
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 AMENDED ON THIRD CONSIDERATION, IN SENATE, MARCH 31, 2014

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 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 sections 4.2 and 4.4 of the act of May 25, 1945
21 (P.L.1050, No.394), known as the Local Tax Collection Law.

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

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

1 provided in section 901 (relating to filling vacancies in
2 elective borough offices). For these actions, a majority of the
3 remaining members of the council shall constitute a quorum.

4 § 904. (Reserved).

5 § 904.1. Removal of elected official and appointee.

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

9 (1) By impeachment.

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

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

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

16 § 905. Temporary auditor.

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

22 CHAPTER 10

23 POWERS AND DUTIES

24 OF ELECTED OFFICIALS

25 Subchapter

26 A. Council

27 B. Mayor (Reserved)

28 C. Auditors

29 D. Controller

30 E. (Reserved)

1 F. Tax Collector

2 SUBCHAPTER A

3 COUNCIL

4 Sec.

5 1001. Organization of council, quorum, participation by
6 telecommunication device, voting, compensation and
7 eligibility.

8 1002. Oath of members of council.

9 1003. When the mayor may preside over council and vote,
10 attendance of mayor at council meetings and breaking
11 tie votes.

12 1004. Failure of council to organize.

13 1005. Powers of council.

14 1006. Duties of council.

15 1007. (Reserved).

16 1008. (Reserved).

17 1009. Typewritten, printed, photocopied, microfilmed and
18 electronically or digitally stored records valid and
19 recording or transcribing records.

20 1010. (Reserved).

21 1011. (Reserved).

22 1012. (Reserved).

23 1013. (Reserved).

24 1014. Hearings before council; witnesses.

25 1015. Witness fees and mileage.

26 1016. Examination of witnesses; penalty.

27 § 1001. Organization of council, quorum, participation by
28 telecommunication device, voting, compensation and
29 eligibility.

30 (a) Organization.--The council shall organize on the first

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

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

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

28 (1) A majority of the membership of council then in
29 office is physically present at the advertised meeting place
30 within the borough and a quorum is established at the

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

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

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

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

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

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

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

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

29 (iii) emergency; and

30 (iv) family or business travel.

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

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

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

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

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

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

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

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

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

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

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

8 § 1002. Oath of members of council.

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

18 § 1003. When the mayor may preside over council and vote,
19 attendance of mayor at council meetings and breaking
20 tie votes.

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

28 (b) Voting at meetings.--The mayor shall not vote at the
29 meeting unless the mayor's vote shall, for any reason, be
30 required to effect the organization of council or to elect any

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

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

11 (d) Tie votes.--

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

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

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

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

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

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

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

29 (3) If a tie or split vote still exists, it shall be the
30 duty of the mayor at that time to cast the deciding vote.

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

8 § 1004. Failure of council to organize.

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

20 § 1005. Powers of council.

21 The council shall have power:

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

1 indefinite term at the pleasure of the council.

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

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

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

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

28 (ii) Subparagraph (i) shall not be construed to
29 require a depository to furnish bond or collateral
30 security to cover the amount of any deposit to the extent

1 that the deposit is insured with the Federal Deposit
2 Insurance Corporation.

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

9 (6) With respect to investments, to:

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

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

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

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

29 (i) When an ordinance has been adopted, an
30 independent auditor shall be appointed annually, by

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

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

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

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

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

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

11 § 1006. Duties of council.

12 It shall be the duty of the council:

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

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

1 may adopt rules relating to the calling and holding of
2 special meetings, which rules shall supersede the provisions
3 of this section, provided that the rules comply with the
4 provisions of 65 Pa.C.S. Ch. 7.

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

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

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

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

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

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

28 § 1007. (Reserved).

29 § 1008. (Reserved).

30 § 1009. Typewritten, printed, photocopied, microfilmed and

1 electronically or digitally stored records valid and
2 recording or transcribing records.

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

20 (b) Requirements.--If recording or transcribing in a
21 specified book of record is required, including minutes of the
22 proceedings of the council, the records shall be recorded or
23 transcribed as follows:

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

28 (2) in a bound book with pages being consecutively
29 numbered by transcribing directly upon the pages of the book
30 of record or by permanently attaching the records or copies

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

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

9 § 1010. (Reserved).

10 § 1011. (Reserved).

11 § 1012. (Reserved).

12 § 1013. (Reserved).

13 § 1014. Hearings before council; witnesses.

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

27 § 1015. Witness fees and mileage.

28 No individual residing outside the borough and subpoenaed
29 under section 1014 (relating to hearings before council,
30 witnesses) shall be required to respond to the subpoena until

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

5 § 1016. Examination of witnesses; penalty.

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

11 SUBCHAPTER B

12 MAYOR

13 (Reserved)

14 SUBCHAPTER C

15 AUDITORS

16 Sec.

17 1041. Auditors to meet yearly and audit accounts.

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 1054. (Reserved).

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

1 commission receiving or expending borough funds.

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

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

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

12 (c) (Reserved).

13 (d) (Reserved).

14 (e) (Reserved).

15 (f) (Reserved).

16 (g) (Reserved).

17 § 1042. (Reserved).

18 § 1043. (Reserved).

19 § 1044. (Reserved).

20 § 1045. (Reserved).

21 § 1046. (Reserved).

22 § 1047. (Reserved).

23 § 1048. (Reserved).

24 § 1049. (Reserved).

25 § 1050. (Reserved).

26 § 1051. (Reserved).

27 § 1052. (Reserved).

28 § 1053. Compensation of auditors.

29 (a) General compensation.--Subject to the limitations set
30 forth in subsection (b), each auditor shall receive \$10 per hour

1 for each hour or portion of an hour necessarily employed in the
2 discharge of the auditor's duties, to be paid by the borough.

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

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

16 § 1054. (Reserved).

17 § 1055. Subpoenas, oath and perjury.

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

1 the issue.

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

7 § 1056. (Reserved).

8 § 1057. (Reserved).

9 § 1058. Pay of witnesses.

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

21 § 1059. Auditors to settle accounts where witnesses do not
22 appear.

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

1 purposes or otherwise.

2 § 1059.1. Completion, filing and publication of auditor's
3 report and financial statement.

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

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

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

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

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

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

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

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

23 (8) The assets in each sinking fund.

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

28 (1) The actual indebtedness.

29 (2) The amount of funded debt.

30 (3) The amount of floating debt.

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

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

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

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

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

1 when the notice is properly addressed, postage prepaid and
2 mailed. Failure to receive the notice required by this
3 subsection shall not constitute grounds for relief from any
4 judgment entered under this chapter.

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

9 § 1059.2. Attorney to auditors.

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

18 § 1059.3. Surcharge by auditors.

19 (a) Surcharges.--

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

26 (2) The following shall apply:

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

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

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

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

17 § 1059.4. Appeals from audit.

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

24 § 1059.5. Taxpayers appealing to enter bond.

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

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

6 § 1059.6. Procedure on appeals.

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

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

22 § 1059.7. Findings of fact and law, judgment and appeals.

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

28 § 1059.8. Attorney fees.

29 (a) Fees awarded.--Upon final determination of an appeal
30 taken under section 1059.4 (relating to appeals from audit) from

1 any report, audit or settlement of the account of any borough
2 officer, attorney fees shall be awarded as follows:

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

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

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

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

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

29 (b) Other accounts.--The attorney fees in case of appeals
30 involving accounts other than those of borough officers shall be

1 allocated in the court's discretion.

2 § 1059.9. Balances due to be entered as judgments.

3 A balance in a report of the auditors against an officer of

4 the borough shall constitute a surcharge against the officer as

5 fully as if expressly stated in the report to be a surcharge.

6 The amount of a balance and of any express surcharge shall, if

7 no appeal is taken or after an appeal has been finally

8 determined in favor of the borough, be entered by the

9 prothonotary as a judgment against the officer. The clerk of the

10 court of common pleas shall certify the amount of every balance

11 or surcharge contained in a report from which no appeal has been

12 taken within the time provided under this chapter to the court

13 of common pleas for entry by the prothonotary as a judgment. Any

14 taxpayer of the borough may enforce the collection of the

15 balance or surcharge for the benefit of the borough, by action

16 or execution, upon filing in the court of common pleas a bond,

17 in the sum of \$1,000 with one or more sureties, conditioned to

18 indemnify the borough from all costs of the proceedings

19 undertaken by the taxpayer, subject to all rights of appeal from

20 the report of auditors granted by this part. If a person has

21 been or shall be surcharged for an illegal purchase and no fraud

22 or collusion is shown and the surcharge is paid to the borough,

23 the article purchased shall become the property of the person

24 surcharged.

25 § 1059.10. Penalty for failure to comply with law.

26 (a) Neglect.--An auditor neglecting or refusing to comply

27 with this chapter commits a summary offense.

28 (b) Financial interest.--An auditor who is financially

29 interested, directly or indirectly, in a borough transaction

30 commits a summary offense.

1 § 1059.11. General powers and duties of independent auditor.

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

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

20 (1) The scope of the examination.

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

30 (3) The amount of any balance or shortage or any

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

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

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

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

SUBCHAPTER D

CONTROLLER

24 Sec.

25 1061. Oath and bond of controller.

26 1062. Salary of controller.

27 1063. General powers and duties of controller.

28 1064. (Reserved).

29 1065. Countersigned warrants.

30 1066. Prevention of appropriation overdrafts.

1 1067. Amount of contracts to be charged against appropriations.

2 1068. Controller's recommendations on borough finances.

3 1069. Books to be kept by controller.

4 1070. Appeals from controller's report.

5 1071. Acceptance by ordinance.

6 § 1061. Oath and bond of controller.

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

17 § 1062. Salary of controller.

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

22 § 1063. General powers and duties of controller.

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

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

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

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

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

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

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

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

7 § 1064. (Reserved).

8 § 1065. Countersigned warrants.

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

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

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

21 § 1066. Prevention of appropriation overdrafts.

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

29 § 1067. Amount of contracts to be charged against
30 appropriations.

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

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

14 (c) Certification by controller.--The controller shall
15 certify contracts for the payment of which sufficient
16 appropriations have been made.
17 § 1068. Controller's recommendations on borough finances.

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

22 § 1069. Books to be kept by controller.

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

1 under the same, respectively.

2 § 1070. Appeals from controller's report.

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

10 § 1071. Acceptance by ordinance.

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

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

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

30 SUBCHAPTER E

1 (RESERVED)

2 SUBCHAPTER F

3 TAX COLLECTOR

4 Sec.

5 1086. Powers and duties of tax collector.

6 § 1086. Powers and duties of tax collector.

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

12 (b) Exception.--

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

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

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

27 CHAPTER 10A

28 MAYOR

29 Sec.

30 10A01. Eligibility of mayor.

1 10A02. Incompatible offices.

2 10A03. Oath of mayor.

3 10A04. Salary of mayor.

4 10A05. Salaried mayor not to receive certain fees.

5 10A06. General powers of mayor.

6 10A07. Duties of mayor.

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

8 § 10A01. Eligibility of mayor.

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

18 § 10A02. Incompatible offices.

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

23 § 10A03. Oath of mayor.

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

1 § 10A04. Salary of mayor.

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

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

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

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

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

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

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

22 § 10A05. Salaried mayor not to receive certain fees.

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

27 (b) Marriage ceremony fees.--

28 (1) Nothing in this part shall be construed to prevent a
29 mayor from receiving a monetary fee for the performance of a
30 marriage ceremony in this Commonwealth, if the fee does not

1 exceed \$150 for each ceremony performed.

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

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

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

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

20 § 10A06. General powers of mayor.

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

23 (b) Emergencies.--

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

30 (2) In the event that a state of emergency exists, a

1 mayor shall have the authority to request aid and assistance
2 from law enforcement officers and agencies from a neighboring
3 municipality.

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

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

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

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

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

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

30 (iv) The transportation, possession or use of

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

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

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

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

15 § 10A07. Duties of mayor.

16 The mayor shall have the following duties:

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

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

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

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

6 § 10A08. President or vice president of council to act as
7 mayor.

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

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

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

22 CHAPTER 11

23 POWERS, DUTIES AND RIGHTS OF

24 APPOINTED OFFICERS AND EMPLOYEES

25 Subchapter

26 A. General Provisions

27 B. Treasurer

28 C. Secretary

29 D. Solicitor

30 E. Police

1 F. Police Pension Fund in Boroughs Having Police Force of
2 Less Than Three Members

3 G. Manager

4 H. Planning Commission (Reserved)

5 I. Mine and Quarry Inspection and Surface Support (Reserved)

6 J. Civil Service for Police and Fire Apparatus Operators

7 K. Independent Auditor (Reserved)

8 SUBCHAPTER A

9 GENERAL PROVISIONS

10 Sec.

11 1101. Compensation, hours and days of work and outside
12 employment.

13 1102. Accounts.

14 1103. Bonds.

15 1104. Appointments and incompatible offices.

16 1105. Compensation of certain employees.

17 1105.1. Retirement benefits of employees transferred to
18 authorities.

19 § 1101. Compensation, hours and days of work and outside
20 employment.

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

26 § 1102. Accounts.

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

29 § 1103. Bonds.

30 If an appointed officer or employee of a borough is required

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

9 § 1104. Appointments and incompatible offices.

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

16 (b) Prohibition.--

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

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

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

30 (d) Magisterial district judges.--No person holding the

1 office of magisterial district judge may at the same time hold
2 any elected or appointed borough office.

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

6 (f) Police officers and firefighters.--

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

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

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

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

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

26 § 1105. Compensation of certain employees.

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

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

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

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

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

22 § 1105.1. Retirement benefits of employees transferred to
23 authorities.

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

27 (1) An employee of a wastewater authority created by a
28 borough and one or more townships under 53 Pa.C.S. Ch. 56
29 (relating to municipal authorities) that commenced operations
30 after December 1, 2001, who satisfies the requirements of

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

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

12 (b) Eligibility criteria.--

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

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

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

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

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

30 (ii) Pay to the borough's retirement fund an

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

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

18 SUBCHAPTER B

19 TREASURER

20 Sec.

21 1106. Bond and duties.

22 1107. Assistant treasurer.

23 § 1106. Bond and duties.

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

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

29 (1) Receive all money due the borough and deposit the
30 money promptly in a designated depository in the name of the

1 borough.

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

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

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

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

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

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

24 § 1107. Assistant treasurer.

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

1 shall perform the duties and may exercise the powers of the
2 treasurer.

3 SUBCHAPTER C

4 SECRETARY

5 Sec.

6 1111. Duties.

7 1112. Assistant secretary.

8 1113. Records open to inspection.

9 § 1111. Duties.

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

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

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

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

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

28 (4) Attest the execution of all instruments, record all
29 ordinances and attest the same by the secretary's signature
30 and file of record proof of service of all notices required

1 by law. The secretary's certificate shall be good evidence of
2 notice.

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

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

10 § 1112. Assistant secretary.

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

20 § 1113. Records open to inspection.

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

25 SUBCHAPTER D

26 SOLICITOR

27 Sec.

28 1116. Solicitor to have control of legal matters.

29 1117. Duties of solicitor and outside counsel.

30 1118. Assistant solicitor.

1 § 1116. Solicitor to have control of legal matters.

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

13 § 1117. Duties of solicitor and outside counsel.

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

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

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

28 (3) Furnish the council or committees of the council,
29 the mayor or the head of a department, upon request, with an
30 opinion in writing upon any question of law which may be

1 submitted by any of them in their official capacities.

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

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

12 § 1118. Assistant solicitor.

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

17 SUBCHAPTER E

18 POLICE

19 Sec.

20 1121. Council's powers concerning police.

21 1122. Police serving under cooperative agreement or contract.

22 1123. Police badge.

23 1123.1. Mayor's powers concerning police.

24 1124. Suspension by mayor.

25 1125. Compensation.

26 1126. (Reserved).

27 1127. School crossing guards.

28 § 1121. Council's powers concerning police.

29 (a) Establishment of police department.--Council may, by
30 ordinance, establish a police department. If council establishes

1 a police department, the following shall apply:

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

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

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

13 (ii) subject to Subchapter J.

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

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

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

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

29 (c) Ratification.--In any case in which a borough has
30 previously appointed police officers or established a police

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

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

11 § 1122. Police serving under cooperative agreement or contract.

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

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

30 § 1123. Police badge.

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

3 § 1123.1. Mayor's powers concerning police.

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

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

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

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

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

22 § 1124. Suspension by mayor.

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

1 (b) Reinstatement.--

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

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

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

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

13 § 1125. Compensation.

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

16 § 1126. (Reserved).

17 § 1127. School crossing guards.

18 (a) Appointment.--

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

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

1 plans.

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

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

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

15 (b) Ordinance.--

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

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

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

29 (4) School crossing guards shall not:

30 (i) Be subject to the civil service provisions of

1 this part.

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

4 (iii) Be considered:

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

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

10 (C) An employee under any plan.

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

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

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

23 SUBCHAPTER F

24 POLICE PENSION FUND IN

25 BOROUGHES HAVING POLICE FORCE

26 OF LESS THAN THREE MEMBERS

27 Sec.

28 1131. Police pension fund.

29 1132. Private police pension funds and optional transfers.

30 § 1131. Police pension fund.

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

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

17 (c) Administration.--

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

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

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

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

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

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

19 (g) Management.--

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

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

29 (h) Right to equal and proportionate share.--No person
30 participating in the police pension fund and becoming entitled

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

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

11 § 1132. Private police pension funds and optional transfers.

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

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

26 SUBCHAPTER G

27 MANAGER

28 Sec.

29 1141. Borough manager created by ordinance and election.

30 1142. Powers and duties.

1 1143. Other offices not incompatible.

2 § 1141. Borough manager created by ordinance and election.

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

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

14 § 1142. Powers and duties.

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

17 (b) Employment agreement.--

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

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

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

1 legal remedy based on specific performance.

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

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

13 § 1143. Other offices not incompatible.

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

19 SUBCHAPTER H

20 PLANNING COMMISSION

21 (Reserved)

22 SUBCHAPTER I

23 MINE AND QUARRY INSPECTION

24 AND SURFACE SUPPORT

25 (Reserved)

26 SUBCHAPTER J

27 CIVIL SERVICE FOR POLICE AND

28 FIRE APPARATUS OPERATORS

29 Sec.

30 1170. Definitions.

- 1 1171. Appointments of police and fire apparatus operators.
- 2 1172. Civil service commission.
- 3 1173. Offices incompatible with civil service commissioner.
- 4 1174. Organization of commission.
- 5 1175. Clerks, supplies and solicitor.
- 6 1176. Rules and regulations.
- 7 1177. Minutes and records.
- 8 1178. Investigations.
- 9 1179. Subpoenas.
- 10 1180. Annual report.
- 11 1181. General provisions relating to examinations.
- 12 1182. Application for examination.
- 13 1183. Rejection of applicant and hearing.
- 14 1184. Eligibility list and manner of filling appointments.
- 15 1185. Age and residency of applicants.
- 16 1186. Probationary period.
- 17 1187. Provisional appointments.
- 18 1188. Promotions.
- 19 1189. Physical and psychological medical examination.
- 20 1190. Removals.
- 21 1191. Hearings on dismissals and reductions.
- 22 1192. Employees exempted.
- 23 1193. Discrimination on account of political or religious
- 24 affiliations.
- 25 1194. Penalty.
- 26 § 1170. Definitions.

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

30 "Fire apparatus operator." A person who operates fire

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

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

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

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

16 (3) Special school police.

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

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

27 § 1171. Appointments of police and fire apparatus operators.

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

30 (1) a borough that has a police force of less than three

1 members;

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

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

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

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

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

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

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

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

1 (b) Membership and terms.--The commission shall consist of
2 three commissioners who shall be qualified electors of the
3 borough and appointed by the council initially to serve for the
4 terms of two, four and six years. As terms expire, the
5 commissioners shall be appointed for terms of six years.

6 (c) Vacancies.--A vacancy occurring in the commission for
7 any reason shall be filled by the council for the unexpired term
8 within the period of 30 days after the vacancy occurs.

9 (d) Alternate members.--

10 (1) Council may appoint no more than three qualified
11 electors of the borough to serve as alternate members of the
12 commission. The term of office of the alternate members shall
13 be six years.

14 (2) If seated under section 1174 (relating to
15 organization of commission), an alternate shall be entitled
16 to participate in all proceedings and discussions of the
17 commission to the same and full extent as provided by law for
18 commission members, including specifically the right to cast
19 a vote as a voting member during the proceedings, and shall
20 have all the powers and duties specified in this part and as
21 otherwise provided by law.

22 (3) An alternate member may not hold another office in
23 the borough.

24 (4) An alternate may participate in any proceeding or
25 discussion of the commission but may not vote as a member of
26 the commission unless designated as a voting alternate member
27 under section 1174.

28 (e) Oath or affirmation of office.--Each member of the
29 commission, before entering upon the discharge of the duties of
30 office, shall take an oath or affirmation of office under 53

1 Pa.C.S. § 1141 (relating to form of oaths of office).

2 (f) Compensation prohibited.--The civil service
3 commissioners shall receive no compensation.

4 § 1173. Offices incompatible with civil service commissioner.

5 No commissioner shall at the same time hold an elective or
6 appointed office under the Federal Government, this Commonwealth
7 or any political subdivision of the Commonwealth, except that
8 one member of the commission may be a member of the council and
9 one may be a member of the teaching profession.

10 § 1174. Organization of commission.

11 (a) General rule.--The commission first appointed shall
12 organize within ten days of its appointment and shall elect one
13 of its members as the chair and one as the secretary. The
14 commission shall meet and organize on the first Monday of each
15 even-numbered year. Each commissioner shall be notified in
16 writing of each and every meeting.

17 (b) Quorum.--Three members of the commission shall
18 constitute a quorum. If, by reason of absence or
19 disqualification of a member a quorum is not reached, the chair
20 shall designate as many alternate members of the commission to
21 sit on the commission as may be needed to provide a quorum.

22 (c) Alternate members.--

23 (1) An alternate member of the commission shall continue
24 to serve on the commission in all proceedings involving the
25 matter or case for which the alternate was initially
26 designated until the commission has made a final
27 determination of the matter or case.

28 (2) Designation of an alternate member under this
29 section shall be made on a case-by-case basis in rotation
30 according to declining seniority among the alternates.

1 (d) Validity of commission action.--No action of the
2 commission may be valid unless it shall have the concurrence of
3 at least two members.

4 § 1175. Clerks, supplies and solicitor.

5 The borough shall:

6 (1) Furnish to the commission, on its requisition,
7 clerical assistance that may be necessary for the work of the
8 commission.

9 (2) Provide a suitable and convenient room for the use
10 of the commission. The commission shall order from the
11 borough the necessary stationery, postage, printing and
12 supplies.

13 (3) Provide the services of a solicitor for the
14 commission to be appointed by the commission and paid by the
15 borough. The borough may place a reasonable limit on the
16 amount allowed each year for the services of the commission
17 solicitor.

18 (4) Through its elected and appointed officials, aid the
19 commission in all proper ways in carrying out the provisions
20 of this subchapter relating to civil service.

21 § 1176. Rules and regulations.

22 (a) General rule.--The commission may prescribe, amend and
23 enforce rules and regulations for carrying into effect this
24 subchapter and shall be governed by the rules and regulations.
25 Before the effective date of the rules and regulations or
26 amendments to them, they shall be first approved by council. If
27 the rules and regulations or amendments have been approved, they
28 shall not be annulled, amended or added to without the approval
29 of council.

30 (b) Public distribution and inspection.--All rules and

1 regulations and modifications shall be made available by the
2 borough for public distribution or inspection.

3 § 1177. Minutes and records.

4 The commission shall maintain minutes of its proceedings and
5 records of examinations and other official actions. All
6 recommendations of applicants for appointment received by the
7 commission shall be kept and preserved for a period of five
8 years, and all records and all written causes of removal filed
9 with the commission, except as otherwise provided in section
10 1191 (relating to hearings on dismissals and reductions), shall
11 be open to public inspection and subject to reasonable
12 regulation.

13 § 1178. Investigations.

14 The commission may conduct investigations concerning all
15 matters touching the administration and enforcement of this
16 subchapter and rules and regulations adopted under this
17 subchapter. The chair of the commission may administer oaths and
18 affirmations in connection with the investigations.

19 § 1179. Subpoenas.

20 (a) General rule.--The commission may issue subpoenas over
21 the signature of the chair to require the attendance of
22 witnesses and the production of records and papers pertaining to
23 any investigation or inquiry. The fees of witnesses for
24 attendance and travel shall be the same as for witnesses
25 appearing in the courts and shall be paid from appropriations
26 for the incidental expenses of the commission.

27 (b) Persons required to attend.--All officers in public
28 service and employees shall attend and testify if required to do
29 so by the commission.

30 (c) Penalty for violation.--If any person refuses or

1 neglects to obey a subpoena issued by the commission, the person
2 shall, upon conviction, be sentenced to pay a fine not to exceed
3 \$100 and, in default of the payment of the fine and costs, shall
4 be imprisoned for a term not to exceed 30 days.

5 (d) Petition to court.--If a person refuses or neglects to
6 obey a subpoena issued by the commission, the commission may
7 apply by petition to the court of common pleas of the county for
8 its subpoena requiring the attendance of the person before the
9 commission or the court to testify and to produce any records
10 and papers necessary and, if the person defaults, the person
11 shall be held in contempt of court.

12 § 1180. Annual report.

13 The commission shall make an annual report to the council
14 containing a brief summary of its work during the year which
15 shall be available for public inspection.

16 § 1181. General provisions relating to examinations.

17 (a) Rules and regulations.--

18 (1) The commission shall make rules and regulations, to
19 be approved as provided in section 1176 (relating to rules
20 and regulations), providing for the examination of applicants
21 for positions in the police force and as paid fire apparatus
22 operators and for promotions, which rules and regulations
23 shall prescribe the minimum qualifications of all applicants
24 to be examined and the passing grades.

25 (2) All examinations for positions or promotions shall
26 be practical in character and shall relate to matters and
27 include inquiries as will fairly test the merit and fitness
28 of the persons examined to discharge the duties of the
29 employment sought by them.

30 (3) All examinations shall be open to all applicants who

1 have the minimum qualifications required by the rules and
2 regulations.

3 (4) Each applicant for an original position shall:

4 (i) Be subject to the regulations adopted by the
5 commission.

6 (ii) Either before or after the written examination,
7 submit to a physical fitness or agility examination that
8 is job related and consistent with business necessity.

9 (iii) If made a conditional offer of employment, be
10 given a physical and psychological medical examination as
11 provided in section 1189 (relating to physical and
12 psychological medical examination).

13 (iv) Be subject to a background investigation.
14 Background investigations may be restricted to those
15 candidates on an eligibility list or those to be
16 certified to council for appointment in accordance with
17 section 1184 (relating to eligibility list and manner of
18 filling appointments).

19 (a.1) Promotions.--

20 (1) An applicant for promotion shall be subject to the
21 regulations adopted by the commission and to examination and
22 selection in accordance with section 1188 (relating to
23 promotions).

24 (2) A physical fitness or agility examination that is
25 job related and consistent with business necessity and
26 physical and psychological medical examinations may, but need
27 not, be required for a promotion.

28 (b) Public notice.--Public notice of the time and place of
29 every examination, together with the information as to the kind
30 of position to be filled, shall be given by publication once in

1 a newspaper of general circulation, at least two weeks prior to
2 each examination, and a copy of the notice shall be prominently
3 posted in the office of the commission or other public place.

4 (c) Posting of eligibility list.--The commission shall post
5 in its office the eligibility list containing the names and
6 grades of those who have passed the examination.

7 § 1182. Application for examination.

8 A person who desires to apply for examination must file with
9 the commission a formal application in which the applicant shall
10 provide, under oath or affirmation, the following information:

11 (1) Full name and residence or post office address.

12 (2) Citizenship and place and date of birth.

13 (3) Condition of health and physical capacity for public
14 service.

15 (4) Business or employment and the applicant's residence
16 for the past five years.

17 (5) Other information as may be required by the
18 commission's rules and regulations, showing the applicant's
19 qualifications for the position for which the applicant is
20 being examined.

21 § 1183. Rejection of applicant and hearing.

22 (a) General rule.--The commission may refuse to examine or,
23 if examined, may refuse to certify after examination as eligible
24 any applicant who:

25 (1) is found to lack any of the minimum qualifications
26 for examination prescribed in the rules and regulations
27 adopted for the position or employment for which the
28 applicant has applied;

29 (2) is physically unfit for the performance of the
30 duties of the position to which the applicant seeks

1 employment;

2 (3) is illegally using a controlled substance, as
3 defined in section 102 of the Controlled Substances Act
4 (Public Law 91-513, 21 U.S.C. § 802);

5 (4) has been guilty of any crime involving moral
6 turpitude or of infamous or notoriously disgraceful conduct;

7 (5) has been dismissed from public service for
8 delinquency or misconduct of office; or

9 (6) is affiliated with any group whose policies or
10 activities are subversive to the form of government
11 enumerated in the Constitutions and laws of the United States
12 and this Commonwealth.

13 (b) Hearing requirements.--

14 (1) If an applicant is aggrieved by the refusal of the
15 commission to certify the applicant as eligible after
16 examination or a person is aggrieved by refusal of the
17 commission to examine the person, the commission shall, at
18 the request of the applicant or person aggrieved, within ten
19 days, appoint a time and place for a public hearing.

20 (2) At the hearing, the applicant or person aggrieved
21 may appear with or without counsel, and the commission shall
22 take testimony and review its refusal to provide examination
23 or certification.

24 (3) The deliberations of the commission, including
25 interim rulings on evidentiary or procedural issues, may be
26 held in the nature of a closed executive session.

27 (4) The commission's disposition of the matter shall
28 constitute official action which shall occur at a public
29 meeting held under 65 Pa.C.S. Ch. 7 (relating to open
30 meetings).

1 (5) The decision of the commission shall be final.

2 § 1184. Eligibility list and manner of filling appointments.

3 (a) Ranking of candidates.--

4 (1) At the completion of the testing process, including
5 a physical agility or other examination, with the exception
6 of a background investigation to be conducted after the
7 establishment of an eligibility list and physical and
8 psychological medical examination under section 1189
9 (relating to physical and psychological medical examination),
10 the commission shall rank the candidates who have satisfied
11 the minimum requirements for appointment on an eligibility
12 list.

13 (2) The eligibility list shall contain the names of
14 individuals eligible for appointment listed from highest to
15 lowest based on their scores on the examinations administered
16 by the commission and any points for which an applicant was
17 entitled by virtue of 51 Pa.C.S. Ch. 71 (relating to
18 veterans' preference).

19 (3) The eligibility list will be valid for one year from
20 the date the commission formally adopts the eligibility list.

21 (4) Prior to expiration of the one-year period, the
22 commission may extend the validity of the eligibility list
23 for up to an additional 12 months by a majority vote of the
24 commission at a duly authorized commission meeting.

25 (5) In the absence of a lawful extension by the
26 commission under paragraph (4), the list shall expire.

27 (b) Procedure for filling positions.--Except as provided in
28 subsection (c), every original position or employment in the
29 police force or as paid fire apparatus operators, except that of
30 chief of police or chief of the fire department, or equivalent,

1 shall be filled only in the following manner:

2 (1) The council shall notify the commission of any
3 vacancy which is to be filled and shall request the
4 certification of an eligibility list.

5 (2) The commission shall certify for each existing
6 vacancy from the eligibility list the names of the three
7 persons or a lesser number, if three are not available, who
8 have received the highest average.

9 (3) The council shall make a conditional appointment
10 from the three names certified, based solely on the merits
11 and fitness of the candidates, unless council makes
12 objections to the commission regarding one or more of the
13 certified persons for any of the reasons stated in section
14 1183 (relating to rejection of applicant and hearing).

15 (4) If the objections are sustained by the commission as
16 provided in section 1183 or the conditional appointee is
17 determined to be unqualified in accordance with the
18 procedures specified in section 1189, the commission shall
19 strike the name of the person from the eligibility list and
20 certify the next highest name for each name stricken from the
21 eligibility list.

22 (5) As each subsequent vacancy occurs in the same or
23 another position, the same procedure shall be followed.

24 (c) Vacancies in existing positions.--

25 (1) Any vacancy in an existing position in the police
26 force or as a paid fire apparatus operator which occurs as a
27 result of retirement, resignation, disability or death may be
28 filled by council by the reappointment or reinstatement of a
29 former employee of the police force or fire department who
30 had previously complied with this section.

1 (2) No examination, other than a physical examination as
2 directed by the civil service commission, shall be required
3 in any case of reappointment or reinstatement.

4 (d) Vacancies in certain offices.--

5 (1) In the case of a vacancy in the office of chief of
6 police or chief of the fire department, or equivalent
7 official, the council may nominate a person to the
8 commission.

9 (2) The commission shall subject the nominated person to
10 a noncompetitive examination and, if the person is certified
11 by the commission as qualified, the person may then be
12 appointed to the position and shall be subject to this
13 subchapter.

14 § 1185. Age and residency of applicants.

15 No person shall be eligible to apply for examination unless
16 the person is at least 18 years of age at the date of
17 application. An applicant need not be a resident of the borough.
18 The council of the borough may authorize the commission, by rule
19 or regulation, to require police officers and paid fire
20 apparatus operators to become residents of the borough after
21 appointment to the positions.

22 § 1186. Probationary period.

23 (a) General rule.--An original appointment to a position in
24 the police force or as a paid fire apparatus operator shall be
25 for a probationary period of not less than six months and not
26 more than one year, but during the probationary period an
27 appointee may be dismissed only for a cause specified in section
28 1183 (relating to rejection of applicant and hearing) or because
29 of incapacity for duty due to the use of alcohol or drugs.

30 (b) Notice denying permanent appointment.--

1 (1) If, at the close of a probationary period, the
2 conduct or fitness of the probationer has not been
3 satisfactory to the council, the probationer shall be
4 notified in writing that the probationer will not receive a
5 permanent appointment and the appointment shall cease.

6 (2) If the probationer is not notified or dismissed in
7 accordance with this section, the probationer's retention
8 shall be equivalent to a permanent appointment.

9 (c) Finality of decision.--The decision of a borough to
10 suspend or discharge a probationer shall be final and shall not
11 be subject to the hearing provisions of section 1191 (relating
12 to hearings on dismissals and reductions).

13 § 1187. Provisional appointments.

14 (a) General rule.--If there are urgent reasons for the
15 filling of a vacancy in a position in the police force and there
16 are no names on the eligibility list for the appointment, the
17 council may nominate a person to the commission for
18 noncompetitive examination, and, if the nominee shall be
19 certified by the commission as qualified after noncompetitive
20 examination, the nominee may be appointed provisionally to fill
21 the vacancy.

22 (b) Competitive examination required.--

23 (1) Within three weeks of the provisional appointment,
24 the commission shall hold a competitive examination and
25 certify an eligibility list. A regular appointment shall then
26 be made from the name or names submitted by the commission.

27 (2) Nothing in this section shall be construed to
28 prevent the appointment, without examination, of persons
29 temporarily as police officers in cases of riot or other
30 emergencies or as fire apparatus operators in emergency

1 cases.

2 § 1188. Promotions.

3 (a) General rule.--A promotion shall be based on merit to be
4 ascertained by an examination to be prescribed by the
5 commission. All questions relative to a promotion shall be
6 practical in character and fairly test the merit and fitness of
7 persons seeking promotion.

8 (b) Notification of vacancy.--Council shall notify the
9 commission of a vacancy in the police force or as a paid fire
10 apparatus operator in the borough which is to be filled by
11 promotion and shall request the certification of an eligibility
12 list.

13 (c) Certification required.--

14 (1) The commission shall certify for each vacancy the
15 names of three persons on the eligibility list who have
16 received the highest average in the last preceding
17 promotional examination held within a period of two years
18 preceding the date of the request for the eligibility list.

19 (2) If three names are not available, the commission
20 shall certify the names remaining on the eligibility list.

21 (3) The council shall make an appointment from the names
22 certified, based solely on the merits and fitness of the
23 candidate, unless council makes objections to the commission
24 regarding one or more of the persons so certified for any
25 reason provided under section 1183 (relating to rejection of
26 applicant and hearing).

27 (d) Increase in salary as promotion.--The council may
28 determine in each instance whether an increase in salary
29 constitutes a promotion.

30 § 1189. Physical and psychological medical examination.

1 (a) Conditional offer of employment.--

2 (1) An applicant selected from the eligibility list
3 shall receive a conditional offer of employment. The offer of
4 employment shall be conditioned upon the conditional
5 appointee undergoing a physical and psychological medical
6 examination and a determination that the conditional
7 appointee is capable of performing all the essential
8 functions of the position.

9 (2) Physical medical examinations shall be conducted
10 under the direction of a physician or other qualified medical
11 professional.

12 (3) Psychological medical examinations shall be
13 conducted under the direction of a psychiatrist or
14 psychologist.

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

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

1 (d) Written notice after interactive discussion.--If, at the
2 conclusion of the interactive discussion conducted under
3 subsection (c), council determines that the conditional
4 appointee is not qualified, council shall give written notice to
5 the conditional appointee and the commission.

6 (e) Construction.--Nothing in this part shall be construed
7 to authorize physical or psychological medical examinations
8 prior to conditional appointment.

9 (f) Definitions.--The following words and phrases used in
10 this section shall have the meanings given to them in this
11 subsection unless the context clearly indicates otherwise:

12 "Medical examination." An examination, procedure, inquiry or
13 test designed to obtain information about medical history or a
14 physical or mental condition which might disqualify an applicant
15 for a position if it would prevent the applicant from
16 performing, with or without a reasonable accommodation, all of
17 the essential functions of the position.

18 "Physician." The term shall have the meaning given to it
19 under 1 Pa.C.S. § 1991 (relating to definitions).

20 "Qualified medical professional." An individual, in
21 collaboration with or under the supervision or direction of a
22 physician, as may be required by law, who is licensed:

23 (1) as a physician assistant under the act of December
24 20, 1985 (P.L.457, No.112), known as the Medical Practice Act
25 of 1985, or the act of October 5, 1978 (P.L.1109, No.261),
26 known as the Osteopathic Medical Practice Act; or

27 (2) as a certified registered nurse practitioner under
28 the act of May 22, 1951 (P.L.317, No.69), known as The
29 Professional Nursing Law.

30 § 1190. Removals.

1 (a) General rule.--No person employed in any police or fire
2 force of any borough may be suspended without pay, removed or
3 reduced in rank except for the following reasons:

4 (1) Physical or mental disability affecting the person's
5 ability to continue in service, in which cases the person
6 shall receive an honorable discharge from service.

7 (2) Neglect or violation of any official duty.

8 (3) Violation of any law if the violation constitutes a
9 misdemeanor or felony.

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

12 (5) Intoxication while on duty.

13 (6) Engaging or participating in the conduct of a
14 political or election campaign while on duty or in uniform or
15 while using borough property otherwise than to exercise the
16 person's own right of suffrage.

17 (7) Engaging or participating in the conduct of a
18 political or election campaign for an incompatible office as
19 provided in section 1104(f) (relating to appointments and
20 incompatible offices).

21 (b) Restriction.--A person employed by a police or fire
22 force shall not be removed for religious, racial or political
23 reasons.

24 (c) Statement of charges.--A written statement of charges
25 made against a person shall be furnished to the person within
26 five days after the statement of charges is filed. The person
27 shall have ten days from the date of receiving the notice to
28 submit a written request for a hearing to the civil service
29 commission under section 1191 (relating to hearings on
30 dismissals and reductions).

1 (d) Furlough.--If, for reasons of economy or other reasons,
2 it shall be deemed necessary by any borough to reduce the number
3 of paid employees of the police or fire force, the borough shall
4 furlough the person, including a probationer, last appointed to
5 the respective force. The removal shall be accomplished by
6 furloughing in numerical order commencing with the person last
7 appointed until the reduction shall have been accomplished. In
8 the event the police force or fire force shall again be
9 increased, the employees furloughed shall be reinstated in the
10 order of their seniority in the service. This subsection as to
11 reductions in force is not applicable to a chief of police.

12 § 1191. Hearings on dismissals and reductions.

13 (a) Time of answer and hearing.--A person suspended, removed
14 or reduced in rank may make written answers to any charges filed
15 against the person not later than the day scheduled for the
16 hearing. The commission shall grant the person a hearing that
17 shall be held within a period of ten days from the filing of
18 written charges, unless continued by the commission for cause at
19 the request of the council or the accused. The failure of the
20 commission to hold a hearing within ten days from the filing of
21 the written charges shall not result in the dismissal of the
22 charges filed.

23 (b) Conduct of hearing.--At any hearing, the person against
24 whom the charges are made may be present in person and by
25 counsel. The council may suspend the person, without pay,
26 pending the determination of the charges against the person,
27 but, in the event the commission fails to uphold the charges,
28 the person sought to be suspended, removed or reduced in rank
29 shall be reinstated with full pay for the period during which
30 the person was suspended, removed or reduced in rank, and no

1 charges shall be officially recorded against the person's
2 record. A stenographic record of all testimony taken at the
3 hearings shall be filed with and preserved by the commission,
4 which record shall be sealed and not be available for public
5 inspection in the event the charges are dismissed.

6 (c) Appeal.--All parties shall have an immediate right of
7 appeal to the court of common pleas of the county, and the case
8 shall there be determined as the court deems proper. No order of
9 suspension made by the commission may be for a longer period
10 than one year. The appeal shall be taken within 30 days from the
11 date of entry by the commission of its final order and shall be
12 by petition. Upon the appeal being taken and docketed, the court
13 of common pleas shall schedule a day for a hearing and shall
14 proceed to hear the appeal on the original record and additional
15 proof or testimony as the parties concerned may desire to offer
16 in evidence. The decision of the court affirming or revising the
17 decision of the commission shall be final, and the employee
18 shall be suspended, discharged, reduced in rank or reinstated in
19 accordance with the order of court.

20 (d) Proceedings.--The council and the person sought to be
21 suspended, removed or reduced in rank shall at all times have
22 the right to employ counsel before the commission and upon
23 appeal to the court of common pleas. Unless the council or the
24 person sought to be suspended, removed or reduced in rank
25 requests that the proceedings before the commission be open to
26 the public, the proceedings before the commission under this
27 section shall be held in the nature of a closed executive
28 session that shall not be open to the public. The request shall
29 be presented to the commission before the civil service hearing
30 commences. The deliberations of the commission, including

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

8 § 1192. Employees exempted.

9 All appointments in the police or fire forces of boroughs,
10 including the chief of police or equivalent official, prior to
11 the creation of a commission, shall continue to hold their
12 positions and shall not be required to take any examination
13 under the provisions of this subchapter, except that which may
14 be required for promotion. This section shall not be construed
15 to apply to persons employed temporarily in emergency cases.

16 § 1193. Discrimination on account of political or religious
17 affiliations.

18 (a) Information.--No question in any form of application for
19 examination or in any examination shall be so framed as to
20 elicit information concerning the political or religious
21 opinions or affiliations of any applicant nor shall inquiry be
22 made concerning the opinions or affiliations, and all
23 disclosures of opinions or affiliations shall be ignored.

24 (b) Prohibition.--No discrimination shall be exercised,
25 threatened or promised by any person against or in favor of any
26 applicant or employee because of political or religious opinions
27 or affiliations or race, and no offer or promise or reward,
28 favor or benefit, directly or indirectly, shall be made to or
29 received by any person for any act done or duty omitted or to be
30 done under this subchapter.

1 § 1194. Penalty.

2 A member of council who, by vote, appoints any person to the
3 police force or as a fire apparatus operator contrary to the
4 provisions of this subchapter, or a member of council or member
5 of the commission who willfully refuses to comply with or
6 conform to the provisions of this subchapter, commits a
7 misdemeanor and, upon conviction, shall be sentenced to pay a
8 fine not exceeding \$100 or to imprisonment not exceeding 90
9 days, or both.

10 SUBCHAPTER K

11 INDEPENDENT AUDITOR

12 (Reserved)

13 CHAPTER 12

14 CORPORATE POWERS

15 Sec.

16 1201. General powers.

17 1201.1. Real property.

18 1201.2. Personal property.

19 1201.3. Exceptions.

20 1202. Specific powers.

21 1203. Reserved powers.

22 § 1201. General powers.

23 A borough may:

24 (1) Have succession perpetually by its corporate name.

25 (2) Sue and be sued and complain and defend in the
26 courts of this Commonwealth.

27 (3) Make and use a common seal and alter the same at its
28 discretion.

29 (4) Purchase, exchange, acquire by gift or otherwise,
30 hold, lease, let and convey, by sale or lease, real and

1 personal property deemed to be in the best interest of the
2 borough, subject to the restrictions, limitations or
3 exceptions as set forth in this chapter.

4 § 1201.1. Real property.

5 (a) Sale.--No real estate owned by the borough may be sold
6 except upon approval of council by resolution. Additionally, no
7 real estate owned by the borough may be sold for a consideration
8 in excess of \$1,500, except to the highest bidder after due
9 notice by advertisement for bids or advertisement of a public
10 auction.

11 (a.1) Advertisement.--The advertisement shall be published
12 once in one newspaper of general circulation not less than ten
13 days prior to the date scheduled for the opening of bids or
14 public auction. The date for opening bids or public auction
15 shall be announced in the advertisement.

16 (a.2) Award of contracts.--The award of contracts shall be
17 made only by public announcement at a regular or special meeting
18 of council or at the public auction. All bids shall be accepted
19 on the condition that payment of the purchase price in full
20 shall be made within 60 days of the acceptance of bids. If no
21 compliant bids are received after advertisement, the applicable
22 procedures in the act of October 27, 1979 (P.L.241, No.78),
23 entitled, "An act authorizing political subdivisions,
24 municipality authorities and transportation authorities to enter
25 into contracts for the purchase of goods and the sale of real
26 and personal property where no bids are received," shall be
27 followed.

28 (b) Rejection of bids.--The council shall have the authority
29 to reject all bids if the bids are deemed to be less than the
30 fair market value of the real property. In the case of a public

1 auction, the council may establish a minimum bid based on the
2 fair market value of the real property.

3 (c) Exception.--Real estate owned by a borough may be sold
4 at a consideration of \$1,500 or less without advertisement or
5 competitive bidding only after council estimates the value of
6 the property upon receipt of an appraisal by a qualified real
7 estate appraiser.

8 (d) Exchange of real property.--

9 (1) Notwithstanding this section, council shall have the
10 authority to exchange real property for real property of
11 equal or greater value without complying with this section,
12 if the property being acquired by the borough is to be used
13 for municipal purposes. Municipal purposes as used in this
14 subsection include a subsequent sale or lease of the property
15 to any of the entities listed in section 1201.3 (relating to
16 exceptions).

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

22 (3) If council chooses to exercise its power of real
23 property exchange under this section, it shall be by
24 resolution adopted by council. Notice of the resolution,
25 including a description of the properties to be exchanged,
26 shall be published once in one newspaper of general
27 circulation not more than 60 days nor fewer than seven days
28 prior to adoption.

29 (4) Participation in a real property exchange shall not
30 prohibit the application of the requirements of the act of

1 October 4, 1978 (P.L.851, No.166), known as the Flood Plain
2 Management Act.

3 § 1201.2. Personal property.

4 (a) Sale.--Except as provided in subsection (b), no borough
5 personal property may be disposed of, by sale or otherwise,
6 except upon approval of council by resolution. In cases when
7 council approves a sale of the property, council shall estimate
8 the fair market value of the entire lot to be disposed of. If
9 council estimates the fair market value to be \$1,000 or more,
10 the entire lot shall be advertised for sale once in at least one
11 newspaper of general circulation not less than ten days prior to
12 the date scheduled for the opening of bids or public auction.
13 The date of opening of bids or public auction shall be announced
14 in the advertisement, and sale of the property advertised shall
15 be made to the best responsible bidder.

16 (a.1) Electronic auction sale.--A public auction of personal
17 property may be conducted by means of an online or electronic
18 auction sale. During an electronic auction sale, bids shall be
19 accepted electronically at the time and in the manner designated
20 in the advertisement. During the electronic auction, each bidder
21 shall have the capability to view the bidder's bid rank or the
22 high bid price. Bidders may increase their bid prices during the
23 electronic auction. The record of the electronic auction shall
24 be accessible for public inspection. The purchase price shall be
25 paid by the highest bidder immediately or at a reasonable time
26 after the conclusion of the electronic auction as determined by
27 council. In the event that shipping costs are incurred, they
28 shall be paid by the highest bidder. A borough that has complied
29 with the advertising requirements of this section may provide
30 additional public notice of the sale by bids or public auction

1 in any manner deemed appropriate by council. The advertisement
2 for electronic auction sales authorized in this paragraph shall
3 include the Internet address or means of accessing the
4 electronic auction and the date, time and duration of the
5 electronic auction.

6 (a.2) Rejection of bids.--Council may reject any bids
7 received if the bids are believed to be less than the fair
8 market value of the property. If no bids are received after
9 advertisement, the applicable procedures in the act of October
10 27, 1979 (P.L.241, No.78), entitled, "An act authorizing
11 political subdivisions, municipality authorities and
12 transportation authorities to enter into contracts for the
13 purchase of goods and the sale of real and personal property
14 where no bids are received," shall be followed.

15 (b) Exception for small value sales.--Council shall, by
16 resolution, adopt a procedure for the sale of surplus personal
17 property, either individual items or lots of items, of an
18 estimated fair market value of less than \$1,000. The approval of
19 council shall not be required for any individual sale that shall
20 be made in conformity to the procedure.

21 (c) Exchange of personal property.--This section shall not
22 be mandatory when borough personal property is to be traded in
23 or exchanged for new or used personal property being acquired by
24 the borough, except that the trade or exchange shall be by
25 resolution.

26 § 1201.3. Exceptions.

27 (a) Sale of property.--Nothing under this chapter requiring
28 advertising for bids or sale at public auction and sale to the
29 highest bidder shall apply if borough real or personal property
30 is to be sold to any of the following:

1 (1) A county, city, borough, town, township, institution
2 district, school district, volunteer fire company, volunteer
3 ambulance service or volunteer rescue squad located within
4 the borough.

5 (2) A council of government, consortium, cooperative or
6 other similar entity created pursuant to 53 Pa.C.S. Ch. 23
7 Subch. A (relating to intergovernmental cooperation).

8 (3) An authority as defined in 53 Pa.C.S. § 5602
9 (relating to definitions).

10 (4) A nonprofit corporation engaged in community
11 development or reuse only upon entering into a written
12 agreement with the nonprofit corporation that requires the
13 property to be used for industrial, commercial or affordable
14 housing purposes. This exemption shall not apply to property
15 on which existing governmental functions are conducted. This
16 exemption shall also not apply to property owned and operated
17 by the borough or subcontracted or operated on behalf of the
18 borough in order to conduct existing government functions.

19 (5) A person for the person's exclusive use in an
20 industrial development program.

21 (6) A nonprofit corporation organized as a public
22 library for its exclusive use as a library.

23 (7) A nonprofit medical service corporation as
24 authorized under section 1202(50) (relating to specific
25 powers).

26 (8) A nonprofit housing corporation as authorized by
27 section 1202(51).

28 (9) The Federal Government or the Commonwealth.

29 (10) A nonprofit museum or historical society for its
30 exclusive use as a nonprofit museum or historical society.

1 (b) Sales to certain nonprofit corporations.--When real
2 property is to be sold to a nonprofit corporation organized as a
3 public library for its exclusive use as a library or to a
4 nonprofit medical service corporation or to a nonprofit housing
5 corporation, council may elect to accept nominal consideration
6 for the sale as it shall deem appropriate.

7 (c) Reversion.--Real property sold under this section to a
8 volunteer fire company, volunteer ambulance service or volunteer
9 rescue squad, nonprofit medical service corporation or nonprofit
10 housing corporation shall be subject to the condition that when
11 the property is not used for the purposes of the company,
12 service, squad or corporation the property shall revert to the
13 borough.

14 § 1202. Specific powers.

15 The powers of the borough shall be vested in the council. In
16 the exercise of any specific powers involving the enactment of
17 an ordinance or the making of any regulation, restriction or
18 prohibition, the borough may provide for enforcement and
19 penalties for violations. The specific powers of the borough
20 shall include the following:

21 (1) To prescribe reasonable fees for the services of the
22 borough's officers and to enforce the payment of the fees.
23 This paragraph shall not be applicable to the services
24 rendered by borough police officers in responding to motor
25 vehicle accidents pursuant to 53 Pa.C.S. § 1392 (relating to
26 prohibition of fees for police services).

27 (2) In the operation of its utilities, parking meters,
28 parking lots, recreational facilities and other facilities
29 and services, to make and regulate charges for them for
30 general borough purposes.

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

3 (4) To prohibit and remove any nuisance or dangerous
4 structure on public or private grounds, including, but not
5 limited to, accumulations of garbage and rubbish, the storage
6 of abandoned or junked automobiles and obstructions or
7 nuisances in the streets of the borough. The borough may
8 require the removal of any nuisance or dangerous structure by
9 the owner or occupier of the grounds or remove the nuisance
10 or dangerous structure itself and collect the cost of
11 removal, together with a penalty of 10% of the cost, in the
12 manner provided by law for the collection of municipal
13 claims, or by action of assumpsit, or the borough may seek
14 relief by bill in equity.

15 (5) To make regulations as may be necessary for the
16 health, safety, morals, general welfare and cleanliness and
17 beauty, convenience, comfort and safety of the borough.

18 (6) To make regulations respecting vaults, cesspools and
19 drains.

20 (7) To make regulations relative to the accumulation of
21 manure, compost and the like to the extent authorized by 3
22 Pa.C.S. Ch. 5 (relating to nutrient management and odor
23 management).

24 (8) To provide for garbage and other refuse material as
25 follows:

26 (i) To prohibit, individually or jointly with other
27 municipal corporations pursuant to an agreement,
28 accumulations of garbage or other refuse material upon
29 public and private property and to make regulations for
30 the care, removal and collection of garbage or other

1 refuse material, including:

2 (A) To provide for the collection and imposition
3 of reasonable fees and charges for the collection of
4 garbage and other refuse material.

5 (B) To erect, operate and maintain refuse
6 disposal or incineration facilities or sanitary
7 landfills, either within or without the limits of the
8 borough, or provide other means for the collection,
9 destruction or removal of garbage and other refuse
10 material and provide for the payment of the cost or
11 expense of the activity, either in whole or in part,
12 out of the funds of the borough.

13 (C) To purchase real estate for the purpose of
14 erecting, operating and maintaining refuse disposal
15 or incineration facilities or sanitary landfills if,
16 prior to any acquisition of property pursuant to this
17 paragraph, the borough, individually or jointly, as
18 the case may be, obtains the approval of the court of
19 common pleas for the location of the facilities or
20 landfill after a hearing and subject to notice as the
21 court shall require. If no objections are heard at
22 the hearing, the court shall approve the location. If
23 any objection is made, the court shall proceed to
24 hear the matter and determine whether the location is
25 a detriment to neighboring properties. The finding of
26 the court shall be conclusive but in no way shall
27 adjudicate any question relating to damages for
28 injury to property.

29 (D) To take and appropriate real estate for
30 purposes of refuse disposals or incineration

1 facilities or sanitary landfills in accordance with
2 Chapter 15 (relating to eminent domain, assessment of
3 damages and damages for injury to property) if a
4 purchase price cannot first be agreed upon. No real
5 estate located outside the limits of the borough or
6 outside the limits of the joint municipal
7 corporations in the case of a joint effort shall be
8 taken and appropriated if the real estate currently
9 contains or is being used for a refuse disposal or
10 incineration facility or a sanitary landfill.

11 (ii) Regulations enacted under this paragraph shall
12 be consistent with the act of July 7, 1980 (P.L.380,
13 No.97), known as the Solid Waste Management Act, the act
14 of July 28, 1988 (P.L.556, No.101), known as the
15 Municipal Waste Planning, Recycling and Waste Reduction
16 Act, and subject to any other necessary Federal or State
17 approval.

18 (9) To the extent not otherwise prohibited by the act of
19 December 7, 1982 (P.L.784, No.225), known as the Dog Law, to
20 destroy dogs found at large contrary to laws of this
21 Commonwealth, to prohibit or regulate, by ordinance, the
22 running at large of dogs, cats or other pets and, in the
23 enforcement of the regulations, to direct the seizure,
24 detention or killing of dogs, cats or other pets, prescribing
25 reasonable charges for their seizure and detention and to
26 provide for their sale for the benefit of the borough in
27 default of the redemption of the pet by its owners.

28 (10) To enact ordinances prohibiting or regulating the
29 keeping or running at large of livestock and fowls and any
30 other animals not covered in paragraph (9) and authorizing

1 their seizure, detention or, in the case of unowned pigeons,
2 humane destruction. The borough may prescribe reasonable
3 charges for the seizure and detention of the animals and
4 provide for their sale for the benefit of the borough in
5 default of the redemption of the animals by their owners.
6 Ordinances enacted under this paragraph shall not
7 unreasonably interfere with any agricultural operation to the
8 extent prohibited by applicable State law.

9 (11) To regulate the emission of smoke from chimneys,
10 smokestacks and other sources to the extent the regulation is
11 not otherwise prohibited by applicable Federal or State law.
12 This paragraph shall not apply to locomotive smokestacks.

13 (12) To regulate the streets, sewers, public squares,
14 common grounds, sidewalks, curbs, gutters, culverts and
15 drains, and the heights, grades, widths, slopes and their
16 construction, and to prohibit the erection or construction of
17 any building or other obstruction to the convenient use of
18 the same.

19 (13) To prohibit or regulate the riding, driving,
20 parking or other passage of any animal or vehicle over, along
21 and across sidewalks. As used in this paragraph, the term
22 "vehicle" shall include any device in, upon or by which any
23 person or property may be transported. The term shall not
24 include a self-propelled wheelchair or an electrical mobility
25 device operated by and designed for the exclusive use of a
26 person with a mobility-related disability.

27 (14) To adopt ordinances defining disorderly conduct or
28 disturbing the peace within the limits of the borough and to
29 provide for the imposition of penalties for the conduct in
30 amounts, without limitation except as provided under this

1 part, as council shall establish, and notwithstanding any
2 laws of this Commonwealth upon disorderly conduct or
3 disturbing the peace and the penalties.

4 (15) To adopt and enforce a construction code, a
5 property maintenance code and a fire prevention code and
6 exercise any additional reserved powers pursuant to Chapter
7 32A (relating to uniform construction code, property
8 maintenance code and reserved powers).

9 (16) To prohibit and regulate the smoking or carrying of
10 lighted cigarettes, cigars, pipes or matches and the use of
11 matches or fire-producing devices. An ordinance enacted or
12 regulation or resolution adopted under this paragraph shall
13 not regulate smoking in a manner that conflicts with the act
14 of June 13, 2008 (P.L.182, No.27), known as the Clean Indoor
15 Air Act.

16 (17) To provide for fireworks and inflammable articles
17 as follows:

18 (i) To regulate and prohibit, by ordinance, the
19 manufacture of fireworks or inflammable or dangerous
20 articles.

21 (ii) To grant permits for supervised public displays
22 of fireworks and adopt rules and regulations governing
23 the displays.

24 (iii) To adopt, by ordinance, rules and regulations
25 not inconsistent with State regulations relating to the
26 storage of inflammable articles.

27 (iv) To impose, by ordinance, other safeguards
28 concerning inflammable articles as may be necessary.

29 (18) To require and regulate the numbering of buildings
30 and lots.

1 (19) To make regulations respecting partition fences and
2 the foundations and party walls of buildings.

3 (20) To provide for the prohibition, licensing and
4 regulation of business as follows:

5 (i) In addition to licensing in accordance with
6 Chapter 29 (relating to licenses and license fees), to
7 prohibit, license and regulate by ordinance the
8 following:

9 (A) The carrying on of any manufacture, art,
10 trade or business which may be noxious or offensive
11 and prejudicial to the public health or safety of the
12 inhabitants.

13 (B) The establishment and maintenance of junk
14 yards, salvage yards and other places used and
15 maintained for the collection, storage and disposal
16 of used or second-hand goods and materials.

17 (C) With respect to marketplaces:

18 (I) regulate markets whether for individual
19 use or for resale;

20 (II) purchase and own ground;

21 (III) erect, establish and maintain
22 marketplaces for which purposes parts of a street
23 or sidewalk may be temporarily used;

24 (IV) contract with a person or association
25 of persons, companies or corporations for the
26 erection, maintenance and regulation of
27 marketplaces, on terms and conditions, and in a
28 manner, as the council may prescribe;

29 (V) provide and enforce suitable regulations
30 respecting marketplaces;

1 (VI) provide for the payment of the cost or
2 expense of marketplaces, either in whole or in
3 part, out of the funds of the borough; and

4 (VII) levy and collect a suitable license
5 fee from every person who may be authorized by
6 council to occupy any portion of marketplaces or
7 any portion of the streets or sidewalks for
8 temporary market purposes.

9 (ii) Notwithstanding subparagraph (i), boroughs may
10 prohibit, license and regulate businesses unless
11 prohibited by law.

12 (iii) To issue licenses under the act of July 31,
13 1963 (P.L.410, No.217), entitled "An act regulating and
14 licensing all sales at retail when such sales are
15 advertised as 'Closing Out Sale,' 'Fire, Smoke or Water
16 Damage Sale,' or 'Defunct Business Sale,' with
17 exceptions; requiring filing of inventory and bond; and
18 providing for appeals and penalties."

19 (21) To plan for and regulate the development of the
20 borough by:

21 (i) establishing and maintaining uniform building
22 lines upon any or all borough streets under applicable
23 law; and

24 (ii) utilizing powers delegated by the Pennsylvania
25 Municipalities Planning Code and other applicable laws by
26 adopting zoning, subdivision and land use and development
27 regulations.

28 (22) (i) To provide for the creation of capital reserve
29 fund for anticipated capital expenditures as follows:

30 (A) Create and maintain a separate capital

1 reserve fund for anticipated legal capital
2 expenditures. The money in the fund shall be used,
3 from time to time, for the construction, purchase,
4 replacement of or expansion of municipal buildings,
5 equipment, machinery, motor vehicles or other capital
6 assets of the borough and for no other purpose.

7 (B) Appropriate money from the general borough
8 funds to be paid into the capital reserve fund or
9 place in the fund any money received from the sale,
10 lease or other disposition of any borough property or
11 from any other source, unless received or acquired
12 for a particular purpose. The fund shall be
13 controlled, invested, reinvested and administered and
14 the money expended for any of the purposes for which
15 the fund is created in a manner as may be determined
16 by council. The money in the fund, when invested,
17 shall be invested in securities designated by 53
18 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness
19 and borrowing) as legal investments for sinking funds
20 of municipalities.

21 (ii) This paragraph shall not be construed to limit
22 the powers of the borough to the use of money in the
23 capital reserve fund in making lawful capital
24 expenditures.

25 (23) To create and maintain a separate operating reserve
26 fund from which appropriations may be made to meet
27 emergencies involving the health, safety and welfare of the
28 residents of the borough, to counterbalance potential budget
29 deficits resulting from shortfalls in anticipated revenues or
30 program receipts from whatever source, to counterbalance

1 potential budget deficits resulting from increases in
2 anticipated costs for goods or services or to provide
3 anticipated operating expenditures related either to the
4 planned growth of existing projects or programs or to the
5 establishment of new projects or programs if, for a project
6 or program appropriations, have been made and allocated to a
7 separate restricted account established within the operating
8 reserve fund. Council may annually make appropriations from
9 the general fund to the operating reserve fund, but no
10 appropriation may be made to the operating reserve fund if
11 the effect of the appropriation would cause the fund to
12 exceed 25% of the estimated revenues of the borough's general
13 fund in the current fiscal year. The operating reserve fund
14 shall be invested, reinvested and administered in a manner
15 consistent with the provisions of section 1316 (relating to
16 investment of funds).

17 (24) To enter into agreements with other political
18 subdivisions, in accordance with existing laws, in making
19 joint purchases of materials, supplies or equipment and in
20 performing governmental powers, duties and functions and in
21 carrying into effect provisions of 53 Pa.C.S. Ch. 23 Subch. A
22 (relating to intergovernmental cooperation), and agreements
23 with the proper authorities of municipal corporations,
24 regional police or fire forces or other public safety or
25 governmental entities created by two or more municipal
26 corporations under 53 Pa.C.S. Ch. 23 Subch. A (relating to
27 intergovernmental cooperation), either for mutual aid or
28 assistance in police and fire protection or any other public
29 safety services, or for the furnishing to or receiving from
30 the municipal corporations or governmental entities police

1 and fire protection or any other public safety services, and
2 to make appropriations for public safety services. In
3 connection with agreements for police or fire protection or
4 any other public safety services, it shall not be necessary
5 to advertise for bids or receive bonds as required for
6 contracts under existing law. When an agreement has been
7 entered into, the police, firefighters, fire police or any
8 other public safety services of the employing municipal
9 corporation or governmental entity shall have the powers and
10 authority conferred by law on police, firefighters, fire
11 police or any other public safety services in the territory
12 of the municipal corporation which has contracted to secure
13 the service.

14 (25) To make contracts of insurance, with any mutual or
15 other fire insurance company, association or exchange, duly
16 authorized by law to transact insurance business in this
17 Commonwealth, on any building or property owned or leased by
18 the borough.

19 (26) To provide for other insurance as follows:

20 (i) To appropriate an amount as may be necessary to
21 secure insurance or compensation in accordance with
22 Article VI of the act of June 2, 1915 (P.L.736, No.338),
23 known as the Workers' Compensation Act, for:

24 (A) volunteer firefighters of companies duly
25 recognized by the borough, by motion or resolution,
26 killed or injured while going to, returning from or
27 attending fires or while performing their duties as
28 special fire police; and

29 (B) other borough employees as "employee" is
30 defined in section 601 of the Workers' Compensation

1 Act.

2 (ii) To make contracts of insurance with any
3 insurance company, association or exchange authorized to
4 transact business in this Commonwealth insuring borough
5 employees or any class or classes of employees, or mayor
6 and council or their dependents, under a policy or
7 policies of insurance covering life, health,
8 hospitalization, medical and surgical service or accident
9 insurance.

10 (iii) To contract with an insurance company,
11 granting annuities or pensions, for the pensioning of
12 borough employees or any class or classes of employees,
13 and to agree to pay part or all of the premiums or
14 charges for carrying the contracts and to appropriate
15 money from the borough treasury for those purposes.

16 (iv) To make contracts with any insurance company,
17 association or exchange authorized to transact business
18 in this Commonwealth to insure any public liability of
19 the borough and to appropriate money from the borough
20 treasury for that purpose.

21 (v) Nothing in this paragraph shall affect any
22 contract, right or coverage of insurance vested or
23 existing on July 16, 2012. Contract, as used in this
24 paragraph, includes an annuity contract if the option to
25 renew continues to provide the same rights to the
26 annuitant that existed on July 16, 2012.

27 (27) To contract with a company owning, leasing or
28 operating a light rail or similar transportation system,
29 whether surface, elevated or underground, within the limits
30 of the borough, for the acquisition, leasing or regulation of

1 the franchises, properties, powers, duties and liabilities of
2 the company for the purpose of providing public
3 transportation. A contract may provide that the companies may
4 make payments to the borough in lieu of the performance of
5 certain duties or may include a provision that municipal
6 consent shall not be granted to any other company for the
7 same services covered by the contract. A contract may also
8 provide, subject to any required approval by the Pennsylvania
9 Public Utility Commission and consistent with the
10 jurisdictional limits established under 49 U.S.C. (relating
11 to transportation), for the laying, installation or removal
12 of tracks or lines, to prevent the laying or installation of
13 otherwise authorized tracks or lines or to change the route
14 of any tracks or lines for the consideration and upon
15 conditions as may be agreed upon. Council may acquire,
16 maintain and operate any existing inclined plane passenger
17 transportation facilities and may acquire or may establish
18 vehicular feeder lines for those facilities.

19 (28) To do any of the following:

20 (i) Acquire land or buildings by purchase, gift,
21 exchange or eminent domain.

22 (ii) Erect a building or lease land or buildings,
23 within the borough limits, for community purposes or for
24 public facilities such as comfort and waiting stations
25 and drinking fountains.

26 (iii) Erect watering troughs.

27 (iv) Maintain the public facilities.

28 (v) Provide for the payment of the cost and
29 maintenance of the items under this paragraph from the
30 funds of the borough.

1 (29) To provide a lockup for the temporary detention of
2 persons.

3 (30) To display the flag of the United States or of the
4 Commonwealth, the official POW/MIA flag or the flag of any
5 county, city, borough or other municipality in this
6 Commonwealth on the public buildings or grounds and in public
7 places of the borough.

8 (31) To provide for parking as follows:

9 (i) to acquire by lease, purchase or eminent domain
10 any land that the council may deem necessary or desirable
11 for the purpose of establishing and maintaining parking
12 lots;

13 (ii) to regulate the use of parking lots;

14 (iii) to regulate parking and provide parking
15 accommodations to promote the convenience and protection
16 of the public; and

17 (iv) to establish or designate, at the discretion of
18 the council, areas exclusively reserved for parking by
19 handicapped individuals and to post signs regulating the
20 areas.

21 The right to regulate the use of the lots shall include the
22 right to impose fines and fees for violation of any law or
23 ordinance regulating parking. Regulation of parking lots
24 shall be consistent with 75 Pa.C.S. (relating to vehicles)
25 and the act of October 27, 1955 (P.L.744, No.222), known as
26 the Pennsylvania Human Relations Act.

27 (32) To acquire by purchase or by gift and to repair,
28 supervise, operate and maintain ancient landmarks and other
29 property of historical or antiquarian interest and to make
30 appropriations to nonprofit associations or corporations

1 organized for the purpose of acquiring and maintaining
2 historical properties. The appropriations shall only be used
3 by the association or corporation for the acquisition,
4 restoration and maintenance of the historical properties.

5 (33) To provide against all hazards of war, terrorism
6 and other disasters and their consequences, and for those
7 purposes to have the power of eminent domain, to cooperate
8 with any other unit and agency of government, Federal, State
9 or local in every lawful way for purposes of defense against
10 the hazards of war and terrorism and to further provide
11 against the hazards of manmade or natural disasters in
12 conjunction with the powers applicable to boroughs in 35
13 Pa.C.S. Pt. V (relating to emergency management services).

14 (34) (i) To purchase vehicles and other equipment
15 necessary for the towing of motor vehicles, tractors,
16 trailers, recreational trailers and other vehicles from
17 highways, roads, streets and public property of the
18 borough.

19 (ii) To impose fees for towing if the towing
20 equipment is used for the lawful removal of motor
21 vehicles, tractors, trailers, recreational trailers and
22 other vehicles from highways, roads, streets and public
23 property of the borough.

24 (iii) To authorize or contract with commercial
25 towers that agree to tow vehicles for a negotiated price
26 as the official towers for the borough for the lawful
27 removal of motor vehicles, tractors, trailers,
28 recreational trailers and other vehicles from highways,
29 roads, streets and public property of the borough in
30 accordance with Federal and State law.

1 (iv) To impose fees in the same manner as authorized
2 when the towing is performed with borough vehicles and
3 equipment.

4 A commercial tower that agrees not to charge in excess of the
5 negotiated price and is otherwise lawfully authorized to tow
6 vehicles in accordance with Federal and State law shall be
7 put on an official rotation list for the borough if council
8 provides for a list. This paragraph shall apply only when the
9 borough is requesting a vehicle to be towed. In all other
10 cases, the owner or operator of a vehicle shall be permitted
11 to select and pay for the tower.

12 (35) To purchase or contribute to the purchase of fire
13 engines and fire apparatus, boats, rescue and lifesaving
14 equipment and supplies for the use of the borough for fire,
15 rescue and lifesaving services, including community ambulance
16 service, and to appropriate money for fire companies and
17 rescue units located within the borough, including for the
18 construction, repair and maintenance of buildings for fire
19 companies and rescue units, and to acquire land for those
20 purposes. Appropriations may include funds to establish,
21 equip, maintain and operate lawfully organized or
22 incorporated fire training schools within the county or
23 regional firefighters' associations or an entity created
24 pursuant to 53 Pa.C.S. Ch. 23 Subch. A for the purpose of
25 giving instruction and practical training in the prevention,
26 control and fighting of fire and related fire department
27 emergencies to the members of fire departments and volunteer
28 fire companies in any municipal corporation within this
29 Commonwealth. Annual appropriations may also be made to an
30 ambulance service, or council may enter into contracts for

1 use in providing community ambulance service.

2 (36) To appropriate money for the expense of municipal
3 music.

4 (37) To accept, purchase and plant or contribute to the
5 purchasing and planting of shade trees along the streets and
6 sidewalks of the borough and to have the care, custody and
7 control of shade trees pursuant to Chapter 27 (relating to
8 recreation places, shade trees and forests).

9 (38) To appropriate money for the support of any
10 incorporated hospital that is engaged in charitable work and
11 extends treatment and medical attention to residents of the
12 borough, but no appropriation shall exceed in any year the
13 cost of free service extended to residents of the borough
14 that is in excess of any amount paid by the Commonwealth
15 towards free service.

16 (39) To appropriate money toward the maintenance and
17 support of any medical center or hospital building and
18 further appropriate from the funds toward the purchase and
19 erection of medical or hospital facilities. When the total
20 cost of the purchase or erection exceeds \$100,000, it will
21 necessitate approval by the appropriate health planning
22 agency.

23 (40) To appropriate money annually for the expense of
24 community nurse services to any nonprofit associations or
25 corporations that provide community nursing services for the
26 elderly and other needy persons, the control of communicable
27 disease, the immunization of children, the operation of child
28 health centers (Well-Baby Clinics), instructive visits to
29 parents of new babies, beginning in the prenatal period, and
30 family health guidance, including nutrition, detection and

1 correction of defects all of which relate to the
2 responsibilities of local boards of health.

3 (41) To appropriate in any year out of the general funds
4 of the borough for the observance of holidays or centennials
5 or other anniversaries or for borough celebrations or other
6 civic projects or programs.

7 (42) To appropriate from borough funds money for the
8 handling, storage and distribution of surplus foods obtained
9 through either a Federal, State or local agency. All
10 appropriations of money made by any borough for the handling,
11 storage and distribution of surplus foods obtained through
12 either a Federal, State or local agency are validated.

13 (43) To make appropriations to an industrial development
14 agency.

15 (44) To appropriate money annually to any tourist
16 promotion agency, as defined in the act of July 4, 2008
17 (P.L.621, No.50), known as the Tourism Promotion Act, to
18 assist the agencies in carrying out tourist promotional
19 activities.

20 (45) To appropriate money to assist any municipality or
21 municipal airport authority to acquire, establish, operate
22 and maintain any and all air navigation facilities lying
23 either within or without the limits of the borough.

24 (46) To issue nondebt revenue bonds pursuant to
25 provisions of 53 Pa.C.S. Pt. VII Subpt. B to provide
26 sufficient money for and toward the acquisition,
27 construction, reconstruction, extension or improvement of
28 municipal facilities, including water systems or facilities,
29 sewers, sewer systems and sewage disposal systems or
30 facilities, systems for the treatment or disposal of garbage

1 and refuse, gas plants, gas distribution systems or other FOR <--
2 ITS OWN MUNICIPAL PURPOSES, MUNICIPAL GAS DISTRIBUTION
3 SYSTEMS OR MUNICIPAL gas works, electric light or power
4 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 ~~(60) TO AUTHORIZE:~~ <--

27 ~~(I) ANY BOROUGH TO PURCHASE, OWN, USE, OPERATE AND~~
28 ~~CONTROL ANY natural gas well or wells for the purpose of~~
29 ~~supplying natural gas for its own municipal purposes; and~~

30 ~~(ii) purchase, own, use, operate and control natural~~ <--

1 ~~gas works.~~ A BOROUGH OWNING OR OPERATING A MUNICIPAL GAS <--
2 DISTRIBUTION SYSTEM ON THE EFFECTIVE DATE OF THIS SECTION
3 TO PURCHASE, OWN, USE, OPERATE AND CONTROL MUNICIPAL GAS
4 DISTRIBUTION SYSTEMS.

5 (61) To establish, by ordinance, and maintain a real
6 estate registry for the purpose of procuring accurate
7 information in reference to the ownership of real estate in
8 the borough in a manner not inconsistent with the act of
9 October 9, 2008 (P.L.1400, No.110), known as the Uniform
10 Municipal Deed Registration Act. Council shall designate a
11 person to have charge of the registry who shall cause to be
12 made and carefully preserve all necessary books, maps and
13 plans as may show the location and ownership of every lot,
14 piece of real estate and subdivision of real estate. For
15 purposes of establishing or maintaining the registry, the
16 person in charge of the registry shall have access to public
17 records without charge. Information contained within a real
18 estate registry shall not affect the validity of any
19 municipal claim or tax claim of the borough. Nothing in this
20 paragraph shall prohibit a borough from requiring owners to
21 provide information relevant to the enforcement of any
22 borough ordinance in accordance with law.

23 (62) To manufacture, purchase or otherwise supply
24 electricity pursuant to Chapter 24A (relating to manufacture
25 and supply of electricity).

26 (63) To provide the following:

27 (i) telecommunications services to the extent that
28 provision of services is not inconsistent with 66 Pa.C.S.
29 Ch. 30 (relating to alternative form of regulation of
30 telecommunications services); and

1 (ii) cable television services in a manner
2 consistent with Federal law.

3 (64) To acquire, by purchase or condemnation, or to
4 construct underground conduits within which electrical,
5 communication and other types of wires shall be placed and,
6 by ordinance and subject to approval by the Pennsylvania
7 Public Utility Commission, to regulate the manner and terms
8 and conditions of the use of any underground conduits.
9 Council may define reasonable districts of the borough within
10 which underground conduits shall be used for the placement of
11 wires without the approval of the Pennsylvania Public Utility
12 Commission. The powers reserved by this paragraph shall not
13 be bartered away or surrendered by the borough.

14 (65) In addition to the remedies provided by law for the
15 filing of liens for the collection of municipal claims,
16 including, but not limited to, water rates, sewer rates and
17 the removal of nuisances, to proceed for the recovery and
18 collection of claims by action of assumpsit against the
19 person or persons who were the owner or owners of the
20 property at the time of the completion of the improvement or
21 at the time the water or sewer rates or the cost of the
22 removal of nuisances first became payable, notwithstanding
23 the fact that there was a failure on the part of the borough
24 or its agents to enter the municipal claim as a lien against
25 the property assessed for the improvement, or for the
26 furnishing of water or sewer services and for the removal of
27 nuisances and for the recovery of which the action of
28 assumpsit was brought. The action in assumpsit shall be
29 commenced either within six years after the completion of the
30 improvement from which the claim arises or within six years

1 after the water or sewer rates or the cost of abating a
2 nuisance first became payable.

3 § 1203. Reserved powers.

4 The council may make and adopt all ordinances, bylaws, rules
5 and regulations not inconsistent with or restrained by the
6 Constitution of Pennsylvania and laws of this Commonwealth as
7 may be expedient or necessary for the proper management, care
8 and control of the borough and its finances and the maintenance
9 of peace, good government, safety and welfare of the borough and
10 its trade, commerce and manufactures.

11 CHAPTER 13

12 TAXATION AND FINANCE

13 Sec.

14 1301. Fiscal year.

15 1302. Tax levy.

16 1302.1. Different and separate tax levies.

17 1303. Special levy to pay debts.

18 1304. Special road fund tax.

19 1305. Date tax duplicate to issue.

20 1306. Additions and revisions to duplicates.

21 1307. Preparation of budget.

22 1308. Notice of proposed budget and penalty.

23 1309. Revision and completion of budget.

24 1310. Adoption of budget.

25 1310.1. Tax ordinance.

26 1311. Amending budget and notice.

27 1312. Modification of budget and supplemental appropriations
28 and transfers.

29 1313. Payment from borough funds.

30 1313.1. Creation of special funds and investments.

1 1314. Uniform financial report and forms.

2 1315. Capital improvements to certain public service
3 facilities.

4 1316. Investment of funds.

5 1317. (Reserved).

6 § 1301. Fiscal year.

7 The fiscal year of every borough shall coincide with the
8 calendar year, beginning January 1 and ending December 31.

9 § 1302. Tax levy.

10 (a) Authority.--The council of the borough shall have power,
11 by ordinance, to levy and collect annually a tax not exceeding
12 30 mills for general borough purposes, unless the council by
13 majority action, upon due cause shown by resolution, petitions
14 the court of common pleas, in which case the court may order a
15 rate of not more than five mills additional to be levied and in
16 addition any of the following taxes:

17 (1) An annual tax sufficient to pay interest and
18 principal on any indebtedness incurred pursuant to 53 Pa.C.S.
19 Pt. VII Subpt. B (relating to indebtedness and borrowing) or
20 any prior or subsequent act governing the incurrence of
21 indebtedness of the borough.

22 (2) To provide for pensions, retirement or the purchase
23 of annuity contracts for borough employees, not exceeding
24 one-half mill.

25 (3) To defray the cost and expenses of caring for shade
26 trees as provided in section 2720.1 (relating to maintenance
27 by borough and tax levy) and the expense of publishing the
28 notice referred to in section 2720.1, not exceeding one-tenth
29 mill.

30 (4) For lighting and illuminating the streets, highways

1 and other public places, not exceeding eight mills.

2 (5) For gas, water and electric, not exceeding eight
3 mills, additional millage permitted only following a
4 favorable referendum on the matter held in accordance with
5 the election laws of this Commonwealth.

6 (6) For the purchase of fire engines, fire apparatus and
7 fire hose for the use of the borough or for assisting any
8 fire company in the borough in the purchase, renewal or
9 repair of any of its fire engines, fire apparatus or fire
10 hose, for the purposes of making appropriations to fire
11 companies both within and without the borough and of
12 contracting with adjacent municipalities or volunteer fire
13 companies in adjacent municipalities for fire protection, for
14 the training of fire personnel and payments to fire training
15 schools and centers or for the purchase of land upon which to
16 erect a firehouse, or for the erection and maintenance of a
17 firehouse or fire training school and center, not exceeding
18 three mills. The following shall apply:

19 (i) The borough may appropriate up to one-half, but
20 not to exceed one mill, of the revenue generated from a
21 tax under this paragraph for the purpose of paying
22 salaries, benefits or other compensation of fire
23 suppression employees of the borough or a fire company
24 serving the borough.

25 (ii) If an annual tax for the purposes specified in
26 this paragraph is proposed to be set at a level higher
27 than three mills, the question shall be submitted to the
28 voters of the borough, and the county board of elections
29 shall frame the question in accordance with the election
30 laws of this Commonwealth for submission to the voters of

1 the borough.

2 (7) For building a firehouse, fire training school and
3 center, lockup or municipal building, not exceeding two
4 mills, additional millage permitted only following a
5 favorable referendum on the matter held in accordance with
6 the election laws of this Commonwealth.

7 (8) To establish and maintain a local library or to
8 maintain or aid in the maintenance of a local library
9 established by deed, gift or testamentary provision, for the
10 use of the residents of the borough, in accordance with 24
11 Pa.C.S. Ch. 93 (relating to public library code).

12 (9) For the purpose of supporting ambulance, rescue and
13 other emergency services serving the borough, not to exceed
14 one-half mill, except as provided in subsection (e). The
15 borough may appropriate up to one-half of the revenue
16 generated from a tax under this paragraph for the purpose of
17 paying salaries, benefits or other compensation of employees
18 of the ambulance, rescue or other emergency service.

19 (10) An annual tax sufficient for the purpose of
20 maintaining and operating recreation places or for paying the
21 borough's share of a joint action with one or more political
22 subdivisions, in accordance with section 2701 (relating to
23 general powers).

24 (b) Amount.--The taxes shall be levied on the dollar on the
25 valuation assessed for county purposes, as now is or may be
26 provided by law. All real property, offices, professions and
27 persons made taxable by the laws of this Commonwealth for county
28 rates and levies may, in the discretion of council, be taxed
29 after the same manner for those purposes. An action on the part
30 of the borough authorities fixing the tax rate for any year at a

1 mill rate shall not be required to include a statement
2 expressing the rate of taxation in dollars and cents on each
3 \$100 of assessed valuation of taxable property.

4 (c) Use of taxes for general purposes.--Nothing contained in
5 this section may prevent the application of money received from
6 taxes levied for general purposes to the purposes of paying
7 interest and sinking fund charges on indebtedness.

8 (d) Proceeds.--The proceeds of all taxes for which
9 additional millage is authorized under this section shall be
10 kept in a separate fund and used only for the purposes provided
11 under this section. The additional taxes authorized by
12 referendum shall continue to be levied annually for the period
13 provided under this section in the question submitted in the
14 referendum and, if any taxes for which the question voted upon
15 shall not have stated the duration of the tax, until the tax
16 shall be abolished by vote of the electors in a subsequent
17 referendum.

18 (e) Tax for ambulance and rescue squads.--The tax for
19 supporting ambulance and rescue squads serving the borough shall
20 not exceed the rate specified in subsection (a) (9) except when
21 the question is submitted to the voters of the borough in the
22 form of a referendum which will appear on the ballot in
23 accordance with the election laws of the Commonwealth, in which
24 case the rate shall not exceed two mills. The county board of
25 elections shall frame the question to be submitted to the voters
26 of the borough in accordance with the election laws of this
27 Commonwealth.

28 § 1302.1. Different and separate tax levies.

29 (a) General rule.--A borough may in any year levy separate
30 and different rates of taxation for municipal purposes on all

1 real estate classified as nonfarmland, exclusive of the
2 buildings on the real estate, and on all real estate classified
3 as either buildings on land or farmland. When real estate tax
4 rates are so levied:

5 (1) The rates shall be determined by the requirements of
6 the borough budget.

7 (2) A higher rate may be levied on real estate
8 classified as nonfarmland than on real estate classified as
9 either buildings on land or farmland if the respective rates
10 on nonfarmland and on buildings or farmland are so fixed as
11 not to constitute a greater levy in the aggregate than the
12 levy to result from the maximum rate allowed by law on all
13 real estate.

14 (3) The rates shall be uniform as to all real estate
15 within the classification.

16 (b) Nonseverability.--Notwithstanding section 104 (relating
17 to constitutional construction), the provisions of this section
18 are nonseverable. If any provision of this section or its
19 application to any person or circumstance is held invalid, the
20 remaining provisions or applications of this section are void.

21 (c) Definitions.--As used in this section, the following
22 words and phrases shall have the meanings given to them in this
23 subsection:

24 "Farmland." Any tract of land that is actively devoted to
25 agricultural use, including, but not limited to, the commercial
26 production of crops, livestock and livestock products as defined
27 in section 3 of the act of June 30, 1981 (P.L.128, No.43), known
28 as the Agricultural Area Security Law.

29 "Nonfarmland." Any tract of land that is not farmland.
30 § 1303. Special levy to pay debts.

1 In addition to the levies provided for in section 1302.1
2 (relating to different and separate tax levies) if the council
3 refuses or neglects to levy a sufficient tax to pay the debts
4 due by the borough, a court may, after ascertaining the amount
5 of the indebtedness of the borough, direct a writ of mandamus to
6 the proper officers of the borough to collect by special
7 taxation an amount sufficient to pay the indebtedness in one or
8 more annual installments, as determined reasonable by the court.
9 § 1304. Special road fund tax.

10 (a) Authority.--Any borough shall be empowered, within its
11 general power to levy taxes, to collect annually a tax upon all
12 real property taxable for borough purposes, not to exceed five
13 mills on the dollar in any one year, for the purpose of creating
14 and maintaining a special fund to be used by its borough in
15 making permanent street improvements and to pay contract prices
16 for paving and other permanent street improvements, prior to the
17 collection of the cost and expense from the property owners
18 adjoining or abutting the property by the borough under existing
19 laws.

20 (b) Application.--If the cost and expense or any part of the
21 cost and expense of the construction of any permanent street
22 improvement, which has been made under existing laws and which
23 has been aided in its construction from the special fund
24 provided for under this section, has been assessed and collected
25 from the owners of the real property adjoining or abutting upon
26 the improvement, it shall be applied to the credit of the
27 special fund, to the extent of the withdrawal from the special
28 fund for that purpose.

29 § 1305. Date tax duplicate to issue.

30 Council shall, within 30 days after adoption of the budget or

1 within 30 days after receipt of the assessment roll from the
2 county, whichever is later, issue their duplicate of taxes
3 assessed to the collector of taxes of the borough.

4 § 1306. Additions and revisions to duplicates.

5 (a) Inspection and reassessment.--If in any borough there is
6 any construction of a building or buildings not otherwise exempt
7 as a dwelling after the council has prepared a duplicate of the
8 assessment of borough taxes and the building is not included in
9 the tax duplicate of the borough, the county assessment office
10 shall, upon the request of the council, direct the assessor in
11 the county assessment office to inspect and reassess, subject to
12 the right of appeal and adjustment provided by statute, all
13 taxable property in the borough to which major improvements have
14 been made after the original duplicates were prepared and to
15 give notice of the reassessments within ten days to the
16 authority responsible for assessments, the borough and the
17 property owner. The real property shall then be added to the
18 duplicate and shall be taxable for borough purposes at the
19 reassessed valuation for that proportionate part of the fiscal
20 year of the borough remaining after the real property was
21 improved. Any improvement made during the month shall be
22 computed as having been made on the first of the month.

23 (b) Copy of additions or revisions.--A certified copy of the
24 additions or revisions to the duplicate shall be furnished by
25 the council to the borough tax collector, together with their
26 warrant for collection of the taxes, and, within ten days, the
27 borough tax collector shall notify the owner of the real
28 property of the taxes due to the borough.

29 § 1307. Preparation of budget.

30 Beginning at least 30 days prior to the adoption of the

1 budget, a proposed budget or annual estimate of revenues and
2 expenditures for the ensuing year shall be prepared in a manner
3 designated by the council. The proposed budget shall be kept on
4 file with the borough secretary and be made available for public
5 inspection by the borough secretary for a period of ten days.
6 § 1308. Notice of proposed budget and penalty.

7 (a) Notice.--Notice that the proposed budget is available
8 for inspection shall be published by the borough secretary in a
9 newspaper of general circulation, except in boroughs in which
10 the estimated budget receipts are less than \$50,000 in 2012,
11 where, in lieu of the newspaper publications, notice may be
12 conspicuously posted during the ten-day period in a place
13 readily viewable by the public at the office of the borough
14 secretary and with further notice as shall be prescribed by
15 council.

16 (b) Failure.--Any borough secretary who fails or refuses to
17 give the notice that the proposed budget is available for
18 inspection, as required, shall, upon conviction in a summary
19 proceeding, be sentenced to pay a fine not exceeding \$100 and
20 costs of prosecution.

21 § 1309. Revision and completion of budget.

22 After the expiration of the ten days, council shall make the
23 revision in the budget as deemed advisable. The budget must be
24 as comprehensive and exact as the information available will
25 permit. In addition to expenditures proposed for the current
26 fiscal year, council may include as proposed expenditures a sum
27 sufficient to pay any existing indebtedness and to pay the
28 ordinary operating expenses for the subsequent year until the
29 taxes of the subsequent year are received and may also include a
30 sum to provide in whole or in part for any deferred maintenance,

1 depreciation and replacements. Within the tax levy and debt
2 limitations, council may also include, in whole or in part,
3 expenditures for capital investments and purchases. Expenditures
4 of a legislative character must be made, authorized or ratified
5 by ordinance. Other expenditures allowed by law may be made or
6 ratified by motion in council. The expenditures, whether by
7 ordinance or motion, must then be considered as appropriations
8 affecting the budget. A balance of revenues over expenditures
9 may be expended in a subsequent year for a lawful purpose.

10 § 1310. Adoption of budget.

11 Upon completion of the budget containing the estimated
12 receipts and expenditures, the council shall adopt the budget by
13 motion of the council, which may not be later than December 31.

14 § 1310.1. Tax ordinance.

15 After council has adopted the budget, it is the duty of the
16 council to enact an ordinance levying the taxes referred to in
17 this part for the fiscal year subject to approval of the mayor
18 or enactment over the mayor's veto under the procedure
19 established in section 3301.3(c) (relating to enactment,
20 approval and veto).

21 § 1311. Amending budget and notice.

22 During the month of January next following a municipal
23 election, the council of a borough may amend the budget and the
24 levy and tax rate to conform with its amended budget. A period
25 of ten days' public inspection at the office of the borough
26 secretary of the proposed amended budget, after notice by the
27 borough secretary to that effect is published once in a
28 newspaper of general circulation, must intervene between the
29 proposed amended budget and its adoption. An amended budget must
30 be adopted by council on or before the 15th day of February.

1 § 1312. Modification of budget and supplemental appropriations
2 and transfers.

3 The council in its reasonable discretion may, in any year, by
4 motion, modify the budget after its final adoption. New
5 appropriations, supplementary appropriations and transfers from
6 one appropriation to another may be made during the fiscal year,
7 either before or after the expenditure is authorized or ratified
8 after the expenditure is made, if it is within the current
9 year's revenues, or the money is promptly made available through
10 borrowing as allowed by law.

11 § 1313. Payment from borough funds.

12 The payments made by the council from the borough funds must
13 be made by proper borough orders, drawn upon the treasurer. No
14 borough order may be authorized by council or signed by the
15 president or secretary of a council unless there are sufficient
16 funds in the treasury of the borough to pay the order, and no
17 orders may be made payable at any time in the future or draw
18 interest. A separate borough order must be drawn for each
19 account or payment.

20 § 1313.1. Creation of special funds and investments.

21 Council may set aside in a separate fund any money received
22 out of or from the sale, lease or other disposition of any
23 borough property or received from any source unless the money
24 was received or acquired for a particular purpose. The fund must
25 be controlled, invested and administered, and the income arising
26 from the fund expended, in the manner as may be determined by
27 action of the council under the ordinance creating the fund. The
28 ordinance may provide that only the income from the fund may be
29 used or expended, and that neither principal nor any part of the
30 principal may be used or expended unless upon authorization of a

1 majority vote of the qualified electors of the borough. The
2 ordinances previously enacted by a borough creating and
3 establishing a separate fund as authorized by this section must
4 be deemed and taken as valid and effectual for all purposes if
5 the other requirements of law concerning the enactment of the
6 separate fund have been complied with.

7 § 1314. Uniform financial report and forms.

8 (a) Preparation of uniform forms.--The uniform forms for the
9 annual financial statement required to be made by the auditors
10 or the controller must be prepared by a committee consisting of
11 four representatives from the Pennsylvania State Association of
12 Boroughs, the Secretary of Community and Economic Development,
13 or the secretary's designee, and any additional members
14 appointed under statute.

15 (b) Appointment of representatives.--The representatives of
16 boroughs must be appointed by the president of the Pennsylvania
17 State Association of Boroughs. The representatives shall be
18 chosen from among the finance officers or other officers of the
19 borough who have knowledge of the borough's fiscal procedures.
20 As far as possible, they must be chosen to represent boroughs in
21 the various population groups. The president of the organization
22 shall supply to the Department of Community and Economic
23 Development the names and addresses of the representatives
24 immediately upon their appointment.

25 (c) Compensation of representatives.--The representatives
26 shall serve without compensation but shall be reimbursed by the
27 Commonwealth for the necessary expenses incurred in attending
28 meetings of the committee.

29 (d) Meetings.--The committee shall meet from time to time as
30 conditions may warrant at the call of the Secretary of Community

1 and Economic Development, or the secretary's designee, who shall
2 serve as chair of the committee.

3 (e) Duty of secretary and cooperation.--It shall be the duty
4 of the Secretary of Community and Economic Development, or the
5 secretary's designee, to ensure that the forms required by this
6 chapter are prepared in cooperation with the committee. In the
7 event that the committee should for any reason fail to furnish
8 the cooperation, the Secretary of Community and Economic
9 Development, or the secretary's designee, shall prepare the
10 forms. After their preparation, the secretary shall issue the
11 forms and distribute them annually, as needed to the proper
12 officers of each borough.

13 § 1315. Capital improvements to certain public service
14 facilities.

15 (a) Authority.--For the purpose of financing the cost and
16 expense or its share of the cost and expense of capital
17 improvements, including the purchase and installation of
18 machinery and equipment, by altering, improving or enlarging any
19 of the following, a borough owning the plant or facility may
20 issue nondebt revenue bonds as provided in section 1202(46)
21 (relating to specific powers):

22 (1) its sewer, sewer system or sewage treatment works,
23 either singly or jointly, with other municipalities;

24 (2) its water works, either singly or jointly, with
25 other municipalities;

26 (3) its electric power plant or power distribution
27 system; or

28 (4) its gas plant, gas distribution system ~~or other~~ FOR <--
29 ITS OWN MUNICIPAL PURPOSES, MUNICIPAL GAS DISTRIBUTION SYSTEM
30 OR MUNICIPAL gas works.

1 (b) Rates.--A borough issuing nondebt revenue bonds under
2 the authority of this section shall adjust and, when necessary,
3 increase the rates of rentals or charges pledged as security for
4 the bonds in order to provide sufficient revenue. The revenue
5 must be set aside as reserve funds to cover depreciation of the
6 properties involved and for future improvements to the plant or
7 facility involved as well as for the payment of the interest on
8 the bonds and the principal at the time of maturity.

9 § 1316. Investment of funds.

10 (a) Duty of council.--Council shall invest borough funds
11 consistent with sound business practice.

12 (b) Investment program.--Council shall provide for an
13 investment program subject to restrictions contained in this
14 part and in another applicable statute and any rules and
15 regulations adopted by council.

16 (c) Authorized types of investments.--Authorized types of
17 investments for borough funds are:

18 (1) United States Treasury bills.

19 (2) Short-term obligations of the United States
20 Government or its agencies or instrumentalities.

21 (3) Deposits in savings accounts or time deposits, other
22 than certificates of deposit, or share accounts of
23 institutions insured by the Federal Deposit Insurance
24 Corporation or the National Credit Union Share Insurance Fund
25 to the extent that the accounts are so insured, and, for the
26 amounts above the insured maximum, if approved collateral as
27 provided by law shall be pledged by the depository.

28 (4) Obligations of:

29 (i) the United States or its agencies or
30 instrumentalities backed by the full faith and credit of

1 the United States;

2 (ii) the Commonwealth or its agencies or
3 instrumentalities backed by the full faith and credit of
4 the Commonwealth; or

5 (iii) a political subdivision of the Commonwealth or
6 its agencies or instrumentalities backed by the full
7 faith and credit of the political subdivision.

8 (5) Shares of an investment company registered under the
9 Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. §
10 80a-1 et seq.), whose shares are registered under the
11 Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a et
12 seq.), if the only investments of the company are in the
13 authorized investments for borough funds listed in paragraphs
14 (1) through (4).

15 (6) Certificates of deposit purchased from institutions
16 insured by the Federal Deposit Insurance Corporation or the
17 National Credit Union Share Insurance Fund to the extent that
18 the accounts are so insured. For amounts above the insured
19 maximum, the certificates of deposit must be collateralized
20 by a pledge or assignment of assets of the institution, and
21 the collateral may include loans, including interest in pools
22 of loans, secured by first mortgage liens on real property.
23 Certificates of deposit purchased from commercial banks must
24 be limited to an amount equal to 20% of a bank's total
25 capital and surplus. Certificates of deposit purchased from
26 savings and loan associations or savings banks must be
27 limited to an amount equal to 20% of an institution's assets
28 minus liabilities.

29 (7) An investment authorized by 20 Pa.C.S. Ch. 73
30 (relating to municipalities investments) must be an

1 authorized investment for a pension or retirement fund.

2 (8) Bonds of a municipal authority or parking authority
3 created solely by the borough for the purpose of either
4 investment or possible retirement of the bonds and
5 acquisition of authority projects at an earlier date than
6 originally contemplated, using for the purpose either surplus
7 funds of the borough or money appropriated in the annual
8 budget for the purpose.

9 (d) In making investments of borough funds, council has
10 authority to:

11 (1) Permit assets pledged as collateral under subsection
12 (c) (3), to be pooled in accordance with the act of August 6,
13 1971 (P.L.281, No.72), entitled "An act standardizing the
14 procedures for pledges of assets to secure deposits of public
15 funds with banking institutions pursuant to other laws;
16 establishing a standard rule for the types, amounts and
17 valuations of assets eligible to be used as collateral for
18 deposits of public funds; permitting assets to be pledged
19 against deposits on a pooled basis; and authorizing the
20 appointment of custodians to act as pledgees of assets."

21 (2) Combine money from more than one fund under borough
22 control for the purchase of a single investment, if each of
23 the funds combined for the purpose shall be accounted for
24 separately in all respects and the earnings from the
25 investment are separately and individually computed and
26 recorded and credited to the accounts from which the
27 investment was purchased.

28 (3) Join with one or more other political subdivisions
29 and municipal authorities in accordance with 53 Pa.C.S. Ch.
30 23 Subch. A (relating to intergovernmental cooperation) in

1 the purchase of a single investment, provided the
2 requirements of paragraph (2) are adhered to regarding
3 separate accounting of individual funds and separate
4 computation, recording and crediting of the earnings from the
5 funds.

6 § 1317. (Reserved).

7 CHAPTER 14

8 CONTRACTS

9 Sec.

10 1401. Power to make contracts.

11 1402. Regulation of contracts.

12 1403. Evasion of advertising requirements.

13 1404. Personal interest in contracts or purchases.

14 1404.1. Purchase contracts for petroleum products and fire
15 company, etc., participation.

16 1405. Separate bids for plumbing, heating, ventilating and
17 electrical work.

18 1406. Bonds for the protection of labor and materials.

19 1407. (Reserved).

20 1408. (Reserved).

21 1409. (Reserved).

22 1410. Acceptance by contractor of Workers' Compensation Act.

23 1411. (Reserved).

24 § 1401. Power to make contracts.

25 (a) Authority of borough.--Each borough may make contracts
26 for lawful purposes and for the purposes of carrying into
27 execution this part and laws of this Commonwealth.

28 (b) Contracts and purchases.--Except as otherwise
29 specifically provided in this title, all contracts and purchases
30 must be made with and from the lowest qualified and responsible

1 bidder. In awarding contracts and making purchases, council has
2 the right to take into consideration such factors as the
3 availability, cost and quality of service and may establish
4 prequalification standards for contracts and purchases. A
5 prequalification standard must be reasonably designed to assist
6 council in determining the ability of a bidder to successfully
7 complete a contract or purchase.

8 (c) Electronic submission of bids.--A borough may permit the
9 electronic submission of bids and may receive bids
10 electronically for competitively bid purchases and contracts
11 pursuant to 62 Pa.C.S. Ch. 46 (relating to electronic bidding by
12 local government units).

13 § 1402. Regulation of contracts.

14 (a) Requirements.--All contracts or purchases in excess of
15 the base amount of \$18,500, subject to adjustment under
16 subsection (a.2), except those mentioned in this section and
17 except as provided by the act of October 27, 1979 (P.L.241,
18 No.78), entitled, as amended, "An act authorizing political
19 subdivisions, municipality authorities and transportation
20 authorities to enter into contracts for the purchase of goods
21 and the sale of real and personal property where no bids are
22 received," shall not be made except with and from the lowest
23 qualified and responsible bidder after due notice in one
24 newspaper of general circulation, at least two times at
25 intervals of not less than three days where daily newspapers of
26 general circulation are available for publication and, in case
27 of weekly newspapers, notice once a week for two successive
28 weeks. The first advertisement shall be published not more than
29 45 days and the second advertisement not less than ten days
30 prior to the date fixed for the opening of bids. Advertisements

1 for contracts or purchases must also be posted in a conspicuous
2 place within the borough. Advertisements for contracts and
3 purchases must contain the date, time and location for opening
4 of bids and must state the amount of the performance bond
5 determined under subsection (c). The amount of the contract must
6 in all cases, whether of straight sale price, conditional sale,
7 lease, lease purchase or otherwise, be the entire amount which
8 the borough pays to the successful bidder or the bidder's
9 assigns in order to obtain the services or property, or both,
10 and may not be construed to mean only the amount that is paid to
11 acquire title or to receive another particular benefit of the
12 whole bargain.

13 (a.1) Price quotations.--Written or telephonic price
14 quotations from at least three qualified and responsible
15 contractors must be requested for contracts in excess of the
16 base amount of \$10,000, subject to adjustment under subsection
17 (a.2), and less than the amount requiring advertisement and
18 competitive bidding, or, in lieu of price quotations, a
19 memorandum must be kept on file showing that fewer than three
20 qualified contractors exist in the market area within which it
21 is practicable to obtain quotations. A written record of
22 telephonic price quotations must be made and must contain at
23 least the date of the quotation, the name of the contractor and
24 the contractor's representative, the construction,
25 reconstruction, repair, maintenance or work that was the subject
26 of the quotation and the price. Written price quotations,
27 written records of telephonic price quotations and memoranda
28 must be retained for a period of three years. Written price
29 quotations as used throughout this section include electronic
30 mail.

1 (a.2) Adjustments to base amounts.--Adjustments to the base
2 amounts specified under subsections (a) and (a.1) must be made
3 as follows:

4 (1) The Department of Labor and Industry shall determine
5 the percentage change in the Consumer Price Index for All
6 Urban Consumers: All Items (CPI-U) for the United States City
7 Average as published by the United States Department of
8 Labor, Bureau of Labor Statistics, for the 12-month period
9 ending September 30, 2012, and for each successive 12-month
10 period.

11 (2) If the department determines that there is no
12 positive percentage change, then no adjustment to the base
13 amounts may occur for the relevant time period provided for
14 in this subsection.

15 (3) (i) If the department determines that there is a
16 positive percentage change in the first year that the
17 determination is made under paragraph (1), the positive
18 percentage change must be multiplied by each base amount,
19 and the products must be added to the base amounts,
20 respectively, and the sums must be preliminary adjusted
21 amounts.

22 (ii) The preliminary adjusted amounts must be
23 rounded to the nearest \$100 to determine the final
24 adjusted base amounts for purposes of subsections (a) and
25 (a.1).

26 (4) In each successive year in which there is a positive
27 percentage change in the CPI-U for the United States City
28 Average, the positive percentage change must be multiplied by
29 the most recent preliminary adjusted amounts, and the
30 products must be added to the preliminary adjusted amount of

1 the prior year to calculate the preliminary adjusted amounts
2 for the current year. The sums must be rounded to the nearest
3 \$100 to determine the new final adjusted base amounts for
4 purposes of subsections (a) and (a.1).

5 (5) The determinations and adjustments required under
6 this subsection must be made in the period between October 1
7 and November 15 of each year.

8 (6) The final adjusted base amounts and new final
9 adjusted base amounts obtained under paragraphs (3) and (4)
10 become effective January 1 for the calendar year following
11 the year in which the determination required under paragraph
12 (1) is made.

13 (7) The department shall publish notice in the
14 Pennsylvania Bulletin prior to January 1 of each calendar
15 year of the annual percentage change determined under
16 paragraph (1) and the unadjusted or final adjusted base
17 amounts determined under paragraphs (3) and (4) at which
18 competitive bidding is required under subsection (a) and
19 written or telephonic price quotations are required under
20 subsection (a.1), respectively, for the calendar year
21 beginning January 1 after publication of the notice. The
22 notice must include a written and illustrative explanation of
23 the calculations performed by the department in establishing
24 the unadjusted or final adjusted base amounts under this
25 subsection for the ensuing calendar year.

26 (8) The annual increase in the preliminary adjusted base
27 amounts obtained under paragraphs (3) and (4) may not exceed
28 3%.

29 (b) Awarding contracts and authority of council.--

30 (1) The award of contracts must be made by public

1 announcement at the meeting at which bids are received, or at
2 a subsequent meeting, the time and place of which shall be
3 publicly announced when bids are received. If for any reason
4 one or both of the meetings are not held, the same business
5 may be transacted at a subsequent meeting if at least five
6 days' notice shall be published in the newspaper of general
7 circulation. At council's request, the bids advertised for
8 must be accompanied by cash, money order, a certified or
9 cashier's good faith check or other irrevocable letter of
10 credit drawn upon a bank authorized to do business in this
11 Commonwealth or by a bond with corporate surety in the amount
12 as council determines, and, when requested, no bid may be
13 considered unless so accompanied.

14 (2) Notwithstanding paragraph (1), council may direct
15 that a committee of council, a member of council or a member
16 of the borough staff receive, open and review bids during
17 normal business hours and forward the information to council
18 for subsequent award at a public meeting. Bidders must be
19 notified and other interested parties, upon request, must be
20 notified of the date, time and location of the opening of
21 bids and may be present when the bids are opened.

22 (c) Security.--The successful bidder when advertising is
23 required may, at the discretion of council, be required to
24 furnish a bond or irrevocable letter of credit or other security
25 with suitable reasonable requirements guaranteeing the work to
26 be done with sufficient surety in an amount as determined by
27 council that must be not less than 10% nor more than 100% of the
28 amount of the liability under the contract within 20 days after
29 the contract has been awarded, unless council shall prescribe a
30 shorter period of not less than ten days, and, upon failure to

1 furnish the security within the time, the previous award is
2 void. Deliveries, accomplishment and guarantees may be required
3 in all cases of expenditures.

4 (d) Contracts or purchases.--The contracts or purchases made
5 by council, which shall not require advertising, bidding or
6 price quotations as provided in this part, are as follows:

7 (1) Those for maintenance, repairs or replacements for
8 water, electricity or public works of the borough, if they do
9 not constitute new additions, extensions or enlargements of
10 existing facilities and equipment, but security may be
11 required by council, as in other cases of work done.

12 (2) Those made for improvements, repairs and maintenance
13 of any kind, made or provided by a borough, through its own
14 employees, if the materials used for street improvement,
15 maintenance or construction in excess of the amount specified
16 or adjusted under subsection (a.1) are subject to the
17 relevant price quotation or advertising requirements
18 contained in this section.

19 (3) Those under which particular types, models or pieces
20 of new equipment, articles, apparatus, appliances, computer
21 software, vehicles or parts of vehicles are desired by
22 council, which are patented and manufactured or copyrighted
23 products.

24 (3.1) Those for used equipment, articles, apparatus,
25 appliances, vehicles or parts of vehicles being purchased
26 from a public utility, municipal corporation, county, school
27 district, municipal authority, council of government or
28 Federal or State Government.

29 (4) (i) Those involving a policy of insurance or a
30 surety company bond.

1 (ii) Those made for utility service for borough
2 purposes, including, but not limited to, those made for
3 natural gas or telecommunications services.

4 (iii) Those made for electricity with the entities
5 set forth in paragraph (6) (i), (ii), (iii), (iv), (v),
6 (vi) and (vii) (A).

7 (iv) Those made with another political subdivision,
8 or a county, or council of government, consortium,
9 cooperative or other similar entity created under 53
10 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
11 cooperation) or the Commonwealth, the Federal Government,
12 an agency of the Commonwealth or the Federal Government,
13 or a municipal authority, including the sale, lease or
14 loan of any supplies or materials by the Commonwealth or
15 the Federal Government or their agencies. The price may
16 not be in excess of that fixed by the Commonwealth, the
17 Federal Government or their agencies.

18 (5) Those involving personal or professional services.

19 (6) Those made relating to the purchase of electricity
20 and associated energy and related services by a borough
21 owning or operating electric generation or distribution
22 facilities on January 1, 1966, with any of the following:

23 (i) A political subdivision.

24 (ii) Another state.

25 (iii) The Commonwealth or a Commonwealth agency.

26 (iv) The Federal Government.

27 (v) A private corporation.

28 (vi) An electric cooperative corporation under 15
29 Pa.C.S. Ch. 73 (relating to electric cooperative
30 corporations).

1 (vii) A nonprofit membership corporation. As used in
2 this subparagraph, the term "nonprofit membership
3 corporation" means an entity, the membership of which:

4 (A) consists solely of Commonwealth boroughs,
5 such as a consortium, buying group or municipal power
6 agency under section 24A04 (relating to municipal
7 power agencies); or

8 (B) consists of Commonwealth boroughs and
9 political subdivisions of another state.

10 (viii) An electric cooperative of another state.

11 Nothing in this paragraph prohibits council from engaging in
12 advertising, bidding or price quotations if the council
13 determines that the advertising, bidding or price quotations
14 are in the public interest.

15 (e) Council shall award contracts subject to the
16 requirements of and may exercise any powers granted by the
17 following acts to the extent applicable:

18 (1) The act of August 15, 1961 (P.L.987, No.442), known
19 as the Pennsylvania Prevailing Wage Act.

20 (2) The act of December 20, 1967 (P.L.869, No.385),
21 known as the Public Works Contractors' Bond Law of 1967.

22 (3) The act of January 17, 1968 (P.L.11, No.5), known as
23 The Minimum Wage Act of 1968.

24 (4) The act of January 23, 1974 (P.L.9, No.4), referred
25 to as the Public Contract Bid Withdrawal Law.

26 (5) The act of March 3, 1978 (P.L.6, No.3), known as the
27 Steel Products Procurement Act.

28 (6) The act of February 17, 1994 (P.L.73, No.7), known
29 as the Contractor and Subcontractor Payment Act.

30 (7) 62 Pa.C.S. Pt. II (relating to general procurement

1 provisions).

2 (f) Prohibition.--No person, consultant, firm or corporation
3 contracting with the borough for purposes of rendering personal
4 or professional services to the borough may share with a borough
5 officer or employee, and no borough officer or employee may
6 accept, a portion of the compensation or fees paid by the
7 borough for the contracted services provided to the borough
8 except under the following terms or conditions:

9 (1) Full disclosure of the relevant information
10 regarding the sharing of the compensation or fees must be
11 made to the council of the borough.

12 (2) The council of the borough must approve the sharing
13 of a fee or compensation for personal or professional
14 services prior to the performance of the services.

15 (3) No fee or compensation for personal or professional
16 services may be shared except for work actually performed.

17 (4) No shared fee or compensation for personal or
18 professional services may be paid at a rate in excess of that
19 commensurate for similar personal or professional services.

20 § 1403. Evasion of advertising requirements.

21 (a) Prohibition.--

22 (1) No member of council may evade section 1402
23 (relating to regulation of contracts) as to advertising for
24 bids by purchasing or contracting for services and personal
25 properties piecemeal for the purpose of obtaining prices
26 under the amount specified or adjusted under section 1402(a)
27 upon transactions, which transactions should, in the exercise
28 of reasonable discretion and prudence, be conducted as one
29 transaction amounting to more than the amount specified or
30 adjusted under section 1402(a).

1 (2) This subsection is intended to make unlawful the
2 evading of advertising requirements by making a series of
3 purchases or contracts, each for less than the advertising
4 requirement price, or by making several simultaneous
5 purchases or contracts, each below the price, when, in either
6 case, the transactions involved should have been made as one
7 transaction for one price.

8 (3) Any members of council who vote in violation of this
9 subsection and know that the transaction upon which they vote
10 is or should be a part of a larger transaction and is being
11 divided in order to evade the requirements as to advertising
12 for bids shall be jointly and severally subject to surcharge
13 for 10% of the full amount of the contract or purchase.

14 (4) If it appears that a member of council may have
15 voted in violation of this section, but the purchase or
16 contract on which the member of council voted was not
17 approved by council, this section shall not apply.

18 (b) Penalty.--Any council member who votes to unlawfully
19 evade the provisions of section 1402 and knows that the
20 transaction upon which the member voted is or should be a part
21 of a larger transaction and is being divided in order to evade
22 the requirements as to advertising for bids commits a
23 misdemeanor of the third degree for each contract entered into
24 as a direct result of that vote. The penalty under this
25 subsection shall be in addition to a surcharge that may be
26 assessed under subsection (a).

27 § 1404. Personal interest in contracts or purchases.

28 Elected and appointed borough officials and borough employees
29 are restricted from an interest in borough contracts and
30 purchases to the extent provided in 65 Pa.C.S. Ch. 11 (relating

1 to ethics standards and financial disclosure).

2 § 1404.1. Purchase contracts for petroleum products and fire
3 company, etc., participation.

4 The council of each borough shall have power to permit,
5 subject to terms and conditions as it may and, as specifically
6 provided, shall, prescribe, a paid or volunteer fire company,
7 paid or volunteer rescue company and paid or volunteer ambulance
8 company in the borough to participate in purchase contracts for
9 petroleum products entered into by the borough. A company
10 desiring to participate in purchase contracts shall file with
11 the borough secretary a request to authorize it to participate
12 in contracts for the purchase of petroleum products of the
13 borough and agreeing that it will be bound by the terms and
14 conditions as the borough may and, as specifically provided,
15 shall, prescribe and that it will be responsible for payment
16 directly to the vendor under each purchase contract. Among the
17 terms and conditions, the borough shall prescribe that the
18 prices must be F.O.B. destination.

19 § 1405. Separate bids for plumbing, heating, ventilating and
20 electrical work.

21 If, in the preparation for the erection, construction and
22 alteration of a public building, the entire cost of the work
23 exceeds the amount specified or adjusted under section 1402(a)
24 (relating to regulation of contracts), the architect, engineer
25 or other person preparing the specifications may, if requested
26 by the council, prepare separate specifications for the
27 plumbing, heating, ventilating and electrical work. The person
28 authorized to enter into contracts for the erection,
29 construction or alteration of the public buildings may, if the
30 separate specifications have been proposed, receive separate

1 bids upon each of the branches of work and shall award the
2 contract to the lowest responsible bidder for each of the
3 branches.

4 § 1406. Bonds for the protection of labor and materials.

5 Before a contract exceeding \$10,000 is awarded to a prime
6 contractor or construction manager for the construction,
7 erection, installation, completion, alteration, repair of or
8 addition to a public work or improvement of any kind, the
9 contractor shall furnish to the borough a payment bond for the
10 protection of claimants supplying labor or materials to the
11 prime contractor to whom the contract is awarded, at 100% of the
12 contract amount, conditioned for the prompt payment of the
13 materials furnished or labor supplied or performed in the
14 prosecution of the contract under the act of December 20, 1967
15 (P.L.869, No.385), known as the Public Works Contractors' Bond
16 Law of 1967. The bond requirement is in addition to any other
17 bond requirement required by law to be given in connection with
18 the contract.

19 § 1407. (Reserved).

20 § 1408. (Reserved).

21 § 1409. (Reserved).

22 § 1410. Acceptance by contractor of Workers' Compensation Act.

23 (a) Contract provision.--A contract executed by a borough or
24 an officer of a borough, which involves the construction or
25 doing of work involving the employment of labor, must contain a
26 provision that the contractor shall accept, insofar as the work
27 covered by the contract is concerned, the provisions of the act
28 of June 2, 1915 (P.L.736, No.338), known as the Workers'
29 Compensation Act, and the supplements and amendments to the
30 Workers' Compensation Act, and that the contractor will insure

1 his liability under the act and will file with the borough with
2 which the contract is made a certificate of insurance providing
3 evidence of the coverage or file with the borough with which the
4 contract is made a certificate of exemption from insurance from
5 the Bureau of Workers' Compensation of the Department of Labor
6 and Industry. The certificate of exemption from insurance may be
7 issued on the basis of either individual self-insurance or group
8 self-insurance. Additionally, a contractor shall file with the
9 borough with which the contract is made any applications to be
10 excepted by the provisions of the Workers' Compensation Act in
11 respect to certain employees on religious grounds if the
12 applications have been accepted by the Department of Labor and
13 Industry.

14 (b) Violation.--A contract executed in violation of
15 subsection (a) is null and void.
16 § 1411. (Reserved).

17 CHAPTER 15

18 EMINENT DOMAIN, ASSESSMENT OF DAMAGES AND

19 DAMAGES FOR INJURY TO PROPERTY

20 Subchapter

21 A. General Provisions Relating to Eminent Domain

22 B. Procedure for Assessment of Benefits by Viewers

23 (Reserved)

24 C. Damages for Injury to Property

25 SUBCHAPTER A

26 GENERAL PROVISIONS RELATING

27 TO EMINENT DOMAIN

28 Sec.

29 1501. Exercise of eminent domain.

30 1502. Restrictions as to certain property.

1 1502.1. Declaration of intention.

2 1503. Application of 26 Pa.C.S.

3 § 1501. Exercise of eminent domain.

4 A borough may enter upon, appropriate, injure or destroy
5 private lands, property or material, or lands previously granted
6 or dedicated to public use that are no longer used for the
7 purpose for which the lands were granted, according to the
8 proceedings set forth in 26 Pa.C.S. (relating to eminent
9 domain), for any of the following purposes:

10 (1) The laying out, opening, widening, extending,
11 vacating, grading or changing the grades or lines of streets.

12 (2) The construction of bridges and the piers and
13 abutments for bridges.

14 (3) The construction of slopes, embankments and sewers.

15 (4) The erection and extension of water systems, wharves
16 and docks, public buildings, public auditoriums, memorials,
17 monuments, public works, filtration plants, sewerage systems,
18 sewage treatment works, refuse disposal or incineration
19 plants, sanitary landfills, gas plants, electric plants and
20 libraries.

21 (5) The establishing of parks, playgrounds and
22 recreation places, the changing of watercourses.

23 (6) For all other purposes authorized by this part.

24 § 1502. Restrictions as to certain property.

25 (a) Historically significant property.--In addition to a
26 restriction made by another provision of this part in a
27 particular case, no borough may exercise the right of eminent
28 domain against:

29 (1) land now occupied by a building that was used during
30 the Colonial or Revolutionary period as a place of assembly

1 by the Council of the Colony of Pennsylvania, the Supreme
2 Executive Council of the Commonwealth of Pennsylvania or the
3 Congress of the United States;

4 (2) the land occupied by a fort, redoubt or blockhouse
5 erected during the Colonial or Revolutionary period or a
6 building used as headquarters by the Commander-in-Chief of
7 the Continental Army; or

8 (3) the site of a building, fort, redoubt, blockhouse,
9 or headquarters that is preserved for its historic
10 associations and not for private profit.

11 (a.1) Colonial or Revolutionary period.--For the purposes of
12 subsection (a), the Colonial and Revolutionary period terminates
13 on September 3, 1783.

14 (b) Prohibition.--No land or property used for a cemetery,
15 burying ground or place of public worship may be taken or
16 appropriated by virtue of a power contained in this chapter.
17 § 1502.1. Declaration of intention.

18 A borough shall declare its intention to acquire, enter upon,
19 take, use and appropriate any private property or land for any
20 of the purposes authorized by this chapter through a duly
21 enacted ordinance.

22 § 1503. Application of 26 Pa.C.S.

23 Eminent domain proceedings must conform to the provisions of
24 26 Pa.C.S. (relating to eminent domain), including, but not
25 limited to, payment of damages and costs.

26 SUBCHAPTER B

27 PROCEDURE FOR ASSESSMENT OF BENEFITS BY VIEWERS

28 (Reserved)

29 SUBCHAPTER C

30 DAMAGES FOR INJURY TO PROPERTY

1 Sec.

2 1561. Right to damages given in certain cases.

3 1562. (Reserved).

4 1563. (Reserved).

5 1564. (Reserved).

6 1565. (Reserved).

7 § 1561. Right to damages given in certain cases.

8 The right to damages against a borough is given to an owner
9 or tenant of land, property or material, abutting on, or through
10 which pass, streets, injured by the vacating of the streets, or
11 the vacation of bridges and piers, abutments and approaches.

12 § 1562. (Reserved).

13 § 1563. (Reserved).

14 § 1564. (Reserved).

15 § 1565. (Reserved).

16 CHAPTER 16

17 LAND SUBDIVISION

18 (Reserved)

19 CHAPTER 17

20 STREETS

21 Subchapter

22 A. General Provisions

23 B. Plan of Streets

24 C. Laying out Streets

25 D. Opening, Acceptance and Vacation of Streets

26 E. Vacating Streets (Reserved)

27 F. Straightening and Relocating Streets

28 G. Improvement of Borough Streets

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30 Limits

1 I. Acquisition or Use of Abutting Lands

2 SUBCHAPTER A

3 GENERAL PROVISIONS

4 Sec.

5 1701. Definitions.

6 1702. (Reserved).

7 1703. (Reserved).

8 1704. Streets connecting with street of other municipality.

9 1705. Entry on land to maintain marks and monuments.

10 1706. Exclusive nature of provisions.

11 1707. Failure of council to hold hearing.

12 1708. Street lighting, ornamental lighting and traffic control
13 signals and devices.

14 § 1701. Definitions.

15 The following words and phrases when used in this chapter
16 shall have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Improving a street." The term includes work upon a street
19 or portion thereof done or proposed to be done in order to open
20 the street, if the street has not previously been opened or, if
21 previously opened, to make the street more usable or more
22 suitable for use by the traveling public or safer for the use.
23 The term includes, but is not limited to, grading, paving,
24 curbing and macadamizing.

25 "Laying out." The term includes the plotting of:

26 (1) An unopened street or portion of the street on a
27 borough plan or official map adopted in accordance with the
28 Pennsylvania Municipalities Planning Code on a subdivision or
29 land development plan or by the enactment of an ordinance
30 adopted in accordance with this chapter.

1 (2) An unopened street in a case where any of the lines
2 of the street are proposed to be revised or in a case where
3 the street was never previously laid out although the street
4 may have been opened and used.

5 "Opened streets." The term includes the streets within the
6 borough used as public passageways.

7 "Opening a street." The term includes the construction and
8 grading of a street or portion thereof and the act of physically
9 taking possession of an area or laid-out street for the purpose
10 of making the same usable to the traveling public.

11 "Person." The term includes a natural person, association,
12 firm, corporation or political subdivision.

13 "Personal notice." The term includes notice upon the owner
14 of a premises either by personal service upon the owner or by
15 certified mail to the owner at the owner's last known address.
16 Where service has not been successfully made by either of the
17 two methods first mentioned, it may be made by leaving the
18 notice at or upon the premises.

19 "Portion." The term includes a portion either of the width
20 or length of a street. Opening a portion of a street may mean
21 extending or widening a street and vacating a portion of a
22 street may mean closing or narrowing a street.

23 "Street." The term includes a street, road, lane, court,
24 cul-de-sac, alley, public way and public square, either for or
25 intended for public use, and includes the cartway, sidewalk,
26 gutter and the right-of-way area, whether or not the street or a
27 part of the street is owned in fee by others than the borough.
28 Streets are of two classes, opened and unopened.

29 "Unopened streets." The term includes the streets within the
30 borough neither used as a public passageway, nor accepted or

1 maintained, but plotted in one of the following:

2 (1) a borough plan or official map adopted in accordance
3 with the Pennsylvania Municipalities Planning Code;

4 (2) an ordinance laying out the street in accordance
5 with this chapter;

6 (3) a subdivision or land development plan; or

7 (4) an individual deed.

8 § 1702. (Reserved).

9 § 1703. (Reserved).

10 § 1704. Streets connecting with street of other municipality.

11 No action may be taken under this chapter that would result
12 in the change of location or grade or the vacation of a street
13 or portion thereof that connects with a street of another
14 municipality, without approval of the court of common pleas of
15 the county in which the municipality is located, unless the
16 municipality first files with the borough secretary its approval
17 of the proposed action.

18 § 1705. Entry on land to maintain marks and monuments.

19 The council, its agents and employees, may enter upon any
20 land or property and maintain marks and monuments, so far as the
21 council may deem necessary, in carrying out its powers and
22 duties under this chapter.

23 § 1706. Exclusive nature of provisions.

24 No street may be dedicated, accepted, acquired, laid out,
25 opened or vacated by a borough except under this chapter.

26 § 1707. Failure of council to hold hearing.

27 If, after the filing of a petition under this chapter,
28 council fails to hold a required hearing, an aggrieved party may
29 file a mandamus action in the court of common pleas requesting
30 that a hearing be held.

1 § 1708. Street lighting, ornamental lighting and traffic
2 control signals and devices.

3 Council may provide street lights and ornamental lighting and
4 make regulations for the protection of lighting. Council may
5 assess the costs for the erection of lighting in accordance with
6 Chapter 21A (relating to assessments and charges for public
7 improvements). Council may provide for the erection, maintenance
8 and operation of traffic control signals and devices in
9 accordance with 75 Pa.C.S. (relating to vehicles).

10 SUBCHAPTER B

11 PLAN OF STREETS

12 Sec.

13 1711. (Reserved).

14 1712. Borough street plan.

15 § 1711. (Reserved).

16 § 1712. Borough street plan.

17 (a) Adoption of plan.--A borough that has not maintained an
18 accurate plan of borough streets adopted in accordance with this
19 part prior to July 16, 2012, may only adopt a plan of streets
20 under the Pennsylvania Municipalities Planning Code, governing
21 the adoption of an official map.

22 (b) Amendments to plan.--If a borough maintains a plan of
23 streets adopted prior to July 16, 2012, or maintains an official
24 map containing opened and unopened streets, a street laid out in
25 accordance with this part by ordinance or by final approval of a
26 subdivision or land development plan must be deemed an amendment
27 to the plan. Notwithstanding any other provision of law, a
28 deemed amendment as provided in this section and a subsequent
29 placement of the street on a plan may not be subject to public
30 notice or public hearing, if the street has been laid out in

1 accordance with the requirements of this chapter.

2 (c) Prohibition.--The maintenance of a plan of streets or
3 official map shall not be required in order for a borough to lay
4 out streets in accordance with section 1721.2(b) (relating to
5 laying out streets and procedure) or lay out and open a street
6 in accordance with section 1724 (relating to effect of laying
7 out street).

8 SUBCHAPTER C

9 LAYING OUT STREETS

10 Sec.

11 1721. (Reserved).

12 1721.1. Power to lay out, open, etc.

13 1721.2. Laying out streets and procedure.

14 1722. (Reserved).

15 1723. (Reserved).

16 1724. Effect of laying out street.

17 § 1721. (Reserved).

18 § 1721.1. Power to lay out, open, etc.

19 (a) Authority of borough.--In accordance with the provisions
20 of this chapter, boroughs may, with or without petition of
21 abutting property owners, lay out, open, widen, straighten,
22 alter, extend and improve, and may establish or reestablish the
23 grades of, and keep in order and repair and in safe passable
24 condition, a street or portion of a street within the borough
25 limits or may vacate the street or portion of a street if deemed
26 expedient for the public good and provide for the costs of
27 alteration.

28 (b) Laying out or opening streets.--Boroughs may lay out or
29 open:

30 (1) a street or portion of a street as it appears upon a

1 borough plan or an official map adopted in accordance with
2 the Pennsylvania Municipalities Planning Code or is described
3 in an ordinance adopted in accordance with this chapter;

4 (2) a street or portion of a street that the borough
5 determines to acquire by eminent domain;

6 (3) a street to which the public has acquired rights by
7 constant use over a period exceeding 21 years; or

8 (4) a street or portion of a street, laid out or
9 constructed by a person that the borough sees fit to open or
10 accept as provided in this chapter.

11 § 1721.2. Laying out streets and procedure.

12 (a) Streets deemed to be laid out.--A street identified in a
13 plan of streets, an official map adopted in accordance with the
14 Pennsylvania Municipalities Planning Code or a recorded
15 subdivision or land development plan is deemed to be laid out
16 for purposes of this part.

17 (b) Future street opening.--A borough has the authority, by
18 ordinance, to lay out an area for future opening as a public
19 street. The proposed ordinance laying out the street must be
20 advertised in a newspaper of general circulation once a week for
21 two successive weeks. On or before the publication of the first
22 advertisement, personal notice must be provided to the owners of
23 a property abutting the proposed street or through which the
24 proposed street is to be laid out, and, if the proposed street
25 will lead into an adjacent municipality, a copy of the proposed
26 ordinance must be sent to the adjacent municipality. The
27 proposed ordinance must have appended to the ordinance or
28 referenced a map sufficient to apprise the public of the
29 proposed location, profile and dimensions of the street and must
30 list the names of the owners of a property through which the

1 proposed street has been laid out.

2 (c) Hearing, notice and enactment.--Within ten days after
3 the second publication of the notice required under subsection
4 (b), an interested party may petition council for a hearing,
5 which council shall hold within 60 days after the date of the
6 petition. Council shall give at least 15 days' notice of the
7 hearing in a newspaper of general circulation and by personal
8 notice to persons entitled to the notice under subsection (b).
9 Council may enact the ordinance no later than 30 days following
10 the date of the hearing or, where no timely petition has been
11 filed, within 30 days of the second publication of the notice
12 required by subsection (b). The enactment of the ordinance
13 constitutes public notice of the borough's intent to recognize
14 the street within the system of borough streets and the
15 borough's rights in the street. Within 30 days of the enactment
16 of the ordinance, a party aggrieved by council's action may
17 appeal to the court of common pleas.

18 (d) Filing of ordinance.--If, at the time of the enactment
19 of an ordinance in accordance with subsection (c), the lines of
20 the laid out street include property not subject to use as a
21 public passageway, the ordinance must be filed with the recorder
22 of deeds of the county where the borough is located. The
23 recorder of deeds shall index the ordinance by name of borough,
24 name of the property owner and, if applicable, parcel number of
25 the property through which the proposed street is laid out.

26 (e) Landowners.--If a street has been laid out by ordinance
27 as provided in this section, the owner or subsequent owner has
28 no right to damages for buildings or improvements placed on
29 streets after the date of enactment, and the buildings or
30 improvements must be removed at the expense of the landowner

1 after the opening of the street in accordance with this part.

2 (f) Laying out without opening.--The laying out of a street,
3 without opening the street, creates no right to public use of
4 the street and does not constitute the taking or acceptance of a
5 property or obligate the borough to improve or maintain the
6 street or the property on which the street has been laid out.

7 (g) Previously laid out streets.--Nothing in this section
8 may affect the validity or legal effect of a street laid out in
9 accordance with law prior to July 16, 2012.

10 § 1722. (Reserved).

11 § 1723. (Reserved).

12 § 1724. Effect of laying out street.

13 (a) Street unopened after ten years.--At any time after a
14 street or portion of the street has remained laid out but not
15 opened for a period of ten years or longer, an owner of 50% of
16 the front feet of the land over which the street or portion of
17 the street was laid out may petition the council to cancel the
18 laying out of the street. Following at least 15 days' notice in
19 a newspaper of general circulation and at least 15 days'
20 personal notice to the owners of the real estate abutting upon
21 the land over which the street or portion of the street was laid
22 out, council shall hold a public hearing on the matter. Council
23 may, on motion, deny the petition or, by ordinance, grant the
24 petition and cancel the laying out of the street. A person
25 aggrieved by the decision of the council, either granting or
26 denying the petition, may appeal it. The ordinance providing for
27 the cancellation of the laying out of a street must be filed
28 with the recorder of deeds in accordance with section 1721.2(d)
29 (relating to laying out streets and procedure).

30 (b) Street unopened after 21 years.--If a street has been

1 laid out and has not been opened to or used by the public for a
2 period of 21 years, the street may not thereafter be opened
3 without the consent of at least 51% percent of the number of
4 owners of the abutting real estate and without the consent of
5 the owners of at least 51% of the property abutting the street,
6 based on a front foot basis.

7 SUBCHAPTER D

8 OPENING, ACCEPTANCE AND

9 VACATION OF STREETS

10 Sec.

11 1731. Authority to open and vacate streets and procedure.

12 1732. Petition for opening or vacating street and action
13 thereon.

14 1733. Action for damages and benefits and award.

15 1734. Acceptance and dedication of streets.

16 1735. Streets not to be constructed, dedicated or opened to
17 travel without the approval of council.

18 1736. (Reserved).

19 1737. (Reserved).

20 § 1731. Authority to open and vacate streets and procedure.

21 (a) Authority of council authority.--By ordinance, council
22 has the authority to:

23 (1) Open a street or portion of a street previously laid
24 out or simultaneously to lay out and open a street or portion
25 thereof. A street or portion of a street so opened is a
26 public street of the borough.

27 (2) Vacate or close a street or portion of a street
28 previously opened or laid out provided that no street or
29 portion of a street providing the sole means of access to a
30 tract of land is vacated without the consent of those to whom

1 access would be denied. Vacation of a street terminates the
2 public right in or to the street but does not affect a
3 private right acquired by an owner of abutting property.

4 (b) Notice.--The proposed ordinance opening or vacating a
5 street or portion of a street must be advertised in a newspaper
6 of general circulation once a week for two successive weeks. On
7 or before the publication of the first advertisement, personal
8 notice must be provided to the owners of a property abutting the
9 street proposed to be opened or vacated. The proposed ordinance
10 must have appended to it or reference a map or survey sufficient
11 to apprise the public of the proposed location, profile and
12 dimensions of the street and must list the names of the owners
13 of a property abutting the street.

14 (c) Hearing.--Within ten days after the second publication
15 of the notice required under subsection (b), an interested party
16 may petition council for a hearing, which council shall hold
17 within 60 days after the date of the petition. Council shall
18 give at least 15 days' notice of the hearing in a newspaper of
19 general circulation and by personal notice to persons entitled
20 to notice under subsection (b). Council may enact the ordinance
21 no later than 30 days following the date of the hearing or,
22 where no timely petition has been filed, within 30 days of the
23 second publication of the notice required under subsection (b).
24 Within 30 days of the enactment of the ordinance, any party
25 aggrieved by council's action may appeal to the court of common
26 pleas.

27 § 1732. Petition for opening or vacating street and action
28 thereon.

29 (a) Petitioning council.--Any person or persons constituting
30 a majority in number and interest of the owner of the real

1 estate abutting upon an area not opened as a street or abutting
2 upon an existing street or portion of a street may petition the
3 council to:

4 (1) Open or lay out and open the area as a street or
5 portion of a street.

6 (2) Vacate a street or portion of a street.

7 (b) Hearing and decision.--Council shall hold a hearing
8 after receiving a petition filed with council in accordance with
9 subsection (a), following at least 15 days' personal notice to
10 the owners of abutting real estate not joining in the petition
11 and following at least 15 days' notice thereof in a newspaper of
12 general circulation. Following the hearing, council shall either
13 by motion deny the petition or by ordinance open, lay out and
14 open or vacate the street or portion of the street. The
15 provisions of section 1731 (relating to authority to open and
16 vacate streets and procedure) applicable to ordinances enacted
17 by authority of that section apply to ordinances enacted by
18 authority of this section.

19 (c) Release.--A petition for the vacation of a street or
20 portion of a street may release the borough from the damages
21 sustained as a result of the vacation if the petition is signed
22 by the owners of the property abutting upon the street or
23 portion of the street. Where the release has been included in
24 the petition, no proceedings for award of damages may be had,
25 and no damages as a result of the vacation may, under any
26 conditions, be awarded to an abutting property owner.

27 § 1733. Action for damages and benefits and award.

28 (a) Authority of borough.--Upon the effective date of an
29 ordinance enacted to open a street or portion of a street by
30 authority of section 1731 (relating to authority to open and

1 vacate streets and procedure) or 1732 (relating to petition for
2 opening or vacating street and action thereon), the borough has
3 authority to enter upon and take possession of the street or
4 portion of the street opened by the ordinance, if no structures
5 are upon the street. If a structure has been located upon the
6 street or portion of the street so opened, prior to the laying
7 out of the street or prior to the simultaneous laying out and
8 opening of the street, the street may not be opened until the
9 owner of the structure has been given 60 days' personal notice
10 to vacate the structure. Council may not be required to file any
11 bond or security for the exercise of the right granted by this
12 section.

13 (b) Limitation.--The parties whose ground is taken in the
14 opening of a street or portion of the street have three years
15 from and after the effective date of the ordinance opening the
16 street or portion of the street in which to bring an action for
17 damages resulting from the opening of the street or portion of
18 the street. In case of the assessment of damages for the opening
19 of a street or portion of the street, the award of damages, if
20 any, includes:

21 (1) the damages resulting from the grade at which the
22 street or portion of the street is to be opened; and

23 (2) the plan attached to the report of the viewers
24 awarding the damages must include a profile plan showing the
25 existing grade as well as the grade to which the street or
26 portion of the street is to be opened.

27 Costs and expenses that cannot be assessed upon property
28 benefited must be paid by the borough.

29 (c) No agreement on damages.--If the parties cannot agree
30 upon damages sustained by reason of the opening or vacation of

1 any street or portion of a street, the damages shall be assessed
2 by a jury of view under the law governing eminent domain.

3 § 1734. Acceptance and dedication of streets.

4 (a) Accept an opened street.--A borough may, by ordinance,
5 accept an opened street not previously dedicated to or laid out
6 by the borough by following the procedure set forth in section
7 1731 (relating to authority to open and vacate streets and
8 procedure) or 1732 (relating to petition for opening or vacating
9 street and action thereon), and the effect of the acceptance
10 shall be the same as of opening the street. No street may be
11 accepted unless the street connects with at least one other
12 previously opened street or State highway.

13 (b) Prohibition.--No borough may acquire a right in or
14 responsibility for a street privately constructed until
15 dedication of the street has been presented to and accepted by
16 the borough and until the dedication has been recorded in the
17 county office for the recording of deeds.

18 § 1735. Streets not to be constructed, dedicated or opened to
19 travel without the approval of council.

20 (a) Requirements.--No person may construct, dedicate or open
21 to travel a street or a drainage facility in connection with the
22 street for public use or travel or for the common use of
23 occupants of buildings abutting thereon in a borough without
24 first submitting suitable plans to the council and obtaining its
25 approval. The plans must:

26 (1) be prepared in accordance with rules and regulations
27 as may be prescribed by the council; and

28 (2) show the profiles of the street, the course,
29 structure and capacity of a drainage facility, and the method
30 of drainage of the adjacent or contiguous territory, and any

1 other or further details that may be required under the rules
2 or regulations adopted by the council.

3 (b) Pennsylvania Municipalities Planning Code.--The
4 Pennsylvania Municipalities Planning Code shall apply to the
5 construction, security requirements and dedication of streets
6 and connected drainage facilities if the streets proposed to be
7 constructed are part of a plan required by an ordinance adopted
8 under the Pennsylvania Municipalities Planning Code.

9 (c) Authority and duties of council.--

10 (1) Before acting upon plans not subject to review under
11 subsection (b), council may, at its discretion, arrange for a
12 public hearing after giving the notice as it may deem
13 desirable in each case. Council may alter the plans and
14 specify changes or modifications of any kind and may make its
15 approval of the plans subject to alterations, changes or
16 modifications. Plans, when so approved, must be:

17 (i) signed on behalf of the borough by the officer
18 as the council may designate; and

19 (ii) must be filed where the plans are available for
20 public inspection among the records of the borough at
21 reasonable times.

22 (2) No approval of plans by council may obligate or
23 require the borough to construct, reconstruct, maintain,
24 repair or grade a street or drainage facilities associated
25 therewith.

26 (d) No plan approved.--If the council refuses to approve any
27 plans submitted to it, a person aggrieved by the action of
28 council may, within 30 days after the action, appeal from the
29 action by petition to the court of common pleas of the county,
30 and the court shall hear the matter de novo. After hearing, the

1 court may enter a decree affirming, reversing or modifying the
2 action of the council as may appear just. The court shall
3 designate the manner in which notice of the hearing of an appeal
4 shall be given to all parties interested. The decision of the
5 court shall be final. A plan approved by the action of council
6 or by the court on appeal must be recorded by the person
7 applying for approval in the office of the recorder of deeds in
8 the county.

9 (e) Restriction.--If a street or a drainage facility in
10 connection with the street is opened, constructed or dedicated
11 for public use or travel, except in strict accordance with a
12 plan approved by the council or the court on appeal as provided
13 in this chapter, neither the council nor any other public
14 authority may place, construct or operate a sewer, drain, water
15 pipe or other facility or do any work in or upon the street.
16 Neither council nor any other public authority has a
17 responsibility with respect to the street or drainage facility,
18 notwithstanding the use of the street or drainage facility by
19 the public. Nothing in this chapter prevents the laying of a
20 trunk sewer, drain or water or gas main, if required by
21 engineering necessity for the accommodation of other territory.

22 (f) Failure to comply with chapter.--A person who
23 constructs, opens or dedicates a street or drainage facility in
24 connection with a street, for public use or travel in a borough,
25 without having first complied with this chapter is guilty of a
26 misdemeanor of the third degree and is subject to a suit for the
27 costs and damages incurred by the borough or property owners in
28 the course of correcting the substantive violations of State law
29 or borough ordinance resulting from or arising out of the
30 unlawfully constructed street or facility. Nothing under this

1 section may be construed to apply to the Department of
2 Transportation.

3 § 1736. (Reserved).

4 § 1737. (Reserved).

5 SUBCHAPTER E

6 VACATING STREETS

7 (Reserved)

8 SUBCHAPTER F

9 STRAIGHTENING AND RELOCATING STREETS

10 Sec.

11 1751. Authority to straighten and relocate streets and
12 procedure.

13 § 1751. Authority to straighten and relocate streets and
14 procedure.

15 Council may, by ordinance, provide for straightening or
16 relocating any street previously opened which involves the
17 opening of a portion of the straightened or relocated street
18 over land not previously a portion of the street or the vacation
19 of a portion of the previously opened street no longer to be
20 used for street purposes. The straightening or relocation shall
21 be considered as an opening or vacation and shall be effected in
22 the same manner and by the same procedure as provided in section
23 1731 (relating to authority to open and vacate streets and
24 procedure) but may be considered as a single proceeding to be
25 effected by enactment of a single ordinance.

26 SUBCHAPTER G

27 IMPROVEMENT OF BOROUGH STREETS

28 Sec.

29 1761. Proceedings with or without petition.

30 1762. (Reserved).

1 1763. (Reserved).

2 § 1761. Proceedings with or without petition.

3 Boroughs may improve streets, parts of streets or a
4 particular width or additional widths of streets, with or
5 without the assistance or contribution of the Federal
6 Government, the Commonwealth, the county or a corporation
7 occupying the thoroughfare, and may assess and collect the whole
8 cost of improvement, the whole cost not aided or contributed or
9 any part of the cost from the owners of real estate abutting on
10 the improvement in accordance with Chapter 21A (relating to
11 assessments and charges for public improvements).

12 § 1762. (Reserved).

13 § 1763. (Reserved).

14 SUBCHAPTER H

15 IMPROVEMENT OF STREETS OUTSIDE OR PARTLY

16 OUTSIDE BOROUGH LIMITS

17 Sec.

18 1771. Improvement of streets outside or partly outside borough
19 limits.

20 1772. (Reserved).

21 1773. (Reserved).

22 1774. (Reserved).

23 1775. (Reserved).

24 § 1771. Improvement of streets outside or partly outside
25 borough limits.

26 (a) General rule.--

27 (1) Any borough may enter into a written agreement with
28 an adjoining municipality for improving streets, including
29 streets that are boundaries between the borough and the
30 municipality and may provide in the contract for the division

1 of the damages, costs and expenses of the improvement.

2 (2) The borough may assess its share of the costs
3 against the owner of property abutting upon the borough's
4 side of the improvement in the manner provided in Chapter 21A
5 (relating to assessments and charges for public improvements)
6 or may agree to pay any part of the costs, damages and
7 expenses of the improvements out of the general funds.

8 (3) The portion of the damages, costs and expenses
9 agreed to be paid by the borough shall be ascertained as
10 provided in the law governing eminent domain.

11 (b) Street dividing borough and township.--

12 (1) If the center line of any street constitutes the
13 dividing line between a borough and a township located in the
14 same county, any agreement to improve and maintain the street
15 shall be made with the governing bodies of the township and,
16 if necessary, the county.

17 (2) The improvement shall be constructed and subsequent
18 repairs shall be made under the supervision of the borough
19 and in compliance with plans to be agreed upon, in writing,
20 by the parties.

21 (3) One-half of the cost of the repairs shall be borne
22 by the borough. The borough may assess its share of costs
23 against the owners of real property abutting on the borough's
24 side of the improvement in the manner provided in Chapter
25 21A.

26 (c) Street dividing borough and any other municipality.--

27 (1) If any street, more than one-half the width or the
28 entire width of which is within the limits of any borough,
29 divides the borough from any other municipality, the street
30 may be improved by the borough.

1 1805. Borough may do work and collect cost.

2 1806. Emergency repairs to sidewalks.

3 § 1800. Definitions.

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

7 "Sidewalk." The portion of a street located outside the
8 cartway and may include paved footway, unpaved grasslot, curb
9 and gutter.

10 § 1801. Power to lay out, establish and compel construction of
11 sidewalks.

12 (a) General rule.--

13 (1) Any borough may, by ordinance, lay out and establish
14 sidewalks, curbs, gutters and surface water drains along any
15 street and, with the consent of the Secretary of
16 Transportation, along any State highway.

17 (2) The borough may also require owners of property
18 abutting on any street or State highway to grade, construct,
19 drain, pave and repave the sidewalk, curb or gutter and keep
20 them in repair and in safe and usable condition along the
21 property at the grades and under the regulations and
22 specifications as council may prescribe.

23 (b) (Reserved).

24 § 1802. Sidewalks on land abutting State highways and along
25 roads outside borough.

26 Any borough may, by ordinance, lay out sidewalks, gutters,
27 and surface water drains upon land abutting the sides of State
28 highways and upon land abutting the sides of public roads, where
29 the roads are outside the borough limits, but the land upon
30 which the sidewalks, gutters and surface water drains are to be

1 laid out is within the borough limits.

2 § 1803. Establishment of grades.

3 Any borough may establish a grade or grades for sidewalks,
4 which may be separate and apart from the grade or grades
5 established for the cartway or roadway.

6 § 1804. Boroughs may pay all or part of cost of grading and
7 curbing.

8 The borough may pay all or any part of the cost and expenses
9 of grading and curbing any sidewalk.

10 § 1805. Borough may do work and collect cost.

11 (a) General rule.--Upon the failure of any property owner to
12 comply with any of the requirements in sections 1801 (relating
13 to power to lay out, establish and compel the construction of
14 sidewalks), 1802 (relating to sidewalks on land abutting State
15 highways and along roads outside borough), 1803 (relating to
16 establishment of grades) and 1804 (relating to boroughs may pay
17 all or part of cost of grading and curbing), the borough may,
18 after notice, cause the grading, paving, repairing, curbing and
19 guttering to be done at the cost of the owner. The borough may
20 collect the cost of the work and an additional 10% of the cost,
21 together with all charges and expenses, from the owner and may
22 file a municipal claim for the amounts or collect the amounts by
23 action in assumpsit.

24 (b) Notices.--

25 (1) All notices shall be served upon the owner of the
26 premises to which the notice refers, if the owner is a
27 resident of the borough. If the owner is not a resident, then
28 the notice may be served upon the agent or tenant of the
29 owner or upon the occupant of the premises. If the owner has
30 no agent or tenant or there is no occupier of the premises,

1 then service shall be by notice posted upon the premises.

2 (2) The notice required by this section shall specify a
3 period of time of not less than 30 days for the owner to
4 complete the specified work. If the work has not been
5 completed after the specified time has elapsed, the owner
6 shall be deemed to have failed to comply.

7 § 1806. Emergency repairs to sidewalks.

8 (a) General rule.--

9 (1) In addition to the remedies now vested in boroughs
10 to make repairs to sidewalks, any borough shall have power to
11 make emergency repairs to any sidewalks within the borough if
12 an inspection of the sidewalk discloses that, and a
13 certificate made by the officer or head of the department or
14 committee lawfully having charge of sidewalk repairs
15 specifies that, a dangerous condition exists that can be
16 repaired by an expenditure of not more than \$1,000.

17 (2) Before repairs are made, a notice to make the
18 repairs within 48 hours shall be served upon the owner of the
19 property. If the owner cannot be served within the county,
20 notice may be served upon the agent of the owner or the party
21 in possession or, if there is no agent or party in
22 possession, the notice may be served by posting the same upon
23 the premises.

24 (b) Cost.--

25 (1) Upon the completion of the work, the cost shall be a
26 charge against the owner of the property and shall be a lien,
27 until paid, upon the abutting property if a claim is filed.
28 The charge may also be collected by action of assumpsit.

29 (2) This section is intended to provide an additional
30 remedy for boroughs in connection with emergency repairs,

1 where the actual cost of doing the work does not exceed
2 \$1,000. The certificate of the officer or head of the
3 department or committee in charge of repairs to sidewalks
4 shall be conclusive evidence of the existence of the
5 emergency justifying the repair under the terms of this
6 section.

7 CHAPTER 19

8 BRIDGES, VIADUCTS AND

9 UNDERGROUND PASSAGEWAYS

10 Sec.

11 1901. Construction or acquisition and maintenance of bridges
12 and viaducts.

13 1902. Right to appropriate property and assessment of damages.

14 1903. Boundary bridges.

15 1904. Contracts with railroads, other companies and counties.

16 1905. Overhead and underground passageways.

17 § 1901. Construction or acquisition and maintenance of bridges
18 and viaducts.

19 (a) Authority.--Any borough may locate and build, or acquire
20 by purchase, condemnation or otherwise, any bridge or viaduct
21 and the piers, approaches and abutments for the bridge or
22 viaduct, to be used and thereafter improved and maintained as a
23 street, over any river, creek, stream, railroad or public or
24 private property or over and across a combination of any of
25 them, whether the bridge or viaduct shall be wholly or partly
26 within the borough limits.

27 (b) Proceedings.--The proceedings for laying out and opening
28 a bridge or viaduct shall be the same as provided by this part
29 for the laying out and opening of streets, and the bridge or
30 viaduct or portion of the bridge or viaduct may thereafter be

1 vacated under the same procedure as provided in this part for
2 the relocation or vacation of streets or portions of streets.
3 § 1902. Right to appropriate property and assessment of
4 damages.

5 In any case where the borough does not agree with the owner
6 or owners for damages done or likely to be done by the erection
7 of a bridge or viaduct, the borough may take and appropriate the
8 land and property necessary to erect the bridge or viaduct. The
9 damages caused by the taking and appropriation shall be assessed
10 according to 26 Pa.C.S. (relating to eminent domain).

11 § 1903. Boundary bridges.

12 If a bridge or viaduct crosses the boundary line of a borough
13 and another municipality, the borough may enter into an
14 intergovernmental cooperation agreement in accordance with 53
15 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
16 cooperation) with the municipality in the construction and
17 maintenance of the bridge and shall apportion the costs
18 according to the intergovernmental agreement.

19 § 1904. Contracts with railroads, other companies and counties.

20 (a) General rule.--

21 (1) The borough may enter into a contract with the
22 county commissioners, railroads, street railways and other
23 companies or interested parties for the building and
24 maintenance of bridges or viaducts and for the payment of any
25 damages caused by the location or erection thereof.

26 (2) The contracts may stipulate that the county,
27 borough, railroad company, street railway or other company or
28 interested party shall pay a certain part of the contract
29 price of the work, including damages, or may stipulate that
30 each shall construct a certain portion of the work and may

1 provide otherwise for the payment of damages.

2 (b) Payment.--

3 (1) When any railroad company, street railway or other
4 company or interested party agrees to pay a certain portion
5 of the cost of the work, it shall pay the portion into the
6 borough treasury. The borough treasurer shall pay the amount
7 over to the contractor, as may be provided in the contract.
8 The amount to be paid by the county shall be paid directly to
9 the contractor.

10 (2) The agreement may provide for the maintenance of the
11 bridges and viaducts after their erection. Nothing under this
12 section shall authorize any borough to contract with a county
13 for the maintenance of any bridge or viaduct which does not
14 cross a place over which the county is authorized to build
15 bridges. The bridge or viaduct shall be maintained as a
16 borough structure, and the borough may contract with any
17 party interested, except the county, for the maintenance of
18 the bridge or viaduct.

19 (3) Nothing in this section shall affect the powers or
20 duties of the Pennsylvania Public Utility Commission to the
21 extent otherwise provided by law.

22 § 1905. Overhead and underground passageways.

23 If the comfort and safety of the residents of a borough and
24 an adjoining municipality are enhanced by any overhead or
25 underground passageway connecting with adjoining streets in
26 either the borough or the municipality and extending to any
27 plant or place of business where residents of the borough are
28 employed, the borough may, jointly with each adjoining
29 municipality, construct and maintain any passageway or may join
30 with other interests in the construction and maintenance of the

1 passageway.

2 CHAPTER 20

3 SANITARY SEWERS

4 Subchapter

5 A. Laying Out, Construction and Operation of Sanitary Sewers
6 and Construction of Sewage Treatment Works

7 B. Joint Sanitary Sewers

8 C. Power to Supply Sewerage Service Outside Borough Limits
9 (Reserved)

10 D. Acquisition of Community Collection or Disposal Systems

11 E. Connection and Use of Sanitary Sewers

12 F. Monthly, Quarterly or Annual Rentals

13 G. Sewers on Boundary Streets (Reserved)

14 SUBCHAPTER A

15 LAYING OUT, CONSTRUCTION AND

16 OPERATION OF SANITARY SEWERS

17 AND CONSTRUCTION OF

18 SEWAGE TREATMENT WORKS

19 Sec.

20 2000. Definitions.

21 2001. Power to lay out and construct.

22 2002. Assessments.

23 2003. (Reserved).

24 2004. (Reserved).

25 2005. (Reserved).

26 2006. (Reserved).

27 2007. (Reserved).

28 2008. (Reserved).

29 2009. Extensions beyond borough limits and eminent domain.

30 2010. Notice of certain ordinances.

1 2011. (Reserved).

2 2012. Unlawful to build within right-of-way of sanitary sewers.

3 2013. Opening sanitary sewers.

4 § 2000. 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 "Combined sewer." A sewer used for the receiving and
9 collecting of sewage and liquid waste from the inside of
10 buildings and structures, storm water, roof or surface drainage,
11 sump pump discharge and draining from foundation drains.

12 "Sanitary sewer" or "sanitary sewer system." A sewer or
13 sewers used for receiving and collecting sewage matter and
14 liquid waste from the inside of buildings and structures. Storm
15 water shall not be permitted to enter into a sanitary sewer. A
16 sanitary sewer or sanitary sewer system does not include a
17 combined sewer.

18 "Sewer system." Either a sanitary sewer or a combined sewer
19 and includes pump stations and force mains.

20 § 2001. Power to lay out and construct.

21 (a) General rule.--

22 (1) Upon enactment of an ordinance, boroughs may lay out
23 and construct sanitary sewers and branches of sanitary sewers
24 in streets and on public or private property and may
25 construct sewage treatment works on land owned or acquired
26 for those purposes. Boroughs may pay the costs and expenses
27 of sanitary sewer systems and treatment works out of borough
28 funds or may assess the costs and expenses pursuant to
29 Chapter 21A (relating to assessments and charges for public
30 improvements).

1 (2) Boroughs may determine the location and the manner
2 in which sanitary sewer systems shall be constructed.
3 Sanitary sewers laid and constructed in streets may be
4 located in the center of the street or in the right-of-way or
5 the curb lines of the street and may be for the service and
6 use of properties on both sides of the street or on only one
7 side of the street in which they are laid, as directed by the
8 council. Boroughs shall have the authority to lay out and
9 construct sanitary sewers in any street, any portion of which
10 is within the limits of the borough and which forms a portion
11 of the boundary dividing the borough from any other municipal
12 corporation within the same county, in the same manner and to
13 the same extent as if the whole of the street was within the
14 limits of the borough.

15 (3) If any borough is maintaining and operating a
16 sanitary sewer system and sewage treatment works, it shall be
17 lawful for the borough to supply sewerage service to
18 municipalities, persons and corporations outside the limits
19 of the borough and to enter into contracts for service at
20 rates not less than those required to be paid by persons and
21 corporations within the limits of the borough. This privilege
22 shall not conflict with the rights of any sewer company or
23 the rights of any other borough.

24 (b) Consent.--

25 (1) If required by other law, a borough shall obtain the
26 consent and permit of the Department of Environmental
27 Protection or other Federal, State or county entity,
28 including the Pennsylvania Turnpike Commission, for the
29 laying out and construction of a sanitary sewer and treatment
30 works.

1 (2) Where construction beyond the limits of the borough
2 is entirely within the limits of a State or county highway or
3 the turnpike, a sanitary sewer may be constructed in or under
4 the State or county highway or turnpike if written notice is
5 given to the Department of Transportation, county
6 commissioners or Pennsylvania Turnpike Commission,
7 respectively, and consent is obtained before construction is
8 commenced. Permission shall not be unreasonably withheld.

9 (c) Regulations.--Council may, by ordinance, make
10 regulations respecting the use and maintenance of the sanitary
11 sewer system and treatment works. Violations of the ordinance
12 may be enforced by penalties. The regulations may do all of the
13 following:

14 (1) Specify materials and substances which may or may
15 not enter the public sewer or sewer system.

16 (2) Require that certain types or classes of waste be
17 subjected to treatment or to grinding or other reduction in
18 size before entering into the sewer.

19 (3) Restrict the quantity of waste material that may
20 enter a sanitary sewer from any premises within any time
21 interval.

22 (4) Require that property owners provide means other
23 than the public sanitary sewers for disposal of storm,
24 surface and roof water originating or accumulating upon their
25 property.

26 § 2002. Assessments.

27 Assessments, whether based according to benefits conferred or
28 by the front foot basis, and assessment awards, if any, shall be
29 calculated pursuant to Chapter 21A (relating to assessments and
30 charges for public improvements).

1 § 2003. (Reserved).

2 § 2004. (Reserved).

3 § 2005. (Reserved).

4 § 2006. (Reserved).

5 § 2007. (Reserved).

6 § 2008. (Reserved).

7 § 2009. Extensions beyond borough limits and eminent domain.

8 The borough may extend the necessary sewer mains, pipes and
9 outlets beyond the limits of the borough to a point where the
10 sewage is to be disposed or collected and received. The borough
11 shall have power to enter upon and condemn land for the
12 construction of all sewer mains, outlets and treatment works as
13 may be necessary for the disposal or the collection of the
14 sewage, if the extension is in conformity with 26 Pa.C.S. § 206
15 (relating to extraterritorial takings) and any other applicable
16 requirement of 26 Pa.C.S. (relating to eminent domain).

17 § 2010. Notice of certain ordinances.

18 No ordinance for any construction of sewers or treatment
19 works beyond the limits of the borough shall be enacted until
20 notice of the ordinance has been given in all of the following
21 manners:

22 (1) By publication of the proposed ordinance, once a
23 week for four weeks in one newspaper of general circulation.

24 (2) By serving copies of the proposed ordinance at least
25 ten days before the enactment of the ordinance upon all land
26 owners through whose land the sewer is to pass or on whose
27 lands any treatment works are to be located.

28 § 2011. (Reserved).

29 § 2012. Unlawful to build within right-of-way of sanitary
30 sewers.

1 It shall be unlawful for any person to erect any building or
2 make any improvement within the right-of-way of any sanitary
3 sewer after due notice of the laying out of the sanitary sewer,
4 and, if any erection or improvement shall be made, no allowance
5 shall be had for the building or improvement in the assessment
6 of damages.

7 § 2013. Opening sanitary sewers.

8 (a) General rule.--A proceeding to open a sanitary sewer
9 shall be void if a borough:

10 (1) lays out any sanitary sewer over or under private
11 property which is located in whole or in part within the
12 limits of the borough; and

13 (2) does not proceed to open the sanitary sewer and to
14 assess the damage arising therefrom within two years from the
15 enactment of the ordinance.

16 (b) Exception.--If a borough has laid out a sanitary sewer
17 without the enactment of an ordinance prior to July 16, 2012,
18 and has not opened the sanitary sewer, the proceedings shall not
19 be deemed to be void. The borough shall have two years from July
20 16, 2012, to open the sanitary sewer or the whole proceeding
21 shall be void.

22 SUBCHAPTER B

23 JOINT SANITARY SEWERS

24 Sec.

25 2021. Joint sanitary sewer systems.

26 2022. (Reserved).

27 2023. Connections with sanitary sewers of adjacent
28 municipalities.

29 2024. Applications to court.

30 2025. Appointment of viewers.

1 2026. Report of viewers and appeals to court.

2 § 2021. Joint sanitary sewer systems.

3 (a) General rule.--Pursuant to 53 Pa.C.S. Ch. 23 Subch. A
4 (relating to intergovernmental cooperation), boroughs may
5 contract with other municipal corporations providing for the
6 joint construction or maintenance of sanitary sewer systems and
7 for the joint construction onto existing sanitary sewer systems.
8 The agreement shall provide for the apportionment of costs among
9 the municipal corporations. The council may assess the borough's
10 respective portion of the costs, as may be legally assessable,
11 upon property benefited by the facilities pursuant to Chapter
12 21A (relating to assessments and charges for public
13 improvements). Any portion of the cost not assessed or
14 assessable shall be paid by the respective municipal
15 corporations under the agreement.

16 (b) Composition of joint sanitary sewer board.--

17 (1) The municipal corporations joining or contemplating
18 joining in any improvement, in order to facilitate the
19 building of the sanitary sewer system and in securing
20 preliminary surveys and estimates, may, by ordinance, provide
21 for the appointment of a joint sanitary sewer board composed
22 of one representative from each of the municipal corporations
23 joining. The board shall act as the advisory and
24 administrative agency in the construction of the improvement
25 and its subsequent operation and maintenance.

26 (2) Members of the joint sanitary sewer board shall
27 serve for terms of six years each from the dates of their
28 respective appointments and until their successors are
29 appointed. The joint sanitary sewer board shall organize by
30 the election of a chair, secretary and treasurer. The

1 secretary and treasurer may be the same person.

2 (3) The municipal corporations may in the ordinances
3 creating the joint sanitary sewer board authorize the board
4 to appoint an engineer, a solicitor and other assistants as
5 are deemed necessary and agree to the share of the
6 compensation of those persons each municipal corporation is
7 to pay.

8 (4) The members of the joint sanitary sewer board shall
9 receive compensation for attending board meetings as
10 established in the budget that is prepared by the joint
11 sanitary sewer board and submitted to and adopted by the
12 municipal corporations. The members shall be entitled to
13 actual expenses to be paid by the respective municipal
14 corporations the members represent.

15 (c) Powers of the joint sanitary sewer board.--

16 (1) The joint sanitary sewer board may adopt rules and
17 regulations consistent with the requirements of this part to
18 govern its proceedings and shall prepare and suggest any
19 practical measures and plans by which the joint improvement
20 may be carried to successful completion and plan the future
21 development of the system, so as to conform to a general
22 plan.

23 (2) The joint sanitary sewer board may prepare a joint
24 agreement or agreements for submission to and adoption by the
25 municipal corporations defining the advisory and
26 administrative powers of the joint sanitary sewer board and
27 setting forth the following:

28 (i) Consents of the municipal corporations to the
29 proposed improvement.

30 (ii) The manner in which preliminary and final

1 plans, specifications and estimates for the proposed
2 improvement shall be prepared and adopted.

3 (iii) How proposals for bids shall be advertised and
4 contracts awarded.

5 (iv) The manner in which the costs of the
6 improvement and other incidental and preliminary expenses
7 in connection with the improvement and the future cost of
8 operation and maintenance shall be equitably shared,
9 apportioned and paid.

10 (v) All other matters, including the preparation and
11 submission of annual and other budgets, as may be deemed
12 necessary or required by law to complete the proposed
13 improvement and to assure future maintenance and
14 operation thereof.

15 (3) The joint sanitary sewer board may not make any
16 improvement or spend any public money which has not first
17 been authorized by all of the municipal corporations
18 proceeding with the improvement.

19 (d) Eminent domain.--

20 (1) When it is necessary to acquire, appropriate, injure
21 or destroy private property to build a joint sanitary sewer
22 system or improvement and the property cannot be acquired by
23 purchase or gift, the right of eminent domain shall vest in
24 the municipal corporation where the property is located.

25 (2) When it is necessary to acquire, injure or destroy
26 property in any territory not within the limits of any of the
27 municipal corporations joining in the improvement, the right
28 of eminent domain shall be vested in the municipal
29 corporation adjacent to the territory where the property is
30 located subject to 26 Pa.C.S. § 206 (relating to

1 extraterritorial takings).

2 (3) Damages for any property taken, injured or destroyed
3 shall be assessed under laws relating to the municipal
4 corporation exercising the right of eminent domain and shall
5 be paid by the municipal corporations joining in the same
6 proportion as other costs of the improvements.

7 (e) Indebtedness.--Each of the boroughs joining in the
8 improvement shall have power to incur or increase its
9 indebtedness, not exceeding the constitutional limits, for the
10 purpose of paying its share or portion of the cost of the
11 improvement in the manner now provided by law for the incurring
12 of indebtedness.

13 § 2022. (Reserved).

14 § 2023. Connections with sanitary sewers of adjacent
15 municipalities.

16 A borough may connect with an existing sanitary sewer, owned
17 by an adjacent municipality, for sewerage purposes in the manner
18 prescribed in sections 2024 (relating to applications to court),
19 2025 (relating to appointment of viewers) and 2026 (relating to
20 report of viewers and appeals to court).

21 § 2024. Applications to court.

22 If a borough desires to connect with the existing sanitary
23 sewer of an adjacent municipality and no agreement, either upon
24 the basis of a rental payment for the use of an existing
25 sanitary sewer or a division of the cost of the construction or
26 maintenance of the sanitary sewer, has been reached between the
27 borough and the adjacent municipality, an application shall be
28 made by council to the court of common pleas of the county where
29 the proposed connection is to be located, setting forth that
30 fact.

1 § 2025. Appointment of viewers.

2 If the court determines that the connection can be made
3 without impairing the usefulness of the existing sanitary sewer,
4 it shall appoint three viewers who shall:

5 (1) View the premises and investigate the facts of the
6 case.

7 (2) Assess the proportionate part of the expense of
8 building the original sanitary sewer upon the borough.

9 (3) Fix the proportion of the expense for repairs which
10 each municipality shall thereafter bear.

11 (4) Determine all other questions liable to arise in
12 connection with the sanitary sewer.

13 § 2026. Report of viewers and appeals to court.

14 The viewers shall report to the court the result of their
15 investigation. The report shall be confirmed within 30 days
16 unless exceptions are filed. After confirmation of the report or
17 the disposal of any exceptions, any party interested may appeal
18 from the decision of the court of common pleas.

19 SUBCHAPTER C

20 POWER TO SUPPLY SEWERAGE SERVICE

21 OUTSIDE BOROUGH LIMITS

22 (Reserved)

23 SUBCHAPTER D

24 ACQUISITION OF COMMUNITY COLLECTION

25 OR DISPOSAL SYSTEMS

26 Sec.

27 2040. Definitions.

28 2041. (Reserved).

29 2041.1. Power to acquire community sewage collection or
30 disposal systems.

1 2042. (Reserved).

2 2043. Community sewage collection or disposal systems.

3 § 2040. Definitions.

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

7 "Community sewage collection or disposal system." All or
8 part of a device or devices installed on any privately or
9 publicly owned parcel of land intended to treat or dispose of
10 the sewage or equivalent volume of domestic sewage from two or
11 more residences, buildings or occupied parcels of land, or any
12 system of piping used in collection and conveyance of sewage on
13 private or public property.

14 § 2041. (Reserved).

15 § 2041.1. Power to acquire community sewage collection or
16 disposal systems.

17 (a) General rule.--A borough may, by ordinance, acquire
18 ownership of a community sewage collection or disposal system by
19 purchase or by the exercise of eminent domain pursuant to 26
20 Pa.C.S. (relating to eminent domain) or by gift from the owner
21 or owners.

22 (b) Assessment of costs and expenses.--In eminent domain
23 proceedings, the viewers shall assess the costs and expenses of
24 the community sewage collection or disposal system acquired by
25 the borough upon the property or properties benefited according
26 to benefits. Any deficiency that is not assessed upon the
27 benefited property or properties shall be paid by the borough.

28 § 2042. (Reserved).

29 § 2043. Community sewage collection or disposal systems.

30 (a) General rule.--After a community sewage collection or

1 disposal system has been acquired under this subchapter by the
2 borough, the council shall have the power to enlarge the system
3 if it deems it advisable. The cost and expenses of the
4 enlargement may be distributed or assessed in the same manner as
5 if the enlargement was a regular sewer constructed by the
6 borough under other provisions of this part.

7 (b) Acquisition and ownership.--If a community sewage
8 collection or disposal system is established or constructed
9 within a borough by a private owner or owners and the council is
10 thereafter empowered by ordinance to acquire the ownership of
11 the sewage disposal system, or when the system has been enlarged
12 by the borough, the acquisition and ownership shall be subject
13 to the following provisions:

14 (1) An agreement shall be considered a valid agreement
15 by the owners of the sewage collection or disposal system and
16 shall be a transfer of ownership to the borough when any of
17 the following enter into an agreement with the borough for
18 the acquisition of the system by the borough:

19 (i) The person or persons having established or
20 constructed a community sewage collection or disposal
21 system.

22 (ii) More than one-half of the number of owners of
23 properties which are connected with, have a right to use
24 and are using a community collection or disposal system.

25 (2) The borough shall operate and maintain any sewage
26 collection or disposal system acquired and any enlargement or
27 addition thereto for the use of the following:

28 (i) Persons having acquired from the borough or from
29 the former owner or owners the right to use the system.

30 (ii) Other owners of property accessible to the

1 system up to the capacity of the sewage collection or
2 disposal system.

3 (3) All persons whose property connects with the sewage
4 collection or disposal system acquired or constructed by the
5 borough shall pay to the borough treasurer a monthly,
6 quarterly, semiannual or annual charge prescribed by a
7 resolution of the council. The amount of the charges shall
8 not be in excess of the estimated amount necessary to
9 maintain and operate the system and to establish a reserve
10 fund sufficient for its future replacement.

11 (4) All sewer rentals or charges imposed by the council
12 against properties connected with a community sewage
13 collection or disposal system under this section shall
14 constitute liens against the properties and may be collected
15 in the same manner as other sewer charges.

16 (5) All money received from the sewer charges shall be
17 deposited as a special reserve fund and shall be used only
18 for the payment of the cost of operating and maintaining the
19 sewage collection or disposal system and the replacement of
20 the collection or disposal system, if necessary and
21 economically desirable. If, at any time after the acquisition
22 or enlargement of the community sewage system, a regular
23 sewer system is made available by the borough for connection
24 with the properties using the community sewage collection or
25 disposal system, the owners of the properties shall be
26 subject to the other provisions of this part relating to
27 sewers, and all money at that time in the reserve fund which
28 was received from charges for the use of that particular
29 sewage collection or disposal system and which is over and
30 above the amount expended for the operation and maintenance

1 of that particular sewage collection or disposal system shall
2 be used towards the payment of any sewer assessments charged
3 against the properties under other sections of this part.

4 (c) Construction.--Nothing in this section may be construed
5 to supersede the requirements of the act of January 24, 1966
6 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage
7 Facilities Act.

8 SUBCHAPTER E

9 CONNECTION AND USE OF SANITARY SEWERS

10 Sec.

11 2051. Ordinances to require sanitary sewer connections.

12 2052. (Reserved).

13 2053. Tapping fees.

14 2054. (Reserved).

15 § 2051. Ordinances to require sanitary sewer connections.

16 A borough may, by ordinance, require any owner of property
17 benefited, improved or accommodated by a sanitary sewer to make
18 connections with the sanitary sewer, in the manner as the
19 borough may order, for the purpose of discharge of drainage or
20 waste matter as the borough may specify. All connections
21 required shall be uniform. The owner shall be given at least 45
22 days' notice of any ordinance requiring a sanitary sewer
23 connection. Upon failure of the owner to make the connection,
24 the borough may make the connection and collect the cost from
25 the owner by a municipal claim or by an action of assumpsit. The
26 borough may by penalties enforce any ordinance it enacts with
27 reference to any sanitary sewer connections.

28 § 2052. (Reserved).

29 § 2053. Tapping fees.

30 The following shall apply to tapping fees:

1 (1) Any borough may, by ordinance, provide for charging
2 a tapping fee if the owner of any property connects the
3 property with a sanitary sewer system constructed or acquired
4 by the borough if the tapping fee is calculated in accordance
5 with 53 Pa.C.S. § 5607 (relating to purposes and powers). The
6 tapping fee shall be in addition to any charges assessed and
7 collected against the property in the construction or
8 acquisition of the sanitary sewer by the borough.

9 (2) If a sanitary sewer system or any part or extension
10 of a sanitary sewer system owned by a borough has been
11 constructed by the borough at the expense of a private person
12 or corporation or has been constructed by a private person or
13 corporation under the supervision of the borough at the
14 expense of the private person or corporation, the borough
15 shall have the right to charge a tapping fee calculated in
16 accordance with 53 Pa.C.S. § 5607 and refund the tapping fee
17 or any part of the fee to the person or corporation who has
18 paid for the construction of the sanitary sewer system or any
19 part or extension of the sanitary sewer system in accordance
20 with 53 Pa.C.S. § 5607. The total of the refunds shall never
21 exceed the cost of the system or any part or extension of the
22 system to the person or corporation paying for the
23 construction of the system or any part or extension of the
24 system.

25 (3) Where the property connected or to be connected with
26 the sanitary sewer system of the borough is not equipped with
27 a water meter, the borough may install a meter at its own
28 cost and expense. If the property is supplied with water from
29 the facilities of a public water supply agency, the borough
30 shall not install a meter without the consent and approval of

1 the public water supply agency.

2 § 2054. (Reserved).

3 SUBCHAPTER F

4 MONTHLY, QUARTERLY OR ANNUAL RENTALS

5 Sec.

6 2061. Ordinance for monthly, quarterly or annual rental.

7 2062. Rental amount.

8 2063. Collection of rental.

9 2064. (Reserved).

10 § 2061. Ordinance for monthly, quarterly or annual rental.

11 If a borough constructs any sanitary sewer, sewer system or
12 sewage treatment works or acquires, wholly or partially, the
13 same at public expense, as authorized in this chapter, the
14 council may provide, by ordinance, for the collection of a
15 monthly, quarterly or annual rental or charge or a fixed sum for
16 the use of the sanitary sewer, sewer system or sewage treatment
17 works from the owner of property served by it.

18 § 2062. Rental amount.

19 (a) Included amounts.--The monthly, quarterly or annual
20 rental may include:

21 (1) The amount expended monthly, quarterly or annually
22 by the borough in maintenance, repair, alteration,
23 inspection, depreciation or other expense of the sanitary
24 sewer, sewer system or sewage treatment works.

25 (2) Interest on money expended or borrowed by the
26 borough in the construction of the sanitary sewer, sewer
27 system or sewage treatment works or in the acquisition,
28 enlargement or extension of the sanitary sewer or sewer
29 system.

30 (3) An amount sufficient for the amortization of debt

1 incurred by the borough for the purpose of construction of a
2 sanitary sewer, sewer system or sewage treatment works or for
3 the purpose of acquisition, enlargement or extension of a
4 sanitary sewer or sewer system.

5 (b) Apportionment.--The monthly, quarterly or annual amount
6 or fixed sum shall be apportioned equitably among the properties
7 served by the sanitary sewers, sewer system or sewage treatment
8 works.

9 § 2063. Collection of rental.

10 (a) General rule.--The monthly, quarterly or annual rental
11 or charge or the fixed sum shall be authorized and collected as
12 provided by general ordinances and, if levied and charged, shall
13 be a lien on the properties charged from the date set forth in
14 the ordinance. If the rental, charge or fixed sum is not paid
15 after 30 days' notice, it may be collected by an action of
16 assumpsit in the name of the borough against the owner of the
17 property charged or by a lien filed in the nature of a municipal
18 lien.

19 (b) Collection.--The council shall execute a warrant or
20 warrants, authorizing the collection of the monthly, quarterly
21 or annual sewer rentals or charges, or the fixed sum, to the
22 officer employed by council to collect the same. The officer
23 shall have the authority now vested by law for the collection of
24 borough taxes.

25 § 2064. (Reserved).

26 SUBCHAPTER G

27 SEWERS ON BOUNDARY STREETS

28 (Reserved)

29 CHAPTER 21

30 COLLECTION BY INSTALLMENT OF

1 STREET AND SEWER ASSESSMENTS

2 (Reserved)

3 CHAPTER 21A

4 ASSESSMENTS AND CHARGES FOR

5 PUBLIC IMPROVEMENTS

6 Sec.

7 21A00. Definitions.

8 21A01. Authority to assess.

9 21A02. Notice of assessments.

10 21A03. Assessment based on front foot basis.

11 21A04. Assessment of benefits conferred.

12 21A05. Assessment awards.

13 21A06. Petition for viewers.

14 21A07. Payment of assessments in installments.

15 21A08. Collection of assessments.

16 § 21A00. Definitions.

17 The following words and phrases when used in this chapter
18 shall have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Personal notice." The term shall mean and include notice
21 upon the owner of a property either by personal service upon the
22 owner or by certified mail to the owner at the owner's last
23 known address or where service, after a reasonable attempt,
24 shall not have been successfully made by either of these two
25 methods, then by leaving notice at or upon the property.

26 § 21A01. Authority to assess.

27 (a) General rule.--Council shall have the power to pay the
28 cost, in whole or in part, of any and all public improvements of
29 all natures and descriptions, including, but not limited to, the
30 grading, building, paving, regrading, rebuilding and repaving of

1 streets as defined in section 1701 (relating to definitions),
2 the creation, extension, renovation or enlargement of water
3 mains and sewage collection, transmission, treatment and
4 disposal systems and the creation, extension and renovation of
5 storm, surface and subsurface drainage systems, the
6 construction, reconstruction and repair of wharves and docks,
7 the installation of ornamental street lighting or the planting,
8 removal, maintenance and protection of shade trees by any of the
9 following methods:

10 (1) from general borough funds;

11 (2) from special borough funds created for that purpose;

12 or

13 (3) by assessment of costs against the benefited
14 properties either on the front foot or benefit conferred
15 method of assessment.

16 Except as provided in subsection (c), the costs and expenses of
17 sanitary sewers may be assessed against properties benefited,
18 accommodated or improved regardless of the property line
19 location and regardless of whether any portion of a property
20 benefited, accommodated or physically improved abuts upon the
21 sanitary sewer.

22 (b) Payment of indebtedness.--

23 (1) If a borough that incurs authorized indebtedness
24 under 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness
25 and borrowing) for the purposes of funding the cost and
26 expense of making public improvements for which assessments
27 can be made in accordance with this chapter, payments made on
28 the assessment must be applied to pay the debt service for
29 the indebtedness incurred for funding the cost and expense of
30 making the public improvement.

1 (2) Notwithstanding section 21A07 (relating to payment
2 of assessments in installments), when bonds are issued in a
3 manner provided by law and an assessment is to be paid in
4 installments, the assessment shall be payable in equal
5 installments during the term for which the bond is issued,
6 and the cost of the improvement plus interest beginning the
7 first day when interest is payable on the bond shall be the
8 cost of the improvement to be assessed on a property.

9 (c) Property outside borough.--Property benefited, improved
10 or accommodated which is located outside the limits of the
11 borough that constructed a sanitary sewer may, if located no
12 more than 150 feet from the sewer main, be assessed for the cost
13 of the sewer in the same manner as the property would be
14 assessed under the laws of this Commonwealth if it were entirely
15 located within the limits of the borough, if the property is
16 given permission to use the sanitary sewer and is not, at the
17 time the sanitary sewer is constructed, provided with sanitary
18 sewer facilities.

19 (d) Water mains.--Boroughs shall have power to assess the
20 whole cost or any part of the cost of construction of new water
21 mains built in connection with the establishment or extension of
22 a municipally owned water supply system, even if the mains are
23 located outside the limits of the borough, and that serve
24 abutting properties, against the properties abutting the
25 boundary line. The borough may provide that the assessment be
26 rebated to the owner of the assessed property out of rates
27 charged for water consumed in serving the assessed property. The
28 borough may also issue a negotiable credit memorandum in the
29 amount of the assessment which may be used for the payment of
30 any water service to the extent of the assessment.

1 § 21A02. Notice of assessments.

2 The borough secretary shall cause 30 days' personal notice of
3 the assessment to be served upon each property owner assessed.
4 If a certificate is required to be filed with council relating
5 to the public improvement as otherwise provided in this part,
6 then a copy of the certificate shall accompany the notice.

7 § 21A03. Assessment based on front foot basis.

8 (a) General rule.--If council elects to collect the cost,
9 including any administrative fees, of any improvement on the
10 front foot basis, the cost to be collected shall be divided by
11 the total number of linear feet of street frontage of each
12 property benefited, and there shall be assessed against each
13 property that portion of the cost which is determined by
14 multiplying the dividend of the prior calculation by the number
15 of linear feet for street frontage of that property.

16 (b) Certificate of assessment.--Council shall issue a
17 certificate of assessment when assessing on the front foot basis
18 duly certified under the seal of the borough and attested by the
19 president of council and secretary. The certificate of
20 assessment shall be prima facie evidence in any suit for
21 recovery of the same of the correctness and validity of the
22 assessment.

23 (c) Adjustments in assessments.--Notwithstanding subsection
24 (a), council may make equitable adjustments for corner lots,
25 lots of irregular shape or, where special conditions exist,
26 where an assessment for full frontage would be unjust.

27 § 21A04. Assessment of benefits conferred.

28 (a) General rule.--In lieu of the front foot basis, council
29 may elect to have the benefits of public improvements assessed,
30 in whole or in part, upon property benefited, improved or

1 accommodated by assessing an equal assessment on the properties
2 benefited, improved or accommodated in proportion to the total
3 cost of construction of the improvement. The amount of the
4 charge on each property shall be determined by council.

5 (b) Certificate.--Council shall issue a certificate of
6 assessment when assessing benefits upon property benefited,
7 improved or accommodated, duly certified under the seal of the
8 borough and attested by the president of council and secretary.
9 The certificate of assessment shall be prima facie evidence in
10 any suit for recovery of the same of the correctness and
11 validity of the assessment.

12 § 21A05. Assessment awards.

13 In proceedings to assess benefits, if the land or property is
14 both benefited and damaged by the public improvements, the
15 excess of damages over benefits, the excess of benefits over
16 damages or nothing in case the benefits and damages are equal
17 shall be awarded to or assessed against the owner of land and
18 property affected. Damages shall be calculated pursuant to 26
19 Pa.C.S. (relating to eminent domain).

20 § 21A06. Petition for viewers.

21 (a) Petition.--Taxpayers of the borough whose property is
22 being assessed for benefits for a public improvement may present
23 a petition to the court of common pleas stating that the
24 assessment insufficiently represents the benefits accruing to
25 abutting, benefited or accommodated properties. The petition may
26 include a request for the appointment of viewers to assess
27 benefits if at least 50% of the taxpayers whose parcels are
28 abutting, benefited or accommodated by the public improvement in
29 question join the petition or if taxpayers whose property
30 valuation as assessed for taxable purposes within the borough

1 amounts to at least 50% of the total property valuation of the
2 properties being assessed for the public improvement join the
3 petition. The petition must be presented within three months of
4 the enactment of the ordinance levying the assessment.

5 (b) Viewers.--The court shall appoint three disinterested
6 viewers, none of whom shall be a resident of that portion of the
7 borough that is benefited or accommodated by the public
8 improvement in question, and the viewers shall proceed under
9 this part and 26 Pa.C.S. (relating to eminent domain) for the
10 assessment of damages and benefits by viewers. Upon the filing
11 of the petition by taxpayers for the appointment of viewers, any
12 assessment made by the council and any proceedings shall be
13 stayed pending the disposition of the petition by the court.
14 § 21A07. Payment of assessments in installments.

15 (a) Installments.--If an ordinance is passed providing for a
16 public improvement, the expense of which is to be defrayed by an
17 assessment against properties benefited by the improvement,
18 either by the front foot or benefit conferred method, the
19 ordinance shall specify the length of time over which the
20 installments may be extended and whether payments are to be made
21 by equal annual or more frequent installments. If the provisions
22 of section 21A01(b) (2) (relating to authority to assess) and
23 this subsection conflict, the provisions of section 21A01(b) (2)
24 shall prevail to the extent of the conflict.

25 (b) Commencement of payments and rate of interest.--The
26 ordinance shall set a time when the installment payments shall
27 commence and shall set forth the rate of interest for the
28 installments which shall not be more than 6% per year.

29 (c) Installment agreement.--The borough shall enter into a
30 written installment agreement with each property owner, subject

1 to the requirements of the ordinance pertaining to the
2 agreements and this chapter.

3 (d) Unpaid installments.--If an installment remains unpaid
4 for 60 days after it has become due and payable, the entire
5 unpaid assessment, plus unpaid accrued interest and any costs,
6 shall be due and payable, and the borough solicitor shall
7 proceed to collect it by filing a lien in the same manner as
8 municipal claims are filed or by action in assumpsit.

9 (e) Prepayment.--A property owner upon whom an assessment
10 has been made may pay all or as many of the installments before
11 they are due, with interest and costs to the due date of the
12 next installment.

13 § 21A08. Collection of assessments.

14 (a) Collection methods.--If an assessment remains unpaid at
15 the expiration of the 30-day personal notice and an installment
16 agreement has not been entered into pursuant to section 21A06
17 (relating to petition for viewers), the borough solicitor shall
18 collect the unpaid assessment, with interest from the time of
19 completion of the improvement or from the time of filing a
20 certificate of assessment with council, plus costs, by filing a
21 lien to be collected in the same manner as municipal claims or
22 by action in assumpsit. When a property owner has two or more
23 lots against which there is an assessment for the same
24 improvement, all of the lots may be embraced in one claim.

25 (b) Payment location.--Assessments, whether paid one time or
26 by installments, shall be payable at the office of the borough
27 treasurer or any other place as the applicable ordinance shall
28 provide.

29 CHAPTER 22

30 STORM SEWERS AND WATERCOURSES

1 Sec.

2 2201. Authority of boroughs.

3 2202. Right of entry upon lands.

4 2203. Manner of financing work.

5 2204. Proceedings to assess damages.

6 2205. Unlawful to build within right-of-way of storm sewers.

7 2206. Power to acquire storm sewer systems.

8 § 2201. Authority of boroughs.

9 (a) General rule.--Any borough may, by ordinance, after
10 obtaining any required permit from the Department of
11 Environmental Protection or other Federal or State entity do the
12 following:

13 (1) Widen and deepen any watercourse running through or
14 within the borough and erect dykes, retaining walls and
15 embankments along the watercourse as may be necessary to
16 prevent the water from overflowing the banks.

17 (2) Confine and pave any watercourse or portion thereof,
18 other than a navigable stream.

19 (3) Engage in channel improvement through the
20 construction and maintenance of storm sewers and the
21 accumulation and discharge of water into storm sewers.

22 (4) Vacate or alter the course or channel of any
23 watercourse, other than a navigable stream.

24 (5) Acquire, operate and maintain areas for the
25 infiltration, detention or retention of storm water and for
26 other methods of storm water management authorized by the
27 Department of Environmental Protection.

28 (b) Authorization and consent.--For any purpose set forth in
29 subsection (a), a borough may enter upon and condemn property
30 and materials as may be necessary. No borough may confine and

1 pave, vacate or alter any watercourse used by any municipality,
2 municipal authority or water company as a source of supply
3 unless the municipality, municipal authority or water company
4 shall first consent to the confining and paving, vacation or
5 alteration.

6 § 2202. Right of entry upon lands.

7 A borough may enter upon any land lying near a watercourse
8 and secure the material as may be necessary for the purpose of
9 making and repairing the embankments along the watercourse when
10 the material cannot be obtained by contract at a reasonable
11 price. The borough shall cause no unnecessary damage to the
12 owners of the land, shall repair any fences, structures or
13 damage to the land that is caused by the borough and shall
14 compensate the owner, either by agreement or in accordance with
15 26 Pa.C.S. (relating to eminent domain), for any materials
16 obtained under this section.

17 § 2203. Manner of financing work.

18 A borough may pay for the costs and expenses of any work
19 authorized under section 2201 (relating to authority of
20 boroughs) wholly or in part from money of the borough available
21 for the purpose. To the extent that a borough does not receive
22 assistance from the Federal, State or county government for the
23 costs and expenses of the work, the borough may assess the
24 benefited properties located within the drainage area of the
25 watercourse in accordance with Chapter 21A (relating to
26 assessments and charges for public improvements).

27 § 2204. Proceedings to assess damages.

28 Any person aggrieved by any ordinance enacted or action taken
29 pursuant to sections 2201 (relating to authority of boroughs),
30 2202 (relating to right of entry upon lands) and 2203 (relating

1 to manner of financing work) may file a complaint with the court
2 of common pleas to fix and determine the damages for property
3 taken, injured or destroyed under 26 Pa.C.S. (relating to
4 eminent domain).

5 § 2205. Unlawful to build within right-of-way of storm sewers.

6 It shall be unlawful for a person to erect a building or make
7 an improvement within the right-of-way of a storm sewer laid out
8 after due notice of the laying out of the storm sewer. If the
9 erection or improvement is made, no allowance shall be made in
10 the assessment of damages.

11 § 2206. Power to acquire storm sewer systems.

12 (a) General rule.--A borough may, by ordinance, acquire
13 ownership of storm sewers, culverts and the necessary inlets and
14 appliances for surface, under surface and storm sewer drainage
15 by purchase, by the exercise of eminent domain pursuant to 26
16 Pa.C.S. (relating to eminent domain) or by gift from the owner
17 or owners.

18 (b) Eminent domain.--In eminent domain proceedings, the
19 viewers shall assess the costs and expenses of the storm sewer,
20 culverts, inlets and appliances acquired by the borough upon the
21 property or properties benefited according to benefits. Any
22 deficiency that is not assessed upon the benefited property or
23 properties shall be paid by the borough.

24 CHAPTER 23

25 UNDERGROUND CONDUITS

26 (Reserved)

27 CHAPTER 24

28 WATER SYSTEM

29 Subchapter

30 A. General Powers to Supply Water

- 1 A.1. Acquisition by Eminent Domain
- 2 A.2. Acquisition by Purchase After Appraisement
- 3 A.3. Power to Lease Water System
- 4 A.4. Joint Water System
- 5 A.5. Condemnation of Lands For Road Purposes and to Prevent
- 6 Contamination
- 7 A.6. Commission of Water System
- 8 A.7. Water Connections
- 9 B. (Reserved)
- 10 C. (Reserved)
- 11 D. (Reserved)

12 SUBCHAPTER A

13 GENERAL POWERS TO SUPPLY WATER

14 Sec.

15 2401. Power to supply water and make regulations.

16 2402. Contracts not to abridge powers.

17 2403. Issue of bonds where water system acquired.

18 2404. Refunding bonds.

19 2405. (Reserved).

20 2406. Contracts to supply water for municipal purposes.

21 2407. Power to supply water beyond limits of borough.

22 2408. Assessment for water mains.

23 2409. Sale of water system.

24 § 2401. Power to supply water and make regulations.

25 (a) Supply of water.--Boroughs may supply water for the use
26 of the public within the borough by constructing or purchasing
27 and operating a water system, by entering into contract with
28 persons or corporations authorized to supply water within the
29 limits of the borough or partly by constructing or purchasing
30 and operating a water system and partly by entering into a

1 contract.

2 (b) Regulations.--Council may make regulations for the
3 protection of water pipes, reservoirs and other apparatus used
4 in the supplying or storing of water, for the prevention of the
5 waste of water supplied and for the drilling of water wells
6 within the borough.

7 (c) Rates.--Council shall fix the rates to be charged for
8 the water furnished to individuals, partnerships, associations
9 or corporations and shall provide for the collection of water
10 rents from users of water supplied by the borough. The borough's
11 provision of water to users outside the borough limits as to
12 character of service, extensions and rates shall be subject to
13 any applicable approval, regulation or control imposed by 66
14 Pa.C.S. Pt. I (relating to Public Utility Code).

15 § 2402. Contracts not to abridge powers.

16 A borough's power to construct and operate a water system as
17 provided in section 2401 (relating to power to supply water and
18 make regulations) shall not be abridged by the borough entering
19 into a contract with a person or corporation for the supply of
20 water, but the power shall remain in force as though the
21 contract had not been made.

22 § 2403. Issue of bonds where water system acquired.

23 Where the price and terms are agreed upon, a borough may
24 become the owner of and operate any water system owned and
25 operated by a corporation furnishing water within the acquiring
26 borough and in nearby municipal corporations. The borough may
27 pay for the water system from the revenues derived from general
28 obligation bonds or utility bonds issued in the manner provided
29 by 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and
30 borrowing).

1 § 2404. Refunding bonds.

2 (a) General rule.--If a borough acquires a water system
3 subject to any existing lien or liens and, at the time of
4 acquisition, issues utility bonds secured by the liens on the
5 water system and which impose no municipal liability, then, when
6 the utility bonds mature or at any time prior, the borough may
7 issue and sell utility bonds for the purposes of refunding the
8 outstanding bonds. The refunding bonds shall be issued as
9 utility bonds pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating
10 to indebtedness and borrowing). The issued bonds shall not be
11 deemed to be the creation of new obligations but shall be deemed
12 a continuation of the bonds existing or created at the time of
13 the original acquisition of the water system.

14 (b) Time, interest rate and amount.--The bonds shall not be
15 refunded for a longer period than 20 years, and the refunding
16 lien bonds issued shall not bear interest at a rate exceeding
17 6%. The aggregate amount of the issued refunding lien bonds
18 shall not exceed the amount of the bonds to be refunded. Any
19 money placed in any fund by the borough or by any commission of
20 the water system for the purpose of redeeming or paying the
21 bonds at maturity shall be first applied to the payment of the
22 principal of the bonds to be refunded and the balance of the
23 bonds only shall be refunded by the issue of new bonds.

24 § 2405. (Reserved).

25 § 2406. Contracts to supply water for municipal purposes.

26 Boroughs may receive bids from water companies and municipal
27 authorities authorized to do business within the borough and
28 from other municipalities operating a water system for the
29 supply of water for fire protection and for other municipal
30 purposes. The borough may contract for the supply of water with

1 the water company.

2 § 2407. Power to supply water beyond limits of borough.

3 If a borough maintains a water system, it shall be lawful for
4 the borough to supply water to persons and corporations outside
5 the limits of the borough, but the supply of water shall be
6 subject to any applicable approval or regulation imposed by 66
7 Pa.C.S. Pt. I (relating to Public Utility Code). The privilege
8 shall not conflict with the corporate rights of any water
9 company or the rights of any other municipality or municipal
10 authority.

11 § 2408. Assessment for water mains.

12 Boroughs shall have power to assess the whole cost or any
13 part of the cost of construction of new water mains built in
14 connection with the establishment or extension of a municipally
15 owned water supply system in accordance with Chapter 21A
16 (relating to assessments and charges for public improvements),
17 notwithstanding if the mains are located within or without the
18 limits of the borough.

19 § 2409. Sale of water system.

20 (a) General rule.--By ordinance, a borough may sell all or
21 part of its water system to a purchaser at an agreed upon price,
22 and, thereafter, for all purposes that price shall be deemed to
23 be the purchaser's original cost less accrued depreciation of
24 the plant at the date of purchase. No ordinance shall take
25 effect until the expiration of ten days following its enactment
26 and if, within that ten-day period, a protest signed by at least
27 10% of the registered electors of the borough is filed with the
28 council, the sale shall be stayed pending a referendum on the
29 ordinance.

30 (b) Protest.--The following shall apply to a protest:

1 water supply may appropriate springs, streams, rivers or creeks
2 and lands, easements and rights-of-way, within or without its
3 limits. If the appropriation is outside its limits, the
4 appropriation shall be in compliance with 26 Pa.C.S. § 206
5 (relating to extraterritorial takings). For the purpose of
6 conducting water obtained outside its limits, a borough may lay
7 pipes under and over any lands, rivers, streams, bridges,
8 highways and under railroads. No water appropriated under this
9 section shall be used in a manner as to deprive the owner of the
10 water of the free use and enjoyment of the water for domestic or
11 farm purposes. The exercise of the powers in this section shall
12 be subject to any required approvals or permits from the
13 Department of Environmental Protection or other Federal or State
14 entity.

15 § 2412. Agreements as to damages.

16 Prior to any appropriation under section 2411 (relating to
17 appropriation of lands and waters), the borough shall attempt to
18 agree with the owner as to the damage done or likely to be done.
19 If the parties cannot agree, the borough shall proceed pursuant
20 to 26 Pa.C.S. (relating to eminent domain).

21 § 2413. (Reserved).

22 SUBCHAPTER A.2

23 ACQUISITION BY PURCHASE AFTER APPRAISEMENT

24 Sec.

25 2421. Petition to court.

26 2422. Appointment of appraisers.

27 2423. Powers of appraisers.

28 2424. Appeal from appraisement.

29 2425. Authority to purchase and consent to sell.

30 2426. Bond issue and limitations.

1 2427. (Reserved).

2 § 2421. Petition to court.

3 If a borough desires to own and operate a water system owned
4 by any person, firm or corporation, the borough may present its
5 petition to the court of common pleas of the county where the
6 water system is located, setting forth that:

7 (1) The borough desires to own the water system.

8 (2) It will be necessary to issue bonds.

9 (3) A value should be placed upon the water system,
10 including all property, real and personal, used in connection
11 with the water system.

12 § 2422. Appointment of appraisers.

13 (a) Valuation.--The court of common pleas shall appoint
14 three civil engineers as appraisers to value and appraise:

15 (1) The water system.

16 (2) The property used in connection with the water
17 system.

18 (3) The contracts or agreements with municipalities.

19 (b) Report.--The civil engineers shall file their report in
20 the court within three months after their appointment unless the
21 time is extended by the court.

22 § 2423. Powers of appraisers.

23 The appraisers shall have the following powers:

24 (1) To access the books and records of the person, firm
25 or corporation owning the water system to inform themselves
26 as to the income and value of the water system.

27 (2) To administer oaths and to take the testimony of
28 witnesses.

29 (b) Report.--The report of the appraisers shall be final
30 unless the report is appealed.

1 § 2424. Appeal from appraisalment.

2 (a) Filing of petition.--Within ten days after notice of the
3 filing of any report in the court of common pleas, either party
4 may appeal from the appraisalment by filing a petition for a
5 hearing before the court alleging an undervaluation or
6 overvaluation of the property.

7 (b) Hearing.--The court shall fix a time when the appeal may
8 be heard, giving at least ten days' notice to the parties, and,
9 upon hearing, the court of common pleas shall have power to
10 affirm or modify the report as the court deems just and proper.

11 § 2425. Authority to purchase and consent to sell.

12 (a) Authority to purchase.--After the value is finally
13 determined, the borough is authorized to buy the water system at
14 the valuation fixed.

15 (b) Consent to sell.--The person, firm or corporation owning
16 the water system shall, within ten days after notice, file in
17 the court of common pleas its consent to sell and convey its
18 water system and property to the borough at the valuation fixed.
19 In default of the filing of the consent, the person, firm, or
20 corporation shall cease to have any exclusive privilege of
21 supplying the borough or the citizens of the borough with water,
22 and the borough may install the water system as may be necessary
23 for the accommodation of the public.

24 § 2426. Bond issue and limitations.

25 (a) Bond issue.--For the purpose of purchasing a water
26 system, the borough may issue utility bonds in the manner
27 provided by 53 Pa.C.S. Pt. VII Subpt. B (relating to
28 indebtedness and borrowing).

29 (b) Limitations.--The bonds shall not exceed in amount the
30 value fixed by the appraisers or the court of common pleas. The

1 proceeds of the sale of the bonds shall be used exclusively for
2 the purpose of paying for the property acquired.
3 § 2427. (Reserved).

4 SUBCHAPTER A.3

5 POWER TO LEASE WATER SYSTEM

6 Sec.

7 2431. Lease of water system.

8 2432. Term of lease and rental.

9 2433. Operation of property.

10 2434. (Reserved).

11 § 2431. Lease of water system.

12 The council of a borough may enter into a contract with any
13 individual, partnership, association or corporation for the
14 leasing of a water system of the individual, partnership,
15 association or corporation.

16 § 2432. Term of lease and rental.

17 The lease term may be for a term of years and at a rental
18 price as shall be agreed upon by the borough and the individual,
19 copartnership, association or corporation.

20 § 2433. Operation of property.

21 A borough shall have the same powers in operating a leased
22 water system as it would have in operating a purchased or
23 condemned water system.

24 § 2434. (Reserved).

25 SUBCHAPTER A.4

26 JOINT WATER SYSTEM

27 Sec.

28 2436. Joint acquisition and construction.

29 2437. Permits.

30 2438. Joint commission.

1 § 2436. Joint acquisition and construction.

2 A borough may join with one or more municipal corporations in
3 the construction or acquisition and maintenance of a water
4 system.

5 § 2437. Permits.

6 The construction of a water system shall be commenced only
7 after plans for the water system have been filed with the
8 Department of Environmental Protection and, if required by law,
9 other Federal or State entities and permits issued in accordance
10 with law.

11 § 2438. Joint commission.

12 (a) General rule.--The municipal corporations joining in the
13 construction or acquisition and maintenance of a water system
14 may, by ordinance, provide for the appointment of a joint
15 commission of a water system in order to facilitate the
16 construction, operation and maintenance of the water system and
17 to secure preliminary surveys and estimates.

18 (b) Function.--The joint commission shall act generally as
19 the advisory and administrative agency in the construction of
20 the improvement and its subsequent operation and maintenance.

21 (c) Composition.--The joint commission shall be composed of
22 one representative from each of the joining municipal
23 corporations.

24 (d) Term of members.--The members of the joint commission
25 shall serve for terms of six years each from the dates of their
26 respective appointments and until their successors are
27 appointed.

28 (e) Officers.--The joint commission shall organize by the
29 election of a chair, secretary and treasurer. The secretary and
30 treasurer may be the same person.

1 (f) Ordinance provisions.--The municipal corporations may,
2 in the ordinances creating the joint commission, authorize it to
3 appoint an engineer, a solicitor and other assistants as are
4 deemed necessary and agree to share the compensation for
5 attending its meetings as shall be fixed in the budget prepared
6 by the commission and submitted to and adopted by the joining
7 municipal corporations.

8 (g) Compensation limitation and expenses.--The budget item
9 providing for the compensation to the members for attending
10 meetings shall not exceed \$500 per year, but members shall be
11 entitled to actual expenses to be paid by the respective
12 municipal corporations that the members represent. The fee for
13 each attendance at meetings shall be stipulated, and no member
14 shall be paid a fee for any meeting the member does not attend.

15 SUBCHAPTER A.5

16 CONDEMNATION OF LANDS FOR ROAD

17 PURPOSES AND TO PREVENT CONTAMINATION

18 Sec.

19 2441. Acquisition of land.

20 2442. Filing maps and plans.

21 2443. (Reserved).

22 2444. (Reserved).

23 § 2441. Acquisition of land.

24 (a) Acquisition for construction of roads.--If a borough
25 finds it necessary, when storing water for supply to the public,
26 to occupy and overflow portions of any public road with water or
27 if any public road leads into or crosses over any reservoir used
28 for the storage of water, the borough shall, at its own expense,
29 reconstruct or build a road in a favorable location, which shall
30 be in the same or better condition as the original road. A

1 borough is authorized to condemn land for these purposes if an
2 agreement as to price cannot be reached with the landowner.

3 (b) Land outside borough limits.--A condemnation of land
4 outside the borough limits shall be in conformity with 26
5 Pa.C.S. § 206 (relating to extraterritorial takings).

6 (c) Acquisition to prevent contamination.--A borough may
7 acquire, by purchase or condemnation, land along and contiguous
8 to streams of water or reservoirs from which water is taken for
9 public use if necessary to preserve the water from
10 contamination.

11 § 2442. Filing maps and plans.

12 If a change is made under section 2441(a) (relating to
13 acquisition of land), the borough shall file in the court of
14 common pleas a map or plan showing the change of road, and, if
15 the road is outside the limits of the borough, it shall furnish
16 to the governing body of the municipal corporation a copy of the
17 map.

18 § 2443. (Reserved).

19 § 2444. (Reserved).

20 SUBCHAPTER A.6

21 COMMISSION OF WATER SYSTEM

22 Sec.

23 2451. Commission.

24 2452. Terms of commissioners and compensation.

25 2453. Organization of commissioners.

26 2454. Powers of commission.

27 2455. Issue of bonds.

28 2456. Preparation of plans and specifications and contracts.

29 2457. Reports by commission.

30 2458. Care of funds.

1 § 2451. Commission.

2 (a) Establishment.--If a borough owns and maintains a water
3 system, there may be established in the borough, by ordinance, a
4 commission of the water system, which shall have the power of a
5 nonprofit corporation, to be composed of either three or five
6 citizens of the borough appointed by the council who shall be
7 known as commissioners of the water system.

8 (b) Abolishment.--At any time after three years from the
9 first appointment of the commissioners of the water system, the
10 borough may abolish the commission by repealing the ordinance
11 establishing the commission, which shall terminate the terms of
12 the commissioners then in office.

13 § 2452. Terms of commissioners and compensation.

14 (a) General rule.--If a borough establishes a commission of
15 the water system, it shall be the duty of the council to appoint
16 the commissioners of the water system.

17 (b) Commissions with three commissioners.--If there are
18 three commissioners, one shall be appointed to serve for one
19 year, one for two years and one for three years. Annually
20 thereafter, the council shall appoint one commissioner of the
21 water system to serve a term of three years.

22 (c) Commissions with five commissioners.--If there are five
23 commissioners, one shall be appointed to serve for one year, one
24 for two years, one for three years, one for four years and one
25 for five years. Annually thereafter, the council shall appoint
26 one commissioner of the water system to serve a term of five
27 years.

28 (d) Vacancy.--In case of a vacancy, the council shall fill
29 the vacancy for the unexpired term.

30 (e) Salary and expenses.--The commissioners of the water

1 system may receive a salary for their services and shall be
2 reimbursed by the borough for all expenses necessarily incurred
3 in the performance of their duties.

4 (f) Salary limitations.--The salary of the commissioners
5 shall not exceed the following:

6 (1) In service areas with fewer than 5,000 metered
7 accounts, a maximum of \$1,875 per year or \$156.25 per month.

8 (2) In service areas with 5,000 but fewer than 10,000
9 metered accounts, a maximum of \$2,500 per year or \$208.33 per
10 month.

11 (3) In service areas with 10,000 but fewer than 15,000
12 metered accounts, a maximum of \$3,250 per year or \$270.83 per
13 month.

14 (4) In service areas with 15,000 but fewer than 25,000
15 metered accounts, a maximum of \$4,125 per year or \$343.75 per
16 month.

17 (5) In service areas with 25,000 but fewer than 35,000
18 metered accounts, a maximum of \$4,375 per year or \$364.58 per
19 month.

20 (6) In service areas with 35,000 or more metered
21 accounts, a maximum of \$5,000 per year or \$416.67 per month.

22 § 2453. Organization of commissioners.

23 The commissioners of the water system shall meet within ten
24 days after their first appointment and annually thereafter and
25 organize by electing a president and secretary.

26 § 2454. Powers of commission.

27 After organization, the commissioners shall take charge and
28 control of the water system of the borough. The commission shall
29 have the following powers:

30 (1) To appoint all necessary officers and agents and

1 take from the officers and agents security for the faithful
2 performance of their duties as the commission deems proper.

3 (2) To fix the salaries and wages of the officers and
4 agents.

5 (3) To provide for the repair, extension, improvement
6 and maintenance of the water system and the construction of a
7 new water system.

8 (4) To collect water rents.

9 (5) To make and establish the rates and conditions upon
10 which water will be furnished to applicants, subject to any
11 applicable approval, regulation or control imposed by 66
12 Pa.C.S. Pt. I (relating to Public Utility Code).

13 (6) To make bylaws and regulations for the economic and
14 efficient management of the water system, which shall not be
15 inconsistent with any of the laws of this Commonwealth or the
16 rules and regulations of the Department of Environmental
17 Protection. No bylaws or regulations shall become effective
18 until they have been approved by the council and enacted as
19 ordinances of the borough.

20 § 2455. Issue of bonds.

21 The borough may, upon the request of the commissioners of the
22 water system, issue general obligation or nondebt revenue bonds
23 for the extension of the water system or the erection of a new
24 water system. The bonds shall be designated "water system bonds"
25 and shall be issued and sold in the manner provided by 53
26 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and
27 borrowing).

28 § 2456. Preparation of plans and specifications and contracts.

29 (a) Preparation of plans and specifications.--The
30 commissioners shall prepare plans and specifications of all work

1 to be performed and materials necessary for the repair,
2 maintenance and extension of the water system or the
3 construction of a new water system.

4 (b) Contracts.--The commissioners shall, after plans and
5 specifications for the extension or the construction of a water
6 system have been submitted to and approved by the Department of
7 Environmental Protection and a permit has been granted as may be
8 required by law:

9 (1) Invite proposals for the performing of the work and
10 the furnishing of materials.

11 (2) Advertise for bids as required by law.

12 (3) Let contracts to the lowest qualified and
13 responsible bidder.

14 (4) Take adequate security for the performance of the
15 contracts and for the payment of all labor and materials.

16 § 2457. Reports by commission.

17 The commissioners shall make a monthly report to the council
18 of the receipts and disbursements during the preceding month and
19 annually make a detailed report of the condition of the water
20 system. Both the monthly and annual reports shall be deemed to
21 be public records.

22 § 2458. Care of funds.

23 (a) Collectors.--Collectors shall be appointed by the
24 commissioners, in accordance with section 2454 (relating to
25 powers of commission), who shall collect all money for water
26 rents.

27 (b) Deposits.--The money collected shall be deposited weekly
28 with the borough treasurer who shall return a receipt to the
29 commissioners.

30 (c) Use.--All money collected shall be kept in a separate

1 fund and shall be used for the purpose of repairing, maintaining
2 and extending the water system and the construction of a new
3 water system. All money remaining after the expenditures shall
4 be used solely for the payment of any indebtedness on the water
5 system and any indebtedness incurred by the borough for
6 constructing, maintaining, improving, enlarging or extending the
7 water system.

8 (d) Withdrawals.--No money shall be drawn from the fund
9 except upon order countersigned by the president and secretary
10 of the commission.

11 SUBCHAPTER A.7

12 WATER CONNECTIONS

13 Sec.

14 2461. Ordinance.

15 2462. Notice and failure to make required connection.

16 2463. Water main tapping fees.

17 § 2461. Ordinance.

18 (a) General rule.--Council may, by ordinance, require any
19 owner of property to connect with and use a water system of the
20 borough or municipal authority or a joint water board in either
21 of the following cases:

22 (1) Except as provided in subsection (b), if the
23 property owner's principal building is located within 150
24 feet of a water system or any part or extension of the
25 system.

26 (2) If the property owner's principal building has no
27 supply of water which is safe for human consumption.

28 (b) Exception.--A property owner who after July 16, 2012, is
29 subject to mandatory connection under subsection (a)(1) shall
30 not be required to connect to the water system in accordance

1 with subsection (a) if all of the following conditions exist:

2 (1) The water system or part or extension of the system
3 that is within 150 feet of the principal building was in
4 existence on July 16, 2012.

5 (2) The principal building has its own supply of water
6 which is safe for human consumption.

7 (3) Prior to July 16, 2012, the property owner was not
8 required to connect to the existing system.

9 (c) Backflow prevention.--A borough may require any owner of
10 property to install and maintain a backflow prevention device
11 based on the degree of potential hazard of the connected
12 property in accordance with the Pennsylvania Construction Code
13 and regulations promulgated under that act.

14 (d) Penalties.--A borough may assess penalties for the
15 violation of ordinances pertaining to water connections or
16 backflow prevention devices.

17 § 2462. Notice and failure to make required connection.

18 An owner shall be given at least 45 days' notice of any
19 ordinance requiring a water connection, and, upon failure of the
20 owner to make the required connection, the borough may make the
21 connection and collect the cost from the owner by a municipal
22 claim or in an action of assumpsit. All connections required
23 shall be uniform.

24 § 2463. Water main tapping fees.

25 (a) General rule.--A borough may, by ordinance, provide for
26 charging a tapping fee calculated in accordance with 53 Pa.C.S.
27 § 5607 (relating to purposes and powers) if the owner of any
28 property connects the property with a water main constructed or
29 acquired by the borough. The tapping fee shall be in addition to
30 any charges assessed and collected against the property in the

1 construction or acquisition of the water main by the borough.

2 (b) Refund.--If a water main or part or extension owned by a
3 borough has been constructed by the borough at the expense of a
4 private person or corporation or has been constructed by a
5 private person or corporation under the supervision of the
6 borough at the expense of the private person or corporation, the
7 borough shall have the right to charge a tapping fee calculated
8 in accordance with 53 Pa.C.S. § 5607 and refund the tapping fee
9 or any part of the tapping fee to the person or corporation who
10 has paid for the construction of the water main or any part or
11 extension. The total of the refunds shall never exceed the cost
12 of the system or any part or extension to the person or
13 corporation paying for the construction.

14 SUBCHAPTER B

15 (RESERVED)

16 SUBCHAPTER C

17 (RESERVED)

18 SUBCHAPTER D

19 (RESERVED)

20 CHAPTER 24A

21 MANUFACTURE AND SUPPLY OF ELECTRICITY

22 Sec.

23 24A01. Definitions.

24 24A02. General powers.

25 24A03. Specific powers.

26 24A04. Municipal power agencies.

27 24A05. Additional contracting authority.

28 § 24A01. 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 "Municipal power agency." A separate body politic and
3 corporate under the laws of this Commonwealth created by
4 agreement between or among two or more boroughs pursuant to
5 section 24A04 (relating to municipal power agencies).

6 "Project." Electric plants, hydroelectric plant works,
7 system, facilities or real or personal property, together with
8 their parts and appurtenances, used or useful in connection with
9 the generation, production, transmission, purchase, sale,
10 exchange or interchange of electric power or energy, or any
11 interest therein or right to capacity thereof.

12 "Revenue bond." An instrument imposing an obligation for the
13 repayment of money borrowed, payable as to both principal and
14 interest exclusively from the income and revenues derived from
15 an interest in an electric plant or project.

16 § 24A02. General powers.

17 (a) Electric plants and projects.--A borough may, either
18 singly or jointly, manufacture or purchase electricity for the
19 use of its inhabitants, own, construct, acquire by lease,
20 purchase or otherwise gain an interest in, operate and manage or
21 cause to be operated and managed an electric plant or project
22 located within or without this Commonwealth. In the exercise of
23 these powers, a borough may join with any other borough,
24 political subdivision, agency or instrumentality of the Federal
25 Government, State government, political subdivision of another
26 state, private corporation empowered to supply electricity,
27 electric cooperative corporation formed under 15 Pa.C.S. Ch. 73
28 Subchs. A (relating to preliminary provisions) and B (relating
29 to powers, duties and safeguards) or previously formed under the
30 former act of June 21, 1937 (P.L.1969, No.389), known as the

1 Electric Cooperative Corporation Act, or an electric cooperative
2 corporation in another state.

3 (b) Contracts for supplying electricity.--A borough owning
4 or operating an electric plant may make contracts for supplying
5 electricity for commercial purposes outside the limits of the
6 borough, if the borough has received the consent of the other
7 municipal governing body and, if applicable, subject to 66
8 Pa.C.S. Pt. I (relating to Public Utility Code).

9 (c) Additional sources.--A borough may conduct studies as
10 necessary to determine the feasibility and cost of any
11 additional sources and supplies of electric power and energy and
12 may cooperate with private power companies, other boroughs,
13 electric cooperative corporations and other public or private
14 electric power entities, within or without this Commonwealth, in
15 the development of electric power and energy.

16 (d) Consent of borough to supply electricity.--No person,
17 partnership or corporation may introduce electric current for
18 light, heat or power purposes, without the consent of the
19 council, into the limits of any borough that is furnishing
20 electric current to its inhabitants. This subsection shall not
21 apply to any person, partnership or corporation manufacturing
22 electricity exclusively for its own use.

23 (e) Corporate rights.--Nothing in this chapter may conflict
24 with the corporate rights of a corporation empowered to supply
25 electricity in the territory adjacent to the borough or with the
26 rights of any other municipality.

27 (f) Restrictions.--A borough shall not become a stockholder
28 in, obtain or appropriate money for or loan its credit to a
29 corporation, association, institution or individual or otherwise
30 act contrary to the provisions of section 9 of Article IX of the

1 Constitution of Pennsylvania.

2 (g) General powers.--A borough, through its governing body,
3 shall have the power to do and accomplish all actions reasonably
4 necessary and incident to the administration, operation and
5 management of a plant or project.

6 § 24A03. Specific powers.

7 (a) Specific powers enumerated.--In addition to exercising
8 its general powers under section 24A02 (relating to general
9 powers), a borough, through its governing body, shall have the
10 following powers:

11 (1) To contract for the purchase, sale, exchange,
12 interchange, wheeling, pooling or transmission of electric
13 power and energy or for the right to the capacity of electric
14 power, inside and outside of this Commonwealth, to and from
15 any public or private power entities, private power
16 companies, other boroughs and electric cooperative
17 corporations.

18 (2) To regulate the use of and the charge for
19 electricity furnished by the borough for use throughout the
20 borough. A borough may fix, establish, maintain and collect
21 or authorize by contract or otherwise the establishment,
22 levying and collection of the rates, fees, rental or other
23 charges, including connection charges, for the services
24 afforded by or in connection with any properties which the
25 borough constructs, erects, owns, acquires, operates or
26 manages and for the sale or transmission of electric energy
27 and power as it deems necessary, proper, desirable and
28 reasonable.

29 (3) To procure insurance against any losses in
30 connection with its property, operations or assets in the

1 amounts and from the insurers as the governing body or bodies
2 deem desirable.

3 (4) To contract for and to accept any gifts, grants or
4 loans of funds, property or financial or other aid in any
5 form, from the United States or any agency or instrumentality
6 of the United States, or from any other source.

7 (5) To lease, or otherwise grant the use of, and to make
8 charges for the use of any property or facility owned or
9 controlled by the borough.

10 (6) To procure from the United States or any agency or
11 instrumentality of the United States, or from any state or
12 agency or instrumentality of a state, any consents,
13 authorizations or approvals which may be requisite to enable
14 ownership, operation, construction or repair.

15 (7) To borrow money and from time to time to issue
16 revenue bonds and to enter into agreements with the
17 purchasers of the revenue bonds. A borough that incurs debt
18 for the construction or purchase of an electric plant, or
19 land on which to construct an electric plant, or gains an
20 interest in an electric plant or project under section 24A02
21 shall incur the debt in accordance with and to the extent
22 permitted by 53 Pa.C.S. Pt. VII Subpt. B (relating to
23 indebtedness and borrowing). Interest and principal paid on
24 revenue bonds issued by a borough under this chapter shall be
25 exempt from all State taxes of any kind or nature.

26 (8) To mortgage a property acquired or owned under
27 section 24A02 to secure the payment of its revenue bonds or
28 other obligations issued to finance the acquisition,
29 ownership or repair.

30 (9) To sell, by ordinance, all or part of its electric

1 works to a purchaser for the sale price agreed upon by the
2 parties. After the sale, the price shall be deemed to be the
3 purchaser's original cost less accrued depreciation of the
4 plant at the date of purchase.

5 (10) To purchase the electric works of any person,
6 partnership or electric company organized under the laws of
7 this Commonwealth that is furnishing electricity to the
8 borough or the public within the borough. The borough and the
9 person, partnership or a majority in value of the
10 stockholders of a corporation may agree upon the purchase
11 price, except that, upon failure of the parties to agree on
12 the price, the borough may proceed according to 26 Pa.C.S.
13 (relating to eminent domain).

14 (b) Eminent domain.--In the erection and extension of an
15 electric plant or project under this chapter and for all other
16 purposes authorized by this part, a borough may enter upon,
17 appropriate, injure or destroy private lands, property or
18 material according to the proceedings set forth in 26 Pa.C.S. A
19 borough shall not have the power of condemnation with regard to
20 any property of a private or public retail electric supplier
21 which geographically lies beyond the boundaries of the corporate
22 limits of the borough.

23 § 24A04. Municipal power agencies.

24 (a) General rule.--Two or more boroughs may form a municipal
25 power agency by the execution of an agency agreement authorized
26 by an ordinance of the governing bodies of each borough. The
27 agency agreement shall state:

28 (1) The name of the agency, which shall include the
29 words "municipal power agency."

30 (2) The names of the boroughs which have approved the

1 agency agreement and are initial members of the municipal
2 power agency.

3 (3) That the municipal power agency is created pursuant
4 to the authority granted by this part.

5 (4) The names and addresses of the persons initially
6 appointed by the governing bodies to act as representatives
7 to the municipal power agency from the member boroughs.

8 (5) The limitations, if any, placed on the powers or
9 terms of representatives appointed by the governing bodies of
10 the member boroughs.

11 (6) The names and addresses of the initial board of
12 directors of the municipal power agency, if known by the time
13 of filing, which shall be constituted by not less than five
14 persons who are representatives of the member boroughs,
15 selected by the vote of a majority of the representatives.

16 (b) Certificate of incorporation.--The agency agreement
17 under subsection (a) and a certified copy of the ordinance of
18 the governing body of each borough shall be filed for record
19 with the Secretary of the Commonwealth. If the agency agreement
20 meets the requirements of this section, the Secretary of the
21 Commonwealth shall record the agreement and issue and record a
22 certificate of incorporation which shall be conclusive proof of
23 substantial compliance with the requirements of this section.
24 The certificate shall state the name of the municipal power
25 agency and the fact and date of incorporation. Upon the issuance
26 of the certificate of incorporation, the existence of the
27 municipal power agency as a political instrumentality of the
28 Commonwealth shall begin.

29 (b.1) Open meetings.--Regular and special meetings of the
30 representatives of member boroughs and the board of directors as

1 provided in this section shall be subject to 65 Pa.C.S. Ch. 7
2 (relating to open meetings).

3 (c) Bylaws.--The bylaws of the municipal power agency and
4 any amendments shall be proposed by the board of directors and
5 shall be adopted by a majority vote of the representatives of
6 the member boroughs unless the agency agreement requires a
7 greater vote at a meeting held after notice. Subject to the
8 provisions of the agency agreement, the requirements of this
9 part and the laws of this Commonwealth, the bylaws shall state:

10 (1) The qualifications of member boroughs and
11 limitations, if any, upon their number.

12 (2) Conditions of membership, if any.

13 (3) The manner and time of calling regular meetings of
14 representatives of member boroughs.

15 (4) The manner and conditions of termination of
16 membership.

17 (5) Other provisions for regulating the affairs of the
18 municipal power agency as the representatives of the member
19 boroughs shall determine to be necessary.

20 (d) Registered office.--Every municipal power agency shall
21 maintain an office in this Commonwealth to be known as its
22 registered office. When a municipal power agency desires to
23 change the location of its registered office, it shall file with
24 the Secretary of the Commonwealth a certificate of change of
25 location of registered office, stating the new location by
26 address, including street and number, if any, and the effective
27 date of change. When the certificate of change of location has
28 been duly filed, the board of directors may make the change
29 without any further action.

30 (e) Directors.--The following apply:

1 (1) Each of the directors shall hold office for the term
2 for which the director has been selected and until a
3 successor has been selected and has qualified. Directors
4 shall discharge their duties in good faith and with that
5 diligence and care which an ordinary prudent person in a like
6 position would exercise under similar circumstances.

7 (2) The agency agreement or the bylaws may prescribe the
8 number, term of office, powers, authority and duties of
9 directors, the time and place of their meetings and other
10 regulations concerning directors in a manner consistent with
11 law.

12 (3) Except where the agency agreement or bylaws
13 prescribe otherwise, the term of office of a director shall
14 be for one year.

15 (4) Except where the agency agreement or bylaws
16 prescribe otherwise, a meeting of the board of directors may
17 be held at any place within this Commonwealth designated by
18 the board, after notice, and an act of the majority of the
19 directors present at a meeting at which a quorum is present
20 is the act of the board.

21 (5) Except where the agency agreement or bylaws
22 prescribe otherwise, any vacancy occurring on the board shall
23 be filled by a person nominated by the remaining members of
24 the board and elected by a majority of representatives of the
25 member boroughs.

26 (f) Officers.--Except where the agency agreement or bylaws
27 prescribe otherwise, the board of directors shall appoint a
28 president from its membership and a secretary, treasurer and any
29 other officers or agents deemed necessary who may, but need not
30 be, borough representatives or directors. An officer may be

1 removed with or without cause by the board of directors.
2 Officers of the municipal power agency shall have the authority
3 and duties in the management of the business of the municipal
4 power agency that the agency agreement or bylaws prescribe or,
5 in the absence of the prescription, as the board of directors
6 determines.

7 (g) Representatives of member boroughs.--The following
8 apply:

9 (1) Except as otherwise provided in the agency agreement
10 or the bylaws, the duly authorized representatives of each
11 member borough shall act as and vote on behalf of that
12 borough.

13 (2) Except where the agency agreement or bylaws provide
14 otherwise, representatives of the member boroughs shall hold
15 at least one meeting each year for the election of directors
16 and for the transaction of any other business.

17 (3) Except where the agency agreement or bylaws
18 prescribe otherwise, special meetings of the representatives
19 may be called for any purpose upon written request to the
20 president or secretary to call the meeting. The officer shall
21 give notice of the meeting to be held between ten and 60 days
22 after receipt of the request.

23 (4) Unless the agency agreement or bylaws provide for a
24 different percentage, a quorum for a meeting of the
25 representatives of the member boroughs is a majority of the
26 total members, and a quorum for meetings of the board of
27 directors is a majority of the membership of the board.

28 (h) Amendment of agency agreement.--The agency agreement may
29 be amended as proposed at any meeting of the representatives of
30 the members for which notice stating the purpose shall be given

1 to each representative and, unless the agency agreement or
2 bylaws require otherwise, shall become effective when ratified
3 by ordinances of a majority of the governing bodies of the
4 member boroughs. Each amendment and the ordinances approving it
5 shall be filed for record with the Secretary of the
6 Commonwealth.

7 (i) Appropriations.--Each member borough shall have full
8 power and authority, within budgetary limits applicable to it,
9 to appropriate money for the payment of expenses of the
10 formation of the municipal power agency and of its
11 representative in exercising its functions as a member of the
12 agency.

13 (j) General powers.--A municipal power agency may own,
14 construct, acquire by lease, purchase or otherwise gain an
15 interest by itself or as co-owner or tenant in common and
16 operate and manage or cause to be operated and managed an
17 electric plant or project located within or without this
18 Commonwealth jointly with any political subdivision, subdivision
19 of the Federal Government, State government, political
20 subdivision of another state, private corporation empowered to
21 supply electricity, electric cooperative corporation formed
22 under the former act of June 21, 1937 (P.L.1969, No.389), known
23 as the Electric Cooperative Corporation Act, or electric
24 cooperative corporation in another state.

25 (k) Specific powers.--All powers of a municipal power agency
26 shall be exercised by its board of directors, unless otherwise
27 provided by the agency agreement or bylaws. A municipal power
28 agency shall have the power to do and accomplish all actions
29 reasonably necessary and incident to the ownership,
30 construction, acquisition, administration, operation and

1 management of an electric plant or project. Among the specific
2 powers of a municipal power agency shall be the following:

3 (1) To sue and be sued.

4 (2) To enter into contracts.

5 (3) To cooperate with private power companies, boroughs,
6 electric cooperative corporations and other public or private
7 electric power entities inside and outside of this
8 Commonwealth in the development of electric power and energy.

9 (4) To make the studies as may be necessary to determine
10 the feasibility and cost of any additional sources and
11 supplies of electric power and energy.

12 (5) To contract for the purchase, sale, exchange,
13 interchange, wheeling, pooling or transmission of electric
14 power and energy or for the right to the capacity thereof,
15 inside and outside of this Commonwealth, to and from any
16 public or private power entities, private power companies,
17 other boroughs and electric cooperative corporations.

18 (6) To procure insurance against any losses in
19 connection with its property, operations or assets in amounts
20 and from insurers as the board of directors deems desirable.

21 (7) To contract for and to accept any gifts, grants or
22 loans of funds, property or financial or other aid in any
23 form from the United States or any agency or instrumentality
24 of the United States or from any other source.

25 (8) To acquire, hold, use, operate and dispose of
26 personal property.

27 (9) To acquire, hold, use and dispose of its income,
28 revenues, funds and money.

29 (10) To acquire, own, use, lease, operate and dispose of
30 real property and interests in real property and to make

1 improvements to the real property.

2 (11) To grant the use, by lease or otherwise, and to
3 make charges for the use of any property or facility owned or
4 controlled by it.

5 (12) To procure from the United States or any agency or
6 instrumentality of the United States, or from any state or
7 agency or instrumentality of a state, any consents,
8 authorizations or approvals which may be requisite to enable
9 ownership, operation, construction or repair.

10 (13) To borrow money and from time to time to issue
11 revenue bonds and to enter into agreements with the
12 purchasers of the revenue bonds.

13 (14) To invest funds not required for immediate use,
14 including, but not limited to, proceeds from the sale of
15 revenue bonds. The power of a municipal power agency to
16 invest shall be the same as that of a borough, as exercised
17 by the council pursuant to sections 1005(6) (relating to
18 powers of council) and 1316 (relating to investment of
19 funds).

20 (15) To mortgage any property acquired or owned to
21 secure the payment of its revenue bonds or other obligations
22 issued to finance the acquisition, ownership or repair.

23 (1) Eminent domain.--

24 (1) Except as provided under paragraph (2), in the
25 erection and extension of an electric plant or project and
26 for all other purposes authorized by this part, a municipal
27 power agency may enter upon, appropriate, injure or destroy
28 private lands, property or material according to the
29 proceedings set forth in 26 Pa.C.S. (relating to eminent
30 domain).

1 (2) A municipal power agency shall not have the power of
2 condemnation with regard to any property of a private or
3 public retail electric supplier which geographically lies
4 beyond the boundaries of the corporate limits of its member
5 boroughs.

6 (m) Revenue bonds.--A municipal power agency which gains an
7 interest in an electric plant or project may pay all or part of
8 the cost from the revenues derived from the sale of revenue
9 bonds issued in the manner provided by 53 Pa.C.S. Pt. VII Subpt.
10 B (relating to indebtedness and borrowing).

11 (n) Bylaws.--A municipal power agency may make and enforce
12 bylaws or rules which it deems necessary or desirable. A
13 municipal power agency may establish, fix, levy and collect or
14 may authorize, by contract, franchise, lease or otherwise, the
15 establishment, levying and collection of rents, rates and other
16 charges for the services afforded by the municipal power agency,
17 including connection for the services afforded by the municipal
18 power agency, including connection charges or by or in
19 connection with any project or properties which it may
20 construct, erect, acquire, own, operate or control, or with
21 respect to which it may have any interest or any right to
22 capacity thereof, and for the sale of electric energy or of
23 generation or transmission capacity or services as it may deem
24 necessary, proper, desirable and reasonable. Rents, rates and
25 other charges shall be at least sufficient to meet expenses
26 thereof, including reasonable reserves, interest and principal
27 payments.

28 (o) State tax exemptions.--Interest and principal paid on
29 revenue bonds issued by a municipal power agency shall be exempt
30 from all State taxes of whatsoever kind or nature.

1 § 24A05. Additional contracting authority.

2 (a) Additional contracting authority.--In addition to the
3 authority provided under section 24A02 (relating to general
4 powers), a borough that, on October 27, 2010, owned or operated
5 electric generation or distribution facilities and a borough
6 that is a member of a nonprofit membership corporation may
7 contract with the nonprofit membership corporation for the
8 following:

9 (1) The development of electric power and associated
10 energy, including the conduct of investigations or studies
11 necessary to determine the feasibility and cost of additional
12 sources and supplies of electric power and associated energy.

13 (2) The purchase, sale, exchange, interchange, wheeling,
14 pooling or transmission of electric power and associated
15 energy or the right to the capacity from sources and projects
16 in this Commonwealth or another state for a period not to
17 exceed 50 years.

18 (b) Contract requirements.--A contract under subsection (a)
19 (2) shall include the purpose of the contract, the duration of
20 the contract and available procedures to terminate the contract
21 subsequent to the repayment of all indebtedness secured under
22 the contract.

23 (c) Minimum quantity of electric power and energy.--If a
24 borough is a member of a nonprofit membership corporation, a
25 contract under subsection (a)(2) may, if specifically set forth
26 in the contract, obligate the borough to:

27 (1) Take and pay for a minimum quantity of electric
28 power and associated energy if the power and energy are
29 available for delivery.

30 (2) In connection with a project owned by the nonprofit

1 membership corporation or in which the nonprofit membership
2 corporation obtains an undivided ownership interest, take or
3 pay for a minimum amount of electric power and energy.

4 (3) Pay for electric power and energy only if utilized
5 by the borough.

6 (d) Applicability of minimum requirements.--

7 (1) The authority under subsection (c)(1) shall apply
8 whether or not the borough accepts delivery of the power and
9 energy.

10 (2) The authority under subsection (c)(2) shall apply
11 notwithstanding the suspension, interruption, interference or
12 reduction or curtailment of the output of the project or the
13 electric power and energy contracted for and whether or not:

14 (i) the electric power and energy is available for
15 delivery to the borough; or

16 (ii) the borough accepts delivery of the electric
17 power and energy.

18 (e) Take-or-pay or take-and-pay arrangements.--No borough
19 may be obligated under a take-or-pay or take-and-pay arrangement
20 entered into with a nonprofit membership corporation in which
21 the borough maintains membership unless that obligation is
22 expressly authorized by an act of the council.

23 (f) Restrictions.--A nonprofit membership corporation shall
24 not:

25 (1) Condition membership in the nonprofit membership
26 corporation on the inclusion of any take-or-pay or take-and-
27 pay obligations in a contract under subsection (a)(2).

28 (2) Except as set forth in subsection (g), require take-
29 or-pay or take-and-pay obligations in a contract with a
30 borough unless the contract meets the criteria of subsection

1 (c) (1) or (2).

2 (g) Future contracts.--A borough that is a member of a
3 nonprofit membership corporation may enter into future power
4 supply contracts, contract renewals or contract extensions with
5 the nonprofit membership corporation under subsection (c) (3):

6 (1) with no take-or-pay or take-and-pay obligations as
7 permitted by subsection (c) (1) and (2); and

8 (2) without prejudice or discrimination as compared to
9 any other borough which chooses to enter into contracts
10 permitted by subsection (c) (1) and (2) with the nonprofit
11 membership corporation.

12 (h) Future power supply contract terms.--In order to carry
13 out subsection (g), a nonprofit membership corporation which
14 provides or offers electric power and associated energy to a
15 member borough in this Commonwealth under subsection (a) (2)
16 shall offer, to all of its member boroughs in this Commonwealth,
17 future power supply contract terms, contract renewals or
18 contract extensions under subsection (c) (3) on a comparable and
19 nondiscriminatory basis and with similar terms and conditions to
20 future power supply contract terms, contract renewals or
21 contract extensions that would be appropriate under subsection
22 (c) (3) which the nonprofit membership corporation
23 contemporaneously offers to its members in other states.

24 (i) Payments.--All obligations under a contract under
25 subsection (a) (2) shall be paid from revenues derived from the
26 operation of the borough's electric system, and payments shall
27 be an operating expense of the borough's electric system.

28 (j) Obligations of other entities.--If explicitly set forth
29 in a contract under subsection (a) (2), a borough may agree to
30 assume, prorate or otherwise become liable for the obligations

1 of another borough of this Commonwealth or of a political
2 subdivision of another state that is a member of the nonprofit
3 membership corporation if the borough or other political
4 subdivision defaults in the payment of its obligations for the
5 purchase of the electric power and associated energy. The
6 contract may include provisions to permit a borough to succeed
7 to the rights and interests of the defaulting borough or
8 political subdivision to purchase electric power and associated
9 energy. A borough's liability for the obligations of a
10 defaulting borough of this Commonwealth or a political
11 subdivision of another state shall not exceed 25% of a borough's
12 initial nominal entitlement to electric power and associated
13 energy under the contract.

14 (k) Pledge of borough property prohibited.--None of the
15 obligations under the contract may constitute a legal or
16 equitable pledge, charge, lien or encumbrance on any property of
17 the borough or on any of its income, receipts or revenues,
18 except revenues of its electric system. The full faith and
19 credit and the taxing power of the borough shall not be pledged
20 for the payment of an obligation under the contract.

21 (l) Construction.--This section is intended to add to the
22 powers and rights of a borough, and nothing in this section may
23 be construed to limit either the general or specific powers or
24 rights of a borough set forth in this title.

25 (m) Definition.--As used in this section, the term
26 "nonprofit membership corporation" means an entity the
27 membership of which:

28 (1) consists solely of Pennsylvania boroughs, such as a
29 consortium, buying group or municipal power agency under
30 section 24A04 (relating to municipal power agencies); or

1 (2) consists of Pennsylvania boroughs and political
2 subdivisions of another state or states.

3 CHAPTER 25

4 (RESERVED)

5 CHAPTER 25A

6 AIRPORTS

7 Sec.

8 25A01. Authority to secure lands for airports.

9 25A02. Authority to establish and lease airports.

10 25A03. Joint airports.

11 § 25A01. Authority to secure lands for airports.

12 A borough is authorized and empowered to acquire by lease,
13 purchase or condemnation any land lying either within or without
14 the limits of the borough which, in the judgment of the council,
15 may be necessary and desirable for the purpose of establishing
16 and maintaining municipal airport facilities. The proceedings
17 for the condemnation of land under the provisions of this
18 chapter and for the assessment of damages for property taken,
19 injured or destroyed shall be conducted in the manner provided
20 by 26 Pa.C.S. (relating to eminent domain). The title acquired
21 by the borough exercising the power of condemnation shall be a
22 title in fee simple.

23 § 25A02. Authority to establish and lease airports.

24 A borough acquiring land under the provisions of this chapter
25 is authorized and empowered to establish, equip, condition,
26 operate and maintain the land as a municipal airport and may
27 lease the land, or any part, to any individual or corporation
28 desiring to use the same for aviation purposes. A borough may
29 enter into a contract, in the form of a lease, providing for the
30 use of the land, or any part, by the Federal Government for its

1 use of the land for aviation purposes upon nominal rental or
2 without consideration.

3 § 25A03. Joint airports.

4 In accordance with the powers in this chapter, a borough may,
5 jointly with another municipality, acquire land for aviation
6 purposes and may jointly operate and maintain the airport on the
7 terms and conditions as agreed upon by the governing bodies of
8 the borough and other municipality.

9 CHAPTER 26

10 WHARVES AND DOCKS

11 Sec.

12 2601. Powers.

13 2602. (Reserved).

14 2603. Proceedings.

15 2604. Assessment of damages.

16 2605. Leases.

17 2606. Market houses, terminal sheds, tracks and facilities.

18 2607. Public use preserved.

19 2608. Saving clause.

20 § 2601. Powers.

21 (a) Construction and repair.--Boroughs shall have the power
22 to construct and repair wharves and docks and may acquire, by
23 purchase or condemnation, real estate along navigable waters and
24 within the borough limits as needed for the construction. Prior
25 to any condemnation, a borough shall enact an ordinance
26 authorizing the same.

27 (b) Additional powers.--Boroughs have the following
28 additional powers:

29 (1) To regulate, fix and enforce the collection of the
30 rate of wharfage for all public wharves and docks within its

1 limits.

2 (2) To regulate the anchoring of vessels, boats or rafts
3 within the borough limits.

4 (3) To regulate the depositing of freight on the public
5 wharves.

6 § 2602. (Reserved).

7 § 2603. Proceedings.

8 The proceedings before the viewers for the assessment of
9 damages for property taken, injured or destroyed under this
10 chapter and the proceedings on their report shall be as provided
11 in 26 Pa.C.S. (relating to eminent domain). The costs of all
12 proceedings, including the compensation of the viewers, shall be
13 paid by the borough.

14 § 2604. Assessment of damages.

15 (a) General rule.--The damages for the taking or injury of
16 any property for use as a wharf, pier or bulkhead shall include
17 full compensation for the value of the property taken or
18 injured.

19 (b) Partial taking.--If the property taken or injured shall
20 constitute a part of a plant used as an entirety, the damage to
21 the owner or tenant shall be assessed by taking the difference
22 in market value of the plant as a whole, including buildings and
23 all equipment installed and used in the plant, before and after
24 taking or injury, and notwithstanding that part of the plant may
25 be separated by a street or highway.

26 § 2605. Leases.

27 Any borough may lease any wharf or part and collect rent by
28 distress or otherwise. No one term of a lease shall be for a
29 period longer than three years.

30 § 2606. Market houses, terminal sheds, tracks and facilities.

1 (a) Market houses and terminal sheds.--Boroughs may erect
2 and maintain market houses and terminal sheds on wharves for the
3 receipt and distribution of freight and express.

4 (b) Tracks and facilities.--Boroughs may construct railroad
5 and street railway tracks or other facilities on wharves to
6 provide for the convenient hauling of freight or express matter
7 and may collect rents, tolls or charges for the use of market
8 houses, terminal sheds, tracks and facilities. No permit other
9 than a license revocable at will shall be granted, and no
10 exclusive permit for the use of the facilities shall be granted.
11 § 2607. Public use preserved.

12 No structure erected and no right granted under the powers
13 conferred under this chapter shall interfere with the public use
14 of wharves for waterborne commerce.

15 § 2608. Saving clause.

16 Nothing contained in this chapter shall be construed as
17 conferring upon boroughs any power conferred by existing law on
18 the Navigation Commission for the Delaware River and its
19 Navigable Tributaries or to permit boroughs to do any act or to
20 enact any ordinance inconsistent with the laws, rules and
21 regulations relating to the commission.

22 CHAPTER 27

23 RECREATION PLACES, SHADE TREES AND FORESTS

24 Subchapter

25 A. Parks and Playgrounds

26 B. Shade Trees

27 C. Forests

28 SUBCHAPTER A

29 PARKS AND PLAYGROUNDS

30 Sec.

1 2700. Definitions.
2 2701. General powers.
3 2702. Power to acquire.
4 2703. Appropriation of private property.
5 2704. (Reserved).
6 2705. (Reserved).
7 2706. (Reserved).
8 2707. (Reserved).
9 2708. Recreation board or other authority.
10 2709. Establishment of recreation board.
11 2710. Organization of board and employees.
12 2711. (Reserved).
13 2712. (Reserved).
14 2713. Lease for school athletics.
15 § 2700. Definitions.

16 The following words and phrases when used in this chapter
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Recreation places." Public parks, parkways and playgrounds,
20 playfields, swimming pools, public baths, bathing places, indoor
21 recreation centers and gymnasiums.

22 § 2701. General powers.

23 (a) General rule.--A borough may provide, improve, maintain
24 and regulate recreation places within the borough limits or in
25 any adjacent municipal corporation if the other municipal
26 corporation shall, by ordinance, signify its consent to the
27 provision, improvement, maintenance or regulation.

28 (b) Acquisition.--A borough may enter upon, appropriate and
29 acquire by gift, devise, purchase, lease or otherwise private
30 property or may designate and set apart any lands or buildings

1 owned by the borough and not dedicated or devoted to other
2 public uses for the purpose of making, enlarging and maintaining
3 recreation places.

4 (c) Joint action.--A borough may join with one or more
5 political subdivisions to acquire, create, equip, improve,
6 regulate, maintain and operate any recreation place in
7 accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to
8 intergovernmental cooperation).

9 (d) Limitation.--No borough, acting individually or jointly,
10 may acquire private property within the limits of another
11 municipal corporation for the purposes designated in this
12 section without the consent of the governing body of the
13 municipal corporation in which the property is located in
14 accordance with 26 Pa.C.S. (relating to eminent domain).

15 (e) Expenses.--All expenses incurred in the maintenance,
16 improvement, acquisition or operation of recreation places, as
17 provided in this section, shall be payable from the treasury of
18 the borough or the borough and other political subdivisions as
19 may be provided for by agreement of the governing bodies. The
20 council may annually appropriate, and cause to be raised by
21 taxation as provided under section 1302(a)(10) (relating to tax
22 levy), an amount necessary for the purpose of maintaining and
23 operating recreation places or for paying its share of the
24 amount.

25 § 2702. Power to acquire.

26 A borough may enter upon, appropriate and acquire by gift,
27 devise, purchase, lease or otherwise private property within the
28 limits of the borough or in any adjacent township. A borough may
29 designate and set apart any lands or buildings owned by the
30 borough and not dedicated or devoted to other public uses.

1 (b) Joint acquisition.--Two or more boroughs may jointly
2 appropriate and acquire by gift, devise, purchase, lease or
3 otherwise private property within the limits of any township
4 adjacent to any of the boroughs for the purpose of making,
5 enlarging and maintaining recreation places. All the costs and
6 expenses relative to the property acquired by two or more
7 boroughs jointly shall be paid by the respective boroughs in the
8 proportions as may be agreed upon by the respective councils.

9 (c) Private property of other borough or city.--Any borough
10 may likewise acquire private property within the limits of
11 another borough or city for the purposes designated in this
12 section if the other borough or city shall, by ordinance,
13 signify its consent to the acquisition.

14 § 2703. Appropriation of private property.

15 The appropriation of private property for the purpose of
16 making, enlarging and maintaining recreation places is declared
17 to be the taking of private property for public use, and, for
18 all damage suffered by the owners of any property taken in that
19 manner, the funds of the borough raised by taxation shall be
20 pledged as security. The proceedings for the taking of private
21 property and the assessment of damages for private property
22 taken, injured or destroyed under this chapter shall be as
23 provided in 26 Pa.C.S. (relating to eminent domain).

24 § 2704. (Reserved).

25 § 2705. (Reserved).

26 § 2706. (Reserved).

27 § 2707. (Reserved).

28 § 2708. Recreation board or other authority.

29 (a) Recreation board or other authority.--The authority to
30 supervise and maintain recreation places may be vested in any

1 existing body or board, including the council, or in a
2 recreation board, as the council shall determine. The council of
3 the borough may equip, operate and maintain the recreation
4 places, as authorized by this chapter, and may, for the purpose
5 of carrying out the provisions of this chapter, employ any
6 officers or employees as it may deem proper.

7 (b) (Reserved).

8 (c) Joint recreation board.--Any borough may join or create,
9 with one or more municipalities, a joint recreation board in
10 accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to
11 intergovernmental cooperation). The composition of the board and
12 its powers and duties shall be as provided by agreement of the
13 governing bodies of the municipalities.

14 § 2709. Establishment of recreation board.

15 (a) Establishment.--If the council determines that the power
16 to equip, operate and maintain recreation places shall be
17 exercised by a recreation board, the council may, by ordinance,
18 establish in the borough a recreation board which shall possess
19 those powers and duties as may be delegated to it by ordinance.

20 (b) Composition.--The board shall consist of a minimum of
21 five and a maximum of nine persons. Two of the members may be
22 members or appointees of the school board of the school district
23 in which the borough is located. If the board consists of seven
24 members, three of the members may be members or appointees of
25 the school board. The borough members of the board shall be
26 appointed by the council and shall serve terms not longer than
27 five years. The terms of the members shall be staggered in a
28 manner that at least one member's term expires annually.

29 (c) Compensation.--Members of the board shall serve without
30 pay.

1 (d) Vacancies.--Vacancies in the board, occurring otherwise
2 than by expiration of term, shall be filled for the unexpired
3 term in the same manner as original appointments.

4 § 2710. Organization of board and employees.

5 The members of a recreation board established under this
6 chapter shall elect their own chair and secretary and select all
7 other necessary officers to serve for a period of one year. The
8 recreation board may, with the approval of council, establish
9 employment positions and hire employees to fill the approved
10 positions. The board shall have power to adopt rules and
11 regulations for the conduct of all business within its
12 jurisdiction.

13 § 2711. (Reserved).

14 § 2712. (Reserved).

15 § 2713. Lease for school athletics.

16 (a) Lease.--A borough maintaining a recreation place may
17 lease a recreation place, or a portion of a recreation place,
18 suitable for athletic sports and athletic games to any school
19 board or school athletic association organized by a school board
20 and organized for the purpose of conducting amateur athletic
21 sports and games among pupils of the public school.

22 (b) Admission charge.--The borough maintaining a recreation
23 place may permit a school board or school athletic association
24 to charge admission to sports and games and to deny persons
25 refusing to pay admission access to the grounds where sports or
26 games are being conducted, if sports and games are not conducted
27 for individual profit.

28 SUBCHAPTER B

29 SHADE TREES

30 Sec.

1 2720. Care, custody and control.
2 2720.1. Maintenance by borough and tax levy.
3 2720.2. Payment by owners and assessments.
4 2720.3. Notice of work.
5 2720.4. Penalties.
6 2721. Shade tree commission.
7 2722. Composition of commission.
8 2723. (Reserved).
9 2724. (Reserved).
10 2724.1. Duties of commission.
11 2725. (Reserved).
12 2726. (Reserved).
13 2727. (Reserved).
14 2728. (Reserved).
15 2729. (Reserved).
16 2730. (Reserved).

17 § 2720. Care, custody and control.

18 (a) Council authority.--Council shall have exclusive care,
19 custody and control of shade trees in the borough. Council may:

20 (1) Plant, transplant, remove, maintain and protect
21 shade trees on the streets and highways in the borough.

22 (2) Employ and pay persons and make and enforce
23 regulations as may be necessary for the care and protection
24 of the shade trees of the borough.

25 (b) Planting, transplanting or removal.--Council may, by
26 ordinance, and with or without the petition of a majority of the
27 property owners, upon any public street in the borough, plant,
28 transplant or remove shade trees. Council may, with or without
29 petition, require the planting and replanting of suitable shade
30 trees along and upon the sides of the streets, upon alignment

1 and at points as may be designated by ordinance, by the owners
2 of property abutting the street at the points designated.

3 (c) Limitation.--Nothing in this part may authorize council
4 to plant or replant, or require the planting or replanting of,
5 trees at any point which may interfere with the necessary or
6 reasonable use of any street or abutting property or the
7 business conducted on the property.

8 (d) Assessment of costs.--On failure of any owner, after
9 reasonable notice, to comply with the terms of an ordinance
10 requiring the planting or replanting of shade trees, the borough
11 may cause the trees to be planted or replanted and assess the
12 cost against the owner in accordance with section 2720.2
13 (relating to payment by owners and assessments).

14 (e) Diseased plants, shrubs and trees.--Council may, upon
15 notice as may be provided by ordinance, require owners of
16 property to cut and remove plants, shrubs and trees afflicted
17 with any disease that threatens to injure or destroy plants,
18 shrubs and shade trees in the borough under regulations
19 prescribed by ordinance. Upon failure of any owner to comply
20 with the notice, the borough may cause the work to be done by
21 the borough and assess the cost against the owner in accordance
22 with section 2720.2.

23 § 2720.1. Maintenance by borough and tax levy.

24 (a) Cost and expenses.--The cost and expenses of caring for
25 shade trees after having been planted or transplanted and the
26 expense of publishing any notice required by this subchapter
27 shall be paid by the borough.

28 (b) Tax levy or appropriation.--Council may levy a general
29 tax, not to exceed the sum of one-tenth of one mill on the
30 dollar on the assessed valuation of the property in the borough

1 taxable for county purposes, for the purpose of defraying the
2 cost and expenses of caring for the shade trees and the expense
3 of publishing notices, or it may provide for the expense of the
4 caring for trees already planted and of publishing the notice by
5 appropriations.

6 § 2720.2. Payment by owners and assessments.

7 (a) Payment by owners.--The cost of planting, transplanting
8 or removing any shade trees or the necessary and suitable
9 guards, curbing or grading for their protection and of the
10 replacing of pavement or sidewalk necessarily disturbed in the
11 execution of the work shall be paid by the owners of the real
12 estate abutting the location of the work.

13 (b) Assessment and collection.--In the event that the
14 borough undertakes the work described in this section, costs
15 shall be certified, assessed against the abutting owners and
16 collected in accordance with Chapter 21A (relating to
17 assessments and charges for public improvements).

18 § 2720.3. Notice of work.

19 If council proposes to plant, transplant or remove shade
20 trees on any street, notice of the time and place of the meeting
21 at which the work is to be considered shall be given in one
22 newspaper of general circulation once a week for two weeks
23 immediately preceding the time of the meeting. The notice shall
24 specify in detail the streets or portions upon which trees are
25 proposed to be planted, transplanted or removed. In the event
26 that a shade tree commission is to undertake the work, the
27 commission shall provide the notice.

28 § 2720.4. Penalties.

29 (a) Penalties for violation.--To the extent provided by
30 ordinance, council may assess penalties for the violation of

1 regulations relating to shade trees or delegate the power to
2 assess penalties to a shade tree commission. Any penalty
3 assessed shall be a lien upon the real estate of the offender
4 and may be collected as municipal claims are collected.

5 (b) Separate fund.--All penalties or assessments imposed
6 under this subchapter shall be paid to the borough treasurer, to
7 be kept in a separate fund and utilized only for the purposes
8 authorized by this subchapter.

9 § 2721. Shade tree commission.

10 (a) Establishment.--Council by ordinance may establish a
11 shade tree commission and delegate to the shade tree commission
12 the exclusive care, custody and control of shade trees and
13 authorization to plant, transplant, remove, maintain and protect
14 shade trees on the streets and highways in the borough.

15 (b) Commission authority.--The shade tree commission may
16 make and enforce regulations for the care and protection of
17 shade trees. No regulation may be in force until it has been
18 approved by the council and enacted as an ordinance.

19 (c) Park commission.--If in any borough there exists a
20 commission for the care of public parks, the council may, by
21 ordinance, confer on the park commission all the powers and all
22 the duties prescribed by this chapter for a shade tree
23 commission.

24 § 2722. Composition of commission.

25 (a) General.--Except as provided in subsection (b), a shade
26 tree commission shall be composed of three residents of the
27 borough who shall be appointed by the council and shall serve
28 without compensation.

29 (b) Council option.--The council, by ordinance, may provide
30 that a shade tree commission be composed of five members who

1 shall be residents of the borough, shall be appointed by the
2 council and shall serve without compensation.

3 (c) Three-member commission.--If a shade tree commission of
4 three members is established by any borough, the council shall
5 appoint one member for a term of three years, one for a term of
6 four years and one for a term of five years. On the expiration
7 of the term of any commissioner, a successor shall be appointed
8 by the council to serve for a term of five years.

9 (d) Five-member commission.--If a shade tree commission of
10 five members is established by any borough, the council shall
11 appoint members to staggered terms so that one term expires
12 every year. On the expiration of the term of any commissioner, a
13 successor shall be appointed by the council to serve for a term
14 of five years.

15 (e) Vacancies.--Vacancies in the office of commissioner
16 shall be filled by the council for the unexpired term.

17 § 2723. (Reserved).

18 § 2724. (Reserved).

19 § 2724.1. Duties of commission.

20 (a) Annual report.--A shade tree commission shall annually
21 report in full to the council its transactions and expenses for
22 the last fiscal year of the borough.

23 (b) Notice.--If a shade tree commission proposes to plant,
24 transplant or remove shade trees on any street, notice of the
25 time and place of the meeting at which the work is to be
26 considered shall be given by the shade tree commission in
27 accordance with section 2720.3 (relating to notice of work).

28 (c) Certification of amounts required.--The shade tree
29 commission shall each year certify to council an amount needed
30 for the care of shade trees and for the publication of notices

1 required by this subchapter. The shade tree commission shall use
2 funds appropriated or raised by taxation in accordance with
3 section 2720.1 (relating to maintenance by borough and tax levy)
4 for any purpose authorized by council.

5 (d) Certification of assessments.--The shade tree commission
6 shall ascertain and certify to council and the borough treasurer
7 the amount of any assessment imposed in accordance with this
8 subchapter for the planting, transplanting or removal of plants,
9 shrubs and trees.

10 § 2725. (Reserved).

11 § 2726. (Reserved).

12 § 2727. (Reserved).

13 § 2728. (Reserved).

14 § 2729. (Reserved).

15 § 2730. (Reserved).

16 SUBCHAPTER C

17 FORESTS

18 Sec.

19 2751. Acquisition of land for forest purposes.

20 2752. (Reserved).

21 2753. Ordinance of acquisition.

22 2754. Appropriations.

23 2755. Regulations.

24 2756. Appropriations and revenue.

25 2757. Use of forests.

26 2758. Ordinance of sale.

27 2759. Pruning and thinning.

28 § 2751. Acquisition of land for forest purposes.

29 A borough may acquire by purchase, gift or lease tracts of
30 land covered with forest or tree growth or suitable for the

1 growth of trees and administer the tracts in accordance with the
2 practices and principles of scientific forestry, for the benefit
3 of the borough. The tracts may be of any size suitable for the
4 purpose and may be located within or without the borough limits.

5 § 2752. (Reserved).

6 § 2753. Ordinance of acquisition.

7 If the council deems it expedient to acquire land for the
8 purposes of a municipal forest, it shall enact an ordinance
9 setting forth the facts and conditions relating to the proposed
10 action.

11 § 2754. Appropriations.

12 Money necessary for the purchase of the tracts shall be
13 appropriated in the same manner as appropriations for borough
14 purposes. Money may be provided from the current revenue or by
15 the proceeds of a sale of general obligation bonds in accordance
16 with existing law.

17 § 2755. Regulations.

18 Upon the acquisition of a municipal forest or land suitable
19 for a municipal forest, the council may promulgate regulations
20 for the government and proper administration of the same as
21 necessary to produce continuing borough revenue by the sale of
22 forest products.

23 § 2756. Appropriations and revenue.

24 Money necessary for the administration, maintenance,
25 protection and development of forests shall be appropriated and
26 applied as is now done for borough purposes. The revenue and
27 return on the revenue arising from the forests shall be paid
28 into the borough treasury to be used for general borough
29 purposes.

30 § 2757. Use of forests.

1 A municipal forest may be used by the public as general
2 outing or recreation grounds subject to the regulations under
3 section 2755 (relating to regulations).

4 § 2758. Ordinance of sale.

5 (a) Requirement.--If the council deems it expedient to sell
6 or lease a municipal forest, a part of a municipal forest or a
7 product from a municipal forest, it shall enact an ordinance
8 setting forth the facts and conditions relating to the proposed
9 action.

10 (b) Conditions.--In order to enact an ordinance under this
11 section, there must be compliance with the advertising and
12 bidding requirements of section 1201.1 (relating to real
13 estate).

14 § 2759. Pruning and thinning.

15 (a) Authority.--To comply with the practices and principles
16 of scientific forestry, the council has the following powers:

17 (1) To pass a resolution to prune or thin out a
18 municipal forest or portion of a municipal forest.

19 (2) To sell the products of the pruning or thinning out.

20 (b) Personnel.--To carry out subsection (a), the borough may
21 use its own personnel or contract with skilled personnel.

22 (c) Bidding and advertising.--The bidding and advertising
23 requirements of this part do not apply to any of the following:

24 (1) Sales under subsection (a)(2).

25 (2) Contracts under subsection (b).

26 CHAPTER 28

27 CEMETERIES

28 Sec.

29 2800. Appropriations for burial ground maintenance.

30 2800.1. Burial of deceased persons.

1 2801. Management by cemetery commission.
2 2802. Transfer from borough to company.
3 2803. (Reserved).
4 2804. (Reserved).
5 2805. Transfer from company to borough.
6 2805.1. Neglected or abandoned cemeteries.
7 2806. (Reserved).
8 2807. (Reserved).
9 2808. Removing bodies to alter plots.
10 2809. Removal of bodies to other cemeteries.
11 2810. (Reserved).
12 2811. (Reserved).
13 2812. (Reserved).
14 2813. (Reserved).
15 2814. (Reserved).
16 2815. (Reserved).
17 2816. Purchase of plots for burial of deceased service members.
18 § 2800. Appropriations for burial ground maintenance.
19 A borough may appropriate annually, out of the general funds
20 of the borough, a sum for the care, upkeep, maintenance and
21 beautifying of:
22 (1) cemeteries and burial grounds lying wholly or partly
23 within the boundary limits of the borough or in the territory
24 immediately adjacent to the borough; and
25 (2) private roads in or leading to property under
26 paragraph (1).
27 § 2800.1. Burial of deceased persons.
28 A borough may prohibit the burial or interment of deceased
29 persons anywhere within borough limits.
30 § 2801. Management by cemetery commission.

1 If the title and management of a cemetery is vested in a
2 borough, the council may, by ordinance, vest the care,
3 management and operation of the cemetery in a cemetery
4 commission of three citizens to be appointed by the council. The
5 ordinance shall provide for the terms of the cemetery
6 commissioners.

7 § 2802. Transfer from borough to company.

8 (a) Authority.--Upon petition of at least 10% of living
9 cemetery lot owners, the council may transfer the cemetery and
10 its management to an incorporated cemetery company.

11 (b) Procedure.--Upon presentation of a petition under
12 subsection (a), the council may enact an ordinance declaring
13 that, upon the acceptance of the ordinance by the incorporated
14 cemetery company and filed with the borough secretary, the title
15 and control of the cemetery shall vest in the incorporated
16 cemetery company.

17 (c) Recording.--A copy of the ordinance and the acceptance
18 by the incorporated cemetery company, certified by the borough
19 secretary, shall be recorded in the office of the recorder of
20 deeds of the county.

21 § 2803. (Reserved).

22 § 2804. (Reserved).

23 § 2805. Transfer from company to borough.

24 (a) Judicial action.--

25 (1) Upon the petition of an incorporated cemetery
26 company and the owners of a majority of the taxable real
27 estate in the borough, the court of common pleas may
28 authorize the transfer of a cemetery to the borough where the
29 cemetery is located or is adjacent to the borough.

30 (2) A copy of the court order under paragraph (1) shall

1 be filed with the recorder of deeds.

2 (b) Cost.--The transfer shall be made without cost to the
3 borough.

4 (c) Effect.--Upon transfer, the following apply:

5 (1) The borough shall exercise the powers and privileges
6 of the incorporated company.

7 (2) The borough may do all of the following:

8 (i) Purchase up to 30 acres of land within or
9 adjacent to the borough limits for the extension of the
10 cemetery;

11 (ii) Pay for the purchase under subparagraph (i) by:

12 (A) sale of lots or otherwise; or

13 (B) any means other than taxation.

14 (iii) Lay out lots purchased and alter the original
15 plot of the cemetery.

16 (iv) Dispose of the grounds in the same manner as
17 the incorporated company could have done.

18 (d) Deeds.--

19 (1) A deed for a lot, made by the borough, shall have
20 the same validity as the deed of the incorporated cemetery
21 company.

22 (2) The borough may make a deed to a person that, prior
23 to transfer under this section:

24 (i) purchased a lot; but

25 (ii) did not receive a deed.

26 § 2805.1. Neglected or abandoned cemeteries.

27 (a) Maintenance.--The council may, upon compliance with
28 subsection (b), direct the removal of weeds, refuse and debris
29 from an abandoned or neglected cemetery.

30 (b) Notice.--

1 (1) To exercise the power under subsection (a), the
2 council must give notice to the owner directing the removal
3 of weeds, refuse and debris from the cemetery within 30 days
4 of service under paragraph (2).

5 (2) Notice must be effected by any of the following
6 means:

7 (i) Personal service on the owner.

8 (ii) Certified mail, addressee only, return receipt
9 requested, to the owner at the owner's last known
10 address.

11 (iii) After reasonable attempts to give notice under
12 subparagraph (i) or (ii) have failed, posting notice at
13 or upon the property.

14 (c) Action.--

15 (1) If the removal is not completed within 30 days after
16 the notice is effected under subsection (b) (2), the council
17 shall provide for the removal to be done by employees of the
18 borough or by a contractor at the expense of the borough.

19 (2) The costs of removal under paragraph (1) shall be
20 assessed against the owner of the cemetery and collected
21 under Chapter 21A (relating to assessments and charges for
22 public improvements).

23 § 2806. (Reserved).

24 § 2807. (Reserved).

25 § 2808. Removing bodies to alter plots.

26 In altering the plot of a cemetery, bodies may be removed and
27 reinterred in a suitable place but without cost to surviving
28 relatives.

29 § 2809. Removal of bodies to other cemeteries.

30 (a) Authority.--

1 (1) This subsection applies to a privately owned
2 cemetery, a borough-owned cemetery or a cemetery affiliated
3 with a religious society or church or any other organization,
4 when the cemetery:

5 (i) has ceased to be used for interments;

6 (ii) has become so neglected as to become a public
7 nuisance;

8 (iii) hinders the improvement and progressive
9 interests of the borough; or

10 (iv) is desired by the borough as a site for any
11 public purpose.

12 (2) The court of common pleas may, upon compliance with
13 subsection (b), direct the removal of the remains of the dead
14 from a cemetery.

15 (b) Procedure.--

16 (1) A petition under this section must be made to the
17 court by any of the following:

18 (i) The manager of the cemetery in charge of a
19 religious society or church or an other organization. The
20 following are required to utilize this subparagraph:

21 (A) Public notice of a meeting of the entity on
22 the petition must be given two weeks before the
23 meeting.

24 (B) At the meeting, a majority of the members of
25 the entity must approve the petition.

26 (C) The petition must set forth that the
27 cemetery has ceased to be used for interments.

28 (ii) If the cemetery is not under the charge of
29 anyone, 50 residents of the borough. A petition under
30 this subparagraph must set forth that the improvements

1 and progressive interests of the borough are hampered and
2 the welfare of the borough is injured by the presence of
3 the cemetery.

4 (iii) The council. A petition under this
5 subparagraph must set forth that:

6 (A) the cemetery has become so neglected as to
7 become a public nuisance;

8 (B) the improvements and progressive interests
9 of the borough are hampered and the welfare of the
10 borough is injured by the presence of the cemetery;

11 or

12 (C) the land is desired for a public purpose.

13 (2) Notice must be given by advertisement in a newspaper
14 of general circulation once a week for three successive
15 weeks.

16 (c) Private action.--A relative of the deceased individual
17 subject to removal or another interested party of the dead may,
18 prior to action under subsection (d), remove the remains at
19 private expense.

20 (d) Public action.--

21 (1) The removal shall be made by:

22 (i) the manager of the cemetery;

23 (ii) the borough if the cemetery is:

24 (A) not in charge of a manager; or

25 (B) owned by the borough.

26 (2) The removal shall be made at the expense of the
27 removing party in a careful manner.

28 (3) The removal shall be made:

29 (i) except as set forth in subparagraph (ii), to a
30 cemetery selected by the person that makes the removal;

LICENSES AND LICENSE FEES

Sec.

2901. Licensing transient retail business.

2902. Licensure saved.

2903. Licensing parking lots and parking garages operated for profit.

2904. Persons taking orders by samples.

2905. Equality of residents and nonresidents.

2906. Insurance business.

§ 2901. Licensing transient retail business.

(a) Authority.--A borough may, by ordinance, regulate and license transient merchants engaged in any transient retail business within the borough.

(b) Licensure.--The following shall apply:

(1) An ordinance under this section may prohibit the transient retail business without a license and provide for enforcement by penalties or other appropriate means.

(2) Except as set forth in paragraph (3), an ordinance under this section may set a license fee which bears a reasonable relationship to the cost of administering the ordinance and regulating and inspecting the transient retail business.

(3) Paragraph (2) does not apply as follows:

(i) Except as set forth in paragraph (ii), the ordinance may not impose a license fee on the following transient merchants:

(A) A farmer selling the farmer's own produce.

(B) A person selling personal property if the proceeds of the sale are to be applied to a charitable or philanthropic purpose.

1 (C) A manufacturer or producer in the sale of
2 any of the following:

3 (I) Bread. This subclause includes a bakery
4 product.

5 (II) Meat. This subclause includes a meat
6 product.

7 (III) Milk. This subclause includes a milk
8 product. This subclause does not include ice
9 cream or another frozen dessert.

10 (ii) The exception under this paragraph does not
11 apply to a transient merchant that is also selling other
12 personal property not excepted under subparagraph (i).

13 (c) Registration.--An ordinance under this section may
14 require that a transient merchant exempt under subsection (b) (2)
15 register with the borough and otherwise be subject to all other
16 provisions of the ordinance.

17 (d) Definition.--As used in this section, the term
18 "transient merchant" means a person engaged in transient retail
19 business for the sale of personal property, whether the business
20 is conducted from a fixed location within the borough or by an
21 individual engaged in peddling, soliciting or the taking of
22 orders from house to house.

23 § 2902. Licensure saved.

24 (a) Commonwealth.--Nothing contained in this chapter shall
25 be construed to relieve a person from a statutorily imposed:

26 (1) licensure requirement;

27 (2) license tax; or

28 (3) license fee.

29 (b) Boroughs.--A Commonwealth license tax or fee shall not
30 preempt the registration, licensing or regulatory powers of a

1 borough in accordance with this chapter unless the preemption is
2 expressly authorized.

3 § 2903. Licensing parking lots and parking garages operated for
4 profit.

5 (a) Authority.--

6 (1) A borough may, by ordinance, regulate the business
7 of operating parking lots or parking garages for profit
8 within the borough and may require the lots or garages to
9 reserve areas exclusively for parking by handicapped
10 individuals. Under the ordinance:

11 (i) License or permit fees may be charged and
12 collected from the operators of the parking lots or
13 parking garages.

14 (ii) Security is subject to the following:

15 (A) Except as set forth in clause (B), the
16 borough shall require from each operator of a parking
17 lot or parking garage a bond to be approved by the
18 council for the protection of the public from loss of
19 or damage to vehicles parked, stored or placed under
20 the jurisdiction of a parking lot or parking garage
21 operator.

22 (B) Clause (A) shall not apply to parking lots
23 or parking garages operated by a municipal authority
24 or a parking authority.

25 (2) An ordinance under paragraph (1) must be consistent
26 with 75 Pa.C.S. (relating to vehicles).

27 (b) Individuals with disabilities.--Nothing in this section
28 may be construed to limit statutory and regulatory protections
29 and prohibitions contained relating to the rights of disabled
30 individuals.

1 § 2904. Persons taking orders by samples.

2 (a) Prohibition.--A borough may not impose, levy or collect
3 a license fee or mercantile tax upon a person that takes, by
4 sample, from a dealer or merchant an order for merchandise on
5 behalf of an individual or company that pays a license fee or
6 mercantile tax at the individual's or company's chief place of
7 business.

8 (b) Limitation.--Nothing in this section shall authorize a
9 person to sell by retail to a person other than a dealer or
10 merchant without payment of a license or permit fee.

11 § 2905. Equality of residents and nonresidents.

12 A borough may not enact an ordinance imposing a license fee
13 upon a manufacturer, including an agent and employee, that is a
14 resident of this Commonwealth and solicits orders for or sells
15 personal property manufactured in this Commonwealth if the
16 borough could not legally impose the same license fee upon a
17 manufacturer, including an agent and employee, that is a
18 nonresident of this Commonwealth and solicits orders for or
19 sells personal property manufactured outside this Commonwealth.

20 § 2906. Insurance business.

21 A borough may not impose a license fee upon an insurance
22 company, including an agent, or an insurance broker authorized
23 to transact business under the act of May 17, 1921 (P.L.682,
24 No.284), known as The Insurance Company Law of 1921.

25 CHAPTER 29A

26 VETERANS' AFFAIRS

27 Subchapter

28 A. Pennsylvania National Guard

29 B. Support of Veterans' Organizations

30 SUBCHAPTER A

1 PENNSYLVANIA NATIONAL GUARD

2 Sec.

3 29A01. Eminent domain for National Guard purposes.

4 29A02. Land for armory purposes.

5 29A03. Appropriation to assist in erection of armories.

6 29A04. Support of Pennsylvania National Guard units.

7 § 29A01. Eminent domain for National Guard purposes.

8 (a) Authority.--Except as set forth in subsection (b), the
9 council may take, by right of eminent domain, for the purpose of
10 appropriating to the borough for the use of the Pennsylvania
11 National Guard, public lands, easements and property as may be
12 in its possession or control and used or held by the borough for
13 any other purpose.

14 (b) Exception.--Eminent domain may not be exercised as to a
15 street or wharf.

16 § 29A02. Land for armory purposes.

17 (a) Authority.--Except as set forth in subsection (b), the
18 council may acquire, by purchase or by gift or by the right of
19 eminent domain, land for the use of the Pennsylvania National
20 Guard, to be conveyed to the Commonwealth in order to assist the
21 State Armory Board in the erection of armories.

22 (b) Exception.--The power under subsection (a) may not be
23 exercised to take any of the following:

24 (1) Church property.

25 (2) A graveyard or cemetery.

26 (3) A dwelling house or the curtilage of property:

27 (i) designated in paragraph (1) or (2); and

28 (ii) in the actual occupancy of the owner.

29 § 29A03. Appropriation to assist in erection of armories.

30 The council has the following powers:

1 (1) To appropriate money or convey land, either
2 independently or in conjunction with another municipality,
3 to:

4 (i) assist the State Armory Board in the erection of
5 armories for the use of the Pennsylvania National Guard;
6 and

7 (ii) furnish water, sewer service, light or fuel
8 free of cost to the Commonwealth for use in any armory of
9 the Pennsylvania National Guard.

10 (2) To do all things necessary to accomplish the purpose
11 of this section.

12 § 29A04. Support of Pennsylvania National Guard units.

13 (a) Appropriation.--The council may appropriate annually a
14 sum to be used and expended exclusively for the support and
15 maintenance, discipline and training of a unit of the
16 Pennsylvania National Guard.

17 (b) Payment.--

18 (1) The money appropriated shall be paid by warrant
19 drawn to the order of the commanding officer of the unit upon
20 certification to the borough, by the Adjutant General, that
21 the unit has satisfactorily passed the annual inspection
22 provided by law.

23 (2) The commanding officer shall account, by proper
24 vouchers to the borough each year, for the expenditure of the
25 money appropriated. No appropriation shall be made for any
26 subsequent year until the expenditure of the previous year is
27 accounted for. The accounts of the expenditures shall be
28 subject to the inspection of the Department of Military and
29 Veterans Affairs and shall be audited by the Auditor General
30 in accordance with law.

1 § 29A13. Rooms for veterans' organizations and children.

2 The council may furnish without charge to an organization
3 composed of American veterans of a war in which the United
4 States was engaged and children of the veterans a room in a
5 public building of the borough.

6 § 29A14. Care and erection of memorials.

7 (a) Authority.--The council may control and maintain a
8 soldier's memorial which is:

9 (1) situated in the borough;

10 (2) not controlled and maintained by an individual or
11 entity; and

12 (3) not placed by the Federal Government, the
13 Commonwealth, the county or another state.

14 (b) Funding.--The council may receive and expend any money
15 to be used for the maintenance of the memorials.

16 (c) Contributions.--The council may contribute to the
17 erection and maintenance of a memorial in honor of those who
18 served in a war in which the United States was engaged.

19 CHAPTER 30

20 REAL ESTATE REGISTRY

21 (RESERVED)

22 CHAPTER 31

23 HEALTH AND SANITATION

24 Sec.

25 3100. Definitions.

26 3101. Administration.

27 3102. Board.

28 3103. Oaths, officers and security.

29 3104. Duties of board secretary.

30 3105. Powers and duties of health officer.

1 3106. Powers and duties of board.

2 3107. Entry upon premises.

3 3108. Abatement of nuisances.

4 3109. Expenditures.

5 3110. Cooperation.

6 3111. Department.

7 3112. (Reserved).

8 3113. (Reserved).

9 3114. (Reserved).

10 § 3100. 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 "Board." A board of health established under section 3101(a)
15 (relating to administration).

16 "Board secretary." The secretary of a board.

17 "Department." The Department of Health of the Commonwealth.

18 "Health officer." An individual appointed under section
19 3101(a) (relating to administration) or 3103(b) (1) (iii)
20 (relating to oaths, officers and security).

21 "Professional health care provider." An individual who is
22 licensed, certified or registered to practice or operate in the
23 health care field under the laws of this Commonwealth. The term
24 includes:

25 (1) A physician.

26 (2) A dentist.

27 (3) A podiatrist.

28 (4) A chiropractor.

29 (5) An optometrist.

30 (6) A psychologist.

- 1 (7) A pharmacist.
- 2 (8) A registered or practical nurse.
- 3 (9) A physical therapist.
- 4 (10) A physician's assistant.
- 5 (11) A paramedic.
- 6 (12) An administrator of any hospital, nursing or
7 convalescent home or other health care facility.
- 8 (13) A veterinarian.

9 § 3101. Administration.

10 (a) Establishment.--The council may, by ordinance, appoint a
11 board of health or a health officer to administer and enforce
12 the health ordinances and related ordinances of the borough. A
13 health officer must have experience or training in public health
14 work and must, within six months of taking the oath of office,
15 be certified for the office of health officer by the department.

16 (b) Expenses.--Expenses incurred by the board or a health
17 officer shall be paid by the borough.

18 (c) Dissolution.--A borough may, by ordinance, dissolve a
19 board and decide to become subject to the jurisdiction of a
20 county department of health or joint county department of health
21 under the act of August 24, 1951 (P.L.1304, No.315), known as
22 the Local Health Administration Law.

23 § 3102. Board.

24 (a) Membership.--

25 (1) A board appointed by a council shall be composed of
26 three or five members, subject to the following:

27 (i) Except as set forth in subparagraph (ii), at
28 least one member must be a professional health care
29 provider with not less than two years' experience in the
30 practice of the member's respective profession.

1 (ii) If subparagraph (i) cannot be met, at least one
2 member must have had experience in or be knowledgeable of
3 public health issues.

4 (b) Terms.--

5 (1) Initial terms shall be staggered as follows:

6 (i) For a three-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 and

10 (C) one member shall serve a term of three
11 years.

12 (ii) For a five-member board:

13 (A) one member shall serve a term of one year;

14 (B) one member shall serve a term of two years;

15 (C) one member shall serve a term of three
16 years;

17 (D) one member shall serve a term of four years;

18 and

19 (E) one member shall serve a term of five years.

20 (2) Subsequent terms shall be staggered as follows:

21 (i) For a three-member board, a subsequent term
22 shall be three years.

23 (ii) For a five-member board, a subsequent term
24 shall be five years.

25 (c) Compensation.--

26 (1) Except as set forth in paragraph (2), the members of
27 the board shall serve without compensation.

28 (2) Paragraph (1) shall not apply to a member of the
29 board who is elected board secretary under section 3103(b)(2)
30 (relating to oaths, officers and security).

1 § 3103. Oaths, officers and security.

2 (a) Oath of office.--A member of the board must take the
3 oath prescribed for borough members of council.

4 (b) Officers.--

5 (1) The board shall annually organize by electing:

6 (i) a president from among the members of the board;

7 (ii) a board secretary who may or may not be a
8 member of the board; and

9 (iii) a health officer.

10 (2) The board secretary and the health officer shall
11 receive salaries fixed by the board and ratified by the
12 council.

13 (3) The board secretary and health officer shall serve
14 until a successor is elected and qualified.

15 (c) Security.--The council may require the board secretary
16 and health officer to furnish a bond to the borough in a
17 prescribed amount for the faithful discharge of their duties.

18 § 3104. Duties of board secretary.

19 The board secretary has the following duties:

20 (1) To maintain, under 53 Pa.C.S. Ch. 13 Subch. F
21 (relating to records), the minutes of the proceedings of the
22 board and keep accurate accounts of the expenditures of the
23 board.

24 (2) To draw requisitions for the payment of money on
25 account of the board from appropriations made by the council
26 to the board and present the requisitions to the president of
27 the board for the president's approval.

28 (3) To render statements of the expenditures to the
29 board at each stated meeting or as frequently as the board
30 requires.

1 (4) To prepare, under the direction of the board, the
2 annual report to the council and the estimate of
3 appropriation needed for the ensuing year.

4 (5) To report to the department at statutory or
5 regulatory intervals the cases of communicable disease
6 reported to the board on the form provided by the department
7 and make an annual report to the department.

8 (6) To perform other duties required by the board.

9 § 3105. Powers and duties of health officer.

10 (a) Powers.--A health officer may issue a citation for
11 violation of a health ordinance or related law.

12 (b) Duties.--A health officer has the following duties:

13 (1) Administer and enforce the health ordinances of the
14 borough and related law.

15 (2) Perform the duties as are vested in local health
16 officers by Statute or regulation.

17 (3) Make sanitary inspections.

18 (4) Execute the orders of the board.

19 (5) To attend all regular and special meetings of the
20 board of health.

21 § 3106. Powers and duties of board.

22 (a) Powers.--A board has the following powers to:

23 (1) Recommend to the council rules and regulations
24 necessary for the preservation of the public health and for
25 carrying into effect the functions of the board.

26 (2) Appoint a health officer. A health officer must have
27 experience or training in public health work and must, within
28 six months of taking the oath of office, be certified for the
29 office of health officer by the department.

30 (3) Abate and remove nuisances the board deems

1 detrimental to the public health.

2 (4) Mark infected premises.

3 (b) Duties.--A board has the duty to enforce all of the
4 following related to promotion of public health and prevention
5 of the introduction and spread of infectious or contagious
6 disease:

7 (1) A statute.

8 (2) A regulation of the department.

9 (3) An ordinance of the borough.

10 § 3107. Entry upon premises.

11 (a) Authority.--

12 (1) This subsection applies to all of the following:

13 (i) A member of a board.

14 (ii) A health officer.

15 (iii) An employee of a board or a health officer.

16 (iv) An agent of a board or health officer.

17 (2) An individual subject to paragraph (1) may, upon
18 order of the board:

19 (i) enter premises in the borough where an
20 infectious or contagious disease or a nuisance

21 detrimental to the public health is suspected; and

22 (ii) examine and abate the disease or nuisance.

23 (b) Warrant.--If entry under subsection (a)(2)(i) is
24 prevented, the board of health or health officer may obtain an
25 administrative search warrant from a magisterial district judge
26 with jurisdiction over the premises upon a showing of any of the
27 following:

28 (1) Reasonable standards and an administrative plan for
29 conducting inspections.

30 (2) The condition of the premises or general area and

1 the passage of time since the last inspection.

2 (3) Probable cause of a violation of a law specified in
3 section 3106(b) (relating to powers and duties of board).

4 § 3108. Abatement of nuisances.

5 (a) Initial order.--If the board finds a condition or
6 premises to be a nuisance to the health of the people of the
7 borough, it shall issue a written order of abatement directed to
8 the owner or agent of the owner of the premises. The order
9 shall:

10 (1) state that the conditions specified in the premises
11 constitute the nuisance; and

12 (2) order an abatement of the nuisance within a
13 specified reasonable time.

14 (b) Subsequent order.--

15 (1) Upon noncompliance of the order under subsection
16 (a), the board shall issue a written order to the health
17 officer directing removal or abatement of the nuisance.

18 (2) An order under paragraph (1) shall be executed by
19 the health officer or an agent of the health officer.

20 (3) The expense of execution under paragraph (2) shall
21 be recoverable as a municipal claim from the owner of the
22 premises, with a 10% penalty.

23 (c) Legal action.--In lieu of or in addition to the
24 procedure under subsections (a) and (b), council may seek relief
25 from a nuisance or threatened nuisance by an action at law or in
26 equity. Council may seek guidance of the board or the health
27 officer in determining the nature of the relief requested.

28 § 3109. Expenditures.

29 (a) Estimate.--The board or the health officer shall submit
30 to council, before commencement of the borough's fiscal year, an

1 estimate of the probable expenditures of the board or the health
2 officer during the ensuing fiscal year.

3 (b) Appropriation.--Council shall make appropriations based
4 on the estimate as deemed necessary.

5 (c) Report.--The board or the health officer shall, each
6 January, submit a report to council on:

7 (1) the appropriation and the expenditures for the
8 preceding fiscal year; and

9 (2) information on subjects relative to the sanitary
10 conditions or requirements of the borough.

11 § 3110. Cooperation.

12 A borough may cooperate in the administration and enforcement
13 of health laws with:

14 (1) the department;

15 (2) a county in which the borough is located; and

16 (3) a municipal corporation.

17 § 3111. Department.

18 (a) No limitation.--Nothing in this part may be construed
19 to limit the powers and duties of the department, including the
20 powers and duties under Article XXI of the act of April 9, 1929
21 (P.L.177, No.175), known as The Administrative Code of 1929.

22 (b) Expenses.--

23 (1) Expenses of the department for which the borough is
24 liable shall be paid by the borough where the expenses have
25 been incurred.

26 (2) If expenses under paragraph (1) are unpaid for a
27 period of more than three months after a statement of the
28 expense has been rendered to the borough and demand for
29 payment is made, the Secretary of Health shall, with the
30 approval of the Governor, institute an action against the

1 borough for the collection of the expense. The reasonableness
2 of the expenditures made by the secretary shall be submitted
3 to the jury for its determination.

4 (3) Upon payment, the department shall return the money
5 to the State Treasurer, who shall credit the amount to the
6 appropriation made to the department.

7 § 3112. (Reserved).

8 § 3113. (Reserved).

9 § 3114. (Reserved).

10 CHAPTER 32

11 ZONING

12 (Reserved)

13 CHAPTER 32A

14 UNIFORM CONSTRUCTION CODE, PROPERTY

15 MAINTENANCE CODE AND RESERVED POWERS

16 Sec.

17 32A01. Primacy of Uniform Construction Code.

18 32A02. Changes in Uniform Construction Code.

19 32A03. Public nuisance.

20 32A04. Property maintenance code.

21 32A05. Reserved powers.

22 § 32A01. Primacy of Uniform Construction Code.

23 (a) General rule.--The following shall apply to the
24 construction, alteration, repair and occupancy of all buildings
25 and structures within a borough:

26 (1) The Pennsylvania Construction Code.

27 (2) The Uniform Construction Code adopted under section
28 301 of the Pennsylvania Construction Code.

29 (b) Primacy.--This section and any ordinance, rule or
30 regulation adopted under this section shall not supersede or

1 abrogate the Pennsylvania Construction Code or the Uniform
2 Construction Code and shall be construed and read in pari
3 materia with the Pennsylvania Construction Code and the Uniform
4 Construction Code.

5 § 32A02. Changes in Uniform Construction Code.

6 A borough may propose and enact an ordinance to equal or
7 exceed the minimum requirements of the Uniform Construction Code
8 in accordance with section 503 of the Pennsylvania Construction
9 Code. Any ordinance exceeding the provisions of the Uniform
10 Construction Code shall be required to meet the standards under
11 section 503(j)(2) of the Pennsylvania Construction Code.

12 § 32A03. Public nuisance.

13 (a) Abatement.--Except as provided under subsection (b), any
14 building, housing or property or a part of any building, housing
15 or property erected, altered, extended, reconstructed, removed
16 or maintained, contrary to the provisions of an ordinance passed
17 for the purposes specified under this chapter, may be declared,
18 by a court of law, a public nuisance and may be abatable.

19 (b) Exception.--A violation of the Uniform Construction Code
20 or any ordinance that equals or exceeds the Uniform Construction
21 Code shall be subject to the Pennsylvania Construction Code and
22 the regulations adopted under the Pennsylvania Construction Code
23 Act relating to enforcement for noncompliance.

24 § 32A04. Property maintenance code.

25 (a) Enactment.--Notwithstanding the primacy of the Uniform
26 Construction Code, a borough may enact one of the following:

27 (1) A property maintenance ordinance and may incorporate
28 a standard or nationally recognized property maintenance
29 code, or any variations or changes or parts of the code,
30 published and printed in book form, without incorporating the

1 text of the code in the ordinance.

2 (2) A standard or nationally recognized property
3 maintenance code or any variations or changes or parts as its
4 property maintenance ordinance.

5 (a.1) Notice.--The following shall apply:

6 (1) An ordinance or any variations or changes or parts
7 under subsection (a) shall not be required to be advertised
8 after passage. Notice of the consideration of an ordinance or
9 any variations or changes or parts under subsection (a) shall
10 be published in a manner that will give adequate notice of
11 its contents and a reference to the place within the borough
12 where copies of the proposed property maintenance code may be
13 examined or obtained.

14 (2) The notice required under paragraph (1) shall be
15 published once in one newspaper of general circulation at
16 least one week and not more than three weeks prior to the
17 presentation of the proposed property maintenance code to
18 council.

19 (a.2) Inspection.--At least three copies of the ordinance
20 adopted by council:

21 (1) shall be made available:

22 (i) for public inspection and use during business
23 hours; or

24 (ii) to any interested party who pays the cost of
25 copying; or

26 (2) may be furnished or lent without charge.

27 (a.3) A property maintenance code adopted by reference
28 shall:

29 (1) not be required to be recorded in or attached to an
30 ordinance book; and

1 (2) be deemed to have been legally recorded if the
2 ordinance by which the code was adopted by reference has been
3 recorded with an accompanying notation stating where the full
4 text of the code has been filed.

5 (a.4) Fines and penalties.--An ordinance under this section
6 may provide for reasonable property fines and penalties for
7 violations of the ordinance.

8 (a.5) Procedure.--The procedure under this section relating
9 to the adoption of an ordinance under this section may be used
10 in amending, supplementing or repealing any of the provisions of
11 the ordinance.

12 (b) Property maintenance inspectors.--Council may appoint
13 property maintenance inspectors who may enter, subject to
14 constitutional standards in a similar manner as provided under
15 section 3107 (relating to entry upon premises), and inspect any
16 premises at reasonable hours and in a reasonable manner for the
17 administration and enforcement of the borough's property
18 maintenance code or ordinance under subsection (a). Any fees
19 payable to property maintenance inspectors under the ordinance
20 shall be paid by the property maintenance inspectors as soon as
21 possible to the borough treasurer for the use of the borough.

22 (c) Legal actions.--In addition to the penalties provided by
23 a property maintenance ordinance, a borough may institute
24 appropriate actions or proceedings at law or in equity to
25 prevent or restrain property maintenance violations.

26 (d) Construction.--The powers of a borough under this
27 section shall be in addition to the powers provided under the
28 following:

29 (1) The act of November 26, 2008 (P.L.1672, No.135),
30 known as the Abandoned and Blighted Property Conservatorship

1 Act.

2 (2) 53 Pa.C.S. Ch. 61 (relating to neighborhood blight
3 reclamation and revitalization).

4 (3) 68 Pa.C.S. Ch. 21 (relating to land banks).

5 § 32A05. Reserved powers.

6 (a) Power.--If, as a result of legislative action or final
7 order of court which is not subject to appellate review, the
8 Uniform Construction Code or any replacement code is no longer
9 applicable in boroughs, a borough may:

10 (1) Enact and enforce ordinances to govern and regulate
11 the following in relation to a building and housing, parts of
12 a building and housing or a facility and service in or about
13 a building or housing:

14 (i) Construction, reconstruction, alteration,
15 extension, repair and conversion.

16 (ii) Maintenance.

17 (iii) Occupation.

18 (iv) Sanitation.

19 (v) Ventilation, heating, egress, lighting,
20 electrical wiring, water supply, toilet facilities,
21 drainage, plumbing, fire prevention and fireproofing,
22 including limitations under which only buildings of
23 noncombustible material and fireproofed roofs are used in
24 construction.

25 (vi) Erection or substantial reconstruction.

26 (vii) Use and inspection.

27 (viii) Sanitation and inspection of land attached to
28 a building or housing.

29 (2) Require that the approval of plans and
30 specifications are secured before construction,

1 reconstruction, alteration, extension, repair or conversion
2 of a building is started.

3 (3) Appoint and determine the compensation of the
4 following:

5 (i) Building inspectors.

6 (ii) Housing inspectors.

7 (iii) Property maintenance inspectors.

8 (iv) Fire prevention inspectors.

9 (v) Electrical inspectors.

10 (vi) Plumbing inspectors.

11 (4) In addition to penalties provided by an ordinance,
12 institute actions to do any of the following:

13 (i) Prevent or restrain the unlawful construction,
14 reconstruction, alteration, extension, repair,
15 conversion, maintenance, use or occupation of property
16 located within the borough.

17 (ii) Restrain, correct or abate a violation.

18 (iii) Prevent the use or occupancy of a building,
19 housing or structure.

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

21 (1) A code under subsection (a)(1) may be combined or
22 separately enacted or combined with a property maintenance
23 code.

24 (2) A borough may adopt, amend or incorporate by
25 reference any standard or nationally recognized code or any
26 variations or changes or parts of the code as its ordinance
27 as provided under section 32A04 (relating to property
28 maintenance code).

29 (3) An ordinance under subsection (a)(1) may provide for
30 reasonable fines and penalties for violations of the

1 ordinance in compliance with Chapter 33 (relating to
2 ordinances).
3 (c) Inspectors.--An inspector under subsection (a)(3) may
4 enter, subject to constitutional standards in a similar manner
5 as provided under section 3107 (relating to entry upon
6 premises), and inspect a premises at reasonable hours and in a
7 reasonable manner for the administration and enforcement of the
8 borough's adopted codes or ordinances incorporating standard or
9 nationally recognized codes. Any fees payable to inspectors
10 under the ordinances shall be paid by the inspectors as soon as
11 possible to the borough treasurer for the use of the borough.

12 CHAPTER 33

13 ORDINANCES

14 Subchapter

15 A. General Provisions

16 B. Enforcement

17 SUBCHAPTER A

18 GENERAL PROVISIONS

19 Sec.

20 3301.1. Ordinances and resolutions.

21 3301.2. Publication.

22 3301.3. Enactment, approval and veto.

23 3301.4. Recording, advertising and proof.

24 3301.5. Codification of ordinances.

25 3301.6. Appeals from ordinances.

26 3301.7. Replacement of ordinance books.

27 3302. (Reserved).

28 3303. (Reserved).

29 3304. (Reserved).

30 3305. (Reserved).

1 3306. (Reserved).

2 3307. (Reserved).

3 3308. (Reserved).

4 3309. (Reserved).

5 § 3301.1. Ordinances and resolutions.

6 (a) General rule.--Council shall enact ordinances in
7 accordance with this part and the laws of this Commonwealth in
8 which the powers of the borough shall be exercised as deemed
9 beneficial to the borough and to provide for the enforcement of
10 the powers of the borough. Council may amend, repeal or revise
11 existing ordinances by the enactment of subsequent ordinances.

12 (b) Legislative acts.--Every legislative act of council must
13 be by ordinance. Legislative acts shall include, but not be
14 limited to:

15 (1) Tax ordinances.

16 (2) General appropriation ordinances.

17 (3) Capital expenditures not payable out of current
18 funds

19 (4) Legislation doing any of the following:

20 (i) Exercising the police power of the borough.

21 (ii) Regulating land use, development and
22 subdivision.

23 (iii) Imposing building, plumbing, electrical,
24 property maintenance, housing and similar standards.

25 (iv) Regulating the conduct of a person or entity
26 within the borough and imposing penalties for violation
27 of the regulated conduct.

28 (5) Imposing assessments on benefited property for
29 public improvements in accordance with Chapter 21A (relating
30 to assessments and charges for public improvements).

1 (c) Resolutions.--Council shall adopt resolutions in
2 accordance with this part and the laws of this Commonwealth.
3 Resolutions may be adopted for any purpose, including but not
4 limited to, the following:

5 (1) Ceremonial or congratulatory expressions of the good
6 will of the council.

7 (2) Statements of public policy of the council.

8 (3) Approval of formal agreements of the borough, except
9 for agreements arising under an established purchasing system
10 of the borough,

11 (4) Approval, if required, of administrative rules,
12 regulations and bylaws arising under State statutes or
13 borough ordinances.

14 (5) The filling of borough-appointed positions and of
15 vacancies of elected officials, except as otherwise provided.

16 (d) Real and personal property.--Council's approval of the
17 acquisition, disposition and leasing of real or personal
18 property shall be by adoption of a resolution in a manner
19 consistent with this part.

20 § 3301.2. Publication.

21 (a) Requirements.--Except as provided under this part or
22 other law, council shall publish every proposed ordinance once
23 in one newspaper of general circulation for at least seven days
24 and not more than 60 days prior to enactment prior to the day
25 when council shall vote on the proposed ordinance. Publication
26 of any proposed ordinance shall include all of the following:

27 (1) The full text or the title of the ordinance and a
28 brief summary prepared by the borough solicitor setting forth
29 all the provisions in reasonable detail.

30 (2) A reference to the borough office or other place

1 where borough records are kept where copies of the proposed
2 ordinance may be examined.

3 (b) Summary.--If the full text is not included in the
4 publication of the proposed ordinance, the following shall
5 apply:

6 (1) The newspaper in which the proposed ordinance is
7 published shall, upon request, be furnished a copy of the
8 full text.

9 (2) The following shall apply:

10 (i) In addition to copies of the full text of the
11 proposed ordinance retained where borough records are
12 kept in accordance with subsection (a), an attested copy
13 of the full text shall be filed in the county law library
14 or other county office designated by the county
15 commissioners.

16 (ii) The county commissioners may impose a fee not
17 greater than the actual costs of storing the proposed
18 ordinance.

19 (iii) Filing with the county may be completed by the
20 submission of an electronic copy of the ordinance through
21 a method available, in the sole discretion of the county,
22 to permit receipt by the office storing municipal
23 ordinances.

24 (iv) Upon request by the borough, the county shall
25 notify the borough of the method by which electronic
26 copies may be submitted.

27 (v) The county may store the ordinance
28 electronically, if the public is able to access the
29 electronically stored borough ordinances during regular
30 business hours at the office or at a remote location.

1 (vi) The borough shall retain a printed copy of the
2 email and ordinance as transmitted.

3 (3) The date of the filing with the county under
4 paragraph (2) shall not affect the effective date of the
5 ordinance and shall not be deemed a defect in the process of
6 the enactment of the ordinance.

7 (c) Notice of amendments.--If substantial amendments are
8 made in the proposed ordinance, before voting upon enactment,
9 council shall, within ten days, readvertise in one newspaper of
10 general circulation a brief summary setting forth all the
11 provisions in reasonable detail together with a summary of the
12 amendments. A copy of the full text of the amended proposed
13 ordinance shall be retained where borough records are kept.

14 § 3301.3. Enactment, approval and veto.

15 (a) Approval by mayor.--

16 (1) Every ordinance enacted by council shall be
17 presented to the mayor for the mayor's approval. Presentation
18 to the mayor shall be deemed to mean delivery to the mayor by
19 hand delivery or certified mail, addressee only, to the mayor
20 at the mayor's last known address. Delivery shall be deemed
21 complete upon depositing in the mail, postage or charges
22 prepaid, as evidenced by a certificate of mailing.

23 (2) The following shall apply:

24 (i) If the mayor approves the ordinance, the mayor
25 shall sign it.

26 (ii) If the mayor does not approve the ordinance,
27 the mayor shall return it with objections, which shall be
28 entered upon the minutes, to the council at its next
29 scheduled meeting occurring at least ten days after the
30 meeting at which the ordinance was enacted by council.

1 (iii) Council shall reconsider the ordinance either
2 at the meeting at which the vetoed ordinance was returned
3 or not later than ten days after the meeting at any other
4 scheduled meeting. If, after reconsideration, a majority
5 of all elected council members plus one votes to override
6 the mayor's veto, the ordinance shall have full force and
7 effect as if it had received the approval of the mayor.
8 The vote shall be determined by yeas and nays and the
9 names and votes of the members shall be entered upon the
10 minutes.

11 (iv) A scheduled meeting, as used in this section,
12 may be either a regular, special or reconvened meeting.

13 (3) If an ordinance is not returned by the mayor at
14 council's next scheduled meeting occurring at least ten days
15 after its presentation to the mayor, the ordinance shall have
16 full force and effect as if it had been approved by the
17 mayor.

18 (b) Effective date.--The effective date of an enacted
19 ordinance, except as provided in the ordinance, shall be one of
20 the following:

21 (1) The date when the mayor approves the ordinance.

22 (2) The date of enactment by the council over the veto
23 of the mayor.

24 (3) For an ordinance not returned by the mayor at the
25 next scheduled meeting of council occurring at least ten days
26 after the meeting at which the ordinance was enacted by the
27 council, the date of the succeeding scheduled meeting of
28 council.

29 (c) Tax ordinance.--The following shall apply:

30 (1) If council presents the mayor with the annual tax

1 ordinance under section 1310.1 (relating to tax ordinance),
2 the mayor shall, within ten days of receiving the tax
3 ordinance, approve or return the tax ordinance to the borough
4 secretary with a statement setting forth the mayor's
5 objections.

6 (2) Council shall reconsider the tax ordinance at any
7 scheduled meeting held not later than ten days after the
8 mayor has returned the tax ordinance to the secretary with
9 the mayor's objections. The mayor's objections shall be
10 entered upon the minutes of the meeting.

11 (3) A veto of the tax ordinance of the borough may be
12 overridden by a vote of a majority of all elected council
13 members plus one. If the veto is overridden, the ordinance
14 shall have full force and effect as if it had received the
15 approval of the mayor.

16 (4) If the mayor neither approves the tax ordinance nor
17 returns it with objections, the date of enactment of the tax
18 ordinance shall be the date of the adoption of the tax
19 ordinance by council.

20 § 3301.4. Recording, advertising and proof.

21 (a) Recording.--All borough ordinances shall, within 30 days
22 after approval by the mayor, the council's override of the
23 mayor's veto or council's next scheduled meeting after its
24 presentation to the mayor, be recorded by the borough secretary
25 in an ordinance book. The ordinance book shall be open to the
26 inspection of citizens during normal business hours.

27 (b) Proof.--All ordinances may be proved by the certificate
28 of the borough secretary under the corporate seal. If an
29 ordinance is printed or published in book or pamphlet form by
30 the authority of the borough, the ordinance shall be accepted as

1 evidence without further proof. The entry of the borough
2 ordinance in the ordinance book shall be sufficient without the
3 signature of the president of council, mayor or member of
4 council.

5 (c) Prior ordinances.--The text of a borough ordinance or a
6 portion of an ordinance which was attached to the ordinance book
7 before January 1, 1966, shall be considered in force as if the
8 ordinances or portions of ordinances had been recorded in the
9 ordinance book if all other requirements of this part applicable
10 to the enactment, approval, advertising and recording of the
11 ordinances or portions of ordinances were complied with within
12 the time limits prescribed under this part.

13 § 3301.5. Codification of ordinances.

14 (a) Consolidation, codification and revision.--The borough
15 council, under section 3301.1(a) (relating to ordinances and
16 resolutions), may:

17 (1) enact a consolidation, codification or revision of
18 borough ordinances as a single ordinance of the borough; and

19 (2) enact a complete group ordinance, repealing or
20 amending existing ordinances as necessary.

21 (b) Enactment.--For a consolidation, codification or
22 revision under subsection (a), the following apply:

23 (1) The ordinance must be introduced in the council at
24 least 30 days before its final enactment.

25 (2) At least 15 days before final enactment, notice of
26 the introduction of the ordinance must be given by
27 advertisement in a newspaper of general circulation. For
28 enactment under subsection (a) (2), the notice must list, in
29 lieu of a table of contents, the titles of each of the
30 ordinances in the complete group.

1 (c) Subsequent notice.--When any consolidation, codification
2 or revision under subsection (a) has been enacted as an
3 ordinance, it shall not be necessary to advertise the entire
4 text, but it shall be sufficient to publish a notice referring
5 to notice under subsection (b) (2) and stating final enactment.

6 § 3301.6. Appeals from ordinances.

7 Complaint as to the legality of any ordinance or resolution
8 must be made to the court of common pleas. In cases of
9 ordinances laying out streets over private lands, the court
10 shall have jurisdiction to review the propriety as well as the
11 legality of the ordinance.

12 § 3301.7. Replacement of ordinance books.

13 (a) Ordinance.--

14 (1) If an ordinance book is unserviceable, the council
15 may provide by ordinance for the secretary of the borough to
16 establish a replacement ordinance book recording all
17 ordinances affected by the replacement.

18 (2) The following apply to an ordinance under this
19 subsection:

20 (i) The ordinance must be recorded in the ordinance
21 book immediately following the recorded ordinances
22 affected by the replacement.

23 (ii) The ordinance must direct the secretary, upon
24 completion of the recording, to publish once, in one
25 newspaper of general circulation, a notice:

26 (A) identifying the ordinances contained in the
27 unserviceable ordinance book; and

28 (B) stating that the old books and records of
29 borough ordinances and the replacement ordinance book
30 are open to public inspection for the purpose of

1 verification and correction for a period of 30 days
2 from the date of the notice.

3 (b) Secretary.--

4 (1) The secretary, in recording the ordinances, must
5 make complete copies of the ordinances, including the date of
6 enactment and approval and the names of the officers who
7 signed them.

8 (2) After notice and corrections under subsection (a)(2)
9 (ii), the secretary must certify each ordinance as a correct
10 copy of the original.

11 (c) Effect.--Upon compliance with subsection (b), the
12 recorded replacement ordinance shall replace the original
13 ordinance as the ordinances of the borough for the period
14 covered by the new ordinance book.

15 § 3302. (Reserved).

16 § 3303. (Reserved).

17 § 3304. (Reserved).

18 § 3305. (Reserved).

19 § 3306. (Reserved).

20 § 3307. (Reserved).

21 § 3308. (Reserved).

22 § 3309. (Reserved).

23 SUBCHAPTER B

24 ENFORCEMENT

25 Sec.

26 3321. Fines and penalties.

27 3322. Commitment pending trial.

28 3323. Commitment after trial.

29 3324. Payment of costs by borough.

30 § 3321. Fines and penalties.

1 (a) Prescription.--

2 (1) A borough ordinance shall prescribe fines and
3 penalties for violation.

4 (2) A civil penalty may not exceed \$600 per violation.

5 (3) The council may prescribe a criminal fine not to
6 exceed \$1,000 per violation and may prescribe imprisonment to
7 the extent allowed by law for the punishment of a summary
8 offense.

9 (4) An ordinance under this subsection may provide that
10 a separate violation under paragraph (2) or (3) shall arise
11 for:

12 (i) each day of violation; and

13 (ii) each applicable section of the ordinance.

14 (5) An ordinance may provide for assessment of court
15 costs and reasonable attorney fees incurred by the borough in
16 the enforcement proceedings.

17 (6) The council may delegate the initial determination
18 of ordinance violation and the service of notice of violation
19 to a qualified officer or agent.

20 (b) Enforcement at law.--Unless otherwise provided by
21 statute, a borough ordinance shall set forth the method of its
22 enforcement in accordance with the following:

23 (1) Except as provided in paragraph (2), if the penalty
24 is not paid, the borough shall initiate a civil action for
25 collection in accordance with the Pennsylvania Rules of Civil
26 Procedure. A borough shall be exempt from the payment of
27 costs in an action under this paragraph.

28 (2) For an ordinance regulating building, housing,
29 property maintenance, health, fire, public safety, parking,
30 solicitation, curfew, water or air or noise pollution,

1 enforcement shall be by a criminal action in the same manner
2 provided for the enforcement of summary offenses under the
3 Pennsylvania Rules of Criminal Procedure. The municipal
4 solicitor may assume charge of the prosecution without the
5 consent of the district attorney as required under
6 Pa.R.Crim.P. No. 454 (relating to trial in summary cases).
7 Violations of the property maintenance code or ordinance may
8 also be enforced under section 32A04(c) (relating to property
9 maintenance code).

10 (3) Except for an ordinance subject to paragraph (2), an
11 ordinance enacted prior to July 16, 2012, shall be deemed
12 automatically amended so that it shall be enforced under
13 paragraph (1).

14 (4) If a civil claim under this subsection, exclusive of
15 interest, costs or fees, exceeds the monetary jurisdiction of
16 a magisterial district judge under 42 Pa.C.S. § 1515(a)
17 (relating to jurisdiction and venue), the borough may:

18 (i) bring the action in a court of common pleas; or

19 (ii) make a waiver under 42 Pa.C.S. § 1515(a)(3).

20 (c) Enforcement in equity.--In addition to or in lieu of
21 enforcement under subsection (b), a borough may enforce an
22 ordinance in equity in a court of common pleas of the county
23 where the borough is situate.

24 (d) Payment.--Money collected under subsection (b) shall be
25 paid to the borough treasurer.

26 § 3322. Commitment pending trial.

27 An individual arrested for the violation of a borough
28 ordinance may, pending trial, be committed to:

29 (1) the borough correctional facility; or

30 (2) if there is no suitable borough correctional

1 facility, to a county correctional facility.

2 § 3323. Commitment after trial.

3 A defendant sentenced to imprisonment for a violation of a
4 borough ordinance may be committed to:

5 (1) the borough correctional facility for up to ten
6 days; or

7 (2) a county correctional facility for up to 30 days.

8 § 3324. Payment of costs by borough.

9 If a prisoner is committed to a county correctional facility
10 under section 3322(2) (relating to commitment pending trial) or
11 3323(2) (relating to commitment after trial), the expenses of
12 maintaining the prisoner during confinement shall be paid by the
13 borough, and the county shall not be liable for the maintenance.

14 CHAPTER 34

15 ACTIONS BY AND AGAINST BOROUGHS

16 (Reserved)

17 CHAPTER 35

18 ACTS OF ASSEMBLY REPEALED AND SAVING CLAUSE

19 Sec.

20 3501. Repeals.

21 § 3501. Repeals.

22 (a) (Reserved).

23 (b) Inconsistent repeal.--All acts or parts of acts
24 inconsistent with this part are repealed. This part shall
25 furnish a complete and exclusive system for the government and
26 regulation of boroughs, except as enumerated under section 102
27 (relating to excluded provisions).

28 (c) Law not repealed.--Nothing under this part shall be
29 construed to repeal any of the following:

30 (1) A local or special law.

1 (2) A law relating to the Navigation Commission for the
2 Delaware River and its navigable tributaries.

3 (3) A law, the enforcement of which is vested in the
4 Department of Health.

5 (3.1) A law, the enforcement of which is vested in the
6 Department of Environmental Protection.

7 (4) A law, the enforcement of which is vested in the
8 Department of Conservation and Natural Resources.

9 (5) The act of December 31, 1965 (P.L.1257, No.511),
10 known as The Local Tax Enabling Act.

11 (6) The act of February 14, 2008 (P.L.6, No.3), known as
12 the Right-to-Know Law.

13 (7) 45 Pa.C.S. (relating to legal notices).

14 (8) 65 Pa.C.S. (relating to public officers).

15 (9) 66 Pa.C.S. Pt. I (relating to Public Utility Code).

16 (d) Revival.--Nothing under this part shall be construed to
17 revive any act or part of a repealed act.

18 Section 2. Section 7132(b) of Title 44 is amended to read:

19 § 7132. Police officers.

20 * * *

21 (b) Exception.--Unless prevented from doing so by the
22 operation of 8 Pa.C.S. Ch. 11 Subch. J (relating to civil
23 service for police and fire apparatus operators), borough
24 policemen who reside in the borough may hold and exercise the
25 office of constable in the borough, or in any ward thereof, and
26 receive all costs, fees and emoluments pertaining to such
27 office.

28 Section 3. Repeals are as follows:

29 (1) The General Assembly declares that the repeal under
30 paragraph (2) is necessary to effectuate the addition of 8

1 Pa.C.S. Pt. I.

2 (2) The act of February 1, 1966 (1965 P.L.1656, No.581),
3 known as The Borough Code, is repealed.

4 Section 4. The addition of 8 Pa.C.S. Pt. I is a continuation
5 of the act of February 1, 1966 (1965 P.L.1656, No.581), known as
6 The Borough Code. The following apply:

7 (1) Except as otherwise provided in 8 Pa.C.S. Pt. I, all
8 activities initiated under The Borough Code shall continue
9 and remain in full force and effect and may be completed
10 under 8 Pa.C.S. Pt. I. Orders, regulations, rules and
11 decisions which were made under The Borough Code and which
12 are in effect on the effective date of section 3(2) of this
13 act shall remain in full force and effect until revoked,
14 vacated or modified under 8 Pa.C.S. Pt. I. Contracts,
15 obligations and collective bargaining agreements entered into
16 under The Borough Code are not affected nor impaired by the
17 repeal of The Borough Code.

18 (2) Except as set forth in paragraph (3), any difference
19 in language between 8 Pa.C.S. Pt. I and The Borough Code is
20 intended only to conform to the style of the Pennsylvania
21 Consolidated Statutes and is not intended to change or affect
22 the legislative intent, judicial construction or
23 administration and implementation of The Borough Code.

24 (3) Paragraph (2) does not apply to the addition of the
25 following provisions of 8 Pa.C.S.:

26 (i) The definition of "freeholders" in section 200.

27 (ii) Section 202(a)(3).

28 (iii) Section 210(a).

29 (iv) Section 801.

30 (v) Section 901(a.1).

- 1 (vi) Section 902.
- 2 (vii) Section 904.1.
- 3 (viii) Section 1104(a) and (f) (3).
- 4 (ix) Section 1121(a) (5).
- 5 (x) SECTION 1202(20), (23), (35), (46) and (60). <--
- 6 (xi) Section 1302(a) (10).
- 7 (xii) ~~section~~ SECTION 1315(a) (4). <--
- 8 (xiii) Section 21A06.
- 9 (xiv) Section 2456(b) (3).
- 10 (XV) Section 2701(e).
- 11 (xvi) Section 2708(b).
- 12 (xvii) Section 3301.1(b) (5).
- 13 (xviii) Section 3301.2(a) (2), (b) (2) and (c).

14 Section 5. The addition of 8 Pa.C.S. §§ 801(b) and 1104(f)
15 (3) shall apply to officials elected or appointed to fill a
16 vacancy in an elected office after the effective date of this
17 section.

18 Section 6. This act shall take effect in 60 days.