. Ch. 56
30 (relating to municipal authorities) that commenced operations

1 after December 1, 2001, who satisfies the requirements of
2 subsection (b), has past service credits under the borough
3 retirement plan and has filed a written election to be a
4 member of the borough retirement system with council and the
5 wastewater authority prior to September 14, 2005.

6 (2) An employee of a municipal authority created by a
7 borough under 53 Pa.C.S. Ch. 56 that commenced operations
8 after October 4, 2010, who satisfies the requirements of
9 subsection (b), has past service credits under the borough
10 retirement plan and files a written election with the council
11 and the authority to be a member of the borough retirement
12 system within one year of July 16, 2012.

13 (b) Eligibility criteria.--

14 (1) In order to qualify for the option under subsection
15 (a), the employee must satisfy both of the following
16 requirements:

17 (i) Immediately prior to the date of transfer of
18 employment to the authority, be an employee of the
19 borough that, either alone or together with one or more
20 municipalities, established the authority.

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

24 (2) For an employee who files an election under
25 subsection (a), the affected authority shall:

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

1 (ii) Pay to the borough's retirement fund an
2 employer contribution equal to the employer normal cost
3 plus anticipated administrative expenses and amortization
4 payments less general municipal pension system State aid
5 expressed as a percentage of the system's total payroll
6 as calculated by the borough under the act of December
7 18, 1984 (P.L.1005, No.205), known as the Municipal
8 Pension Plan Funding Standard and Recovery Act, and
9 applied to the payroll of the employee.

10 (c) State aid calculation.--All employees who elect to be
11 members of the borough retirement system under this section
12 shall be treated as borough employees in determining the
13 borough's annual allocation of general municipal pension system
14 State aid under section 402(e) of the Municipal Pension Plan
15 Funding Standard and Recovery Act, and the annual allocation of
16 general municipal pension system State aid under section 402(e)
17 of the Municipal Pension Plan Funding Standard and Recovery Act
18 shall be payable to the borough.

19 SUBCHAPTER B

20 TREASURER

21 Sec.

22 1106. Bond and duties.

23 1107. Assistant treasurer.

24 § 1106. Bond and duties.

25 (a) General rule.--The borough treasurer shall, before
26 entering upon the duties of office, give bond in an amount
27 determined by council, conditioned for the faithful performance
28 of the treasurer's duties.

29 (b) Specific duties.--The treasurer shall:

30 (1) Receive all money due the borough and deposit the

1 money promptly in a designated depository in the name of the
2 borough.

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

7 (3) (i) Pay out all money only on direction by the
8 council, upon an order signed by the president of council
9 and the borough secretary and also by the borough
10 controller, if any. The order shall not be executed
11 unless there is money in the treasury available.

12 (ii) Nothing in this part shall be construed to
13 preclude the use of electronic signatures and
14 transactions to the extent authorized by the act of
15 December 16, 1999 (P.L.971, No.69), known as the
16 Electronic Transactions Act, or any other law.

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

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

22 (c) Payment of all other money.--All money received by any
23 officer or other person for the use of the borough shall be paid
24 to the borough treasurer.

25 § 1107. Assistant treasurer.

26 A council may, by resolution, appoint an assistant treasurer
27 who may not be a member of the council. Council may appoint the
28 assistant treasurer as the assistant secretary if the assistant
29 treasurer is not a member of council. The assistant treasurer
30 shall assist the treasurer in the performance of the treasurer's

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

4 SUBCHAPTER C

5 SECRETARY

6 Sec.

7 1111. Duties.

8 1112. Assistant secretary.

9 1113. Records open to inspection.

10 § 1111. Duties.

11 (a) Attendance at meetings and maintenance of minutes.--The
12 secretary shall attend all meetings of the council and shall
13 maintain full minutes of its proceedings.

14 (b) Other duties.--The secretary shall:

15 (1) Record or transcribe the bylaws, rules, regulations,
16 resolutions and ordinances of the borough in accordance with
17 section 1009 (relating to typewritten, printed, photocopied,
18 microfilmed and electronically or digitally stored records
19 valid and recording or transcribing records).

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

24 (3) Certify copies of any book, paper, record, bylaw,
25 rule, regulation, resolution, ordinance or proceeding of the
26 borough under the seal of the borough. The copies, if
27 certified, shall be admissible in evidence in any court of
28 this Commonwealth.

29 (4) Attest the execution of all instruments, record all
30 ordinances and attest the same by the secretary's signature

1 and file of record proof of service of all notices required
2 by law. The secretary's certificate shall be good evidence of
3 notice.

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

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

11 § 1112. Assistant secretary.

12 A council may, by resolution, appoint an assistant secretary.
13 The assistant secretary shall assist the secretary in the
14 performance of the secretary's duties and, in case of absence or
15 disability of the secretary, perform the duties and may exercise
16 the powers of the secretary. The assistant secretary may be
17 appointed from the membership of the council but shall not be
18 any other officer of the council. Council may appoint the
19 assistant secretary as the assistant treasurer if the assistant
20 secretary is not a member of council.

21 § 1113. Records open to inspection.

22 The fiscal records and documents and the minute book and
23 other records and documents of every borough shall be open in
24 accordance with the act of February 14, 2008 (P.L.6, No.3),
25 known as the Right-to-Know Law.

26 SUBCHAPTER D

27 SOLICITOR

28 Sec.

29 1116. Solicitor to have control of legal matters.

30 1117. Duties of solicitor and outside counsel.

1 1118. Assistant solicitor.

2 § 1116. Solicitor to have control of legal matters.

3 The legal matters of the borough shall be under the control
4 of the borough solicitor. No department or officer of the
5 borough, except as otherwise provided by law, shall employ an
6 additional counsel without the assent or ratification of the
7 council. The borough solicitor must be licensed to practice law
8 in this Commonwealth and may be one person or a law firm,
9 partnership, association or professional corporation. The
10 borough solicitor serves at the pleasure of council. In the
11 absence of the solicitor, the law firm of which the solicitor is
12 a member or associate may perform any of the duties or functions
13 of the solicitor.

14 § 1117. Duties of solicitor and outside counsel.

15 (a) General rule.--The borough solicitor shall:

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

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

29 (3) Furnish the council or committees of the council,
30 the mayor or the head of a department, upon request, with an

1 opinion in writing upon any question of law which may be
2 submitted by any of them in their official capacities.

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

6 (b) Outside counsel.--In the case of a legal dispute between
7 the mayor and council or in any other case in which
8 representation of the mayor and council by the borough solicitor
9 would create a conflict of interest for the borough solicitor,
10 the mayor may employ outside counsel at borough expense, not to
11 exceed \$4,000 in any 12-month period, to perform necessary legal
12 services.

13 § 1118. Assistant solicitor.

14 A council may, by resolution, appoint an assistant solicitor
15 to assist the solicitor in the performance of the solicitor's
16 duties and, in the absence or disability of the solicitor, to
17 perform the duties and exercise the powers of the solicitor.

18 SUBCHAPTER E

19 POLICE

20 Sec.

21 1121. Council's powers concerning police.

22 1122. Police serving under cooperative agreement or contract.

23 1123. Police badge.

24 1123.1. Mayor's powers concerning police.

25 1124. Suspension by mayor.

26 1125. Compensation.

27 1126. (Reserved).

28 1127. School crossing guards.

29 § 1121. Council's powers concerning police.

30 (a) Establishment of police department.--Council may, by

1 ordinance, establish a police department. If council establishes
2 a police department, the following shall apply:

3 (1) Council may appoint police officers, subject to
4 Subchapter J (relating to civil service for police and fire
5 apparatus operators).

6 (2) Council may remove, suspend or reduce in rank any
7 police officer:

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

14 (ii) subject to Subchapter J.

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

18 (4) Council may assign any member of the police
19 department to attend training classes offered by the Federal
20 or State Government and may pay the police officer's expenses
21 while attending the school.

22 (5) Council shall determine the total weekly hours of
23 employment that shall apply to the police officers.

24 (b) Powers of borough police officers.--A borough police
25 officer shall have those powers and abilities as are granted to
26 police officers under the laws of this Commonwealth, the rules
27 of the Supreme Court or the ordinances of the borough for which
28 a fine or penalty is imposed unless otherwise excepted in this
29 part.

30 (c) Ratification.--In any case in which a borough has

1 previously appointed police officers or established a police
2 department by action of council but not under an ordinance
3 regularly enacted, the action shall be deemed to have been a
4 valid exercise of the legislative power of the borough, and all
5 police officers appointed shall occupy the same status and shall
6 have the same rights and privileges as in the case of police
7 officers appointed under authority of an ordinance.

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

12 § 1122. Police serving under cooperative agreement or contract.

13 (a) General rule.--If a borough enters into a cooperative
14 agreement or contract with any municipal corporation, regional
15 police force or other governmental entity created by two or more
16 municipal corporations under 53 Pa.C.S. Ch. 23 Subch. A
17 (relating to intergovernmental cooperation) for the furnishing
18 or receiving of police protection as authorized by section
19 1202(35) (relating to specific powers), the police force of the
20 municipal corporation, regional police force or other
21 governmental entity furnishing the police protection shall be
22 appointed and accepted as the police force of the borough
23 receiving the police service by resolution of the council.

24 (b) Employment status.--Police officers of the police force
25 of a municipal corporation, regional police force or other
26 government entity so appointed shall, insofar as civil service
27 and pensions are concerned, be deemed to be appointees and
28 employees only of the municipal corporation, regional police
29 force or other government entity furnishing their service and
30 making the original appointment.

1 § 1123. Police badge.

2 Borough police officers shall wear a shield or badge with the
3 word "Police" when on duty.

4 § 1123.1. Mayor's powers concerning police.

5 (a) General rule.--The mayor shall have full charge and
6 control of the chief of police and the police force.

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

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

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

17 (e) Auxiliary police.--The mayor may activate auxiliary
18 police in accordance with general law and, notwithstanding any
19 other provision of law, may activate auxiliary police for
20 purposes of crowd and traffic control for limited periods during
21 events if, in the mayor's discretion, public safety is promoted
22 by the activation of the auxiliary police.

23 § 1124. Suspension by mayor.

24 (a) General rule.--In addition to the powers of council to
25 suspend police officers, the mayor may, for cause and without
26 pay, suspend any police officers until the succeeding regular
27 meeting of the council at which time or later the council may,
28 subject to Subchapter J (relating to civil service for police
29 and fire apparatus operators), if they are in effect at the
30 time, suspend, discharge, reduce in rank or reinstate with pay

1 the police officers.

2 (b) Reinstatement.--

3 (1) A police officer suspended by the mayor may not be
4 reinstated by council at a date earlier than ten working days
5 from the date fixed by the mayor for the suspension to
6 commence.

7 (2) In any case in which the council has reinstated a
8 police officer after having been suspended by the mayor, the
9 mayor shall not suspend the police officer for reasons:

10 (i) arising from the same act for which the first
11 suspension was made; or

12 (ii) that the council, in reinstating the police
13 officer, determined not to be grounds for suspension.

14 § 1125. Compensation.

15 Borough police and special police appointed by the mayor
16 shall receive compensation as fixed by the council.

17 § 1126. (Reserved).

18 § 1127. School crossing guards.

19 (a) Appointment.--

20 (1) Upon request by the board of school directors of the
21 school district in which a borough is wholly or partially
22 located, the council may appoint school crossing guards who
23 shall have the duty of controlling and directing traffic and
24 pedestrians at or near schools and who shall be in suitable
25 and distinctive uniform.

26 (2) While on duty, school crossing guards shall be under
27 and subject to the direction of the mayor, shall serve at the
28 pleasure of the council, except as noted in subsection (b),
29 shall not be subject to Subchapter J (relating to civil
30 service for police and fire apparatus operators) and shall

1 not be entitled to participate in any borough pension plan or
2 plans.

3 (3) (i) The compensation of the school crossing guards,
4 if any, shall be fixed by the council and shall be
5 jointly paid by the council and the board of school
6 directors, in a ratio to be determined by the council and
7 board of school directors.

8 (ii) If the council and board of school directors
9 are unable to determine the ratio of compensation of the
10 school crossing guards to be paid by the council and the
11 board, each shall pay one-half of the compensation of the
12 crossing guards.

13 (4) Notwithstanding any other provision of law,
14 auxiliary police officers, appointed as prescribed by general
15 law, may be designated to serve as crossing guards.

16 (b) Ordinance.--

17 (1) The council may enact an ordinance allowing a board
18 of school directors to assume hiring and oversight of school
19 crossing guards. Before the council may enact the ordinance,
20 the board of directors of the school district must adopt a
21 resolution requesting the authority to assume the hiring and
22 oversight of school crossing guards.

23 (2) The ordinance enacted by the council shall outline
24 how the police department will provide any necessary training
25 and assistance of the school crossing guards while on duty.

26 (3) School crossing guards shall be authorized in the
27 management of traffic and pedestrians in and around areas
28 identified by the police department and the school district
29 superintendent or the superintendent's designees.

30 (4) School crossing guards shall not:

1 (i) Be subject to the civil service provisions of
2 this part.

3 (ii) Be considered part of the bargaining unit of
4 the school district.

5 (iii) Be considered:

6 (A) An employee as defined under section 1101-A
7 of the act of March 10, 1949 (P.L.30, No.14), known
8 as the Public School Code of 1949.

9 (B) A school employee as defined under 24
10 Pa.C.S. § 8102 (relating to definitions).

11 (C) An employee under any plan.

12 (5) After the ordinance is enacted by the council, the
13 school district shall assume the cost of compensation,
14 including fixing compensation, if any, of the school crossing
15 guards.

16 (6) Notwithstanding any other provision of law,
17 auxiliary police officers, appointed as prescribed by general
18 law, may be hired by the school district to serve as school
19 crossing guards.

20 (7) The board of school directors shall notify the
21 council of the individuals hired to serve as school crossing
22 guards and request the necessary training or assistance be
23 provided as outlined by the ordinance.

24 SUBCHAPTER F

25 POLICE PENSION FUND IN

26 BOROUGHES HAVING POLICE FORCE

27 OF LESS THAN THREE MEMBERS

28 Sec.

29 1131. Police pension fund.

30 1132. Private police pension funds and optional transfers.

1 § 1131. Police pension fund.

2 (a) Authorization to establish.--If a police force of less
3 than three full-time members is being maintained, the borough
4 may, unless there is a private organization or association
5 constituting and managing an existing pension fund for the
6 members of the police force in the borough, by ordinance,
7 establish a police pension fund into which each member of the
8 police force shall pay an equal and proportionate monthly charge
9 to be withheld from the pay of the member.

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

18 (c) Administration.--

19 (1) All pension funds or investment or insurance
20 instruments established under this section shall be under the
21 direction of the council, or a committee as it may designate,
22 and shall be applied under regulations as the council may, by
23 ordinance, prescribe for the benefit of the members of the
24 police force who receive honorable discharge by reason of age
25 or disability and the families of police officers injured or
26 killed in service.

27 (2) Council shall appoint by resolution a chief
28 administrative officer who shall have the primary
29 responsibility for the execution of the administrative
30 affairs of the pension plan, subject to the direction of

1 council.

2 (3) Any allowances made to individuals who retire by
3 reason of disability or age shall be in conformity with a
4 uniform scale.

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

9 (e) Obligation of payments.--Payments made on account of
10 police pensions shall not be a charge on any fund in the
11 treasury of the borough or under its control except the police
12 pension fund.

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

20 (g) Management.--

21 (1) A borough may take, by gift, grant, devise or
22 bequest, any money or property, real, personal or mixed, in
23 trust for the benefit of the police pension fund.

24 (2) The care, management, investment and disposal of the
25 trust funds or property shall be vested in the officers as
26 the borough shall direct by ordinance and shall be governed
27 by the officers, subject to any directions not inconsistent
28 with the ordinance as the donors of the funds and property
29 may prescribe.

30 (h) Right to equal and proportionate share.--No person

1 participating in the police pension fund and becoming entitled
2 to receive a benefit from the fund may be deprived of the
3 person's right to an equal and proportionate share of the fund
4 upon the basis upon which the person first became entitled to
5 the benefit.

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

12 § 1132. Private police pension funds and optional transfers.

13 (a) General rule.--If there is a private organization or
14 association constituting and managing an existing pension fund
15 for the members of the police force in any borough, the borough
16 shall establish a police pension for the purpose of paying
17 pensions to the members of its police force if the membership of
18 the organization or association by a two-thirds vote elects to
19 transfer its funds with all its assets and liabilities into a
20 borough pension fund as required to be established by this part.

21 (b) Assumption of liability--The transfer in subsection (a)
22 may be made by the transfer of securities. After the transfer,
23 the borough police pension fund shall assume the liability of
24 continuing the payment of pensions to members of the police
25 force retired prior to the transfer, in accordance with the laws
26 and regulations under which the members were retired.

27 SUBCHAPTER G

28 MANAGER

29 Sec.

30 1141. Borough manager created by ordinance and election.

1 1142. Powers and duties.

2 1143. Other offices not incompatible.

3 § 1141. Borough manager created by ordinance and election.

4 (a) General rule.--The council of a borough may, at its
5 discretion at any time, create by ordinance the office of
6 borough manager and may in like manner abolish the office. While
7 the office exists, the council shall, from time to time, and if
8 there is a vacancy, elect, by a vote of a majority of all the
9 members, one person to fill the office.

10 (b) Subject to employment agreement.--The borough manager
11 shall serve at the pleasure of council, subject to contractual
12 rights that may arise under an employment agreement that may be
13 entered in accordance with section 1142 (relating to powers and
14 duties).

15 § 1142. Powers and duties.

16 (a) General rule.--The powers and duties of the borough
17 manager shall be regulated by ordinance.

18 (b) Employment agreement.--

19 (1) Council may enter into an employment agreement with
20 the borough manager that specifies the terms and conditions
21 of employment.

22 (2) The employment agreement may remain in effect for a
23 specified period terminating no later than two years after
24 the effective date of the agreement or the date of the
25 organizational meeting of council following the next
26 municipal election, whichever shall occurs first.

27 (3) An employment agreement entered into under this
28 section may specify conditions under which a borough manager
29 will be entitled to severance compensation, but in no event
30 may the employment agreement guarantee employment through the

1 term of the agreement or confer upon the borough manager any
2 legal remedy based on specific performance.

3 (4) An employment agreement with a borough manager
4 executed on or after a municipal election but before the
5 first meeting in January the year after the municipal
6 election shall be void.

7 (5) The council may delegate to the borough manager by
8 ordinance and subject to recall, any of the nonlegislative
9 and nonjudicial powers and duties of the council, the
10 planning commission and the shade tree commission. With
11 approval of council, the mayor may delegate to the borough
12 manager any of the mayor's nonlegislative and nonjudicial
13 powers and duties.

14 § 1143. Other offices not incompatible.

15 The offices of borough manager, street commissioner,
16 secretary, treasurer and chief of police shall not be
17 incompatible, and any two or more or all of offices may be held
18 by one person. Neither the mayor nor any member of the council
19 shall be eligible to hold the office of borough manager.

20 SUBCHAPTER H

21 PLANNING COMMISSION

22 (Reserved)

23 SUBCHAPTER I

24 MINE AND QUARRY INSPECTION

25 AND SURFACE SUPPORT

26 (Reserved)

27 SUBCHAPTER J

28 CIVIL SERVICE FOR POLICE AND

29 FIRE APPARATUS OPERATORS

30 Sec.

- 1 1170. Definitions.
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28 The following words and phrases when used in in this
29 subchapter shall have the meanings given to them in this section
30 unless the context clearly indicates otherwise:

1 "Fire apparatus operator." A person who operates fire
2 apparatus and devotes his normal working hours to operating any
3 piece of fire apparatus or other services connected with fire
4 protection work and who is paid a stated salary or compensation
5 for the work by the borough.

6 "Police force." A police force organized and operating as
7 prescribed by law, the members of which devote their normal
8 working hours to police duty or duty in connection with the
9 bureau, agencies and services connected with police protection
10 work and who are paid a stated salary or compensation for the
11 work by the borough. As used in this subchapter, the term shall
12 not include any of the following:

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

15 (2) A person appointed solely for parking meter
16 enforcement duties.

17 (3) Special school police.

18 (4) Extra police serving from time to time or on an
19 hourly or daily basis.

20 (5) An auxiliary policeman appointed under the act of
21 January 14, 1952 (1951 P.L.2016, No.561), entitled "An act
22 providing for supplementing the police forces of cities,
23 boroughs, towns and townships, for the appointment, powers
24 and control of auxiliary police therein, and for the transfer
25 during disasters and emergencies of such auxiliary police,
26 members of the regular police forces, and police equipment
27 thereof."

28 § 1171. Appointments of police and fire apparatus operators.

29 (a) Nonapplicability of subchapter.--This subchapter shall
30 not apply to:

1 (1) a borough that has a police force of less than three
2 members;

3 (2) a borough that has a police force of three or more
4 members if those members in excess of two are appointed on a
5 temporary basis through a federally funded program;

6 (3) a volunteer fire department or company that employs
7 its own operators; or

8 (4) a borough that has less than three salaried fire
9 apparatus operators.

10 (b) Compensation.--This subchapter is subject to the power
11 of council to determine compensation.

12 (c) Appointments and promotions.--An appointment to and
13 promotion in the police force or as fire apparatus operator paid
14 directly by a borough and in the borough shall be made only
15 according to qualifications and fitness, to be ascertained by
16 examinations which shall be competitive as provided in this
17 part.

18 (d) Suspension, removal and reduction in rank.--No person
19 shall be suspended, removed or reduced in rank as a paid
20 employee in any police force or as a paid fire apparatus
21 operator of a borough, except in accordance with this
22 subchapter.

23 (e) Retirement.--Nothing in this subchapter shall apply to
24 retirement, nor shall anything in this subchapter be construed
25 to prevent a borough from adopting a compulsory retirement age
26 for its employees or for any class of employees and from
27 retiring all employees automatically when they reach that age.
28 § 1172. Civil service commission.

29 (a) Establishment.--A civil service commission is
30 established in each borough where a police force or paid fire

1 apparatus operators are maintained.

2 (b) Membership and terms.--The commission shall consist of
3 three commissioners who shall be qualified electors of the
4 borough and appointed by the council initially to serve for the
5 terms of two, four and six years. As terms expire, the
6 commissioners shall be appointed for terms of six years.

7 (c) Vacancies.--A vacancy occurring in the commission for
8 any reason shall be filled by the council for the unexpired term
9 within the period of 30 days after the vacancy occurs.

10 (d) Alternate members.--

11 (1) Council may appoint no more than three qualified
12 electors of the borough to serve as alternate members of the
13 commission. The term of office of the alternate members shall
14 be six years.

15 (2) If seated under section 1174 (relating to
16 organization of commission), an alternate shall be entitled
17 to participate in all proceedings and discussions of the
18 commission to the same and full extent as provided by law for
19 commission members, including specifically the right to cast
20 a vote as a voting member during the proceedings, and shall
21 have all the powers and duties specified in this part and as
22 otherwise provided by law.

23 (3) An alternate member may not hold another office in
24 the borough.

25 (4) An alternate may participate in any proceeding or
26 discussion of the commission but may not vote as a member of
27 the commission unless designated as a voting alternate member
28 under section 1174.

29 (e) Oath or affirmation of office.--Each member of the
30 commission, before entering upon the discharge of the duties of

1 office, shall take an oath or affirmation of office under 53
2 Pa.C.S. § 1141 (relating to form of oaths of office).

3 (f) Compensation prohibited.--The civil service
4 commissioners shall receive no compensation.

5 § 1173. Offices incompatible with civil service commissioner.

6 No commissioner shall at the same time hold an elective or
7 appointed office under the Federal Government, this Commonwealth
8 or any political subdivision of the Commonwealth, except that
9 one member of the commission may be a member of the council and
10 one may be a member of the teaching profession.

11 § 1174. Organization of commission.

12 (a) General rule.--The commission first appointed shall
13 organize within ten days of its appointment and shall elect one
14 of its members as the chair and one as the secretary. The
15 commission shall meet and organize on the first Monday of each
16 even-numbered year. Each commissioner shall be notified in
17 writing of each and every meeting.

18 (b) Quorum.--Three members of the commission shall
19 constitute a quorum. If, by reason of absence or
20 disqualification of a member a quorum is not reached, the chair
21 shall designate as many alternate members of the commission to
22 sit on the commission as may be needed to provide a quorum.

23 (c) Alternate members.--

24 (1) An alternate member of the commission shall continue
25 to serve on the commission in all proceedings involving the
26 matter or case for which the alternate was initially
27 designated until the commission has made a final
28 determination of the matter or case.

29 (2) Designation of an alternate member under this
30 section shall be made on a case-by-case basis in rotation

1 according to declining seniority among the alternates.

2 (d) Validity of commission action.--No action of the
3 commission may be valid unless it shall have the concurrence of
4 at least two members.

5 § 1175. Clerks, supplies and solicitor.

6 The borough shall:

7 (1) Furnish to the commission, on its requisition,
8 clerical assistance that may be necessary for the work of the
9 commission.

10 (2) Provide a suitable and convenient room for the use
11 of the commission. The commission shall order from the
12 borough the necessary stationery, postage, printing and
13 supplies.

14 (3) Provide the services of a solicitor for the
15 commission to be appointed by the commission and paid by the
16 borough. The borough may place a reasonable limit on the
17 amount allowed each year for the services of the commission
18 solicitor.

19 (4) Through its elected and appointed officials, aid the
20 commission in all proper ways in carrying out the provisions
21 of this subchapter relating to civil service.

22 § 1176. Rules and regulations.

23 (a) General rule.--The commission may prescribe, amend and
24 enforce rules and regulations for carrying into effect this
25 subchapter and shall be governed by the rules and regulations.
26 Before the effective date of the rules and regulations or
27 amendments to them, they shall be first approved by council. If
28 the rules and regulations or amendments have been approved, they
29 shall not be annulled, amended or added to without the approval
30 of council.

1 (b) Public distribution and inspection.--All rules and
2 regulations and modifications shall be made available by the
3 borough for public distribution or inspection.

4 § 1177. Minutes and records.

5 The commission shall maintain minutes of its proceedings and
6 records of examinations and other official actions. All
7 recommendations of applicants for appointment received by the
8 commission shall be kept and preserved for a period of five
9 years, and all records and all written causes of removal filed
10 with the commission, except as otherwise provided in section
11 1191 (relating to hearings on dismissals and reductions), shall
12 be open to public inspection and subject to reasonable
13 regulation.

14 § 1178. Investigations.

15 The commission may conduct investigations concerning all
16 matters touching the administration and enforcement of this
17 subchapter and rules and regulations adopted under this
18 subchapter. The chair of the commission may administer oaths and
19 affirmations in connection with the investigations.

20 § 1179. Subpoenas.

21 (a) General rule.--The commission may issue subpoenas over
22 the signature of the chair to require the attendance of
23 witnesses and the production of records and papers pertaining to
24 any investigation or inquiry. The fees of witnesses for
25 attendance and travel shall be the same as for witnesses
26 appearing in the courts and shall be paid from appropriations
27 for the incidental expenses of the commission.

28 (b) Persons required to attend.--All officers in public
29 service and employees shall attend and testify if required to do
30 so by the commission.

1 (c) Penalty for violation.--If any person refuses or
2 neglects to obey a subpoena issued by the commission, the person
3 shall, upon conviction, be sentenced to pay a fine not to exceed
4 \$100 and, in default of the payment of the fine and costs, shall
5 be imprisoned for a term not to exceed 30 days.

6 (d) Petition to court.--If a person refuses or neglects to
7 obey a subpoena issued by the commission, the commission may
8 apply by petition to the court of common pleas of the county for
9 its subpoena requiring the attendance of the person before the
10 commission or the court to testify and to produce any records
11 and papers necessary and, if the person defaults, the person
12 shall be held in contempt of court.

13 § 1180. Annual report.

14 The commission shall make an annual report to the council
15 containing a brief summary of its work during the year which
16 shall be available for public inspection.

17 § 1181. General provisions relating to examinations.

18 (a) Rules and regulations.--

19 (1) The commission shall make rules and regulations, to
20 be approved as provided in section 1176 (relating to rules
21 and regulations), providing for the examination of applicants
22 for positions in the police force and as paid fire apparatus
23 operators and for promotions, which rules and regulations
24 shall prescribe the minimum qualifications of all applicants
25 to be examined and the passing grades.

26 (2) All examinations for positions or promotions shall
27 be practical in character and shall relate to matters and
28 include inquiries as will fairly test the merit and fitness
29 of the persons examined to discharge the duties of the
30 employment sought by them.

1 (3) All examinations shall be open to all applicants who
2 have the minimum qualifications required by the rules and
3 regulations.

4 (4) Each applicant for an original position shall:

5 (i) Be subject to the regulations adopted by the
6 commission.

7 (ii) Either before or after the written examination,
8 submit to a physical fitness or agility examination that
9 is job related and consistent with business necessity.

10 (iii) If made a conditional offer of employment, be
11 given a physical and psychological medical examination as
12 provided in section 1189 (relating to physical and
13 psychological medical examination).

14 (iv) Be subject to a background investigation.
15 Background investigations may be restricted to those
16 candidates on an eligibility list or those to be
17 certified to council for appointment in accordance with
18 section 1184 (relating to eligibility list and manner of
19 filling appointments).

20 (a.1) Promotions.--

21 (1) An applicant for promotion shall be subject to the
22 regulations adopted by the commission and to examination and
23 selection in accordance with section 1188 (relating to
24 promotions).

25 (2) A physical fitness or agility examination that is
26 job related and consistent with business necessity and
27 physical and psychological medical examinations may, but need
28 not, be required for a promotion.

29 (b) Public notice.--Public notice of the time and place of
30 every examination, together with the information as to the kind

1 of position to be filled, shall be given by publication once in
2 a newspaper of general circulation, at least two weeks prior to
3 each examination, and a copy of the notice shall be prominently
4 posted in the office of the commission or other public place.

5 (c) Posting of eligibility list.--The commission shall post
6 in its office the eligibility list containing the names and
7 grades of those who have passed the examination.

8 § 1182. Application for examination.

9 A person who desires to apply for examination must file with
10 the commission a formal application in which the applicant shall
11 provide, under oath or affirmation, the following information:

12 (1) Full name and residence or post office address.

13 (2) Citizenship and place and date of birth.

14 (3) Condition of health and physical capacity for public
15 service.

16 (4) Business or employment and the applicant's residence
17 for the past five years.

18 (5) Other information as may be required by the
19 commission's rules and regulations, showing the applicant's
20 qualifications for the position for which the applicant is
21 being examined.

22 § 1183. Rejection of applicant and hearing.

23 (a) General rule.--The commission may refuse to examine or,
24 if examined, may refuse to certify after examination as eligible
25 any applicant who:

26 (1) is found to lack any of the minimum qualifications
27 for examination prescribed in the rules and regulations
28 adopted for the position or employment for which the
29 applicant has applied;

30 (2) is physically unfit for the performance of the

1 duties of the position to which the applicant seeks
2 employment;

3 (3) is illegally using a controlled substance, as
4 defined in section 102 of the Controlled Substances Act
5 (Public Law 91-513, 21 U.S.C. § 802);

6 (4) has been guilty of any crime involving moral
7 turpitude or of infamous or notoriously disgraceful conduct;

8 (5) has been dismissed from public service for
9 delinquency or misconduct of office; or

10 (6) is affiliated with any group whose policies or
11 activities are subversive to the form of government
12 enumerated in the Constitutions and laws of the United States
13 and this Commonwealth.

14 (b) Hearing requirements.--

15 (1) If an applicant is aggrieved by the refusal of the
16 commission to certify the applicant as eligible after
17 examination or a person is aggrieved by refusal of the
18 commission to examine the person, the commission shall, at
19 the request of the applicant or person aggrieved, within ten
20 days, appoint a time and place for a public hearing.

21 (2) At the hearing, the applicant or person aggrieved
22 may appear with or without counsel, and the commission shall
23 take testimony and review its refusal to provide examination
24 or certification.

25 (3) The deliberations of the commission, including
26 interim rulings on evidentiary or procedural issues, may be
27 held in the nature of a closed executive session.

28 (4) The commission's disposition of the matter shall
29 constitute official action which shall occur at a public
30 meeting held under 65 Pa.C.S. Ch. 7 (relating to open

1 meetings).

2 (5) The decision of the commission shall be final.

3 § 1184. Eligibility list and manner of filling appointments.

4 (a) Ranking of candidates.--

5 (1) At the completion of the testing process, including
6 a physical agility or other examination, with the exception
7 of a background investigation to be conducted after the
8 establishment of an eligibility list and physical and
9 psychological medical examination under section 1189
10 (relating to physical and psychological medical examination),
11 the commission shall rank the candidates who have satisfied
12 the minimum requirements for appointment on an eligibility
13 list.

14 (2) The eligibility list shall contain the names of
15 individuals eligible for appointment listed from highest to
16 lowest based on their scores on the examinations administered
17 by the commission and any points for which an applicant was
18 entitled by virtue of 51 Pa.C.S. Ch. 71 (relating to
19 veterans' preference).

20 (3) The eligibility list will be valid for one year from
21 the date the commission formally adopts the eligibility list.

22 (4) Prior to expiration of the one-year period, the
23 commission may extend the validity of the eligibility list
24 for up to an additional 12 months by a majority vote of the
25 commission at a duly authorized commission meeting.

26 (5) In the absence of a lawful extension by the
27 commission under paragraph (4), the list shall expire.

28 (b) Procedure for filling positions.--Except as provided in
29 subsection (c), every original position or employment in the
30 police force or as paid fire apparatus operators, except that of

1 chief of police or chief of the fire department, or equivalent,
2 shall be filled only in the following manner:

3 (1) The council shall notify the commission of any
4 vacancy which is to be filled and shall request the
5 certification of an eligibility list.

6 (2) The commission shall certify for each existing
7 vacancy from the eligibility list the names of the three
8 persons or a lesser number, if three are not available, who
9 have received the highest average.

10 (3) The council shall make a conditional appointment
11 from the three names certified, based solely on the merits
12 and fitness of the candidates, unless council makes
13 objections to the commission regarding one or more of the
14 certified persons for any of the reasons stated in section
15 1183 (relating to rejection of applicant and hearing).

16 (4) If the objections are sustained by the commission as
17 provided in section 1183 or the conditional appointee is
18 determined to be unqualified in accordance with the
19 procedures specified in section 1189, the commission shall
20 strike the name of the person from the eligibility list and
21 certify the next highest name for each name stricken from the
22 eligibility list.

23 (5) As each subsequent vacancy occurs in the same or
24 another position, the same procedure shall be followed.

25 (c) Vacancies in existing positions.--

26 (1) Any vacancy in an existing position in the police
27 force or as a paid fire apparatus operator which occurs as a
28 result of retirement, resignation, disability or death may be
29 filled by council by the reappointment or reinstatement of a
30 former employee of the police force or fire department who

1 had previously complied with this section.

2 (2) No examination, other than a physical examination as
3 directed by the civil service commission, shall be required
4 in any case of reappointment or reinstatement.

5 (d) Vacancies in certain offices.--

6 (1) In the case of a vacancy in the office of chief of
7 police or chief of the fire department, or equivalent
8 official, the council may nominate a person to the
9 commission.

10 (2) The commission shall subject the nominated person to
11 a noncompetitive examination and, if the person is certified
12 by the commission as qualified, the person may then be
13 appointed to the position and shall be subject to this
14 subchapter.

15 § 1185. Age and residency of applicants.

16 No person shall be eligible to apply for examination unless
17 the person is at least 18 years of age at the date of
18 application. An applicant need not be a resident of the borough.
19 The council of the borough may authorize the commission, by rule
20 or regulation, to require police officers and paid fire
21 apparatus operators to become residents of the borough after
22 appointment to the positions.

23 § 1186. Probationary period.

24 (a) General rule.--An original appointment to a position in
25 the police force or as a paid fire apparatus operator shall be
26 for a probationary period of not less than six months and not
27 more than one year, but during the probationary period an
28 appointee may be dismissed only for a cause specified in section
29 1183 (relating to rejection of applicant and hearing) or because
30 of incapacity for duty due to the use of alcohol or drugs.

1 (b) Notice denying permanent appointment.--

2 (1) If, at the close of a probationary period, the
3 conduct or fitness of the probationer has not been
4 satisfactory to the council, the probationer shall be
5 notified in writing that the probationer will not receive a
6 permanent appointment and the appointment shall cease.

7 (2) If the probationer is not notified or dismissed in
8 accordance with this section, the probationer's retention
9 shall be equivalent to a permanent appointment.

10 (c) Finality of decision.--The decision of a borough to
11 suspend or discharge a probationer shall be final and shall not
12 be subject to the hearing provisions of section 1191 (relating
13 to hearings on dismissals and reductions).

14 § 1187. Provisional appointments.

15 (a) General rule.--If there are urgent reasons for the
16 filling of a vacancy in a position in the police force and there
17 are no names on the eligibility list for the appointment, the
18 council may nominate a person to the commission for
19 noncompetitive examination, and, if the nominee shall be
20 certified by the commission as qualified after noncompetitive
21 examination, the nominee may be appointed provisionally to fill
22 the vacancy.

23 (b) Competitive examination required.--

24 (1) Within three weeks of the provisional appointment,
25 the commission shall hold a competitive examination and
26 certify an eligibility list. A regular appointment shall then
27 be made from the name or names submitted by the commission.

28 (2) Nothing in this section shall be construed to
29 prevent the appointment, without examination, of persons
30 temporarily as police officers in cases of riot or other

1 emergencies or as fire apparatus operators in emergency
2 cases.

3 § 1188. Promotions.

4 (a) General rule.--A promotion shall be based on merit to be
5 ascertained by an examination to be prescribed by the
6 commission. All questions relative to a promotion shall be
7 practical in character and fairly test the merit and fitness of
8 persons seeking promotion.

9 (b) Notification of vacancy.--Council shall notify the
10 commission of a vacancy in the police force or as a paid fire
11 apparatus operator in the borough which is to be filled by
12 promotion and shall request the certification of an eligibility
13 list.

14 (c) Certification required.--

15 (1) The commission shall certify for each vacancy the
16 names of three persons on the eligibility list who have
17 received the highest average in the last preceding
18 promotional examination held within a period of two years
19 preceding the date of the request for the eligibility list.

20 (2) If three names are not available, the commission
21 shall certify the names remaining on the eligibility list.

22 (3) The council shall make an appointment from the names
23 certified, based solely on the merits and fitness of the
24 candidate, unless council makes objections to the commission
25 regarding one or more of the persons so certified for any
26 reason provided under section 1183 (relating to rejection of
27 applicant and hearing).

28 (d) Increase in salary as promotion.--The council may
29 determine in each instance whether an increase in salary
30 constitutes a promotion.

1 § 1189. Physical and psychological medical examination.

2 (a) Conditional offer of employment.--

3 (1) An applicant selected from the eligibility list
4 shall receive a conditional offer of employment. The offer of
5 employment shall be conditioned upon the conditional
6 appointee undergoing a physical and psychological medical
7 examination and a determination that the conditional
8 appointee is capable of performing all the essential
9 functions of the position.

10 (2) Physical medical examinations shall be conducted
11 under the direction of a physician or other qualified medical
12 professional.

13 (3) Psychological medical examinations shall be
14 conducted under the direction of a psychiatrist or
15 psychologist.

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

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

1 all the essential functions of the position.

2 (d) Written notice after interactive discussion.--If, at the
3 conclusion of the interactive discussion conducted under
4 subsection (c), council determines that the conditional
5 appointee is not qualified, council shall give written notice to
6 the conditional appointee and the commission.

7 (e) Construction.--Nothing in this part shall be construed
8 to authorize physical or psychological medical examinations
9 prior to conditional appointment.

10 (f) Definitions.--The following words and phrases used in
11 this section shall have the meanings given to them in this
12 subsection unless the context clearly indicates otherwise:

13 "Medical examination." An examination, procedure, inquiry or
14 test designed to obtain information about medical history or a
15 physical or mental condition which might disqualify an applicant
16 for a position if it would prevent the applicant from
17 performing, with or without a reasonable accommodation, all of
18 the essential functions of the position.

19 "Physician." The term shall have the meaning given to it
20 under 1 Pa.C.S. § 1991 (relating to definitions).

21 "Qualified medical professional." An individual, in
22 collaboration with or under the supervision or direction of a
23 physician, as may be required by law, who is licensed:

24 (1) as a physician assistant under the act of December
25 20, 1985 (P.L.457, No.112), known as the Medical Practice Act
26 of 1985, or the act of October 5, 1978 (P.L.1109, No.261),
27 known as the Osteopathic Medical Practice Act; or

28 (2) as a certified registered nurse practitioner under
29 the act of May 22, 1951 (P.L.317, No.69), known as The
30 Professional Nursing Law.

1 § 1190. Removals.

2 (a) General rule.--No person employed in any police or fire
3 force of any borough may be suspended without pay, removed or
4 reduced in rank except for the following reasons:

5 (1) Physical or mental disability affecting the person's
6 ability to continue in service, in which cases the person
7 shall receive an honorable discharge from service.

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

9 (3) Violation of any law if the violation constitutes a
10 misdemeanor or felony.

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

13 (5) Intoxication while on duty.

14 (6) Engaging or participating in the conduct of a
15 political or election campaign while on duty or in uniform or
16 while using borough property otherwise than to exercise the
17 person's own right of suffrage.

18 (7) Engaging or participating in the conduct of a
19 political or election campaign for an incompatible office as
20 provided in section 1104(f) (relating to appointments and
21 incompatible offices).

22 (b) Restriction.--A person employed by a police or fire
23 force shall not be removed for religious, racial or political
24 reasons.

25 (c) Statement of charges.--A written statement of charges
26 made against a person shall be furnished to the person within
27 five days after the statement of charges is filed. The person
28 shall have ten days from the date of receiving the notice to
29 submit a written request for a hearing to the civil service
30 commission under section 1191 (relating to hearings on

1 dismissals and reductions).

2 (d) Furlough.--If, for reasons of economy or other reasons,
3 it shall be deemed necessary by any borough to reduce the number
4 of paid employees of the police or fire force, the borough shall
5 furlough the person, including a probationer, last appointed to
6 the respective force. The removal shall be accomplished by
7 furloughing in numerical order commencing with the person last
8 appointed until the reduction shall have been accomplished. In
9 the event the police force or fire force shall again be
10 increased, the employees furloughed shall be reinstated in the
11 order of their seniority in the service. This subsection as to
12 reductions in force is not applicable to a chief of police.

13 § 1191. Hearings on dismissals and reductions.

14 (a) Time of answer and hearing.--A person suspended, removed
15 or reduced in rank may make written answers to any charges filed
16 against the person not later than the day scheduled for the
17 hearing. The commission shall grant the person a hearing that
18 shall be held within a period of ten days from the filing of
19 written charges, unless continued by the commission for cause at
20 the request of the council or the accused. The failure of the
21 commission to hold a hearing within ten days from the filing of
22 the written charges shall not result in the dismissal of the
23 charges filed.

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

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

7 (c) Appeal.--All parties shall have an immediate right of
8 appeal to the court of common pleas of the county, and the case
9 shall there be determined as the court deems proper. No order of
10 suspension made by the commission may be for a longer period
11 than one year. The appeal shall be taken within 30 days from the
12 date of entry by the commission of its final order and shall be
13 by petition. Upon the appeal being taken and docketed, the court
14 of common pleas shall schedule a day for a hearing and shall
15 proceed to hear the appeal on the original record and additional
16 proof or testimony as the parties concerned may desire to offer
17 in evidence. The decision of the court affirming or revising the
18 decision of the commission shall be final, and the employee
19 shall be suspended, discharged, reduced in rank or reinstated in
20 accordance with the order of court.

21 (d) Proceedings.--The council and the person sought to be
22 suspended, removed or reduced in rank shall at all times have
23 the right to employ counsel before the commission and upon
24 appeal to the court of common pleas. Unless the council or the
25 person sought to be suspended, removed or reduced in rank
26 requests that the proceedings before the commission be open to
27 the public, the proceedings before the commission under this
28 section shall be held in the nature of a closed executive
29 session that shall not be open to the public. The request shall
30 be presented to the commission before the civil service hearing

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

9 § 1192. Employees exempted.

10 All appointments in the police or fire forces of boroughs,
11 including the chief of police or equivalent official, prior to
12 the creation of a commission, shall continue to hold their
13 positions and shall not be required to take any examination
14 under the provisions of this subchapter, except that which may
15 be required for promotion. This section shall not be construed
16 to apply to persons employed temporarily in emergency cases.

17 § 1193. Discrimination on account of political or religious
18 affiliations.

19 (a) Information.--No question in any form of application for
20 examination or in any examination shall be so framed as to
21 elicit information concerning the political or religious
22 opinions or affiliations of any applicant nor shall inquiry be
23 made concerning the opinions or affiliations, and all
24 disclosures of opinions or affiliations shall be ignored.

25 (b) Prohibition.--No discrimination shall be exercised,
26 threatened or promised by any person against or in favor of any
27 applicant or employee because of political or religious opinions
28 or affiliations or race, and no offer or promise or reward,
29 favor or benefit, directly or indirectly, shall be made to or
30 received by any person for any act done or duty omitted or to be

1 done under this subchapter.

2 § 1194. Penalty.

3 A member of council who, by vote, appoints any person to the
4 police force or as a fire apparatus operator contrary to the
5 provisions of this subchapter, or a member of council or member
6 of the commission who willfully refuses to comply with or
7 conform to the provisions of this subchapter, commits a
8 misdemeanor and, upon conviction, shall be sentenced to pay a
9 fine not exceeding \$100 or to imprisonment not exceeding 90
10 days, or both.

11 SUBCHAPTER K

12 INDEPENDENT AUDITOR

13 (Reserved)

14 CHAPTER 12

15 CORPORATE POWERS

16 Sec.

17 1201. General powers.

18 1201.1. Real property.

19 1201.2. Personal property.

20 1201.3. Exceptions.

21 1202. Specific powers.

22 1203. Reserved powers.

23 § 1201. General powers.

24 A borough may:

25 (1) Have succession perpetually by its corporate name.

26 (2) Sue and be sued and complain and defend in the
27 courts of this Commonwealth.

28 (3) Make and use a common seal and alter the same at its
29 discretion.

30 (4) Purchase, exchange, acquire by gift or otherwise,

1 hold, lease, let and convey, by sale or lease, real and
2 personal property deemed to be in the best interest of the
3 borough, subject to the restrictions, limitations or
4 exceptions as set forth in this chapter.

5 § 1201.1. Real property.

6 (a) Sale.--No real estate owned by the borough may be sold
7 except upon approval of council by resolution. Additionally, no
8 real estate owned by the borough may be sold for a consideration
9 in excess of \$1,500, except to the highest bidder after due
10 notice by advertisement for bids or advertisement of a public
11 auction.

12 (a.1) Advertisement.--The advertisement shall be published
13 once in one newspaper of general circulation not less than ten
14 days prior to the date scheduled for the opening of bids or
15 public auction. The date for opening bids or public auction
16 shall be announced in the advertisement.

17 (a.2) Award of contracts.--The award of contracts shall be
18 made only by public announcement at a regular or special meeting
19 of council or at the public auction. All bids shall be accepted
20 on the condition that payment of the purchase price in full
21 shall be made within 60 days of the acceptance of bids. If no
22 compliant bids are received after advertisement, the applicable
23 procedures in the act of October 27, 1979 (P.L.241, No.78),
24 entitled, "An act authorizing political subdivisions,
25 municipality authorities and transportation authorities to enter
26 into contracts for the purchase of goods and the sale of real
27 and personal property where no bids are received," shall be
28 followed.

29 (b) Rejection of bids.--The council shall have the authority
30 to reject all bids if the bids are deemed to be less than the

1 fair market value of the real property. In the case of a public
2 auction, the council may establish a minimum bid based on the
3 fair market value of the real property.

4 (c) Exception.--Real estate owned by a borough may be sold
5 at a consideration of \$1,500 or less without advertisement or
6 competitive bidding only after council estimates the value of
7 the property upon receipt of an appraisal by a qualified real
8 estate appraiser.

9 (d) Exchange of real property.--

10 (1) Notwithstanding this section, council shall have the
11 authority to exchange real property for real property of
12 equal or greater value without complying with this section,
13 if the property being acquired by the borough is to be used
14 for municipal purposes. Municipal purposes as used in this
15 subsection include a subsequent sale or lease of the property
16 to any of the entities listed in section 1201.3 (relating to
17 exceptions).

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

23 (3) If council chooses to exercise its power of real
24 property exchange under this section, it shall be by
25 resolution adopted by council. Notice of the resolution,
26 including a description of the properties to be exchanged,
27 shall be published once in one newspaper of general
28 circulation not more than 60 days nor fewer than seven days
29 prior to adoption.

30 (4) Participation in a real property exchange shall not

1 prohibit the application of the requirements of the act of
2 October 4, 1978 (P.L.851, No.166), known as the Flood Plain
3 Management Act.

4 § 1201.2. Personal property.

5 (a) Sale.--Except as provided in subsection (b), no borough
6 personal property may be disposed of, by sale or otherwise,
7 except upon approval of council by resolution. In cases when
8 council approves a sale of the property, council shall estimate
9 the fair market value of the entire lot to be disposed of. If
10 council estimates the fair market value to be \$1,000 or more,
11 the entire lot shall be advertised for sale once in at least one
12 newspaper of general circulation not less than ten days prior to
13 the date scheduled for the opening of bids or public auction.
14 The date of opening of bids or public auction shall be announced
15 in the advertisement, and sale of the property advertised shall
16 be made to the best responsible bidder.

17 (a.1) Electronic auction sale.--A public auction of personal
18 property may be conducted by means of an online or electronic
19 auction sale. During an electronic auction sale, bids shall be
20 accepted electronically at the time and in the manner designated
21 in the advertisement. During the electronic auction, each bidder
22 shall have the capability to view the bidder's bid rank or the
23 high bid price. Bidders may increase their bid prices during the
24 electronic auction. The record of the electronic auction shall
25 be accessible for public inspection. The purchase price shall be
26 paid by the highest bidder immediately or at a reasonable time
27 after the conclusion of the electronic auction as determined by
28 council. In the event that shipping costs are incurred, they
29 shall be paid by the highest bidder. A borough that has complied
30 with the advertising requirements of this section may provide

1 additional public notice of the sale by bids or public auction
2 in any manner deemed appropriate by council. The advertisement
3 for electronic auction sales authorized in this paragraph shall
4 include the Internet address or means of accessing the
5 electronic auction and the date, time and duration of the
6 electronic auction.

7 (a.2) Rejection of bids.--Council may reject any bids
8 received if the bids are believed to be less than the fair
9 market value of the property. If no bids are received after
10 advertisement, the applicable procedures in the act of October
11 27, 1979 (P.L.241, No.78), entitled, "An act authorizing
12 political subdivisions, municipality authorities and
13 transportation authorities to enter into contracts for the
14 purchase of goods and the sale of real and personal property
15 where no bids are received," shall be followed.

16 (b) Exception for small value sales.--Council shall, by
17 resolution, adopt a procedure for the sale of surplus personal
18 property, either individual items or lots of items, of an
19 estimated fair market value of less than \$1,000. The approval of
20 council shall not be required for any individual sale that shall
21 be made in conformity to the procedure.

22 (c) Exchange of personal property.--This section shall not
23 be mandatory when borough personal property is to be traded in
24 or exchanged for new or used personal property being acquired by
25 the borough, except that the trade or exchange shall be by
26 resolution.

27 § 1201.3. Exceptions.

28 (a) Sale of property.--Nothing under this chapter requiring
29 advertising for bids or sale at public auction and sale to the
30 highest bidder shall apply if borough real or personal property

1 is to be sold to any of the following:

2 (1) A county, city, borough, town, township, institution
3 district, school district, volunteer fire company, volunteer
4 ambulance service or volunteer rescue squad located within
5 the borough.

6 (2) A council of government, consortium, cooperative or
7 other similar entity created pursuant to 53 Pa.C.S. Ch. 23
8 Subch. A (relating to intergovernmental cooperation).

9 (3) An authority as defined in 53 Pa.C.S. § 5602
10 (relating to definitions).

11 (4) A nonprofit corporation engaged in community
12 development or reuse only upon entering into a written
13 agreement with the nonprofit corporation that requires the
14 property to be used for industrial, commercial or affordable
15 housing purposes. This exemption shall not apply to property
16 on which existing governmental functions are conducted. This
17 exemption shall also not apply to property owned and operated
18 by the borough or subcontracted or operated on behalf of the
19 borough in order to conduct existing government functions.

20 (5) A person for the person's exclusive use in an
21 industrial development program.

22 (6) A nonprofit corporation organized as a public
23 library for its exclusive use as a library.

24 (7) A nonprofit medical service corporation as
25 authorized under section 1202(50) (relating to specific
26 powers).

27 (8) A nonprofit housing corporation as authorized by
28 section 1202(51).

29 (9) The Federal Government or the Commonwealth.

30 (10) A nonprofit museum or historical society for its

1 exclusive use as a nonprofit museum or historical society.

2 (b) Sales to certain nonprofit corporations.--When real
3 property is to be sold to a nonprofit corporation organized as a
4 public library for its exclusive use as a library or to a
5 nonprofit medical service corporation or to a nonprofit housing
6 corporation, council may elect to accept nominal consideration
7 for the sale as it shall deem appropriate.

8 (c) Reversion.--Real property sold under this section to a
9 volunteer fire company, volunteer ambulance service or volunteer
10 rescue squad, nonprofit medical service corporation or nonprofit
11 housing corporation shall be subject to the condition that when
12 the property is not used for the purposes of the company,
13 service, squad or corporation the property shall revert to the
14 borough.

15 § 1202. Specific powers.

16 The powers of the borough shall be vested in the council. In
17 the exercise of any specific powers involving the enactment of
18 an ordinance or the making of any regulation, restriction or
19 prohibition, the borough may provide for enforcement and
20 penalties for violations. The specific powers of the borough
21 shall include the following:

22 (1) To prescribe reasonable fees for the services of the
23 borough's officers and to enforce the payment of the fees.
24 This paragraph shall not be applicable to the services
25 rendered by borough police officers in responding to motor
26 vehicle accidents pursuant to 53 Pa.C.S. § 1392 (relating to
27 prohibition of fees for police services).

28 (2) In the operation of its utilities, parking meters,
29 parking lots, recreational facilities and other facilities
30 and services, to make and regulate charges for them for

1 general borough purposes.

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

4 (4) To prohibit and remove any nuisance or dangerous
5 structure on public or private grounds, including, but not
6 limited to, accumulations of garbage and rubbish, the storage
7 of abandoned or junked automobiles and obstructions or
8 nuisances in the streets of the borough. The borough may
9 require the removal of any nuisance or dangerous structure by
10 the owner or occupier of the grounds or remove the nuisance
11 or dangerous structure itself and collect the cost of
12 removal, together with a penalty of 10% of the cost, in the
13 manner provided by law for the collection of municipal
14 claims, or by action of assumpsit, or the borough may seek
15 relief by bill in equity.

16 (5) To make regulations as may be necessary for the
17 health, safety, morals, general welfare and cleanliness and
18 beauty, convenience, comfort and safety of the borough.

19 (6) To make regulations respecting vaults, cesspools and
20 drains.

21 (7) To make regulations relative to the accumulation of
22 manure, compost and the like to the extent authorized by 3
23 Pa.C.S. Ch. 5 (relating to nutrient management and odor
24 management).

25 (8) To provide for garbage and other refuse material as
26 follows:

27 (i) To prohibit, individually or jointly with other
28 municipal corporations pursuant to an agreement,
29 accumulations of garbage or other refuse material upon
30 public and private property and to make regulations for

1 the care, removal and collection of garbage or other
2 refuse material, including:

3 (A) To provide for the collection and imposition
4 of reasonable fees and charges for the collection of
5 garbage and other refuse material.

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

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

30 (D) To take and appropriate real estate for

1 purposes of refuse disposals or incineration
2 facilities or sanitary landfills in accordance with
3 Chapter 15 (relating to eminent domain, assessment of
4 damages and damages for injury to property) if a
5 purchase price cannot first be agreed upon. No real
6 estate located outside the limits of the borough or
7 outside the limits of the joint municipal
8 corporations in the case of a joint effort shall be
9 taken and appropriated if the real estate currently
10 contains or is being used for a refuse disposal or
11 incineration facility or a sanitary landfill.

12 (ii) Regulations enacted under this paragraph shall
13 be consistent with the act of July 7, 1980 (P.L.380,
14 No.97), known as the Solid Waste Management Act, the act
15 of July 28, 1988 (P.L.556, No.101), known as the
16 Municipal Waste Planning, Recycling and Waste Reduction
17 Act, and subject to any other necessary Federal or State
18 approval.

19 (9) To the extent not otherwise prohibited by the act of
20 December 7, 1982 (P.L.784, No.225), known as the Dog Law, to
21 destroy dogs found at large contrary to laws of this
22 Commonwealth, to prohibit or regulate, by ordinance, the
23 running at large of dogs, cats or other pets and, in the
24 enforcement of the regulations, to direct the seizure,
25 detention or killing of dogs, cats or other pets, prescribing
26 reasonable charges for their seizure and detention and to
27 provide for their sale for the benefit of the borough in
28 default of the redemption of the pet by its owners.

29 (10) To enact ordinances prohibiting or regulating the
30 keeping or running at large of livestock and fowls and any

1 other animals not covered in paragraph (9) and authorizing
2 their seizure, detention or, in the case of unowned pigeons,
3 humane destruction. The borough may prescribe reasonable
4 charges for the seizure and detention of the animals and
5 provide for their sale for the benefit of the borough in
6 default of the redemption of the animals by their owners.
7 Ordinances enacted under this paragraph shall not
8 unreasonably interfere with any agricultural operation to the
9 extent prohibited by applicable State law.

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

14 (12) To regulate the streets, sewers, public squares,
15 common grounds, sidewalks, curbs, gutters, culverts and
16 drains, and the heights, grades, widths, slopes and their
17 construction, and to prohibit the erection or construction of
18 any building or other obstruction to the convenient use of
19 the same.

20 (13) To prohibit or regulate the riding, driving,
21 parking or other passage of any animal or vehicle over, along
22 and across sidewalks. As used in this paragraph, the term
23 "vehicle" shall include any device in, upon or by which any
24 person or property may be transported. The term shall not
25 include a self-propelled wheelchair or an electrical mobility
26 device operated by and designed for the exclusive use of a
27 person with a mobility-related disability.

28 (14) To adopt ordinances defining disorderly conduct or
29 disturbing the peace within the limits of the borough and to
30 provide for the imposition of penalties for the conduct in

1 amounts, without limitation except as provided under this
2 part, as council shall establish, and notwithstanding any
3 laws of this Commonwealth upon disorderly conduct or
4 disturbing the peace and the penalties.

5 (15) To adopt and enforce a construction code, a
6 property maintenance code and a fire prevention code and
7 exercise any additional reserved powers pursuant to Chapter
8 32A (relating to uniform construction code, property
9 maintenance code and reserved powers).

10 (16) To prohibit and regulate the smoking or carrying of
11 lighted cigarettes, cigars, pipes or matches and the use of
12 matches or fire-producing devices. An ordinance enacted or
13 regulation or resolution adopted under this paragraph shall
14 not regulate smoking in a manner that conflicts with the act
15 of June 13, 2008 (P.L.182, No.27), known as the Clean Indoor
16 Air Act.

17 (17) To provide for fireworks and inflammable articles
18 as follows:

19 (i) To regulate and prohibit, by ordinance, the
20 manufacture of fireworks or inflammable or dangerous
21 articles.

22 (ii) To grant permits for supervised public displays
23 of fireworks and adopt rules and regulations governing
24 the displays.

25 (iii) To adopt, by ordinance, rules and regulations
26 not inconsistent with State regulations relating to the
27 storage of inflammable articles.

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

30 (18) To require and regulate the numbering of buildings

1 and lots.

2 (19) To make regulations respecting partition fences and
3 the foundations and party walls of buildings.

4 (20) To provide for the prohibition, licensing and
5 regulation of business as follows:

6 (i) In addition to licensing in accordance with
7 Chapter 29 (relating to licenses and license fees), to
8 prohibit, license and regulate by ordinance the
9 following:

10 (A) The carrying on of any manufacture, art,
11 trade or business which may be noxious or offensive
12 and prejudicial to the public health or safety of the
13 inhabitants.

14 (B) The establishment and maintenance of junk
15 yards, salvage yards and other places used and
16 maintained for the collection, storage and disposal
17 of used or second-hand goods and materials.

18 (C) With respect to marketplaces:

19 (I) regulate markets whether for individual
20 use or for resale;

21 (II) purchase and own ground;

22 (III) erect, establish and maintain
23 marketplaces for which purposes parts of a street
24 or sidewalk may be temporarily used;

25 (IV) contract with a person or association
26 of persons, companies or corporations for the
27 erection, maintenance and regulation of
28 marketplaces, on terms and conditions, and in a
29 manner, as the council may prescribe;

30 (V) provide and enforce suitable regulations

1 respecting marketplaces;

2 (VI) provide for the payment of the cost or
3 expense of marketplaces, either in whole or in
4 part, out of the funds of the borough; and

5 (VII) levy and collect a suitable license
6 fee from every person who may be authorized by
7 council to occupy any portion of marketplaces or
8 any portion of the streets or sidewalks for
9 temporary market purposes.

10 (ii) Notwithstanding subparagraph (i), boroughs may
11 prohibit, license and regulate businesses unless
12 prohibited by law.

13 (III) TO ISSUE LICENSES UNDER THE ACT OF JULY 31, <--
14 1963 (P.L.410, NO.217), ENTITLED "AN ACT REGULATING AND
15 LICENSING ALL SALES AT RETAIL WHEN SUCH SALES ARE
16 ADVERTISED AS 'CLOSING OUT SALE,' 'FIRE, SMOKE OR WATER
17 DAMAGE SALE,' OR 'DEFUNCT BUSINESS SALE,' WITH
18 EXCEPTIONS; REQUIRING FILING OF INVENTORY AND BOND; AND
19 PROVIDING FOR APPEALS AND PENALTIES."

20 (21) To plan for and regulate the development of the
21 borough by:

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

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

29 (22) (i) To provide for the creation of capital reserve
30 fund for anticipated capital expenditures as follows:

1 (A) Create and maintain a separate capital
2 reserve fund for anticipated legal capital
3 expenditures. The money in the fund shall be used,
4 from time to time, for the construction, purchase,
5 replacement of or expansion of municipal buildings,
6 equipment, machinery, motor vehicles or other capital
7 assets of the borough and for no other purpose.

8 (B) Appropriate money from the general borough
9 funds to be paid into the capital reserve fund or
10 place in the fund any money received from the sale,
11 lease or other disposition of any borough property or
12 from any other source, unless received or acquired
13 for a particular purpose. The fund shall be
14 controlled, invested, reinvested and administered and
15 the money expended for any of the purposes for which
16 the fund is created in a manner as may be determined
17 by council. The money in the fund, when invested,
18 shall be invested in securities designated by 53
19 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness
20 and borrowing) as legal investments for sinking funds
21 of municipalities.

22 (ii) This paragraph shall not be construed to limit
23 the powers of the borough to the use of money in the
24 capital reserve fund in making lawful capital
25 expenditures.

26 (23) To create and maintain a separate operating reserve
27 fund from which appropriations may be made to meet
28 emergencies involving the health, safety and welfare of the
29 residents of the borough, to counterbalance potential budget
30 deficits resulting from shortfalls in anticipated revenues or

1 program receipts from whatever source, TO COUNTERBALANCE <--
2 POTENTIAL BUDGET DEFICITS RESULTING FROM INCREASES IN
3 ANTICIPATED COSTS FOR GOODS OR SERVICES or to provide
4 anticipated operating expenditures related either to the
5 planned growth of existing projects or programs or to the
6 establishment of new projects or programs if, for a project
7 or program appropriations, have been made and allocated to a
8 separate restricted account established within the operating
9 reserve fund. Council may annually make appropriations from
10 the general fund to the operating reserve fund, but no
11 appropriation may be made to the operating reserve fund if
12 the effect of the appropriation would cause the fund to
13 exceed 5% 25% of the estimated revenues of the borough's <--
14 general fund in the current fiscal year. The operating
15 reserve fund shall be invested, reinvested and administered
16 in a manner consistent with the provisions of section 1316
17 (relating to investment of funds).

18 (24) To enter into agreements with other political
19 subdivisions, in accordance with existing laws, in making
20 joint purchases of materials, supplies or equipment and in
21 performing governmental powers, duties and functions and in
22 carrying into effect provisions of 53 Pa.C.S. Ch. 23 Subch. A
23 (relating to intergovernmental cooperation), and agreements
24 with the proper authorities of municipal corporations,
25 regional police or fire forces or other public safety or
26 governmental entities created by two or more municipal
27 corporations under 53 Pa.C.S. Ch. 23 Subch. A (relating to
28 intergovernmental cooperation), either for mutual aid or
29 assistance in police and fire protection or any other public
30 safety services, or for the furnishing to or receiving from

1 the municipal corporations or governmental entities police
2 and fire protection or any other public safety services, and
3 to make appropriations for public safety services. In
4 connection with agreements for police or fire protection or
5 any other public safety services, it shall not be necessary
6 to advertise for bids or receive bonds as required for
7 contracts under existing law. When an agreement has been
8 entered into, the police, firefighters, fire police or any
9 other public safety services of the employing municipal
10 corporation or governmental entity shall have the powers and
11 authority conferred by law on police, firefighters, fire
12 police or any other public safety services in the territory
13 of the municipal corporation which has contracted to secure
14 the service.

15 (25) To make contracts of insurance, with any mutual or
16 other fire insurance company, association or exchange, duly
17 authorized by law to transact insurance business in this
18 Commonwealth, on any building or property owned or leased by
19 the borough.

20 (26) To provide for other insurance as follows:

21 (i) To appropriate an amount as may be necessary to
22 secure insurance or compensation in accordance with
23 Article VI of the act of June 2, 1915 (P.L.736, No.338),
24 known as the Workers' Compensation Act, for:

25 (A) volunteer firefighters of companies duly
26 recognized by the borough, by motion or resolution,
27 killed or injured while going to, returning from or
28 attending fires or while performing their duties as
29 special fire police; and

30 (B) other borough employees as "employee" is

1 defined in section 601 of the Workers' Compensation
2 Act.

3 (ii) To make contracts of insurance with any
4 insurance company, association or exchange authorized to
5 transact business in this Commonwealth insuring borough
6 employees or any class or classes of employees, or mayor
7 and council or their dependents, under a policy or
8 policies of insurance covering life, health,
9 hospitalization, medical and surgical service or accident
10 insurance.

11 (iii) To contract with an insurance company,
12 granting annuities or pensions, for the pensioning of
13 borough employees or any class or classes of employees,
14 and to agree to pay part or all of the premiums or
15 charges for carrying the contracts and to appropriate
16 money from the borough treasury for those purposes.

17 (iv) To make contracts with any insurance company,
18 association or exchange authorized to transact business
19 in this Commonwealth to insure any public liability of
20 the borough and to appropriate money from the borough
21 treasury for that purpose.

22 (v) Nothing in this paragraph shall affect any
23 contract, right or coverage of insurance vested or
24 existing on July 16, 2012. Contract, as used in this
25 paragraph, includes an annuity contract if the option to
26 renew continues to provide the same rights to the
27 annuitant that existed on July 16, 2012.

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

1 of the borough, for the acquisition, leasing or regulation of
2 the franchises, properties, powers, duties and liabilities of
3 the company for the purpose of providing public
4 transportation. A contract may provide that the companies may
5 make payments to the borough in lieu of the performance of
6 certain duties or may include a provision that municipal
7 consent shall not be granted to any other company for the
8 same services covered by the contract. A contract may also
9 provide, subject to any required approval by the Pennsylvania
10 Public Utility Commission and consistent with the
11 jurisdictional limits established under 49 U.S.C. (relating
12 to transportation), for the laying, installation or removal
13 of tracks or lines, to prevent the laying or installation of
14 otherwise authorized tracks or lines or to change the route
15 of any tracks or lines for the consideration and upon
16 conditions as may be agreed upon. Council may acquire,
17 maintain and operate any existing inclined plane passenger
18 transportation facilities and may acquire or may establish
19 vehicular feeder lines for those facilities.

20 (28) To do any of the following:

21 (i) Acquire land or buildings by purchase, gift,
22 exchange or eminent domain.

23 (ii) Erect a building or lease land or buildings,
24 within the borough limits, for community purposes or for
25 public facilities such as comfort and waiting stations
26 and drinking fountains.

27 (iii) Erect watering troughs.

28 (iv) Maintain the public facilities.

29 (v) Provide for the payment of the cost and
30 maintenance of the items under this paragraph from the

1 funds of the borough.

2 (29) To provide a lockup for the temporary detention of
3 persons.

4 (30) To display the flag of the United States or of the
5 Commonwealth, the official POW/MIA flag or the flag of any
6 county, city, borough or other municipality in this
7 Commonwealth on the public buildings or grounds and in public
8 places of the borough.

9 (31) To provide for parking as follows:

10 (i) to acquire by lease, purchase or eminent domain
11 any land that the council may deem necessary or desirable
12 for the purpose of establishing and maintaining parking
13 lots;

14 (ii) to regulate the use of parking lots;

15 (iii) to regulate parking and provide parking
16 accommodations to promote the convenience and protection
17 of the public; and

18 (iv) to establish or designate, at the discretion of
19 the council, areas exclusively reserved for parking by
20 handicapped individuals and to post signs regulating the
21 areas.

22 The right to regulate the use of the lots shall include the
23 right to impose fines and fees for violation of any law or
24 ordinance regulating parking. Regulation of parking lots
25 shall be consistent with 75 Pa.C.S. (relating to vehicles)
26 and the act of October 27, 1955 (P.L.744, No.222), known as
27 the Pennsylvania Human Relations Act.

28 (32) To acquire by purchase or by gift and to repair,
29 supervise, operate and maintain ancient landmarks and other
30 property of historical or antiquarian interest and to make

1 appropriations to nonprofit associations or corporations
2 organized for the purpose of acquiring and maintaining
3 historical properties. The appropriations shall only be used
4 by the association or corporation for the acquisition,
5 restoration and maintenance of the historical properties.

6 (33) To provide against all hazards of war, terrorism
7 and other disasters and their consequences, and for those
8 purposes to have the power of eminent domain, to cooperate
9 with any other unit and agency of government, Federal, State
10 or local in every lawful way for purposes of defense against
11 the hazards of war and terrorism and to further provide
12 against the hazards of manmade or natural disasters in
13 conjunction with the powers applicable to boroughs in 35
14 Pa.C.S. Pt. V (relating to emergency management services).

15 (34) (i) To purchase vehicles and other equipment
16 necessary for the towing of motor vehicles, tractors,
17 trailers, recreational trailers and other vehicles from
18 highways, roads, streets and public property of the
19 borough.

20 (ii) To impose fees for towing if the towing
21 equipment is used for the lawful removal of motor
22 vehicles, tractors, trailers, recreational trailers and
23 other vehicles from highways, roads, streets and public
24 property of the borough.

25 (iii) To authorize or contract with commercial
26 towers that agree to tow vehicles for a negotiated price
27 as the official towers for the borough for the lawful
28 removal of motor vehicles, tractors, trailers,
29 recreational trailers and other vehicles from highways,
30 roads, streets and public property of the borough in

1 accordance with Federal and State law.

2 (iv) To impose fees in the same manner as authorized
3 when the towing is performed with borough vehicles and
4 equipment.

5 A commercial tower that agrees not to charge in excess of the
6 negotiated price and is otherwise lawfully authorized to tow
7 vehicles in accordance with Federal and State law shall be
8 put on an official rotation list for the borough if council
9 provides for a list. This paragraph shall apply only when the
10 borough is requesting a vehicle to be towed. In all other
11 cases, the owner or operator of a vehicle shall be permitted
12 to select and pay for the tower.

13 (35) To purchase or contribute to the purchase of fire
14 engines and fire apparatus, boats, rescue and lifesaving
15 equipment and supplies for the use of the borough for fire,
16 rescue and lifesaving services, including community ambulance
17 service, and to appropriate money for fire companies and
18 rescue units located within the borough, including for the
19 construction, repair and maintenance of buildings for fire
20 companies and rescue units, and to acquire land for those
21 purposes. Appropriations may include funds to establish,
22 equip, maintain and operate lawfully organized or
23 incorporated fire training schools within the county or
24 regional firefighters' associations or an entity created
25 pursuant to 53 Pa.C.S. Ch. 23 Subch. A for the purpose of
26 giving instruction and practical training in the prevention,
27 control and fighting of fire and related fire department
28 emergencies to the members of fire departments and volunteer
29 fire companies in any municipal corporation within this
30 Commonwealth. Annual appropriations may also be made to an

1 ambulance service, or council may enter into contracts for
2 use in providing community ambulance service.

3 (36) To appropriate money for the expense of municipal
4 music.

5 (37) To accept, purchase and plant or contribute to the
6 purchasing and planting of shade trees along the streets and
7 sidewalks of the borough and to have the care, custody and
8 control of shade trees pursuant to Chapter 27 (relating to
9 recreation places, shade trees and forests).

10 (38) To appropriate money for the support of any
11 incorporated hospital that is engaged in charitable work and
12 extends treatment and medical attention to residents of the
13 borough, but no appropriation shall exceed in any year the
14 cost of free service extended to residents of the borough
15 that is in excess of any amount paid by the Commonwealth
16 towards free service.

17 (39) To appropriate money toward the maintenance and
18 support of any medical center or hospital building and
19 further appropriate from the funds toward the purchase and
20 erection of medical or hospital facilities. When the total
21 cost of the purchase or erection exceeds \$100,000, it will
22 necessitate approval by the appropriate health planning
23 agency.

24 (40) To appropriate money annually for the expense of
25 community nurse services to any nonprofit associations or
26 corporations that provide community nursing services for the
27 elderly and other needy persons, the control of communicable
28 disease, the immunization of children, the operation of child
29 health centers (Well-Baby Clinics), instructive visits to
30 parents of new babies, beginning in the prenatal period, and

1 family health guidance, including nutrition, detection and
2 correction of defects all of which relate to the
3 responsibilities of local boards of health.

4 (41) To appropriate in any year out of the general funds
5 of the borough for the observance of holidays or centennials
6 or other anniversaries or for borough celebrations or other
7 civic projects or programs.

8 (42) To appropriate from borough funds money for the
9 handling, storage and distribution of surplus foods obtained
10 through either a Federal, State or local agency. All
11 appropriations of money made by any borough for the handling,
12 storage and distribution of surplus foods obtained through
13 either a Federal, State or local agency are validated.

14 (43) To make appropriations to an industrial development
15 agency.

16 (44) To appropriate money annually to any tourist
17 promotion agency, as defined in the act of July 4, 2008
18 (P.L.621, No.50), known as the Tourism Promotion Act, to
19 assist the agencies in carrying out tourist promotional
20 activities.

21 (45) To appropriate money to assist any municipality or
22 municipal airport authority to acquire, establish, operate
23 and maintain any and all air navigation facilities lying
24 either within or without the limits of the borough.

25 (46) To issue nondebt revenue bonds pursuant to
26 provisions of 53 Pa.C.S. Pt. VII Subpt. B to provide
27 sufficient money for and toward the acquisition,
28 construction, reconstruction, extension or improvement of
29 municipal facilities, including water systems or facilities,
30 sewers, sewer systems and sewage disposal systems or

1 facilities, systems for the treatment or disposal of garbage
2 and refuse, gas plants~~or, gas distribution systems for its~~ <--
3 ~~own municipal purposes~~ OR OTHER GAS WORKS, electric light or <--
4 power plants or power distribution systems, aeronautical
5 facilities, including, but not limited to, airports,
6 terminals and hangars and park and recreational facilities
7 and parking lots and facilities to be secured solely by the
8 pledge of the whole or part of the rent, toll or charge for
9 the use or services of the facilities. Included in the cost
10 of the issue may be any costs and expenses incident to
11 construction and financing the facilities and selling and
12 distributing the bonds.

13 (47) To offer rewards for the arrest and conviction of
14 persons guilty of capital or other crimes within the borough.

15 (48) To appropriate funds for urban common carrier mass
16 transportation purposes from current revenues and to make
17 annual contributions to county departments of transportation
18 or to urban common carrier mass transportation authorities to
19 assist the departments or the authorities to meet costs of
20 operation, maintenance, capital improvements and debt service
21 and to enter into long-term agreements providing for the
22 payment of the contributions.

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

26 (50) To sell to a nonprofit medical service corporation
27 borough-owned:

28 (i) real property for its exclusive use as a site
29 for a medical service facility; and

30 (ii) personal property for use at the medical

1 service facility.

2 (51) To sell to a nonprofit housing corporation borough-
3 owned:

4 (i) real property for its exclusive use for housing
5 for the elderly; and

6 (ii) personal property for its use at the nonprofit
7 housing corporation.

8 (52) To make grants annually to nonprofit art
9 corporations for the conduct of their artistic and cultural
10 activities. For the purposes of this paragraph, the term
11 "nonprofit art corporation" shall mean a local arts council,
12 commission or coordinating agency or any other nonprofit
13 corporation engaged in the production or display of works of
14 art, including the visual, written or performing arts.
15 Artistic and cultural activities include the display or
16 production of theater, music, dance, painting, architecture,
17 sculpture, arts and crafts, photography, film, graphic arts
18 and design and creative writing.

19 (53) To appropriate annually an amount toward a
20 neighborhood crime watch program. Notwithstanding any other
21 provision of law, no borough or official of a borough may
22 become subject to contractual, tort or other liability as a
23 result of having made an appropriation under this paragraph.

24 (54) To appropriate funds for programs that benefit
25 senior citizens or make grants to civic organizations that
26 represent senior citizens, provide services to senior
27 citizens or of which its members are senior citizens.

28 (55) To appropriate money to nonprofit watershed
29 associations for watersheds serving the borough.

30 Appropriations may not be used to undertake litigation

1 against any municipality or to seek redress against any
2 individual landowner.

3 (56) To ensure that fire and emergency medical services
4 are provided within the borough by the means and to the
5 extent determined by the borough, including the appropriate
6 financial and administrative assistance for these services.
7 The borough shall consult with fire and emergency medical
8 services providers to discuss the emergency services needs of
9 the borough. The borough shall require any emergency services
10 organization receiving borough funds to provide to the
11 borough an annual itemized listing of all expenditures of
12 these funds before the borough may consider budgeting
13 additional funding to the organization.

14 (57) To appropriate money to the conservation district,
15 as defined in the act of May 15, 1945 (P.L.547, No.217),
16 known as the Conservation District Law, in which the borough
17 is located.

18 (58) To require the owner, operator or superintendent of
19 every mine, colliery or quarry located wholly or partially
20 within the limits of the borough to furnish to the borough
21 maps, plans and drawings of workings, excavations and surface
22 support as the council may require. In the case of coal mines
23 and collieries, the map or plan shall exhibit the workings or
24 excavations in every seam of coal on a separate sheet and the
25 tunnels and passages connecting with the workings or
26 excavations. It shall show in degrees the general inclination
27 of the strata, with any material deflection in the strata in
28 the workings or excavations, and shall also show the tidal
29 elevations of the bottom of every shaft, slope, tunnel and
30 gangway and of any other point in the mine or on the surface

1 where the elevation shall be deemed necessary by the borough.
2 The map or plan shall show the number of the last survey on
3 the gangways or the most advanced workings. Every owner,
4 operator or superintendent of a mine, colliery or quarry
5 shall update, at least once every three months, the pertinent
6 maps, plans and drawings to reflect any extensions made in
7 any mine, colliery or quarry during the three preceding
8 months, except those made within 30 days immediately
9 preceding the time of placing the extensions upon the map or
10 drawing. A borough engineer, assistant or other person
11 authorized by council may enter and survey any mine, colliery
12 or quarry within the limits of the borough, at all reasonable
13 times, but not so as to impede or obstruct the workings of
14 the mine, colliery or quarry. The owner, operator or
15 superintendent of the mine, colliery or quarry shall furnish
16 the means necessary for the entry, survey and exit.

17 (59) To petition the court of common pleas for the
18 appointment of viewers to assess the total cost of an
19 improvement as set forth in Chapter 21A (relating to
20 assessments and charges for public improvements). The viewers
21 shall assess the total cost of the improvement, or so much of
22 the cost as may be just and reasonable, upon the lands or
23 properties peculiarly benefited.

24 (60) To authorize any borough to:

25 (i) purchase, own, use, operate and control any
26 natural gas well or wells for the purpose of supplying
27 natural gas for its own municipal purposes; and

28 (ii) purchase, own, use, operate and control natural
29 gas works.

30 (61) To establish, by ordinance, and maintain a real

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

18 (62) To manufacture, purchase or otherwise supply
19 electricity pursuant to Chapter 24A (relating to manufacture
20 and supply of electricity).

21 (63) To provide the following:

22 (i) telecommunications services to the extent that
23 provision of services is not inconsistent with 66 Pa.C.S.
24 Ch. 30 (relating to alternative form of regulation of
25 telecommunications services); and

26 (ii) cable television services in a manner
27 consistent with Federal law.

28 (64) To acquire, by purchase or condemnation, or to
29 construct underground conduits within which electrical,
30 communication and other types of wires shall be placed and,

1 by ordinance and subject to approval by the Pennsylvania
2 Public Utility Commission, to regulate the manner and terms
3 and conditions of the use of any underground conduits.
4 Council may define reasonable districts of the borough within
5 which underground conduits shall be used for the placement of
6 wires without the approval of the Pennsylvania Public Utility
7 Commission. The powers reserved by this paragraph shall not
8 be bartered away or surrendered by the borough.

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

28 § 1203. Reserved powers.

29 The council may make and adopt all ordinances, bylaws, rules
30 and regulations not inconsistent with or restrained by the

1 Constitution of Pennsylvania and laws of this Commonwealth as
2 may be expedient or necessary for the proper management, care
3 and control of the borough and its finances and the maintenance
4 of peace, good government, safety and welfare of the borough and
5 its trade, commerce and manufactures.

6 CHAPTER 13

7 TAXATION AND FINANCE

8 Sec.

9 1301. Fiscal year.

10 1302. Tax levy.

11 1302.1. Different and separate tax levies.

12 1303. Special levy to pay debts.

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21 1311. Amending budget and notice.

22 1312. Modification of budget and supplemental appropriations
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24 1313. Payment from borough funds.

25 1313.1. Creation of special funds and investments.

26 1314. Uniform financial report and forms.

27 1315. Capital improvements to certain public service
28 facilities.

29 1316. Investment of funds.

30 1317. (Reserved).

1 § 1301. Fiscal year.

2 The fiscal year of every borough shall coincide with the
3 calendar year, beginning January 1 and ending December 31.

4 § 1302. Tax levy.

5 (a) Authority.--The council of the borough shall have power,
6 by ordinance, to levy and collect annually a tax not exceeding
7 30 mills for general borough purposes, unless the council by
8 majority action, upon due cause shown by resolution, petitions
9 the court of common pleas, in which case the court may order a
10 rate of not more than five mills additional to be levied and in
11 addition any of the following taxes:

12 (1) An annual tax sufficient to pay interest and
13 principal on any indebtedness incurred pursuant to 53 Pa.C.S.
14 Pt. VII Subpt. B (relating to indebtedness and borrowing) or
15 any prior or subsequent act governing the incurrence of
16 indebtedness of the borough.

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

20 (3) To defray the cost and expenses of caring for shade
21 trees as provided in section 2720.1 (relating to maintenance
22 by borough and tax levy) and the expense of publishing the
23 notice referred to in section 2720.1, not exceeding one-tenth
24 mill.

25 (4) For lighting and illuminating the streets, highways
26 and other public places, not exceeding eight mills.

27 (5) For gas, water and electric, not exceeding eight
28 mills, additional millage permitted only following a
29 favorable referendum on the matter held in accordance with
30 the election laws of this Commonwealth.

1 (6) For the purchase of fire engines, fire apparatus and
2 fire hose for the use of the borough or for assisting any
3 fire company in the borough in the purchase, renewal or
4 repair of any of its fire engines, fire apparatus or fire
5 hose, for the purposes of making appropriations to fire
6 companies both within and without the borough and of
7 contracting with adjacent municipalities or volunteer fire
8 companies in adjacent municipalities for fire protection, for
9 the training of fire personnel and payments to fire training
10 schools and centers or for the purchase of land upon which to
11 erect a firehouse, or for the erection and maintenance of a
12 firehouse or fire training school and center, not exceeding
13 three mills. The following shall apply:

14 (i) The borough may appropriate up to one-half, but
15 not to exceed one mill, of the revenue generated from a
16 tax under this paragraph for the purpose of paying
17 salaries, benefits or other compensation of fire
18 suppression employees of the borough or a fire company
19 serving the borough.

20 (ii) If an annual tax for the purposes specified in
21 this paragraph is proposed to be set at a level higher
22 than three mills, the question shall be submitted to the
23 voters of the borough, and the county board of elections
24 shall frame the question in accordance with the election
25 laws of this Commonwealth for submission to the voters of
26 the borough.

27 (7) For building a firehouse, fire training school and
28 center, lockup or municipal building, not exceeding two
29 mills, additional millage permitted only following a
30 favorable referendum on the matter held in accordance with

1 the election laws of this Commonwealth.

2 (8) To establish and maintain a local library or to
3 maintain or aid in the maintenance of a local library
4 established by deed, gift or testamentary provision, for the
5 use of the residents of the borough, in accordance with 24
6 Pa.C.S. Ch. 93 (relating to public library code).

7 (9) For the purpose of supporting ambulance, rescue and
8 other emergency services serving the borough, not to exceed
9 one-half mill, except as provided in subsection (e). The
10 borough may appropriate up to one-half of the revenue
11 generated from a tax under this paragraph for the purpose of
12 paying salaries, benefits or other compensation of employees
13 of the ambulance, rescue or other emergency service.

14 (10) AN ANNUAL TAX SUFFICIENT FOR THE PURPOSE OF <--
15 MAINTAINING AND OPERATING RECREATION PLACES OR FOR PAYING THE
16 BOROUGH'S SHARE OF A JOINT ACTION WITH ONE OR MORE POLITICAL
17 SUBDIVISIONS, IN ACCORDANCE WITH SECTION 2701 (RELATING TO
18 GENERAL POWERS).

19 (b) Amount.--The taxes shall be levied on the dollar on the
20 valuation assessed for county purposes, as now is or may be
21 provided by law. All real property, offices, professions and
22 persons made taxable by the laws of this Commonwealth for county
23 rates and levies may, in the discretion of council, be taxed
24 after the same manner for those purposes. An action on the part
25 of the borough authorities fixing the tax rate for any year at a
26 mill rate shall not be required to include a statement
27 expressing the rate of taxation in dollars and cents on each
28 \$100 of assessed valuation of taxable property.

29 (c) Use of taxes for general purposes.--Nothing contained in
30 this section may prevent the application of money received from

1 taxes levied for general purposes to the purposes of paying
2 interest and sinking fund charges on indebtedness.

3 (d) Proceeds.--The proceeds of all taxes for which
4 additional millage is authorized under this section shall be
5 kept in a separate fund and used only for the purposes provided
6 under this section. The additional taxes authorized by
7 referendum shall continue to be levied annually for the period
8 provided under this section in the question submitted in the
9 referendum and, if any taxes for which the question voted upon
10 shall not have stated the duration of the tax, until the tax
11 shall be abolished by vote of the electors in a subsequent
12 referendum.

13 (e) Tax for ambulance and rescue squads.--The tax for
14 supporting ambulance and rescue squads serving the borough shall
15 not exceed the rate specified in subsection (a)(9) except when
16 the question is submitted to the voters of the borough in the
17 form of a referendum which will appear on the ballot in
18 accordance with the election laws of the Commonwealth, in which
19 case the rate shall not exceed two mills. The county board of
20 elections shall frame the question to be submitted to the voters
21 of the borough in accordance with the election laws of this
22 Commonwealth.

23 § 1302.1. Different and separate tax levies.

24 (a) General rule.--A borough may in any year levy separate
25 and different rates of taxation for municipal purposes on all
26 real estate classified as nonfarmland, exclusive of the
27 buildings on the real estate, and on all real estate classified
28 as either buildings on land or farmland. When real estate tax
29 rates are so levied:

30 (1) The rates shall be determined by the requirements of

1 the borough budget.

2 (2) A higher rate may be levied on real estate
3 classified as nonfarmland than on real estate classified as
4 either buildings on land or farmland if the respective rates
5 on nonfarmland and on buildings or farmland are so fixed as
6 not to constitute a greater levy in the aggregate than the
7 levy to result from the maximum rate allowed by law on all
8 real estate.

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

11 (b) Nonseverability.--Notwithstanding section 104 (relating
12 to constitutional construction), the provisions of this section
13 are nonseverable. If any provision of this section or its
14 application to any person or circumstance is held invalid, the
15 remaining provisions or applications of this section are void.

16 (c) Definitions.--As used in this section, the following
17 words and phrases shall have the meanings given to them in this
18 subsection:

19 "Farmland." Any tract of land that is actively devoted to
20 agricultural use, including, but not limited to, the commercial
21 production of crops, livestock and livestock products as defined
22 in section 3 of the act of June 30, 1981 (P.L.128, No.43), known
23 as the Agricultural Area Security Law.

24 "Nonfarmland." Any tract of land that is not farmland.
25 § 1303. Special levy to pay debts.

26 In addition to the levies provided for in section 1302.1
27 (relating to different and separate tax levies) if the council
28 refuses or neglects to levy a sufficient tax to pay the debts
29 due by the borough, a court may, after ascertaining the amount
30 of the indebtedness of the borough, direct a writ of mandamus to

1 the proper officers of the borough to collect by special
2 taxation an amount sufficient to pay the indebtedness in one or
3 more annual installments, as determined reasonable by the court.
4 § 1304. Special road fund tax.

5 (a) Authority.--Any borough shall be empowered, within its
6 general power to levy taxes, to collect annually a tax upon all
7 real property taxable for borough purposes, not to exceed five
8 mills on the dollar in any one year, for the purpose of creating
9 and maintaining a special fund to be used by its borough in
10 making permanent street improvements and to pay contract prices
11 for paving and other permanent street improvements, prior to the
12 collection of the cost and expense from the property owners
13 adjoining or abutting the property by the borough under existing
14 laws.

15 (b) Application.--If the cost and expense or any part of the
16 cost and expense of the construction of any permanent street
17 improvement, which has been made under existing laws and which
18 has been aided in its construction from the special fund
19 provided for under this section, has been assessed and collected
20 from the owners of the real property adjoining or abutting upon
21 the improvement, it shall be applied to the credit of the
22 special fund, to the extent of the withdrawal from the special
23 fund for that purpose.

24 § 1305. Date tax duplicate to issue.

25 Council shall, within 30 days after adoption of the budget or
26 within 30 days after receipt of the assessment roll from the
27 county, whichever is later, issue their duplicate of taxes
28 assessed to the collector of taxes of the borough.

29 § 1306. Additions and revisions to duplicates.

30 (a) Inspection and reassessment.--If in any borough there is

1 any construction of a building or buildings not otherwise exempt
2 as a dwelling after the council has prepared a duplicate of the
3 assessment of borough taxes and the building is not included in
4 the tax duplicate of the borough, the county assessment office
5 shall, upon the request of the council, direct the assessor in
6 the county assessment office to inspect and reassess, subject to
7 the right of appeal and adjustment provided by statute, all
8 taxable property in the borough to which major improvements have
9 been made after the original duplicates were prepared and to
10 give notice of the reassessments within ten days to the
11 authority responsible for assessments, the borough and the
12 property owner. The real property shall then be added to the
13 duplicate and shall be taxable for borough purposes at the
14 reassessed valuation for that proportionate part of the fiscal
15 year of the borough remaining after the real property was
16 improved. Any improvement made during the month shall be
17 computed as having been made on the first of the month.

18 (b) Copy of additions or revisions.--A certified copy of the
19 additions or revisions to the duplicate shall be furnished by
20 the council to the borough tax collector, together with their
21 warrant for collection of the taxes, and, within ten days, the
22 borough tax collector shall notify the owner of the real
23 property of the taxes due to the borough.

24 § 1307. Preparation of budget.

25 Beginning at least 30 days prior to the adoption of the
26 budget, a proposed budget or annual estimate of revenues and
27 expenditures for the ensuing year shall be prepared in a manner
28 designated by the council. The proposed budget shall be kept on
29 file with the borough secretary and be made available for public
30 inspection by the borough secretary for a period of ten days.

1 § 1308. Notice of proposed budget and penalty.

2 (a) Notice.--Notice that the proposed budget is available
3 for inspection shall be published by the borough secretary in a
4 newspaper of general circulation, except in boroughs in which
5 the estimated budget receipts are less than \$50,000 in 2012,
6 where, in lieu of the newspaper publications, notice may be
7 conspicuously posted during the ten-day period in a place
8 readily viewable by the public at the office of the borough
9 secretary and with further notice as shall be prescribed by
10 council.

11 (b) Failure.--Any borough secretary who fails or refuses to
12 give the notice that the proposed budget is available for
13 inspection, as required, shall, upon conviction in a summary
14 proceeding, be sentenced to pay a fine not exceeding \$100 and
15 costs of prosecution.

16 § 1309. Revision and completion of budget.

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

1 ratified by motion in council. The expenditures, whether by
2 ordinance or motion, must then be considered as appropriations
3 affecting the budget. A balance of revenues over expenditures
4 may be expended in a subsequent year for a lawful purpose.

5 § 1310. Adoption of budget.

6 Upon completion of the budget containing the estimated
7 receipts and expenditures, the council shall adopt the budget by
8 motion of the council, which may not be later than December 31.

9 § 1310.1. Tax ordinance.

10 After council has adopted the budget, it is the duty of the
11 council to enact an ordinance levying the taxes referred to in
12 this part for the fiscal year subject to approval of the mayor
13 or enactment over the mayor's veto under the procedure
14 established in section 3301.3(c) (relating to enactment,
15 approval and veto).

16 § 1311. Amending budget and notice.

17 During the month of January next following a municipal
18 election, the council of a borough may amend the budget and the
19 levy and tax rate to conform with its amended budget. A period
20 of ten days' public inspection at the office of the borough
21 secretary of the proposed amended budget, after notice by the
22 borough secretary to that effect is published once in a
23 newspaper of general circulation, must intervene between the
24 proposed amended budget and its adoption. An amended budget must
25 be adopted by council on or before the 15th day of February.

26 § 1312. Modification of budget and supplemental appropriations
27 and transfers.

28 The council in its reasonable discretion may, in any year, by
29 motion, modify the budget after its final adoption. New
30 appropriations, supplementary appropriations and transfers from

1 one appropriation to another may be made during the fiscal year,
2 either before or after the expenditure is authorized or ratified
3 after the expenditure is made, if it is within the current
4 year's revenues, or the money is promptly made available through
5 borrowing as allowed by law.

6 § 1313. Payment from borough funds.

7 The payments made by the council from the borough funds must
8 be made by proper borough orders, drawn upon the treasurer. No
9 borough order may be authorized by council or signed by the
10 president or secretary of a council unless there are sufficient
11 funds in the treasury of the borough to pay the order, and no
12 orders may be made payable at any time in the future or draw
13 interest. A separate borough order must be drawn for each
14 account or payment.

15 § 1313.1. Creation of special funds and investments.

16 Council may set aside in a separate fund any money received
17 out of or from the sale, lease or other disposition of any
18 borough property or received from any source unless the money
19 was received or acquired for a particular purpose. The fund must
20 be controlled, invested and administered, and the income arising
21 from the fund expended, in the manner as may be determined by
22 action of the council under the ordinance creating the fund. The
23 ordinance may provide that only the income from the fund may be
24 used or expended, and that neither principal nor any part of the
25 principal may be used or expended unless upon authorization of a
26 majority vote of the qualified electors of the borough. The
27 ordinances previously enacted by a borough creating and
28 establishing a separate fund as authorized by this section must
29 be deemed and taken as valid and effectual for all purposes if
30 the other requirements of law concerning the enactment of the

1 separate fund have been complied with.

2 § 1314. Uniform financial report and forms.

3 (a) Preparation of uniform forms.--The uniform forms for the
4 annual financial statement required to be made by the auditors
5 or the controller must be prepared by a committee consisting of
6 four representatives from the Pennsylvania State Association of
7 Boroughs, the Secretary of Community and Economic Development,
8 or the secretary's designee, and any additional members
9 appointed under statute.

10 (b) Appointment of representatives.--The representatives of
11 boroughs must be appointed by the president of the Pennsylvania
12 State Association of Boroughs. The representatives shall be
13 chosen from among the finance officers or other officers of the
14 borough who have knowledge of the borough's fiscal procedures.
15 As far as possible, they must be chosen to represent boroughs in
16 the various population groups. The president of the organization
17 shall supply to the Department of Community and Economic
18 Development the names and addresses of the representatives
19 immediately upon their appointment.

20 (c) Compensation of representatives.--The representatives
21 shall serve without compensation but shall be reimbursed by the
22 Commonwealth for the necessary expenses incurred in attending
23 meetings of the committee.

24 (d) Meetings.--The committee shall meet from time to time as
25 conditions may warrant at the call of the Secretary of Community
26 and Economic Development, or the secretary's designee, who shall
27 serve as chair of the committee.

28 (e) Duty of secretary and cooperation.--It shall be the duty
29 of the Secretary of Community and Economic Development, or the
30 secretary's designee, to ensure that the forms required by this

1 chapter are prepared in cooperation with the committee. In the
2 event that the committee should for any reason fail to furnish
3 the cooperation, the Secretary of Community and Economic
4 Development, or the secretary's designee, shall prepare the
5 forms. After their preparation, the secretary shall issue the
6 forms and distribute them annually, as needed to the proper
7 officers of each borough.

8 § 1315. Capital improvements to certain public service
9 facilities.

10 (a) Authority.--For the purpose of financing the cost and
11 expense or its share of the cost and expense of capital
12 improvements, including the purchase and installation of
13 machinery and equipment, by altering, improving or enlarging any
14 of the following, a borough owning the plant or facility may
15 issue nondebt revenue bonds as provided in section 1202(46)
16 (relating to specific powers):

17 (1) its sewer, sewer system or sewage treatment works,
18 either singly or jointly, with other municipalities;

19 (2) its water works, either singly or jointly, with
20 other municipalities;

21 (3) its electric power plant or power distribution
22 system; or

23 (4) its gas plant ~~or, gas distribution system for its~~ <--
24 ~~own municipal purposes~~ OR OTHER GAS WORKS. <--

25 (b) Rates.--A borough issuing nondebt revenue bonds under
26 the authority of this section shall adjust and, when necessary,
27 increase the rates of rentals or charges pledged as security for
28 the bonds in order to provide sufficient revenue. The revenue
29 must be set aside as reserve funds to cover depreciation of the
30 properties involved and for future improvements to the plant or

1 facility involved as well as for the payment of the interest on
2 the bonds and the principal at the time of maturity.

3 § 1316. Investment of funds.

4 (a) Duty of council.--Council shall invest borough funds
5 consistent with sound business practice.

6 (b) Investment program.--Council shall provide for an
7 investment program subject to restrictions contained in this
8 part and in another applicable statute and any rules and
9 regulations adopted by council.

10 (c) Authorized types of investments.--Authorized types of
11 investments for borough funds are:

12 (1) United States Treasury bills.

13 (2) Short-term obligations of the United States
14 Government or its agencies or instrumentalities.

15 (3) Deposits in savings accounts or time deposits, other
16 than certificates of deposit, or share accounts of
17 institutions insured by the Federal Deposit Insurance
18 Corporation or the National Credit Union Share Insurance Fund
19 to the extent that the accounts are so insured, and, for the
20 amounts above the insured maximum, if approved collateral as
21 provided by law shall be pledged by the depository.

22 (4) Obligations of:

23 (i) the United States or its agencies or
24 instrumentalities backed by the full faith and credit of
25 the United States;

26 (ii) the Commonwealth or its agencies or
27 instrumentalities backed by the full faith and credit of
28 the Commonwealth; or

29 (iii) a political subdivision of the Commonwealth or
30 its agencies or instrumentalities backed by the full

1 faith and credit of the political subdivision.

2 (5) Shares of an investment company registered under the
3 Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. §
4 80a-1 et seq.), whose shares are registered under the
5 Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a et
6 seq.), if the only investments of the company are in the
7 authorized investments for borough funds listed in paragraphs
8 (1) through (4).

9 (6) Certificates of deposit purchased from institutions
10 insured by the Federal Deposit Insurance Corporation or the
11 National Credit Union Share Insurance Fund to the extent that
12 the accounts are so insured. For amounts above the insured
13 maximum, the certificates of deposit must be collateralized
14 by a pledge or assignment of assets of the institution, and
15 the collateral may include loans, including interest in pools
16 of loans, secured by first mortgage liens on real property.
17 Certificates of deposit purchased from commercial banks must
18 be limited to an amount equal to 20% of a bank's total
19 capital and surplus. Certificates of deposit purchased from
20 savings and loan associations or savings banks must be
21 limited to an amount equal to 20% of an institution's assets
22 minus liabilities.

23 (7) An investment authorized by 20 Pa.C.S. Ch. 73
24 (relating to municipalities investments) must be an
25 authorized investment for a pension or retirement fund.

26 (8) Bonds of a municipal authority or parking authority
27 created solely by the borough for the purpose of either
28 investment or possible retirement of the bonds and
29 acquisition of authority projects at an earlier date than
30 originally contemplated, using for the purpose either surplus

1 funds of the borough or money appropriated in the annual
2 budget for the purpose.

3 (d) In making investments of borough funds, council has
4 authority to:

5 (1) Permit assets pledged as collateral under subsection
6 (c) (3), to be pooled in accordance with the act of August 6,
7 1971 (P.L.281, No.72), entitled "An act standardizing the
8 procedures for pledges of assets to secure deposits of public
9 funds with banking institutions pursuant to other laws;
10 establishing a standard rule for the types, amounts and
11 valuations of assets eligible to be used as collateral for
12 deposits of public funds; permitting assets to be pledged
13 against deposits on a pooled basis; and authorizing the
14 appointment of custodians to act as pledgees of assets."

15 (2) Combine money from more than one fund under borough
16 control for the purchase of a single investment, if each of
17 the funds combined for the purpose shall be accounted for
18 separately in all respects and the earnings from the
19 investment are separately and individually computed and
20 recorded and credited to the accounts from which the
21 investment was purchased.

22 (3) Join with one or more other political subdivisions
23 and municipal authorities in accordance with 53 Pa.C.S. Ch.
24 23 Subch. A (relating to intergovernmental cooperation) in
25 the purchase of a single investment, provided the
26 requirements of paragraph (2) are adhered to regarding
27 separate accounting of individual funds and separate
28 computation, recording and crediting of the earnings from the
29 funds.

30 § 1317. (Reserved).

1 CHAPTER 14

2 CONTRACTS

3 Sec.

4 1401. Power to make contracts.

5 1402. Regulation of contracts.

6 1403. Evasion of advertising requirements.

7 1404. Personal interest in contracts or purchases.

8 1404.1. Purchase contracts for petroleum products and fire
9 company, etc., participation.

10 1405. Separate bids for plumbing, heating, ventilating and
11 electrical work.

12 1406. Bonds for the protection of labor and materials.

13 1407. (Reserved).

14 1408. (Reserved).

15 1409. (Reserved).

16 1410. Acceptance by contractor of Workers' Compensation Act.

17 1411. (Reserved).

18 § 1401. Power to make contracts.

19 (a) Authority of borough.--Each borough may make contracts
20 for lawful purposes and for the purposes of carrying into
21 execution this part and laws of this Commonwealth.

22 (b) Contracts and purchases.--Except as otherwise
23 specifically provided in this title, all contracts and purchases
24 must be made with and from the lowest qualified and responsible
25 bidder. In awarding contracts and making purchases, council has
26 the right to take into consideration such factors as the
27 availability, cost and quality of service and may establish
28 prequalification standards for contracts and purchases. A
29 prequalification standard must be reasonably designed to assist
30 council in determining the ability of a bidder to successfully

1 complete a contract or purchase.

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

7 § 1402. Regulation of contracts.

8 (a) Requirements.--All contracts or purchases in excess of
9 the base amount of \$18,500, subject to adjustment under
10 subsection (a.2), except those mentioned in this section and
11 except as provided by the act of October 27, 1979 (P.L.241,
12 No.78), entitled, as amended, "An act authorizing political
13 subdivisions, municipality authorities and transportation
14 authorities to enter into contracts for the purchase of goods
15 and the sale of real and personal property where no bids are
16 received," shall not be made except with and from the lowest
17 qualified and responsible bidder after due notice in one
18 newspaper of general circulation, at least two times at
19 intervals of not less than three days where daily newspapers of
20 general circulation are available for publication and, in case
21 of weekly newspapers, notice once a week for two successive
22 weeks. The first advertisement shall be published not more than
23 45 days and the second advertisement not less than ten days
24 prior to the date fixed for the opening of bids. Advertisements
25 for contracts or purchases must also be posted in a conspicuous
26 place within the borough. Advertisements for contracts and
27 purchases must contain the date, time and location for opening
28 of bids and must state the amount of the performance bond
29 determined under subsection (c). The amount of the contract must
30 in all cases, whether of straight sale price, conditional sale,

1 lease, lease purchase or otherwise, be the entire amount which
2 the borough pays to the successful bidder or the bidder's
3 assigns in order to obtain the services or property, or both,
4 and may not be construed to mean only the amount that is paid to
5 acquire title or to receive another particular benefit of the
6 whole bargain.

7 (a.1) Price quotations.--Written or telephonic price
8 quotations from at least three qualified and responsible
9 contractors must be requested for contracts in excess of the
10 base amount of \$10,000, subject to adjustment under subsection
11 (a.2), and less than the amount requiring advertisement and
12 competitive bidding, or, in lieu of price quotations, a
13 memorandum must be kept on file showing that fewer than three
14 qualified contractors exist in the market area within which it
15 is practicable to obtain quotations. A written record of
16 telephonic price quotations must be made and must contain at
17 least the date of the quotation, the name of the contractor and
18 the contractor's representative, the construction,
19 reconstruction, repair, maintenance or work that was the subject
20 of the quotation and the price. Written price quotations,
21 written records of telephonic price quotations and memoranda
22 must be retained for a period of three years. Written price
23 quotations as used throughout this section include electronic
24 mail.

25 (a.2) Adjustments to base amounts.--Adjustments to the base
26 amounts specified under subsections (a) and (a.1) must be made
27 as follows:

28 (1) The Department of Labor and Industry shall determine
29 the percentage change in the Consumer Price Index for All
30 Urban Consumers: All Items (CPI-U) for the United States City

1 Average as published by the United States Department of
2 Labor, Bureau of Labor Statistics, for the 12-month period
3 ending September 30, 2012, and for each successive 12-month
4 period.

5 (2) If the department determines that there is no
6 positive percentage change, then no adjustment to the base
7 amounts may occur for the relevant time period provided for
8 in this subsection.

9 (3) (i) If the department determines that there is a
10 positive percentage change in the first year that the
11 determination is made under paragraph (1), the positive
12 percentage change must be multiplied by each base amount,
13 and the products must be added to the base amounts,
14 respectively, and the sums must be preliminary adjusted
15 amounts.

16 (ii) The preliminary adjusted amounts must be
17 rounded to the nearest \$100 to determine the final
18 adjusted base amounts for purposes of subsections (a) and
19 (a.1).

20 (4) In each successive year in which there is a positive
21 percentage change in the CPI-U for the United States City
22 Average, the positive percentage change must be multiplied by
23 the most recent preliminary adjusted amounts, and the
24 products must be added to the preliminary adjusted amount of
25 the prior year to calculate the preliminary adjusted amounts
26 for the current year. The sums must be rounded to the nearest
27 \$100 to determine the new final adjusted base amounts for
28 purposes of subsections (a) and (a.1).

29 (5) The determinations and adjustments required under
30 this subsection must be made in the period between October 1

1 and November 15 of each year.

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

7 (7) The department shall publish notice in the
8 Pennsylvania Bulletin prior to January 1 of each calendar
9 year of the annual percentage change determined under
10 paragraph (1) and the unadjusted or final adjusted base
11 amounts determined under paragraphs (3) and (4) at which
12 competitive bidding is required under subsection (a) and
13 written or telephonic price quotations are required under
14 subsection (a.1), respectively, for the calendar year
15 beginning January 1 after publication of the notice. The
16 notice must include a written and illustrative explanation of
17 the calculations performed by the department in establishing
18 the unadjusted or final adjusted base amounts under this
19 subsection for the ensuing calendar year.

20 (8) The annual increase in the preliminary adjusted base
21 amounts obtained under paragraphs (3) and (4) may not exceed
22 3%.

23 (b) Awarding contracts and authority of council.--

24 (1) The award of contracts must be made by public
25 announcement at the meeting at which bids are received, or at
26 a subsequent meeting, the time and place of which shall be
27 publicly announced when bids are received. If for any reason
28 one or both of the meetings are not held, the same business
29 may be transacted at a subsequent meeting if at least five
30 days' notice shall be published in the newspaper of general

1 circulation. At council's request, the bids advertised for
2 must be accompanied by cash, money order, a certified or
3 cashier's good faith check or other irrevocable letter of
4 credit drawn upon a bank authorized to do business in this
5 Commonwealth or by a bond with corporate surety in the amount
6 as council determines, and, when requested, no bid may be
7 considered unless so accompanied.

8 (2) Notwithstanding paragraph (1), council may direct
9 that a committee of council, a member of council or a member
10 of the borough staff receive, open and review bids during
11 normal business hours and forward the information to council
12 for subsequent award at a public meeting. Bidders must be
13 notified and other interested parties, upon request, must be
14 notified of the date, time and location of the opening of
15 bids and may be present when the bids are opened.

16 (c) Security.--The successful bidder when advertising is
17 required may, at the discretion of council, be required to
18 furnish a bond or irrevocable letter of credit or other security
19 with suitable reasonable requirements guaranteeing the work to
20 be done with sufficient surety in an amount as determined by
21 council that must be not less than 10% nor more than 100% of the
22 amount of the liability under the contract within 20 days after
23 the contract has been awarded, unless council shall prescribe a
24 shorter period of not less than ten days, and, upon failure to
25 furnish the security within the time, the previous award is
26 void. Deliveries, accomplishment and guarantees may be required
27 in all cases of expenditures.

28 (d) Contracts or purchases.--The contracts or purchases made
29 by council, which shall not require advertising, bidding or
30 price quotations as provided in this part, are as follows:

1 (1) Those for maintenance, repairs or replacements for
2 water, electricity or public works of the borough, if they do
3 not constitute new additions, extensions or enlargements of
4 existing facilities and equipment, but security may be
5 required by council, as in other cases of work done.

6 (2) Those made for improvements, repairs and maintenance
7 of any kind, made or provided by a borough, through its own
8 employees, if the materials used for street improvement,
9 maintenance or construction in excess of the amount specified
10 or adjusted under subsection (a.1) are subject to the
11 relevant price quotation or advertising requirements
12 contained in this section.

13 (3) Those under which particular types, models or pieces
14 of new equipment, articles, apparatus, appliances, computer
15 software, vehicles or parts of vehicles are desired by
16 council, which are patented and manufactured or copyrighted
17 products.

18 (3.1) Those for used equipment, articles, apparatus,
19 appliances, vehicles or parts of vehicles being purchased
20 from a public utility, municipal corporation, county, school
21 district, municipal authority, council of government or
22 Federal or State Government.

23 (4) (i) Those involving a policy of insurance or a
24 surety company bond.

25 (ii) Those made for utility service for borough
26 purposes, including, but not limited to, those made for
27 natural gas or telecommunications services.

28 (iii) Those made for electricity with the entities
29 set forth in paragraph (6) (i), (ii), (iii), (iv), (v),
30 (vi) and (vii) (A).

1 (iv) Those made with another political subdivision,
2 or a county, or council of government, consortium,
3 cooperative or other similar entity created under 53
4 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
5 cooperation) or the Commonwealth, the Federal Government,
6 an agency of the Commonwealth or the Federal Government,
7 or a municipal authority, including the sale, lease or
8 loan of any supplies or materials by the Commonwealth or
9 the Federal Government or their agencies. The price may
10 not be in excess of that fixed by the Commonwealth, the
11 Federal Government or their agencies.

12 (5) Those involving personal or professional services.

13 (6) Those made relating to the purchase of electricity
14 and associated energy and related services by a borough
15 owning or operating electric generation or distribution
16 facilities on January 1, 1966, with any of the following:

17 (i) A political subdivision.

18 (ii) Another state.

19 (iii) The Commonwealth or a Commonwealth agency.

20 (iv) The Federal Government.

21 (v) A private corporation.

22 (vi) An electric cooperative corporation under 15
23 Pa.C.S. Ch. 73 (relating to electric cooperative
24 corporations).

25 (vii) A nonprofit membership corporation. As used in
26 this subparagraph, the term "nonprofit membership
27 corporation" means an entity, the membership of which:

28 (A) consists solely of Commonwealth boroughs,
29 such as a consortium, buying group or municipal power
30 agency under section 24A04 (relating to municipal

1 power agencies); or

2 (B) consists of Commonwealth boroughs and
3 political subdivisions of another state.

4 (viii) An electric cooperative of another state.

5 Nothing in this paragraph prohibits council from engaging in
6 advertising, bidding or price quotations if the council
7 determines that the advertising, bidding or price quotations
8 are in the public interest.

9 (e) Council shall award contracts subject to the
10 requirements of and may exercise any powers granted by the
11 following acts to the extent applicable:

12 (1) The act of August 15, 1961 (P.L.987, No.442), known
13 as the Pennsylvania Prevailing Wage Act.

14 (2) The act of December 20, 1967 (P.L.869, No.385),
15 known as the Public Works Contractors' Bond Law of 1967.

16 (3) The act of January 17, 1968 (P.L.11, No.5), known as
17 The Minimum Wage Act of 1968.

18 (4) The act of January 23, 1974 (P.L.9, No.4), referred
19 to as the Public Contract Bid Withdrawal Law.

20 (5) The act of March 3, 1978 (P.L.6, No.3), known as the
21 Steel Products Procurement Act.

22 (6) The act of February 17, 1994 (P.L.73, No.7), known
23 as the Contractor and Subcontractor Payment Act.

24 (7) 62 Pa.C.S. Pt. II (relating to general procurement
25 provisions).

26 (f) Prohibition.--No person, consultant, firm or corporation
27 contracting with the borough for purposes of rendering personal
28 or professional services to the borough may share with a borough
29 officer or employee, and no borough officer or employee may
30 accept, a portion of the compensation or fees paid by the

1 borough for the contracted services provided to the borough
2 except under the following terms or conditions:

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

6 (2) The council of the borough must approve the sharing
7 of a fee or compensation for personal or professional
8 services prior to the performance of the services.

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

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

14 § 1403. Evasion of advertising requirements.

15 (a) Prohibition.--

16 (1) No member of council may evade section 1402
17 (relating to regulation of contracts) as to advertising for
18 bids by purchasing or contracting for services and personal
19 properties piecemeal for the purpose of obtaining prices
20 under the amount specified or adjusted under section 1402(a)
21 upon transactions, which transactions should, in the exercise
22 of reasonable discretion and prudence, be conducted as one
23 transaction amounting to more than the amount specified or
24 adjusted under section 1402(a).

25 (2) This subsection is intended to make unlawful the
26 evading of advertising requirements by making a series of
27 purchases or contracts, each for less than the advertising
28 requirement price, or by making several simultaneous
29 purchases or contracts, each below the price, when, in either
30 case, the transactions involved should have been made as one

1 transaction for one price.

2 (3) Any members of council who vote in violation of this
3 subsection and know that the transaction upon which they vote
4 is or should be a part of a larger transaction and is being
5 divided in order to evade the requirements as to advertising
6 for bids shall be jointly and severally subject to surcharge
7 for 10% of the full amount of the contract or purchase.

8 (4) If it appears that a member of council may have
9 voted in violation of this section, but the purchase or
10 contract on which the member of council voted was not
11 approved by council, this section shall not apply.

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

21 § 1404. Personal interest in contracts or purchases.

22 Elected and appointed borough officials and borough employees
23 are restricted from an interest in borough contracts and
24 purchases to the extent provided in 65 Pa.C.S. Ch. 11 (relating
25 to ethics standards and financial disclosure).

26 § 1404.1. Purchase contracts for petroleum products and fire
27 company, etc., participation.

28 The council of each borough shall have power to permit,
29 subject to terms and conditions as it may and, as specifically
30 provided, shall, prescribe, a paid or volunteer fire company,

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

13 § 1405. Separate bids for plumbing, heating, ventilating and
14 electrical work.

15 If, in the preparation for the erection, construction and
16 alteration of a public building, the entire cost of the work
17 exceeds the amount specified or adjusted under section 1402(a)
18 (relating to regulation of contracts), the architect, engineer
19 or other person preparing the specifications may, if requested
20 by the council, prepare separate specifications for the
21 plumbing, heating, ventilating and electrical work. The person
22 authorized to enter into contracts for the erection,
23 construction or alteration of the public buildings may, if the
24 separate specifications have been proposed, receive separate
25 bids upon each of the branches of work and shall award the
26 contract to the lowest responsible bidder for each of the
27 branches.

28 § 1406. Bonds for the protection of labor and materials.

29 Before a contract exceeding \$10,000 is awarded to a prime
30 contractor or construction manager for the construction,

1 erection, installation, completion, alteration, repair of or
2 addition to a public work or improvement of any kind, the
3 contractor shall furnish to the borough a payment bond for the
4 protection of claimants supplying labor or materials to the
5 prime contractor to whom the contract is awarded, at 100% of the
6 contract amount, conditioned for the prompt payment of the
7 materials furnished or labor supplied or performed in the
8 prosecution of the contract under the act of December 20, 1967
9 (P.L.869, No.385), known as the Public Works Contractors' Bond
10 Law of 1967. The bond requirement is in addition to any other
11 bond requirement required by law to be given in connection with
12 the contract.

13 § 1407. (Reserved).

14 § 1408. (Reserved).

15 § 1409. (Reserved).

16 § 1410. Acceptance by contractor of Workers' Compensation Act.

17 (a) Contract provision.--A contract executed by a borough or
18 an officer of a borough, which involves the construction or
19 doing of work involving the employment of labor, must contain a
20 provision that the contractor shall accept, insofar as the work
21 covered by the contract is concerned, the provisions of the act
22 of June 2, 1915 (P.L.736, No.338), known as the Workers'
23 Compensation Act, and the supplements and amendments to the
24 Workers' Compensation Act, and that the contractor will insure
25 his liability under the act and will file with the borough with
26 which the contract is made a certificate of insurance providing
27 evidence of the coverage or file with the borough with which the
28 contract is made a certificate of exemption from insurance from
29 the Bureau of Workers' Compensation of the Department of Labor
30 and Industry. The certificate of exemption from insurance may be

1 issued on the basis of either individual self-insurance or group
2 self-insurance. Additionally, a contractor shall file with the
3 borough with which the contract is made any applications to be
4 excepted by the provisions of the Workers' Compensation Act in
5 respect to certain employees on religious grounds if the
6 applications have been accepted by the Department of Labor and
7 Industry.

8 (b) Violation.--A contract executed in violation of
9 subsection (a) is null and void.

10 § 1411. (Reserved).

11 CHAPTER 15

12 EMINENT DOMAIN, ASSESSMENT OF DAMAGES AND

13 DAMAGES FOR INJURY TO PROPERTY

14 Subchapter

15 A. General Provisions Relating to Eminent Domain

16 B. Procedure for Assessment of Benefits by Viewers

17 (Reserved)

18 C. Damages for Injury to Property

19 SUBCHAPTER A

20 GENERAL PROVISIONS RELATING

21 TO EMINENT DOMAIN

22 Sec.

23 1501. Exercise of eminent domain.

24 1502. Restrictions as to certain property.

25 1502.1. Declaration of intention.

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

27 § 1501. Exercise of eminent domain.

28 A borough may enter upon, appropriate, injure or destroy
29 private lands, property or material, or lands previously granted
30 or dedicated to public use that are no longer used for the

1 purpose for which the lands were granted, according to the
2 proceedings set forth in 26 Pa.C.S. (relating to eminent
3 domain), for any of the following purposes:

4 (1) The laying out, opening, widening, extending,
5 vacating, grading or changing the grades or lines of streets.

6 (2) The construction of bridges and the piers and
7 abutments for bridges.

8 (3) The construction of slopes, embankments and sewers.

9 (4) The erection and extension of water systems, wharves
10 and docks, public buildings, public auditoriums, memorials,
11 monuments, public works, filtration plants, sewerage systems,
12 sewage treatment works, refuse disposal or incineration
13 plants, sanitary landfills, gas plants, electric plants and
14 libraries.

15 (5) The establishing of parks, playgrounds and
16 recreation places, the changing of watercourses.

17 (6) For all other purposes authorized by this part.

18 § 1502. Restrictions as to certain property.

19 (a) Historically significant property.--In addition to a
20 restriction made by another provision of this part in a
21 particular case, no borough may exercise the right of eminent
22 domain against:

23 (1) land now occupied by a building that was used during
24 the Colonial or Revolutionary period as a place of assembly
25 by the Council of the Colony of Pennsylvania, the Supreme
26 Executive Council of the Commonwealth of Pennsylvania or the
27 Congress of the United States;

28 (2) the land occupied by a fort, redoubt or blockhouse
29 erected during the Colonial or Revolutionary period or a
30 building used as headquarters by the Commander-in-Chief of

1 the Continental Army; or

2 (3) the site of a building, fort, redoubt, blockhouse,
3 or headquarters that is preserved for its historic
4 associations and not for private profit.

5 (a.1) Colonial or Revolutionary period.--For the purposes of
6 subsection (a), the Colonial and Revolutionary period terminates
7 on September 3, 1783.

8 (b) Prohibition.--No land or property used for a cemetery,
9 burying ground or place of public worship may be taken or
10 appropriated by virtue of a power contained in this chapter.

11 § 1502.1. Declaration of intention.

12 A borough shall declare its intention to acquire, enter upon,
13 take, use and appropriate any private property or land for any
14 of the purposes authorized by this chapter through a duly
15 enacted ordinance.

16 § 1503. Application of 26 Pa.C.S.

17 Eminent domain proceedings must conform to the provisions of
18 26 Pa.C.S. (relating to eminent domain), including, but not
19 limited to, payment of damages and costs.

20 SUBCHAPTER B

21 PROCEDURE FOR ASSESSMENT OF BENEFITS BY VIEWERS

22 (Reserved)

23 SUBCHAPTER C

24 DAMAGES FOR INJURY TO PROPERTY

25 Sec.

26 1561. Right to damages given in certain cases.

27 1562. (Reserved).

28 1563. (Reserved).

29 1564. (Reserved).

30 1565. (Reserved).

1 § 1561. Right to damages given in certain cases.

2 The right to damages against a borough is given to an owner
3 or tenant of land, property or material, abutting on, or through
4 which pass, streets, injured by the vacating of the streets, or
5 the vacation of bridges and piers, abutments and approaches.

6 § 1562. (Reserved).

7 § 1563. (Reserved).

8 § 1564. (Reserved).

9 § 1565. (Reserved).

10 CHAPTER 16

11 LAND SUBDIVISION

12 (Reserved)

13 CHAPTER 17

14 STREETS

15 Subchapter

16 A. General Provisions

17 B. Plan of Streets

18 C. Laying out Streets

19 D. Opening, Acceptance and Vacation of Streets

20 E. Vacating Streets (Reserved)

21 F. Straightening and Relocating Streets

22 G. Improvement of Borough Streets

23 H. Improvement of Streets Outside or Partly Outside Borough

24 Limits

25 I. Acquisition or Use of Abutting Lands

26 SUBCHAPTER A

27 GENERAL PROVISIONS

28 Sec.

29 1701. Definitions.

30 1702. (Reserved).

1 1703. (Reserved).

2 1704. Streets connecting with street of other municipality.

3 1705. Entry on land to maintain marks and monuments.

4 1706. Exclusive nature of provisions.

5 1707. Failure of council to hold hearing.

6 1708. Street lighting, ornamental lighting and traffic control
7 signals and devices.

8 § 1701. Definitions.

9 The following words and phrases when used in this chapter
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Improving a street." The term includes work upon a street
13 or portion thereof done or proposed to be done in order to open
14 the street, if the street has not previously been opened or, if
15 previously opened, to make the street more usable or more
16 suitable for use by the traveling public or safer for the use.
17 The term includes, but is not limited to, grading, paving,
18 curbing and macadamizing.

19 "Laying out." The term includes the plotting of:

20 (1) An unopened street or portion of the street on a
21 borough plan or official map adopted in accordance with the
22 Pennsylvania Municipalities Planning Code on a subdivision or
23 land development plan or by the enactment of an ordinance
24 adopted in accordance with this chapter.

25 (2) An unopened street in a case where any of the lines
26 of the street are proposed to be revised or in a case where
27 the street was never previously laid out although the street
28 may have been opened and used.

29 "Opened streets." The term includes the streets within the
30 borough used as public passageways.

1 "Opening a street." The term includes the construction and
2 grading of a street or portion thereof and the act of physically
3 taking possession of an area or laid-out street for the purpose
4 of making the same usable to the traveling public.

5 "Person." The term includes a natural person, association,
6 firm, corporation or political subdivision.

7 "Personal notice." The term includes notice upon the owner
8 of a premises either by personal service upon the owner or by
9 certified mail to the owner at the owner's last known address.
10 Where service has not been successfully made by either of the
11 two methods first mentioned, it may be made by leaving the
12 notice at or upon the premises.

13 "Portion." The term includes a portion either of the width
14 or length of a street. Opening a portion of a street may mean
15 extending or widening a street and vacating a portion of a
16 street may mean closing or narrowing a street.

17 "Street." The term includes a street, road, lane, court,
18 cul-de-sac, alley, public way and public square, either for or
19 intended for public use, and includes the cartway, sidewalk,
20 gutter and the right-of-way area, whether or not the street or a
21 part of the street is owned in fee by others than the borough.
22 Streets are of two classes, opened and unopened.

23 "Unopened streets." The term includes the streets within the
24 borough neither used as a public passageway, nor accepted or
25 maintained, but plotted in one of the following:

26 (1) a borough plan or official map adopted in accordance
27 with the Pennsylvania Municipalities Planning Code;

28 (2) an ordinance laying out the street in accordance
29 with this chapter;

30 (3) a subdivision or land development plan; or

1 (4) an individual deed.

2 § 1702. (Reserved).

3 § 1703. (Reserved).

4 § 1704. Streets connecting with street of other municipality.

5 No action may be taken under this chapter that would result
6 in the change of location or grade or the vacation of a street
7 or portion thereof that connects with a street of another
8 municipality, without approval of the court of common pleas of
9 the county in which the municipality is located, unless the
10 municipality first files with the borough secretary its approval
11 of the proposed action.

12 § 1705. Entry on land to maintain marks and monuments.

13 The council, its agents and employees, may enter upon any
14 land or property and maintain marks and monuments, so far as the
15 council may deem necessary, in carrying out its powers and
16 duties under this chapter.

17 § 1706. Exclusive nature of provisions.

18 No street may be dedicated, accepted, acquired, laid out,
19 opened or vacated by a borough except under this chapter.

20 § 1707. Failure of council to hold hearing.

21 If, after the filing of a petition under this chapter,
22 council fails to hold a required hearing, an aggrieved party may
23 file a mandamus action in the court of common pleas requesting
24 that a hearing be held.

25 § 1708. Street lighting, ornamental lighting and traffic
26 control signals and devices.

27 Council may provide street lights and ornamental lighting and
28 make regulations for the protection of lighting. Council may
29 assess the costs for the erection of lighting in accordance with
30 Chapter 21A (relating to assessments and charges for public

1 improvements). Council may provide for the erection, maintenance
2 and operation of traffic control signals and devices in
3 accordance with 75 Pa.C.S. (relating to vehicles).

4 SUBCHAPTER B

5 PLAN OF STREETS

6 Sec.

7 1711. (Reserved).

8 1712. Borough street plan.

9 § 1711. (Reserved).

10 § 1712. Borough street plan.

11 (a) Adoption of plan.--A borough that has not maintained an
12 accurate plan of borough streets adopted in accordance with this
13 part prior to July 16, 2012, may only adopt a plan of streets
14 under the Pennsylvania Municipalities Planning Code, governing
15 the adoption of an official map.

16 (b) Amendments to plan.--If a borough maintains a plan of
17 streets adopted prior to July 16, 2012, or maintains an official
18 map containing opened and unopened streets, a street laid out in
19 accordance with this part by ordinance or by final approval of a
20 subdivision or land development plan must be deemed an amendment
21 to the plan. Notwithstanding any other provision of law, a
22 deemed amendment as provided in this section and a subsequent
23 placement of the street on a plan may not be subject to public
24 notice or public hearing, if the street has been laid out in
25 accordance with the requirements of this chapter.

26 (c) Prohibition.--The maintenance of a plan of streets or
27 official map shall not be required in order for a borough to lay
28 out streets in accordance with section 1721.2(b) (relating to
29 laying out streets and procedure) or lay out and open a street
30 in accordance with section 1724 (relating to effect of laying

1 out street).

2 SUBCHAPTER C

3 LAYING OUT STREETS

4 Sec.

5 1721. (Reserved).

6 1721.1. Power to lay out, open, etc.

7 1721.2. Laying out streets and procedure.

8 1722. (Reserved).

9 1723. (Reserved).

10 1724. Effect of laying out street.

11 § 1721. (Reserved).

12 § 1721.1. Power to lay out, open, etc.

13 (a) Authority of borough.--In accordance with the provisions
14 of this chapter, boroughs may, with or without petition of
15 abutting property owners, lay out, open, widen, straighten,
16 alter, extend and improve, and may establish or reestablish the
17 grades of, and keep in order and repair and in safe passable
18 condition, a street or portion of a street within the borough
19 limits or may vacate the street or portion of a street if deemed
20 expedient for the public good and provide for the costs of
21 alteration.

22 (b) Laying out or opening streets.--Boroughs may lay out or
23 open:

24 (1) a street or portion of a street as it appears upon a
25 borough plan or an official map adopted in accordance with
26 the Pennsylvania Municipalities Planning Code or is described
27 in an ordinance adopted in accordance with this chapter;

28 (2) a street or portion of a street that the borough
29 determines to acquire by eminent domain;

30 (3) a street to which the public has acquired rights by

1 constant use over a period exceeding 21 years; or

2 (4) a street or portion of a street, laid out or
3 constructed by a person that the borough sees fit to open or
4 accept as provided in this chapter.

5 § 1721.2. Laying out streets and procedure.

6 (a) Streets deemed to be laid out.--A street identified in a
7 plan of streets, an official map adopted in accordance with the
8 Pennsylvania Municipalities Planning Code or a recorded
9 subdivision or land development plan is deemed to be laid out
10 for purposes of this part.

11 (b) Future street opening.--A borough has the authority, by
12 ordinance, to lay out an area for future opening as a public
13 street. The proposed ordinance laying out the street must be
14 advertised in a newspaper of general circulation once a week for
15 two successive weeks. On or before the publication of the first
16 advertisement, personal notice must be provided to the owners of
17 a property abutting the proposed street or through which the
18 proposed street is to be laid out, and, if the proposed street
19 will lead into an adjacent municipality, a copy of the proposed
20 ordinance must be sent to the adjacent municipality. The
21 proposed ordinance must have appended to the ordinance or
22 referenced a map sufficient to apprise the public of the
23 proposed location, profile and dimensions of the street and must
24 list the names of the owners of a property through which the
25 proposed street has been laid out.

26 (c) Hearing, notice and enactment.--Within ten days after
27 the second publication of the notice required under subsection
28 (b), an interested party may petition council for a hearing,
29 which council shall hold within 60 days after the date of the
30 petition. Council shall give at least 15 days' notice of the

1 hearing in a newspaper of general circulation and by personal
2 notice to persons entitled to the notice under subsection (b).
3 Council may enact the ordinance no later than 30 days following
4 the date of the hearing or, where no timely petition has been
5 filed, within 30 days of the second publication of the notice
6 required by subsection (b). The enactment of the ordinance
7 constitutes public notice of the borough's intent to recognize
8 the street within the system of borough streets and the
9 borough's rights in the street. Within 30 days of the enactment
10 of the ordinance, a party aggrieved by council's action may
11 appeal to the court of common pleas.

12 (d) Filing of ordinance.--If, at the time of the enactment
13 of an ordinance in accordance with subsection (c), the lines of
14 the laid out street include property not subject to use as a
15 public passageway, the ordinance must be filed with the recorder
16 of deeds of the county where the borough is located. The
17 recorder of deeds shall index the ordinance by name of borough,
18 name of the property owner and, if applicable, parcel number of
19 the property through which the proposed street is laid out.

20 (e) Landowners.--If a street has been laid out by ordinance
21 as provided in this section, the owner or subsequent owner has
22 no right to damages for buildings or improvements placed on
23 streets after the date of enactment, and the buildings or
24 improvements must be removed at the expense of the landowner
25 after the opening of the street in accordance with this part.

26 (f) Laying out without opening.--The laying out of a street,
27 without opening the street, creates no right to public use of
28 the street and does not constitute the taking or acceptance of a
29 property or obligate the borough to improve or maintain the
30 street or the property on which the street has been laid out.

1 (g) Previously laid out streets.--Nothing in this section
2 may affect the validity or legal effect of a street laid out in
3 accordance with law prior to July 16, 2012.

4 § 1722. (Reserved).

5 § 1723. (Reserved).

6 § 1724. Effect of laying out street.

7 (a) Street unopened after ten years.--At any time after a
8 street or portion of the street has remained laid out but not
9 opened for a period of ten years or longer, an owner of 50% of
10 the front feet of the land over which the street or portion of
11 the street was laid out may petition the council to cancel the
12 laying out of the street. Following at least 15 days' notice in
13 a newspaper of general circulation and at least 15 days'
14 personal notice to the owners of the real estate abutting upon
15 the land over which the street or portion of the street was laid
16 out, council shall hold a public hearing on the matter. Council
17 may, on motion, deny the petition or, by ordinance, grant the
18 petition and cancel the laying out of the street. A person
19 aggrieved by the decision of the council, either granting or
20 denying the petition, may appeal it. The ordinance providing for
21 the cancellation of the laying out of a street must be filed
22 with the recorder of deeds in accordance with section 1721.2(d)
23 (relating to laying out streets and procedure).

24 (b) Street unopened after 21 years.--If a street has been
25 laid out and has not been opened to or used by the public for a
26 period of 21 years, the street may not thereafter be opened
27 without the consent of at least 51% percent of the number of
28 owners of the abutting real estate and without the consent of
29 the owners of at least 51% of the property abutting the street,
30 based on a front foot basis.

1 SUBCHAPTER D

2 OPENING, ACCEPTANCE AND

3 VACATION OF STREETS

4 Sec.

5 1731. Authority to open and vacate streets and procedure.

6 1732. Petition for opening or vacating street and action
7 thereon.

8 1733. Action for damages and benefits and award.

9 1734. Acceptance and dedication of streets.

10 1735. Streets not to be constructed, dedicated or opened to
11 travel without the approval of council.

12 1736. (Reserved).

13 1737. (Reserved).

14 § 1731. Authority to open and vacate streets and procedure.

15 (a) Authority of council authority.--By ordinance, council
16 has the authority to:

17 (1) Open a street or portion of a street previously laid
18 out or simultaneously to lay out and open a street or portion
19 thereof. A street or portion of a street so opened is a
20 public street of the borough.

21 (2) Vacate or close a street or portion of a street
22 previously opened or laid out provided that no street or
23 portion of a street providing the sole means of access to a
24 tract of land is vacated without the consent of those to whom
25 access would be denied. Vacation of a street terminates the
26 public right in or to the street but does not affect a
27 private right acquired by an owner of abutting property.

28 (b) Notice.--The proposed ordinance opening or vacating a
29 street or portion of a street must be advertised in a newspaper
30 of general circulation once a week for two successive weeks. On

1 or before the publication of the first advertisement, personal
2 notice must be provided to the owners of a property abutting the
3 street proposed to be opened or vacated. The proposed ordinance
4 must have appended to it or reference a map or survey sufficient
5 to apprise the public of the proposed location, profile and
6 dimensions of the street and must list the names of the owners
7 of a property abutting the street.

8 (c) Hearing.--Within ten days after the second publication
9 of the notice required under subsection (b), an interested party
10 may petition council for a hearing, which council shall hold
11 within 60 days after the date of the petition. Council shall
12 give at least 15 days' notice of the hearing in a newspaper of
13 general circulation and by personal notice to persons entitled
14 to notice under subsection (b). Council may enact the ordinance
15 no later than 30 days following the date of the hearing or,
16 where no timely petition has been filed, within 30 days of the
17 second publication of the notice required under subsection (b).
18 Within 30 days of the enactment of the ordinance, any party
19 aggrieved by council's action may appeal to the court of common
20 pleas.

21 § 1732. Petition for opening or vacating street and action
22 thereon.

23 (a) Petitioning council.--Any person or persons constituting
24 a majority in number and interest of the owner of the real
25 estate abutting upon an area not opened as a street or abutting
26 upon an existing street or portion of a street may petition the
27 council to:

28 (1) Open or lay out and open the area as a street or
29 portion of a street.

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

1 (b) Hearing and decision.--Council shall hold a hearing
2 after receiving a petition filed with council in accordance with
3 subsection (a), following at least 15 days' personal notice to
4 the owners of abutting real estate not joining in the petition
5 and following at least 15 days' notice thereof in a newspaper of
6 general circulation. Following the hearing, council shall either
7 by motion deny the petition or by ordinance open, lay out and
8 open or vacate the street or portion of the street. The
9 provisions of section 1731 (relating to authority to open and
10 vacate streets and procedure) applicable to ordinances enacted
11 by authority of that section apply to ordinances enacted by
12 authority of this section.

13 (c) Release.--A petition for the vacation of a street or
14 portion of a street may release the borough from the damages
15 sustained as a result of the vacation if the petition is signed
16 by the owners of the property abutting upon the street or
17 portion of the street. Where the release has been included in
18 the petition, no proceedings for award of damages may be had,
19 and no damages as a result of the vacation may, under any
20 conditions, be awarded to an abutting property owner.
21 § 1733. Action for damages and benefits and award.

22 (a) Authority of borough.--Upon the effective date of an
23 ordinance enacted to open a street or portion of a street by
24 authority of section 1731 (relating to authority to open and
25 vacate streets and procedure) or 1732 (relating to petition for
26 opening or vacating street and action thereon), the borough has
27 authority to enter upon and take possession of the street or
28 portion of the street opened by the ordinance, if no structures
29 are upon the street. If a structure has been located upon the
30 street or portion of the street so opened, prior to the laying

1 out of the street or prior to the simultaneous laying out and
2 opening of the street, the street may not be opened until the
3 owner of the structure has been given 60 days' personal notice
4 to vacate the structure. Council may not be required to file any
5 bond or security for the exercise of the right granted by this
6 section.

7 (b) Limitation.--The parties whose ground is taken in the
8 opening of a street or portion of the street have three years
9 from and after the effective date of the ordinance opening the
10 street or portion of the street in which to bring an action for
11 damages resulting from the opening of the street or portion of
12 the street. In case of the assessment of damages for the opening
13 of a street or portion of the street, the award of damages, if
14 any, includes:

15 (1) the damages resulting from the grade at which the
16 street or portion of the street is to be opened; and

17 (2) the plan attached to the report of the viewers
18 awarding the damages must include a profile plan showing the
19 existing grade as well as the grade to which the street or
20 portion of the street is to be opened.

21 Costs and expenses that cannot be assessed upon property
22 benefited must be paid by the borough.

23 (c) No agreement on damages.--If the parties cannot agree
24 upon damages sustained by reason of the opening or vacation of
25 any street or portion of a street, the damages shall be assessed
26 by a jury of view under the law governing eminent domain.

27 § 1734. Acceptance and dedication of streets.

28 (a) Accept an opened street.--A borough may, by ordinance,
29 accept an opened street not previously dedicated to or laid out
30 by the borough by following the procedure set forth in section

1 1731 (relating to authority to open and vacate streets and
2 procedure) or 1732 (relating to petition for opening or vacating
3 street and action thereon), and the effect of the acceptance
4 shall be the same as of opening the street. No street may be
5 accepted unless the street connects with at least one other
6 previously opened street or State highway.

7 (b) Prohibition.--No borough may acquire a right in or
8 responsibility for a street privately constructed until
9 dedication of the street has been presented to and accepted by
10 the borough and until the dedication has been recorded in the
11 county office for the recording of deeds.

12 § 1735. Streets not to be constructed, dedicated or opened to
13 travel without the approval of council.

14 (a) Requirements.--No person may construct, dedicate or open
15 to travel a street or a drainage facility in connection with the
16 street for public use or travel or for the common use of
17 occupants of buildings abutting thereon in a borough without
18 first submitting suitable plans to the council and obtaining its
19 approval. The plans must:

20 (1) be prepared in accordance with rules and regulations
21 as may be prescribed by the council; and

22 (2) show the profiles of the street, the course,
23 structure and capacity of a drainage facility, and the method
24 of drainage of the adjacent or contiguous territory, and any
25 other or further details that may be required under the rules
26 or regulations adopted by the council.

27 (b) Pennsylvania Municipalities Planning Code.--The
28 Pennsylvania Municipalities Planning Code shall apply to the
29 construction, security requirements and dedication of streets
30 and connected drainage facilities if the streets proposed to be

1 constructed are part of a plan required by an ordinance adopted
2 under the Pennsylvania Municipalities Planning Code.

3 (c) Authority and duties of council.--

4 (1) Before acting upon plans not subject to review under
5 subsection (b), council may, at its discretion, arrange for a
6 public hearing after giving the notice as it may deem
7 desirable in each case. Council may alter the plans and
8 specify changes or modifications of any kind and may make its
9 approval of the plans subject to alterations, changes or
10 modifications. Plans, when so approved, must be:

11 (i) signed on behalf of the borough by the officer
12 as the council may designate; and

13 (ii) must be filed where the plans are available for
14 public inspection among the records of the borough at
15 reasonable times.

16 (2) No approval of plans by council may obligate or
17 require the borough to construct, reconstruct, maintain,
18 repair or grade a street or drainage facilities associated
19 therewith.

20 (d) No plan approved.--If the council refuses to approve any
21 plans submitted to it, a person aggrieved by the action of
22 council may, within 30 days after the action, appeal from the
23 action by petition to the court of common pleas of the county,
24 and the court shall hear the matter de novo. After hearing, the
25 court may enter a decree affirming, reversing or modifying the
26 action of the council as may appear just. The court shall
27 designate the manner in which notice of the hearing of an appeal
28 shall be given to all parties interested. The decision of the
29 court shall be final. A plan approved by the action of council
30 or by the court on appeal must be recorded by the person

1 applying for approval in the office of the recorder of deeds in
2 the county.

3 (e) Restriction.--If a street or a drainage facility in
4 connection with the street is opened, constructed or dedicated
5 for public use or travel, except in strict accordance with a
6 plan approved by the council or the court on appeal as provided
7 in this chapter, neither the council nor any other public
8 authority may place, construct or operate a sewer, drain, water
9 pipe or other facility or do any work in or upon the street.
10 Neither council nor any other public authority has a
11 responsibility with respect to the street or drainage facility,
12 notwithstanding the use of the street or drainage facility by
13 the public. Nothing in this chapter prevents the laying of a
14 trunk sewer, drain or water or gas main, if required by
15 engineering necessity for the accommodation of other territory.

16 (f) Failure to comply with chapter.--A person who
17 constructs, opens or dedicates a street or drainage facility in
18 connection with a street, for public use or travel in a borough,
19 without having first complied with this chapter is guilty of a
20 misdemeanor of the third degree and is subject to a suit for the
21 costs and damages incurred by the borough or property owners in
22 the course of correcting the substantive violations of State law
23 or borough ordinance resulting from or arising out of the
24 unlawfully constructed street or facility. Nothing under this
25 section may be construed to apply to the Department of
26 Transportation.

27 § 1736. (Reserved).

28 § 1737. (Reserved).

29

SUBCHAPTER E

30

VACATING STREETS

1 (Reserved)

2 SUBCHAPTER F

3 STRAIGHTENING AND RELOCATING STREETS

4 Sec.

5 1751. Authority to straighten and relocate streets and
6 procedure.

7 § 1751. Authority to straighten and relocate streets and
8 procedure.

9 Council may, by ordinance, provide for straightening or
10 relocating any street previously opened which involves the
11 opening of a portion of the straightened or relocated street
12 over land not previously a portion of the street or the vacation
13 of a portion of the previously opened street no longer to be
14 used for street purposes. The straightening or relocation shall
15 be considered as an opening or vacation and shall be effected in
16 the same manner and by the same procedure as provided in section
17 1731 (relating to authority to open and vacate streets and
18 procedure) but may be considered as a single proceeding to be
19 effected by enactment of a single ordinance.

20 SUBCHAPTER G

21 IMPROVEMENT OF BOROUGH STREETS

22 Sec.

23 1761. Proceedings with or without petition.

24 1762. (Reserved).

25 1763. (Reserved).

26 § 1761. Proceedings with or without petition.

27 Boroughs may improve streets, parts of streets or a
28 particular width or additional widths of streets, with or
29 without the assistance or contribution of the Federal
30 Government, the Commonwealth, the county or a corporation

1 occupying the thoroughfare, and may assess and collect the whole
2 cost of improvement, the whole cost not aided or contributed or
3 any part of the cost from the owners of real estate abutting on
4 the improvement in accordance with Chapter 21A (relating to
5 assessments and charges for public improvements).

6 § 1762. (Reserved).

7 § 1763. (Reserved).

8 SUBCHAPTER H

9 IMPROVEMENT OF STREETS OUTSIDE OR PARTLY

10 OUTSIDE BOROUGH LIMITS

11 Sec.

12 1771. Improvement of streets outside or partly outside borough
13 limits.

14 1772. (Reserved).

15 1773. (Reserved).

16 1774. (Reserved).

17 1775. (Reserved).

18 § 1771. Improvement of streets outside or partly outside
19 borough limits.

20 (a) General rule.--

21 (1) Any borough may enter into a written agreement with
22 an adjoining municipality for improving streets, including
23 streets that are boundaries between the borough and the
24 municipality and may provide in the contract for the division
25 of the damages, costs and expenses of the improvement.

26 (2) The borough may assess its share of the costs
27 against the owner of property abutting upon the borough's
28 side of the improvement in the manner provided in Chapter 21A
29 (relating to assessments and charges for public improvements)
30 or may agree to pay any part of the costs, damages and

1 expenses of the improvements out of the general funds.

2 (3) The portion of the damages, costs and expenses
3 agreed to be paid by the borough shall be ascertained as
4 provided in the law governing eminent domain.

5 (b) Street dividing borough and township.--

6 (1) If the center line of any street constitutes the
7 dividing line between a borough and a township located in the
8 same county, any agreement to improve and maintain the street
9 shall be made with the governing bodies of the township and,
10 if necessary, the county.

11 (2) The improvement shall be constructed and subsequent
12 repairs shall be made under the supervision of the borough
13 and in compliance with plans to be agreed upon, in writing,
14 by the parties.

15 (3) One-half of the cost of the repairs shall be borne
16 by the borough. The borough may assess its share of costs
17 against the owners of real property abutting on the borough's
18 side of the improvement in the manner provided in Chapter
19 21A.

20 (c) Street dividing borough and any other municipality.--

21 (1) If any street, more than one-half the width or the
22 entire width of which is within the limits of any borough,
23 divides the borough from any other municipality, the street
24 may be improved by the borough.

25 (2) The property abutting on the side of the street
26 which is located outside the limits of the borough making the
27 improvements may, for a depth of 150 feet, plus one-half the
28 width of the street, from its center line, be assessed for
29 any and all municipal improvements to or on the street in
30 accordance with Chapter 21A.

1 (d) Street outside limits of borough.--A borough may
2 appropriate and expend money for the improvement of a street,
3 not to exceed one mile in length, outside the limits of the
4 borough for the purpose of connecting improved streets in the
5 borough with State highways, interstate highways and county
6 roads.

7 § 1772. (Reserved).

8 § 1773. (Reserved).

9 § 1774. (Reserved).

10 § 1775. (Reserved).

11 SUBCHAPTER I

12 ACQUISITION OR USE OF ABUTTING LANDS

13 Sec.

14 1781. (Reserved).

15 1782. Acquisition of property for unobstructed view.

16 § 1781. (Reserved).

17 § 1782. Acquisition of property for unobstructed view.

18 (a) General rule.--Any borough may, singly or jointly with
19 another municipality, acquire, by purchase or by the right of
20 eminent domain, a free and unobstructed view down and across
21 lands located at or near the intersection of any two streets or
22 highways or a street or highway and a railroad or railway or at
23 a curve in any street or highway as may be necessary to
24 accomplish the following:

25 (1) Assure a free and unobstructed view in all
26 directions at the crossings.

27 (2) Prevent the use of the lands for any purpose or in
28 any manner which may interfere with or obstruct the view of
29 persons traveling upon the street or highway.

30 (b) Obstructions to be abated or removed.--After

1 condemnation, the borough may abate or remove or cause to be
2 abated or removed any obstruction to the view over and across
3 the lands except poles used in furnishing service to the public.

4 (c) Condemnation proceedings.--The proceedings for the
5 condemnation of the view over and across lands and for the
6 assessment of damages for property taken, injured or destroyed,
7 or the portion thereof agreed to be paid by the borough if the
8 taking is jointly with another municipality, shall be taken in
9 the manner provided in the law governing eminent domain.

10 (d) Use of lands.--Upon the purchase or condemnation of a
11 view, the owner of the lands may make every use of the lands as
12 will not interfere with a free and unobstructed view at the
13 dangerous crossing or curve.

14 CHAPTER 18

15 SIDEWALKS

16 Sec.

17 1800. Definitions.

18 1801. Power to lay out, establish and compel construction of
19 sidewalks.

20 1802. Sidewalks on land abutting State highways and along roads
21 outside borough.

22 1803. Establishment of grades.

23 1804. Boroughs may pay all or part of cost of grading and
24 curbing.

25 1805. Borough may do work and collect cost.

26 1806. Emergency repairs to sidewalks.

27 § 1800. Definitions.

28 The following words and phrases when used in this chapter
29 shall have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

1 "Sidewalk." The portion of a street located outside the
2 cartway and may include paved footway, unpaved grasslot, curb
3 and gutter.

4 § 1801. Power to lay out, establish and compel construction of
5 sidewalks.

6 (a) General rule.--

7 (1) Any borough may, by ordinance, lay out and establish
8 sidewalks, curbs, gutters and surface water drains along any
9 street and, with the consent of the Secretary of
10 Transportation, along any State highway.

11 (2) The borough may also require owners of property
12 abutting on any street or State highway to grade, construct,
13 drain, pave and repave the sidewalk, curb or gutter and keep
14 them in repair and in safe and usable condition along the
15 property at the grades and under the regulations and
16 specifications as council may prescribe.

17 (b) (Reserved).

18 § 1802. Sidewalks on land abutting State highways and along
19 roads outside borough.

20 Any borough may, by ordinance, lay out sidewalks, gutters,
21 and surface water drains upon land abutting the sides of State
22 highways and upon land abutting the sides of public roads, where
23 the roads are outside the borough limits, but the land upon
24 which the sidewalks, gutters and surface water drains are to be
25 laid out is within the borough limits.

26 § 1803. Establishment of grades.

27 Any borough may establish a grade or grades for sidewalks,
28 which may be separate and apart from the grade or grades
29 established for the cartway or roadway.

30 § 1804. Boroughs may pay all or part of cost of grading and

1 curbing.

2 The borough may pay all or any part of the cost and expenses
3 of grading and curbing any sidewalk.

4 § 1805. Borough may do work and collect cost.

5 (a) General rule.--Upon the failure of any property owner to
6 comply with any of the requirements in sections 1801 (relating
7 to power to lay out, establish and compel the construction of
8 sidewalks), 1802 (relating to sidewalks on land abutting State
9 highways and along roads outside borough), 1803 (relating to
10 establishment of grades) and 1804 (relating to boroughs may pay
11 all or part of cost of grading and curbing), the borough may,
12 after notice, cause the grading, paving, repairing, curbing and
13 guttering to be done at the cost of the owner. The borough may
14 collect the cost of the work and an additional 10% of the cost,
15 together with all charges and expenses, from the owner and may
16 file a municipal claim for the amounts or collect the amounts by
17 action in assumpsit.

18 (b) Notices.--

19 (1) All notices shall be served upon the owner of the
20 premises to which the notice refers, if the owner is a
21 resident of the borough. If the owner is not a resident, then
22 the notice may be served upon the agent or tenant of the
23 owner or upon the occupant of the premises. If the owner has
24 no agent or tenant or there is no occupier of the premises,
25 then service shall be by notice posted upon the premises.

26 (2) The notice required by this section shall specify a
27 period of time of not less than 30 days for the owner to
28 complete the specified work. If the work has not been
29 completed after the specified time has elapsed, the owner
30 shall be deemed to have failed to comply.

1 § 1806. Emergency repairs to sidewalks.

2 (a) General rule.--

3 (1) In addition to the remedies now vested in boroughs
4 to make repairs to sidewalks, any borough shall have power to
5 make emergency repairs to any sidewalks within the borough if
6 an inspection of the sidewalk discloses that, and a
7 certificate made by the officer or head of the department or
8 committee lawfully having charge of sidewalk repairs
9 specifies that, a dangerous condition exists that can be
10 repaired by an expenditure of not more than \$1,000.

11 (2) Before repairs are made, a notice to make the
12 repairs within 48 hours shall be served upon the owner of the
13 property. If the owner cannot be served within the county,
14 notice may be served upon the agent of the owner or the party
15 in possession or, if there is no agent or party in
16 possession, the notice may be served by posting the same upon
17 the premises.

18 (b) Cost.--

19 (1) Upon the completion of the work, the cost shall be a
20 charge against the owner of the property and shall be a lien,
21 until paid, upon the abutting property if a claim is filed.
22 The charge may also be collected by action of assumpsit.

23 (2) This section is intended to provide an additional
24 remedy for boroughs in connection with emergency repairs,
25 where the actual cost of doing the work does not exceed
26 \$1,000. The certificate of the officer or head of the
27 department or committee in charge of repairs to sidewalks
28 shall be conclusive evidence of the existence of the
29 emergency justifying the repair under the terms of this
30 section.

1 of a bridge or viaduct, the borough may take and appropriate the
2 land and property necessary to erect the bridge or viaduct. The
3 damages caused by the taking and appropriation shall be assessed
4 according to 26 Pa.C.S. (relating to eminent domain).

5 § 1903. Boundary bridges.

6 If a bridge or viaduct crosses the boundary line of a borough
7 and another municipality, the borough may enter into an
8 intergovernmental cooperation agreement in accordance with 53
9 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
10 cooperation) with the municipality in the construction and
11 maintenance of the bridge and shall apportion the costs
12 according to the intergovernmental agreement.

13 § 1904. Contracts with railroads, other companies and counties.

14 (a) General rule.--

15 (1) The borough may enter into a contract with the
16 county commissioners, railroads, street railways and other
17 companies or interested parties for the building and
18 maintenance of bridges or viaducts and for the payment of any
19 damages caused by the location or erection thereof.

20 (2) The contracts may stipulate that the county,
21 borough, railroad company, street railway or other company or
22 interested party shall pay a certain part of the contract
23 price of the work, including damages, or may stipulate that
24 each shall construct a certain portion of the work and may
25 provide otherwise for the payment of damages.

26 (b) Payment.--

27 (1) When any railroad company, street railway or other
28 company or interested party agrees to pay a certain portion
29 of the cost of the work, it shall pay the portion into the
30 borough treasury. The borough treasurer shall pay the amount

1 over to the contractor, as may be provided in the contract.
2 The amount to be paid by the county shall be paid directly to
3 the contractor.

4 (2) The agreement may provide for the maintenance of the
5 bridges and viaducts after their erection. Nothing under this
6 section shall authorize any borough to contract with a county
7 for the maintenance of any bridge or viaduct which does not
8 cross a place over which the county is authorized to build
9 bridges. The bridge or viaduct shall be maintained as a
10 borough structure, and the borough may contract with any
11 party interested, except the county, for the maintenance of
12 the bridge or viaduct.

13 (3) Nothing in this section shall affect the powers or
14 duties of the Pennsylvania Public Utility Commission to the
15 extent otherwise provided by law.

16 § 1905. Overhead and underground passageways.

17 If the comfort and safety of the residents of a borough and
18 an adjoining municipality are enhanced by any overhead or
19 underground passageway connecting with adjoining streets in
20 either the borough or the municipality and extending to any
21 plant or place of business where residents of the borough are
22 employed, the borough may, jointly with each adjoining
23 municipality, construct and maintain any passageway or may join
24 with other interests in the construction and maintenance of the
25 passageway.

26 CHAPTER 20

27 SANITARY SEWERS

28 Subchapter

29 A. Laying Out, Construction and Operation of Sanitary Sewers
30 and Construction of Sewage Treatment Works

- 1 B. Joint Sanitary Sewers
- 2 C. Power to Supply Sewerage Service Outside Borough Limits
- 3 (Reserved)
- 4 D. Acquisition of Community Collection or Disposal Systems
- 5 E. Connection and Use of Sanitary Sewers
- 6 F. Monthly, Quarterly or Annual Rentals
- 7 G. Sewers on Boundary Streets (Reserved)

8 SUBCHAPTER A

9 LAYING OUT, CONSTRUCTION AND
10 OPERATION OF SANITARY SEWERS
11 AND CONSTRUCTION OF
12 SEWAGE TREATMENT WORKS

13 Sec.

14 2000. Definitions.

15 2001. Power to lay out and construct.

16 2002. Assessments.

17 2003. (Reserved).

18 2004. (Reserved).

19 2005. (Reserved).

20 2006. (Reserved).

21 2007. (Reserved).

22 2008. (Reserved).

23 2009. Extensions beyond borough limits and eminent domain.

24 2010. Notice of certain ordinances.

25 2011. (Reserved).

26 2012. Unlawful to build within right-of-way of sanitary sewers.

27 2013. Opening sanitary sewers.

28 § 2000. Definitions.

29 The following words and phrases when used in this chapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Combined sewer." A sewer used for the receiving and
3 collecting of sewage and liquid waste from the inside of
4 buildings and structures, storm water, roof or surface drainage,
5 sump pump discharge and draining from foundation drains.

6 "Sanitary sewer" or "sanitary sewer system." A sewer or
7 sewers used for receiving and collecting sewage matter and
8 liquid waste from the inside of buildings and structures. Storm
9 water shall not be permitted to enter into a sanitary sewer. A
10 sanitary sewer or sanitary sewer system does not include a
11 combined sewer.

12 "Sewer system." Either a sanitary sewer or a combined sewer
13 and includes pump stations and force mains.

14 § 2001. Power to lay out and construct.

15 (a) General rule.--

16 (1) Upon enactment of an ordinance, boroughs may lay out
17 and construct sanitary sewers and branches of sanitary sewers
18 in streets and on public or private property and may
19 construct sewage treatment works on land owned or acquired
20 for those purposes. Boroughs may pay the costs and expenses
21 of sanitary sewer systems and treatment works out of borough
22 funds or may assess the costs and expenses pursuant to
23 Chapter 21A (relating to assessments and charges for public
24 improvements).

25 (2) Boroughs may determine the location and the manner
26 in which sanitary sewer systems shall be constructed.
27 Sanitary sewers laid and constructed in streets may be
28 located in the center of the street or in the right-of-way or
29 the curb lines of the street and may be for the service and
30 use of properties on both sides of the street or on only one

1 side of the street in which they are laid, as directed by the
2 council. Boroughs shall have the authority to lay out and
3 construct sanitary sewers in any street, any portion of which
4 is within the limits of the borough and which forms a portion
5 of the boundary dividing the borough from any other municipal
6 corporation within the same county, in the same manner and to
7 the same extent as if the whole of the street was within the
8 limits of the borough.

9 (3) If any borough is maintaining and operating a
10 sanitary sewer system and sewage treatment works, it shall be
11 lawful for the borough to supply sewerage service to
12 municipalities, persons and corporations outside the limits
13 of the borough and to enter into contracts for service at
14 rates not less than those required to be paid by persons and
15 corporations within the limits of the borough. This privilege
16 shall not conflict with the rights of any sewer company or
17 the rights of any other borough.

18 (b) Consent.--

19 (1) If required by other law, a borough shall obtain the
20 consent and permit of the Department of Environmental
21 Protection or other Federal, State or county entity,
22 including the Pennsylvania Turnpike Commission, for the
23 laying out and construction of a sanitary sewer and treatment
24 works.

25 (2) Where construction beyond the limits of the borough
26 is entirely within the limits of a State or county highway or
27 the turnpike, a sanitary sewer may be constructed in or under
28 the State or county highway or turnpike if written notice is
29 given to the Department of Transportation, county
30 commissioners or Pennsylvania Turnpike Commission,

1 respectively, and consent is obtained before construction is
2 commenced. Permission shall not be unreasonably withheld.

3 (c) Regulations.--Council may, by ordinance, make
4 regulations respecting the use and maintenance of the sanitary
5 sewer system and treatment works. Violations of the ordinance
6 may be enforced by penalties. The regulations may do all of the
7 following:

8 (1) Specify materials and substances which may or may
9 not enter the public sewer or sewer system.

10 (2) Require that certain types or classes of waste be
11 subjected to treatment or to grinding or other reduction in
12 size before entering into the sewer.

13 (3) Restrict the quantity of waste material that may
14 enter a sanitary sewer from any premises within any time
15 interval.

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

20 § 2002. Assessments.

21 Assessments, whether based according to benefits conferred or
22 by the front foot basis, and assessment awards, if any, shall be
23 calculated pursuant to Chapter 21A (relating to assessments and
24 charges for public improvements).

25 § 2003. (Reserved).

26 § 2004. (Reserved).

27 § 2005. (Reserved).

28 § 2006. (Reserved).

29 § 2007. (Reserved).

30 § 2008. (Reserved).

1 § 2009. Extensions beyond borough limits and eminent domain.

2 The borough may extend the necessary sewer mains, pipes and
3 outlets beyond the limits of the borough to a point where the
4 sewage is to be disposed or collected and received. The borough
5 shall have power to enter upon and condemn land for the
6 construction of all sewer mains, outlets and treatment works as
7 may be necessary for the disposal or the collection of the
8 sewage, if the extension is in conformity with 26 Pa.C.S. § 206
9 (relating to extraterritorial takings) and any other applicable
10 requirement of 26 Pa.C.S. (relating to eminent domain).

11 § 2010. Notice of certain ordinances.

12 No ordinance for any construction of sewers or treatment
13 works beyond the limits of the borough shall be enacted until
14 notice of the ordinance has been given in all of the following
15 manners:

16 (1) By publication of the proposed ordinance, once a
17 week for four weeks in one newspaper of general circulation.

18 (2) By serving copies of the proposed ordinance at least
19 ten days before the enactment of the ordinance upon all land
20 owners through whose land the sewer is to pass or on whose
21 lands any treatment works are to be located.

22 § 2011. (Reserved).

23 § 2012. Unlawful to build within right-of-way of sanitary
24 sewers.

25 It shall be unlawful for any person to erect any building or
26 make any improvement within the right-of-way of any sanitary
27 sewer after due notice of the laying out of the sanitary sewer,
28 and, if any erection or improvement shall be made, no allowance
29 shall be had for the building or improvement in the assessment
30 of damages.

1 § 2013. Opening sanitary sewers.

2 (a) General rule.--A proceeding to open a sanitary sewer
3 shall be void if a borough:

4 (1) lays out any sanitary sewer over or under private
5 property which is located in whole or in part within the
6 limits of the borough; and

7 (2) does not proceed to open the sanitary sewer and to
8 assess the damage arising therefrom within two years from the
9 enactment of the ordinance.

10 (b) Exception.--If a borough has laid out a sanitary sewer
11 without the enactment of an ordinance prior to July 16, 2012,
12 and has not opened the sanitary sewer, the proceedings shall not
13 be deemed to be void. The borough shall have two years from July
14 16, 2012, to open the sanitary sewer or the whole proceeding
15 shall be void.

16 SUBCHAPTER B

17 JOINT SANITARY SEWERS

18 Sec.

19 2021. Joint sanitary sewer systems.

20 2022. (Reserved).

21 2023. Connections with sanitary sewers of adjacent
22 municipalities.

23 2024. Applications to court.

24 2025. Appointment of viewers.

25 2026. Report of viewers and appeals to court.

26 § 2021. Joint sanitary sewer systems.

27 (a) General rule.--Pursuant to 53 Pa.C.S. Ch. 23 Subch. A
28 (relating to intergovernmental cooperation), boroughs may
29 contract with other municipal corporations providing for the
30 joint construction or maintenance of sanitary sewer systems and

1 for the joint construction onto existing sanitary sewer systems.
2 The agreement shall provide for the apportionment of costs among
3 the municipal corporations. The council may assess the borough's
4 respective portion of the costs, as may be legally assessable,
5 upon property benefited by the facilities pursuant to Chapter
6 21A (relating to assessments and charges for public
7 improvements). Any portion of the cost not assessed or
8 assessable shall be paid by the respective municipal
9 corporations under the agreement.

10 (b) Composition of joint sanitary sewer board.--

11 (1) The municipal corporations joining or contemplating
12 joining in any improvement, in order to facilitate the
13 building of the sanitary sewer system and in securing
14 preliminary surveys and estimates, may, by ordinance, provide
15 for the appointment of a joint sanitary sewer board composed
16 of one representative from each of the municipal corporations
17 joining. The board shall act as the advisory and
18 administrative agency in the construction of the improvement
19 and its subsequent operation and maintenance.

20 (2) Members of the joint sanitary sewer board shall
21 serve for terms of six years each from the dates of their
22 respective appointments and until their successors are
23 appointed. The joint sanitary sewer board shall organize by
24 the election of a chair, secretary and treasurer. The
25 secretary and treasurer may be the same person.

26 (3) The municipal corporations may in the ordinances
27 creating the joint sanitary sewer board authorize the board
28 to appoint an engineer, a solicitor and other assistants as
29 are deemed necessary and agree to the share of the
30 compensation of those persons each municipal corporation is

1 to pay.

2 (4) The members of the joint sanitary sewer board shall
3 receive compensation for attending board meetings as
4 established in the budget that is prepared by the joint
5 sanitary sewer board and submitted to and adopted by the
6 municipal corporations. The members shall be entitled to
7 actual expenses to be paid by the respective municipal
8 corporations the members represent.

9 (c) Powers of the joint sanitary sewer board.--

10 (1) The joint sanitary sewer board may adopt rules and
11 regulations consistent with the requirements of this part to
12 govern its proceedings and shall prepare and suggest any
13 practical measures and plans by which the joint improvement
14 may be carried to successful completion and plan the future
15 development of the system, so as to conform to a general
16 plan.

17 (2) The joint sanitary sewer board may prepare a joint
18 agreement or agreements for submission to and adoption by the
19 municipal corporations defining the advisory and
20 administrative powers of the joint sanitary sewer board and
21 setting forth the following:

22 (i) Consents of the municipal corporations to the
23 proposed improvement.

24 (ii) The manner in which preliminary and final
25 plans, specifications and estimates for the proposed
26 improvement shall be prepared and adopted.

27 (iii) How proposals for bids shall be advertised and
28 contracts awarded.

29 (iv) The manner in which the costs of the
30 improvement and other incidental and preliminary expenses

1 in connection with the improvement and the future cost of
2 operation and maintenance shall be equitably shared,
3 apportioned and paid.

4 (v) All other matters, including the preparation and
5 submission of annual and other budgets, as may be deemed
6 necessary or required by law to complete the proposed
7 improvement and to assure future maintenance and
8 operation thereof.

9 (3) The joint sanitary sewer board may not make any
10 improvement or spend any public money which has not first
11 been authorized by all of the municipal corporations
12 proceeding with the improvement.

13 (d) Eminent domain.--

14 (1) When it is necessary to acquire, appropriate, injure
15 or destroy private property to build a joint sanitary sewer
16 system or improvement and the property cannot be acquired by
17 purchase or gift, the right of eminent domain shall vest in
18 the municipal corporation where the property is located.

19 (2) When it is necessary to acquire, injure or destroy
20 property in any territory not within the limits of any of the
21 municipal corporations joining in the improvement, the right
22 of eminent domain shall be vested in the municipal
23 corporation adjacent to the territory where the property is
24 located subject to 26 Pa.C.S. § 206 (relating to
25 extraterritorial takings).

26 (3) Damages for any property taken, injured or destroyed
27 shall be assessed under laws relating to the municipal
28 corporation exercising the right of eminent domain and shall
29 be paid by the municipal corporations joining in the same
30 proportion as other costs of the improvements.

1 (e) Indebtedness.--Each of the boroughs joining in the
2 improvement shall have power to incur or increase its
3 indebtedness, not exceeding the constitutional limits, for the
4 purpose of paying its share or portion of the cost of the
5 improvement in the manner now provided by law for the incurring
6 of indebtedness.

7 § 2022. (Reserved).

8 § 2023. Connections with sanitary sewers of adjacent
9 municipalities.

10 A borough may connect with an existing sanitary sewer, owned
11 by an adjacent municipality, for sewerage purposes in the manner
12 prescribed in sections 2024 (relating to applications to court),
13 2025 (relating to appointment of viewers) and 2026 (relating to
14 report of viewers and appeals to court).

15 § 2024. Applications to court.

16 If a borough desires to connect with the existing sanitary
17 sewer of an adjacent municipality and no agreement, either upon
18 the basis of a rental payment for the use of an existing
19 sanitary sewer or a division of the cost of the construction or
20 maintenance of the sanitary sewer, has been reached between the
21 borough and the adjacent municipality, an application shall be
22 made by council to the court of common pleas of the county where
23 the proposed connection is to be located, setting forth that
24 fact.

25 § 2025. Appointment of viewers.

26 If the court determines that the connection can be made
27 without impairing the usefulness of the existing sanitary sewer,
28 it shall appoint three viewers who shall:

29 (1) View the premises and investigate the facts of the
30 case.

1 (2) Assess the proportionate part of the expense of
2 building the original sanitary sewer upon the borough.

3 (3) Fix the proportion of the expense for repairs which
4 each municipality shall thereafter bear.

5 (4) Determine all other questions liable to arise in
6 connection with the sanitary sewer.

7 § 2026. Report of viewers and appeals to court.

8 The viewers shall report to the court the result of their
9 investigation. The report shall be confirmed within 30 days
10 unless exceptions are filed. After confirmation of the report or
11 the disposal of any exceptions, any party interested may appeal
12 from the decision of the court of common pleas.

13 SUBCHAPTER C

14 POWER TO SUPPLY SEWERAGE SERVICE

15 OUTSIDE BOROUGH LIMITS

16 (Reserved)

17 SUBCHAPTER D

18 ACQUISITION OF COMMUNITY COLLECTION

19 OR DISPOSAL SYSTEMS

20 Sec.

21 2040. Definitions.

22 2041. (Reserved).

23 2041.1. Power to acquire community sewage collection or
24 disposal systems.

25 2042. (Reserved).

26 2043. Community sewage collection or disposal systems.

27 § 2040. Definitions.

28 The following words and phrases when used in this subchapter
29 shall have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

1 "Community sewage collection or disposal system." All or
2 part of a device or devices installed on any privately or
3 publicly owned parcel of land intended to treat or dispose of
4 the sewage or equivalent volume of domestic sewage from two or
5 more residences, buildings or occupied parcels of land, or any
6 system of piping used in collection and conveyance of sewage on
7 private or public property.

8 § 2041. (Reserved).

9 § 2041.1. Power to acquire community sewage collection or
10 disposal systems.

11 (a) General rule.--A borough may, by ordinance, acquire
12 ownership of a community sewage collection or disposal system by
13 purchase or by the exercise of eminent domain pursuant to 26
14 Pa.C.S. (relating to eminent domain) or by gift from the owner
15 or owners.

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

22 § 2042. (Reserved).

23 § 2043. Community sewage collection or disposal systems.

24 (a) General rule.--After a community sewage collection or
25 disposal system has been acquired under this subchapter by the
26 borough, the council shall have the power to enlarge the system
27 if it deems it advisable. The cost and expenses of the
28 enlargement may be distributed or assessed in the same manner as
29 if the enlargement was a regular sewer constructed by the
30 borough under other provisions of this part.

1 (b) Acquisition and ownership.--If a community sewage
2 collection or disposal system is established or constructed
3 within a borough by a private owner or owners and the council is
4 thereafter empowered by ordinance to acquire the ownership of
5 the sewage disposal system, or when the system has been enlarged
6 by the borough, the acquisition and ownership shall be subject
7 to the following provisions:

8 (1) An agreement shall be considered a valid agreement
9 by the owners of the sewage collection or disposal system and
10 shall be a transfer of ownership to the borough when any of
11 the following enter into an agreement with the borough for
12 the acquisition of the system by the borough:

13 (i) The person or persons having established or
14 constructed a community sewage collection or disposal
15 system.

16 (ii) More than one-half of the number of owners of
17 properties which are connected with, have a right to use
18 and are using a community collection or disposal system.

19 (2) The borough shall operate and maintain any sewage
20 collection or disposal system acquired and any enlargement or
21 addition thereto for the use of the following:

22 (i) Persons having acquired from the borough or from
23 the former owner or owners the right to use the system.

24 (ii) Other owners of property accessible to the
25 system up to the capacity of the sewage collection or
26 disposal system.

27 (3) All persons whose property connects with the sewage
28 collection or disposal system acquired or constructed by the
29 borough shall pay to the borough treasurer a monthly,
30 quarterly, semiannual or annual charge prescribed by a

1 resolution of the council. The amount of the charges shall
2 not be in excess of the estimated amount necessary to
3 maintain and operate the system and to establish a reserve
4 fund sufficient for its future replacement.

5 (4) All sewer rentals or charges imposed by the council
6 against properties connected with a community sewage
7 collection or disposal system under this section shall
8 constitute liens against the properties and may be collected
9 in the same manner as other sewer charges.

10 (5) All money received from the sewer charges shall be
11 deposited as a special reserve fund and shall be used only
12 for the payment of the cost of operating and maintaining the
13 sewage collection or disposal system and the replacement of
14 the collection or disposal system, if necessary and
15 economically desirable. If, at any time after the acquisition
16 or enlargement of the community sewage system, a regular
17 sewer system is made available by the borough for connection
18 with the properties using the community sewage collection or
19 disposal system, the owners of the properties shall be
20 subject to the other provisions of this part relating to
21 sewers, and all money at that time in the reserve fund which
22 was received from charges for the use of that particular
23 sewage collection or disposal system and which is over and
24 above the amount expended for the operation and maintenance
25 of that particular sewage collection or disposal system shall
26 be used towards the payment of any sewer assessments charged
27 against the properties under other sections of this part.

28 (c) Construction.--Nothing in this section may be construed
29 to supersede the requirements of the act of January 24, 1966
30 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage

1 Facilities Act.

2 SUBCHAPTER E

3 CONNECTION AND USE OF SANITARY SEWERS

4 Sec.

5 2051. Ordinances to require sanitary sewer connections.

6 2052. (Reserved).

7 2053. Tapping fees.

8 2054. (Reserved).

9 § 2051. Ordinances to require sanitary sewer connections.

10 A borough may, by ordinance, require any owner of property
11 benefited, improved or accommodated by a sanitary sewer to make
12 connections with the sanitary sewer, in the manner as the
13 borough may order, for the purpose of discharge of drainage or
14 waste matter as the borough may specify. All connections
15 required shall be uniform. The owner shall be given at least 45
16 days' notice of any ordinance requiring a sanitary sewer
17 connection. Upon failure of the owner to make the connection,
18 the borough may make the connection and collect the cost from
19 the owner by a municipal claim or by an action of assumpsit. The
20 borough may by penalties enforce any ordinance it enacts with
21 reference to any sanitary sewer connections.

22 § 2052. (Reserved).

23 § 2053. Tapping fees.

24 The following shall apply to tapping fees:

25 (1) Any borough may, by ordinance, provide for charging
26 a tapping fee if the owner of any property connects the
27 property with a sanitary sewer system constructed or acquired
28 by the borough if the tapping fee is calculated in accordance
29 with 53 Pa.C.S. § 5607 (relating to purposes and powers). The
30 tapping fee shall be in addition to any charges assessed and

1 collected against the property in the construction or
2 acquisition of the sanitary sewer by the borough.

3 (2) If a sanitary sewer system or any part or extension
4 of a sanitary sewer system owned by a borough has been
5 constructed by the borough at the expense of a private person
6 or corporation or has been constructed by a private person or
7 corporation under the supervision of the borough at the
8 expense of the private person or corporation, the borough
9 shall have the right to charge a tapping fee calculated in
10 accordance with 53 Pa.C.S. § 5607 and refund the tapping fee
11 or any part of the fee to the person or corporation who has
12 paid for the construction of the sanitary sewer system or any
13 part or extension of the sanitary sewer system in accordance
14 with 53 Pa.C.S. § 5607. The total of the refunds shall never
15 exceed the cost of the system or any part or extension of the
16 system to the person or corporation paying for the
17 construction of the system or any part or extension of the
18 system.

19 (3) Where the property connected or to be connected with
20 the sanitary sewer system of the borough is not equipped with
21 a water meter, the borough may install a meter at its own
22 cost and expense. If the property is supplied with water from
23 the facilities of a public water supply agency, the borough
24 shall not install a meter without the consent and approval of
25 the public water supply agency.

26 § 2054. (Reserved).

27 SUBCHAPTER F

28 MONTHLY, QUARTERLY OR ANNUAL RENTALS

29 Sec.

30 2061. Ordinance for monthly, quarterly or annual rental.

1 2062. Rental amount.

2 2063. Collection of rental.

3 2064. (Reserved).

4 § 2061. Ordinance for monthly, quarterly or annual rental.

5 If a borough constructs any sanitary sewer, sewer system or
6 sewage treatment works or acquires, wholly or partially, the
7 same at public expense, as authorized in this chapter, the
8 council may provide, by ordinance, for the collection of a
9 monthly, quarterly or annual rental or charge or a fixed sum for
10 the use of the sanitary sewer, sewer system or sewage treatment
11 works from the owner of property served by it.

12 § 2062. Rental amount.

13 (a) Included amounts.--The monthly, quarterly or annual
14 rental may include:

15 (1) The amount expended monthly, quarterly or annually
16 by the borough in maintenance, repair, alteration,
17 inspection, depreciation or other expense of the sanitary
18 sewer, sewer system or sewage treatment works.

19 (2) Interest on money expended or borrowed by the
20 borough in the construction of the sanitary sewer, sewer
21 system or sewage treatment works or in the acquisition,
22 enlargement or extension of the sanitary sewer or sewer
23 system.

24 (3) An amount sufficient for the amortization of debt
25 incurred by the borough for the purpose of construction of a
26 sanitary sewer, sewer system or sewage treatment works or for
27 the purpose of acquisition, enlargement or extension of a
28 sanitary sewer or sewer system.

29 (b) Apportionment.--The monthly, quarterly or annual amount
30 or fixed sum shall be apportioned equitably among the properties

1 served by the sanitary sewers, sewer system or sewage treatment
2 works.

3 § 2063. Collection of rental.

4 (a) General rule.--The monthly, quarterly or annual rental
5 or charge or the fixed sum shall be authorized and collected as
6 provided by general ordinances and, if levied and charged, shall
7 be a lien on the properties charged from the date set forth in
8 the ordinance. If the rental, charge or fixed sum is not paid
9 after 30 days' notice, it may be collected by an action of
10 assumpsit in the name of the borough against the owner of the
11 property charged or by a lien filed in the nature of a municipal
12 lien.

13 (b) Collection.--The council shall execute a warrant or
14 warrants, authorizing the collection of the monthly, quarterly
15 or annual sewer rentals or charges, or the fixed sum, to the
16 officer employed by council to collect the same. The officer
17 shall have the authority now vested by law for the collection of
18 borough taxes.

19 § 2064. (Reserved).

20 SUBCHAPTER G

21 SEWERS ON BOUNDARY STREETS

22 (Reserved)

23 CHAPTER 21

24 COLLECTION BY INSTALLMENT OF

25 STREET AND SEWER ASSESSMENTS

26 (Reserved)

27 CHAPTER 21A

28 ASSESSMENTS AND CHARGES FOR

29 PUBLIC IMPROVEMENTS

30 Sec.

- 1 21A00. Definitions.
- 2 21A01. Authority to assess.
- 3 21A02. Notice of assessments.
- 4 21A03. Assessment based on front foot basis.
- 5 21A04. Assessment of benefits conferred.
- 6 21A05. Assessment awards.
- 7 21A06. Petition for viewers.
- 8 21A07. Payment of assessments in installments.
- 9 21A08. Collection of assessments.

10 § 21A00. Definitions.

11 The following words and phrases when used in this chapter
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Personal notice." The term shall mean and include notice
15 upon the owner of a property either by personal service upon the
16 owner or by certified mail to the owner at the owner's last
17 known address or where service, after a reasonable attempt,
18 shall not have been successfully made by either of these two
19 methods, then by leaving notice at or upon the property.

20 § 21A01. Authority to assess.

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

1 the installation of ornamental street lighting or the planting,
2 removal, maintenance and protection of shade trees by any of the
3 following methods:

4 (1) from general borough funds;

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

6 or

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

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

16 (b) Payment of indebtedness.--

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

25 (2) Notwithstanding section 21A07 (relating to payment
26 of assessments in installments), when bonds are issued in a
27 manner provided by law and an assessment is to be paid in
28 installments, the assessment shall be payable in equal
29 installments during the term for which the bond is issued,
30 and the cost of the improvement plus interest beginning the

1 first day when interest is payable on the bond shall be the
2 cost of the improvement to be assessed on a property.

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

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

25 § 21A02. Notice of assessments.

26 The borough secretary shall cause 30 days' personal notice of
27 the assessment to be served upon each property owner assessed.
28 If a certificate is required to be filed with council relating
29 to the public improvement as otherwise provided in this part,
30 then a copy of the certificate shall accompany the notice.

1 § 21A03. Assessment based on front foot basis.

2 (a) General rule.--If council elects to collect the cost,
3 including any administrative fees, of any improvement on the
4 front foot basis, the cost to be collected shall be divided by
5 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 basis
12 duly certified under the seal of the borough and attested by the
13 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 § 21A04. Assessment of benefits conferred.

22 (a) General rule.--In lieu of the front foot basis, council
23 may elect to have the benefits of public improvements assessed,
24 in whole or in part, upon property benefited, improved or
25 accommodated by assessing an equal assessment on the properties
26 benefited, improved or accommodated in proportion to the total
27 cost of construction of the improvement. The amount of the
28 charge on each property shall be determined by council.

29 (b) Certificate.--Council shall issue a certificate of
30 assessment when assessing benefits upon property benefited,

1 improved or accommodated, duly certified under the seal of the
2 borough and attested by the president of council and secretary.
3 The certificate of assessment shall be prima facie evidence in
4 any suit for recovery of the same of the correctness and
5 validity of the assessment.

6 § 21A05. Assessment awards.

7 In proceedings to assess benefits, if the land or property is
8 both benefited and damaged by the public improvements, the
9 excess of damages over benefits, the excess of benefits over
10 damages or nothing in case the benefits and damages are equal
11 shall be awarded to or assessed against the owner of land and
12 property affected. Damages shall be calculated pursuant to 26
13 Pa.C.S. (relating to eminent domain).

14 § 21A06. Petition for viewers.

15 (a) Petition.--Taxpayers of the borough whose property is
16 being assessed for benefits for a public improvement may present
17 a petition to the court of common pleas stating that the
18 assessment insufficiently represents the benefits accruing to
19 abutting, benefited or accommodated properties. The petition may
20 include a request for the appointment of viewers to assess
21 benefits if at least 50% of the taxpayers whose parcels are
22 abutting, benefited or accommodated by the public improvement in
23 question join the petition or if taxpayers whose property
24 valuation as assessed for taxable purposes within the borough
25 amounts to at least 50% of the total property valuation of the
26 properties being assessed for the public improvement join the
27 petition. The petition must be presented within three months of
28 the enactment of the ordinance levying the assessment.

29 (b) Viewers.--The court shall appoint three disinterested
30 viewers, none of whom shall be a resident of that portion of the

1 borough that is benefited or accommodated by the public
2 improvement in question, and the viewers shall proceed under
3 this part and 26 Pa.C.S. (relating to eminent domain) for the
4 assessment of damages and benefits by viewers. Upon the filing
5 of the petition by taxpayers for the appointment of viewers, any
6 assessment made by the council and any proceedings shall be
7 stayed pending the disposition of the petition by the court.
8 § 21A07. Payment of assessments in installments.

9 (a) Installments.--If an ordinance is passed providing for a
10 public improvement, the expense of which is to be defrayed by an
11 assessment against properties benefited by the improvement,
12 either by the front foot or benefit conferred method, the
13 ordinance shall specify the length of time over which the
14 installments may be extended and whether payments are to be made
15 by equal annual or more frequent installments. If the provisions
16 of section 21A01(b)(2) (relating to authority to assess) and
17 this subsection conflict, the provisions of section 21A01(b)(2)
18 shall prevail to the extent of the conflict.

19 (b) Commencement of payments and rate of interest.--The
20 ordinance shall set a time when the installment payments shall
21 commence and shall set forth the rate of interest for the
22 installments which shall not be more than 6% per year.

23 (c) Installment agreement.--The borough shall enter into a
24 written installment agreement with each property owner, subject
25 to the requirements of the ordinance pertaining to the
26 agreements and this chapter.

27 (d) Unpaid installments.--If an installment remains unpaid
28 for 60 days after it has become due and payable, the entire
29 unpaid assessment, plus unpaid accrued interest and any costs,
30 shall be due and payable, and the borough solicitor shall

1 proceed to collect it by filing a lien in the same manner as
2 municipal claims are filed or by action in assumpsit.

3 (e) Prepayment.--A property owner upon whom an assessment
4 has been made may pay all or as many of the installments before
5 they are due, with interest and costs to the due date of the
6 next installment.

7 § 21A08. Collection of assessments.

8 (a) Collection methods.--If an assessment remains unpaid at
9 the expiration of the 30-day personal notice and an installment
10 agreement has not been entered into pursuant to section 21A06
11 (relating to petition for viewers), the borough solicitor shall
12 collect the unpaid assessment, with interest from the time of
13 completion of the improvement or from the time of filing a
14 certificate of assessment with council, plus costs, by filing a
15 lien to be collected in the same manner as municipal claims or
16 by action in assumpsit. When a property owner has two or more
17 lots against which there is an assessment for the same
18 improvement, all of the lots may be embraced in one claim.

19 (b) Payment location.--Assessments, whether paid one time or
20 by installments, shall be payable at the office of the borough
21 treasurer or any other place as the applicable ordinance shall
22 provide.

23 CHAPTER 22

24 STORM SEWERS AND WATERCOURSES

25 Sec.

26 2201. Authority of boroughs.

27 2202. Right of entry upon lands.

28 2203. Manner of financing work.

29 2204. Proceedings to assess damages.

30 2205. Unlawful to build within right-of-way of storm sewers.

1 2206. Power to acquire storm sewer systems.

2 § 2201. Authority of boroughs.

3 (a) General rule.--Any borough may, by ordinance, after
4 obtaining any required permit from the Department of
5 Environmental Protection or other Federal or State entity do the
6 following:

7 (1) Widen and deepen any watercourse running through or
8 within the borough and erect dykes, retaining walls and
9 embankments along the watercourse as may be necessary to
10 prevent the water from overflowing the banks.

11 (2) Confine and pave any watercourse or portion thereof,
12 other than a navigable stream.

13 (3) Engage in channel improvement through the
14 construction and maintenance of storm sewers and the
15 accumulation and discharge of water into storm sewers.

16 (4) Vacate or alter the course or channel of any
17 watercourse, other than a navigable stream.

18 (5) Acquire, operate and maintain areas for the
19 infiltration, detention or retention of storm water and for
20 other methods of storm water management authorized by the
21 Department of Environmental Protection.

22 (b) Authorization and consent.--For any purpose set forth in
23 subsection (a), a borough may enter upon and condemn property
24 and materials as may be necessary. No borough may confine and
25 pave, vacate or alter any watercourse used by any municipality,
26 municipal authority or water company as a source of supply
27 unless the municipality, municipal authority or water company
28 shall first consent to the confining and paving, vacation or
29 alteration.

30 § 2202. Right of entry upon lands.

1 A borough may enter upon any land lying near a watercourse
2 and secure the material as may be necessary for the purpose of
3 making and repairing the embankments along the watercourse when
4 the material cannot be obtained by contract at a reasonable
5 price. The borough shall cause no unnecessary damage to the
6 owners of the land, shall repair any fences, structures or
7 damage to the land that is caused by the borough and shall
8 compensate the owner, either by agreement or in accordance with
9 26 Pa.C.S. (relating to eminent domain), for any materials
10 obtained under this section.

11 § 2203. Manner of financing work.

12 A borough may pay for the costs and expenses of any work
13 authorized under section 2201 (relating to authority of
14 boroughs) wholly or in part from money of the borough available
15 for the purpose. To the extent that a borough does not receive
16 assistance from the Federal, State or county government for the
17 costs and expenses of the work, the borough may assess the
18 benefited properties located within the drainage area of the
19 watercourse in accordance with Chapter 21A (relating to
20 assessments and charges for public improvements).

21 § 2204. Proceedings to assess damages.

22 Any person aggrieved by any ordinance enacted or action taken
23 pursuant to sections 2201 (relating to authority of boroughs),
24 2202 (relating to right of entry upon lands) and 2203 (relating
25 to manner of financing work) may file a complaint with the court
26 of common pleas to fix and determine the damages for property
27 taken, injured or destroyed under 26 Pa.C.S. (relating to
28 eminent domain).

29 § 2205. Unlawful to build within right-of-way of storm sewers.

30 It shall be unlawful for a person to erect a building or make

1 an improvement within the right-of-way of a storm sewer laid out
2 after due notice of the laying out of the storm sewer. If the
3 erection or improvement is made, no allowance shall be made in
4 the assessment of damages.

5 § 2206. Power to acquire storm sewer systems.

6 (a) General rule.--A borough may, by ordinance, acquire
7 ownership of storm sewers, culverts and the necessary inlets and
8 appliances for surface, under surface and storm sewer drainage
9 by purchase, by the exercise of eminent domain pursuant to 26
10 Pa.C.S. (relating to eminent domain) or by gift from the owner
11 or owners.

12 (b) Eminent domain.--In eminent domain proceedings, the
13 viewers shall assess the costs and expenses of the storm sewer,
14 culverts, inlets and appliances acquired by the borough upon the
15 property or properties benefited according to benefits. Any
16 deficiency that is not assessed upon the benefited property or
17 properties shall be paid by the borough.

18 CHAPTER 23

19 UNDERGROUND CONDUITS

20 (Reserved)

21 CHAPTER 24

22 WATER SYSTEM

23 Subchapter

24 A. General Powers to Supply Water

25 A.1. Acquisition by Eminent Domain

26 A.2. Acquisition by Purchase After Appraisalment

27 A.3. Power to Lease Water System

28 A.4. Joint Water System

29 A.5. Condemnation of Lands For Road Purposes and to Prevent
30 Contamination

1 A.6. Commission of Water System

2 A.7. Water Connections

3 B. (Reserved)

4 C. (Reserved)

5 D. (Reserved)

6 SUBCHAPTER A

7 GENERAL POWERS TO SUPPLY WATER

8 Sec.

9 2401. Power to supply water and make regulations.

10 2402. Contracts not to abridge powers.

11 2403. Issue of bonds where water system acquired.

12 2404. Refunding bonds.

13 2405. (Reserved).

14 2406. Contracts to supply water for municipal purposes.

15 2407. Power to supply water beyond limits of borough.

16 2408. Assessment for water mains.

17 2409. Sale of water system.

18 § 2401. Power to supply water and make regulations.

19 (a) Supply of water.--Boroughs may supply water for the use
20 of the public within the borough by constructing or purchasing
21 and operating a water system, by entering into contract with
22 persons or corporations authorized to supply water within the
23 limits of the borough or partly by constructing or purchasing
24 and operating a water system and partly by entering into a
25 contract.

26 (b) Regulations.--Council may make regulations for the
27 protection of water pipes, reservoirs and other apparatus used
28 in the supplying or storing of water, for the prevention of the
29 waste of water supplied and for the drilling of water wells
30 within the borough.

1 (c) Rates.--Council shall fix the rates to be charged for
2 the water furnished to individuals, partnerships, associations
3 or corporations and shall provide for the collection of water
4 rents from users of water supplied by the borough. The borough's
5 provision of water to users outside the borough limits as to
6 character of service, extensions and rates shall be subject to
7 any applicable approval, regulation or control imposed by 66
8 Pa.C.S. Pt. I (relating to Public Utility Code).

9 § 2402. Contracts not to abridge powers.

10 A borough's power to construct and operate a water system as
11 provided in section 2401 (relating to power to supply water and
12 make regulations) shall not be abridged by the borough entering
13 into a contract with a person or corporation for the supply of
14 water, but the power shall remain in force as though the
15 contract had not been made.

16 § 2403. Issue of bonds where water system acquired.

17 Where the price and terms are agreed upon, a borough may
18 become the owner of and operate any water system owned and
19 operated by a corporation furnishing water within the acquiring
20 borough and in nearby municipal corporations. The borough may
21 pay for the water system from the revenues derived from general
22 obligation bonds or utility bonds issued in the manner provided
23 by 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and
24 borrowing).

25 § 2404. Refunding bonds.

26 (a) General rule.--If a borough acquires a water system
27 subject to any existing lien or liens and, at the time of
28 acquisition, issues utility bonds secured by the liens on the
29 water system and which impose no municipal liability, then, when
30 the utility bonds mature or at any time prior, the borough may

1 issue and sell utility bonds for the purposes of refunding the
2 outstanding bonds. The refunding bonds shall be issued as
3 utility bonds pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating
4 to indebtedness and borrowing). The issued bonds shall not be
5 deemed to be the creation of new obligations but shall be deemed
6 a continuation of the bonds existing or created at the time of
7 the original acquisition of the water system.

8 (b) Time, interest rate and amount.--The bonds shall not be
9 refunded for a longer period than 20 years, and the refunding
10 lien bonds issued shall not bear interest at a rate exceeding
11 6%. The aggregate amount of the issued refunding lien bonds
12 shall not exceed the amount of the bonds to be refunded. Any
13 money placed in any fund by the borough or by any commission of
14 the water system for the purpose of redeeming or paying the
15 bonds at maturity shall be first applied to the payment of the
16 principal of the bonds to be refunded and the balance of the
17 bonds only shall be refunded by the issue of new bonds.

18 § 2405. (Reserved).

19 § 2406. Contracts to supply water for municipal purposes.

20 Boroughs may receive bids from water companies and municipal
21 authorities authorized to do business within the borough and
22 from other municipalities operating a water system for the
23 supply of water for fire protection and for other municipal
24 purposes. The borough may contract for the supply of water with
25 the water company.

26 § 2407. Power to supply water beyond limits of borough.

27 If a borough maintains a water system, it shall be lawful for
28 the borough to supply water to persons and corporations outside
29 the limits of the borough, but the supply of water shall be
30 subject to any applicable approval or regulation imposed by 66

1 Pa.C.S. Pt. I (relating to Public Utility Code). The privilege
2 shall not conflict with the corporate rights of any water
3 company or the rights of any other municipality or municipal
4 authority.

5 § 2408. Assessment for water mains.

6 Boroughs shall have power to assess the whole cost or any
7 part of the cost of construction of new water mains built in
8 connection with the establishment or extension of a municipally
9 owned water supply system in accordance with Chapter 21A
10 (relating to assessments and charges for public improvements),
11 notwithstanding if the mains are located within or without the
12 limits of the borough.

13 § 2409. Sale of water system.

14 (a) General rule.--By ordinance, a borough may sell all or
15 part of its water system to a purchaser at an agreed upon price,
16 and, thereafter, for all purposes that price shall be deemed to
17 be the purchaser's original cost less accrued depreciation of
18 the plant at the date of purchase. No ordinance shall take
19 effect until the expiration of ten days following its enactment
20 and if, within that ten-day period, a protest signed by at least
21 10% of the registered electors of the borough is filed with the
22 council, the sale shall be stayed pending a referendum on the
23 ordinance.

24 (b) Protest.--The following shall apply to a protest:

25 (1) The borough secretary, within five days following
26 the filing of the protest, shall certify to the county board
27 of elections a copy of the ordinance and the fact of the
28 protest, together with the number of signers of the protest,
29 and the county board of elections shall direct a referendum
30 to be held on the matter at a special election to be held at

1 the time of the next general or municipal or primary election
2 occurring not less than 60 days from the date of the
3 certification by the borough secretary.

4 (2) The referendum shall be conducted by the county
5 board of elections in the manner provided by the act of June
6 3, 1937 (P.L.1333, No.320), known as the Pennsylvania
7 Election Code, for the holding of special elections. The
8 ballot used when voting upon the question shall contain a
9 question stating the nature and purpose of the ordinance and
10 provide that a "yes" vote shall be to sustain the ordinance
11 and a "no" vote shall be to reject it.

12 (3) If more electors vote to sustain the ordinance than
13 to reject it, the ordinance shall take effect immediately. If
14 more electors shall vote to reject the ordinance than to
15 sustain it, the ordinance shall be null and void and shall
16 not take effect.

17 SUBCHAPTER A.1

18 ACQUISITION BY EMINENT DOMAIN

19 Sec.

20 2411. Appropriation of lands and waters.

21 2412. Agreements as to damages.

22 2413. (Reserved).

23 § 2411. Appropriation of lands and waters.

24 A borough desiring to build a water system or to improve its
25 water supply may appropriate springs, streams, rivers or creeks
26 and lands, easements and rights-of-way, within or without its
27 limits. If the appropriation is outside its limits, the
28 appropriation shall be in compliance with 26 Pa.C.S. § 206
29 (relating to extraterritorial takings). For the purpose of
30 conducting water obtained outside its limits, a borough may lay

1 pipes under and over any lands, rivers, streams, bridges,
2 highways and under railroads. No water appropriated under this
3 section shall be used in a manner as to deprive the owner of the
4 water of the free use and enjoyment of the water for domestic or
5 farm purposes. The exercise of the powers in this section shall
6 be subject to any required approvals or permits from the
7 Department of Environmental Protection or other Federal or State
8 entity.

9 § 2412. Agreements as to damages.

10 Prior to any appropriation under section 2411 (relating to
11 appropriation of lands and waters), the borough shall attempt to
12 agree with the owner as to the damage done or likely to be done.
13 If the parties cannot agree, the borough shall proceed pursuant
14 to 26 Pa.C.S. (relating to eminent domain).

15 § 2413. (Reserved).

16 SUBCHAPTER A.2

17 ACQUISITION BY PURCHASE AFTER APPRAISEMENT

18 Sec.

19 2421. Petition to court.

20 2422. Appointment of appraisers.

21 2423. Powers of appraisers.

22 2424. Appeal from appraisement.

23 2425. Authority to purchase and consent to sell.

24 2426. Bond issue and limitations.

25 2427. (Reserved).

26 § 2421. Petition to court.

27 If a borough desires to own and operate a water system owned
28 by any person, firm or corporation, the borough may present its
29 petition to the court of common pleas of the county where the
30 water system is located, setting forth that:

- 1 (1) The borough desires to own the water system.
2 (2) It will be necessary to issue bonds.
3 (3) A value should be placed upon the water system,
4 including all property, real and personal, used in connection
5 with the water system.

6 § 2422. Appointment of appraisers.

7 (a) Valuation.--The court of common pleas shall appoint
8 three civil engineers as appraisers to value and appraise:

9 (1) The water system.

10 (2) The property used in connection with the water
11 system.

12 (3) The contracts or agreements with municipalities.

13 (b) Report.--The civil engineers shall file their report in
14 the court within three months after their appointment unless the
15 time is extended by the court.

16 § 2423. Powers of appraisers.

17 The appraisers shall have the following powers:

18 (1) To access the books and records of the person, firm
19 or corporation owning the water system to inform themselves
20 as to the income and value of the water system.

21 (2) To administer oaths and to take the testimony of
22 witnesses.

23 (b) Report.--The report of the appraisers shall be final
24 unless the report is appealed.

25 § 2424. Appeal from appraisalment.

26 (a) Filing of petition.--Within ten days after notice of the
27 filing of any report in the court of common pleas, either party
28 may appeal from the appraisalment by filing a petition for a
29 hearing before the court alleging an undervaluation or
30 overvaluation of the property.

1 (b) Hearing.--The court shall fix a time when the appeal may
2 be heard, giving at least ten days' notice to the parties, and,
3 upon hearing, the court of common pleas shall have power to
4 affirm or modify the report as the court deems just and proper.
5 § 2425. Authority to purchase and consent to sell.

6 (a) Authority to purchase.--After the value is finally
7 determined, the borough is authorized to buy the water system at
8 the valuation fixed.

9 (b) Consent to sell.--The person, firm or corporation owning
10 the water system shall, within ten days after notice, file in
11 the court of common pleas its consent to sell and convey its
12 water system and property to the borough at the valuation fixed.
13 In default of the filing of the consent, the person, firm, or
14 corporation shall cease to have any exclusive privilege of
15 supplying the borough or the citizens of the borough with water,
16 and the borough may install the water system as may be necessary
17 for the accommodation of the public.

18 § 2426. Bond issue and limitations.

19 (a) Bond issue.--For the purpose of purchasing a water
20 system, the borough may issue utility bonds in the manner
21 provided by 53 Pa.C.S. Pt. VII Subpt. B (relating to
22 indebtedness and borrowing).

23 (b) Limitations.--The bonds shall not exceed in amount the
24 value fixed by the appraisers or the court of common pleas. The
25 proceeds of the sale of the bonds shall be used exclusively for
26 the purpose of paying for the property acquired.

27 § 2427. (Reserved).

28 SUBCHAPTER A.3

29 POWER TO LEASE WATER SYSTEM

30 Sec.

1 2431. Lease of water system.

2 2432. Term of lease and rental.

3 2433. Operation of property.

4 2434. (Reserved).

5 § 2431. Lease of water system.

6 The council of a borough may enter into a contract with any
7 individual, partnership, association or corporation for the
8 leasing of a water system of the individual, partnership,
9 association or corporation.

10 § 2432. Term of lease and rental.

11 The lease term may be for a term of years and at a rental
12 price as shall be agreed upon by the borough and the individual,
13 copartnership, association or corporation.

14 § 2433. Operation of property.

15 A borough shall have the same powers in operating a leased
16 water system as it would have in operating a purchased or
17 condemned water system.

18 § 2434. (Reserved).

19 SUBCHAPTER A.4

20 JOINT WATER SYSTEM

21 Sec.

22 2436. Joint acquisition and construction.

23 2437. Permits.

24 2438. Joint commission.

25 § 2436. Joint acquisition and construction.

26 A borough may join with one or more municipal corporations in
27 the construction or acquisition and maintenance of a water
28 system.

29 § 2437. Permits.

30 The construction of a water system shall be commenced only

1 after plans for the water system have been filed with the
2 Department of Environmental Protection and, if required by law,
3 other Federal or State entities and permits issued in accordance
4 with law.

5 § 2438. Joint commission.

6 (a) General rule.--The municipal corporations joining in the
7 construction or acquisition and maintenance of a water system
8 may, by ordinance, provide for the appointment of a joint
9 commission of a water system in order to facilitate the
10 construction, operation and maintenance of the water system and
11 to secure preliminary surveys and estimates.

12 (b) Function.--The joint commission shall act generally as
13 the advisory and administrative agency in the construction of
14 the improvement and its subsequent operation and maintenance.

15 (c) Composition.--The joint commission shall be composed of
16 one representative from each of the joining municipal
17 corporations.

18 (d) Term of members.--The members of the joint commission
19 shall serve for terms of six years each from the dates of their
20 respective appointments and until their successors are
21 appointed.

22 (e) Officers.--The joint commission shall organize by the
23 election of a chair, secretary and treasurer. The secretary and
24 treasurer may be the same person.

25 (f) Ordinance provisions.--The municipal corporations may,
26 in the ordinances creating the joint commission, authorize it to
27 appoint an engineer, a solicitor and other assistants as are
28 deemed necessary and agree to share the compensation for
29 attending its meetings as shall be fixed in the budget prepared
30 by the commission and submitted to and adopted by the joining

1 municipal corporations.

2 (g) Compensation limitation and expenses.--The budget item
3 providing for the compensation to the members for attending
4 meetings shall not exceed \$500 per year, but members shall be
5 entitled to actual expenses to be paid by the respective
6 municipal corporations that the members represent. The fee for
7 each attendance at meetings shall be stipulated, and no member
8 shall be paid a fee for any meeting the member does not attend.

9 SUBCHAPTER A.5

10 CONDEMNATION OF LANDS FOR ROAD

11 PURPOSES AND TO PREVENT CONTAMINATION

12 Sec.

13 2441. Acquisition of land.

14 2442. Filing maps and plans.

15 2443. (Reserved).

16 2444. (Reserved).

17 § 2441. Acquisition of land.

18 (a) Acquisition for construction of roads.--If a borough
19 finds it necessary, when storing water for supply to the public,
20 to occupy and overflow portions of any public road with water or
21 if any public road leads into or crosses over any reservoir used
22 for the storage of water, the borough shall, at its own expense,
23 reconstruct or build a road in a favorable location, which shall
24 be in the same or better condition as the original road. A
25 borough is authorized to condemn land for these purposes if an
26 agreement as to price cannot be reached with the landowner.

27 (b) Land outside borough limits.--A condemnation of land
28 outside the borough limits shall be in conformity with 26
29 Pa.C.S. § 206 (relating to extraterritorial takings).

30 (c) Acquisition to prevent contamination.--A borough may

1 acquire, by purchase or condemnation, land along and contiguous
2 to streams of water or reservoirs from which water is taken for
3 public use if necessary to preserve the water from
4 contamination.

5 § 2442. Filing maps and plans.

6 If a change is made under section 2441(a) (relating to
7 acquisition of land), the borough shall file in the court of
8 common pleas a map or plan showing the change of road, and, if
9 the road is outside the limits of the borough, it shall furnish
10 to the governing body of the municipal corporation a copy of the
11 map.

12 § 2443. (Reserved).

13 § 2444. (Reserved).

14 SUBCHAPTER A.6

15 COMMISSION OF WATER SYSTEM

16 Sec.

17 2451. Commission.

18 2452. Terms of commissioners and compensation.

19 2453. Organization of commissioners.

20 2454. Powers of commission.

21 2455. Issue of bonds.

22 2456. Preparation of plans and specifications and contracts.

23 2457. Reports by commission.

24 2458. Care of funds.

25 § 2451. Commission.

26 (a) Establishment.--If a borough owns and maintains a water
27 system, there may be established in the borough, by ordinance, a
28 commission of the water system, which shall have the power of a
29 nonprofit corporation, to be composed of either three or five
30 citizens of the borough appointed by the council who shall be

1 known as commissioners of the water system.

2 (b) Abolishment.--At any time after three years from the
3 first appointment of the commissioners of the water system, the
4 borough may abolish the commission by repealing the ordinance
5 establishing the commission, which shall terminate the terms of
6 the commissioners then in office.

7 § 2452. Terms of commissioners and compensation.

8 (a) General rule.--If a borough establishes a commission of
9 the water system, it shall be the duty of the council to appoint
10 the commissioners of the water system.

11 (b) Commissions with three commissioners.--If there are
12 three commissioners, one shall be appointed to serve for one
13 year, one for two years and one for three years. Annually
14 thereafter, the council shall appoint one commissioner of the
15 water system to serve a term of three years.

16 (c) Commissions with five commissioners.--If there are five
17 commissioners, one shall be appointed to serve for one year, one
18 for two years, one for three years, one for four years and one
19 for five years. Annually thereafter, the council shall appoint
20 one commissioner of the water system to serve a term of five
21 years.

22 (d) Vacancy.--In case of a vacancy, the council shall fill
23 the vacancy for the unexpired term.

24 (e) Salary and expenses.--The commissioners of the water
25 system may receive a salary for their services and shall be
26 reimbursed by the borough for all expenses necessarily incurred
27 in the performance of their duties.

28 (f) Salary limitations.--The salary of the commissioners
29 shall not exceed the following:

30 (1) In service areas with fewer than 5,000 metered

1 accounts, a maximum of \$1,875 per year or \$156.25 per month.

2 (2) In service areas with 5,000 but fewer than 10,000
3 metered accounts, a maximum of \$2,500 per year or \$208.33 per
4 month.

5 (3) In service areas with 10,000 but fewer than 15,000
6 metered accounts, a maximum of \$3,250 per year or \$270.83 per
7 month.

8 (4) In service areas with 15,000 but fewer than 25,000
9 metered accounts, a maximum of \$4,125 per year or \$343.75 per
10 month.

11 (5) In service areas with 25,000 but fewer than 35,000
12 metered accounts, a maximum of \$4,375 per year or \$364.58 per
13 month.

14 (6) In service areas with 35,000 or more metered
15 accounts, a maximum of \$5,000 per year or \$416.67 per month.

16 § 2453. Organization of commissioners.

17 The commissioners of the water system shall meet within ten
18 days after their first appointment and annually thereafter and
19 organize by electing a president and secretary.

20 § 2454. Powers of commission.

21 After organization, the commissioners shall take charge and
22 control of the water system of the borough. The commission shall
23 have the following powers:

24 (1) To appoint all necessary officers and agents and
25 take from the officers and agents security for the faithful
26 performance of their duties as the commission deems proper.

27 (2) To fix the salaries and wages of the officers and
28 agents.

29 (3) To provide for the repair, extension, improvement
30 and maintenance of the water system and the construction of a

1 new water system.

2 (4) To collect water rents.

3 (5) To make and establish the rates and conditions upon
4 which water will be furnished to applicants, subject to any
5 applicable approval, regulation or control imposed by 66
6 Pa.C.S. Pt. I (relating to Public Utility Code).

7 (6) To make bylaws and regulations for the economic and
8 efficient management of the water system, which shall not be
9 inconsistent with any of the laws of this Commonwealth or the
10 rules and regulations of the Department of Environmental
11 Protection. No bylaws or regulations shall become effective
12 until they have been approved by the council and enacted as
13 ordinances of the borough.

14 § 2455. Issue of bonds.

15 The borough may, upon the request of the commissioners of the
16 water system, issue general obligation or nondebt revenue bonds
17 for the extension of the water system or the erection of a new
18 water system. The bonds shall be designated "water system bonds"
19 and shall be issued and sold in the manner provided by 53
20 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and
21 borrowing).

22 § 2456. Preparation of plans and specifications and contracts.

23 (a) Preparation of plans and specifications.--The
24 commissioners shall prepare plans and specifications of all work
25 to be performed and materials necessary for the repair,
26 maintenance and extension of the water system or the
27 construction of a new water system.

28 (b) Contracts.--The commissioners shall, after plans and
29 specifications for the extension or the construction of a water
30 system have been submitted to and approved by the Department of

1 Environmental Protection and a permit has been granted as may be
2 required by law:

3 (1) Invite proposals for the performing of the work and
4 the furnishing of materials.

5 (2) Advertise for bids as required by law.

6 (3) Let contracts to the lowest qualified and
7 responsible bidder.

8 (4) Take adequate security for the performance of the
9 contracts and for the payment of all labor and materials.

10 § 2457. Reports by commission.

11 The commissioners shall make a monthly report to the council
12 of the receipts and disbursements during the preceding month and
13 annually make a detailed report of the condition of the water
14 system. Both the monthly and annual reports shall be deemed to
15 be public records.

16 § 2458. Care of funds.

17 (a) Collectors.--Collectors shall be appointed by the
18 commissioners, in accordance with section 2454 (relating to
19 powers of commission), who shall collect all money for water
20 rents.

21 (b) Deposits.--The money collected shall be deposited weekly
22 with the borough treasurer who shall return a receipt to the
23 commissioners.

24 (c) Use.--All money collected shall be kept in a separate
25 fund and shall be used for the purpose of repairing, maintaining
26 and extending the water system and the construction of a new
27 water system. All money remaining after the expenditures shall
28 be used solely for the payment of any indebtedness on the water
29 system and any indebtedness incurred by the borough for
30 constructing, maintaining, improving, enlarging or extending the

1 water system.

2 (d) Withdrawals.--No money shall be drawn from the fund
3 except upon order countersigned by the president and secretary
4 of the commission.

5 SUBCHAPTER A.7

6 WATER CONNECTIONS

7 Sec.

8 2461. Ordinance.

9 2462. Notice and failure to make required connection.

10 2463. Water main tapping fees.

11 § 2461. Ordinance.

12 (a) General rule.--Council may, by ordinance, require any
13 owner of property to connect with and use a water system of the
14 borough or municipal authority or a joint water board in either
15 of the following cases:

16 (1) Except as provided in subsection (b), if the
17 property owner's principal building is located within 150
18 feet of a water system or any part or extension of the
19 system.

20 (2) If the property owner's principal building has no
21 supply of water which is safe for human consumption.

22 (b) Exception.--A property owner who after July 16, 2012, is
23 subject to mandatory connection under subsection (a)(1) shall
24 not be required to connect to the water system in accordance
25 with subsection (a) if all of the following conditions exist:

26 (1) The water system or part or extension of the system
27 that is within 150 feet of the principal building was in
28 existence on July 16, 2012.

29 (2) The principal building has its own supply of water
30 which is safe for human consumption.

1 (3) Prior to July 16, 2012, the property owner was not
2 required to connect to the existing system.

3 (c) Backflow prevention.--A borough may require any owner of
4 property to install and maintain a backflow prevention device
5 based on the degree of potential hazard of the connected
6 property in accordance with the Pennsylvania Construction Code
7 and regulations promulgated under that act.

8 (d) Penalties.--A borough may assess penalties for the
9 violation of ordinances pertaining to water connections or
10 backflow prevention devices.

11 § 2462. Notice and failure to make required connection.

12 An owner shall be given at least 45 days' notice of any
13 ordinance requiring a water connection, and, upon failure of the
14 owner to make the required connection, the borough may make the
15 connection and collect the cost from the owner by a municipal
16 claim or in an action of assumpsit. All connections required
17 shall be uniform.

18 § 2463. Water main tapping fees.

19 (a) General rule.--A borough may, by ordinance, provide for
20 charging a tapping fee calculated in accordance with 53 Pa.C.S.
21 § 5607 (relating to purposes and powers) if the owner of any
22 property connects the property with a water main constructed or
23 acquired by the borough. The tapping fee shall be in addition to
24 any charges assessed and collected against the property in the
25 construction or acquisition of the water main by the borough.

26 (b) Refund.--If a water main or part or extension owned by a
27 borough has been constructed by the borough at the expense of a
28 private person or corporation or has been constructed by a
29 private person or corporation under the supervision of the
30 borough at the expense of the private person or corporation, the

1 borough shall have the right to charge a tapping fee calculated
2 in accordance with 53 Pa.C.S. § 5607 and refund the tapping fee
3 or any part of the tapping fee to the person or corporation who
4 has paid for the construction of the water main or any part or
5 extension. The total of the refunds shall never exceed the cost
6 of the system or any part or extension to the person or
7 corporation paying for the construction.

8 SUBCHAPTER B

9 (RESERVED)

10 SUBCHAPTER C

11 (RESERVED)

12 SUBCHAPTER D

13 (RESERVED)

14 CHAPTER 24A

15 MANUFACTURE AND SUPPLY OF ELECTRICITY

16 Sec.

17 24A01. Definitions.

18 24A02. General powers.

19 24A03. Specific powers.

20 24A04. Municipal power agencies.

21 24A05. Additional contracting authority.

22 § 24A01. Definitions.

23 The following words and phrases when used in this chapter
24 shall have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 "Municipal power agency." A separate body politic and
27 corporate under the laws of this Commonwealth created by
28 agreement between or among two or more boroughs pursuant to
29 section 24A04 (relating to municipal power agencies).

30 "Project." Electric plants, hydroelectric plant works,

1 system, facilities or real or personal property, together with
2 their parts and appurtenances, used or useful in connection with
3 the generation, production, transmission, purchase, sale,
4 exchange or interchange of electric power or energy, or any
5 interest therein or right to capacity thereof.

6 "Revenue bond." An instrument imposing an obligation for the
7 repayment of money borrowed, payable as to both principal and
8 interest exclusively from the income and revenues derived from
9 an interest in an electric plant or project.

10 § 24A02. General powers.

11 (a) Electric plants and projects.--A borough may, either
12 singly or jointly, manufacture or purchase electricity for the
13 use of its inhabitants, own, construct, acquire by lease,
14 purchase or otherwise gain an interest in, operate and manage or
15 cause to be operated and managed an electric plant or project
16 located within or without this Commonwealth. In the exercise of
17 these powers, a borough may join with any other borough,
18 political subdivision, agency or instrumentality of the Federal
19 Government, State government, political subdivision of another
20 state, private corporation empowered to supply electricity,
21 electric cooperative corporation formed under 15 Pa.C.S. Ch. 73
22 Subchs. A (relating to preliminary provisions) and B (relating
23 to powers, duties and safeguards) or previously formed under the
24 former act of June 21, 1937 (P.L.1969, No.389), known as the
25 Electric Cooperative Corporation Act, or an electric cooperative
26 corporation in another state.

27 (b) Contracts for supplying electricity.--A borough owning
28 or operating an electric plant may make contracts for supplying
29 electricity for commercial purposes outside the limits of the
30 borough, if the borough has received the consent of the other

1 municipal governing body and, if applicable, subject to 66
2 Pa.C.S. Pt. I (relating to Public Utility Code).

3 (c) Additional sources.--A borough may conduct studies as
4 necessary to determine the feasibility and cost of any
5 additional sources and supplies of electric power and energy and
6 may cooperate with private power companies, other boroughs,
7 electric cooperative corporations and other public or private
8 electric power entities, within or without this Commonwealth, in
9 the development of electric power and energy.

10 (d) Consent of borough to supply electricity.--No person,
11 partnership or corporation may introduce electric current for
12 light, heat or power purposes, without the consent of the
13 council, into the limits of any borough that is furnishing
14 electric current to its inhabitants. This subsection shall not
15 apply to any person, partnership or corporation manufacturing
16 electricity exclusively for its own use.

17 (e) Corporate rights.--Nothing in this chapter may conflict
18 with the corporate rights of a corporation empowered to supply
19 electricity in the territory adjacent to the borough or with the
20 rights of any other municipality.

21 (f) Restrictions.--A borough shall not become a stockholder
22 in, obtain or appropriate money for or loan its credit to a
23 corporation, association, institution or individual or otherwise
24 act contrary to the provisions of section 9 of Article IX of the
25 Constitution of Pennsylvania.

26 (g) General powers.--A borough, through its governing body,
27 shall have the power to do and accomplish all actions reasonably
28 necessary and incident to the administration, operation and
29 management of a plant or project.

30 § 24A03. Specific powers.

1 (a) Specific powers enumerated.--In addition to exercising
2 its general powers under section 24A02 (relating to general
3 powers), a borough, through its governing body, shall have the
4 following powers:

5 (1) To contract for the purchase, sale, exchange,
6 interchange, wheeling, pooling or transmission of electric
7 power and energy or for the right to the capacity of electric
8 power, inside and outside of this Commonwealth, to and from
9 any public or private power entities, private power
10 companies, other boroughs and electric cooperative
11 corporations.

12 (2) To regulate the use of and the charge for
13 electricity furnished by the borough for use throughout the
14 borough. A borough may fix, establish, maintain and collect
15 or authorize by contract or otherwise the establishment,
16 levying and collection of the rates, fees, rental or other
17 charges, including connection charges, for the services
18 afforded by or in connection with any properties which the
19 borough constructs, erects, owns, acquires, operates or
20 manages and for the sale or transmission of electric energy
21 and power as it deems necessary, proper, desirable and
22 reasonable.

23 (3) To procure insurance against any losses in
24 connection with its property, operations or assets in the
25 amounts and from the insurers as the governing body or bodies
26 deem desirable.

27 (4) To contract for and to accept any gifts, grants or
28 loans of funds, property or financial or other aid in any
29 form, from the United States or any agency or instrumentality
30 of the United States, or from any other source.

1 (5) To lease, or otherwise grant the use of, and to make
2 charges for the use of any property or facility owned or
3 controlled by the borough.

4 (6) To procure from the United States or any agency or
5 instrumentality of the United States, or from any state or
6 agency or instrumentality of a state, any consents,
7 authorizations or approvals which may be requisite to enable
8 ownership, operation, construction or repair.

9 (7) To borrow money and from time to time to issue
10 revenue bonds and to enter into agreements with the
11 purchasers of the revenue bonds. A borough that incurs debt
12 for the construction or purchase of an electric plant, or
13 land on which to construct an electric plant, or gains an
14 interest in an electric plant or project under section 24A02
15 shall incur the debt in accordance with and to the extent
16 permitted by 53 Pa.C.S. Pt. VII Subpt. B (relating to
17 indebtedness and borrowing). Interest and principal paid on
18 revenue bonds issued by a borough under this chapter shall be
19 exempt from all State taxes of any kind or nature.

20 (8) To mortgage a property acquired or owned under
21 section 24A02 to secure the payment of its revenue bonds or
22 other obligations issued to finance the acquisition,
23 ownership or repair.

24 (9) To sell, by ordinance, all or part of its electric
25 works to a purchaser for the sale price agreed upon by the
26 parties. After the sale, the price shall be deemed to be the
27 purchaser's original cost less accrued depreciation of the
28 plant at the date of purchase.

29 (10) To purchase the electric works of any person,
30 partnership or electric company organized under the laws of

1 this Commonwealth that is furnishing electricity to the
2 borough or the public within the borough. The borough and the
3 person, partnership or a majority in value of the
4 stockholders of a corporation may agree upon the purchase
5 price, except that, upon failure of the parties to agree on
6 the price, the borough may proceed according to 26 Pa.C.S.
7 (relating to eminent domain).

8 (b) Eminent domain.--In the erection and extension of an
9 electric plant or project under this chapter and for all other
10 purposes authorized by this part, a borough may enter upon,
11 appropriate, injure or destroy private lands, property or
12 material according to the proceedings set forth in 26 Pa.C.S. A
13 borough shall not have the power of condemnation with regard to
14 any property of a private or public retail electric supplier
15 which geographically lies beyond the boundaries of the corporate
16 limits of the borough.

17 § 24A04. Municipal power agencies.

18 (a) General rule.--Two or more boroughs may form a municipal
19 power agency by the execution of an agency agreement authorized
20 by an ordinance of the governing bodies of each borough. The
21 agency agreement shall state:

22 (1) The name of the agency, which shall include the
23 words "municipal power agency."

24 (2) The names of the boroughs which have approved the
25 agency agreement and are initial members of the municipal
26 power agency.

27 (3) That the municipal power agency is created pursuant
28 to the authority granted by this part.

29 (4) The names and addresses of the persons initially
30 appointed by the governing bodies to act as representatives

1 to the municipal power agency from the member boroughs.

2 (5) The limitations, if any, placed on the powers or
3 terms of representatives appointed by the governing bodies of
4 the member boroughs.

5 (6) The names and addresses of the initial board of
6 directors of the municipal power agency, if known by the time
7 of filing, which shall be constituted by not less than five
8 persons who are representatives of the member boroughs,
9 selected by the vote of a majority of the representatives.

10 (b) Certificate of incorporation.--The agency agreement
11 under subsection (a) and a certified copy of the ordinance of
12 the governing body of each borough shall be filed for record
13 with the Secretary of the Commonwealth. If the agency agreement
14 meets the requirements of this section, the Secretary of the
15 Commonwealth shall record the agreement and issue and record a
16 certificate of incorporation which shall be conclusive proof of
17 substantial compliance with the requirements of this section.
18 The certificate shall state the name of the municipal power
19 agency and the fact and date of incorporation. Upon the issuance
20 of the certificate of incorporation, the existence of the
21 municipal power agency as a political instrumentality of the
22 Commonwealth shall begin.

23 (b.1) Open meetings.--Regular and special meetings of the
24 representatives of member boroughs and the board of directors as
25 provided in this section shall be subject to 65 Pa.C.S. Ch. 7
26 (relating to open meetings).

27 (c) Bylaws.--The bylaws of the municipal power agency and
28 any amendments shall be proposed by the board of directors and
29 shall be adopted by a majority vote of the representatives of
30 the member boroughs unless the agency agreement requires a

1 greater vote at a meeting held after notice. Subject to the
2 provisions of the agency agreement, the requirements of this
3 part and the laws of this Commonwealth, 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.

11 (5) Other provisions for regulating the affairs of the
12 municipal power agency as the representatives of the member
13 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 the effective
21 date of change. When the certificate of change of location has
22 been duly filed, the board of directors may make the change
23 without any further action.

24 (e) Directors.--The following apply:

25 (1) Each of the directors shall hold office for the term
26 for which the director has been selected and until a
27 successor has been selected and has qualified. Directors
28 shall discharge their duties in good faith and with that
29 diligence and care which an ordinary prudent person in a like
30 position would exercise under similar circumstances.

1 (2) The agency agreement or the bylaws may prescribe the
2 number, term of office, powers, authority and duties of
3 directors, the time and place of their meetings and other
4 regulations concerning directors in a manner consistent with
5 law.

6 (3) Except where the agency agreement or bylaws
7 prescribe otherwise, the term of office of a director shall
8 be for one year.

9 (4) Except where the agency agreement or bylaws
10 prescribe otherwise, a meeting of the board of directors may
11 be held at any place within this Commonwealth designated by
12 the board, after notice, and an act of the majority of the
13 directors present at a meeting at which a quorum is present
14 is the act of the board.

15 (5) Except where the agency agreement or bylaws
16 prescribe otherwise, any vacancy occurring on the board shall
17 be filled by a person nominated by the remaining members of
18 the board and elected by a majority of representatives of the
19 member boroughs.

20 (f) Officers.--Except where the agency agreement or bylaws
21 prescribe otherwise, the board of directors shall appoint a
22 president from its membership and a secretary, treasurer and any
23 other officers or agents deemed necessary who may, but need not
24 be, borough representatives or directors. An officer may be
25 removed with or without cause by the board of directors.

26 Officers of the municipal power agency shall have the authority
27 and duties in the management of the business of the municipal
28 power agency that the agency agreement or bylaws prescribe or,
29 in the absence of the prescription, as the board of directors
30 determines.

1 (g) Representatives of member boroughs.--The following
2 apply:

3 (1) Except as otherwise provided in the agency agreement
4 or the bylaws, the duly authorized representatives of each
5 member borough shall act as and vote on behalf of that
6 borough.

7 (2) Except where the agency agreement or bylaws provide
8 otherwise, representatives of the member boroughs shall hold
9 at least one meeting each year for the election of directors
10 and for the transaction of any other business.

11 (3) Except where the agency agreement or bylaws
12 prescribe otherwise, special meetings of the representatives
13 may be called for any purpose upon written request to the
14 president or secretary to call the meeting. The officer shall
15 give notice of the meeting to be held between ten and 60 days
16 after receipt of the request.

17 (4) Unless the agency agreement or bylaws provide for a
18 different percentage, a quorum for a meeting of the
19 representatives of the member boroughs is a majority of the
20 total members, and a quorum for meetings of the board of
21 directors is a majority of the membership of the board.

22 (h) Amendment of agency agreement.--The agency agreement may
23 be amended as proposed at any meeting of the representatives of
24 the members for which notice stating the purpose shall be given
25 to each representative and, unless the agency agreement or
26 bylaws require otherwise, shall become effective when ratified
27 by ordinances of a majority of the governing bodies of the
28 member boroughs. Each amendment and the ordinances approving it
29 shall be filed for record with the Secretary of the
30 Commonwealth.

1 (i) Appropriations.--Each member borough shall have full
2 power and authority, within budgetary limits applicable to it,
3 to appropriate money for the payment of expenses of the
4 formation of the municipal power agency and of its
5 representative in exercising its functions as a member of the
6 agency.

7 (j) General powers.--A municipal power agency may own,
8 construct, acquire by lease, purchase or otherwise gain an
9 interest by itself or as co-owner or tenant in common and
10 operate and manage or cause to be operated and managed an
11 electric plant or project located within or without this
12 Commonwealth jointly with any political subdivision, subdivision
13 of the Federal Government, State government, political
14 subdivision of another state, private corporation empowered to
15 supply electricity, electric cooperative corporation formed
16 under the former act of June 21, 1937 (P.L.1969, No.389), known
17 as the Electric Cooperative Corporation Act, or electric
18 cooperative corporation in another state.

19 (k) Specific powers.--All powers of a municipal power agency
20 shall be exercised by its board of directors, unless otherwise
21 provided by the agency agreement or bylaws. A municipal power
22 agency shall have the power to do and accomplish all actions
23 reasonably necessary and incident to the ownership,
24 construction, acquisition, administration, operation and
25 management of an electric plant or project. Among the specific
26 powers of a municipal power agency shall be the following:

27 (1) To sue and be sued.

28 (2) To enter into contracts.

29 (3) To cooperate with private power companies, boroughs,
30 electric cooperative corporations and other public or private

1 electric power entities inside and outside of this
2 Commonwealth in the development of electric power and energy.

3 (4) To make the studies as may be necessary to determine
4 the feasibility and cost of any additional sources and
5 supplies of electric power and energy.

6 (5) To contract for the purchase, sale, exchange,
7 interchange, wheeling, pooling or transmission of electric
8 power and energy or for the right to the capacity thereof,
9 inside and outside of this Commonwealth, to and from any
10 public or private power entities, private power companies,
11 other boroughs and electric cooperative corporations.

12 (6) To procure insurance against any losses in
13 connection with its property, operations or assets in amounts
14 and from insurers as the board of directors deems desirable.

15 (7) To contract for and to accept any gifts, grants or
16 loans of funds, property or financial or other aid in any
17 form from the United States or any agency or instrumentality
18 of the United States or from any other source.

19 (8) To acquire, hold, use, operate and dispose of
20 personal property.

21 (9) To acquire, hold, use and dispose of its income,
22 revenues, funds and money.

23 (10) To acquire, own, use, lease, operate and dispose of
24 real property and interests in real property and to make
25 improvements to the real property.

26 (11) To grant the use, by lease or otherwise, and to
27 make charges for the use of any property or facility owned or
28 controlled by it.

29 (12) To procure from the United States or any agency or
30 instrumentality of the United States, or from any state or

1 agency or instrumentality of a state, any consents,
2 authorizations or approvals which may be requisite to enable
3 ownership, operation, construction or repair.

4 (13) To borrow money and from time to time to issue
5 revenue bonds and to enter into agreements with the
6 purchasers of the revenue bonds.

7 (14) To invest funds not required for immediate use,
8 including, but not limited to, proceeds from the sale of
9 revenue bonds. The power of a municipal power agency to
10 invest shall be the same as that of a borough, as exercised
11 by the council pursuant to sections 1005(6) (relating to
12 powers of council) and 1316 (relating to investment of
13 funds).

14 (15) To mortgage any property acquired or owned to
15 secure the payment of its revenue bonds or other obligations
16 issued to finance the acquisition, ownership or repair.

17 (1) Eminent domain.--

18 (1) Except as provided under paragraph (2), in the
19 erection and extension of an electric plant or project and
20 for all other purposes authorized by this part, a municipal
21 power agency may enter upon, appropriate, injure or destroy
22 private lands, property or material according to the
23 proceedings set forth in 26 Pa.C.S. (relating to eminent
24 domain).

25 (2) A municipal power agency shall not have the power of
26 condemnation with regard to any property of a private or
27 public retail electric supplier which geographically lies
28 beyond the boundaries of the corporate limits of its member
29 boroughs.

30 (m) Revenue bonds.--A municipal power agency which gains an

1 interest in an electric plant or project may pay all or part of
2 the cost from the revenues derived from the sale of revenue
3 bonds issued in the manner provided by 53 Pa.C.S. Pt. VII Subpt.
4 B (relating to indebtedness and borrowing).

5 (n) Bylaws.--A municipal power agency may make and enforce
6 bylaws or rules which it deems necessary or desirable. A
7 municipal power agency may establish, fix, levy and collect or
8 may authorize, by contract, franchise, lease or otherwise, the
9 establishment, levying and collection of rents, rates and other
10 charges for the services afforded by the municipal power agency,
11 including connection for the services afforded by the municipal
12 power agency, including connection charges or by or in
13 connection with any project or properties which it may
14 construct, erect, acquire, own, operate or control, or with
15 respect to which it may have any interest or any right to
16 capacity thereof, and for the sale of electric energy or of
17 generation or transmission capacity or services as it may deem
18 necessary, proper, desirable and reasonable. Rents, rates and
19 other charges shall be at least sufficient to meet expenses
20 thereof, including reasonable reserves, interest and principal
21 payments.

22 (o) State tax exemptions.--Interest and principal paid on
23 revenue bonds issued by a municipal power agency shall be exempt
24 from all State taxes of whatsoever kind or nature.

25 § 24A05. Additional contracting authority.

26 (a) Additional contracting authority.--In addition to the
27 authority provided under section 24A02 (relating to general
28 powers), a borough that, on October 27, 2010, owned or operated
29 electric generation or distribution facilities and a borough
30 that is a member of a nonprofit membership corporation may

1 contract with the nonprofit membership corporation for the
2 following:

3 (1) The development of electric power and associated
4 energy, including the conduct of investigations or studies
5 necessary to determine the feasibility and cost of additional
6 sources and supplies of electric power and associated energy.

7 (2) The purchase, sale, exchange, interchange, wheeling,
8 pooling or transmission of electric power and associated
9 energy or the right to the capacity from sources and projects
10 in this Commonwealth or another state for a period not to
11 exceed 50 years.

12 (b) Contract requirements.--A contract under subsection (a)
13 (2) shall include the purpose of the contract, the duration of
14 the contract and available procedures to terminate the contract
15 subsequent to the repayment of all indebtedness secured under
16 the contract.

17 (c) Minimum quantity of electric power and energy.--If a
18 borough is a member of a nonprofit membership corporation, a
19 contract under subsection (a)(2) may, if specifically set forth
20 in the contract, obligate the borough to:

21 (1) Take and pay for a minimum quantity of electric
22 power and associated energy if the power and energy are
23 available for delivery.

24 (2) In connection with a project owned by the nonprofit
25 membership corporation or in which the nonprofit membership
26 corporation obtains an undivided ownership interest, take or
27 pay for a minimum amount of electric power and energy.

28 (3) Pay for electric power and energy only if utilized
29 by the borough.

30 (d) Applicability of minimum requirements.--

1 (1) The authority under subsection (c)(1) shall apply
2 whether or not the borough accepts delivery of the power and
3 energy.

4 (2) The authority under subsection (c)(2) shall apply
5 notwithstanding the suspension, interruption, interference or
6 reduction or curtailment of the output of the project or the
7 electric power and energy contracted for and whether or not:

8 (i) the electric power and energy is available for
9 delivery to the borough; or

10 (ii) the borough accepts delivery of the electric
11 power and energy.

12 (e) Take-or-pay or take-and-pay arrangements.--No borough
13 may be obligated under a take-or-pay or take-and-pay arrangement
14 entered into with a nonprofit membership corporation in which
15 the borough maintains membership unless that obligation is
16 expressly authorized by an act of the council.

17 (f) Restrictions.--A nonprofit membership corporation shall
18 not:

19 (1) Condition membership in the nonprofit membership
20 corporation on the inclusion of any take-or-pay or take-and-
21 pay obligations in a contract under subsection (a)(2).

22 (2) Except as set forth in subsection (g), require take-
23 or-pay or take-and-pay obligations in a contract with a
24 borough unless the contract meets the criteria of subsection
25 (c)(1) or (2).

26 (g) Future contracts.--A borough that is a member of a
27 nonprofit membership corporation may enter into future power
28 supply contracts, contract renewals or contract extensions with
29 the nonprofit membership corporation under subsection (c)(3):

30 (1) with no take-or-pay or take-and-pay obligations as

1 permitted by subsection (c)(1) and (2); and
2 (2) without prejudice or discrimination as compared to
3 any other borough which chooses to enter into contracts
4 permitted by subsection (c)(1) and (2) with the nonprofit
5 membership corporation.

6 (h) Future power supply contract terms.--In order to carry
7 out subsection (g), a nonprofit membership corporation which
8 provides or offers electric power and associated energy to a
9 member borough in this Commonwealth under subsection (a)(2)
10 shall offer, to all of its member boroughs in this Commonwealth,
11 future power supply contract terms, contract renewals or
12 contract extensions under subsection (c)(3) on a comparable and
13 nondiscriminatory basis and with similar terms and conditions to
14 future power supply contract terms, contract renewals or
15 contract extensions that would be appropriate under subsection
16 (c)(3) which the nonprofit membership corporation
17 contemporaneously offers to its members in other states.

18 (i) Payments.--All obligations under a contract under
19 subsection (a)(2) shall be paid from revenues derived from the
20 operation of the borough's electric system, and payments shall
21 be an operating expense of the borough's electric system.

22 (j) Obligations of other entities.--If explicitly set forth
23 in a contract under subsection (a)(2), a borough may agree to
24 assume, prorate or otherwise become liable for the obligations
25 of another borough of this Commonwealth or of a political
26 subdivision of another state that is a member of the nonprofit
27 membership corporation if the borough or other political
28 subdivision defaults in the payment of its obligations for the
29 purchase of the electric power and associated energy. The
30 contract may include provisions to permit a borough to succeed

1 to the rights and interests of the defaulting borough or
2 political subdivision to purchase electric power and associated
3 energy. A borough's liability for the obligations of a
4 defaulting borough of this Commonwealth or a political
5 subdivision of another state shall not exceed 25% of a borough's
6 initial nominal entitlement to electric power and associated
7 energy under the contract.

8 (k) Pledge of borough property prohibited.--None of the
9 obligations under the contract may constitute a legal or
10 equitable pledge, charge, lien or encumbrance on any property of
11 the borough or on any of its income, receipts or revenues,
12 except revenues of its electric system. The full faith and
13 credit and the taxing power of the borough shall not be pledged
14 for the payment of an obligation under the contract.

15 (l) Construction.--This section is intended to add to the
16 powers and rights of a borough, and nothing in this section may
17 be construed to limit either the general or specific powers or
18 rights of a borough set forth in this title.

19 (m) Definition.--As used in this section, the term
20 "nonprofit membership corporation" means an entity the
21 membership of which:

22 (1) consists solely of Pennsylvania boroughs, such as a
23 consortium, buying group or municipal power agency under
24 section 24A04 (relating to municipal power agencies); or

25 (2) consists of Pennsylvania boroughs and political
26 subdivisions of another state or states.

27 CHAPTER 25

28 (RESERVED)

29 CHAPTER 25A

30 AIRPORTS

1 Sec.

2 25A01. Authority to secure lands for airports.

3 25A02. Authority to establish and lease airports.

4 25A03. Joint airports.

5 § 25A01. Authority to secure lands for airports.

6 A borough is authorized and empowered to acquire by lease,
7 purchase or condemnation any land lying either within or without
8 the limits of the borough which, in the judgment of the council,
9 may be necessary and desirable for the purpose of establishing
10 and maintaining municipal airport facilities. The proceedings
11 for the condemnation of land under the provisions of this
12 chapter and for the assessment of damages for property taken,
13 injured or destroyed shall be conducted in the manner provided
14 by 26 Pa.C.S. (relating to eminent domain). The title acquired
15 by the borough exercising the power of condemnation shall be a
16 title in fee simple.

17 § 25A02. Authority to establish and lease airports.

18 A borough acquiring land under the provisions of this chapter
19 is authorized and empowered to establish, equip, condition,
20 operate and maintain the land as a municipal airport and may
21 lease the land, or any part, to any individual or corporation
22 desiring to use the same for aviation purposes. A borough may
23 enter into a contract, in the form of a lease, providing for the
24 use of the land, or any part, by the Federal Government for its
25 use of the land for aviation purposes upon nominal rental or
26 without consideration.

27 § 25A03. Joint airports.

28 In accordance with the powers in this chapter, a borough may,
29 jointly with another municipality, acquire land for aviation
30 purposes and may jointly operate and maintain the airport on the

1 terms and conditions as agreed upon by the governing bodies of
2 the borough and other municipality.

3 CHAPTER 26

4 WHARVES AND DOCKS

5 Sec.

6 2601. Powers.

7 2602. (Reserved).

8 2603. Proceedings.

9 2604. Assessment of damages.

10 2605. Leases.

11 2606. Market houses, terminal sheds, tracks and facilities.

12 2607. Public use preserved.

13 2608. Saving clause.

14 § 2601. Powers.

15 (a) Construction and repair.--Boroughs shall have the power
16 to construct and repair wharves and docks and may acquire, by
17 purchase or condemnation, real estate along navigable waters and
18 within the borough limits as needed for the construction. Prior
19 to any condemnation, a borough shall enact an ordinance
20 authorizing the same.

21 (b) Additional powers.--Boroughs have the following
22 additional powers:

23 (1) To regulate, fix and enforce the collection of the
24 rate of wharfage for all public wharves and docks within its
25 limits.

26 (2) To regulate the anchoring of vessels, boats or rafts
27 within the borough limits.

28 (3) To regulate the depositing of freight on the public
29 wharves.

30 § 2602. (Reserved).

1 § 2603. Proceedings.

2 The proceedings before the viewers for the assessment of
3 damages for property taken, injured or destroyed under this
4 chapter and the proceedings on their report shall be as provided
5 in 26 Pa.C.S. (relating to eminent domain). The costs of all
6 proceedings, including the compensation of the viewers, shall be
7 paid by the borough.

8 § 2604. Assessment of damages.

9 (a) General rule.--The damages for the taking or injury of
10 any property for use as a wharf, pier or bulkhead shall include
11 full compensation for the value of the property taken or
12 injured.

13 (b) Partial taking.--If the property taken or injured shall
14 constitute a part of a plant used as an entirety, the damage to
15 the owner or tenant shall be assessed by taking the difference
16 in market value of the plant as a whole, including buildings and
17 all equipment installed and used in the plant, before and after
18 taking or injury, and notwithstanding that part of the plant may
19 be separated by a street or highway.

20 § 2605. Leases.

21 Any borough may lease any wharf or part and collect rent by
22 distress or otherwise. No one term of a lease shall be for a
23 period longer than three years.

24 § 2606. Market houses, terminal sheds, tracks and facilities.

25 (a) Market houses and terminal sheds.--Boroughs may erect
26 and maintain market houses and terminal sheds on wharves for the
27 receipt and distribution of freight and express.

28 (b) Tracks and facilities.--Boroughs may construct railroad
29 and street railway tracks or other facilities on wharves to
30 provide for the convenient hauling of freight or express matter

1 and may collect rents, tolls or charges for the use of market
2 houses, terminal sheds, tracks and facilities. No permit other
3 than a license revocable at will shall be granted, and no
4 exclusive permit for the use of the facilities shall be granted.

5 § 2607. Public use preserved.

6 No structure erected and no right granted under the powers
7 conferred under this chapter shall interfere with the public use
8 of wharves for waterborne commerce.

9 § 2608. Saving clause.

10 Nothing contained in this chapter shall be construed as
11 conferring upon boroughs any power conferred by existing law on
12 the Navigation Commission for the Delaware River and its
13 Navigable Tributaries or to permit boroughs to do any act or to
14 enact any ordinance inconsistent with the laws, rules and
15 regulations relating to the commission.

16 CHAPTER 27

17 RECREATION PLACES, SHADE TREES AND FORESTS

18 Subchapter

19 A. Parks and Playgrounds

20 B. Shade Trees

21 C. Forests

22 SUBCHAPTER A

23 PARKS AND PLAYGROUNDS

24 Sec.

25 2700. Definitions.

26 2701. General powers.

27 2702. Power to acquire.

28 2703. Appropriation of private property.

29 2704. (Reserved).

30 2705. (Reserved).

- 1 2706. (Reserved).
2 2707. (Reserved).
3 2708. Recreation board or other authority.
4 2709. Establishment of recreation board.
5 2710. Organization of board and employees.
6 2711. (Reserved).
7 2712. (Reserved).
8 2713. Lease for school athletics.
9 § 2700. Definitions.

10 The following words and phrases when used in this chapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Recreation places." Public parks, parkways and playgrounds,
14 playfields, swimming pools, public baths, bathing places, indoor
15 recreation centers and gymnasiums.

16 § 2701. General powers.

17 (a) General rule.--A borough may provide, improve, maintain
18 and regulate recreation places within the borough limits or in
19 any adjacent municipal corporation if the other municipal
20 corporation shall, by ordinance, signify its consent to the
21 provision, improvement, maintenance or regulation.

22 (b) Acquisition.--A borough may enter upon, appropriate and
23 acquire by gift, devise, purchase, lease or otherwise private
24 property or may designate and set apart any lands or buildings
25 owned by the borough and not dedicated or devoted to other
26 public uses for the purpose of making, enlarging and maintaining
27 recreation places.

28 (c) Joint action.--A borough may join with one or more
29 political subdivisions to acquire, create, equip, improve,
30 regulate, maintain and operate any recreation place in

1 accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to
2 intergovernmental cooperation).

3 (d) Limitation.--No borough, acting individually or jointly,
4 may acquire private property within the limits of another
5 municipal corporation for the purposes designated in this
6 section without the consent of the governing body of the
7 municipal corporation in which the property is located in
8 accordance with 26 Pa.C.S. (relating to eminent domain).

9 (e) Expenses.--All expenses incurred in the maintenance,
10 improvement, acquisition or operation of recreation places, as
11 provided in this section, shall be payable from the treasury of
12 the borough or the borough and other political subdivisions as
13 may be provided for by agreement of the governing bodies. The
14 council may annually appropriate, and cause to be raised by
15 taxation AS PROVIDED UNDER SECTION 1302(A)(10) (RELATING TO TAX <--
16 LEVY), an amount necessary for the purpose of maintaining and
17 operating recreation places or for paying its share of the
18 amount.

19 § 2702. Power to acquire.

20 A borough may enter upon, appropriate and acquire by gift,
21 devise, purchase, lease or otherwise private property within the
22 limits of the borough or in any adjacent township. A borough may
23 designate and set apart any lands or buildings owned by the
24 borough and not dedicated or devoted to other public uses.

25 (b) Joint acquisition.--Two or more boroughs may jointly
26 appropriate and acquire by gift, devise, purchase, lease or
27 otherwise private property within the limits of any township
28 adjacent to any of the boroughs for the purpose of making,
29 enlarging and maintaining recreation places. All the costs and
30 expenses relative to the property acquired by two or more

1 boroughs jointly shall be paid by the respective boroughs in the
2 proportions as may be agreed upon by the respective councils.

3 (c) Private property of other borough or city.--Any borough
4 may likewise acquire private property within the limits of
5 another borough or city for the purposes designated in this
6 section if the other borough or city shall, by ordinance,
7 signify its consent to the acquisition.

8 § 2703. Appropriation of private property.

9 The appropriation of private property for the purpose of
10 making, enlarging and maintaining recreation places is declared
11 to be the taking of private property for public use, and, for
12 all damage suffered by the owners of any property taken in that
13 manner, the funds of the borough raised by taxation shall be
14 pledged as security. The proceedings for the taking of private
15 property and the assessment of damages for private property
16 taken, injured or destroyed under this chapter shall be as
17 provided in 26 Pa.C.S. (relating to eminent domain).

18 § 2704. (Reserved).

19 § 2705. (Reserved).

20 § 2706. (Reserved).

21 § 2707. (Reserved).

22 § 2708. Recreation board or other authority.

23 (a) Recreation board or other authority.--The authority to
24 supervise and maintain recreation places may be vested in any
25 existing body or board, including the council, or in a
26 recreation board, as the council shall determine. The council of
27 the borough may equip, operate and maintain the recreation
28 places, as authorized by this chapter, and may, for the purpose
29 of carrying out the provisions of this chapter, employ any
30 officers or employees as it may deem proper.

1 (b) (Reserved).

2 (c) Joint recreation board.--Any borough may join or create,
3 with one or more municipalities, a joint recreation board in
4 accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to
5 intergovernmental cooperation). The composition of the board and
6 its powers and duties shall be as provided by agreement of the
7 governing bodies of the municipalities.

8 § 2709. Establishment of recreation board.

9 (a) Establishment.--If the council determines that the power
10 to equip, operate and maintain recreation places shall be
11 exercised by a recreation board, the council may, by ordinance,
12 establish in the borough a recreation board which shall possess
13 those powers and duties as may be delegated to it by ordinance.

14 (b) Composition.--The board shall consist of a minimum of
15 five and a maximum of nine persons. Two of the members may be
16 members or appointees of the school board of the school district
17 in which the borough is located. If the board consists of seven
18 members, three of the members may be members or appointees of
19 the school board. The borough members of the board shall be
20 appointed by the council and shall serve terms not longer than
21 five years. The terms of the members shall be staggered in a
22 manner that at least one member's term expires annually.

23 (c) Compensation.--Members of the board shall serve without
24 pay.

25 (d) Vacancies.--Vacancies in the board, occurring otherwise
26 than by expiration of term, shall be filled for the unexpired
27 term in the same manner as original appointments.

28 § 2710. Organization of board and employees.

29 The members of a recreation board established under this
30 chapter shall elect their own chair and secretary and select all

1 other necessary officers to serve for a period of one year. The
2 recreation board may, with the approval of council, establish
3 employment positions and hire employees to fill the approved
4 positions. The board shall have power to adopt rules and
5 regulations for the conduct of all business within its
6 jurisdiction.

7 § 2711. (Reserved).

8 § 2712. (Reserved).

9 § 2713. Lease for school athletics.

10 (a) Lease.--A borough maintaining a recreation place may
11 lease a recreation place, or a portion of a recreation place,
12 suitable for athletic sports and athletic games to any school
13 board or school athletic association organized by a school board
14 and organized for the purpose of conducting amateur athletic
15 sports and games among pupils of the public school.

16 (b) Admission charge.--The borough maintaining a recreation
17 place may permit a school board or school athletic association
18 to charge admission to sports and games and to deny persons
19 refusing to pay admission access to the grounds where sports or
20 games are being conducted, if sports and games are not conducted
21 for individual profit.

22 SUBCHAPTER B

23 SHADE TREES

24 Sec.

25 2720. Care, custody and control.

26 2720.1. Maintenance by borough and tax levy.

27 2720.2. Payment by owners and assessments.

28 2720.3. Notice of work.

29 2720.4. Penalties.

30 2721. Shade tree commission.

1 2722. Composition of commission.

2 2723. (Reserved).

3 2724. (Reserved).

4 2724.1. Duties of commission.

5 2725. (Reserved).

6 2726. (Reserved).

7 2727. (Reserved).

8 2728. (Reserved).

9 2729. (Reserved).

10 2730. (Reserved).

11 § 2720. Care, custody and control.

12 (a) Council authority.--Council shall have exclusive care,
13 custody and control of shade trees in the borough. Council may:

14 (1) Plant, transplant, remove, maintain and protect
15 shade trees on the streets and highways in the borough.

16 (2) Employ and pay persons and make and enforce
17 regulations as may be necessary for the care and protection
18 of the shade trees of the borough.

19 (b) Planting, transplanting or removal.--Council may, by
20 ordinance, and with or without the petition of a majority of the
21 property owners, upon any public street in the borough, plant,
22 transplant or remove shade trees. Council may, with or without
23 petition, require the planting and replanting of suitable shade
24 trees along and upon the sides of the streets, upon alignment
25 and at points as may be designated by ordinance, by the owners
26 of property abutting the street at the points designated.

27 (c) Limitation.--Nothing in this part may authorize council
28 to plant or replant, or require the planting or replanting of,
29 trees at any point which may interfere with the necessary or
30 reasonable use of any street or abutting property or the

1 business conducted on the property.

2 (d) Assessment of costs.--On failure of any owner, after
3 reasonable notice, to comply with the terms of an ordinance
4 requiring the planting or replanting of shade trees, the borough
5 may cause the trees to be planted or replanted and assess the
6 cost against the owner in accordance with section 2720.2
7 (relating to payment by owners and assessments).

8 (e) Diseased plants, shrubs and trees.--Council may, upon
9 notice as may be provided by ordinance, require owners of
10 property to cut and remove plants, shrubs and trees afflicted
11 with any disease that threatens to injure or destroy plants,
12 shrubs and shade trees in the borough under regulations
13 prescribed by ordinance. Upon failure of any owner to comply
14 with the notice, the borough may cause the work to be done by
15 the borough and assess the cost against the owner in accordance
16 with section 2720.2.

17 § 2720.1. Maintenance by borough and tax levy.

18 (a) Cost and expenses.--The cost and expenses of caring for
19 shade trees after having been planted or transplanted and the
20 expense of publishing any notice required by this subchapter
21 shall be paid by the borough.

22 (b) Tax levy or appropriation.--Council may levy a general
23 tax, not to exceed the sum of one-tenth of one mill on the
24 dollar on the assessed valuation of the property in the borough
25 taxable for county purposes, for the purpose of defraying the
26 cost and expenses of caring for the shade trees and the expense
27 of publishing notices, or it may provide for the expense of the
28 caring for trees already planted and of publishing the notice by
29 appropriations.

30 § 2720.2. Payment by owners and assessments.

1 (a) Payment by owners.--The cost of planting, transplanting
2 or removing any shade trees or the necessary and suitable
3 guards, curbing or grading for their protection and of the
4 replacing of pavement or sidewalk necessarily disturbed in the
5 execution of the work shall be paid by the owners of the real
6 estate abutting the location of the work.

7 (b) Assessment and collection.--In the event that the
8 borough undertakes the work described in this section, costs
9 shall be certified, assessed against the abutting owners and
10 collected in accordance with Chapter 21A (relating to
11 assessments and charges for public improvements).

12 § 2720.3. Notice of work.

13 If council proposes to plant, transplant or remove shade
14 trees on any street, notice of the time and place of the meeting
15 at which the work is to be considered shall be given in one
16 newspaper of general circulation once a week for two weeks
17 immediately preceding the time of the meeting. The notice shall
18 specify in detail the streets or portions upon which trees are
19 proposed to be planted, transplanted or removed. In the event
20 that a shade tree commission is to undertake the work, the
21 commission shall provide the notice.

22 § 2720.4. Penalties.

23 (a) Penalties for violation.--To the extent provided by
24 ordinance, council may assess penalties for the violation of
25 regulations relating to shade trees or delegate the power to
26 assess penalties to a shade tree commission. Any penalty
27 assessed shall be a lien upon the real estate of the offender
28 and may be collected as municipal claims are collected.

29 (b) Separate fund.--All penalties or assessments imposed
30 under this subchapter shall be paid to the borough treasurer, to

1 be kept in a separate fund and utilized only for the purposes
2 authorized by this subchapter.

3 § 2721. Shade tree commission.

4 (a) Establishment.--Council by ordinance may establish a
5 shade tree commission and delegate to the shade tree commission
6 the exclusive care, custody and control of shade trees and
7 authorization to plant, transplant, remove, maintain and protect
8 shade trees on the streets and highways in the borough.

9 (b) Commission authority.--The shade tree commission may
10 make and enforce regulations for the care and protection of
11 shade trees. No regulation may be in force until it has been
12 approved by the council and enacted as an ordinance.

13 (c) Park commission.--If in any borough there exists a
14 commission for the care of public parks, the council may, by
15 ordinance, confer on the park commission all the powers and all
16 the duties prescribed by this chapter for a shade tree
17 commission.

18 § 2722. Composition of commission.

19 (a) General.--Except as provided in subsection (b), a shade
20 tree commission shall be composed of three residents of the
21 borough who shall be appointed by the council and shall serve
22 without compensation.

23 (b) Council option.--The council, by ordinance, may provide
24 that a shade tree commission be composed of five members who
25 shall be residents of the borough, shall be appointed by the
26 council and shall serve without compensation.

27 (c) Three-member commission.--If a shade tree commission of
28 three members is established by any borough, the council shall
29 appoint one member for a term of three years, one for a term of
30 four years and one for a term of five years. On the expiration

1 of the term of any commissioner, a successor shall be appointed
2 by the council to serve for a term of five years.

3 (d) Five-member commission.--If a shade tree commission of
4 five members is established by any borough, the council shall
5 appoint members to staggered terms so that one term expires
6 every year. On the expiration of the term of any commissioner, a
7 successor shall be appointed by the council to serve for a term
8 of five years.

9 (e) Vacancies.--Vacancies in the office of commissioner
10 shall be filled by the council for the unexpired term.

11 § 2723. (Reserved).

12 § 2724. (Reserved).

13 § 2724.1. Duties of commission.

14 (a) Annual report.--A shade tree commission shall annually
15 report in full to the council its transactions and expenses for
16 the last fiscal year of the borough.

17 (b) Notice.--If a shade tree commission proposes to plant,
18 transplant or remove shade trees on any street, notice of the
19 time and place of the meeting at which the work is to be
20 considered shall be given by the shade tree commission in
21 accordance with section 2720.3 (relating to notice of work).

22 (c) Certification of amounts required.--The shade tree
23 commission shall each year certify to council an amount needed
24 for the care of shade trees and for the publication of notices
25 required by this subchapter. The shade tree commission shall use
26 funds appropriated or raised by taxation in accordance with
27 section 2720.1 (relating to maintenance by borough and tax levy)
28 for any purpose authorized by council.

29 (d) Certification of assessments.--The shade tree commission
30 shall ascertain and certify to council and the borough treasurer

1 the amount of any assessment imposed in accordance with this
2 subchapter for the planting, transplanting or removal of plants,
3 shrubs and trees.

4 § 2725. (Reserved).

5 § 2726. (Reserved).

6 § 2727. (Reserved).

7 § 2728. (Reserved).

8 § 2729. (Reserved).

9 § 2730. (Reserved).

10 SUBCHAPTER C

11 FORESTS

12 Sec.

13 2751. Acquisition of land for forest purposes.

14 2752. (Reserved).

15 2753. Ordinance of acquisition.

16 2754. Appropriations.

17 2755. Regulations.

18 2756. Appropriations and revenue.

19 2757. Use of forests.

20 2758. Ordinance of sale.

21 2759. Pruning and thinning.

22 § 2751. Acquisition of land for forest purposes.

23 A borough may acquire by purchase, gift or lease tracts of
24 land covered with forest or tree growth or suitable for the
25 growth of trees and administer the tracts in accordance with the
26 practices and principles of scientific forestry, for the benefit
27 of the borough. The tracts may be of any size suitable for the
28 purpose and may be located within or without the borough limits.

29 § 2752. (Reserved).

30 § 2753. Ordinance of acquisition.

1 If the council deems it expedient to acquire land for the
2 purposes of a municipal forest, it shall enact an ordinance
3 setting forth the facts and conditions relating to the proposed
4 action.

5 § 2754. Appropriations.

6 Money necessary for the purchase of the tracts shall be
7 appropriated in the same manner as appropriations for borough
8 purposes. Money may be provided from the current revenue or by
9 the proceeds of a sale of general obligation bonds in accordance
10 with existing law.

11 § 2755. Regulations.

12 Upon the acquisition of a municipal forest or land suitable
13 for a municipal forest, the council may promulgate regulations
14 for the government and proper administration of the same as
15 necessary to produce continuing borough revenue by the sale of
16 forest products.

17 § 2756. Appropriations and revenue.

18 Money necessary for the administration, maintenance,
19 protection and development of forests shall be appropriated and
20 applied as is now done for borough purposes. The revenue and
21 return on the revenue arising from the forests shall be paid
22 into the borough treasury to be used for general borough
23 purposes.

24 § 2757. Use of forests.

25 A municipal forest may be used by the public as general
26 outing or recreation grounds subject to the regulations under
27 section 2755 (relating to regulations).

28 § 2758. Ordinance of sale.

29 (a) Requirement.--If the council deems it expedient to sell
30 or lease a municipal forest, a part of a municipal forest or a

1 product from a municipal forest, it shall enact an ordinance
2 setting forth the facts and conditions relating to the proposed
3 action.

4 (b) Conditions.--In order to enact an ordinance under this
5 section, there must be compliance with the advertising and
6 bidding requirements of section 1201.1 (relating to real
7 estate).

8 § 2759. Pruning and thinning.

9 (a) Authority.--To comply with the practices and principles
10 of scientific forestry, the council has the following powers:

11 (1) To pass a resolution to prune or thin out a
12 municipal forest or portion of a municipal forest.

13 (2) To sell the products of the pruning or thinning out.

14 (b) Personnel.--To carry out subsection (a), the borough may
15 use its own personnel or contract with skilled personnel.

16 (c) Bidding and advertising.--The bidding and advertising
17 requirements of this part do not apply to any of the following:

18 (1) Sales under subsection (a) (2).

19 (2) Contracts under subsection (b).

20 CHAPTER 28

21 CEMETERIES

22 Sec.

23 2800. Appropriations for burial ground maintenance.

24 2800.1. Burial of deceased persons.

25 2801. Management by cemetery commission.

26 2802. Transfer from borough to company.

27 2803. (Reserved).

28 2804. (Reserved).

29 2805. Transfer from company to borough.

30 2805.1. Neglected or abandoned cemeteries.

1 2806. (Reserved).
2 2807. (Reserved).
3 2808. Removing bodies to alter plots.
4 2809. Removal of bodies to other cemeteries.
5 2810. (Reserved).
6 2811. (Reserved).
7 2812. (Reserved).
8 2813. (Reserved).
9 2814. (Reserved).
10 2815. (Reserved).

11 2816. Purchase of plots for burial of deceased service members.
12 § 2800. Appropriations for burial ground maintenance.

13 A borough may appropriate annually, out of the general funds
14 of the borough, a sum for the care, upkeep, maintenance and
15 beautifying of:

16 (1) cemeteries and burial grounds lying wholly or partly
17 within the boundary limits of the borough or in the territory
18 immediately adjacent to the borough; and

19 (2) private roads in or leading to property under
20 paragraph (1).

21 § 2800.1. Burial of deceased persons.

22 A borough may prohibit the burial or interment of deceased
23 persons anywhere within borough limits.

24 § 2801. Management by cemetery commission.

25 If the title and management of a cemetery is vested in a
26 borough, the council may, by ordinance, vest the care,
27 management and operation of the cemetery in a cemetery
28 commission of three citizens to be appointed by the council. The
29 ordinance shall provide for the terms of the cemetery
30 commissioners.

1 § 2802. Transfer from borough to company.

2 (a) Authority.--Upon petition of at least 10% of living
3 cemetery lot owners, the council may transfer the cemetery and
4 its management to an incorporated cemetery company.

5 (b) Procedure.--Upon presentation of a petition under
6 subsection (a), the council may enact an ordinance declaring
7 that, upon the acceptance of the ordinance by the incorporated
8 cemetery company and filed with the borough secretary, the title
9 and control of the cemetery shall vest in the incorporated
10 cemetery company.

11 (c) Recording.--A copy of the ordinance and the acceptance
12 by the incorporated cemetery company, certified by the borough
13 secretary, shall be recorded in the office of the recorder of
14 deeds of the county.

15 § 2803. (Reserved).

16 § 2804. (Reserved).

17 § 2805. Transfer from company to borough.

18 (a) Judicial action.--

19 (1) Upon the petition of an incorporated cemetery
20 company and the owners of a majority of the taxable real
21 estate in the borough, the court of common pleas may
22 authorize the transfer of a cemetery to the borough where the
23 cemetery is located or is adjacent to the borough.

24 (2) A copy of the court order under paragraph (1) shall
25 be filed with the recorder of deeds.

26 (b) Cost.--The transfer shall be made without cost to the
27 borough.

28 (c) Effect.--Upon transfer, the following apply:

29 (1) The borough shall exercise the powers and privileges
30 of the incorporated company.

1 (2) The borough may do all of the following:

2 (i) Purchase up to 30 acres of land within or
3 adjacent to the borough limits for the extension of the
4 cemetery;

5 (ii) Pay for the purchase under subparagraph (i) by:

6 (A) sale of lots or otherwise; or

7 (B) any means other than taxation.

8 (iii) Lay out lots purchased and alter the original
9 plot of the cemetery.

10 (iv) Dispose of the grounds in the same manner as
11 the incorporated company could have done.

12 (d) Deeds.--

13 (1) A deed for a lot, made by the borough, shall have
14 the same validity as the deed of the incorporated cemetery
15 company.

16 (2) The borough may make a deed to a person that, prior
17 to transfer under this section:

18 (i) purchased a lot; but

19 (ii) did not receive a deed.

20 § 2805.1. Neglected or abandoned cemeteries.

21 (a) Maintenance.--The council may, upon compliance with
22 subsection (b), direct the removal of weeds, refuse and debris
23 from an abandoned or neglected cemetery.

24 (b) Notice.--

25 (1) To exercise the power under subsection (a), the
26 council must give notice to the owner directing the removal
27 of weeds, refuse and debris from the cemetery within 30 days
28 of service under paragraph (2).

29 (2) Notice must be effected by any of the following
30 means:

1 (i) Personal service on the owner.

2 (ii) Certified mail, addressee only, return receipt
3 requested, to the owner at the owner's last known
4 address.

5 (iii) After reasonable attempts to give notice under
6 subparagraph (i) or (ii) have failed, posting notice at
7 or upon the property.

8 (c) Action.--

9 (1) If the removal is not completed within 30 days after
10 the notice is effected under subsection (b) (2), the council
11 shall provide for the removal to be done by employees of the
12 borough or by a contractor at the expense of the borough.

13 (2) The costs of removal under paragraph (1) shall be
14 assessed against the owner of the cemetery and collected
15 under Chapter 21A (relating to assessments and charges for
16 public improvements).

17 § 2806. (Reserved).

18 § 2807. (Reserved).

19 § 2808. Removing bodies to alter plots.

20 In altering the plot of a cemetery, bodies may be removed and
21 reinterred in a suitable place but without cost to surviving
22 relatives.

23 § 2809. Removal of bodies to other cemeteries.

24 (a) Authority.--

25 (1) This subsection applies to a privately owned
26 cemetery, a borough-owned cemetery or a cemetery affiliated
27 with a religious society or church or any other organization,
28 when the cemetery:

29 (i) has ceased to be used for interments;

30 (ii) has become so neglected as to become a public

1 nuisance;

2 (iii) hinders the improvement and progressive
3 interests of the borough; or

4 (iv) is desired by the borough as a site for any
5 public purpose.

6 (2) The court of common pleas may, upon compliance with
7 subsection (b), direct the removal of the remains of the dead
8 from a cemetery.

9 (b) Procedure.--

10 (1) A petition under this section must be made to the
11 court by any of the following:

12 (i) The manager of the cemetery in charge of a
13 religious society or church or an other organization. The
14 following are required to utilize this subparagraph:

15 (A) Public notice of a meeting of the entity on
16 the petition must be given two weeks before the
17 meeting.

18 (B) At the meeting, a majority of the members of
19 the entity must approve the petition.

20 (C) The petition must set forth that the
21 cemetery has ceased to be used for interments.

22 (ii) If the cemetery is not under the charge of
23 anyone, 50 residents of the borough. A petition under
24 this subparagraph must set forth that the improvements
25 and progressive interests of the borough are hampered and
26 the welfare of the borough is injured by the presence of
27 the cemetery.

28 (iii) The council. A petition under this
29 subparagraph must set forth that:

30 (A) the cemetery has become so neglected as to

1 become a public nuisance;

2 (B) the improvements and progressive interests
3 of the borough are hampered and the welfare of the
4 borough is injured by the presence of the cemetery;

5 or

6 (C) the land is desired for a public purpose.

7 (2) Notice must be given by advertisement in a newspaper
8 of general circulation once a week for three successive
9 weeks.

10 (c) Private action.--A relative of the deceased individual
11 subject to removal or another interested party of the dead may,
12 prior to action under subsection (d), remove the remains at
13 private expense.

14 (d) Public action.--

15 (1) The removal shall be made by:

16 (i) the manager of the cemetery;

17 (ii) the borough if the cemetery is:

18 (A) not in charge of a manager; or

19 (B) owned by the borough.

20 (2) The removal shall be made at the expense of the
21 removing party in a careful manner.

22 (3) The removal shall be made:

23 (i) except as set forth in subparagraph (ii), to a
24 cemetery selected by the person that makes the removal;

25 or

26 (ii) upon request of a relative of the deceased
27 individual subject to removal or another interested
28 party, to a designated cemetery in the vicinity.

29 (4) Each body removed shall be placed in a separate
30 casket and grave, and the marker over the remains of the body

1 shall be placed as near as possible in the same relative
2 position as before removal.

3 (e) Effect.--After the removal of all dead bodies from a
4 cemetery, the land shall cease to be a cemetery or burial ground
5 and may be acquired by the borough as other real estate is
6 acquired for borough purposes.

7 § 2810. (Reserved).

8 § 2811. (Reserved).

9 § 2812. (Reserved).

10 § 2813. (Reserved).

11 § 2814. (Reserved).

12 § 2815. (Reserved).

13 § 2816. Purchase of plots for burial of deceased service
14 members.

15 (a) Authority.--A borough may purchase plots of ground in a
16 cemetery or burial ground within its limits for the interment of
17 deceased members of the armed forces who:

18 (1) die within the borough or have a legal residence
19 within the borough at the time of death; and

20 (2) are entitled to be buried by the county under the
21 provisions of existing law.

22 (b) Cost.--Plots purchased under this section shall be paid
23 for out of the borough treasury.

24 CHAPTER 29

25 LICENSES AND LICENSE FEES

26 Sec.

27 2901. Licensing transient retail business.

28 2902. Licensure saved.

29 2903. Licensing parking lots and parking garages operated for
30 profit.

1 2904. Persons taking orders by samples.

2 2905. Equality of residents and nonresidents.

3 2906. Insurance business.

4 § 2901. Licensing transient retail business.

5 (a) Authority.--A borough may, by ordinance, regulate and
6 license transient merchants engaged in any transient retail
7 business within the borough.

8 (b) Licensure.--The following shall apply:

9 (1) An ordinance under this section may prohibit the
10 transient retail business without a license and provide for
11 enforcement by penalties or other appropriate means.

12 (2) Except as set forth in paragraph (3), an ordinance
13 under this section may set a license fee which bears a
14 reasonable relationship to the cost of administering the
15 ordinance and regulating and inspecting the transient retail
16 business.

17 (3) Paragraph (2) does not apply as follows:

18 (i) Except as set forth in paragraph (ii), the
19 ordinance may not impose a license fee on the following
20 transient merchants:

21 (A) A farmer selling the farmer's own produce.

22 (B) A person selling personal property if the
23 proceeds of the sale are to be applied to a
24 charitable or philanthropic purpose.

25 (C) A manufacturer or producer in the sale of
26 any of the following:

27 (I) Bread. This subclause includes a bakery
28 product.

29 (II) Meat. This subclause includes a meat
30 product.

1 (III) Milk. This subclause includes a milk
2 product. This subclause does not include ice
3 cream or another frozen dessert.

4 (ii) The exception under this paragraph does not
5 apply to a transient merchant that is also selling other
6 personal property not excepted under subparagraph (i).

7 (c) Registration.--An ordinance under this section may
8 require that a transient merchant exempt under subsection (b) (2)
9 register with the borough and otherwise be subject to all other
10 provisions of the ordinance.

11 (d) Definition.--As used in this section, the term
12 "transient merchant" means a person engaged in transient retail
13 business for the sale of personal property, whether the business
14 is conducted from a fixed location within the borough or by an
15 individual engaged in peddling, soliciting or the taking of
16 orders from house to house.

17 § 2902. Licensure saved.

18 (a) Commonwealth.--Nothing contained in this chapter shall
19 be construed to relieve a person from a statutorily imposed:

- 20 (1) licensure requirement;
21 (2) license tax; or
22 (3) license fee.

23 (b) Boroughs.--A Commonwealth license tax or fee shall not
24 preempt the registration, licensing or regulatory powers of a
25 borough in accordance with this chapter unless the preemption is
26 expressly authorized.

27 § 2903. Licensing parking lots and parking garages operated for
28 profit.

29 (a) Authority.--

30 (1) A borough may, by ordinance, regulate the business

1 of operating parking lots or parking garages for profit
2 within the borough and may require the lots or garages to
3 reserve areas exclusively for parking by handicapped
4 individuals. Under the ordinance:

5 (i) License or permit fees may be charged and
6 collected from the operators of the parking lots or
7 parking garages.

8 (ii) Security is subject to the following:

9 (A) Except as set forth in clause (B), the
10 borough shall require from each operator of a parking
11 lot or parking garage a bond to be approved by the
12 council for the protection of the public from loss of
13 or damage to vehicles parked, stored or placed under
14 the jurisdiction of a parking lot or parking garage
15 operator.

16 (B) Clause (A) shall not apply to parking lots
17 or parking garages operated by a municipal authority
18 or a parking authority.

19 (2) An ordinance under paragraph (1) must be consistent
20 with 75 Pa.C.S. (relating to vehicles).

21 (b) Individuals with disabilities.--Nothing in this section
22 may be construed to limit statutory and regulatory protections
23 and prohibitions contained relating to the rights of disabled
24 individuals.

25 § 2904. Persons taking orders by samples.

26 (a) Prohibition.--A borough may not impose, levy or collect
27 a license fee or mercantile tax upon a person that takes, by
28 sample, from a dealer or merchant an order for merchandise on
29 behalf of an individual or company that pays a license fee or
30 mercantile tax at the individual's or company's chief place of

1 business.

2 (b) Limitation.--Nothing in this section shall authorize a
3 person to sell by retail to a person other than a dealer or
4 merchant without payment of a license or permit fee.

5 § 2905. Equality of residents and nonresidents.

6 A borough may not enact an ordinance imposing a license fee
7 upon a manufacturer, including an agent and employee, that is a
8 resident of this Commonwealth and solicits orders for or sells
9 personal property manufactured in this Commonwealth if the
10 borough could not legally impose the same license fee upon a
11 manufacturer, including an agent and employee, that is a
12 nonresident of this Commonwealth and solicits orders for or
13 sells personal property manufactured outside this Commonwealth.

14 § 2906. Insurance business.

15 A borough may not impose a license fee upon an insurance
16 company, including an agent, or an insurance broker authorized
17 to transact business under the act of May 17, 1921 (P.L.682,
18 No.284), known as The Insurance Company Law of 1921.

19 CHAPTER 29A

20 VETERANS' AFFAIRS

21 Subchapter

22 A. Pennsylvania National Guard

23 B. Support of Veterans' Organizations

24 SUBCHAPTER A

25 PENNSYLVANIA NATIONAL GUARD

26 Sec.

27 29A01. Eminent domain for National Guard purposes.

28 29A02. Land for armory purposes.

29 29A03. Appropriation to assist in erection of armories.

30 29A04. Support of Pennsylvania National Guard units.

1 § 29A01. Eminent domain for National Guard purposes.

2 (a) Authority.--Except as set forth in subsection (b), the
3 council may take, by right of eminent domain, for the purpose of
4 appropriating to the borough for the use of the Pennsylvania
5 National Guard, public lands, easements and property as may be
6 in its possession or control and used or held by the borough for
7 any other purpose.

8 (b) Exception.--Eminent domain may not be exercised as to a
9 street or wharf.

10 § 29A02. Land for armory purposes.

11 (a) Authority.--Except as set forth in subsection (b), the
12 council may acquire, by purchase or by gift or by the right of
13 eminent domain, land for the use of the Pennsylvania National
14 Guard, to be conveyed to the Commonwealth in order to assist the
15 State Armory Board in the erection of armories.

16 (b) Exception.--The power under subsection (a) may not be
17 exercised to take any of the following:

18 (1) Church property.

19 (2) A graveyard or cemetery.

20 (3) A dwelling house or the curtilage of property:

21 (i) designated in paragraph (1) or (2); and

22 (ii) in the actual occupancy of the owner.

23 § 29A03. Appropriation to assist in erection of armories.

24 The council has the following powers:

25 (1) To appropriate money or convey land, either
26 independently or in conjunction with another municipality,
27 to:

28 (i) assist the State Armory Board in the erection of
29 armories for the use of the Pennsylvania National Guard;
30 and

1 (ii) furnish water, sewer service, light or fuel
2 free of cost to the Commonwealth for use in any armory of
3 the Pennsylvania National Guard.

4 (2) To do all things necessary to accomplish the purpose
5 of this section.

6 § 29A04. Support of Pennsylvania National Guard units.

7 (a) Appropriation.--The council may appropriate annually a
8 sum to be used and expended exclusively for the support and
9 maintenance, discipline and training of a unit of the
10 Pennsylvania National Guard.

11 (b) Payment.--

12 (1) The money appropriated shall be paid by warrant
13 drawn to the order of the commanding officer of the unit upon
14 certification to the borough, by the Adjutant General, that
15 the unit has satisfactorily passed the annual inspection
16 provided by law.

17 (2) The commanding officer shall account, by proper
18 vouchers to the borough each year, for the expenditure of the
19 money appropriated. No appropriation shall be made for any
20 subsequent year until the expenditure of the previous year is
21 accounted for. The accounts of the expenditures shall be
22 subject to the inspection of the Department of Military and
23 Veterans Affairs and shall be audited by the Auditor General
24 in accordance with law.

25 SUBCHAPTER B

26 SUPPORT OF VETERANS' ORGANIZATIONS

27 Sec.

28 29A11. Appropriations to organizations and American Gold Star
29 Mothers, Inc.

30 29A12. Payment of rent for meetings.

1 29A13. Rooms for veterans' organizations and children.

2 29A14. Care and erection of memorials.

3 § 29A11. Appropriations to organizations and American Gold Star
4 Mothers, Inc.

5 (a) Appropriation.--

6 (1) The council may appropriate annually money to aid in
7 defraying the expenses of Memorial Day, Veterans' Day or a
8 similar day provided for by Federal or State law.

9 (2) The appropriation shall be divided in amounts as
10 council deems proper to:

11 (i) an organization composed of veterans of a war in
12 which the United States was engaged; and

13 (ii) American Gold Star Mothers, Inc.

14 (3) The money shall be appropriated to defray actual
15 expenses only.

16 (b) Payment.--Before payment is made, the organization
17 receiving the appropriation must submit verified accounts of its
18 expenditures.

19 § 29A12. Payment of rent for meetings.

20 The council may appropriate annually a sum to an
21 incorporated organization of American veterans of a war in which
22 the United States was engaged, to be used in the payment of the
23 rent for a facility in which the organization has its regular
24 meetings.

25 § 29A13. Rooms for veterans' organizations and children.

26 The council may furnish without charge to an organization
27 composed of American veterans of a war in which the United
28 States was engaged and children of the veterans a room in a
29 public building of the borough.

30 § 29A14. Care and erection of memorials.

1 (a) Authority.--The council may control and maintain a
2 soldier's memorial which is:

3 (1) situated in the borough;

4 (2) not controlled and maintained by an individual or
5 entity; and

6 (3) not placed by the Federal Government, the
7 Commonwealth, the county or another state.

8 (b) Funding.--The council may receive and expend any money
9 to be used for the maintenance of the memorials.

10 (c) Contributions.--The council may contribute to the
11 erection and maintenance of a memorial in honor of those who
12 served in a war in which the United States was engaged.

13 CHAPTER 30

14 REAL ESTATE REGISTRY

15 (RESERVED)

16 CHAPTER 31

17 HEALTH AND SANITATION

18 Sec.

19 3100. Definitions.

20 3101. Administration.

21 3102. Board.

22 3103. Oaths, officers and security.

23 3104. Duties of board secretary.

24 3105. Powers and duties of health officer.

25 3106. Powers and duties of board.

26 3107. Entry upon premises.

27 3108. Abatement of nuisances.

28 3109. Expenditures.

29 3110. Cooperation.

30 3111. Department.

1 3112. (Reserved).

2 3113. (Reserved).

3 3114. (Reserved).

4 § 3100. Definitions.

5 The following words and phrases when used in this chapter
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Board." A board of health established under section 3101(a)
9 (relating to administration).

10 "Board secretary." The secretary of a board.

11 "Department." The Department of Health of the Commonwealth.

12 "Health officer." An individual appointed under section
13 3101(a) (relating to administration) or 3103(b) (1) (iii)
14 (relating to oaths, officers and security).

15 "Professional health care provider." An individual who is
16 licensed, certified or registered to practice or operate in the
17 health care field under the laws of this Commonwealth. The term
18 includes:

19 (1) A physician.

20 (2) A dentist.

21 (3) A podiatrist.

22 (4) A chiropractor.

23 (5) An optometrist.

24 (6) A psychologist.

25 (7) A pharmacist.

26 (8) A registered or practical nurse.

27 (9) A physical therapist.

28 (10) A physician's assistant.

29 (11) A paramedic.

30 (12) An administrator of any hospital, nursing or

1 convalescent home or other health care facility.

2 (13) A veterinarian.

3 § 3101. Administration.

4 (a) Establishment.--The council may, by ordinance, appoint a
5 board of health or a health officer to administer and enforce
6 the health ordinances and related ordinances of the borough. A
7 health officer must have experience or training in public health
8 work and must, within six months of taking the oath of office,
9 be certified for the office of health officer by the department.

10 (b) Expenses.--Expenses incurred by the board or a health
11 officer shall be paid by the borough.

12 (c) Dissolution.--A borough may, by ordinance, dissolve a
13 board and decide to become subject to the jurisdiction of a
14 county department of health or joint county department of health
15 under the act of August 24, 1951 (P.L.1304, No.315), known as
16 the Local Health Administration Law.

17 § 3102. Board.

18 (a) Membership.--

19 (1) A board appointed by a council shall be composed of
20 three or five members, subject to the following:

21 (i) Except as set forth in subparagraph (ii), at
22 least one member must be a professional health care
23 provider with not less than two years' experience in the
24 practice of the member's respective profession.

25 (ii) If subparagraph (i) cannot be met, at least one
26 member must have had experience in or be knowledgeable of
27 public health issues.

28 (b) Terms.--

29 (1) Initial terms shall be staggered as follows:

30 (i) For a three-member board:

1 (A) one member shall serve a term of one year;

2 (B) one member shall serve a term of two years;

3 and

4 (C) one member shall serve a term of three

5 years.

6 (ii) For a five-member board:

7 (A) one member shall serve a term of one year;

8 (B) one member shall serve a term of two years;

9 (C) one member shall serve a term of three

10 years;

11 (D) one member shall serve a term of four years;

12 and

13 (E) one member shall serve a term of five years.

14 (2) Subsequent terms shall be staggered as follows:

15 (i) For a three-member board, a subsequent term
16 shall be three years.

17 (ii) For a five-member board, a subsequent term
18 shall be five years.

19 (c) Compensation.--

20 (1) Except as set forth in paragraph (2), the members of
21 the board shall serve without compensation.

22 (2) Paragraph (1) shall not apply to a member of the
23 board who is elected board secretary under section 3103(b) (2)
24 (relating to oaths, officers and security).

25 § 3103. Oaths, officers and security.

26 (a) Oath of office.--A member of the board must take the
27 oath prescribed for borough members of council.

28 (b) Officers.--

29 (1) The board shall annually organize by electing:

30 (i) a president from among the members of the board;

1 (ii) a board secretary who may or may not be a
2 member of the board; and

3 (iii) a health officer.

4 (2) The board secretary and the health officer shall
5 receive salaries fixed by the board and ratified by the
6 council.

7 (3) The board secretary and health officer shall serve
8 until a successor is elected and qualified.

9 (c) Security.--The council may require the board secretary
10 and health officer to furnish a bond to the borough in a
11 prescribed amount for the faithful discharge of their duties.

12 § 3104. Duties of board secretary.

13 The board secretary has the following duties:

14 (1) To maintain, under 53 Pa.C.S. Ch. 13 Subch. F
15 (relating to records), the minutes of the proceedings of the
16 board and keep accurate accounts of the expenditures of the
17 board.

18 (2) To draw requisitions for the payment of money on
19 account of the board from appropriations made by the council
20 to the board and present the requisitions to the president of
21 the board for the president's approval.

22 (3) To render statements of the expenditures to the
23 board at each stated meeting or as frequently as the board
24 requires.

25 (4) To prepare, under the direction of the board, the
26 annual report to the council and the estimate of
27 appropriation needed for the ensuing year.

28 (5) To report to the department at statutory or
29 regulatory intervals the cases of communicable disease
30 reported to the board on the form provided by the department

1 and make an annual report to the department.

2 (6) To perform other duties required by the board.

3 § 3105. Powers and duties of health officer.

4 (a) Powers.--A health officer may issue a citation for
5 violation of a health ordinance or related law.

6 (b) Duties.--A health officer has the following duties:

7 (1) Administer and enforce the health ordinances of the
8 borough and related law.

9 (2) Perform the duties as are vested in local health
10 officers by Statute or regulation.

11 (3) Make sanitary inspections.

12 (4) Execute the orders of the board.

13 (5) To attend all regular and special meetings of the
14 board of health.

15 § 3106. Powers and duties of board.

16 (a) Powers.--A board has the following powers to:

17 (1) Recommend to the council rules and regulations
18 necessary for the preservation of the public health and for
19 carrying into effect the functions of the board.

20 (2) Appoint a health officer. A health officer must have
21 experience or training in public health work and must, within
22 six months of taking the oath of office, be certified for the
23 office of health officer by the department.

24 (3) Abate and remove nuisances the board deems
25 detrimental to the public health.

26 (4) Mark infected premises.

27 (b) Duties.--A board has the duty to enforce all of the
28 following related to promotion of public health and prevention
29 of the introduction and spread of infectious or contagious
30 disease:

- 1 (1) A statute.
- 2 (2) A regulation of the department.
- 3 (3) An ordinance of the borough.

4 § 3107. Entry upon premises.

5 (a) Authority.--

6 (1) This subsection applies to all of the following:

- 7 (i) A member of a board.
- 8 (ii) A health officer.
- 9 (iii) An employee of a board or a health officer.
- 10 (iv) An agent of a board or health officer.

11 (2) An individual subject to paragraph (1) may, upon
12 order of the board:

- 13 (i) enter premises in the borough where an
14 infectious or contagious disease or a nuisance
15 detrimental to the public health is suspected; and
- 16 (ii) examine and abate the disease or nuisance.

17 (b) Warrant.--If entry under subsection (a) (2) (i) is
18 prevented, the board of health or health officer may obtain an
19 administrative search warrant from a magisterial district judge
20 with jurisdiction over the premises upon a showing of any of the
21 following:

- 22 (1) Reasonable standards and an administrative plan for
23 conducting inspections.
- 24 (2) The condition of the premises or general area and
25 the passage of time since the last inspection.
- 26 (3) Probable cause of a violation of a law specified in
27 section 3106(b) (relating to powers and duties of board).

28 § 3108. Abatement of nuisances.

29 (a) Initial order.--If the board finds a condition or
30 premises to be a nuisance to the health of the people of the

1 borough, it shall issue a written order of abatement directed to
2 the owner or agent of the owner of the premises. The order
3 shall:

4 (1) state that the conditions specified in the premises
5 constitute the nuisance; and

6 (2) order an abatement of the nuisance within a
7 specified reasonable time.

8 (b) Subsequent order.--

9 (1) Upon noncompliance of the order under subsection
10 (a), the board shall issue a written order to the health
11 officer directing removal or abatement of the nuisance.

12 (2) An order under paragraph (1) shall be executed by
13 the health officer or an agent of the health officer.

14 (3) The expense of execution under paragraph (2) shall
15 be recoverable as a municipal claim from the owner of the
16 premises, with a 10% penalty.

17 (c) Legal action.--In lieu of or in addition to the
18 procedure under subsections (a) and (b), council may seek relief
19 from a nuisance or threatened nuisance by an action at law or in
20 equity. Council may seek guidance of the board or the health
21 officer in determining the nature of the relief requested.

22 § 3109. Expenditures.

23 (a) Estimate.--The board or the health officer shall submit
24 to council, before commencement of the borough's fiscal year, an
25 estimate of the probable expenditures of the board or the health
26 officer during the ensuing fiscal year.

27 (b) Appropriation.--Council shall make appropriations based
28 on the estimate as deemed necessary.

29 (c) Report.--The board or the health officer shall, each
30 January, submit a report to council on:

1 (1) the appropriation and the expenditures for the
2 preceding fiscal year; and

3 (2) information on subjects relative to the sanitary
4 conditions or requirements of the borough.

5 § 3110. Cooperation.

6 A borough may cooperate in the administration and enforcement
7 of health laws with:

8 (1) the department;

9 (2) a county in which the borough is located; and

10 (3) a municipal corporation.

11 § 3111. Department.

12 (a) No limitation.--Nothing in this part may be construed
13 to limit the powers and duties of the department, including the
14 powers and duties under Article XXI of the act of April 9, 1929
15 (P.L.177, No.175), known as The Administrative Code of 1929.

16 (b) Expenses.--

17 (1) Expenses of the department for which the borough is
18 liable shall be paid by the borough where the expenses have
19 been incurred.

20 (2) If expenses under paragraph (1) are unpaid for a
21 period of more than three months after a statement of the
22 expense has been rendered to the borough and demand for
23 payment is made, the Secretary of Health shall, with the
24 approval of the Governor, institute an action against the
25 borough for the collection of the expense. The reasonableness
26 of the expenditures made by the secretary shall be submitted
27 to the jury for its determination.

28 (3) Upon payment, the department shall return the money
29 to the State Treasurer, who shall credit the amount to the
30 appropriation made to the department.

1 § 3112. (Reserved).

2 § 3113. (Reserved).

3 § 3114. (Reserved).

4 CHAPTER 32

5 ZONING

6 (Reserved)

7 CHAPTER 32A

8 UNIFORM CONSTRUCTION CODE, PROPERTY

9 MAINTENANCE CODE AND RESERVED POWERS

10 Sec.

11 32A01. Primacy of Uniform Construction Code.

12 32A02. Changes in Uniform Construction Code.

13 32A03. Public nuisance.

14 32A04. Property maintenance code.

15 32A05. Reserved powers.

16 § 32A01. Primacy of Uniform Construction Code.

17 (a) General rule.--The following shall apply to the
18 construction, alteration, repair and occupancy of all buildings
19 and structures within a borough:

20 (1) The Pennsylvania Construction Code.

21 (2) The Uniform Construction Code adopted under section
22 301 of the Pennsylvania Construction Code.

23 (b) Primacy.--This section and any ordinance, rule or
24 regulation adopted under this section shall not supersede or
25 abrogate the Pennsylvania Construction Code or the Uniform
26 Construction Code and shall be construed and read in pari
27 materia with the Pennsylvania Construction Code and the Uniform
28 Construction Code.

29 § 32A02. Changes in Uniform Construction Code.

30 A borough may propose and enact an ordinance to equal or

1 exceed the minimum requirements of the Uniform Construction Code
2 in accordance with section 503 of the Pennsylvania Construction
3 Code. Any ordinance exceeding the provisions of the Uniform
4 Construction Code shall be required to meet the standards under
5 section 503(j)(2) of the Pennsylvania Construction Code.

6 § 32A03. Public nuisance.

7 (a) Abatement.--Except as provided under subsection (b), any
8 building, housing or property or a part of any building, housing
9 or property erected, altered, extended, reconstructed, removed
10 or maintained, contrary to the provisions of an ordinance passed
11 for the purposes specified under this chapter, may be declared,
12 by a court of law, a public nuisance and may be abatable.

13 (b) Exception.--A violation of the Uniform Construction Code
14 or any ordinance that equals or exceeds the Uniform Construction
15 Code shall be subject to the Pennsylvania Construction Code and
16 the regulations adopted under the Pennsylvania Construction Code
17 Act relating to enforcement for noncompliance.

18 § 32A04. Property maintenance code.

19 (a) Enactment.--Notwithstanding the primacy of the Uniform
20 Construction Code, a borough may enact one of the following:

21 (1) A property maintenance ordinance and may incorporate
22 a standard or nationally recognized property maintenance
23 code, or any variations or changes or parts of the code,
24 published and printed in book form, without incorporating the
25 text of the code in the ordinance.

26 (2) A standard or nationally recognized property
27 maintenance code or any variations or changes or parts as its
28 property maintenance ordinance.

29 (a.1) Notice.--The following shall apply:

30 (1) An ordinance or any variations or changes or parts

1 under subsection (a) shall not be required to be advertised
2 after passage. Notice of the consideration of an ordinance or
3 any variations or changes or parts under subsection (a) shall
4 be published in a manner that will give adequate notice of
5 its contents and a reference to the place within the borough
6 where copies of the proposed property maintenance code may be
7 examined or obtained.

8 (2) The notice required under paragraph (1) shall be
9 published once in one newspaper of general circulation at
10 least one week and not more than three weeks prior to the
11 presentation of the proposed property maintenance code to
12 council.

13 (a.2) Inspection.--At least three copies of the ordinance
14 adopted by council:

15 (1) shall be made available:

16 (i) for public inspection and use during business
17 hours; or

18 (ii) to any interested party who pays the cost of
19 copying; or

20 (2) may be furnished or lent without charge.

21 (a.3) A property maintenance code adopted by reference
22 shall:

23 (1) not be required to be recorded in or attached to an
24 ordinance book; and

25 (2) be deemed to have been legally recorded if the
26 ordinance by which the code was adopted by reference has been
27 recorded with an accompanying notation stating where the full
28 text of the code has been filed.

29 (a.4) Fines and penalties.--An ordinance under this section
30 may provide for reasonable property fines and penalties for

1 violations of the ordinance.

2 (a.5) Procedure.--The procedure under this section relating
3 to the adoption of an ordinance under this section may be used
4 in amending, supplementing or repealing any of the provisions of
5 the ordinance.

6 (b) Property maintenance inspectors.--Council may appoint
7 property maintenance inspectors who may enter, subject to
8 constitutional standards in a similar manner as provided under
9 section 3107 (relating to entry upon premises), and inspect any
10 premises at reasonable hours and in a reasonable manner for the
11 administration and enforcement of the borough's property
12 maintenance code or ordinance under subsection (a). Any fees
13 payable to property maintenance inspectors under the ordinance
14 shall be paid by the property maintenance inspectors as soon as
15 possible to the borough treasurer for the use of the borough.

16 (c) Legal actions.--In addition to the penalties provided by
17 a property maintenance ordinance, a borough may institute
18 appropriate actions or proceedings at law or in equity to
19 prevent or restrain property maintenance violations.

20 (d) Construction.--The powers of a borough under this
21 section shall be in addition to the powers provided under the
22 following:

23 (1) The act of November 26, 2008 (P.L.1672, No.135),
24 known as the Abandoned and Blighted Property Conservatorship
25 Act.

26 (2) 53 Pa.C.S. Ch. 61 (relating to neighborhood blight
27 reclamation and revitalization).

28 (3) 68 Pa.C.S. Ch. 21 (relating to land banks).

29 § 32A05. Reserved powers.

30 (a) Power.--If, as a result of legislative action or final

1 order of court which is not subject to appellate review, the
2 Uniform Construction Code or any replacement code is no longer
3 applicable in boroughs, a borough may:

4 (1) Enact and enforce ordinances to govern and regulate
5 the following in relation to a building and housing, parts of
6 a building and housing or a facility and service in or about
7 a building or housing:

8 (i) Construction, reconstruction, alteration,
9 extension, repair and conversion.

10 (ii) Maintenance.

11 (iii) Occupation.

12 (iv) Sanitation.

13 (v) Ventilation, heating, egress, lighting,
14 electrical wiring, water supply, toilet facilities,
15 drainage, plumbing, fire prevention and fireproofing,
16 including limitations under which only buildings of
17 noncombustible material and fireproofed roofs are used in
18 construction.

19 (vi) Erection or substantial reconstruction.

20 (vii) Use and inspection.

21 (viii) Sanitation and inspection of land attached to
22 a building or housing.

23 (2) Require that the approval of plans and
24 specifications are secured before construction,
25 reconstruction, alteration, extension, repair or conversion
26 of a building is started.

27 (3) Appoint and determine the compensation of the
28 following:

29 (i) Building inspectors.

30 (ii) Housing inspectors.

1 (iii) Property maintenance inspectors.

2 (iv) Fire prevention inspectors.

3 (v) Electrical inspectors.

4 (vi) Plumbing inspectors.

5 (4) In addition to penalties provided by an ordinance,
6 institute actions to do any of the following:

7 (i) Prevent or restrain the unlawful construction,
8 reconstruction, alteration, extension, repair,
9 conversion, maintenance, use or occupation of property
10 located within the borough.

11 (ii) Restrain, correct or abate a violation.

12 (iii) Prevent the use or occupancy of a building,
13 housing or structure.

14 (b) Codes.--The following shall apply:

15 (1) A code under subsection (a) (1) may be combined or
16 separately enacted or combined with a property maintenance
17 code.

18 (2) A borough may adopt, amend or incorporate by
19 reference any standard or nationally recognized code or any
20 variations or changes or parts of the code as its ordinance
21 as provided under section 32A04 (relating to property
22 maintenance code).

23 (3) An ordinance under subsection (a) (1) may provide for
24 reasonable fines and penalties for violations of the
25 ordinance in compliance with Chapter 33 (relating to
26 ordinances).

27 (c) Inspectors.--An inspector under subsection (a) (3) may
28 enter, subject to constitutional standards in a similar manner
29 as provided under section 3107 (relating to entry upon
30 premises), and inspect a premises at reasonable hours and in a

1 reasonable manner for the administration and enforcement of the
2 borough's adopted codes or ordinances incorporating standard or
3 nationally recognized codes. Any fees payable to inspectors
4 under the ordinances shall be paid by the inspectors as soon as
5 possible to the borough treasurer for the use of the borough.

6 CHAPTER 33

7 ORDINANCES

8 Subchapter

9 A. General Provisions

10 B. Enforcement

11 SUBCHAPTER A

12 GENERAL PROVISIONS

13 Sec.

14 3301.1. Ordinances and resolutions.

15 3301.2. Publication.

16 3301.3. Enactment, approval and veto.

17 3301.4. Recording, advertising and proof.

18 3301.5. Codification of ordinances.

19 3301.6. Appeals from ordinances.

20 3301.7. Replacement of ordinance books.

21 3302. (Reserved).

22 3303. (Reserved).

23 3304. (Reserved).

24 3305. (Reserved).

25 3306. (Reserved).

26 3307. (Reserved).

27 3308. (Reserved).

28 3309. (Reserved).

29 § 3301.1. Ordinances and resolutions.

30 (a) General rule.--Council shall enact ordinances in

1 accordance with this part and the laws of this Commonwealth in
2 which the powers of the borough shall be exercised as deemed
3 beneficial to the borough and to provide for the enforcement of
4 the powers of the borough. Council may amend, repeal or revise
5 existing ordinances by the enactment of subsequent ordinances.

6 (b) Legislative acts.--Every legislative act of council must
7 be by ordinance. Legislative acts shall include, but not be
8 limited to:

9 (1) Tax ordinances.

10 (2) General appropriation ordinances.

11 (3) Capital expenditures not payable out of current
12 funds

13 (4) Legislation doing any of the following:

14 (i) Exercising the police power of the borough.

15 (ii) Regulating land use, development and
16 subdivision.

17 (iii) Imposing building, plumbing, electrical,
18 property maintenance, housing and similar standards.

19 (iv) Regulating the conduct of a person or entity
20 within the borough and imposing penalties for violation
21 of the regulated conduct.

22 (5) Imposing assessments on benefited property for
23 public improvements in accordance with Chapter 21A (relating
24 to assessments and charges for public improvements).

25 (c) Resolutions.--Council shall adopt resolutions in
26 accordance with this part and the laws of this Commonwealth.
27 Resolutions may be adopted for any purpose, including but not
28 limited to, the following:

29 (1) Ceremonial or congratulatory expressions of the good
30 will of the council.

1 (2) Statements of public policy of the council.

2 (3) Approval of formal agreements of the borough, except
3 for agreements arising under an established purchasing system
4 of the borough,

5 (4) Approval, if required, of administrative rules,
6 regulations and bylaws arising under State statutes or
7 borough ordinances.

8 (5) The filling of borough-appointed positions and of
9 vacancies of elected officials, except as otherwise provided.

10 (d) Real and personal property.--Council's approval of the
11 acquisition, disposition and leasing of real or personal
12 property shall be by adoption of a resolution in a manner
13 consistent with this part.

14 § 3301.2. Publication.

15 (a) Requirements.--Except as provided under this part or
16 other law, council shall publish every proposed ordinance once
17 in one newspaper of general circulation for at least seven days
18 and not more than 60 days prior to enactment prior to the day
19 when council shall vote on the proposed ordinance. Publication
20 of any proposed ordinance shall include all of the following:

21 (1) The full text or the title of the ordinance and a
22 brief summary prepared by the borough solicitor setting forth
23 all the provisions in reasonable detail.

24 (2) A reference to the borough office or other place
25 where borough records are kept where copies of the proposed
26 ordinance may be examined.

27 (b) Summary.--If the full text is not included in the
28 publication of the proposed ordinance, the following shall
29 apply:

30 (1) The newspaper in which the proposed ordinance is

1 published shall, upon request, be furnished a copy of the
2 full text.

3 (2) The following shall apply:

4 (i) In addition to copies of the full text of the
5 proposed ordinance retained where borough records are
6 kept in accordance with subsection (a), an attested copy
7 of the full text shall be filed in the county law library
8 or other county office designated by the county
9 commissioners.

10 (ii) The county commissioners may impose a fee not
11 greater than the actual costs of storing the proposed
12 ordinance.

13 (iii) Filing with the county may be completed by the
14 submission of an electronic copy of the ordinance through
15 a method available, in the sole discretion of the county,
16 to permit receipt by the office storing municipal
17 ordinances.

18 (iv) Upon request by the borough, the county shall
19 notify the borough of the method by which electronic
20 copies may be submitted.

21 (v) The county may store the ordinance
22 electronically, if the public is able to access the
23 electronically stored borough ordinances during regular
24 business hours at the office or at a remote location.

25 (vi) The borough shall retain a printed copy of the
26 email and ordinance as transmitted.

27 (3) The date of the filing with the county under
28 paragraph (2) shall not affect the effective date of the
29 ordinance and shall not be deemed a defect in the process of
30 the enactment of the ordinance.

1 (c) Notice of amendments.--If substantial amendments are
2 made in the proposed ordinance, before voting upon enactment,
3 council shall, within ten days, readvertise in one newspaper of
4 general circulation a brief summary setting forth all the
5 provisions in reasonable detail together with a summary of the
6 amendments. A copy of the full text of the amended proposed
7 ordinance shall be retained where borough records are kept.
8 § 3301.3. Enactment, approval and veto.

9 (a) Approval by mayor.--

10 (1) Every ordinance enacted by council shall be
11 presented to the mayor for the mayor's approval. Presentation
12 to the mayor shall be deemed to mean delivery to the mayor by
13 hand delivery or certified mail, addressee only, to the mayor
14 at the mayor's last known address. Delivery shall be deemed
15 complete upon depositing in the mail, postage or charges
16 prepaid, as evidenced by a certificate of mailing.

17 (2) The following shall apply:

18 (i) If the mayor approves the ordinance, the mayor
19 shall sign it.

20 (ii) If the mayor does not approve the ordinance,
21 the mayor shall return it with objections, which shall be
22 entered upon the minutes, to the council at its next
23 scheduled meeting occurring at least ten days after the
24 meeting at which the ordinance was enacted by council.

25 (iii) Council shall reconsider the ordinance either
26 at the meeting at which the vetoed ordinance was returned
27 or not later than ten days after the meeting at any other
28 scheduled meeting. If, after reconsideration, a majority
29 of all elected council members plus one votes to override
30 the mayor's veto, the ordinance shall have full force and

1 effect as if it had received the approval of the mayor.
2 The vote shall be determined by yeas and nays and the
3 names and votes of the members shall be entered upon the
4 minutes.

5 (iv) A scheduled meeting, as used in this section,
6 may be either a regular, special or reconvened meeting.

7 (3) If an ordinance is not returned by the mayor at
8 council's next scheduled meeting occurring at least ten days
9 after its presentation to the mayor, the ordinance shall have
10 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 provided in the ordinance, shall be one of
14 the following:

15 (1) The date when the mayor approves the ordinance.

16 (2) The date of enactment by the council over the veto
17 of the mayor.

18 (3) For an ordinance not returned by the mayor at the
19 next scheduled meeting of council occurring at least ten days
20 after the meeting at which the ordinance was enacted by the
21 council, the date of the succeeding scheduled meeting of
22 council.

23 (c) Tax ordinance.--The following shall apply:

24 (1) If council presents the mayor with the annual tax
25 ordinance under section 1310.1 (relating to tax ordinance),
26 the mayor shall, within ten days of receiving the tax
27 ordinance, approve or return the tax ordinance to the borough
28 secretary with a statement setting forth the mayor's
29 objections.

30 (2) Council shall reconsider the tax ordinance at any

1 scheduled meeting held not later than ten days after the
2 mayor has returned the tax ordinance to the secretary with
3 the mayor's objections. The mayor's objections shall be
4 entered upon the minutes of the meeting.

5 (3) A veto of the tax ordinance of the borough may be
6 overridden by a vote of a majority of all elected council
7 members plus one. If the veto is overridden, the ordinance
8 shall have full force and effect as if it had received the
9 approval of the mayor.

10 (4) If the mayor neither approves the tax ordinance nor
11 returns it with objections, the date of enactment of the tax
12 ordinance shall be the date of the adoption of the tax
13 ordinance by council.

14 § 3301.4. Recording, advertising and proof.

15 (a) Recording.--All borough ordinances shall, within 30 days
16 after approval by the mayor, the council's override of the
17 mayor's veto or council's next scheduled meeting after its
18 presentation to the mayor, be recorded by the borough secretary
19 in an ordinance book. The ordinance book shall be open to the
20 inspection of citizens during normal business hours.

21 (b) Proof.--All ordinances may be proved by the certificate
22 of the borough secretary under the corporate seal. If an
23 ordinance is printed or published in book or pamphlet form by
24 the authority of the borough, the ordinance shall be accepted as
25 evidence without further proof. The entry of the borough
26 ordinance in the ordinance book shall be sufficient without the
27 signature of the president of council, mayor or member of
28 council.

29 (c) Prior ordinances.--The text of a borough ordinance or a
30 portion of an ordinance which was attached to the ordinance book

1 before January 1, 1966, shall be considered in force as if the
2 ordinances or portions of ordinances had been recorded in the
3 ordinance book if all other requirements of this part applicable
4 to the enactment, approval, advertising and recording of the
5 ordinances or portions of ordinances were complied with within
6 the time limits prescribed under this part.

7 § 3301.5. Codification of ordinances.

8 (a) Consolidation, codification and revision.--The borough
9 council, under section 3301.1(a) (relating to ordinances and
10 resolutions), may:

11 (1) enact a consolidation, codification or revision of
12 borough ordinances as a single ordinance of the borough; and

13 (2) enact a complete group ordinance, repealing or
14 amending existing ordinances as necessary.

15 (b) Enactment.--For a consolidation, codification or
16 revision under subsection (a), the following apply:

17 (1) The ordinance must be introduced in the council at
18 least 30 days before its final enactment.

19 (2) At least 15 days before final enactment, notice of
20 the introduction of the ordinance must be given by
21 advertisement in a newspaper of general circulation. For
22 enactment under subsection (a)(2), the notice must list, in
23 lieu of a table of contents, the titles of each of the
24 ordinances in the complete group.

25 (c) Subsequent notice.--When any consolidation, codification
26 or revision under subsection (a) has been enacted as an
27 ordinance, it shall not be necessary to advertise the entire
28 text, but it shall be sufficient to publish a notice referring
29 to notice under subsection (b)(2) and stating final enactment.

30 § 3301.6. Appeals from ordinances.

1 Complaint as to the legality of any ordinance or resolution
2 must be made to the court of common pleas. In cases of
3 ordinances laying out streets over private lands, the court
4 shall have jurisdiction to review the propriety as well as the
5 legality of the ordinance.

6 § 3301.7. Replacement of ordinance books.

7 (a) Ordinance.--

8 (1) If an ordinance book is unserviceable, the council
9 may provide by ordinance for the secretary of the borough to
10 establish a replacement ordinance book recording all
11 ordinances affected by the replacement.

12 (2) The following apply to an ordinance under this
13 subsection:

14 (i) The ordinance must be recorded in the ordinance
15 book immediately following the recorded ordinances
16 affected by the replacement.

17 (ii) The ordinance must direct the secretary, upon
18 completion of the recording, to publish once, in one
19 newspaper of general circulation, a notice:

20 (A) identifying the ordinances contained in the
21 unserviceable ordinance book; and

22 (B) stating that the old books and records of
23 borough ordinances and the replacement ordinance book
24 are open to public inspection for the purpose of
25 verification and correction for a period of 30 days
26 from the date of the notice.

27 (b) Secretary.--

28 (1) The secretary, in recording the ordinances, must
29 make complete copies of the ordinances, including the date of
30 enactment and approval and the names of the officers who

1 signed them.

2 (2) After notice and corrections under subsection (a) (2)
3 (ii), the secretary must certify each ordinance as a correct
4 copy of the original.

5 (c) Effect.--Upon compliance with subsection (b), the
6 recorded replacement ordinance shall replace the original
7 ordinance as the ordinances of the borough for the period
8 covered by the new ordinance book.

9 § 3302. (Reserved).

10 § 3303. (Reserved).

11 § 3304. (Reserved).

12 § 3305. (Reserved).

13 § 3306. (Reserved).

14 § 3307. (Reserved).

15 § 3308. (Reserved).

16 § 3309. (Reserved).

17 SUBCHAPTER B

18 ENFORCEMENT

19 Sec.

20 3321. Fines and penalties.

21 3322. Commitment pending trial.

22 3323. Commitment after trial.

23 3324. Payment of costs by borough.

24 § 3321. Fines and penalties.

25 (a) Prescription.--

26 (1) A borough ordinance shall prescribe fines and
27 penalties for violation.

28 (2) A civil penalty may not exceed \$600 per violation.

29 (3) The council may prescribe a criminal fine not to
30 exceed \$1,000 per violation and may prescribe imprisonment to

1 the extent allowed by law for the punishment of a summary
2 offense.

3 (4) An ordinance under this subsection may provide that
4 a separate violation under paragraph (2) or (3) shall arise
5 for:

6 (i) each day of violation; and

7 (ii) each applicable section of the ordinance.

8 (5) An ordinance may provide for assessment of court
9 costs and reasonable attorney fees incurred by the borough in
10 the enforcement proceedings.

11 (6) The council may delegate the initial determination
12 of ordinance violation and the service of notice of violation
13 to a qualified officer or agent.

14 (b) Enforcement at law.--Unless otherwise provided by
15 statute, a borough ordinance shall set forth the method of its
16 enforcement in accordance with the following:

17 (1) Except as provided in paragraph (2), if the penalty
18 is not paid, the borough shall initiate a civil action for
19 collection in accordance with the Pennsylvania Rules of Civil
20 Procedure. A borough shall be exempt from the payment of
21 costs in an action under this paragraph.

22 (2) For an ordinance regulating building, housing,
23 property maintenance, health, fire, public safety, parking,
24 solicitation, curfew, water or air or noise pollution,
25 enforcement shall be by a criminal action in the same manner
26 provided for the enforcement of summary offenses under the
27 Pennsylvania Rules of Criminal Procedure. The municipal
28 solicitor may assume charge of the prosecution without the
29 consent of the district attorney as required under
30 Pa.R.Crim.P. No. 454 (relating to trial in summary cases).

1 Violations of the property maintenance code or ordinance may
2 also be enforced under section 32A04(c) (relating to property
3 maintenance code).

4 (3) Except for an ordinance subject to paragraph (2), an
5 ordinance enacted prior to July 16, 2012, shall be deemed
6 automatically amended so that it shall be enforced under
7 paragraph (1).

8 (4) If a civil claim under this subsection, exclusive of
9 interest, costs or fees, exceeds the monetary jurisdiction of
10 a magisterial district judge under 42 Pa.C.S. § 1515(a)
11 (relating to jurisdiction and venue), the borough may:

12 (i) bring the action in a court of common pleas; or

13 (ii) make a waiver under 42 Pa.C.S. § 1515(a)(3).

14 (c) Enforcement in equity.--In addition to or in lieu of
15 enforcement under subsection (b), a borough may enforce an
16 ordinance in equity in a court of common pleas of the county
17 where the borough is situate.

18 (d) Payment.--Money collected under subsection (b) shall be
19 paid to the borough treasurer.

20 § 3322. Commitment pending trial.

21 An individual arrested for the violation of a borough
22 ordinance may, pending trial, be committed to:

23 (1) the borough correctional facility; or

24 (2) if there is no suitable borough correctional
25 facility, to a county correctional facility.

26 § 3323. Commitment after trial.

27 A defendant sentenced to imprisonment for a violation of a
28 borough ordinance may be committed to:

29 (1) the borough correctional facility for up to ten
30 days; or

1 (2) a county correctional facility for up to 30 days.

2 § 3324. Payment of costs by borough.

3 If a prisoner is committed to a county correctional facility
4 under section 3322(2) (relating to commitment pending trial) or
5 3323(2) (relating to commitment after trial), the expenses of
6 maintaining the prisoner during confinement shall be paid by the
7 borough, and the county shall not be liable for the maintenance.

8 CHAPTER 34

9 ACTIONS BY AND AGAINST BOROUGHES

10 (Reserved)

11 CHAPTER 35

12 ACTS OF ASSEMBLY REPEALED AND SAVING CLAUSE

13 Sec.

14 3501. Repeals.

15 § 3501. Repeals.

16 (a) (Reserved).

17 (b) Inconsistent repeal.--All acts or parts of acts
18 inconsistent with this part are repealed. This part shall
19 furnish a complete and exclusive system for the government and
20 regulation of boroughs, except as enumerated under section 102
21 (relating to excluded provisions).

22 (c) Law not repealed.--Nothing under this part shall be
23 construed to repeal any of the following:

24 (1) A local or special law.

25 (2) A law relating to the Navigation Commission for the
26 Delaware River and its navigable tributaries.

27 (3) A law, the enforcement of which is vested in the
28 Department of Health.

29 (3.1) A law, the enforcement of which is vested in the
30 Department of Environmental Protection.

1 (4) A law, the enforcement of which is vested in the
2 Department of Conservation and Natural Resources.

3 (5) The act of December 31, 1965 (P.L.1257, No.511),
4 known as The Local Tax Enabling Act.

5 (6) The act of February 14, 2008 (P.L.6, No.3), known as
6 the Right-to-Know Law.

7 (7) 45 Pa.C.S. (relating to legal notices).

8 (8) 65 Pa.C.S. (relating to public officers).

9 (9) 66 Pa.C.S. Pt. I (relating to Public Utility Code).

10 (d) Revival.--Nothing under this part shall be construed to
11 revive any act or part of a repealed act.

12 Section 2. Section 7132(b) of Title 44 is amended to read:

13 § 7132. Police officers.

14 * * *

15 (b) Exception.--Unless prevented from doing so by the
16 operation of 8 Pa.C.S. Ch. 11 Subch. J (relating to civil
17 service for police and fire apparatus operators), borough
18 policemen who reside in the borough may hold and exercise the
19 office of constable in the borough, or in any ward thereof, and
20 receive all costs, fees and emoluments pertaining to such
21 office.

22 Section 3. Repeals are as follows:

23 (1) The General Assembly declares that the repeal under
24 paragraph (2) is necessary to effectuate the addition of 8
25 Pa.C.S. Pt. I.

26 (2) The act of February 1, 1966 (1965 P.L.1656, No.581),
27 known as The Borough Code, is repealed.

28 Section 4. The addition of 8 Pa.C.S. Pt. I is a continuation
29 of the act of February 1, 1966 (1965 P.L.1656, No.581), known as
30 The Borough Code. The following apply:

1 (1) Except as otherwise provided in 8 Pa.C.S. Pt. I, all
2 activities initiated under The Borough Code shall continue
3 and remain in full force and effect and may be completed
4 under 8 Pa.C.S. Pt. I. Orders, regulations, rules and
5 decisions which were made under The Borough Code and which
6 are in effect on the effective date of section 3(2) of this
7 act shall remain in full force and effect until revoked,
8 vacated or modified under 8 Pa.C.S. Pt. I. Contracts,
9 obligations and collective bargaining agreements entered into
10 under The Borough Code are not affected nor impaired by the
11 repeal of The Borough Code.

12 (2) Except as set forth in paragraph (3), any difference
13 in language between 8 Pa.C.S. Pt. I and The Borough Code is
14 intended only to conform to the style of the Pennsylvania
15 Consolidated Statutes and is not intended to change or affect
16 the legislative intent, judicial construction or
17 administration and implementation of The Borough Code.

18 (3) Paragraph (2) does not apply to the addition of the
19 following provisions OF 8 PA.C.S.: <--

20 (i) The definition of "freeholders" in section 200.

21 (ii) Section 202(a)(3).

22 (iii) Section 210(a).

23 (iv) Section 801.

24 (V) SECTION 901(A.1). <--

25 ~~(v)~~ (VI) Section 902. <--

26 ~~(vi)~~ (VII) Section 904.1. <--

27 ~~(vii)~~ (VIII) Section 1104(a) and (f)(3). <--

28 ~~(viii)~~ (IX) Section 1121(a)(5). <--

29 ~~(ix)~~ (X) ~~Section 1202(35)~~ 1202(20), (23), (35), (46) <--

30 and (60).

1 (XI) SECTION 1302(A)(10). <--
2 (XII) SECTION 1315(A)(4). <--
3 ~~(x)~~ (XIII) Section 21A06. <--
4 ~~(xi)~~ (XIV) Section 2456(b)(3). <--
5 (XV) SECTION 2701(E). <--
6 ~~(xii)~~ (XVI) Section 2708(b). <--
7 ~~(xiii)~~ (XVII) Section 3301.1(b)(5). <--
8 ~~(xiv)~~ (XVIII) Section 3301.2(a)(2), (b)(2) and (c). <--
9 Section 5. The addition of ~~section 1104(f)(3) of the act~~ <--
10 8 PA.C.S. §§ 801(B) AND 1104(F)(3) shall apply to officials <--
11 elected or appointed to fill a vacancy in an elected office
12 after the effective date of this section.
13 Section 6. This act shall take effect in 60 days.