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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1719 Session of  
2013

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

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REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, SEPTEMBER 26, 2013

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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)

22 4. Change of Limits (Reserved)

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

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 Acts of Assembly Repealed and Saving Clause

12                                    CHAPTER 1

13                                    PRELIMINARY PROVISIONS

14    Sec.

15    101. Short title of part.

16    101.1. Definitions.

17    102. Excluded provisions.

18    103. Construction of part.

19    104. Constitutional construction.

20    105. Construction of references.

21    106. Application.

22    107. Acceptance.

23    107.1. Acceptance by incorporated towns.

24    108. (Reserved).

25    109. Publication of notices.

26    110. Terms of existing officers.

27    § 101. Short title of part.

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

30    § 101.1. Definitions.

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

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

9 "Council." A borough council.

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

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

12 (1) The most recent Federal decennial census.

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

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

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

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

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

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

27 § 102. Excluded provisions.

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

30 (1) The assessment and valuation of property and persons

1 for the purpose of taxation and the collection of taxes,  
2 except as provided in this part.

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

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

5 (4) Conduct of elections.

6 (5) Public schools.

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

9 (7) Magisterial district judges.

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

11 (9) State highways.

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

14 (11) 18 Pa.C.S. (relating to crimes and offenses).

15 (12) 75 Pa.C.S. (relating to vehicles).

16 § 103. Construction of part.

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

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

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

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

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

29 (ii) Any suit or prosecution pending or to be  
30 instituted to enforce any right or penalty or punish any

1 offense under the authority of the repealed laws.

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

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

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

16 § 104. Constitutional construction.

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

22 § 105. Construction of references.

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

26 § 106. Application.

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

28 (b) Prior acts.--This part shall not annul or repeal any  
29 local or special act or part of a local or special act in force  
30 on January 1, 1966.

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

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

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

18 § 107. Acceptance.

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

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

27 (2) The petition under paragraph (1) shall indicate  
28 whether it is the desire of the borough to surrender all of  
29 its special and local acts or to retain its special and local  
30 acts that are not inconsistent with this part.

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

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

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

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

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

22       (1) Liabilities incurred.

23       (2) Rights accrued or vested.

24       (3) Obligations issued or contracted.

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

28       (5) Ordinances.

29 § 107.1. Acceptance by incorporated towns.

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



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

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

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

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

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

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

29           (i) Liabilities incurred.

30           (ii) Rights accrued or vested.

1           (iii) Obligations issued or contracted.

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

5           (v) Ordinances.

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

9   § 108. (Reserved).

10 § 109. Publication of notices.

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

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

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

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

27           (1) Any proceeding in any court.

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

30 § 110. Terms of existing officers.

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

4 CHAPTER 2

5 CREATION AND ALTERATION

6 Subchapter

7 A. Incorporation

8 B. Consolidation (Reserved)

9 C. Creation From Cities of the Third Class

10 D. Consolidation or Merger and Change of Corporate Name

11 SUBCHAPTER A

12 INCORPORATION

13 Sec.

14 200. Definitions.

15 201. Contiguous areas.

16 202. Applications.

17 202.1. Borough advisory committee.

18 202.2. Advisability of incorporation, certification of question  
19 for referendum and decree.

20 203. (Reserved).

21 204. (Reserved).

22 205. Borough government and requisites of charter.

23 206. Farmlands.

24 207. Corporate name.

25 208. (Reserved).

26 209. (Reserved).

27 210. Certificates.

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

30 212. Boundaries.

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

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

12 "Committee." A borough advisory committee.

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

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

17 § 201. Contiguous areas.

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

24 § 202. Applications.

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

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

1 are in the same township.

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

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

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

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

15 (b) (Reserved).

16 (c) (Reserved).

17 (d) (Reserved).

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

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

1 shall apply:

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

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

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

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

11 § 202.1. Borough advisory committee.

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

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

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

19 (i) Two residents of the proposed borough.

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

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

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

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

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

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

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

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

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

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

26   § 202.2. Advisability of incorporation, certification of  
27           question for referendum and decree.

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

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

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

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

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

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

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

30 § 203. (Reserved).



1 § 204. (Reserved).

2 § 205. Borough government and requisites of charter.

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

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

12 (1) The corporate name of the borough.

13 (2) The boundaries of the borough.

14 § 206. Farmlands.

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

21 § 207. Corporate name.

22 The corporate name of a borough incorporated under this part  
23 shall be "The Borough of \_\_\_\_\_."

24 § 208. (Reserved).

25 § 209. (Reserved).

26 § 210. Certificates.

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

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

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

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

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

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

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

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

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

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

30 (c) Special election.--If a special election is held under

1 subsection (b)(2), the court shall do all of the following:

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

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

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

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

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

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

17 § 212. Boundaries.

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

23 § 213. Adjustment of indebtedness.

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

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

1 property owned by the township at the time of the  
2 incorporation of the borough.

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

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

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

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

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

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

30 (c) Form.--The adjustment and apportionment made under this

1 section must meet all of the following:

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

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

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

9 § 214. Judicial adjustment.

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

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

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

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

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

1 township.

2 § 215. Judicial adjustment award proceedings.

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

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

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

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

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

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

18 § 216. Exceptions.

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

23 § 217. Compensation, expenses and costs.

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

30 § 218. Territory located in multiple counties.

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

7 § 219. Bond issues and taxation.

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

18 SUBCHAPTER B

19 CONSOLIDATION

20 (Reserved)

21 SUBCHAPTER C

22 CREATION FROM CITIES OF THE THIRD CLASS

23 Sec.

24 231. Procedure.

25 232. Filing, notice and return.

26 233. Borough government.

27 234. Effect.

28 235. Costs and expenses.

29 § 231. Procedure.

30 (a) Petition.--The court of common pleas shall, upon

1 petition of at least 10% of the registered electors of any city  
2 of the third class, order an election to be held at the next  
3 general, municipal or primary election occurring at least 90  
4 days after the presentation of the petition.

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

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

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

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

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

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

19 (3) The name of the proposed borough.

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

23 § 232. Filing, notice and return.

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

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

29 (2) Direct that the petition shall be filed with the  
30 clerk of the court and that a copy of the petition and order



1 of court shall be filed with the county board of elections.

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

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

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

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

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

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

1 § 233. Borough government.

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

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

12 § 234. Effect.

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

17 (1) Affect any of the following:

18 (i) Liabilities incurred.

19 (ii) Rights accrued or vested.

20 (iii) Obligations issued or contracted.

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

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

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

26 (c) Wards and districts.--Wards and election districts of  
27 the city shall become the wards and election districts of the  
28 borough until altered or changed. In the election of members of  
29 council from the several wards, two members of council shall be  
30 elected from each ward, unless changed as provided by law.

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

5 § 235. Costs and expenses.

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

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

14 SUBCHAPTER D

15 CONSOLIDATION OR MERGER AND

16 CHANGE OF CORPORATE NAME

17 Sec.

18 241. Consolidation or merger.

19 242. Change of corporate name.

20 § 241. Consolidation or merger.

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

24 § 242. Change of corporate name.

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

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

1 change the name of the borough to conform to the name in  
2 general usage or to the post office designation.

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

5 (i) Council, pursuant to a resolution.

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

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

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

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

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

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

24 (1) Liabilities incurred.

25 (2) Rights accrued or vested.

26 (3) Obligations issued or contracted.

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

30 CHAPTER 3

1 ANNULMENT OF CHARTERS AND

2 CHANGE OF CORPORATE NAMES

3 (Reserved)

4 CHAPTER 4

5 CHANGE OF LIMITS

6 (Reserved)

7 CHAPTER 5

8 BOUNDARIES

9 Sec.

10 501. Stream boundaries.

11 502. Petition and establishment of disputed boundaries.

12 503. Commissioners and report.

13 504. Exceptions and procedure.

14 505. Compensation, expenses and costs.

15 506. Boundary monuments.

16 § 501. Stream boundaries.

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

24 § 502. Petition and establishment of disputed boundaries.

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

1 § 503. Commissioners and report.

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

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

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

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

21 § 504. Exceptions and procedure.

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

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

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

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

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

8 § 505. Compensation, expenses and costs.

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

16 (1) The petitioners.

17 (2) The borough.

18 (3) Any interested municipal corporation.

19 § 506. Boundary monuments.

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

22 CHAPTER 6

23 WARDS

24 Sec.

25 601. Creation and alteration.

26 602. Petition of electors.

27 603. Notice of ordinance.

28 604. (Reserved).

29 605. (Reserved).

30 606. Terms of officers.

1 606.1. Construction of chapter.

2 607. (Reserved).

3 § 601. Creation and alteration.

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

9 (1) Divide boroughs into wards.

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

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

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

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

18 (6) Abolish all wards.

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

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

22 (2) The following shall apply:

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

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

30 (iii) All wards in existence prior to January 1,



1           1966, shall remain as established, until altered or  
2           divided as provided under this chapter.

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

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

12 § 602. Petition of electors.

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

23           (b) Court of common pleas.--If council has not approved a  
24 motion within 90 days after the presentment of a petition under  
25 subsection (a), ten registered electors may petition the court  
26 of common pleas and contest the existing apportionment as  
27 violating section 601(b) or (d). The proceedings before the  
28 court shall be conducted in accordance with 53 Pa.C.S. §§ 906  
29 (relating to contest of reapportionment by governing body) and  
30 907 (relating to costs and expenses of contest).

1 § 603. Notice of ordinance.

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

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

10 § 604. (Reserved).

11 § 605. (Reserved).

12 § 606. Terms of officers.

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

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

26 § 606.1. Construction of chapter.

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

29 (1) The powers and duties of the court of common pleas  
30 or the county board of elections.



1 borough to attend the annual meeting of the State Association of  
2 Boroughs, which shall be held in this Commonwealth in accordance  
3 with the procedure adopted by the State Association of Boroughs.

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

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

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

16 (i) The registration fee.

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

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

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

26 (i) The registration fee.

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

30 (iii) Any actual expenses that the council may have

1 agreed to pay.

2 § 701.2. Compensation.

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

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

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

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

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

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

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

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

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

28 § 702. County and regional associations of boroughs.

29 (a) Organization.--The boroughs of any county or of two or  
30 more adjoining or nearby counties may organize a county or

1 regional association of boroughs, composed of elected and  
2 appointed borough officers in the county, organized for the  
3 purpose of furthering the interests of the boroughs in the  
4 county or regional association of boroughs and their  
5 inhabitants.

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

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

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

13 (i) The registration fee.

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

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

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

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

29 (e) Other members.--A county or regional association of  
30 boroughs may admit representatives of political subdivisions

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

4 § 703. Other associations and organizations.

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

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

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

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

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

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

19 (i) The registration fee.

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

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

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

27 (3) The council may authorize borough employees to be  
28 compensated at their regular employee rate during their  
29 attendance at an annual meeting or conference of an  
30 association or organization under paragraph (1). The time



1 spent in attending the meeting or conference may not be more  
2 than four days, including the time traveling to and from the  
3 meeting or conference.

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

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

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

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

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

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

20 § 704. Associations and organizations for mayors.

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

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

29 (1) The registration fee.

30 (2) Lodging, meals, mileage for use of a personal

1 vehicle or reimbursement of actual transportation expense  
2 going to and returning from the meeting.

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

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

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

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

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

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

29 CHAPTER 8

30 ELECTIONS OF OFFICERS

- 1 Subchapter
- 2 A. General Provisions
- 3 B. Members of Council
- 4 C. Mayor (Reserved)
- 5 D. Auditors (Reserved)
- 6 E. Controller (Reserved)
- 7 F. Assessors (Reserved)
- 8 G. Tax Collector (Reserved)

9 SUBCHAPTER A

10 GENERAL PROVISIONS

11 Sec.

12 801. Eligibility.

13 802. Time and place.

14 803. Certificates.

15 804. Term and bonds.

16 805. Election after creation.

17 806. Officers elected.

18 § 801. Eligibility.

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

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

23 (2) Before being sworn into office, each elected borough  
24 officer shall present a signed affidavit to the borough  
25 secretary that states that the officer resides in the borough  
26 from which elected and has resided in the borough  
27 continuously for at least one year immediately prior to the  
28 officer's election.

29 (b) Incompatible offices.--A school director or a trustee of  
30 a charter school may not be elected to an elective borough

1 office. No individual may hold more than one elective borough  
2 office at the same time.

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

7 § 802. Time and place.

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

10 § 803. Certificates.

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

14 § 804. Term and bonds.

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

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

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

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

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

26 (2) A borough shall pay a proportionate share of the  
27 cost of a tax collector's bond within the same ratio as the  
28 amount of borough taxes bears to the total amount of all  
29 taxes indicated by the tax duplicate to be collected by the  
30 tax collector during the year preceding the date the premium

1 is due.

2 § 805. Election after creation.

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

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

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

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

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

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

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

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

27 (2) One member of council shall be elected from each  
28 ward for a term of two years and one member of council shall  
29 be elected from each ward for a term of four years in any of  
30 the following:

1           (i) A consolidation of two or more boroughs into one  
2 borough.

3           (ii) The creation of a borough from a city of the  
4 third class.

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

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

9           (i) One for a term of two years.  
10           (ii) One for a term of four years.  
11           (iii) One for a term of six years.

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

16 § 806. Officers elected.

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

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

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

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

29           (i) In boroughs providing for three elected  
30 auditors, one auditor shall be elected at each municipal

1 election for a term of six years.

2 (ii) In boroughs providing for one elected  
3 controller, the controller shall:

4 (A) be elected at the municipal election;

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

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

9 (4) As follows:

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

13 (ii) In a borough with a population of less than  
14 3,000 as determined by the latest official census, the  
15 total number of members of council may be reduced from  
16 seven to five or to three upon petition to the court of  
17 common pleas, as provided under section 818 (relating to  
18 decrease in number of members of council).

19 (5) As follows:

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

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

28 (A) be residents of the ward from which they are  
29 elected; and

30 (B) be chosen by the electors of the ward.

1 (b) Terms.--The term of an elected officer under this  
2 section shall begin the first Monday of January succeeding the  
3 individual's election.

4 SUBCHAPTER B

5 MEMBERS OF COUNCIL

6 Sec.

7 811. Election.

8 812. Election of members of council.

9 813. Fixing number of members of council.

10 814. Increase in number of ward council members.

11 815. Decrease of number of ward council members.

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

13 817. Vacancies created after a primary election.

14 818. Decrease in number of members of council.

15 § 811. Election.

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

22 § 812. Election of members of council.

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

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



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

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

21 § 813. Fixing number of members of council.

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

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

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

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

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

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

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

18 (3) A council consisting of an odd number of members  
19 instead of an even number.

20 (4) A reduction in borough expenditures.

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

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

1 of the number of signers to the petition shall be ascertained as  
2 of the date the petition is presented to council.

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

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

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

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

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

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

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

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

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

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

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

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

28 (ii) In the third and all subsequent municipal  
29 elections following the effective date of the ordinance,  
30 the electors shall elect three or four members of

1 council, as the case may be, each to serve for a term of  
2 four years from the first Monday of January following the  
3 municipal election.

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

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

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

29 (3) Six or fewer members of council, the ordinance shall  
30 provide that, at the first municipal election, the electors

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

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

26 § 817. Vacancies created after a primary election.

27 If a vacancy is created in the office of a member of council  
28 by any ordinance or decree of court as provided in this  
29 subchapter after a primary election, it may be filled by  
30 nomination made by the committee as is authorized by the rules

1 of the party to make nominations in the event of vacancies on  
2 the party ticket.

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

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

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

19 (c) Number to be elected.--

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

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

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

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

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

30 (ii) If three members of council would otherwise



1 have been elected, two members shall be elected.

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

6 (d) Election.--

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

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

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

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

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

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

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

23 (f) Terms.--In any borough in which, under this section, the  
24 number of members of council shall be reduced, the members of  
25 council then in office shall remain in office until the end of  
26 their respective terms. If a borough attains a population in  
27 excess of 3,000, according to the latest official census, the  
28 number of members of council shall automatically be increased  
29 from three or five to seven, following the reverse of the  
30 procedure set forth in subsection (c) or (d).

1 SUBCHAPTER C

2 MAYOR

3 (Reserved)

4 SUBCHAPTER D

5 AUDITORS

6 (Reserved)

7 SUBCHAPTER E

8 CONTROLLER

9 (Reserved)

10 SUBCHAPTER F

11 ASSESSORS

12 (Reserved)

13 SUBCHAPTER G

14 TAX COLLECTOR

15 (Reserved)

16 CHAPTER 9

17 VACANCIES IN OFFICE

18 Sec.

19 901. Filling vacancies in elective borough offices.

20 902. Collection of taxes where vacancy in office of tax  
21 collector not filled.

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

24 904. (Reserved).

25 904.1. Removal of elected official and appointee.

26 905. Temporary auditor.

27 § 901. Filling vacancies in elective borough offices.

28 (a) Vacancies.--If any vacancy occurs in the office of the  
29 mayor, member of council, auditor, controller or tax collector,  
30 by death, resignation or termination of residency from the

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

18 (b) Bond.--The individual appointed shall give bond if  
19 required by law or ordinance. If the individual elected to the  
20 office fails to give any bond required, to provide the affidavit  
21 required under section 801 or to take the required oath, the  
22 council, before making the appointment, shall declare the office  
23 vacant.

24 (c) Unfilled vacancies.--If the council of any borough  
25 refuses, fails, neglects or is unable, for any reason  
26 whatsoever, to fill any vacancy within 30 days after the vacancy  
27 happens, as provided in this section, the vacancy shall be  
28 filled within 15 additional days by the vacancy board. The  
29 vacancy board shall consist of the council, exclusive of the  
30 mayor, and one registered elector of the borough who shall be

1 appointed by the council at the council's first meeting each  
2 calendar year or as soon as practical and who shall act as chair  
3 of the vacancy board. The vacancy board shall appoint a  
4 registered elector of the borough, or ward in the case of a ward  
5 office, to hold the office, if the term continues that long,  
6 until the first Monday in January after the first municipal  
7 election occurring more than 60 days after the vacancy occurs,  
8 at which election an eligible individual shall be elected to the  
9 office for the remainder of the term.

10 (d) Board petition.--If the vacancy is not filled by the  
11 vacancy board within 15 days, the chair shall, or in the case of  
12 a vacancy in the chair, the remaining members of the vacancy  
13 board shall petition the court of common pleas to fill the  
14 vacancy by the appointment of a registered elector of the  
15 borough, or ward in the case of a ward, to hold the office, if  
16 the term continues that long, until the first Monday in January  
17 after the first municipal election occurring more than 60 days  
18 after the vacancy occurs, at which election an eligible  
19 individual shall be elected to the office for the remainder of  
20 the term.

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

25 § 902. Collection of taxes where vacancy in office of tax  
26 collector not filled.

27 If a vacancy in the office of tax collector exists and no  
28 registered elector of the borough has, within 30 days, received  
29 the appointment to fill the vacancy, the county commissioners,  
30 the council and the board of school directors of the school

1 district shall collect the tax for the county, the borough and  
2 the school district, respectively, through their respective  
3 treasurers, or for school districts, at the option of the  
4 district, through their secretaries, and for boroughs, at the  
5 option of the council, through their secretaries or borough  
6 managers. Nothing in this section shall prohibit a borough from  
7 providing for agreements or the joint collection of taxes in  
8 accordance with section 4.4 of the act of May 25, 1945  
9 (P.L.1050, No.394), known as the Local Tax Collection Law.

10 § 903. Right of council to declare seat of member vacant for  
11 failure to qualify.

12 If an individual, elected or appointed as a member of council  
13 and notified of election or appointment refuses or neglects to  
14 qualify as a member of council within ten days following the  
15 beginning of the individual's term of office, unless prevented  
16 by sickness or necessary absence from the borough, the council,  
17 acting without the individual, may declare the individual's  
18 office as member of council vacant and may fill the vacancy as  
19 provided in section 901 (relating to filling vacancies in  
20 elective borough offices). For these actions, a majority of the  
21 remaining members of the council shall constitute a quorum.

22 § 904. (Reserved).

23 § 904.1. Removal of elected official and appointee.

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

27 (1) By impeachment.

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

30 (3) On conviction of misbehavior in office or of an

1 infamous crime.

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

4 § 905. Temporary auditor.

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

10 CHAPTER 10

11 POWERS AND DUTIES

12 OF ELECTED OFFICIALS

13 Subchapter

14 A. Council

15 B. Mayor (Reserved)

16 C. Auditors

17 D. Controller

18 E. (Reserved)

19 F. Tax Collector

20 SUBCHAPTER A

21 COUNCIL

22 Sec.

23 1001. Organization of council, quorum, participation by  
24 telecommunication device, voting, compensation and  
25 eligibility.

26 1002. Oath of members of council.

27 1003. When the mayor may preside over council and vote,  
28 attendance of mayor at council meetings and breaking  
29 tie votes.

30 1004. Failure of council to organize.

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5 1009. Typewritten, printed, photocopied, microfilmed and  
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12 1014. Hearings before council; witnesses.  
13 1015. Witness fees and mileage.  
14 1016. Examination of witnesses; penalty.  
15 § 1001. Organization of council, quorum, participation by  
16 telecommunication device, voting, compensation and  
17 eligibility.  
18 (a) Organization.--The council shall organize on the first  
19 Monday of January of each even-numbered year by electing one  
20 member as president and one member as vice-president, who shall  
21 hold the offices at the pleasure of the council. If the first  
22 Monday is a legal holiday, the meeting and organization shall  
23 take place the following day. Any action taken by any council at  
24 any time between 12:01 a.m. on January 1 of an even-numbered  
25 year and the organization of council in that year shall be  
26 subject to reconsideration by the new council at any time within  
27 ten days after organization. The council may, at the  
28 organizational meeting, appoint other officers as may be  
29 provided for by law or ordinance, or as may be deemed necessary  
30 for the conduct of affairs of the borough, and may transact any

1 other business as may come before the meeting. The president,  
2 and during the president's absence or incapacity, the vice-  
3 president, shall preside over the meetings of council and  
4 perform other duties as are prescribed by this part or by  
5 ordinance.

6 (b) Quorum.--A majority of the membership of council then in  
7 office shall constitute a quorum. Except as provided in  
8 subsection (c), only council members physically present at a  
9 meeting place within the borough shall be counted in  
10 establishing a quorum.

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

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

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

28 (i) speak to and hear the comments and votes, if  
29 any, of the members of council who are physically  
30 present, as well as other members of council who may not



1 be physically present and are also using a  
2 telecommunication device to participate in the meeting;  
3 and

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

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

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

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

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

17 (iii) emergency; and

18 (iv) family or business travel.

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

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

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

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

30 (2) In boroughs with a population of 5,000 or more but

1 less than 10,000, a maximum of \$2,500 per year.

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

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

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

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

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

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

26 § 1002. Oath of members of council.

27 Before entering upon the duties of their offices, the members  
28 of council shall take and subscribe an oath or affirmation of  
29 office under 53 Pa.C.S. § 1141 (relating to form of oaths of  
30 office). The oath or affirmation may be taken before any judge

1 or magisterial district judge of the county, a notary public or  
2 the mayor of the borough when the individual has qualified, and  
3 the oath or affirmation shall be filed with the borough  
4 secretary and preserved among the records of the borough for a  
5 period of six years.

6 § 1003. When the mayor may preside over council and vote,  
7 attendance of mayor at council meetings and breaking  
8 tie votes.

9 (a) Presiding over meetings.--The mayor shall preside over  
10 the organization of the council until it is organized as  
11 provided in section 1001 (relating to organization of council,  
12 quorum, participation by telecommunication device, voting,  
13 compensation and eligibility), and shall be deemed a member of  
14 council at the organizational meeting if the mayor's membership  
15 becomes necessary to constitute a quorum.

16 (b) Voting at meetings.--The mayor shall not vote at the  
17 meeting unless the mayor's vote shall, for any reason, be  
18 required to effect the organization of council or to elect any  
19 officer who is required to be or may be elected at the  
20 organizational meeting. If the mayor is absent from the  
21 organizational meeting, one of the members of council physically  
22 present at the meeting and chosen by the members eligible to  
23 vote at the meeting shall preside.

24 (c) Attendance.--The mayor may attend any or all regular and  
25 special meetings of council and take part in the discussions of  
26 the council on matters pertaining to borough affairs, subject to  
27 any restrictions applicable to members of council contained in  
28 the rules of order or bylaws of the council.

29 (d) Tie votes.--

30 (1) If, by reason of a tie or split vote, the council

1 shall be unable to:

2 (i) enact or pass any ordinance, resolution or  
3 motion;

4 (ii) declare any vacancy pursuant to section 903  
5 (relating to right of council to declare seat of member  
6 vacant for failure to qualify);

7 (iii) fill any other vacancy in its membership or in  
8 any other borough office.

9 (iv) take any action on any matter lawfully brought  
10 before it;

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

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

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

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

26 § 1004. Failure of council to organize.

27 If the council of any borough fails to organize within ten  
28 days from the time prescribed in this chapter, the court of  
29 common pleas, upon the petition of at least ten registered  
30 electors of the borough verified by the affidavit of one of the

1 petitioners, shall issue a rule upon the delinquent members of  
2 council to show cause why their seats should not be declared  
3 vacant. The rule shall be returnable not less than five days  
4 from the time of its issue, and, after hearing, the court may  
5 declare the seats of the members of council responsible for the  
6 failure to organize vacant and shall appoint others in their  
7 place, who shall hold office for the respective unexpired terms.  
8 § 1005. Powers of council.

9 The council shall have power:

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

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

22 (3) By resolution, to make temporary loans on the credit  
23 of the borough in anticipation of taxes to be collected and  
24 issue certificates of indebtedness. The loans shall be repaid  
25 from the first money available from taxes in anticipation of  
26 which the loans were made.

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

28 (i) Appoint and revoke the appointment of one or  
29 more depositories for borough funds and to fix and  
30 approve security to be furnished by the depository. The

1 security may be bonds with corporate or individual  
2 securities to be approved by council, or collateral  
3 security consisting of obligations of the United States  
4 or the Commonwealth or any political subdivision,  
5 deposited with the borough or with any bank or trust  
6 company within this Commonwealth and of a market value of  
7 120% of the amount of the deposit to be secured. Any  
8 deposit of collateral shall be under proper agreement and  
9 be accompanied by proper assignment or power of attorney  
10 for the transfer of the collateral. The borough treasurer  
11 shall deposit all borough funds in a depository  
12 designated under this subparagraph. If borough funds are  
13 deposited under this subparagraph, the borough treasurer  
14 shall be released and discharged from further liability  
15 on account of the deposit.

16 (ii) Subparagraph (i) shall not be construed to  
17 require a depository to furnish bond or collateral  
18 security to cover the amount of any deposit to the extent  
19 that the deposit is insured with the Federal Deposit  
20 Insurance Corporation.

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

27 (6) With respect to investments, to:

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

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

5           (iii) liquidate any investment, in whole or in part,  
6           by disposing of securities or withdrawing funds on  
7           deposit. Any action taken to make or to liquidate any  
8           investment shall be made by the officers designated by  
9           action of the council.

10          (7) To provide, by ordinance passed by a two-thirds vote  
11          of the entire number of members of council elected, for the  
12          appointment of an independent auditor who shall be a  
13          certified public accountant registered in this Commonwealth,  
14          a firm of certified public accountants registered in this  
15          Commonwealth or a competent public accountant or a competent  
16          firm of public accountants.

17           (i) When an ordinance has been adopted, an  
18           independent auditor shall be appointed annually, by  
19           resolution before the close of the fiscal year, to make  
20           an independent examination of the accounting records of  
21           the borough for the fiscal year, and the independent  
22           auditor shall also perform the other duties and exercise  
23           the powers as conferred upon the independent auditor  
24           under Subchapter C (relating to auditors).

25           (ii) When an independent auditor is appointed as  
26           provided in this paragraph, the office of elected borough  
27           auditor or controller is abolished, but the borough  
28           auditors or controller then in office shall continue to  
29           hold their office during the term for which elected, and  
30           the borough auditors or controller shall not audit,

1 settle or adjust the accounts audited by the independent  
2 auditor, but shall perform the other duties of their  
3 office.

4 (iii) If any borough has provided by ordinance for  
5 the audit of its accounts by an appointed auditor, the  
6 borough shall have the right at any time to repeal the  
7 ordinance, and the office of appointed auditor shall be  
8 abolished as of the date set in the ordinance. The  
9 borough shall have the further right at the next  
10 municipal election following the repeal of the ordinance  
11 to elect three auditors, one for a term of two years, one  
12 for a term of four years and one for a term of six years,  
13 from the first Monday of January following the election,  
14 which auditors shall succeed the appointed auditor and  
15 shall have and possess all the powers and perform all the  
16 duties provided in this part for elected auditors. If, at  
17 any time after the effective date of any ordinance  
18 abolishing the office of appointed auditor, there shall  
19 be a vacancy in the office of elected auditor, council  
20 shall fill the vacancies in the manner prescribed in  
21 section 901 (relating to filling vacancies in elective  
22 borough offices).

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

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

29 § 1006. Duties of council.

30 It shall be the duty of the council:



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

5       (2) To meet at a stated time at least once a month.  
6 Council may adjourn to a stated time for general business or  
7 for special businesses. If no quorum is present at a regular,  
8 special or reconvened meeting, a majority of those who do  
9 meet may agree upon another date for like business in a  
10 manner consistent with 65 Pa.C.S. Ch. 7 (relating to open  
11 meetings). Special meetings may be called by the president of  
12 council or upon written request of at least one-third of the  
13 members of council. Members shall have at least 24 hours'  
14 notice of the special meetings. The notice shall state  
15 whether it is for general or special purposes, and, if it is  
16 for special purposes, the notice shall contain a general  
17 statement of the nature of the business to be transacted.  
18 Presence at a meeting constitutes waiver of notice. Council  
19 may adopt rules relating to the calling and holding of  
20 special meetings, which rules shall supersede the provisions  
21 of this section, provided that the rules comply with the  
22 provisions of 65 Pa.C.S. Ch. 7.

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

24       (4) To enact, revise, repeal and amend ordinances and  
25 resolutions under Chapter 33 (relating to ordinances), and  
26 bylaws, rules and regulations, not inconsistent with the laws  
27 of this Commonwealth, as it deems beneficial to the borough  
28 and to provide for the enforcement of the same. Unless  
29 otherwise provided, all powers shall be exercised by vote of  
30 the majority of council eligible to vote at a meeting.

1 Routine, ministerial or administrative purchases and powers  
2 may be made and exercised by officers or committees if  
3 authority for the action was previously given or if the  
4 action is subsequently ratified by council. If any action by  
5 the council results in a specific written contract or  
6 agreement, the contract or agreement shall be signed by the  
7 president of the council.

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

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

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

16 § 1007. (Reserved).

17 § 1008. (Reserved).

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

21 (a) Validity.--All borough records required to be recorded  
22 or transcribed shall be deemed valid if typewritten, printed,  
23 photocopied, microfilmed or electronically or digitally stored  
24 or retained by any other process that accurately reproduces the  
25 original and forms a durable medium for recording, storing and  
26 reproducing in accordance with the act of May 9, 1949 (P.L.908,  
27 No.250), entitled "An act relating to public records of  
28 political subdivisions other than cities and counties of the  
29 first class; authorizing the recording and copying of documents,  
30 plats, papers and instruments of writing by digital,

1 photostatic, photographic, microfilm or other process, and the  
2 admissibility and enlargements in evidence; providing for the  
3 storage of duplicates and sale of microfilm and digital copies  
4 of official records and for the destruction of other records  
5 deemed valueless; and providing for the services of the  
6 Pennsylvania Historical and Museum Commission to political  
7 subdivisions."

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

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

16 (2) in a bound book with pages being consecutively  
17 numbered by transcribing directly upon the pages of the book  
18 of record or by permanently attaching the records or copies  
19 to the book of record with the borough seal being impressed  
20 upon each page to which the record is attached, with each  
21 impression covering both a portion of the attached record and  
22 a portion of the page of the book of record to which the  
23 record is attached.

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

27 § 1010. (Reserved).

28 § 1011. (Reserved).

29 § 1012. (Reserved).

30 § 1013. (Reserved).

1 § 1014. Hearings before council; witnesses.

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

15 § 1015. Witness fees and mileage.

16 No individual residing outside the borough and subpoenaed  
17 under section 1014 (relating to hearings before council,  
18 witnesses) shall be required to respond to the subpoena until  
19 mileage to and from the borough at the rate established by the  
20 council under the act of July 20, 1979 (P.L.156, No.51),  
21 referred to as the Uniform Mileage Fee Law, and witness fees as  
22 required by law relating to witnesses have been paid.

23 § 1016. Examination of witnesses; penalty.

24 An individual called as a witness, as provided in this  
25 chapter, may be examined under oath, administered by the  
26 president of council or chair of the committee and, for the  
27 giving of false testimony, shall be liable for prosecution under  
28 applicable laws for perjury.

29 SUBCHAPTER B

30 MAYOR

1 (Reserved)

2 SUBCHAPTER C

3 AUDITORS

4 Sec.

5 1041. Auditors to meet yearly and audit accounts.

6 1042. (Reserved).

7 1043. (Reserved).

8 1044. (Reserved).

9 1045. (Reserved).

10 1046. (Reserved).

11 1047. (Reserved).

12 1048. (Reserved).

13 1049. (Reserved).

14 1050. (Reserved).

15 1051. (Reserved).

16 1052. (Reserved).

17 1053. Compensation of auditors.

18 1054. (Reserved).

19 1055. Subpoenas, oath and perjury.

20 1056. (Reserved).

21 1057. (Reserved).

22 1058. Pay of witnesses.

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

25 1059.1. Completion, filing and publication of auditor's report  
26 and financial statement.

27 1059.2. Attorney to auditors.

28 1059.3. Surcharge by auditors.

29 1059.4. Appeals from audit.

30 1059.5. Taxpayers appealing to enter bond.

1 1059.6. Procedure on appeals.

2 1059.7. Findings of fact and law, judgment and appeals.

3 1059.8. Attorney fees.

4 1059.9. Balances due to be entered as judgments.

5 1059.10. Penalty for failure to comply with law.

6 1059.11. General powers and duties of independent auditor.

7 § 1041. Auditors to meet yearly and audit accounts.

8 (a) First meeting.--The auditors of the borough shall meet  
9 on the first Tuesday of January of each year and shall organize  
10 by the election of a chair and a secretary. If the first Tuesday  
11 is a legal holiday, the meeting and organization shall take  
12 place the following day. Two auditors shall constitute a quorum.

13 (b) Audits.--The auditors:

14 (1) Shall audit, adjust and settle the accounts of the  
15 tax collectors, the magisterial district judge and all  
16 officers of the borough.

17 (2) May audit, adjust and settle the accounts of any  
18 person, corporation, association, organization, committee or  
19 commission receiving or expending borough funds.

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

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

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

30 (c) (Reserved).

1 (d) (Reserved).

2 (e) (Reserved).

3 (f) (Reserved).

4 (g) (Reserved).

5 § 1042. (Reserved).

6 § 1043. (Reserved).

7 § 1044. (Reserved).

8 § 1045. (Reserved).

9 § 1046. (Reserved).

10 § 1047. (Reserved).

11 § 1048. (Reserved).

12 § 1049. (Reserved).

13 § 1050. (Reserved).

14 § 1051. (Reserved).

15 § 1052. (Reserved).

16 § 1053. Compensation of auditors.

17 (a) General compensation.--Subject to the limitations set  
18 forth in subsection (b), each auditor shall receive \$10 per hour  
19 for each hour or portion of an hour necessarily employed in the  
20 discharge of the auditor's duties, to be paid by the borough.

21 (b) Limits.--No auditor in a borough having a population of  
22 10,000 or less shall be entitled to receive more than \$1,000 for  
23 completing the annual audit, settlement and adjustment. No  
24 auditor in a borough having a population in excess of 10,000  
25 shall be entitled to receive more than \$2,000 for completing the  
26 annual audit, settlement and adjustment.

27 (c) Reimbursements.--Each auditor shall be reimbursed for  
28 travel costs incurred in the performance of the auditing duties  
29 at the rate established by the council under the act of July 20,  
30 1979 (P.L.156, No.51), referred to as the Uniform Mileage Fee

1 Law, and for other actual expenses, including postage, notary  
2 fees or publication costs, necessarily incurred during the  
3 audit.

4 § 1054. (Reserved).

5 § 1055. Subpoenas, oath and perjury.

6 (a) Subpoenas.--A majority of the auditors of any borough  
7 shall have the power to issue subpoenas to obtain the attendance  
8 of the persons whose accounts they are required to adjust, their  
9 executors and administrators, and of any persons whom it may be  
10 necessary to examine as witnesses and to compel their  
11 attendance, and may also compel the production of all documents,  
12 including books, vouchers and papers relative to borough  
13 accounts. If any person refuses or neglects to appear, to  
14 produce documents or to testify, the auditors shall petition the  
15 court of common pleas of the county to issue a subpoena to the  
16 person and to require the person to produce documents or to  
17 appear and to testify before the court. The court shall issue  
18 the subpoena if it deems the documents or testimony relevant to  
19 the issue.

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

25 § 1056. (Reserved).

26 § 1057. (Reserved).

27 § 1058. Pay of witnesses.

28 Witnesses, other than officers of the borough, appearing  
29 before the auditors and individuals or officers serving  
30 subpoenas shall be paid, out of the borough treasury upon



1 authorization signed by a majority of the auditors and orders  
2 drawn on the borough treasury, the same fees as are payable for  
3 rendering similar services in civil proceedings before a  
4 magisterial district judge. The amount paid shall be made a part  
5 of the charge against any officer who shall be charged by the  
6 auditors with any balance, if the costs have been incurred in  
7 establishing the balance. The costs collected from any officer  
8 shall be repaid into the borough treasury.

9 § 1059. Auditors to settle accounts where witnesses do not  
10 appear.

11 If any person in possession of documents relative to public  
12 accounts before auditors refuses to produce the same or if any  
13 officer whose accounts are to be settled and adjusted by the  
14 auditors refuses to appear or submit to examination as directed  
15 by this subchapter, the auditors or a majority of them may  
16 proceed, by the examination of witnesses and other evidence, to  
17 ascertain and settle, as near as may be, the amount of public  
18 money received by the officer and its application to public  
19 purposes or otherwise.

20 § 1059.1. Completion, filing and publication of auditor's  
21 report and financial statement.

22 (a) Reports.--The auditors shall complete the annual audit,  
23 adjustment and settlement as soon as possible after the end of  
24 the fiscal year. The auditors shall, within ten days after  
25 completing the annual audit, publish once, in at least one  
26 newspaper of general circulation, a concise financial statement  
27 setting forth all of the following:

28 (1) The balance in the treasury at the beginning of the  
29 fiscal year.

30 (2) All revenue received during the fiscal year by major

1 classifications.

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

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

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

7 (6) The assets of the borough with their character and  
8 value.

9 (7) The date of the last maturity of the respective  
10 forms of funded debt.

11 (8) The assets in each sinking fund.

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

16 (1) The actual indebtedness.

17 (2) The amount of funded debt.

18 (3) The amount of floating debt.

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

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

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

24 (b.1) Filing of reports and penalties.--The reports shall be  
25 prepared no later than 90 days after the close of the fiscal  
26 year. It shall be the duty of the secretary of the auditors to  
27 file a copy of the report with the secretary of the borough,  
28 with the clerk of the court of common pleas of the county or the  
29 prothonotary under local rules of court, with the Department of  
30 Transportation and with the Department of Community and Economic

1 Development no later than 90 days after the close of the fiscal  
2 year. Any secretary of the auditors refusing or willfully  
3 neglecting to file the report commits a summary offense. If the  
4 failure to file the report within the period specified is due to  
5 the failure of any or all of the auditors to prepare the  
6 statement upon which the report is to be based, the auditor  
7 commits a summary offense.

8 (c) Service of report.--The secretary of the auditors shall  
9 serve, by registered or certified mail, notice to every elected  
10 or appointed official against whom a balance or shortage appears  
11 in the report required under subsection (b). The notice shall be  
12 served prior to the filing of the report and shall indicate the  
13 amount of the balance or shortage and a brief description of how  
14 the balance or shortage was derived. The notice shall indicate  
15 that the balance or shortage is deemed a surcharge under section  
16 1059.3 (relating to surcharge by auditors) and shall apprise the  
17 officer served of the right to appeal under section 1059.4  
18 (relating to appeals from audit). Service of notice is complete  
19 when the notice is properly addressed, postage prepaid and  
20 mailed. Failure to receive the notice required by this  
21 subsection shall not constitute grounds for relief from any  
22 judgment entered under this chapter.

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

27 § 1059.2. Attorney to auditors.

28 The borough auditors may employ an attorney if deemed  
29 advisable by a majority of the auditors. The auditors, with the  
30 agreement of council, shall determine the compensation to be

1 paid to the attorney. If the auditors and council cannot agree  
2 on the compensation, upon petition of the auditors, the court of  
3 common pleas shall establish the compensation for the attorney  
4 employed by the auditors. The compensation for the attorney  
5 shall be paid out of the borough general fund.

6 § 1059.3. Surcharge by auditors.

7 (a) Surcharges.--

8 (1) The amount of any balance or shortage or of any  
9 expenditure of a kind or made in a manner prohibited or not  
10 authorized by statute which causes a financial loss to the  
11 borough shall be a surcharge against any officer against whom  
12 the balance or shortage shall appear, or who by vote, act or  
13 neglect has permitted or approved the expenditure.

14 (2) The following shall apply:

15 (i) No elected or appointed official of a borough  
16 may be surcharged for any act, error or omission in  
17 excess of the actual financial loss sustained by the  
18 borough.

19 (ii) A surcharge shall take into consideration as  
20 its basis the results of the act, error or omission and  
21 the results had the procedure been strictly in accordance  
22 with law.

23 (iii) Subparagraph (i) shall not apply to cases  
24 involving fraud or collusion on the part of officers nor  
25 to any penalty enuring to the benefit of or payable to  
26 the Commonwealth. Notwithstanding this section, the  
27 procedures in the act of May 25, 1945 (P.L.1050, No.394),  
28 known as the Local Tax Collection Law, shall apply to  
29 balances and shortages in the tax accounts of the tax  
30 collector.

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

5 § 1059.4. Appeals from audit.

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

12 § 1059.5. Taxpayers appealing to enter bond.

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

24 § 1059.6. Procedure on appeals.

25 (a) Evidence and burden.--In any proceeding upon an appeal  
26 from a report of the auditors, the accounts of the office or  
27 officers or the person, corporation, association, organization,  
28 committee or commission in question may be investigated de novo,  
29 and the burden shall be upon each officer, person, corporation,  
30 association, organization, committee or commission whose

1 accounts are involved in the appeal of establishing the person's  
2 right to credits claimed by the person, but the opposing party  
3 in the appeal may use any facts, figures or findings of the  
4 report of the auditors as prima facie evidence against any  
5 officer or other entity.

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

10 § 1059.7. Findings of fact and law, judgment and appeals.

11 After the hearing, the court shall file its findings of fact  
12 and law and enter judgment accordingly, and the judgment so  
13 entered may be enforced by the prevailing party by any  
14 appropriate proceeding. Appeals from the court's ruling may be  
15 taken in accordance with law.

16 § 1059.8. Attorney fees.

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

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

27 (2) If, in the opinion of the court, the final  
28 determination is more favorable to the borough than that  
29 awarded by the auditors in the case of an appeal taken by the  
30 borough or a taxpayer, the borough officer who is the subject

1 of the surcharge proceeding shall pay reasonable attorney  
2 fees or, under paragraph (3), a portion of reasonable  
3 attorney fees incurred by the borough, elector or taxpayer in  
4 connection with the surcharge proceeding.

5 (3) If, in the opinion of the court, the final  
6 determination is in part more favorable to the borough and in  
7 part more favorable to the borough officer involved in the  
8 surcharge proceeding than that awarded by the auditors, the  
9 court may order:

10 (i) the borough to pay a portion of reasonable  
11 attorney fees incurred by the officer in connection with  
12 the surcharge proceeding; or

13 (ii) the borough officer who is the subject of the  
14 surcharge proceeding to pay a portion of reasonable  
15 attorney fees incurred by the borough or taxpayer in  
16 connection with the surcharge proceeding.

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

20 § 1059.9. Balances due to be entered as judgments.

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

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

13 § 1059.10. Penalty for failure to comply with law.

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

16 (b) Financial interest.--An auditor who is financially  
17 interested, directly or indirectly, in a borough transaction  
18 commits a summary offense.

19 § 1059.11. General powers and duties of independent auditor.

20 (a) Powers and duties.--If an independent auditor is  
21 appointed under section 1005(7) (relating to powers of council),  
22 the independent auditor shall have the same powers and duties  
23 and be subject to the same penalties as the auditors under this  
24 chapter. The independent auditor shall annually examine, audit  
25 and settle all accounts in which the borough is concerned. The  
26 audit shall consist of an examination in accordance with  
27 generally accepted auditing standards and shall include tests of  
28 the accounting records and other auditing procedures as the  
29 independent auditor considers necessary in the circumstances.  
30 The independent auditor shall make and publish the annual



1 financial report in the same form and manner and at the same  
2 time as required in this part of the auditors of the borough.

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

8 (1) The scope of the examination.

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

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

28 (c) Hiring attorney.--The independent auditor may employ an  
29 attorney subject to the provisions of section 1059.8 (relating  
30 to attorney fees), except that the employment shall be with the

1 consent of council.

2 (d) Other applicable laws.--Sections 1055 (relating to  
3 subpoenas, oath, perjury), 1058 (relating to pay of witnesses)  
4 and 1059 (relating to auditors to settle accounts where  
5 witnesses do not appear) shall apply to proceedings initiated by  
6 independent auditors.

7 (e) Compensation.--The compensation of the independent  
8 auditor shall be determined by council and paid by borough  
9 funds.

10 SUBCHAPTER D

11 CONTROLLER

12 Sec.

13 1061. Oath and bond of controller.

14 1062. Salary of controller.

15 1063. General powers and duties of controller.

16 1064. (Reserved).

17 1065. Countersigned warrants.

18 1066. Prevention of appropriation overdrafts.

19 1067. Amount of contracts to be charged against appropriations.

20 1068. Controller's recommendations on borough finances.

21 1069. Books to be kept by controller.

22 1070. Appeals from controller's report.

23 1071. Acceptance by ordinance.

24 § 1061. Oath and bond of controller.

25 The borough controller shall, before entering upon the duties  
26 of office, take the required oath or affirmation of office under  
27 53 Pa.C.S. § 1141 (relating to form of oaths of office). The  
28 controller shall give bond to the borough with a surety company  
29 to be approved by the council, in a sum as council may direct by  
30 ordinance, conditioned for the faithful discharge of the

1 controller's duties. The amount of the bond shall be sufficient  
2 to adequately protect the borough from any illegal or unfaithful  
3 action by the controller. The cost of the bond shall be paid by  
4 the borough.

5 § 1062. Salary of controller.

6 The council shall fix the annual salary of the controller.  
7 Any change in salary, compensation or emoluments of the elected  
8 office shall become effective at the beginning of the next term  
9 of the controller.

10 § 1063. General powers and duties of controller.

11 (a) General duties and powers.--The borough controller shall  
12 manage the fiscal affairs of the borough. The controller shall  
13 examine, audit and settle all accounts in which the borough is  
14 concerned either as debtor or creditor if provision for the  
15 settlement is made by law. If no provision or an insufficient  
16 provision has been made, the controller shall examine the  
17 accounts and report to the council the relevant facts and  
18 opinion on the accounts.

19 (b) Accounts.--In the examination, audit and settlement of  
20 accounts, the controller shall have all of the powers and  
21 perform all of the duties vested in and imposed on the auditors  
22 by this part. A person guilty of swearing or affirming falsely  
23 before the controller commits perjury. The controller shall make  
24 and file an annual report of the audit and make and publish the  
25 annual financial report in the same form and manner and at the  
26 same time as required in this part of the auditors of the  
27 borough.

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

29 (1) have supervision and control of the accounts of all  
30 departments, bureaus and officers of the borough authorized

1 to collect, receive or disburse the public money or who are  
2 charged with the management or custody of the accounts;

3 (2) audit their respective accounts and may at any time  
4 require from any of them a statement in writing of any money  
5 or property of the borough in their possession or under their  
6 control, showing the amount of cash on hand and the amount  
7 deposited in banks and banking institutions together with the  
8 names of the institutions;

9 (3) have power to examine every account of a borough  
10 officer in any bank or banking institution to verify the  
11 accuracy of the statement of the borough, department, bureau  
12 or officer, and it shall be the duty of every department,  
13 bureau or officer, and of every bank and banking institution,  
14 its officers and agents, to furnish full information to the  
15 controller in relation to the account. No banker or banking  
16 institution, its officers or agents shall be subject to  
17 prosecution under other laws of this Commonwealth for  
18 disclosing information with respect to an account;

19 (4) immediately upon the discovery of any default,  
20 irregularity or delinquency, report the discovery to the  
21 council; and

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

25 § 1064. (Reserved).

26 § 1065. Countersigned warrants.

27 The controller shall countersign all warrants upon the  
28 borough treasurer, with the form of the warrant to be prescribed  
29 by council, except that no warrant shall be countersigned unless  
30 there is money in the treasury to pay the warrant. If a warrant

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

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

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

9 § 1066. Prevention of appropriation overdrafts.

10 The controller shall not permit any appropriation made by the  
11 council to be overdrawn. If an appropriation is exhausted, the  
12 object of which is not complete, the controller shall  
13 immediately report the fact to the council and accompany the  
14 report with a statement of the money which have been drawn on  
15 the appropriation and the particular purpose for which they are  
16 drawn.

17 § 1067. Amount of contracts to be charged against  
18 appropriations.

19 (a) General rule.--A contract involving appropriation of  
20 money shall designate the item of appropriation on which it is  
21 founded, and the estimated amount of the expenditure which shall  
22 be charged against the item, and certified by the borough  
23 controller on the contract, before it shall take effect as a  
24 contract. Payment required by the contract shall be made from  
25 the fund appropriated.

26 (b) Liability for excess.--If the controller certifies a  
27 contract in excess of the appropriation made, the borough shall  
28 not be liable for the excess, but the controller and the  
29 controller's sureties shall be liable for the same, which may be  
30 recovered in an action at law by the aggrieved contracting

1 party.

2 (c) Certification by controller.--The controller shall  
3 certify contracts for the payment of which sufficient  
4 appropriations have been made.

5 § 1068. Controller's recommendations on borough finances.

6 The borough controller shall, as often as the controller may  
7 deem expedient or the council shall direct, suggest plans to the  
8 council for the management and improvement of the borough  
9 finances.

10 § 1069. Books to be kept by controller.

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

20 § 1070. Appeals from controller's report.

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

28 § 1071. Acceptance by ordinance.

29 (a) General rule.--This subchapter shall not become  
30 operative or effective in any borough not having a controller

1 until the borough shall, by ordinance, accept this chapter. If a  
2 borough accepts this subchapter, the court of common pleas, upon  
3 petition of council, shall appoint a controller to hold office  
4 until the first Monday of January following the next municipal  
5 election at which a controller shall be elected under this part.

6 (b) Continuation of borough auditors.--In all boroughs  
7 accepting this subchapter, the borough auditors then in office  
8 or the appointed auditor serving as borough auditor shall  
9 continue to hold their offices until the first day of January  
10 following the election of a borough controller after which date  
11 the office of borough auditor shall be abolished.

12 (c) Discontinuation.--A borough may discontinue the office  
13 of controller and either reestablish the office of elected  
14 auditors or the position of appointed auditor by repealing the  
15 ordinance under which the office of controller was created. The  
16 controller in office at the time of the repeal shall continue in  
17 office until the end of the controller's term.

18 SUBCHAPTER E

19 (RESERVED)

20 SUBCHAPTER F

21 TAX COLLECTOR

22 Sec.

23 1086. Powers and duties of tax collector.

24 § 1086. Powers and duties of tax collector.

25 (a) General rule.--Except as otherwise provided in  
26 subsection (b), the tax collector shall be the collector of all  
27 State, county, borough, school, institution district and other  
28 taxes levied within the borough by the authorities empowered to  
29 levy taxes.

30 (b) Exception.--





1 himself. The mayor shall not be a member of council, nor shall  
2 the mayor preside over or vote at any meeting of council, except  
3 as provided in section 1003 (relating to when the mayor may  
4 preside over council and vote, attendance of mayor at council  
5 meetings and breaking tie votes).

6 § 10A02. Incompatible offices.

7 No member of Congress or any person holding any office or  
8 appointment of profit or trust under the Federal Government or  
9 any person holding the office of magisterial district judge may  
10 at the same time be capable of holding the office of mayor.

11 § 10A03. Oath of mayor.

12 The mayor, before exercising the duties of office, shall take  
13 and subscribe an oath or affirmation of office under 53 Pa.C.S.  
14 § 1141 (relating to form of oaths of office). The oath or  
15 affirmation may be taken before a judge or magisterial district  
16 judge of the county or a notary public and shall be filed with  
17 the borough secretary and be preserved among the records of the  
18 borough for a period of six years.

19 § 10A04. Salary of mayor.

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

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

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

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

28 (4) In a borough with a population in excess of 15,000,  
29 a maximum of \$500 per year per 1,000 residents or fraction of  
30 1,000, the population to be determined by the latest official

1 census figures.

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

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

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

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

15 (b) Marriage ceremony fees.--

16 (1) Nothing in this part shall be construed to prevent a  
17 mayor from receiving a monetary fee for the performance of a  
18 marriage ceremony in this Commonwealth, if the fee does not  
19 exceed \$150 for each ceremony performed.

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

23 (3) The notification to council shall remain in effect  
24 for the term of the mayor or until the notification is  
25 rescinded by the mayor.

26 (4) The mayor shall maintain accurate accounts of the  
27 fees received relating to the performance of marriage  
28 ceremonies and provide council each quarter with a report of  
29 money received for that period. The quarterly report shall  
30 include the amount of money received and the names of persons

1 from whom money was received, along with the date and the  
2 location of the performed ceremony, and the quarterly report  
3 shall be considered a public record.

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

8 § 10A06. General powers of mayor.

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

11 (b) Emergencies.--

12 (1) In addition to the power granted to mayors by 35  
13 Pa.C.S. Pt. V (relating to emergency management services) and  
14 in order to enable the mayor to effectually preserve the  
15 public peace within the borough, the mayor shall have the  
16 power to prevent and suppress mobs, riots and unlawful and  
17 tumultuous assemblies.

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

22 (3) In response to a request of a mayor made in  
23 accordance with this subsection, a municipal police officer  
24 shall, within the borough from which the request was made,  
25 have the power and authority to enforce the laws of this  
26 Commonwealth or otherwise perform the functions of that  
27 office as if enforcing those laws or performing those  
28 functions within the territorial limits of the officer's  
29 primary jurisdiction, subject to the limitations and  
30 conditions set forth in 42 Pa.C.S. § 8953(b), (c), (d) and

1 (e) (relating to Statewide municipal police jurisdiction).

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

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

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

14 (ii) The entry or departure of persons into or from  
15 any restricted area.

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

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

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

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

29 (7) A person violating the proclamation of emergency  
30 commits a summary offense and shall, upon conviction, be

1 sentenced to pay a fine not to exceed \$300 and costs or to a  
2 term of imprisonment not to exceed 30 days.

3 § 10A07. Duties of mayor.

4 The mayor shall have the following duties:

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

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

13 (3) To collect any costs and fees received and to pay  
14 the money into the treasury, except as provided in section  
15 10A05(b) (relating to salaried mayor not to receive certain  
16 fees), to report to the council from time to time on the  
17 state of the borough and to make recommendations to the  
18 council on matters of borough concern. The borough shall  
19 furnish the mayor with the necessary dockets, books, forms  
20 and files as are necessary for the conduct of the mayor's  
21 office and which shall be and remain the property of the  
22 borough and be surrendered to the mayor's successor in  
23 office.

24 § 10A08. President or vice president of council to act as  
25 mayor.

26 (a) General rule.--If the mayor is absent or incapacitated  
27 or there is a vacancy in the office, the duties of the office  
28 shall be discharged by the president of council or, in the  
29 absence or incapacity of the president of council or if there is  
30 a vacancy in the office, by the vice president of council.

1 (b) Salary.--While discharging the duties of mayor, the  
2 president or vice president of council shall be entitled to the  
3 same salary as the mayor would receive and, during the time the  
4 salary is paid to the president or vice president of council as  
5 acting mayor, the mayor shall not be paid compensation.

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

10 CHAPTER 11

11 POWERS, DUTIES AND RIGHTS OF  
12 APPOINTED OFFICERS AND EMPLOYEES

13 Subchapter

14 A. General Provisions

15 B. Treasurer

16 C. Secretary

17 D. Solicitor

18 E. Police

19 F. Police Pension Fund in Boroughs Having Police Force of  
20 Less Than Three Members

21 G. Manager

22 H. Planning Commission (Reserved)

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

24 J. Civil Service for Police and Fire Apparatus Operators

25 K. Independent Auditor (Reserved)

26 SUBCHAPTER A

27 GENERAL PROVISIONS

28 Sec.

29 1101. Compensation, hours and days of work and outside  
30 employment.

1 1102. Accounts.

2 1103. Bonds.

3 1104. Appointments and incompatible offices.

4 1105. Compensation of certain employees.

5 1105.1. Retirement benefits of employees transferred to  
6 authorities.

7 § 1101. Compensation, hours and days of work and outside  
8 employment.

9 Appointed officers and employees of the borough shall receive  
10 compensation for their services as the council shall prescribe.  
11 Council may also establish the hours and days of work and may  
12 restrict the outside employment of borough employees or any  
13 class or category of employment.

14 § 1102. Accounts.

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

17 § 1103. Bonds.

18 If an appointed officer or employee of a borough is required  
19 by law or action of council to give bond for the faithful  
20 performance of the officer's or employee's duties, the borough  
21 may pay the premium on the bond. All bonds required to be given  
22 by borough officials or employees shall be with a surety company  
23 authorized by law to act as surety. The borough shall pay a  
24 proportionate share of the cost of the bond of an appointed tax  
25 collector in the same ratio as provided in section 804 (relating  
26 to term and bonds) for elected tax collectors.

27 § 1104. Appointments and incompatible offices.

28 (a) General rule.--Unless there is incompatibility in fact,  
29 an elective or appointive officer of the borough shall be  
30 eligible to serve on any board, commission, bureau or other

1 agency created by or for the borough or any borough office  
2 created or authorized by statute and may accept appointments  
3 under the statute.

4 (b) Prohibition.--

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

8 (2) Paragraph (1) shall not apply to a borough official  
9 serving as an employee of that borough prior to the  
10 certification of the 2010 official census or a subsequent  
11 latest official census which indicates an increase in the  
12 population of that borough to 3,000 or more.

13 (c) Multiple offices.--If there is no incompatibility in  
14 fact and subject to subsection (a) as to compensation,  
15 appointees of council may hold two or more appointive borough  
16 offices, but no mayor or member of council may serve as borough  
17 manager, secretary or treasurer.

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

21 (e) Secretary and treasurer.--The offices of secretary and  
22 treasurer may be held by the same person if authorized by  
23 ordinance.

24 (f) Police officers and firefighters.--

25 (1) No police officer or firefighter may hold an  
26 elective office of the borough that employs the police  
27 officer or firefighter.

28 (2) No police officer or firefighter who is employed by  
29 a regional department, council of government or other  
30 cooperative venture may hold an elective office of any



1 municipality that participates in the regional department,  
2 council of government or other cooperative venture.

3 (3) No police officer or firefighter may hold an  
4 elective office of the borough in which the police officer or  
5 firefighter resides if the department employing the police  
6 officer or firefighter is providing police or fire protection  
7 service to that borough by contract.

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

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

14 § 1105. Compensation of certain employees.

15 (a) General rule.--A borough may provide, by ordinance, to  
16 appointees and employees of not less than ten years of  
17 satisfactory service and who are not less than 60 years of age  
18 upon termination of active employment with the borough, a  
19 proportion of the compensation last paid to them but not in  
20 excess of 50% of the compensation, including benefits received  
21 under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et  
22 seq.), if any, as fixed in the ordinance or amendment of the  
23 ordinance.

24 (b) Postretirement compensation.--Any arrangement to provide  
25 postretirement compensation to retired appointees and employees  
26 under this section shall be a pension plan within the meaning of  
27 that term under the act of December 18, 1984 (P.L.1005, No.205),  
28 known as the Municipal Pension Plan Funding Standard and  
29 Recovery Act, and the borough establishing such plan shall  
30 provide funding of the pension plan in an amount sufficient to

1 meet the minimum obligation of the municipality with respect to  
2 the pension plan under that act.

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

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

10 § 1105.1. Retirement benefits of employees transferred to  
11 authorities.

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

15 (1) An employee of a wastewater authority created by a  
16 borough and one or more townships under 53 Pa.C.S. Ch. 56  
17 (relating to municipal authorities) that commenced operations  
18 after December 1, 2001, who satisfies the requirements of  
19 subsection (b), has past service credits under the borough  
20 retirement plan and has filed a written election to be a  
21 member of the borough retirement system with council and the  
22 wastewater authority prior to September 14, 2005.

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

30 (b) Eligibility criteria.--

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

4           (i) Immediately prior to the date of transfer of  
5 employment to the authority, be an employee of the  
6 borough that, either alone or together with one or more  
7 municipalities, established the authority.

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

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

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

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

27       (c) State aid calculation.--All employees who elect to be  
28 members of the borough retirement system under this section  
29 shall be treated as borough employees in determining the  
30 borough's annual allocation of general municipal pension system

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

6 SUBCHAPTER B

7 TREASURER

8 Sec.

9 1106. Bond and duties.

10 1107. Assistant treasurer.

11 § 1106. Bond and duties.

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

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

17 (1) Receive all money due the borough and deposit the  
18 money promptly in a designated depository in the name of the  
19 borough.

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

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

29 (ii) Nothing in this part shall be construed to  
30 preclude the use of electronic signatures and

1 transactions to the extent authorized by the act of  
2 December 16, 1999 (P.L.971, No.69), known as the  
3 Electronic Transactions Act, or any other law.

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

6 (5) Preserve the account books, papers, documents and  
7 other records of the office and turn them over to the  
8 successor in office.

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

12 § 1107. Assistant treasurer.

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

21 SUBCHAPTER C

22 SECRETARY

23 Sec.

24 1111. Duties.

25 1112. Assistant secretary.

26 1113. Records open to inspection.

27 § 1111. Duties.

28 (a) Attendance at meetings and maintenance of minutes.--The  
29 secretary shall attend all meetings of the council and shall  
30 maintain full minutes of its proceedings.

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

2 (1) Record or transcribe the bylaws, rules, regulations,  
3 resolutions and ordinances of the borough in accordance with  
4 section 1009 (relating to typewritten, printed, photocopied,  
5 microfilmed and electronically or digitally stored records  
6 valid and recording or transcribing records).

7 (2) Preserve the records and documents of the borough,  
8 have custody of the corporate seal and deliver to the  
9 secretary's successor the seal and all books, papers and  
10 other records and things belonging to the borough.

11 (3) Certify copies of any book, paper, record, bylaw,  
12 rule, regulation, resolution, ordinance or proceeding of the  
13 borough under the seal of the borough. The copies, if  
14 certified, shall be admissible in evidence in any court of  
15 this Commonwealth.

16 (4) Attest the execution of all instruments, record all  
17 ordinances and attest the same by the secretary's signature  
18 and file of record proof of service of all notices required  
19 by law. The secretary's certificate shall be good evidence of  
20 notice.

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

24 (c) Necessary documents.--The borough shall furnish the  
25 secretary with the necessary dockets, books, forms and files as  
26 are necessary for the conduct of the office, which documents  
27 shall be and remain the property of the borough.

28 § 1112. Assistant secretary.

29 A council may, by resolution, appoint an assistant secretary.  
30 The assistant secretary shall assist the secretary in the

1 performance of the secretary's duties and, in case of absence or  
2 disability of the secretary, perform the duties and may exercise  
3 the powers of the secretary. The assistant secretary may be  
4 appointed from the membership of the council but shall not be  
5 any other officer of the council. Council may appoint the  
6 assistant secretary as the assistant treasurer if the assistant  
7 secretary is not a member of council.

8 § 1113. Records open to inspection.

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

13 SUBCHAPTER D

14 SOLICITOR

15 Sec.

16 1116. Solicitor to have control of legal matters.

17 1117. Duties of solicitor and outside counsel.

18 1118. Assistant solicitor.

19 § 1116. Solicitor to have control of legal matters.

20 The legal matters of the borough shall be under the control  
21 of the borough solicitor. No department or officer of the  
22 borough, except as otherwise provided by law, shall employ an  
23 additional counsel without the assent or ratification of the  
24 council. The borough solicitor must be licensed to practice law  
25 in this Commonwealth and may be one person or a law firm,  
26 partnership, association or professional corporation. The  
27 borough solicitor serves at the pleasure of council. In the  
28 absence of the solicitor, the law firm of which the solicitor is  
29 a member or associate may perform any of the duties or functions  
30 of the solicitor.

1 § 1117. Duties of solicitor and outside counsel.

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

3 (1) Prepare or approve, if directed or requested to do  
4 so by council or the mayor, any bonds, obligations,  
5 contracts, leases, conveyances, ordinances and assurances to  
6 which the borough or any department of the borough may be a  
7 party.

8 (2) Commence and prosecute all actions brought by the  
9 borough for or on account of any of the estates, rights,  
10 trusts, privileges, claims or demands of the borough, as well  
11 as defend the borough or any borough officer against all  
12 actions or suits brought against the borough or borough  
13 officer in which any of the estates, rights, privileges,  
14 trusts, ordinances or accounts of the borough may be brought  
15 in question before any court in this Commonwealth.

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

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

23 (b) Outside counsel.--In the case of a legal dispute between  
24 the mayor and council or in any other case in which  
25 representation of the mayor and council by the borough solicitor  
26 would create a conflict of interest for the borough solicitor,  
27 the mayor may employ outside counsel at borough expense, not to  
28 exceed \$4,000 in any 12-month period, to perform necessary legal  
29 services.

30 § 1118. Assistant solicitor.



1 A council may, by resolution, appoint an assistant solicitor  
2 to assist the solicitor in the performance of the solicitor's  
3 duties and, in the absence or disability of the solicitor, to  
4 perform the duties and exercise the powers of the solicitor.

5 SUBCHAPTER E

6 POLICE

7 Sec.

8 1121. Council's powers concerning police.

9 1122. Police serving under cooperative agreement or contract.

10 1123. Police badge.

11 1123.1. Mayor's powers concerning police.

12 1124. Suspension by mayor.

13 1125. Compensation.

14 1126. (Reserved).

15 1127. School crossing guards.

16 § 1121. Council's powers concerning police.

17 (a) Establishment of police department.--Council may, by  
18 ordinance, establish a police department. If council establishes  
19 a police department, the following shall apply:

20 (1) Council may appoint police officers, subject to  
21 Subchapter J (relating to civil service for police and fire  
22 apparatus operators).

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

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

1           (ii) subject to Subchapter J.

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

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

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

11          (b) Powers of borough police officers.--A borough police  
12 officer shall have those powers and abilities as are granted to  
13 police officers under the laws of this Commonwealth, the rules  
14 of the Supreme Court or the ordinances of the borough for which  
15 a fine or penalty is imposed unless otherwise excepted in this  
16 part.

17          (c) Ratification.--In any case in which a borough has  
18 previously appointed police officers or established a police  
19 department by action of council but not under an ordinance  
20 regularly enacted, the action shall be deemed to have been a  
21 valid exercise of the legislative power of the borough, and all  
22 police officers appointed shall occupy the same status and shall  
23 have the same rights and privileges as in the case of police  
24 officers appointed under authority of an ordinance.

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

29          § 1122. Police serving under cooperative agreement or contract.

30          (a) General rule.--If a borough enters into a cooperative

1 agreement or contract with any municipal corporation, regional  
2 police force or other governmental entity created by two or more  
3 municipal corporations under 53 Pa.C.S. Ch. 23 Subch. A  
4 (relating to intergovernmental cooperation) for the furnishing  
5 or receiving of police protection as authorized by section  
6 1202(35) (relating to specific powers), the police force of the  
7 municipal corporation, regional police force or other  
8 governmental entity furnishing the police protection shall be  
9 appointed and accepted as the police force of the borough  
10 receiving the police service by resolution of the council.

11 (b) Employment status.--Police officers of the police force  
12 of a municipal corporation, regional police force or other  
13 government entity so appointed shall, insofar as civil service  
14 and pensions are concerned, be deemed to be appointees and  
15 employees only of the municipal corporation, regional police  
16 force or other government entity furnishing their service and  
17 making the original appointment.

18 § 1123. Police badge.

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

21 § 1123.1. Mayor's powers concerning police.

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

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

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

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

4 (e) Auxiliary police.--The mayor may activate auxiliary  
5 police in accordance with general law and, notwithstanding any  
6 other provision of law, may activate auxiliary police for  
7 purposes of crowd and traffic control for limited periods during  
8 events if, in the mayor's discretion, public safety is promoted  
9 by the activation of the auxiliary police.

10 § 1124. Suspension by mayor.

11 (a) General rule.--In addition to the powers of council to  
12 suspend police officers, the mayor may, for cause and without  
13 pay, suspend any police officers until the succeeding regular  
14 meeting of the council at which time or later the council may,  
15 subject to Subchapter J (relating to civil service for police  
16 and fire apparatus operators), if they are in effect at the  
17 time, suspend, discharge, reduce in rank or reinstate with pay  
18 the police officers.

19 (b) Reinstatement.--

20 (1) A police officer suspended by the mayor may not be  
21 reinstated by council at a date earlier than ten working days  
22 from the date fixed by the mayor for the suspension to  
23 commence.

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

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

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

1 § 1125. Compensation.

2 Borough police and special police appointed by the mayor  
3 shall receive compensation as fixed by the council.

4 § 1126. (Reserved).

5 § 1127. School crossing guards.

6 (a) Appointment.--

7 (1) Upon request by the board of school directors of the  
8 school district in which a borough is wholly or partially  
9 located, the council may appoint school crossing guards who  
10 shall have the duty of controlling and directing traffic and  
11 pedestrians at or near schools and who shall be in suitable  
12 and distinctive uniform.

13 (2) While on duty, school crossing guards shall be under  
14 and subject to the direction of the mayor, shall serve at the  
15 pleasure of the council, except as noted in subsection (b),  
16 shall not be subject to Subchapter J (relating to civil  
17 service for police and fire apparatus operators) and shall  
18 not be entitled to participate in any borough pension plan or  
19 plans.

20 (3) (i) The compensation of the school crossing guards,  
21 if any, shall be fixed by the council and shall be  
22 jointly paid by the council and the board of school  
23 directors, in a ratio to be determined by the council and  
24 board of school directors.

25 (ii) If the council and board of school directors  
26 are unable to determine the ratio of compensation of the  
27 school crossing guards to be paid by the council and the  
28 board, each shall pay one-half of the compensation of the  
29 crossing guards.

30 (4) Notwithstanding any other provision of law,

1 auxiliary police officers, appointed as prescribed by general  
2 law, may be designated to serve as crossing guards.

3 (b) Ordinance.--

4 (1) The council may enact an ordinance allowing a board  
5 of school directors to assume hiring and oversight of school  
6 crossing guards. Before the council may enact the ordinance,  
7 the board of directors of the school district must adopt a  
8 resolution requesting the authority to assume the hiring and  
9 oversight of school crossing guards.

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

13 (3) School crossing guards shall be authorized in the  
14 management of traffic and pedestrians in and around areas  
15 identified by the police department and the school district  
16 superintendent or the superintendent's designees.

17 (4) School crossing guards shall not:

18 (i) Be subject to the civil service provisions of  
19 this part.

20 (ii) Be considered part of the bargaining unit of  
21 the school district.

22 (iii) Be considered:

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

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

28 (C) An employee under any plan.

29 (5) After the ordinance is enacted by the council, the  
30 school district shall assume the cost of compensation,

1 including fixing compensation, if any, of the school crossing  
2 guards.

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

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

11 SUBCHAPTER F

12 POLICE PENSION FUND IN

13 BOROUGHs HAVING POLICE FORCE

14 OF LESS THAN THREE MEMBERS

15 Sec.

16 1131. Police pension fund.

17 1132. Private police pension funds and optional transfers.

18 § 1131. Police pension fund.

19 (a) Authorization to establish.--If a police force of less  
20 than three full-time members is being maintained, the borough  
21 may, unless there is a private organization or association  
22 constituting and managing an existing pension fund for the  
23 members of the police force in the borough, by ordinance,  
24 establish a police pension fund into which each member of the  
25 police force shall pay an equal and proportionate monthly charge  
26 to be withheld from the pay of the member.

27 (b) Investment and insurance instruments as alternative.--In  
28 lieu of establishing a pension fund in accordance with  
29 subsection (a), the borough may, by ordinance, provide  
30 investment or insurance instruments for the purpose of the

1 payment of pensions or annuities to the members of the police  
2 force who receive honorable discharge by reason of age or  
3 disability and to the families of police officers injured or  
4 killed in service.

5 (c) Administration.--

6 (1) All pension funds or investment or insurance  
7 instruments established under this section shall be under the  
8 direction of the council, or a committee as it may designate,  
9 and shall be applied under regulations as the council may, by  
10 ordinance, prescribe for the benefit of the members of the  
11 police force who receive honorable discharge by reason of age  
12 or disability and the families of police officers injured or  
13 killed in service.

14 (2) Council shall appoint by resolution a chief  
15 administrative officer who shall have the primary  
16 responsibility for the execution of the administrative  
17 affairs of the pension plan, subject to the direction of  
18 council.

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

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

26 (e) Obligation of payments.--Payments made on account of  
27 police pensions shall not be a charge on any fund in the  
28 treasury of the borough or under its control except the police  
29 pension fund.

30 (f) Funding.--A borough establishing a police pension fund



1 by ordinance under this section shall provide from any available  
2 borough revenue source funding of the police pension fund in an  
3 amount sufficient to meet the minimum obligation of the borough  
4 with respect to the police pension fund under the act of  
5 December 18, 1984 (P.L.1005, No.205), known as the Municipal  
6 Pension Plan Funding Standard and Recovery Act.

7 (g) Management.--

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

11 (2) The care, management, investment and disposal of the  
12 trust funds or property shall be vested in the officers as  
13 the borough shall direct by ordinance and shall be governed  
14 by the officers, subject to any directions not inconsistent  
15 with the ordinance as the donors of the funds and property  
16 may prescribe.

17 (h) Right to equal and proportionate share.--No person  
18 participating in the police pension fund and becoming entitled  
19 to receive a benefit from the fund may be deprived of the  
20 person's right to an equal and proportionate share of the fund  
21 upon the basis upon which the person first became entitled to  
22 the benefit.

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

29 § 1132. Private police pension funds and optional transfers.

30 (a) General rule.--If there is a private organization or

1 association constituting and managing an existing pension fund  
2 for the members of the police force in any borough, the borough  
3 shall establish a police pension for the purpose of paying  
4 pensions to the members of its police force if the membership of  
5 the organization or association by a two-thirds vote elects to  
6 transfer its funds with all its assets and liabilities into a  
7 borough pension fund as required to be established by this part.

8 (b) Assumption of liability--The transfer in subsection (a)  
9 may be made by the transfer of securities. After the transfer,  
10 the borough police pension fund shall assume the liability of  
11 continuing the payment of pensions to members of the police  
12 force retired prior to the transfer, in accordance with the laws  
13 and regulations under which the members were retired.

14 SUBCHAPTER G

15 MANAGER

16 Sec.

17 1141. Borough manager created by ordinance and election.

18 1142. Powers and duties.

19 1143. Other offices not incompatible.

20 § 1141. Borough manager created by ordinance and election.

21 (a) General rule.--The council of a borough may, at its  
22 discretion at any time, create by ordinance the office of  
23 borough manager and may in like manner abolish the office. While  
24 the office exists, the council shall, from time to time, and if  
25 there is a vacancy, elect, by a vote of a majority of all the  
26 members, one person to fill the office.

27 (b) Subject to employment agreement.--The borough manager  
28 shall serve at the pleasure of council, subject to contractual  
29 rights that may arise under an employment agreement that may be  
30 entered in accordance with section 1142 (relating to powers and

1 duties).

2 § 1142. Powers and duties.

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

5 (b) Employment agreement.--

6 (1) Council may enter into an employment agreement with  
7 the borough manager that specifies the terms and conditions  
8 of employment.

9 (2) The employment agreement may remain in effect for a  
10 specified period terminating no later than two years after  
11 the effective date of the agreement or the date of the  
12 organizational meeting of council following the next  
13 municipal election, whichever shall occurs first.

14 (3) An employment agreement entered into under this  
15 section may specify conditions under which a borough manager  
16 will be entitled to severance compensation, but in no event  
17 may the employment agreement guarantee employment through the  
18 term of the agreement or confer upon the borough manager any  
19 legal remedy based on specific performance.

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

24 (5) The council may delegate to the borough manager by  
25 ordinance and subject to recall, any of the nonlegislative  
26 and nonjudicial powers and duties of the council, the  
27 planning commission and the shade tree commission. With  
28 approval of council, the mayor may delegate to the borough  
29 manager any of the mayor's nonlegislative and nonjudicial  
30 powers and duties.

1 § 1143. Other offices not incompatible.

2 The offices of borough manager, street commissioner,  
3 secretary, treasurer and chief of police shall not be  
4 incompatible, and any two or more or all of offices may be held  
5 by one person. Neither the mayor nor any member of the council  
6 shall be eligible to hold the office of borough manager.

7 SUBCHAPTER H

8 PLANNING COMMISSION

9 (Reserved)

10 SUBCHAPTER I

11 MINE AND QUARRY INSPECTION

12 AND SURFACE SUPPORT

13 (Reserved)

14 SUBCHAPTER J

15 CIVIL SERVICE FOR POLICE AND

16 FIRE APPARATUS OPERATORS

17 Sec.

18 1170. Definitions.

19 1171. Appointments of police and fire apparatus operators.

20 1172. Civil service commission.

21 1173. Offices incompatible with civil service commissioner.

22 1174. Organization of commission.

23 1175. Clerks, supplies and solicitor.

24 1176. Rules and regulations.

25 1177. Minutes and records.

26 1178. Investigations.

27 1179. Subpoenas.

28 1180. Annual report.

29 1181. General provisions relating to examinations.

30 1182. Application for examination.

- 1 1183. Rejection of applicant and hearing.  
2 1184. Eligibility list and manner of filling appointments.  
3 1185. Age and residency of applicants.  
4 1186. Probationary period.  
5 1187. Provisional appointments.  
6 1188. Promotions.  
7 1189. Physical and psychological medical examination.  
8 1190. Removals.  
9 1191. Hearings on dismissals and reductions.  
10 1192. Employees exempted.  
11 1193. Discrimination on account of political or religious  
12 affiliations.  
13 1194. Penalty.  
14 § 1170. Definitions.

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

18 "Fire apparatus operator." A person who operates fire  
19 apparatus and devotes his normal working hours to operating any  
20 piece of fire apparatus or other services connected with fire  
21 protection work and who is paid a stated salary or compensation  
22 for the work by the borough.

23 "Police force." A police force organized and operating as  
24 prescribed by law, the members of which devote their normal  
25 working hours to police duty or duty in connection with the  
26 bureau, agencies and services connected with police protection  
27 work and who are paid a stated salary or compensation for the  
28 work by the borough. As used in this subchapter, the term shall  
29 not include any of the following:

30 (1) Special police appointed by the mayor to act in

1 emergencies.

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

4 (3) Special school police.

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

7 (5) An auxiliary policeman appointed under the act of  
8 January 14, 1952 (1951 P.L.2016, No.561), entitled "An act  
9 providing for supplementing the police forces of cities,  
10 boroughs, towns and townships, for the appointment, powers  
11 and control of auxiliary police therein, and for the transfer  
12 during disasters and emergencies of such auxiliary police,  
13 members of the regular police forces, and police equipment  
14 thereof."

15 § 1171. Appointments of police and fire apparatus operators.

16 (a) Nonapplicability of subchapter.--This subchapter shall  
17 not apply to:

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

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

23 (3) a volunteer fire department or company that employs  
24 its own operators; or

25 (4) a borough that has less than three salaried fire  
26 apparatus operators.

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

29 (c) Appointments and promotions.--An appointment to and  
30 promotion in the police force or as fire apparatus operator paid

1 directly by a borough and in the borough shall be made only  
2 according to qualifications and fitness, to be ascertained by  
3 examinations which shall be competitive as provided in this  
4 part.

5 (d) Suspension, removal and reduction in rank.--No person  
6 shall be suspended, removed or reduced in rank as a paid  
7 employee in any police force or as a paid fire apparatus  
8 operator of a borough, except in accordance with this  
9 subchapter.

10 (e) Retirement.--Nothing in this subchapter shall apply to  
11 retirement, nor shall anything in this subchapter be construed  
12 to prevent a borough from adopting a compulsory retirement age  
13 for its employees or for any class of employees and from  
14 retiring all employees automatically when they reach that age.  
15 § 1172. Civil service commission.

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

19 (b) Membership and terms.--The commission shall consist of  
20 three commissioners who shall be qualified electors of the  
21 borough and appointed by the council initially to serve for the  
22 terms of two, four and six years. As terms expire, the  
23 commissioners shall be appointed for terms of six years.

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

27 (d) Alternate members.--

28 (1) Council may appoint no more than three qualified  
29 electors of the borough to serve as alternate members of the  
30 commission. The term of office of the alternate members shall

1 be six years.

2 (2) If seated under section 1174 (relating to  
3 organization of commission), an alternate shall be entitled  
4 to participate in all proceedings and discussions of the  
5 commission to the same and full extent as provided by law for  
6 commission members, including specifically the right to cast  
7 a vote as a voting member during the proceedings, and shall  
8 have all the powers and duties specified in this part and as  
9 otherwise provided by law.

10 (3) An alternate member may not hold another office in  
11 the borough.

12 (4) An alternate may participate in any proceeding or  
13 discussion of the commission but may not vote as a member of  
14 the commission unless designated as a voting alternate member  
15 under section 1174.

16 (e) Oath or affirmation of office.--Each member of the  
17 commission, before entering upon the discharge of the duties of  
18 office, shall take an oath or affirmation of office under 53  
19 Pa.C.S. § 1141 (relating to form of oaths of office).

20 (f) Compensation prohibited.--The civil service  
21 commissioners shall receive no compensation.

22 § 1173. Offices incompatible with civil service commissioner.

23 No commissioner shall at the same time hold an elective or  
24 appointed office under the Federal Government, this Commonwealth  
25 or any political subdivision of the Commonwealth, except that  
26 one member of the commission may be a member of the council and  
27 one may be a member of the teaching profession.

28 § 1174. Organization of commission.

29 (a) General rule.--The commission first appointed shall  
30 organize within ten days of its appointment and shall elect one



1 of its members as the chair and one as the secretary. The  
2 commission shall meet and organize on the first Monday of each  
3 even-numbered year. Each commissioner shall be notified in  
4 writing of each and every meeting.

5 (b) Quorum.--Three members of the commission shall  
6 constitute a quorum. If, by reason of absence or  
7 disqualification of a member a quorum is not reached, the chair  
8 shall designate as many alternate members of the commission to  
9 sit on the commission as may be needed to provide a quorum.

10 (c) Alternate members.--

11 (1) An alternate member of the commission shall continue  
12 to serve on the commission in all proceedings involving the  
13 matter or case for which the alternate was initially  
14 designated until the commission has made a final  
15 determination of the matter or case.

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

19 (d) Validity of commission action.--No action of the  
20 commission may be valid unless it shall have the concurrence of  
21 at least two members.

22 § 1175. Clerks, supplies and solicitor.

23 The borough shall:

24 (1) Furnish to the commission, on its requisition,  
25 clerical assistance that may be necessary for the work of the  
26 commission.

27 (2) Provide a suitable and convenient room for the use  
28 of the commission. The commission shall order from the  
29 borough the necessary stationery, postage, printing and  
30 supplies.

1           (3) Provide the services of a solicitor for the  
2           commission to be appointed by the commission and paid by the  
3           borough. The borough may place a reasonable limit on the  
4           amount allowed each year for the services of the commission  
5           solicitor.

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

9   § 1176. Rules and regulations.

10          (a) General rule.--The commission may prescribe, amend and  
11          enforce rules and regulations for carrying into effect this  
12          subchapter and shall be governed by the rules and regulations.  
13          Before the effective date of the rules and regulations or  
14          amendments to them, they shall be first approved by council. If  
15          the rules and regulations or amendments have been approved, they  
16          shall not be annulled, amended or added to without the approval  
17          of council.

18          (b) Public distribution and inspection.--All rules and  
19          regulations and modifications shall be made available by the  
20          borough for public distribution or inspection.

21   § 1177. Minutes and records.

22          The commission shall maintain minutes of its proceedings and  
23          records of examinations and other official actions. All  
24          recommendations of applicants for appointment received by the  
25          commission shall be kept and preserved for a period of five  
26          years, and all records and all written causes of removal filed  
27          with the commission, except as otherwise provided in section  
28          1191 (relating to hearings on dismissals and reductions), shall  
29          be open to public inspection and subject to reasonable  
30          regulation.

1 § 1178. Investigations.

2 The commission may conduct investigations concerning all  
3 matters touching the administration and enforcement of this  
4 subchapter and rules and regulations adopted under this  
5 subchapter. The chair of the commission may administer oaths and  
6 affirmations in connection with the investigations.

7 § 1179. Subpoenas.

8 (a) General rule.--The commission may issue subpoenas over  
9 the signature of the chair to require the attendance of  
10 witnesses and the production of records and papers pertaining to  
11 any investigation or inquiry. The fees of witnesses for  
12 attendance and travel shall be the same as for witnesses  
13 appearing in the courts and shall be paid from appropriations  
14 for the incidental expenses of the commission.

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

18 (c) Penalty for violation.--If any person refuses or  
19 neglects to obey a subpoena issued by the commission, the person  
20 shall, upon conviction, be sentenced to pay a fine not to exceed  
21 \$100 and, in default of the payment of the fine and costs, shall  
22 be imprisoned for a term not to exceed 30 days.

23 (d) Petition to court.--If a person refuses or neglects to  
24 obey a subpoena issued by the commission, the commission may  
25 apply by petition to the court of common pleas of the county for  
26 its subpoena requiring the attendance of the person before the  
27 commission or the court to testify and to produce any records  
28 and papers necessary and, if the person defaults, the person  
29 shall be held in contempt of court.

30 § 1180. Annual report.

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

4 § 1181. General provisions relating to examinations.

5 (a) Rules and regulations.--

6 (1) The commission shall make rules and regulations, to  
7 be approved as provided in section 1176 (relating to rules  
8 and regulations), providing for the examination of applicants  
9 for positions in the police force and as paid fire apparatus  
10 operators and for promotions, which rules and regulations  
11 shall prescribe the minimum qualifications of all applicants  
12 to be examined and the passing grades.

13 (2) All examinations for positions or promotions shall  
14 be practical in character and shall relate to matters and  
15 include inquiries as will fairly test the merit and fitness  
16 of the persons examined to discharge the duties of the  
17 employment sought by them.

18 (3) All examinations shall be open to all applicants who  
19 have the minimum qualifications required by the rules and  
20 regulations.

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

22 (i) Be subject to the regulations adopted by the  
23 commission.

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

27 (iii) If made a conditional offer of employment, be  
28 given a physical and psychological medical examination as  
29 provided in section 1189 (relating to physical and  
30 psychological medical examination).

1           (iv) Be subject to a background investigation.  
2           Background investigations may be restricted to those  
3           candidates on an eligibility list or those to be  
4           certified to council for appointment in accordance with  
5           section 1184 (relating to eligibility list and manner of  
6           filling appointments).

7           (a.1) Promotions.--

8           (1) An applicant for promotion shall be subject to the  
9           regulations adopted by the commission and to examination and  
10           selection in accordance with section 1188 (relating to  
11           promotions).

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

16           (b) Public notice.--Public notice of the time and place of  
17           every examination, together with the information as to the kind  
18           of position to be filled, shall be given by publication once in  
19           a newspaper of general circulation, at least two weeks prior to  
20           each examination, and a copy of the notice shall be prominently  
21           posted in the office of the commission or other public place.

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

25           § 1182. Application for examination.

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

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

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

1       (3) Condition of health and physical capacity for public  
2 service.

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

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

9 § 1183. Rejection of applicant and hearing.

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

13       (1) is found to lack any of the minimum qualifications  
14 for examination prescribed in the rules and regulations  
15 adopted for the position or employment for which the  
16 applicant has applied;

17       (2) is physically unfit for the performance of the  
18 duties of the position to which the applicant seeks  
19 employment;

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

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

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

27       (6) is affiliated with any group whose policies or  
28 activities are subversive to the form of government  
29 enumerated in the Constitutions and laws of the United States  
30 and this Commonwealth.

1 (b) Hearing requirements.--

2 (1) If an applicant is aggrieved by the refusal of the  
3 commission to certify the applicant as eligible after  
4 examination or a person is aggrieved by refusal of the  
5 commission to examine the person, the commission shall, at  
6 the request of the applicant or person aggrieved, within ten  
7 days, appoint a time and place for a public hearing.

8 (2) At the hearing, the applicant or person aggrieved  
9 may appear with or without counsel, and the commission shall  
10 take testimony and review its refusal to provide examination  
11 or certification.

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

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

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

20 § 1184. Eligibility list and manner of filling appointments.

21 (a) Ranking of candidates.--

22 (1) At the completion of the testing process, including  
23 a physical agility or other examination, with the exception  
24 of a background investigation to be conducted after the  
25 establishment of an eligibility list and physical and  
26 psychological medical examination under section 1189  
27 (relating to physical and psychological medical examination),  
28 the commission shall rank the candidates who have satisfied  
29 the minimum requirements for appointment on an eligibility  
30 list.

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

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

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

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

15           (b) Procedure for filling positions.--Except as provided in  
16 subsection (c), every original position or employment in the  
17 police force or as paid fire apparatus operators, except that of  
18 chief of police or chief of the fire department, or equivalent,  
19 shall be filled only in the following manner:

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

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

27           (3) The council shall make a conditional appointment  
28 from the three names certified, based solely on the merits  
29 and fitness of the candidates, unless council makes  
30 objections to the commission regarding one or more of the



1 certified persons for any of the reasons stated in section  
2 1183 (relating to rejection of applicant and hearing).

3 (4) If the objections are sustained by the commission as  
4 provided in section 1183 or the conditional appointee is  
5 determined to be unqualified in accordance with the  
6 procedures specified in section 1189, the commission shall  
7 strike the name of the person from the eligibility list and  
8 certify the next highest name for each name stricken from the  
9 eligibility list.

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

12 (c) Vacancies in existing positions.--

13 (1) Any vacancy in an existing position in the police  
14 force or as a paid fire apparatus operator which occurs as a  
15 result of retirement, resignation, disability or death may be  
16 filled by council by the reappointment or reinstatement of a  
17 former employee of the police force or fire department who  
18 had previously complied with this section.

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

22 (d) Vacancies in certain offices.--

23 (1) In the case of a vacancy in the office of chief of  
24 police or chief of the fire department, or equivalent  
25 official, the council may nominate a person to the  
26 commission.

27 (2) The commission shall subject the nominated person to  
28 a noncompetitive examination and, if the person is certified  
29 by the commission as qualified, the person may then be  
30 appointed to the position and shall be subject to this

1 subchapter.

2 § 1185. Age and residency of applicants.

3 No person shall be eligible to apply for examination unless  
4 the person is at least 18 years of age at the date of  
5 application. An applicant need not be a resident of the borough.  
6 The council of the borough may authorize the commission, by rule  
7 or regulation, to require police officers and paid fire  
8 apparatus operators to become residents of the borough after  
9 appointment to the positions.

10 § 1186. Probationary period.

11 (a) General rule.--An original appointment to a position in  
12 the police force or as a paid fire apparatus operator shall be  
13 for a probationary period of not less than six months and not  
14 more than one year, but during the probationary period an  
15 appointee may be dismissed only for a cause specified in section  
16 1183 (relating to rejection of applicant and hearing) or because  
17 of incapacity for duty due to the use of alcohol or drugs.

18 (b) Notice denying permanent appointment.--

19 (1) If, at the close of a probationary period, the  
20 conduct or fitness of the probationer has not been  
21 satisfactory to the council, the probationer shall be  
22 notified in writing that the probationer will not receive a  
23 permanent appointment and the appointment shall cease.

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

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

1 § 1187. Provisional appointments.

2 (a) General rule.--If there are urgent reasons for the  
3 filling of a vacancy in a position in the police force and there  
4 are no names on the eligibility list for the appointment, the  
5 council may nominate a person to the commission for  
6 noncompetitive examination, and, if the nominee shall be  
7 certified by the commission as qualified after noncompetitive  
8 examination, the nominee may be appointed provisionally to fill  
9 the vacancy.

10 (b) Competitive examination required.--

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

15 (2) Nothing in this section shall be construed to  
16 prevent the appointment, without examination, of persons  
17 temporarily as police officers in cases of riot or other  
18 emergencies or as fire apparatus operators in emergency  
19 cases.

20 § 1188. Promotions.

21 (a) General rule.--A promotion shall be based on merit to be  
22 ascertained by an examination to be prescribed by the  
23 commission. All questions relative to a promotion shall be  
24 practical in character and fairly test the merit and fitness of  
25 persons seeking promotion.

26 (b) Notification of vacancy.--Council shall notify the  
27 commission of a vacancy in the police force or as a paid fire  
28 apparatus operator in the borough which is to be filled by  
29 promotion and shall request the certification of an eligibility  
30 list.

1 (c) Certification required.--

2 (1) The commission shall certify for each vacancy the  
3 names of three persons on the eligibility list who have  
4 received the highest average in the last preceding  
5 promotional examination held within a period of two years  
6 preceding the date of the request for the eligibility list.

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

9 (3) The council shall make an appointment from the names  
10 certified, based solely on the merits and fitness of the  
11 candidate, unless council makes objections to the commission  
12 regarding one or more of the persons so certified for any  
13 reason provided under section 1183 (relating to rejection of  
14 applicant and hearing).

15 (d) Increase in salary as promotion.--The council may  
16 determine in each instance whether an increase in salary  
17 constitutes a promotion.

18 § 1189. Physical and psychological medical examination.

19 (a) Conditional offer of employment.--

20 (1) An applicant selected from the eligibility list  
21 shall receive a conditional offer of employment. The offer of  
22 employment shall be conditioned upon the conditional  
23 appointee undergoing a physical and psychological medical  
24 examination and a determination that the conditional  
25 appointee is capable of performing all the essential  
26 functions of the position.

27 (2) Physical medical examinations shall be conducted  
28 under the direction of a physician or other qualified medical  
29 professional.

30 (3) Psychological medical examinations shall be

1 conducted under the direction of a psychiatrist or  
2 psychologist.

3 (b) Opinion to be rendered.--The physician, other qualified  
4 medical professional, psychiatrist or psychologist must be  
5 appointed by council and shall render an opinion as to whether  
6 the conditional appointee has a physical or mental condition  
7 which calls into question the person's ability to perform all of  
8 the essential functions of the position for which the person was  
9 conditionally appointed.

10 (c) Interactive discussion with conditional appointee.--If  
11 the opinion rendered by the physician, other qualified medical  
12 professional, psychiatrist or psychologist calls into question  
13 the conditional appointee's ability to perform all essential  
14 functions of a position, the person designated by council shall  
15 meet with the conditional appointee for the purpose of having  
16 one or more interactive discussions on whether the conditional  
17 appointee can, with or without reasonable accommodation, perform  
18 all the essential functions of the position.

19 (d) Written notice after interactive discussion.--If, at the  
20 conclusion of the interactive discussion conducted under  
21 subsection (c), council determines that the conditional  
22 appointee is not qualified, council shall give written notice to  
23 the conditional appointee and the commission.

24 (e) Construction.--Nothing in this part shall be construed  
25 to authorize physical or psychological medical examinations  
26 prior to conditional appointment.

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

30 "Medical examination." An examination, procedure, inquiry or

1 test designed to obtain information about medical history or a  
2 physical or mental condition which might disqualify an applicant  
3 for a position if it would prevent the applicant from  
4 performing, with or without a reasonable accommodation, all of  
5 the essential functions of the position.

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

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

11 (1) as a physician assistant under the act of December  
12 20, 1985 (P.L.457, No.112), known as the Medical Practice Act  
13 of 1985, or the act of October 5, 1978 (P.L.1109, No.261),  
14 known as the Osteopathic Medical Practice Act; or

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

18 § 1190. Removals.

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

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

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

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

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

30 (5) Intoxication while on duty.

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

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

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

12           (c) Statement of charges.--A written statement of charges  
13 made against a person shall be furnished to the person within  
14 five days after the statement of charges is filed. The person  
15 shall have ten days from the date of receiving the notice to  
16 submit a written request for a hearing to the civil service  
17 commission under section 1191 (relating to hearings on  
18 dismissals and reductions).

19           (d) Furlough.--If, for reasons of economy or other reasons,  
20 it shall be deemed necessary by any borough to reduce the number  
21 of paid employees of the police or fire force, the borough shall  
22 furlough the person, including a probationer, last appointed to  
23 the respective force. The removal shall be accomplished by  
24 furloughing in numerical order commencing with the person last  
25 appointed until the reduction shall have been accomplished. In  
26 the event the police force or fire force shall again be  
27 increased, the employees furloughed shall be reinstated in the  
28 order of their seniority in the service. This subsection as to  
29 reductions in force is not applicable to a chief of police.

30 § 1191. Hearings on dismissals and reductions.

1     (a) Time of answer and hearing.--A person suspended, removed  
2 or reduced in rank may make written answers to any charges filed  
3 against the person not later than the day scheduled for the  
4 hearing. The commission shall grant the person a hearing that  
5 shall be held within a period of ten days from the filing of  
6 written charges, unless continued by the commission for cause at  
7 the request of the council or the accused. The failure of the  
8 commission to hold a hearing within ten days from the filing of  
9 the written charges shall not result in the dismissal of the  
10 charges filed.

11     (b) Conduct of hearing.--At any hearing, the person against  
12 whom the charges are made may be present in person and by  
13 counsel. The council may suspend the person, without pay,  
14 pending the determination of the charges against the person,  
15 but, in the event the commission fails to uphold the charges,  
16 the person sought to be suspended, removed or reduced in rank  
17 shall be reinstated with full pay for the period during which  
18 the person was suspended, removed or reduced in rank, and no  
19 charges shall be officially recorded against the person's  
20 record. A stenographic record of all testimony taken at the  
21 hearings shall be filed with and preserved by the commission,  
22 which record shall be sealed and not be available for public  
23 inspection in the event the charges are dismissed.

24     (c) Appeal.--All parties shall have an immediate right of  
25 appeal to the court of common pleas of the county, and the case  
26 shall there be determined as the court deems proper. No order of  
27 suspension made by the commission may be for a longer period  
28 than one year. The appeal shall be taken within 30 days from the  
29 date of entry by the commission of its final order and shall be  
30 by petition. Upon the appeal being taken and docketed, the court



1 of common pleas shall schedule a day for a hearing and shall  
2 proceed to hear the appeal on the original record and additional  
3 proof or testimony as the parties concerned may desire to offer  
4 in evidence. The decision of the court affirming or revising the  
5 decision of the commission shall be final, and the employee  
6 shall be suspended, discharged, reduced in rank or reinstated in  
7 accordance with the order of court.

8 (d) Proceedings.--The council and the person sought to be  
9 suspended, removed or reduced in rank shall at all times have  
10 the right to employ counsel before the commission and upon  
11 appeal to the court of common pleas. Unless the council or the  
12 person sought to be suspended, removed or reduced in rank  
13 requests that the proceedings before the commission be open to  
14 the public, the proceedings before the commission under this  
15 section shall be held in the nature of a closed executive  
16 session that shall not be open to the public. The request shall  
17 be presented to the commission before the civil service hearing  
18 commences. The deliberations of the commission, including  
19 interim rulings on evidentiary or procedural issues, may be held  
20 in private and shall not be subject to a request for being open  
21 to the public, the council or the person sought to be suspended,  
22 removed or reduced in rank. The commission's disposition of the  
23 disciplinary action shall constitute official action which shall  
24 occur at a public meeting held pursuant to 65 Pa.C.S. Ch. 7  
25 (relating to open meetings).

26 § 1192. Employees exempted.

27 All appointments in the police or fire forces of boroughs,  
28 including the chief of police or equivalent official, prior to  
29 the creation of a commission, shall continue to hold their  
30 positions and shall not be required to take any examination

1 under the provisions of this subchapter, except that which may  
2 be required for promotion. This section shall not be construed  
3 to apply to persons employed temporarily in emergency cases.

4 § 1193. Discrimination on account of political or religious  
5 affiliations.

6 (a) Information.--No question in any form of application for  
7 examination or in any examination shall be so framed as to  
8 elicit information concerning the political or religious  
9 opinions or affiliations of any applicant nor shall inquiry be  
10 made concerning the opinions or affiliations, and all  
11 disclosures of opinions or affiliations shall be ignored.

12 (b) Prohibition.--No discrimination shall be exercised,  
13 threatened or promised by any person against or in favor of any  
14 applicant or employee because of political or religious opinions  
15 or affiliations or race, and no offer or promise or reward,  
16 favor or benefit, directly or indirectly, shall be made to or  
17 received by any person for any act done or duty omitted or to be  
18 done under this subchapter.

19 § 1194. Penalty.

20 A member of council who, by vote, appoints any person to the  
21 police force or as a fire apparatus operator contrary to the  
22 provisions of this subchapter, or a member of council or member  
23 of the commission who willfully refuses to comply with or  
24 conform to the provisions of this subchapter, commits a  
25 misdemeanor and, upon conviction, shall be sentenced to pay a  
26 fine not exceeding \$100 or to imprisonment not exceeding 90  
27 days, or both.

28 SUBCHAPTER K

29 INDEPENDENT AUDITOR

30 (Reserved)



1 days prior to the date scheduled for the opening of bids or  
2 public auction. The date for opening bids or public auction  
3 shall be announced in the advertisement.

4 (a.2) Award of contracts.--The award of contracts shall be  
5 made only by public announcement at a regular or special meeting  
6 of council or at the public auction. All bids shall be accepted  
7 on the condition that payment of the purchase price in full  
8 shall be made within 60 days of the acceptance of bids. If no  
9 compliant bids are received after advertisement, the applicable  
10 procedures in the act of October 27, 1979 (P.L.241, No.78),  
11 entitled, "An act authorizing political subdivisions,  
12 municipality authorities and transportation authorities to enter  
13 into contracts for the purchase of goods and the sale of real  
14 and personal property where no bids are received," shall be  
15 followed.

16 (b) Rejection of bids.--The council shall have the authority  
17 to reject all bids if the bids are deemed to be less than the  
18 fair market value of the real property. In the case of a public  
19 auction, the council may establish a minimum bid based on the  
20 fair market value of the real property.

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

26 (d) Exchange of real property.--

27 (1) Notwithstanding this section, council shall have the  
28 authority to exchange real property for real property of  
29 equal or greater value without complying with this section,  
30 if the property being acquired by the borough is to be used

1 for municipal purposes. Municipal purposes as used in this  
2 subsection include a subsequent sale or lease of the property  
3 to any of the entities listed in section 1201.3 (relating to  
4 exceptions).

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

10 (3) If council chooses to exercise its power of real  
11 property exchange under this section, it shall be by  
12 resolution adopted by council. Notice of the resolution,  
13 including a description of the properties to be exchanged,  
14 shall be published once in one newspaper of general  
15 circulation not more than 60 days nor fewer than seven days  
16 prior to adoption.

17 (4) Participation in a real property exchange shall not  
18 prohibit the application of the requirements of the act of  
19 October 4, 1978 (P.L.851, No.166), known as the Flood Plain  
20 Management Act.

21 § 1201.2. Personal property.

22 (a) Sale.--Except as provided in subsection (b), no borough  
23 personal property may be disposed of, by sale or otherwise,  
24 except upon approval of council by resolution. In cases when  
25 council approves a sale of the property, council shall estimate  
26 the fair market value of the entire lot to be disposed of. If  
27 council estimates the fair market value to be \$1,000 or more,  
28 the entire lot shall be advertised for sale once in at least one  
29 newspaper of general circulation not less than ten days prior to  
30 the date scheduled for the opening of bids or public auction.

1 The date of opening of bids or public auction shall be announced  
2 in the advertisement, and sale of the property advertised shall  
3 be made to the best responsible bidder.

4 (a.1) Electronic auction sale.--A public auction of personal  
5 property may be conducted by means of an online or electronic  
6 auction sale. During an electronic auction sale, bids shall be  
7 accepted electronically at the time and in the manner designated  
8 in the advertisement. During the electronic auction, each bidder  
9 shall have the capability to view the bidder's bid rank or the  
10 high bid price. Bidders may increase their bid prices during the  
11 electronic auction. The record of the electronic auction shall  
12 be accessible for public inspection. The purchase price shall be  
13 paid by the highest bidder immediately or at a reasonable time  
14 after the conclusion of the electronic auction as determined by  
15 council. In the event that shipping costs are incurred, they  
16 shall be paid by the highest bidder. A borough that has complied  
17 with the advertising requirements of this section may provide  
18 additional public notice of the sale by bids or public auction  
19 in any manner deemed appropriate by council. The advertisement  
20 for electronic auction sales authorized in this paragraph shall  
21 include the Internet address or means of accessing the  
22 electronic auction and the date, time and duration of the  
23 electronic auction.

24 (a.2) Rejection of bids.--Council may reject any bids  
25 received if the bids are believed to be less than the fair  
26 market value of the property. If no bids are received after  
27 advertisement, the applicable procedures in the act of October  
28 27, 1979 (P.L.241, No.78), entitled, "An act authorizing  
29 political subdivisions, municipality authorities and  
30 transportation authorities to enter into contracts for the

1 purchase of goods and the sale of real and personal property  
2 where no bids are received," shall be followed.

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

9 (c) Exchange of personal property.--This section shall not  
10 be mandatory when borough personal property is to be traded in  
11 or exchanged for new or used personal property being acquired by  
12 the borough, except that the trade or exchange shall be by  
13 resolution.

14 § 1201.3. Exceptions.

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

19 (1) A county, city, borough, town, township, institution  
20 district, school district, volunteer fire company, volunteer  
21 ambulance service or volunteer rescue squad located within  
22 the borough.

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

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

28 (4) A nonprofit corporation engaged in community  
29 development or reuse only upon entering into a written  
30 agreement with the nonprofit corporation that requires the

1 property to be used for industrial, commercial or affordable  
2 housing purposes. This exemption shall not apply to property  
3 on which existing governmental functions are conducted. This  
4 exemption shall also not apply to property owned and operated  
5 by the borough or subcontracted or operated on behalf of the  
6 borough in order to conduct existing government functions.

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

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

11 (7) A nonprofit medical service corporation as  
12 authorized under section 1202(50) (relating to specific  
13 powers).

14 (8) A nonprofit housing corporation as authorized by  
15 section 1202(51).

16 (9) The Federal Government or the Commonwealth.

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

19 (b) Sales to certain nonprofit corporations.--When real  
20 property is to be sold to a nonprofit corporation organized as a  
21 public library for its exclusive use as a library or to a  
22 nonprofit medical service corporation or to a nonprofit housing  
23 corporation, council may elect to accept nominal consideration  
24 for the sale as it shall deem appropriate.

25 (c) Reversion.--Real property sold under this section to a  
26 volunteer fire company, volunteer ambulance service or volunteer  
27 rescue squad, nonprofit medical service corporation or nonprofit  
28 housing corporation shall be subject to the condition that when  
29 the property is not used for the purposes of the company,  
30 service, squad or corporation the property shall revert to the



1 borough.

2 § 1202. Specific powers.

3 The powers of the borough shall be vested in the council. In  
4 the exercise of any specific powers involving the enactment of  
5 an ordinance or the making of any regulation, restriction or  
6 prohibition, the borough may provide for enforcement and  
7 penalties for violations. The specific powers of the borough  
8 shall include the following:

9 (1) To prescribe reasonable fees for the services of the  
10 borough's officers and to enforce the payment of the fees.  
11 This paragraph shall not be applicable to the services  
12 rendered by borough police officers in responding to motor  
13 vehicle accidents pursuant to 53 Pa.C.S. § 1392 (relating to  
14 prohibition of fees for police services).

15 (2) In the operation of its utilities, parking meters,  
16 parking lots, recreational facilities and other facilities  
17 and services, to make and regulate charges for them for  
18 general borough purposes.

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

21 (4) To prohibit and remove any nuisance or dangerous  
22 structure on public or private grounds, including, but not  
23 limited to, accumulations of garbage and rubbish, the storage  
24 of abandoned or junked automobiles and obstructions or  
25 nuisances in the streets of the borough. The borough may  
26 require the removal of any nuisance or dangerous structure by  
27 the owner or occupier of the grounds or remove the nuisance  
28 or dangerous structure itself and collect the cost of  
29 removal, together with a penalty of 10% of the cost, in the  
30 manner provided by law for the collection of municipal

1 claims, or by action of assumpsit, or the borough may seek  
2 relief by bill in equity.

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

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

8 (7) To make regulations relative to the accumulation of  
9 manure, compost and the like to the extent authorized by 3  
10 Pa.C.S. Ch. 5 (relating to nutrient management and odor  
11 management).

12 (8) To provide for garbage and other refuse material as  
13 follows:

14 (i) To prohibit, individually or jointly with other  
15 municipal corporations pursuant to an agreement,  
16 accumulations of garbage or other refuse material upon  
17 public and private property and to make regulations for  
18 the care, removal and collection of garbage or other  
19 refuse material, including:

20 (A) To provide for the collection and imposition  
21 of reasonable fees and charges for the collection of  
22 garbage and other refuse material.

23 (B) To erect, operate and maintain refuse  
24 disposal or incineration facilities or sanitary  
25 landfills, either within or without the limits of the  
26 borough, or provide other means for the collection,  
27 destruction or removal of garbage and other refuse  
28 material and provide for the payment of the cost or  
29 expense of the activity, either in whole or in part,  
30 out of the funds of the borough.

1           (C) To purchase real estate for the purpose of  
2           erecting, operating and maintaining refuse disposal  
3           or incineration facilities or sanitary landfills if,  
4           prior to any acquisition of property pursuant to this  
5           paragraph, the borough, individually or jointly, as  
6           the case may be, obtains the approval of the court of  
7           common pleas for the location of the facilities or  
8           landfill after a hearing and subject to notice as the  
9           court shall require. If no objections are heard at  
10          the hearing, the court shall approve the location. If  
11          any objection is made, the court shall proceed to  
12          hear the matter and determine whether the location is  
13          a detriment to neighboring properties. The finding of  
14          the court shall be conclusive but in no way shall  
15          adjudicate any question relating to damages for  
16          injury to property.

17           (D) To take and appropriate real estate for  
18           purposes of refuse disposals or incineration  
19           facilities or sanitary landfills in accordance with  
20           Chapter 15 (relating to eminent domain, assessment of  
21           damages and damages for injury to property) if a  
22           purchase price cannot first be agreed upon. No real  
23           estate located outside the limits of the borough or  
24           outside the limits of the joint municipal  
25           corporations in the case of a joint effort shall be  
26           taken and appropriated if the real estate currently  
27           contains or is being used for a refuse disposal or  
28           incineration facility or a sanitary landfill.

29           (ii) Regulations enacted under this paragraph shall  
30           be consistent with the act of July 7, 1980 (P.L.380,

1 No.97), known as the Solid Waste Management Act, the act  
2 of July 28, 1988 (P.L.556, No.101), known as the  
3 Municipal Waste Planning, Recycling and Waste Reduction  
4 Act, and subject to any other necessary Federal or State  
5 approval.

6 (9) To the extent not otherwise prohibited by the act of  
7 December 7, 1982 (P.L.784, No.225), known as the Dog Law, to  
8 destroy dogs found at large contrary to laws of this  
9 Commonwealth, to prohibit or regulate, by ordinance, the  
10 running at large of dogs, cats or other pets and, in the  
11 enforcement of the regulations, to direct the seizure,  
12 detention or killing of dogs, cats or other pets, prescribing  
13 reasonable charges for their seizure and detention and to  
14 provide for their sale for the benefit of the borough in  
15 default of the redemption of the pet by its owners.

16 (10) To enact ordinances prohibiting or regulating the  
17 keeping or running at large of livestock and fowls and any  
18 other animals not covered in paragraph (9) and authorizing  
19 their seizure, detention or, in the case of unowned pigeons,  
20 humane destruction. The borough may prescribe reasonable  
21 charges for the seizure and detention of the animals and  
22 provide for their sale for the benefit of the borough in  
23 default of the redemption of the animals by their owners.  
24 Ordinances enacted under this paragraph shall not  
25 unreasonably interfere with any agricultural operation to the  
26 extent prohibited by applicable State law.

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

1       (12) To regulate the streets, sewers, public squares,  
2 common grounds, sidewalks, curbs, gutters, culverts and  
3 drains, and the heights, grades, widths, slopes and their  
4 construction, and to prohibit the erection or construction of  
5 any building or other obstruction to the convenient use of  
6 the same.

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

15       (14) To adopt ordinances defining disorderly conduct or  
16 disturbing the peace within the limits of the borough and to  
17 provide for the imposition of penalties for the conduct in  
18 amounts, without limitation except as provided under this  
19 part, as council shall establish, and notwithstanding any  
20 laws of this Commonwealth upon disorderly conduct or  
21 disturbing the peace and the penalties.

22       (15) To adopt and enforce a construction code, a  
23 property maintenance code and a fire prevention code and  
24 exercise any additional reserved powers pursuant to Chapter  
25 32A (relating to uniform construction code, property  
26 maintenance code and reserved powers).

27       (16) To prohibit and regulate the smoking or carrying of  
28 lighted cigarettes, cigars, pipes or matches and the use of  
29 matches or fire-producing devices. An ordinance enacted or  
30 regulation or resolution adopted under this paragraph shall

1 not regulate smoking in a manner that conflicts with the act  
2 of June 13, 2008 (P.L.182, No.27), known as the Clean Indoor  
3 Air Act.

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

6 (i) To regulate and prohibit, by ordinance, the  
7 manufacture of fireworks or inflammable or dangerous  
8 articles.

9 (ii) To grant permits for supervised public displays  
10 of fireworks and adopt rules and regulations governing  
11 the displays.

12 (iii) To adopt, by ordinance, rules and regulations  
13 not inconsistent with State regulations relating to the  
14 storage of inflammable articles.

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

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

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

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

23 (i) In addition to licensing in accordance with  
24 Chapter 29 (relating to licenses and license fees), to  
25 prohibit, license and regulate by ordinance the  
26 following:

27 (A) The carrying on of any manufacture, art,  
28 trade or business which may be noxious or offensive  
29 and prejudicial to the public health or safety of the  
30 inhabitants.

1           (B) The establishment and maintenance of junk  
2           yards, salvage yards and other places used and  
3           maintained for the collection, storage and disposal  
4           of used or second-hand goods and materials.

5           (C) With respect to marketplaces:

6           (I) regulate markets whether for individual  
7           use or for resale;

8           (II) purchase and own ground;

9           (III) erect, establish and maintain  
10           marketplaces for which purposes parts of a street  
11           or sidewalk may be temporarily used;

12           (IV) contract with a person or association  
13           of persons, companies or corporations for the  
14           erection, maintenance and regulation of  
15           marketplaces, on terms and conditions, and in a  
16           manner, as the council may prescribe;

17           (V) provide and enforce suitable regulations  
18           respecting marketplaces;

19           (VI) provide for the payment of the cost or  
20           expense of marketplaces, either in whole or in  
21           part, out of the funds of the borough; and

22           (VII) levy and collect a suitable license  
23           fee from every person who may be authorized by  
24           council to occupy any portion of marketplaces or  
25           any portion of the streets or sidewalks for  
26           temporary market purposes.

27           (ii) Notwithstanding subparagraph (i), boroughs may  
28           prohibit, license and regulate businesses unless  
29           prohibited by law.

30           (21) To plan for and regulate the development of the

1 borough by:

2 (i) establishing and maintaining uniform building  
3 lines upon any or all borough streets under applicable  
4 law; and

5 (ii) utilizing powers delegated by the Pennsylvania  
6 Municipalities Planning Code and other applicable laws by  
7 adopting zoning, subdivision and land use and development  
8 regulations.

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

11 (A) Create and maintain a separate capital  
12 reserve fund for anticipated legal capital  
13 expenditures. The money in the fund shall be used,  
14 from time to time, for the construction, purchase,  
15 replacement of or expansion of municipal buildings,  
16 equipment, machinery, motor vehicles or other capital  
17 assets of the borough and for no other purpose.

18 (B) Appropriate money from the general borough  
19 funds to be paid into the capital reserve fund or  
20 place in the fund any money received from the sale,  
21 lease or other disposition of any borough property or  
22 from any other source, unless received or acquired  
23 for a particular purpose. The fund shall be  
24 controlled, invested, reinvested and administered and  
25 the money expended for any of the purposes for which  
26 the fund is created in a manner as may be determined  
27 by council. The money in the fund, when invested,  
28 shall be invested in securities designated by 53  
29 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness  
30 and borrowing) as legal investments for sinking funds



1           of municipalities.

2           (ii) This paragraph shall not be construed to limit  
3           the powers of the borough to the use of money in the  
4           capital reserve fund in making lawful capital  
5           expenditures.

6           (23) To create and maintain a separate operating reserve  
7           fund from which appropriations may be made to meet  
8           emergencies involving the health, safety and welfare of the  
9           residents of the borough, to counterbalance potential budget  
10           deficits resulting from shortfalls in anticipated revenues or  
11           program receipts from whatever source, or to provide  
12           anticipated operating expenditures related either to the  
13           planned growth of existing projects or programs or to the  
14           establishment of new projects or programs if, for a project  
15           or program appropriations, have been made and allocated to a  
16           separate restricted account established within the operating  
17           reserve fund. Council may annually make appropriations from  
18           the general fund to the operating reserve fund, but no  
19           appropriation may be made to the operating reserve fund if  
20           the effect of the appropriation would cause the fund to  
21           exceed 5% of the estimated revenues of the borough's general  
22           fund in the current fiscal year. The operating reserve fund  
23           shall be invested, reinvested and administered in a manner  
24           consistent with the provisions of section 1316 (relating to  
25           investment of funds).

26           (24) To enter into agreements with other political  
27           subdivisions, in accordance with existing laws, in making  
28           joint purchases of materials, supplies or equipment and in  
29           performing governmental powers, duties and functions and in  
30           carrying into effect provisions of 53 Pa.C.S. Ch. 23 Subch. A

1 (relating to intergovernmental cooperation), and agreements  
2 with the proper authorities of municipal corporations,  
3 regional police or fire forces or other public safety or  
4 governmental entities created by two or more municipal  
5 corporations under 53 Pa.C.S. Ch. 23 Subch. A (relating to  
6 intergovernmental cooperation), either for mutual aid or  
7 assistance in police and fire protection or any other public  
8 safety services, or for the furnishing to or receiving from  
9 the municipal corporations or governmental entities police  
10 and fire protection or any other public safety services, and  
11 to make appropriations for public safety services. In  
12 connection with agreements for police or fire protection or  
13 any other public safety services, it shall not be necessary  
14 to advertise for bids or receive bonds as required for  
15 contracts under existing law. When an agreement has been  
16 entered into, the police, firefighters, fire police or any  
17 other public safety services of the employing municipal  
18 corporation or governmental entity shall have the powers and  
19 authority conferred by law on police, firefighters, fire  
20 police or any other public safety services in the territory  
21 of the municipal corporation which has contracted to secure  
22 the service.

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

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

29 (i) To appropriate an amount as may be necessary to  
30 secure insurance or compensation in accordance with

1 Article VI of the act of June 2, 1915 (P.L.736, No.338),  
2 known as the Workers' Compensation Act, for:

3 (A) volunteer firefighters of companies duly  
4 recognized by the borough, by motion or resolution,  
5 killed or injured while going to, returning from or  
6 attending fires or while performing their duties as  
7 special fire police; and

8 (B) other borough employees as "employee" is  
9 defined in section 601 of the Workers' Compensation  
10 Act.

11 (ii) To make contracts of insurance with any  
12 insurance company, association or exchange authorized to  
13 transact business in this Commonwealth insuring borough  
14 employees or any class or classes of employees, or mayor  
15 and council or their dependents, under a policy or  
16 policies of insurance covering life, health,  
17 hospitalization, medical and surgical service or accident  
18 insurance.

19 (iii) To contract with an insurance company,  
20 granting annuities or pensions, for the pensioning of  
21 borough employees or any class or classes of employees,  
22 and to agree to pay part or all of the premiums or  
23 charges for carrying the contracts and to appropriate  
24 money from the borough treasury for those purposes.

25 (iv) To make contracts with any insurance company,  
26 association or exchange authorized to transact business  
27 in this Commonwealth to insure any public liability of  
28 the borough and to appropriate money from the borough  
29 treasury for that purpose.

30 (v) Nothing in this paragraph shall affect any

1 contract, right or coverage of insurance vested or  
2 existing on July 16, 2012. Contract, as used in this  
3 paragraph, includes an annuity contract if the option to  
4 renew continues to provide the same rights to the  
5 annuitant that existed on July 16, 2012.

6 (27) To contract with a company owning, leasing or  
7 operating a light rail or similar transportation system,  
8 whether surface, elevated or underground, within the limits  
9 of the borough, for the acquisition, leasing or regulation of  
10 the franchises, properties, powers, duties and liabilities of  
11 the company for the purpose of providing public  
12 transportation. A contract may provide that the companies may  
13 make payments to the borough in lieu of the performance of  
14 certain duties or may include a provision that municipal  
15 consent shall not be granted to any other company for the  
16 same services covered by the contract. A contract may also  
17 provide, subject to any required approval by the Pennsylvania  
18 Public Utility Commission and consistent with the  
19 jurisdictional limits established under 49 U.S.C. (relating  
20 to transportation), for the laying, installation or removal  
21 of tracks or lines, to prevent the laying or installation of  
22 otherwise authorized tracks or lines or to change the route  
23 of any tracks or lines for the consideration and upon  
24 conditions as may be agreed upon. Council may acquire,  
25 maintain and operate any existing inclined plane passenger  
26 transportation facilities and may acquire or may establish  
27 vehicular feeder lines for those facilities.

28 (28) To do any of the following:

29 (i) Acquire land or buildings by purchase, gift,  
30 exchange or eminent domain.

1           (ii) Erect a building or lease land or buildings,  
2 within the borough limits, for community purposes or for  
3 public facilities such as comfort and waiting stations  
4 and drinking fountains.

5           (iii) Erect watering troughs.

6           (iv) Maintain the public facilities.

7           (v) Provide for the payment of the cost and  
8 maintenance of the items under this paragraph from the  
9 funds of the borough.

10          (29) To provide a lockup for the temporary detention of  
11 persons.

12          (30) To display the flag of the United States or of the  
13 Commonwealth, the official POW/MIA flag or the flag of any  
14 county, city, borough or other municipality in this  
15 Commonwealth on the public buildings or grounds and in public  
16 places of the borough.

17          (31) To provide for parking as follows:

18           (i) to acquire by lease, purchase or eminent domain  
19 any land that the council may deem necessary or desirable  
20 for the purpose of establishing and maintaining parking  
21 lots;

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

23           (iii) to regulate parking and provide parking  
24 accommodations to promote the convenience and protection  
25 of the public; and

26           (iv) to establish or designate, at the discretion of  
27 the council, areas exclusively reserved for parking by  
28 handicapped individuals and to post signs regulating the  
29 areas.

30          The right to regulate the use of the lots shall include the

1 right to impose fines and fees for violation of any law or  
2 ordinance regulating parking. Regulation of parking lots  
3 shall be consistent with 75 Pa.C.S. (relating to vehicles)  
4 and the act of October 27, 1955 (P.L.744, No.222), known as  
5 the Pennsylvania Human Relations Act.

6 (32) To acquire by purchase or by gift and to repair,  
7 supervise, operate and maintain ancient landmarks and other  
8 property of historical or antiquarian interest and to make  
9 appropriations to nonprofit associations or corporations  
10 organized for the purpose of acquiring and maintaining  
11 historical properties. The appropriations shall only be used  
12 by the association or corporation for the acquisition,  
13 restoration and maintenance of the historical properties.

14 (33) To provide against all hazards of war, terrorism  
15 and other disasters and their consequences, and for those  
16 purposes to have the power of eminent domain, to cooperate  
17 with any other unit and agency of government, Federal, State  
18 or local in every lawful way for purposes of defense against  
19 the hazards of war and terrorism and to further provide  
20 against the hazards of manmade or natural disasters in  
21 conjunction with the powers applicable to boroughs in 35  
22 Pa.C.S. Pt. V (relating to emergency management services).

23 (34) (i) To purchase vehicles and other equipment  
24 necessary for the towing of motor vehicles, tractors,  
25 trailers, recreational trailers and other vehicles from  
26 highways, roads, streets and public property of the  
27 borough.

28 (ii) To impose fees for towing if the towing  
29 equipment is used for the lawful removal of motor  
30 vehicles, tractors, trailers, recreational trailers and

1 other vehicles from highways, roads, streets and public  
2 property of the borough.

3 (iii) To authorize or contract with commercial  
4 towers that agree to tow vehicles for a negotiated price  
5 as the official towers for the borough for the lawful  
6 removal of motor vehicles, tractors, trailers,  
7 recreational trailers and other vehicles from highways,  
8 roads, streets and public property of the borough in  
9 accordance with Federal and State law.

10 (iv) To impose fees in the same manner as authorized  
11 when the towing is performed with borough vehicles and  
12 equipment.

13 A commercial tower that agrees not to charge in excess of the  
14 negotiated price and is otherwise lawfully authorized to tow  
15 vehicles in accordance with Federal and State law shall be  
16 put on an official rotation list for the borough if council  
17 provides for a list. This paragraph shall apply only when the  
18 borough is requesting a vehicle to be towed. In all other  
19 cases, the owner or operator of a vehicle shall be permitted  
20 to select and pay for the tower.

21 (35) To purchase or contribute to the purchase of fire  
22 engines and fire apparatus, boats, rescue and lifesaving  
23 equipment and supplies for the use of the borough for fire,  
24 rescue and lifesaving services, including community ambulance  
25 service, and to appropriate money for fire companies and  
26 rescue units located within the borough, including for the  
27 construction, repair and maintenance of buildings for fire  
28 companies and rescue units, and to acquire land for those  
29 purposes. Appropriations may include funds to establish,  
30 equip, maintain and operate lawfully organized or

1 incorporated fire training schools within the county or  
2 regional firefighters' associations or an entity created  
3 pursuant to 53 Pa.C.S. Ch. 23 Subch. A for the purpose of  
4 giving instruction and practical training in the prevention,  
5 control and fighting of fire and related fire department  
6 emergencies to the members of fire departments and volunteer  
7 fire companies in any municipal corporation within this  
8 Commonwealth. Annual appropriations may also be made to an  
9 ambulance service, or council may enter into contracts for  
10 use in providing community ambulance service.

11 (36) To appropriate money for the expense of municipal  
12 music.

13 (37) To accept, purchase and plant or contribute to the  
14 purchasing and planting of shade trees along the streets and  
15 sidewalks of the borough and to have the care, custody and  
16 control of shade trees pursuant to Chapter 27 (relating to  
17 recreation places, shade trees and forests).

18 (38) To appropriate money for the support of any  
19 incorporated hospital that is engaged in charitable work and  
20 extends treatment and medical attention to residents of the  
21 borough, but no appropriation shall exceed in any year the  
22 cost of free service extended to residents of the borough  
23 that is in excess of any amount paid by the Commonwealth  
24 towards free service.

25 (39) To appropriate money toward the maintenance and  
26 support of any medical center or hospital building and  
27 further appropriate from the funds toward the purchase and  
28 erection of medical or hospital facilities. When the total  
29 cost of the purchase or erection exceeds \$100,000, it will  
30 necessitate approval by the appropriate health planning



1 agency.

2 (40) To appropriate money annually for the expense of  
3 community nurse services to any nonprofit associations or  
4 corporations that provide community nursing services for the  
5 elderly and other needy persons, the control of communicable  
6 disease, the immunization of children, the operation of child  
7 health centers (Well-Baby Clinics), instructive visits to  
8 parents of new babies, beginning in the prenatal period, and  
9 family health guidance, including nutrition, detection and  
10 correction of defects all of which relate to the  
11 responsibilities of local boards of health.

12 (41) To appropriate in any year out of the general funds  
13 of the borough for the observance of holidays or centennials  
14 or other anniversaries or for borough celebrations or other  
15 civic projects or programs.

16 (42) To appropriate from borough funds money for the  
17 handling, storage and distribution of surplus foods obtained  
18 through either a Federal, State or local agency. All  
19 appropriations of money made by any borough for the handling,  
20 storage and distribution of surplus foods obtained through  
21 either a Federal, State or local agency are validated.

22 (43) To make appropriations to an industrial development  
23 agency.

24 (44) To appropriate money annually to any tourist  
25 promotion agency, as defined in the act of July 4, 2008  
26 (P.L.621, No.50), known as the Tourism Promotion Act, to  
27 assist the agencies in carrying out tourist promotional  
28 activities.

29 (45) To appropriate money to assist any municipality or  
30 municipal airport authority to acquire, establish, operate

1 and maintain any and all air navigation facilities lying  
2 either within or without the limits of the borough.

3 (46) To issue nondebt revenue bonds pursuant to  
4 provisions of 53 Pa.C.S. Pt. VII Subpt. B to provide  
5 sufficient money for and toward the acquisition,  
6 construction, reconstruction, extension or improvement of  
7 municipal facilities, including water systems or facilities,  
8 sewers, sewer systems and sewage disposal systems or  
9 facilities, systems for the treatment or disposal of garbage  
10 and refuse, gas plants or gas distribution systems for its  
11 own municipal purposes, electric light or power plants or  
12 power distribution systems, aeronautical facilities,  
13 including, but not limited to, airports, terminals and  
14 hangars and park and recreational facilities and parking lots  
15 and facilities to be secured solely by the pledge of the  
16 whole or part of the rent, toll or charge for the use or  
17 services of the facilities. Included in the cost of the issue  
18 may be any costs and expenses incident to construction and  
19 financing the facilities and selling and distributing the  
20 bonds.

21 (47) To offer rewards for the arrest and conviction of  
22 persons guilty of capital or other crimes within the borough.

23 (48) To appropriate funds for urban common carrier mass  
24 transportation purposes from current revenues and to make  
25 annual contributions to county departments of transportation  
26 or to urban common carrier mass transportation authorities to  
27 assist the departments or the authorities to meet costs of  
28 operation, maintenance, capital improvements and debt service  
29 and to enter into long-term agreements providing for the  
30 payment of the contributions.

1           (49) To undertake community development programs,  
2 including, but not limited to, urban renewal, public housing,  
3 model cities programs and neighborhood development projects.

4           (50) To sell to a nonprofit medical service corporation  
5 borough-owned:

6           (i) real property for its exclusive use as a site  
7 for a medical service facility; and

8           (ii) personal property for use at the medical  
9 service facility.

10          (51) To sell to a nonprofit housing corporation borough-  
11 owned:

12          (i) real property for its exclusive use for housing  
13 for the elderly; and

14          (ii) personal property for its use at the nonprofit  
15 housing corporation.

16          (52) To make grants annually to nonprofit art  
17 corporations for the conduct of their artistic and cultural  
18 activities. For the purposes of this paragraph, the term  
19 "nonprofit art corporation" shall mean a local arts council,  
20 commission or coordinating agency or any other nonprofit  
21 corporation engaged in the production or display of works of  
22 art, including the visual, written or performing arts.

23 Artistic and cultural activities include the display or  
24 production of theater, music, dance, painting, architecture,  
25 sculpture, arts and crafts, photography, film, graphic arts  
26 and design and creative writing.

27          (53) To appropriate annually an amount toward a  
28 neighborhood crime watch program. Notwithstanding any other  
29 provision of law, no borough or official of a borough may  
30 become subject to contractual, tort or other liability as a

1 result of having made an appropriation under this paragraph.

2 (54) To appropriate funds for programs that benefit  
3 senior citizens or make grants to civic organizations that  
4 represent senior citizens, provide services to senior  
5 citizens or of which its members are senior citizens.

6 (55) To appropriate money to nonprofit watershed  
7 associations for watersheds serving the borough.

8 Appropriations may not be used to undertake litigation  
9 against any municipality or to seek redress against any  
10 individual landowner.

11 (56) To ensure that fire and emergency medical services  
12 are provided within the borough by the means and to the  
13 extent determined by the borough, including the appropriate  
14 financial and administrative assistance for these services.  
15 The borough shall consult with fire and emergency medical  
16 services providers to discuss the emergency services needs of  
17 the borough. The borough shall require any emergency services  
18 organization receiving borough funds to provide to the  
19 borough an annual itemized listing of all expenditures of  
20 these funds before the borough may consider budgeting  
21 additional funding to the organization.

22 (57) To appropriate money to the conservation district,  
23 as defined in the act of May 15, 1945 (P.L.547, No.217),  
24 known as the Conservation District Law, in which the borough  
25 is located.

26 (58) To require the owner, operator or superintendent of  
27 every mine, colliery or quarry located wholly or partially  
28 within the limits of the borough to furnish to the borough  
29 maps, plans and drawings of workings, excavations and surface  
30 support as the council may require. In the case of coal mines

1 and collieries, the map or plan shall exhibit the workings or  
2 excavations in every seam of coal on a separate sheet and the  
3 tunnels and passages connecting with the workings or  
4 excavations. It shall show in degrees the general inclination  
5 of the strata, with any material deflection in the strata in  
6 the workings or excavations, and shall also show the tidal  
7 elevations of the bottom of every shaft, slope, tunnel and  
8 gangway and of any other point in the mine or on the surface  
9 where the elevation shall be deemed necessary by the borough.  
10 The map or plan shall show the number of the last survey on  
11 the gangways or the most advanced workings. Every owner,  
12 operator or superintendent of a mine, colliery or quarry  
13 shall update, at least once every three months, the pertinent  
14 maps, plans and drawings to reflect any extensions made in  
15 any mine, colliery or quarry during the three preceding  
16 months, except those made within 30 days immediately  
17 preceding the time of placing the extensions upon the map or  
18 drawing. A borough engineer, assistant or other person  
19 authorized by council may enter and survey any mine, colliery  
20 or quarry within the limits of the borough, at all reasonable  
21 times, but not so as to impede or obstruct the workings of  
22 the mine, colliery or quarry. The owner, operator or  
23 superintendent of the mine, colliery or quarry shall furnish  
24 the means necessary for the entry, survey and exit.

25 (59) To petition the court of common pleas for the  
26 appointment of viewers to assess the total cost of an  
27 improvement as set forth in Chapter 21A (relating to  
28 assessments and charges for public improvements). The viewers  
29 shall assess the total cost of the improvement, or so much of  
30 the cost as may be just and reasonable, upon the lands or

1 properties peculiarly benefited.

2 (60) To authorize any borough to:

3 (i) purchase, own, use, operate and control any  
4 natural gas well or wells for the purpose of supplying  
5 natural gas for its own municipal purposes; and

6 (ii) purchase, own, use, operate and control natural  
7 gas works.

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

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

29 (63) To provide the following:

30 (i) telecommunications services to the extent that

1 provision of services is not inconsistent with 66 Pa.C.S.  
2 Ch. 30 (relating to alternative form of regulation of  
3 telecommunications services); and

4 (ii) cable television services in a manner  
5 consistent with Federal law.

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

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

1 assumpsit was brought. The action in assumpsit shall be  
2 commenced either within six years after the completion of the  
3 improvement from which the claim arises or within six years  
4 after the water or sewer rates or the cost of abating a  
5 nuisance first became payable.

6 § 1203. Reserved powers.

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

14 CHAPTER 13

15 TAXATION AND FINANCE

16 Sec.

17 1301. Fiscal year.

18 1302. Tax levy.

19 1302.1. Different and separate tax levies.

20 1303. Special levy to pay debts.

21 1304. Special road fund tax.

22 1305. Date tax duplicate to issue.

23 1306. Additions and revisions to duplicates.

24 1307. Preparation of budget.

25 1308. Notice of proposed budget and penalty.

26 1309. Revision and completion of budget.

27 1310. Adoption of budget.

28 1310.1. Tax ordinance.

29 1311. Amending budget and notice.

30 1312. Modification of budget and supplemental appropriations



1           and transfers.

2 1313. Payment from borough funds.

3 1313.1. Creation of special funds and investments.

4 1314. Uniform financial report and forms.

5 1315. Capital improvements to certain public service  
6           facilities.

7 1316. Investment of funds.

8 1317. (Reserved).

9 § 1301. Fiscal year.

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

12 § 1302. Tax levy.

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

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

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

28           (3) To defray the cost and expenses of caring for shade  
29 trees as provided in section 2720.1 (relating to maintenance  
30 by borough and tax levy) and the expense of publishing the

1 notice referred to in section 2720.1, not exceeding one-tenth  
2 mill.

3 (4) For lighting and illuminating the streets, highways  
4 and other public places, not exceeding eight mills.

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

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

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

28 (ii) If an annual tax for the purposes specified in  
29 this paragraph is proposed to be set at a level higher  
30 than three mills, the question shall be submitted to the

1 voters of the borough, and the county board of elections  
2 shall frame the question in accordance with the election  
3 laws of this Commonwealth for submission to the voters of  
4 the borough.

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

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

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

22 (b) Amount.--The taxes shall be levied on the dollar on the  
23 valuation assessed for county purposes, as now is or may be  
24 provided by law. All real property, offices, professions and  
25 persons made taxable by the laws of this Commonwealth for county  
26 rates and levies may, in the discretion of council, be taxed  
27 after the same manner for those purposes. An action on the part  
28 of the borough authorities fixing the tax rate for any year at a  
29 mill rate shall not be required to include a statement  
30 expressing the rate of taxation in dollars and cents on each

1 \$100 of assessed valuation of taxable property.

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

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

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

26 § 1302.1. Different and separate tax levies.

27 (a) General rule.--A borough may in any year levy separate  
28 and different rates of taxation for municipal purposes on all  
29 real estate classified as nonfarmland, exclusive of the  
30 buildings on the real estate, and on all real estate classified

1 as either buildings on land or farmland. When real estate tax  
2 rates are so levied:

3 (1) The rates shall be determined by the requirements of  
4 the borough budget.

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

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

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

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

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

27 "Nonfarmland." Any tract of land that is not farmland.  
28 § 1303. Special levy to pay debts.

29 In addition to the levies provided for in section 1302.1  
30 (relating to different and separate tax levies) if the council

1 refuses or neglects to levy a sufficient tax to pay the debts  
2 due by the borough, a court may, after ascertaining the amount  
3 of the indebtedness of the borough, direct a writ of mandamus to  
4 the proper officers of the borough to collect by special  
5 taxation an amount sufficient to pay the indebtedness in one or  
6 more annual installments, as determined reasonable by the court.  
7 § 1304. Special road fund tax.

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

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

27 § 1305. Date tax duplicate to issue.

28 Council shall, within 30 days after adoption of the budget or  
29 within 30 days after receipt of the assessment roll from the  
30 county, whichever is later, issue their duplicate of taxes

1 assessed to the collector of taxes of the borough.

2 § 1306. Additions and revisions to duplicates.

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

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

27 § 1307. Preparation of budget.

28 Beginning at least 30 days prior to the adoption of the  
29 budget, a proposed budget or annual estimate of revenues and  
30 expenditures for the ensuing year shall be prepared in a manner

1 designated by the council. The proposed budget shall be kept on  
2 file with the borough secretary and be made available for public  
3 inspection by the borough secretary for a period of ten days.  
4 § 1308. Notice of proposed budget and penalty.

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

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

19 § 1309. Revision and completion of budget.

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



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

8 § 1310. Adoption of budget.

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

12 § 1310.1. Tax ordinance.

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

19 § 1311. Amending budget and notice.

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

29 § 1312. Modification of budget and supplemental appropriations  
30 and transfers.

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

9 § 1313. Payment from borough funds.

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

18 § 1313.1. Creation of special funds and investments.

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

1 establishing a separate fund as authorized by this section must  
2 be deemed and taken as valid and effectual for all purposes if  
3 the other requirements of law concerning the enactment of the  
4 separate fund have been complied with.

5 § 1314. Uniform financial report and forms.

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

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

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

27 (d) Meetings.--The committee shall meet from time to time as  
28 conditions may warrant at the call of the Secretary of Community  
29 and Economic Development, or the secretary's designee, who shall  
30 serve as chair of the committee.

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

11 § 1315. Capital improvements to certain public service  
12 facilities.

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

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

22 (2) its water works, either singly or jointly, with  
23 other municipalities;

24 (3) its electric power plant or power distribution  
25 system; or

26 (4) its gas plant or gas distribution system for its own  
27 municipal purposes.

28 (b) Rates.--A borough issuing nondebt revenue bonds under  
29 the authority of this section shall adjust and, when necessary,  
30 increase the rates of rentals or charges pledged as security for

1 the bonds in order to provide sufficient revenue. The revenue  
2 must be set aside as reserve funds to cover depreciation of the  
3 properties involved and for future improvements to the plant or  
4 facility involved as well as for the payment of the interest on  
5 the bonds and the principal at the time of maturity.

6 § 1316. Investment of funds.

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

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

13 (c) Authorized types of investments.--Authorized types of  
14 investments for borough funds are:

15 (1) United States Treasury bills.

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

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

25 (4) Obligations of:

26 (i) the United States or its agencies or  
27 instrumentalities backed by the full faith and credit of  
28 the United States;

29 (ii) the Commonwealth or its agencies or  
30 instrumentalities backed by the full faith and credit of

1 the Commonwealth; or

2 (iii) a political subdivision of the Commonwealth or  
3 its agencies or instrumentalities backed by the full  
4 faith and credit of the political subdivision.

5 (5) Shares of an investment company registered under the  
6 Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. §  
7 80a-1 et seq.), whose shares are registered under the  
8 Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a et  
9 seq.), if the only investments of the company are in the  
10 authorized investments for borough funds listed in paragraphs  
11 (1) through (4).

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

26 (7) An investment authorized by 20 Pa.C.S. Ch. 73  
27 (relating to municipalities investments) must be an  
28 authorized investment for a pension or retirement fund.

29 (8) Bonds of a municipal authority or parking authority  
30 created solely by the borough for the purpose of either

1 investment or possible retirement of the bonds and  
2 acquisition of authority projects at an earlier date than  
3 originally contemplated, using for the purpose either surplus  
4 funds of the borough or money appropriated in the annual  
5 budget for the purpose.

6 (d) In making investments of borough funds, council has  
7 authority to:

8 (1) Permit assets pledged as collateral under subsection  
9 (c) (3), to be pooled in accordance with the act of August 6,  
10 1971 (P.L.281, No.72), entitled "An act standardizing the  
11 procedures for pledges of assets to secure deposits of public  
12 funds with banking institutions pursuant to other laws;  
13 establishing a standard rule for the types, amounts and  
14 valuations of assets eligible to be used as collateral for  
15 deposits of public funds; permitting assets to be pledged  
16 against deposits on a pooled basis; and authorizing the  
17 appointment of custodians to act as pledgees of assets."

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

25 (3) Join with one or more other political subdivisions  
26 and municipal authorities in accordance with 53 Pa.C.S. Ch.  
27 23 Subch. A (relating to intergovernmental cooperation) in  
28 the purchase of a single investment, provided the  
29 requirements of paragraph (2) are adhered to regarding  
30 separate accounting of individual funds and separate

1 computation, recording and crediting of the earnings from the  
2 funds.

3 § 1317. (Reserved).

4 CHAPTER 14

5 CONTRACTS

6 Sec.

7 1401. Power to make contracts.

8 1402. Regulation of contracts.

9 1403. Evasion of advertising requirements.

10 1404. Personal interest in contracts or purchases.

11 1404.1. Purchase contracts for petroleum products and fire  
12 company, etc., participation.

13 1405. Separate bids for plumbing, heating, ventilating and  
14 electrical work.

15 1406. Bonds for the protection of labor and materials.

16 1407. (Reserved).

17 1408. (Reserved).

18 1409. (Reserved).

19 1410. Acceptance by contractor of Workers' Compensation Act.

20 1411. (Reserved).

21 § 1401. Power to make contracts.

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

25 (b) Contracts and purchases.--Except as otherwise  
26 specifically provided in this title, all contracts and purchases  
27 must be made with and from the lowest qualified and responsible  
28 bidder. In awarding contracts and making purchases, council has  
29 the right to take into consideration such factors as the  
30 availability, cost and quality of service and may establish



1 prequalification standards for contracts and purchases. A  
2 prequalification standard must be reasonably designed to assist  
3 council in determining the ability of a bidder to successfully  
4 complete a contract or purchase.

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

10 § 1402. Regulation of contracts.

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

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

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

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

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

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

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

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

23           (4) In each successive year in which there is a positive  
24 percentage change in the CPI-U for the United States City  
25 Average, the positive percentage change must be multiplied by  
26 the most recent preliminary adjusted amounts, and the  
27 products must be added to the preliminary adjusted amount of  
28 the prior year to calculate the preliminary adjusted amounts  
29 for the current year. The sums must be rounded to the nearest  
30 \$100 to determine the new final adjusted base amounts for

1 purposes of subsections (a) and (a.1).

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

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

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

23 (8) The annual increase in the preliminary adjusted base  
24 amounts obtained under paragraphs (3) and (4) may not exceed  
25 3%.

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

27 (1) The award of contracts must be made by public  
28 announcement at the meeting at which bids are received, or at  
29 a subsequent meeting, the time and place of which shall be  
30 publicly announced when bids are received. If for any reason

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

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

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

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

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

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

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

21 (3.1) Those for used equipment, articles, apparatus,  
22 appliances, vehicles or parts of vehicles being purchased  
23 from a public utility, municipal corporation, county, school  
24 district, municipal authority, council of government or  
25 Federal or State Government.

26 (4) (i) Those involving a policy of insurance or a  
27 surety company bond.

28 (ii) Those made for utility service for borough  
29 purposes, including, but not limited to, those made for  
30 natural gas or telecommunications services.

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

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

15           (5) Those involving personal or professional services.

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

20           (i) A political subdivision.

21           (ii) Another state.

22           (iii) The Commonwealth or a Commonwealth agency.

23           (iv) The Federal Government.

24           (v) A private corporation.

25           (vi) An electric cooperative corporation under 15  
26 Pa.C.S. Ch. 73 (relating to electric cooperative  
27 corporations).

28           (vii) A nonprofit membership corporation. As used in  
29 this subparagraph, the term "nonprofit membership  
30 corporation" means an entity, the membership of which:

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

5           (B) consists of Commonwealth boroughs and  
6           political subdivisions of another state.

7           (viii) An electric cooperative of another state.

8           Nothing in this paragraph prohibits council from engaging in  
9           advertising, bidding or price quotations if the council  
10           determines that the advertising, bidding or price quotations  
11           are in the public interest.

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

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

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

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

21           (4) The act of January 23, 1974 (P.L.9, No.4), referred  
22           to as the Public Contract Bid Withdrawal Law.

23           (5) The act of March 3, 1978 (P.L.6, No.3), known as the  
24           Steel Products Procurement Act.

25           (6) The act of February 17, 1994 (P.L.73, No.7), known  
26           as the Contractor and Subcontractor Payment Act.

27           (7) 62 Pa.C.S. Pt. II (relating to general procurement  
28           provisions).

29           (f) Prohibition.--No person, consultant, firm or corporation  
30           contracting with the borough for purposes of rendering personal



1 or professional services to the borough may share with a borough  
2 officer or employee, and no borough officer or employee may  
3 accept, a portion of the compensation or fees paid by the  
4 borough for the contracted services provided to the borough  
5 except under the following terms or conditions:

6 (1) Full disclosure of the relevant information  
7 regarding the sharing of the compensation or fees must be  
8 made to the council of the borough.

9 (2) The council of the borough must approve the sharing  
10 of a fee or compensation for personal or professional  
11 services prior to the performance of the services.

12 (3) No fee or compensation for personal or professional  
13 services may be shared except for work actually performed.

14 (4) No shared fee or compensation for personal or  
15 professional services may be paid at a rate in excess of that  
16 commensurate for similar personal or professional services.

17 § 1403. Evasion of advertising requirements.

18 (a) Prohibition.--

19 (1) No member of council may evade section 1402  
20 (relating to regulation of contracts) as to advertising for  
21 bids by purchasing or contracting for services and personal  
22 properties piecemeal for the purpose of obtaining prices  
23 under the amount specified or adjusted under section 1402(a)  
24 upon transactions, which transactions should, in the exercise  
25 of reasonable discretion and prudence, be conducted as one  
26 transaction amounting to more than the amount specified or  
27 adjusted under section 1402(a).

28 (2) This subsection is intended to make unlawful the  
29 evading of advertising requirements by making a series of  
30 purchases or contracts, each for less than the advertising

1 requirement price, or by making several simultaneous  
2 purchases or contracts, each below the price, when, in either  
3 case, the transactions involved should have been made as one  
4 transaction for one price.

5 (3) Any members of council who vote in violation of this  
6 subsection and know that the transaction upon which they vote  
7 is or should be a part of a larger transaction and is being  
8 divided in order to evade the requirements as to advertising  
9 for bids shall be jointly and severally subject to surcharge  
10 for 10% of the full amount of the contract or purchase.

11 (4) If it appears that a member of council may have  
12 voted in violation of this section, but the purchase or  
13 contract on which the member of council voted was not  
14 approved by council, this section shall not apply.

15 (b) Penalty.--Any council member who votes to unlawfully  
16 evade the provisions of section 1402 and knows that the  
17 transaction upon which the member voted is or should be a part  
18 of a larger transaction and is being divided in order to evade  
19 the requirements as to advertising for bids commits a  
20 misdemeanor of the third degree for each contract entered into  
21 as a direct result of that vote. The penalty under this  
22 subsection shall be in addition to a surcharge that may be  
23 assessed under subsection (a).

24 § 1404. Personal interest in contracts or purchases.

25 Elected and appointed borough officials and borough employees  
26 are restricted from an interest in borough contracts and  
27 purchases to the extent provided in 65 Pa.C.S. Ch. 11 (relating  
28 to ethics standards and financial disclosure).

29 § 1404.1. Purchase contracts for petroleum products and fire  
30 company, etc., participation.

1 The council of each borough shall have power to permit,  
2 subject to terms and conditions as it may and, as specifically  
3 provided, shall, prescribe, a paid or volunteer fire company,  
4 paid or volunteer rescue company and paid or volunteer ambulance  
5 company in the borough to participate in purchase contracts for  
6 petroleum products entered into by the borough. A company  
7 desiring to participate in purchase contracts shall file with  
8 the borough secretary a request to authorize it to participate  
9 in contracts for the purchase of petroleum products of the  
10 borough and agreeing that it will be bound by the terms and  
11 conditions as the borough may and, as specifically provided,  
12 shall, prescribe and that it will be responsible for payment  
13 directly to the vendor under each purchase contract. Among the  
14 terms and conditions, the borough shall prescribe that the  
15 prices must be F.O.B. destination.

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

18 If, in the preparation for the erection, construction and  
19 alteration of a public building, the entire cost of the work  
20 exceeds the amount specified or adjusted under section 1402(a)  
21 (relating to regulation of contracts), the architect, engineer  
22 or other person preparing the specifications may, if requested  
23 by the council, prepare separate specifications for the  
24 plumbing, heating, ventilating and electrical work. The person  
25 authorized to enter into contracts for the erection,  
26 construction or alteration of the public buildings may, if the  
27 separate specifications have been proposed, receive separate  
28 bids upon each of the branches of work and shall award the  
29 contract to the lowest responsible bidder for each of the  
30 branches.

1 § 1406. Bonds for the protection of labor and materials.

2 Before a contract exceeding \$10,000 is awarded to a prime  
3 contractor or construction manager for the construction,  
4 erection, installation, completion, alteration, repair of or  
5 addition to a public work or improvement of any kind, the  
6 contractor shall furnish to the borough a payment bond for the  
7 protection of claimants supplying labor or materials to the  
8 prime contractor to whom the contract is awarded, at 100% of the  
9 contract amount, conditioned for the prompt payment of the  
10 materials furnished or labor supplied or performed in the  
11 prosecution of the contract under the act of December 20, 1967  
12 (P.L.869, No.385), known as the Public Works Contractors' Bond  
13 Law of 1967. The bond requirement is in addition to any other  
14 bond requirement required by law to be given in connection with  
15 the contract.

16 § 1407. (Reserved).

17 § 1408. (Reserved).

18 § 1409. (Reserved).

19 § 1410. Acceptance by contractor of Workers' Compensation Act.

20 (a) Contract provision.--A contract executed by a borough or  
21 an officer of a borough, which involves the construction or  
22 doing of work involving the employment of labor, must contain a  
23 provision that the contractor shall accept, insofar as the work  
24 covered by the contract is concerned, the provisions of the act  
25 of June 2, 1915 (P.L.736, No.338), known as the Workers'  
26 Compensation Act, and the supplements and amendments to the  
27 Workers' Compensation Act, and that the contractor will insure  
28 his liability under the act and will file with the borough with  
29 which the contract is made a certificate of insurance providing  
30 evidence of the coverage or file with the borough with which the

1 contract is made a certificate of exemption from insurance from  
2 the Bureau of Workers' Compensation of the Department of Labor  
3 and Industry. The certificate of exemption from insurance may be  
4 issued on the basis of either individual self-insurance or group  
5 self-insurance. Additionally, a contractor shall file with the  
6 borough with which the contract is made any applications to be  
7 excepted by the provisions of the Workers' Compensation Act in  
8 respect to certain employees on religious grounds if the  
9 applications have been accepted by the Department of Labor and  
10 Industry.

11 (b) Violation.--A contract executed in violation of  
12 subsection (a) is null and void.

13 § 1411. (Reserved).

14 CHAPTER 15

15 EMINENT DOMAIN, ASSESSMENT OF DAMAGES AND

16 DAMAGES FOR INJURY TO PROPERTY

17 Subchapter

18 A. General Provisions Relating to Eminent Domain

19 B. Procedure for Assessment of Benefits by Viewers

20 (Reserved)

21 C. Damages for Injury to Property

22 SUBCHAPTER A

23 GENERAL PROVISIONS RELATING

24 TO EMINENT DOMAIN

25 Sec.

26 1501. Exercise of eminent domain.

27 1502. Restrictions as to certain property.

28 1502.1. Declaration of intention.

29 1503. Application of 26 Pa.C.S.

30 § 1501. Exercise of eminent domain.

1 A borough may enter upon, appropriate, injure or destroy  
2 private lands, property or material, or lands previously granted  
3 or dedicated to public use that are no longer used for the  
4 purpose for which the lands were granted, according to the  
5 proceedings set forth in 26 Pa.C.S. (relating to eminent  
6 domain), for any of the following purposes:

7 (1) The laying out, opening, widening, extending,  
8 vacating, grading or changing the grades or lines of streets.

9 (2) The construction of bridges and the piers and  
10 abutments for bridges.

11 (3) The construction of slopes, embankments and sewers.

12 (4) The erection and extension of water systems, wharves  
13 and docks, public buildings, public auditoriums, memorials,  
14 monuments, public works, filtration plants, sewerage systems,  
15 sewage treatment works, refuse disposal or incineration  
16 plants, sanitary landfills, gas plants, electric plants and  
17 libraries.

18 (5) The establishing of parks, playgrounds and  
19 recreation places, the changing of watercourses.

20 (6) For all other purposes authorized by this part.

21 § 1502. Restrictions as to certain property.

22 (a) Historically significant property.--In addition to a  
23 restriction made by another provision of this part in a  
24 particular case, no borough may exercise the right of eminent  
25 domain against:

26 (1) land now occupied by a building that was used during  
27 the Colonial or Revolutionary period as a place of assembly  
28 by the Council of the Colony of Pennsylvania, the Supreme  
29 Executive Council of the Commonwealth of Pennsylvania or the  
30 Congress of the United States;



1 1563. (Reserved).

2 1564. (Reserved).

3 1565. (Reserved).

4 § 1561. Right to damages given in certain cases.

5 The right to damages against a borough is given to an owner  
6 or tenant of land, property or material, abutting on, or through  
7 which pass, streets, injured by the vacating of the streets, or  
8 the vacation of bridges and piers, abutments and approaches.

9 § 1562. (Reserved).

10 § 1563. (Reserved).

11 § 1564. (Reserved).

12 § 1565. (Reserved).

13 CHAPTER 16

14 LAND SUBDIVISION

15 (Reserved)

16 CHAPTER 17

17 STREETS

18 Subchapter

19 A. General Provisions

20 B. Plan of Streets

21 C. Laying out Streets

22 D. Opening, Acceptance and Vacation of Streets

23 E. Vacating Streets (Reserved)

24 F. Straightening and Relocating Streets

25 G. Improvement of Borough Streets

26 H. Improvement of Streets Outside or Partly Outside Borough

27 Limits

28 I. Acquisition or Use of Abutting Lands

29 SUBCHAPTER A

30 GENERAL PROVISIONS



1 Sec.  
2 1701. Definitions.  
3 1702. (Reserved).  
4 1703. (Reserved).  
5 1704. Streets connecting with street of other municipality.  
6 1705. Entry on land to maintain marks and monuments.  
7 1706. Exclusive nature of provisions.  
8 1707. Failure of council to hold hearing.  
9 1708. Street lighting, ornamental lighting and traffic control  
10 signals and devices.

11 § 1701. Definitions.

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

15 "Improving a street." The term includes work upon a street  
16 or portion thereof done or proposed to be done in order to open  
17 the street, if the street has not previously been opened or, if  
18 previously opened, to make the street more usable or more  
19 suitable for use by the traveling public or safer for the use.  
20 The term includes, but is not limited to, grading, paving,  
21 curbing and macadamizing.

22 "Laying out." The term includes the plotting of:

23 (1) An unopened street or portion of the street on a  
24 borough plan or official map adopted in accordance with the  
25 Pennsylvania Municipalities Planning Code on a subdivision or  
26 land development plan or by the enactment of an ordinance  
27 adopted in accordance with this chapter.

28 (2) An unopened street in a case where any of the lines  
29 of the street are proposed to be revised or in a case where  
30 the street was never previously laid out although the street

1 may have been opened and used.

2 "Opened streets." The term includes the streets within the  
3 borough used as public passageways.

4 "Opening a street." The term includes the construction and  
5 grading of a street or portion thereof and the act of physically  
6 taking possession of an area or laid-out street for the purpose  
7 of making the same usable to the traveling public.

8 "Person." The term includes a natural person, association,  
9 firm, corporation or political subdivision.

10 "Personal notice." The term includes notice upon the owner  
11 of a premises either by personal service upon the owner or by  
12 certified mail to the owner at the owner's last known address.  
13 Where service has not been successfully made by either of the  
14 two methods first mentioned, it may be made by leaving the  
15 notice at or upon the premises.

16 "Portion." The term includes a portion either of the width  
17 or length of a street. Opening a portion of a street may mean  
18 extending or widening a street and vacating a portion of a  
19 street may mean closing or narrowing a street.

20 "Street." The term includes a street, road, lane, court,  
21 cul-de-sac, alley, public way and public square, either for or  
22 intended for public use, and includes the cartway, sidewalk,  
23 gutter and the right-of-way area, whether or not the street or a  
24 part of the street is owned in fee by others than the borough.  
25 Streets are of two classes, opened and unopened.

26 "Unopened streets." The term includes the streets within the  
27 borough neither used as a public passageway, nor accepted or  
28 maintained, but plotted in one of the following:

29 (1) a borough plan or official map adopted in accordance  
30 with the Pennsylvania Municipalities Planning Code;

1           (2) an ordinance laying out the street in accordance  
2           with this chapter;

3           (3) a subdivision or land development plan; or

4           (4) an individual deed.

5   § 1702. (Reserved).

6   § 1703. (Reserved).

7   § 1704. Streets connecting with street of other municipality.

8           No action may be taken under this chapter that would result  
9           in the change of location or grade or the vacation of a street  
10           or portion thereof that connects with a street of another  
11           municipality, without approval of the court of common pleas of  
12           the county in which the municipality is located, unless the  
13           municipality first files with the borough secretary its approval  
14           of the proposed action.

15   § 1705. Entry on land to maintain marks and monuments.

16           The council, its agents and employees, may enter upon any  
17           land or property and maintain marks and monuments, so far as the  
18           council may deem necessary, in carrying out its powers and  
19           duties under this chapter.

20   § 1706. Exclusive nature of provisions.

21           No street may be dedicated, accepted, acquired, laid out,  
22           opened or vacated by a borough except under this chapter.

23   § 1707. Failure of council to hold hearing.

24           If, after the filing of a petition under this chapter,  
25           council fails to hold a required hearing, an aggrieved party may  
26           file a mandamus action in the court of common pleas requesting  
27           that a hearing be held.

28   § 1708. Street lighting, ornamental lighting and traffic  
29           control signals and devices.

30           Council may provide street lights and ornamental lighting and

1 make regulations for the protection of lighting. Council may  
2 assess the costs for the erection of lighting in accordance with  
3 Chapter 21A (relating to assessments and charges for public  
4 improvements). Council may provide for the erection, maintenance  
5 and operation of traffic control signals and devices in  
6 accordance with 75 Pa.C.S. (relating to vehicles).

7 SUBCHAPTER B

8 PLAN OF STREETS

9 Sec.

10 1711. (Reserved).

11 1712. Borough street plan.

12 § 1711. (Reserved).

13 § 1712. Borough street plan.

14 (a) Adoption of plan.--A borough that has not maintained an  
15 accurate plan of borough streets adopted in accordance with this  
16 part prior to July 16, 2012, may only adopt a plan of streets  
17 under the Pennsylvania Municipalities Planning Code, governing  
18 the adoption of an official map.

19 (b) Amendments to plan.--If a borough maintains a plan of  
20 streets adopted prior to July 16, 2012, or maintains an official  
21 map containing opened and unopened streets, a street laid out in  
22 accordance with this part by ordinance or by final approval of a  
23 subdivision or land development plan must be deemed an amendment  
24 to the plan. Notwithstanding any other provision of law, a  
25 deemed amendment as provided in this section and a subsequent  
26 placement of the street on a plan may not be subject to public  
27 notice or public hearing, if the street has been laid out in  
28 accordance with the requirements of this chapter.

29 (c) Prohibition.--The maintenance of a plan of streets or  
30 official map shall not be required in order for a borough to lay

1 out streets in accordance with section 1721.2(b) (relating to  
2 laying out streets and procedure) or lay out and open a street  
3 in accordance with section 1724 (relating to effect of laying  
4 out street).

5 SUBCHAPTER C

6 LAYING OUT STREETS

7 Sec.

8 1721. (Reserved).

9 1721.1. Power to lay out, open, etc.

10 1721.2. Laying out streets and procedure.

11 1722. (Reserved).

12 1723. (Reserved).

13 1724. Effect of laying out street.

14 § 1721. (Reserved).

15 § 1721.1. Power to lay out, open, etc.

16 (a) Authority of borough.--In accordance with the provisions  
17 of this chapter, boroughs may, with or without petition of  
18 abutting property owners, lay out, open, widen, straighten,  
19 alter, extend and improve, and may establish or reestablish the  
20 grades of, and keep in order and repair and in safe passable  
21 condition, a street or portion of a street within the borough  
22 limits or may vacate the street or portion of a street if deemed  
23 expedient for the public good and provide for the costs of  
24 alteration.

25 (b) Laying out or opening streets.--Boroughs may lay out or  
26 open:

27 (1) a street or portion of a street as it appears upon a  
28 borough plan or an official map adopted in accordance with  
29 the Pennsylvania Municipalities Planning Code or is described  
30 in an ordinance adopted in accordance with this chapter;

1       (2) a street or portion of a street that the borough  
2       determines to acquire by eminent domain;

3       (3) a street to which the public has acquired rights by  
4       constant use over a period exceeding 21 years; or

5       (4) a street or portion of a street, laid out or  
6       constructed by a person that the borough sees fit to open or  
7       accept as provided in this chapter.

8   § 1721.2. Laying out streets and procedure.

9       (a) Streets deemed to be laid out.--A street identified in a  
10      plan of streets, an official map adopted in accordance with the  
11      Pennsylvania Municipalities Planning Code or a recorded  
12      subdivision or land development plan is deemed to be laid out  
13      for purposes of this part.

14      (b) Future street opening.--A borough has the authority, by  
15      ordinance, to lay out an area for future opening as a public  
16      street. The proposed ordinance laying out the street must be  
17      advertised in a newspaper of general circulation once a week for  
18      two successive weeks. On or before the publication of the first  
19      advertisement, personal notice must be provided to the owners of  
20      a property abutting the proposed street or through which the  
21      proposed street is to be laid out, and, if the proposed street  
22      will lead into an adjacent municipality, a copy of the proposed  
23      ordinance must be sent to the adjacent municipality. The  
24      proposed ordinance must have appended to the ordinance or  
25      referenced a map sufficient to apprise the public of the  
26      proposed location, profile and dimensions of the street and must  
27      list the names of the owners of a property through which the  
28      proposed street has been laid out.

29      (c) Hearing, notice and enactment.--Within ten days after  
30      the second publication of the notice required under subsection

1 (b), an interested party may petition council for a hearing,  
2 which council shall hold within 60 days after the date of the  
3 petition. Council shall give at least 15 days' notice of the  
4 hearing in a newspaper of general circulation and by personal  
5 notice to persons entitled to the notice under subsection (b).  
6 Council may enact the ordinance no later than 30 days following  
7 the date of the hearing or, where no timely petition has been  
8 filed, within 30 days of the second publication of the notice  
9 required by subsection (b). The enactment of the ordinance  
10 constitutes public notice of the borough's intent to recognize  
11 the street within the system of borough streets and the  
12 borough's rights in the street. Within 30 days of the enactment  
13 of the ordinance, a party aggrieved by council's action may  
14 appeal to the court of common pleas.

15 (d) Filing of ordinance.--If, at the time of the enactment  
16 of an ordinance in accordance with subsection (c), the lines of  
17 the laid out street include property not subject to use as a  
18 public passageway, the ordinance must be filed with the recorder  
19 of deeds of the county where the borough is located. The  
20 recorder of deeds shall index the ordinance by name of borough,  
21 name of the property owner and, if applicable, parcel number of  
22 the property through which the proposed street is laid out.

23 (e) Landowners.--If a street has been laid out by ordinance  
24 as provided in this section, the owner or subsequent owner has  
25 no right to damages for buildings or improvements placed on  
26 streets after the date of enactment, and the buildings or  
27 improvements must be removed at the expense of the landowner  
28 after the opening of the street in accordance with this part.

29 (f) Laying out without opening.--The laying out of a street,  
30 without opening the street, creates no right to public use of

1 the street and does not constitute the taking or acceptance of a  
2 property or obligate the borough to improve or maintain the  
3 street or the property on which the street has been laid out.

4 (g) Previously laid out streets.--Nothing in this section  
5 may affect the validity or legal effect of a street laid out in  
6 accordance with law prior to July 16, 2012.

7 § 1722. (Reserved).

8 § 1723. (Reserved).

9 § 1724. Effect of laying out street.

10 (a) Street unopened after ten years.--At any time after a  
11 street or portion of the street has remained laid out but not  
12 opened for a period of ten years or longer, an owner of 50% of  
13 the front feet of the land over which the street or portion of  
14 the street was laid out may petition the council to cancel the  
15 laying out of the street. Following at least 15 days' notice in  
16 a newspaper of general circulation and at least 15 days'  
17 personal notice to the owners of the real estate abutting upon  
18 the land over which the street or portion of the street was laid  
19 out, council shall hold a public hearing on the matter. Council  
20 may, on motion, deny the petition or, by ordinance, grant the  
21 petition and cancel the laying out of the street. A person  
22 aggrieved by the decision of the council, either granting or  
23 denying the petition, may appeal it. The ordinance providing for  
24 the cancellation of the laying out of a street must be filed  
25 with the recorder of deeds in accordance with section 1721.2(d)  
26 (relating to laying out streets and procedure).

27 (b) Street unopened after 21 years.--If a street has been  
28 laid out and has not been opened to or used by the public for a  
29 period of 21 years, the street may not thereafter be opened  
30 without the consent of at least 51% percent of the number of



1 owners of the abutting real estate and without the consent of  
2 the owners of at least 51% of the property abutting the street,  
3 based on a front foot basis.

4 SUBCHAPTER D

5 OPENING, ACCEPTANCE AND

6 VACATION OF STREETS

7 Sec.

8 1731. Authority to open and vacate streets and procedure.

9 1732. Petition for opening or vacating street and action  
10 thereon.

11 1733. Action for damages and benefits and award.

12 1734. Acceptance and dedication of streets.

13 1735. Streets not to be constructed, dedicated or opened to  
14 travel without the approval of council.

15 1736. (Reserved).

16 1737. (Reserved).

17 § 1731. Authority to open and vacate streets and procedure.

18 (a) Authority of council authority.--By ordinance, council  
19 has the authority to:

20 (1) Open a street or portion of a street previously laid  
21 out or simultaneously to lay out and open a street or portion  
22 thereof. A street or portion of a street so opened is a  
23 public street of the borough.

24 (2) Vacate or close a street or portion of a street  
25 previously opened or laid out provided that no street or  
26 portion of a street providing the sole means of access to a  
27 tract of land is vacated without the consent of those to whom  
28 access would be denied. Vacation of a street terminates the  
29 public right in or to the street but does not affect a  
30 private right acquired by an owner of abutting property.

1     (b) Notice.--The proposed ordinance opening or vacating a  
2 street or portion of a street must be advertised in a newspaper  
3 of general circulation once a week for two successive weeks. On  
4 or before the publication of the first advertisement, personal  
5 notice must be provided to the owners of a property abutting the  
6 street proposed to be opened or vacated. The proposed ordinance  
7 must have appended to it or reference a map or survey sufficient  
8 to apprise the public of the proposed location, profile and  
9 dimensions of the street and must list the names of the owners  
10 of a property abutting the street.

11     (c) Hearing.--Within ten days after the second publication  
12 of the notice required under subsection (b), an interested party  
13 may petition council for a hearing, which council shall hold  
14 within 60 days after the date of the petition. Council shall  
15 give at least 15 days' notice of the hearing in a newspaper of  
16 general circulation and by personal notice to persons entitled  
17 to notice under subsection (b). Council may enact the ordinance  
18 no later than 30 days following the date of the hearing or,  
19 where no timely petition has been filed, within 30 days of the  
20 second publication of the notice required under subsection (b).  
21 Within 30 days of the enactment of the ordinance, any party  
22 aggrieved by council's action may appeal to the court of common  
23 pleas.

24 § 1732. Petition for opening or vacating street and action  
25 thereon.

26     (a) Petitioning council.--Any person or persons constituting  
27 a majority in number and interest of the owner of the real  
28 estate abutting upon an area not opened as a street or abutting  
29 upon an existing street or portion of a street may petition the  
30 council to:

1           (1) Open or lay out and open the area as a street or  
2           portion of a street.

3           (2) Vacate a street or portion of a street.

4           (b) Hearing and decision.--Council shall hold a hearing  
5           after receiving a petition filed with council in accordance with  
6           subsection (a), following at least 15 days' personal notice to  
7           the owners of abutting real estate not joining in the petition  
8           and following at least 15 days' notice thereof in a newspaper of  
9           general circulation. Following the hearing, council shall either  
10          by motion deny the petition or by ordinance open, lay out and  
11          open or vacate the street or portion of the street. The  
12          provisions of section 1731 (relating to authority to open and  
13          vacate streets and procedure) applicable to ordinances enacted  
14          by authority of that section apply to ordinances enacted by  
15          authority of this section.

16          (c) Release.--A petition for the vacation of a street or  
17          portion of a street may release the borough from the damages  
18          sustained as a result of the vacation if the petition is signed  
19          by the owners of the property abutting upon the street or  
20          portion of the street. Where the release has been included in  
21          the petition, no proceedings for award of damages may be had,  
22          and no damages as a result of the vacation may, under any  
23          conditions, be awarded to an abutting property owner.

24          § 1733. Action for damages and benefits and award.

25          (a) Authority of borough.--Upon the effective date of an  
26          ordinance enacted to open a street or portion of a street by  
27          authority of section 1731 (relating to authority to open and  
28          vacate streets and procedure) or 1732 (relating to petition for  
29          opening or vacating street and action thereon), the borough has  
30          authority to enter upon and take possession of the street or

1 portion of the street opened by the ordinance, if no structures  
2 are upon the street. If a structure has been located upon the  
3 street or portion of the street so opened, prior to the laying  
4 out of the street or prior to the simultaneous laying out and  
5 opening of the street, the street may not be opened until the  
6 owner of the structure has been given 60 days' personal notice  
7 to vacate the structure. Council may not be required to file any  
8 bond or security for the exercise of the right granted by this  
9 section.

10 (b) Limitation.--The parties whose ground is taken in the  
11 opening of a street or portion of the street have three years  
12 from and after the effective date of the ordinance opening the  
13 street or portion of the street in which to bring an action for  
14 damages resulting from the opening of the street or portion of  
15 the street. In case of the assessment of damages for the opening  
16 of a street or portion of the street, the award of damages, if  
17 any, includes:

18 (1) the damages resulting from the grade at which the  
19 street or portion of the street is to be opened; and

20 (2) the plan attached to the report of the viewers  
21 awarding the damages must include a profile plan showing the  
22 existing grade as well as the grade to which the street or  
23 portion of the street is to be opened.

24 Costs and expenses that cannot be assessed upon property  
25 benefited must be paid by the borough.

26 (c) No agreement on damages.--If the parties cannot agree  
27 upon damages sustained by reason of the opening or vacation of  
28 any street or portion of a street, the damages shall be assessed  
29 by a jury of view under the law governing eminent domain.

30 § 1734. Acceptance and dedication of streets.

1 (a) Accept an opened street.--A borough may, by ordinance,  
2 accept an opened street not previously dedicated to or laid out  
3 by the borough by following the procedure set forth in section  
4 1731 (relating to authority to open and vacate streets and  
5 procedure) or 1732 (relating to petition for opening or vacating  
6 street and action thereon), and the effect of the acceptance  
7 shall be the same as of opening the street. No street may be  
8 accepted unless the street connects with at least one other  
9 previously opened street or State highway.

10 (b) Prohibition.--No borough may acquire a right in or  
11 responsibility for a street privately constructed until  
12 dedication of the street has been presented to and accepted by  
13 the borough and until the dedication has been recorded in the  
14 county office for the recording of deeds.

15 § 1735. Streets not to be constructed, dedicated or opened to  
16 travel without the approval of council.

17 (a) Requirements.--No person may construct, dedicate or open  
18 to travel a street or a drainage facility in connection with the  
19 street for public use or travel or for the common use of  
20 occupants of buildings abutting thereon in a borough without  
21 first submitting suitable plans to the council and obtaining its  
22 approval. The plans must:

23 (1) be prepared in accordance with rules and regulations  
24 as may be prescribed by the council; and

25 (2) show the profiles of the street, the course,  
26 structure and capacity of a drainage facility, and the method  
27 of drainage of the adjacent or contiguous territory, and any  
28 other or further details that may be required under the rules  
29 or regulations adopted by the council.

30 (b) Pennsylvania Municipalities Planning Code.--The

1 Pennsylvania Municipalities Planning Code shall apply to the  
2 construction, security requirements and dedication of streets  
3 and connected drainage facilities if the streets proposed to be  
4 constructed are part of a plan required by an ordinance adopted  
5 under the Pennsylvania Municipalities Planning Code.

6 (c) Authority and duties of council.--

7 (1) Before acting upon plans not subject to review under  
8 subsection (b), council may, at its discretion, arrange for a  
9 public hearing after giving the notice as it may deem  
10 desirable in each case. Council may alter the plans and  
11 specify changes or modifications of any kind and may make its  
12 approval of the plans subject to alterations, changes or  
13 modifications. Plans, when so approved, must be:

14 (i) signed on behalf of the borough by the officer  
15 as the council may designate; and

16 (ii) must be filed where the plans are available for  
17 public inspection among the records of the borough at  
18 reasonable times.

19 (2) No approval of plans by council may obligate or  
20 require the borough to construct, reconstruct, maintain,  
21 repair or grade a street or drainage facilities associated  
22 therewith.

23 (d) No plan approved.--If the council refuses to approve any  
24 plans submitted to it, a person aggrieved by the action of  
25 council may, within 30 days after the action, appeal from the  
26 action by petition to the court of common pleas of the county,  
27 and the court shall hear the matter de novo. After hearing, the  
28 court may enter a decree affirming, reversing or modifying the  
29 action of the council as may appear just. The court shall  
30 designate the manner in which notice of the hearing of an appeal

1 shall be given to all parties interested. The decision of the  
2 court shall be final. A plan approved by the action of council  
3 or by the court on appeal must be recorded by the person  
4 applying for approval in the office of the recorder of deeds in  
5 the county.

6 (e) Restriction.--If a street or a drainage facility in  
7 connection with the street is opened, constructed or dedicated  
8 for public use or travel, except in strict accordance with a  
9 plan approved by the council or the court on appeal as provided  
10 in this chapter, neither the council nor any other public  
11 authority may place, construct or operate a sewer, drain, water  
12 pipe or other facility or do any work in or upon the street.  
13 Neither council nor any other public authority has a  
14 responsibility with respect to the street or drainage facility,  
15 notwithstanding the use of the street or drainage facility by  
16 the public. Nothing in this chapter prevents the laying of a  
17 trunk sewer, drain or water or gas main, if required by  
18 engineering necessity for the accommodation of other territory.

19 (f) Failure to comply with chapter.--A person who  
20 constructs, opens or dedicates a street or drainage facility in  
21 connection with a street, for public use or travel in a borough,  
22 without having first complied with this chapter is guilty of a  
23 misdemeanor of the third degree and is subject to a suit for the  
24 costs and damages incurred by the borough or property owners in  
25 the course of correcting the substantive violations of State law  
26 or borough ordinance resulting from or arising out of the  
27 unlawfully constructed street or facility. Nothing under this  
28 section may be construed to apply to the Department of  
29 Transportation.

30 § 1736. (Reserved).

1 § 1737. (Reserved).

2 SUBCHAPTER E

3 VACATING STREETS

4 (Reserved)

5 SUBCHAPTER F

6 STRAIGHTENING AND RELOCATING STREETS

7 Sec.

8 1751. Authority to straighten and relocate streets and  
9 procedure.

10 § 1751. Authority to straighten and relocate streets and  
11 procedure.

12 Council may, by ordinance, provide for straightening or  
13 relocating any street previously opened which involves the  
14 opening of a portion of the straightened or relocated street  
15 over land not previously a portion of the street or the vacation  
16 of a portion of the previously opened street no longer to be  
17 used for street purposes. The straightening or relocation shall  
18 be considered as an opening or vacation and shall be effected in  
19 the same manner and by the same procedure as provided in section  
20 1731 (relating to authority to open and vacate streets and  
21 procedure) but may be considered as a single proceeding to be  
22 effected by enactment of a single ordinance.

23 SUBCHAPTER G

24 IMPROVEMENT OF BOROUGH STREETS

25 Sec.

26 1761. Proceedings with or without petition.

27 1762. (Reserved).

28 1763. (Reserved).

29 § 1761. Proceedings with or without petition.

30 Boroughs may improve streets, parts of streets or a



1 particular width or additional widths of streets, with or  
2 without the assistance or contribution of the Federal  
3 Government, the Commonwealth, the county or a corporation  
4 occupying the thoroughfare, and may assess and collect the whole  
5 cost of improvement, the whole cost not aided or contributed or  
6 any part of the cost from the owners of real estate abutting on  
7 the improvement in accordance with Chapter 21A (relating to  
8 assessments and charges for public improvements).

9 § 1762. (Reserved).

10 § 1763. (Reserved).

11 SUBCHAPTER H

12 IMPROVEMENT OF STREETS OUTSIDE OR PARTLY

13 OUTSIDE BOROUGH LIMITS

14 Sec.

15 1771. Improvement of streets outside or partly outside borough  
16 limits.

17 1772. (Reserved).

18 1773. (Reserved).

19 1774. (Reserved).

20 1775. (Reserved).

21 § 1771. Improvement of streets outside or partly outside  
22 borough limits.

23 (a) General rule.--

24 (1) Any borough may enter into a written agreement with  
25 an adjoining municipality for improving streets, including  
26 streets that are boundaries between the borough and the  
27 municipality and may provide in the contract for the division  
28 of the damages, costs and expenses of the improvement.

29 (2) The borough may assess its share of the costs  
30 against the owner of property abutting upon the borough's

1 side of the improvement in the manner provided in Chapter 21A  
2 (relating to assessments and charges for public improvements)  
3 or may agree to pay any part of the costs, damages and  
4 expenses of the improvements out of the general funds.

5 (3) The portion of the damages, costs and expenses  
6 agreed to be paid by the borough shall be ascertained as  
7 provided in the law governing eminent domain.

8 (b) Street dividing borough and township.--

9 (1) If the center line of any street constitutes the  
10 dividing line between a borough and a township located in the  
11 same county, any agreement to improve and maintain the street  
12 shall be made with the governing bodies of the township and,  
13 if necessary, the county.

14 (2) The improvement shall be constructed and subsequent  
15 repairs shall be made under the supervision of the borough  
16 and in compliance with plans to be agreed upon, in writing,  
17 by the parties.

18 (3) One-half of the cost of the repairs shall be borne  
19 by the borough. The borough may assess its share of costs  
20 against the owners of real property abutting on the borough's  
21 side of the improvement in the manner provided in Chapter  
22 21A.

23 (c) Street dividing borough and any other municipality.--

24 (1) If any street, more than one-half the width or the  
25 entire width of which is within the limits of any borough,  
26 divides the borough from any other municipality, the street  
27 may be improved by the borough.

28 (2) The property abutting on the side of the street  
29 which is located outside the limits of the borough making the  
30 improvements may, for a depth of 150 feet, plus one-half the

1 width of the street, from its center line, be assessed for  
2 any and all municipal improvements to or on the street in  
3 accordance with Chapter 21A.

4 (d) Street outside limits of borough.--A borough may  
5 appropriate and expend money for the improvement of a street,  
6 not to exceed one mile in length, outside the limits of the  
7 borough for the purpose of connecting improved streets in the  
8 borough with State highways, interstate highways and county  
9 roads.

10 § 1772. (Reserved).

11 § 1773. (Reserved).

12 § 1774. (Reserved).

13 § 1775. (Reserved).

14 SUBCHAPTER I

15 ACQUISITION OR USE OF ABUTTING LANDS

16 Sec.

17 1781. (Reserved).

18 1782. Acquisition of property for unobstructed view.

19 § 1781. (Reserved).

20 § 1782. Acquisition of property for unobstructed view.

21 (a) General rule.--Any borough may, singly or jointly with  
22 another municipality, acquire, by purchase or by the right of  
23 eminent domain, a free and unobstructed view down and across  
24 lands located at or near the intersection of any two streets or  
25 highways or a street or highway and a railroad or railway or at  
26 a curve in any street or highway as may be necessary to  
27 accomplish the following:

28 (1) Assure a free and unobstructed view in all  
29 directions at the crossings.

30 (2) Prevent the use of the lands for any purpose or in

1 any manner which may interfere with or obstruct the view of  
2 persons traveling upon the street or highway.

3 (b) Obstructions to be abated or removed.--After  
4 condemnation, the borough may abate or remove or cause to be  
5 abated or removed any obstruction to the view over and across  
6 the lands except poles used in furnishing service to the public.

7 (c) Condemnation proceedings.--The proceedings for the  
8 condemnation of the view over and across lands and for the  
9 assessment of damages for property taken, injured or destroyed,  
10 or the portion thereof agreed to be paid by the borough if the  
11 taking is jointly with another municipality, shall be taken in  
12 the manner provided in the law governing eminent domain.

13 (d) Use of lands.--Upon the purchase or condemnation of a  
14 view, the owner of the lands may make every use of the lands as  
15 will not interfere with a free and unobstructed view at the  
16 dangerous crossing or curve.

17 CHAPTER 18

18 SIDEWALKS

19 Sec.

20 1800. Definitions.

21 1801. Power to lay out, establish and compel construction of  
22 sidewalks.

23 1802. Sidewalks on land abutting State highways and along roads  
24 outside borough.

25 1803. Establishment of grades.

26 1804. Boroughs may pay all or part of cost of grading and  
27 curbing.

28 1805. Borough may do work and collect cost.

29 1806. Emergency repairs to sidewalks.

30 § 1800. Definitions.

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

4 "Sidewalk." The portion of a street located outside the  
5 cartway and may include paved footway, unpaved grasslot, curb  
6 and gutter.

7 § 1801. Power to lay out, establish and compel construction of  
8 sidewalks.

9 (a) General rule.--

10 (1) Any borough may, by ordinance, lay out and establish  
11 sidewalks, curbs, gutters and surface water drains along any  
12 street and, with the consent of the Secretary of  
13 Transportation, along any State highway.

14 (2) The borough may also require owners of property  
15 abutting on any street or State highway to grade, construct,  
16 drain, pave and repave the sidewalk, curb or gutter and keep  
17 them in repair and in safe and usable condition along the  
18 property at the grades and under the regulations and  
19 specifications as council may prescribe.

20 (b) (Reserved).

21 § 1802. Sidewalks on land abutting State highways and along  
22 roads outside borough.

23 Any borough may, by ordinance, lay out sidewalks, gutters,  
24 and surface water drains upon land abutting the sides of State  
25 highways and upon land abutting the sides of public roads, where  
26 the roads are outside the borough limits, but the land upon  
27 which the sidewalks, gutters and surface water drains are to be  
28 laid out is within the borough limits.

29 § 1803. Establishment of grades.

30 Any borough may establish a grade or grades for sidewalks,

1 which may be separate and apart from the grade or grades  
2 established for the cartway or roadway.

3 § 1804. Boroughs may pay all or part of cost of grading and  
4 curbing.

5 The borough may pay all or any part of the cost and expenses  
6 of grading and curbing any sidewalk.

7 § 1805. Borough may do work and collect cost.

8 (a) General rule.--Upon the failure of any property owner to  
9 comply with any of the requirements in sections 1801 (relating  
10 to power to lay out, establish and compel the construction of  
11 sidewalks), 1802 (relating to sidewalks on land abutting State  
12 highways and along roads outside borough), 1803 (relating to  
13 establishment of grades) and 1804 (relating to boroughs may pay  
14 all or part of cost of grading and curbing), the borough may,  
15 after notice, cause the grading, paving, repairing, curbing and  
16 guttering to be done at the cost of the owner. The borough may  
17 collect the cost of the work and an additional 10% of the cost,  
18 together with all charges and expenses, from the owner and may  
19 file a municipal claim for the amounts or collect the amounts by  
20 action in assumpsit.

21 (b) Notices.--

22 (1) All notices shall be served upon the owner of the  
23 premises to which the notice refers, if the owner is a  
24 resident of the borough. If the owner is not a resident, then  
25 the notice may be served upon the agent or tenant of the  
26 owner or upon the occupant of the premises. If the owner has  
27 no agent or tenant or there is no occupier of the premises,  
28 then service shall be by notice posted upon the premises.

29 (2) The notice required by this section shall specify a  
30 period of time of not less than 30 days for the owner to

1 complete the specified work. If the work has not been  
2 completed after the specified time has elapsed, the owner  
3 shall be deemed to have failed to comply.

4 § 1806. Emergency repairs to sidewalks.

5 (a) General rule.--

6 (1) In addition to the remedies now vested in boroughs  
7 to make repairs to sidewalks, any borough shall have power to  
8 make emergency repairs to any sidewalks within the borough if  
9 an inspection of the sidewalk discloses that, and a  
10 certificate made by the officer or head of the department or  
11 committee lawfully having charge of sidewalk repairs  
12 specifies that, a dangerous condition exists that can be  
13 repaired by an expenditure of not more than \$1,000.

14 (2) Before repairs are made, a notice to make the  
15 repairs within 48 hours shall be served upon the owner of the  
16 property. If the owner cannot be served within the county,  
17 notice may be served upon the agent of the owner or the party  
18 in possession or, if there is no agent or party in  
19 possession, the notice may be served by posting the same upon  
20 the premises.

21 (b) Cost.--

22 (1) Upon the completion of the work, the cost shall be a  
23 charge against the owner of the property and shall be a lien,  
24 until paid, upon the abutting property if a claim is filed.  
25 The charge may also be collected by action of assumpsit.

26 (2) This section is intended to provide an additional  
27 remedy for boroughs in connection with emergency repairs,  
28 where the actual cost of doing the work does not exceed  
29 \$1,000. The certificate of the officer or head of the  
30 department or committee in charge of repairs to sidewalks

1 shall be conclusive evidence of the existence of the  
2 emergency justifying the repair under the terms of this  
3 section.

4 CHAPTER 19

5 BRIDGES, VIADUCTS AND

6 UNDERGROUND PASSAGEWAYS

7 Sec.

8 1901. Construction or acquisition and maintenance of bridges  
9 and viaducts.

10 1902. Right to appropriate property and assessment of damages.

11 1903. Boundary bridges.

12 1904. Contracts with railroads, other companies and counties.

13 1905. Overhead and underground passageways.

14 § 1901. Construction or acquisition and maintenance of bridges  
15 and viaducts.

16 (a) Authority.--Any borough may locate and build, or acquire  
17 by purchase, condemnation or otherwise, any bridge or viaduct  
18 and the piers, approaches and abutments for the bridge or  
19 viaduct, to be used and thereafter improved and maintained as a  
20 street, over any river, creek, stream, railroad or public or  
21 private property or over and across a combination of any of  
22 them, whether the bridge or viaduct shall be wholly or partly  
23 within the borough limits.

24 (b) Proceedings.--The proceedings for laying out and opening  
25 a bridge or viaduct shall be the same as provided by this part  
26 for the laying out and opening of streets, and the bridge or  
27 viaduct or portion of the bridge or viaduct may thereafter be  
28 vacated under the same procedure as provided in this part for  
29 the relocation or vacation of streets or portions of streets.

30 § 1902. Right to appropriate property and assessment of



1 damages.

2 In any case where the borough does not agree with the owner  
3 or owners for damages done or likely to be done by the erection  
4 of a bridge or viaduct, the borough may take and appropriate the  
5 land and property necessary to erect the bridge or viaduct. The  
6 damages caused by the taking and appropriation shall be assessed  
7 according to 26 Pa.C.S. (relating to eminent domain).

8 § 1903. Boundary bridges.

9 If a bridge or viaduct crosses the boundary line of a borough  
10 and another municipality, the borough may enter into an  
11 intergovernmental cooperation agreement in accordance with 53  
12 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental  
13 cooperation) with the municipality in the construction and  
14 maintenance of the bridge and shall apportion the costs  
15 according to the intergovernmental agreement.

16 § 1904. Contracts with railroads, other companies and counties.

17 (a) General rule.--

18 (1) The borough may enter into a contract with the  
19 county commissioners, railroads, street railways and other  
20 companies or interested parties for the building and  
21 maintenance of bridges or viaducts and for the payment of any  
22 damages caused by the location or erection thereof.

23 (2) The contracts may stipulate that the county,  
24 borough, railroad company, street railway or other company or  
25 interested party shall pay a certain part of the contract  
26 price of the work, including damages, or may stipulate that  
27 each shall construct a certain portion of the work and may  
28 provide otherwise for the payment of damages.

29 (b) Payment.--

30 (1) When any railroad company, street railway or other

1 company or interested party agrees to pay a certain portion  
2 of the cost of the work, it shall pay the portion into the  
3 borough treasury. The borough treasurer shall pay the amount  
4 over to the contractor, as may be provided in the contract.  
5 The amount to be paid by the county shall be paid directly to  
6 the contractor.

7 (2) The agreement may provide for the maintenance of the  
8 bridges and viaducts after their erection. Nothing under this  
9 section shall authorize any borough to contract with a county  
10 for the maintenance of any bridge or viaduct which does not  
11 cross a place over which the county is authorized to build  
12 bridges. The bridge or viaduct shall be maintained as a  
13 borough structure, and the borough may contract with any  
14 party interested, except the county, for the maintenance of  
15 the bridge or viaduct.

16 (3) Nothing in this section shall affect the powers or  
17 duties of the Pennsylvania Public Utility Commission to the  
18 extent otherwise provided by law.

19 § 1905. Overhead and underground passageways.

20 If the comfort and safety of the residents of a borough and  
21 an adjoining municipality are enhanced by any overhead or  
22 underground passageway connecting with adjoining streets in  
23 either the borough or the municipality and extending to any  
24 plant or place of business where residents of the borough are  
25 employed, the borough may, jointly with each adjoining  
26 municipality, construct and maintain any passageway or may join  
27 with other interests in the construction and maintenance of the  
28 passageway.

29 CHAPTER 20

30 SANITARY SEWERS

1 Subchapter

2 A. Laying Out, Construction and Operation of Sanitary Sewers  
3 and Construction of Sewage Treatment Works

4 B. Joint Sanitary Sewers

5 C. Power to Supply Sewerage Service Outside Borough Limits  
6 (Reserved)

7 D. Acquisition of Community Collection or Disposal Systems

8 E. Connection and Use of Sanitary Sewers

9 F. Monthly, Quarterly or Annual Rentals

10 G. Sewers on Boundary Streets (Reserved)

11 SUBCHAPTER A

12 LAYING OUT, CONSTRUCTION AND

13 OPERATION OF SANITARY SEWERS

14 AND CONSTRUCTION OF

15 SEWAGE TREATMENT WORKS

16 Sec.

17 2000. Definitions.

18 2001. Power to lay out and construct.

19 2002. Assessments.

20 2003. (Reserved).

21 2004. (Reserved).

22 2005. (Reserved).

23 2006. (Reserved).

24 2007. (Reserved).

25 2008. (Reserved).

26 2009. Extensions beyond borough limits and eminent domain.

27 2010. Notice of certain ordinances.

28 2011. (Reserved).

29 2012. Unlawful to build within right-of-way of sanitary sewers.

30 2013. Opening sanitary sewers.

1 § 2000. Definitions.

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

5 "Combined sewer." A sewer used for the receiving and  
6 collecting of sewage and liquid waste from the inside of  
7 buildings and structures, storm water, roof or surface drainage,  
8 sump pump discharge and draining from foundation drains.

9 "Sanitary sewer" or "sanitary sewer system." A sewer or  
10 sewers used for receiving and collecting sewage matter and  
11 liquid waste from the inside of buildings and structures. Storm  
12 water shall not be permitted to enter into a sanitary sewer. A  
13 sanitary sewer or sanitary sewer system does not include a  
14 combined sewer.

15 "Sewer system." Either a sanitary sewer or a combined sewer  
16 and includes pump stations and force mains.

17 § 2001. Power to lay out and construct.

18 (a) General rule.--

19 (1) Upon enactment of an ordinance, boroughs may lay out  
20 and construct sanitary sewers and branches of sanitary sewers  
21 in streets and on public or private property and may  
22 construct sewage treatment works on land owned or acquired  
23 for those purposes. Boroughs may pay the costs and expenses  
24 of sanitary sewer systems and treatment works out of borough  
25 funds or may assess the costs and expenses pursuant to  
26 Chapter 21A (relating to assessments and charges for public  
27 improvements).

28 (2) Boroughs may determine the location and the manner  
29 in which sanitary sewer systems shall be constructed.  
30 Sanitary sewers laid and constructed in streets may be

1 located in the center of the street or in the right-of-way or  
2 the curb lines of the street and may be for the service and  
3 use of properties on both sides of the street or on only one  
4 side of the street in which they are laid, as directed by the  
5 council. Boroughs shall have the authority to lay out and  
6 construct sanitary sewers in any street, any portion of which  
7 is within the limits of the borough and which forms a portion  
8 of the boundary dividing the borough from any other municipal  
9 corporation within the same county, in the same manner and to  
10 the same extent as if the whole of the street was within the  
11 limits of the borough.

12 (3) If any borough is maintaining and operating a  
13 sanitary sewer system and sewage treatment works, it shall be  
14 lawful for the borough to supply sewerage service to  
15 municipalities, persons and corporations outside the limits  
16 of the borough and to enter into contracts for service at  
17 rates not less than those required to be paid by persons and  
18 corporations within the limits of the borough. This privilege  
19 shall not conflict with the rights of any sewer company or  
20 the rights of any other borough.

21 (b) Consent.--

22 (1) If required by other law, a borough shall obtain the  
23 consent and permit of the Department of Environmental  
24 Protection or other Federal, State or county entity,  
25 including the Pennsylvania Turnpike Commission, for the  
26 laying out and construction of a sanitary sewer and treatment  
27 works.

28 (2) Where construction beyond the limits of the borough  
29 is entirely within the limits of a State or county highway or  
30 the turnpike, a sanitary sewer may be constructed in or under

1 the State or county highway or turnpike if written notice is  
2 given to the Department of Transportation, county  
3 commissioners or Pennsylvania Turnpike Commission,  
4 respectively, and consent is obtained before construction is  
5 commenced. Permission shall not be unreasonably withheld.

6 (c) Regulations.--Council may, by ordinance, make  
7 regulations respecting the use and maintenance of the sanitary  
8 sewer system and treatment works. Violations of the ordinance  
9 may be enforced by penalties. The regulations may do all of the  
10 following:

11 (1) Specify materials and substances which may or may  
12 not enter the public sewer or sewer system.

13 (2) Require that certain types or classes of waste be  
14 subjected to treatment or to grinding or other reduction in  
15 size before entering into the sewer.

16 (3) Restrict the quantity of waste material that may  
17 enter a sanitary sewer from any premises within any time  
18 interval.

19 (4) Require that property owners provide means other  
20 than the public sanitary sewers for disposal of storm,  
21 surface and roof water originating or accumulating upon their  
22 property.

23 § 2002. Assessments.

24 Assessments, whether based according to benefits conferred or  
25 by the front foot basis, and assessment awards, if any, shall be  
26 calculated pursuant to Chapter 21A (relating to assessments and  
27 charges for public improvements).

28 § 2003. (Reserved).

29 § 2004. (Reserved).

30 § 2005. (Reserved).

1 § 2006. (Reserved).

2 § 2007. (Reserved).

3 § 2008. (Reserved).

4 § 2009. Extensions beyond borough limits and eminent domain.

5 The borough may extend the necessary sewer mains, pipes and  
6 outlets beyond the limits of the borough to a point where the  
7 sewage is to be disposed or collected and received. The borough  
8 shall have power to enter upon and condemn land for the  
9 construction of all sewer mains, outlets and treatment works as  
10 may be necessary for the disposal or the collection of the  
11 sewage, if the extension is in conformity with 26 Pa.C.S. § 206  
12 (relating to extraterritorial takings) and any other applicable  
13 requirement of 26 Pa.C.S. (relating to eminent domain).

14 § 2010. Notice of certain ordinances.

15 No ordinance for any construction of sewers or treatment  
16 works beyond the limits of the borough shall be enacted until  
17 notice of the ordinance has been given in all of the following  
18 manners:

19 (1) By publication of the proposed ordinance, once a  
20 week for four weeks in one newspaper of general circulation.

21 (2) By serving copies of the proposed ordinance at least  
22 ten days before the enactment of the ordinance upon all land  
23 owners through whose land the sewer is to pass or on whose  
24 lands any treatment works are to be located.

25 § 2011. (Reserved).

26 § 2012. Unlawful to build within right-of-way of sanitary  
27 sewers.

28 It shall be unlawful for any person to erect any building or  
29 make any improvement within the right-of-way of any sanitary  
30 sewer after due notice of the laying out of the sanitary sewer,

1 and, if any erection or improvement shall be made, no allowance  
2 shall be had for the building or improvement in the assessment  
3 of damages.

4 § 2013. Opening sanitary sewers.

5 (a) General rule.--A proceeding to open a sanitary sewer  
6 shall be void if a borough:

7 (1) lays out any sanitary sewer over or under private  
8 property which is located in whole or in part within the  
9 limits of the borough; and

10 (2) does not proceed to open the sanitary sewer and to  
11 assess the damage arising therefrom within two years from the  
12 enactment of the ordinance.

13 (b) Exception.--If a borough has laid out a sanitary sewer  
14 without the enactment of an ordinance prior to July 16, 2012,  
15 and has not opened the sanitary sewer, the proceedings shall not  
16 be deemed to be void. The borough shall have two years from July  
17 16, 2012, to open the sanitary sewer or the whole proceeding  
18 shall be void.

19 SUBCHAPTER B

20 JOINT SANITARY SEWERS

21 Sec.

22 2021. Joint sanitary sewer systems.

23 2022. (Reserved).

24 2023. Connections with sanitary sewers of adjacent  
25 municipalities.

26 2024. Applications to court.

27 2025. Appointment of viewers.

28 2026. Report of viewers and appeals to court.

29 § 2021. Joint sanitary sewer systems.

30 (a) General rule.--Pursuant to 53 Pa.C.S. Ch. 23 Subch. A



1 (relating to intergovernmental cooperation), boroughs may  
2 contract with other municipal corporations providing for the  
3 joint construction or maintenance of sanitary sewer systems and  
4 for the joint construction onto existing sanitary sewer systems.  
5 The agreement shall provide for the apportionment of costs among  
6 the municipal corporations. The council may assess the borough's  
7 respective portion of the costs, as may be legally assessable,  
8 upon property benefited by the facilities pursuant to Chapter  
9 21A (relating to assessments and charges for public  
10 improvements). Any portion of the cost not assessed or  
11 assessable shall be paid by the respective municipal  
12 corporations under the agreement.

13 (b) Composition of joint sanitary sewer board.--

14 (1) The municipal corporations joining or contemplating  
15 joining in any improvement, in order to facilitate the  
16 building of the sanitary sewer system and in securing  
17 preliminary surveys and estimates, may, by ordinance, provide  
18 for the appointment of a joint sanitary sewer board composed  
19 of one representative from each of the municipal corporations  
20 joining. The board shall act as the advisory and  
21 administrative agency in the construction of the improvement  
22 and its subsequent operation and maintenance.

23 (2) Members of the joint sanitary sewer board shall  
24 serve for terms of six years each from the dates of their  
25 respective appointments and until their successors are  
26 appointed. The joint sanitary sewer board shall organize by  
27 the election of a chair, secretary and treasurer. The  
28 secretary and treasurer may be the same person.

29 (3) The municipal corporations may in the ordinances  
30 creating the joint sanitary sewer board authorize the board

1 to appoint an engineer, a solicitor and other assistants as  
2 are deemed necessary and agree to the share of the  
3 compensation of those persons each municipal corporation is  
4 to pay.

5 (4) The members of the joint sanitary sewer board shall  
6 receive compensation for attending board meetings as  
7 established in the budget that is prepared by the joint  
8 sanitary sewer board and submitted to and adopted by the  
9 municipal corporations. The members shall be entitled to  
10 actual expenses to be paid by the respective municipal  
11 corporations the members represent.

12 (c) Powers of the joint sanitary sewer board.--

13 (1) The joint sanitary sewer board may adopt rules and  
14 regulations consistent with the requirements of this part to  
15 govern its proceedings and shall prepare and suggest any  
16 practical measures and plans by which the joint improvement  
17 may be carried to successful completion and plan the future  
18 development of the system, so as to conform to a general  
19 plan.

20 (2) The joint sanitary sewer board may prepare a joint  
21 agreement or agreements for submission to and adoption by the  
22 municipal corporations defining the advisory and  
23 administrative powers of the joint sanitary sewer board and  
24 setting forth the following:

25 (i) Consents of the municipal corporations to the  
26 proposed improvement.

27 (ii) The manner in which preliminary and final  
28 plans, specifications and estimates for the proposed  
29 improvement shall be prepared and adopted.

30 (iii) How proposals for bids shall be advertised and

1 contracts awarded.

2 (iv) The manner in which the costs of the  
3 improvement and other incidental and preliminary expenses  
4 in connection with the improvement and the future cost of  
5 operation and maintenance shall be equitably shared,  
6 apportioned and paid.

7 (v) All other matters, including the preparation and  
8 submission of annual and other budgets, as may be deemed  
9 necessary or required by law to complete the proposed  
10 improvement and to assure future maintenance and  
11 operation thereof.

12 (3) The joint sanitary sewer board may not make any  
13 improvement or spend any public money which has not first  
14 been authorized by all of the municipal corporations  
15 proceeding with the improvement.

16 (d) Eminent domain.--

17 (1) When it is necessary to acquire, appropriate, injure  
18 or destroy private property to build a joint sanitary sewer  
19 system or improvement and the property cannot be acquired by  
20 purchase or gift, the right of eminent domain shall vest in  
21 the municipal corporation where the property is located.

22 (2) When it is necessary to acquire, injure or destroy  
23 property in any territory not within the limits of any of the  
24 municipal corporations joining in the improvement, the right  
25 of eminent domain shall be vested in the municipal  
26 corporation adjacent to the territory where the property is  
27 located subject to 26 Pa.C.S. § 206 (relating to  
28 extraterritorial takings).

29 (3) Damages for any property taken, injured or destroyed  
30 shall be assessed under laws relating to the municipal

1 corporation exercising the right of eminent domain and shall  
2 be paid by the municipal corporations joining in the same  
3 proportion as other costs of the improvements.

4 (e) Indebtedness.--Each of the boroughs joining in the  
5 improvement shall have power to incur or increase its  
6 indebtedness, not exceeding the constitutional limits, for the  
7 purpose of paying its share or portion of the cost of the  
8 improvement in the manner now provided by law for the incurring  
9 of indebtedness.

10 § 2022. (Reserved).

11 § 2023. Connections with sanitary sewers of adjacent  
12 municipalities.

13 A borough may connect with an existing sanitary sewer, owned  
14 by an adjacent municipality, for sewerage purposes in the manner  
15 prescribed in sections 2024 (relating to applications to court),  
16 2025 (relating to appointment of viewers) and 2026 (relating to  
17 report of viewers and appeals to court).

18 § 2024. Applications to court.

19 If a borough desires to connect with the existing sanitary  
20 sewer of an adjacent municipality and no agreement, either upon  
21 the basis of a rental payment for the use of an existing  
22 sanitary sewer or a division of the cost of the construction or  
23 maintenance of the sanitary sewer, has been reached between the  
24 borough and the adjacent municipality, an application shall be  
25 made by council to the court of common pleas of the county where  
26 the proposed connection is to be located, setting forth that  
27 fact.

28 § 2025. Appointment of viewers.

29 If the court determines that the connection can be made  
30 without impairing the usefulness of the existing sanitary sewer,

1 it shall appoint three viewers who shall:

2 (1) View the premises and investigate the facts of the  
3 case.

4 (2) Assess the proportionate part of the expense of  
5 building the original sanitary sewer upon the borough.

6 (3) Fix the proportion of the expense for repairs which  
7 each municipality shall thereafter bear.

8 (4) Determine all other questions liable to arise in  
9 connection with the sanitary sewer.

10 § 2026. Report of viewers and appeals to court.

11 The viewers shall report to the court the result of their  
12 investigation. The report shall be confirmed within 30 days  
13 unless exceptions are filed. After confirmation of the report or  
14 the disposal of any exceptions, any party interested may appeal  
15 from the decision of the court of common pleas.

16 SUBCHAPTER C

17 POWER TO SUPPLY SEWERAGE SERVICE

18 OUTSIDE BOROUGH LIMITS

19 (Reserved)

20 SUBCHAPTER D

21 ACQUISITION OF COMMUNITY COLLECTION

22 OR DISPOSAL SYSTEMS

23 Sec.

24 2040. Definitions.

25 2041. (Reserved).

26 2041.1. Power to acquire community sewage collection or  
27 disposal systems.

28 2042. (Reserved).

29 2043. Community sewage collection or disposal systems.

30 § 2040. Definitions.

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

4 "Community sewage collection or disposal system." All or  
5 part of a device or devices installed on any privately or  
6 publicly owned parcel of land intended to treat or dispose of  
7 the sewage or equivalent volume of domestic sewage from two or  
8 more residences, buildings or occupied parcels of land, or any  
9 system of piping used in collection and conveyance of sewage on  
10 private or public property.

11 § 2041. (Reserved).

12 § 2041.1. Power to acquire community sewage collection or  
13 disposal systems.

14 (a) General rule.--A borough may, by ordinance, acquire  
15 ownership of a community sewage collection or disposal system by  
16 purchase or by the exercise of eminent domain pursuant to 26  
17 Pa.C.S. (relating to eminent domain) or by gift from the owner  
18 or owners.

19 (b) Assessment of costs and expenses.--In eminent domain  
20 proceedings, the viewers shall assess the costs and expenses of  
21 the community sewage collection or disposal system acquired by  
22 the borough upon the property or properties benefited according  
23 to benefits. Any deficiency that is not assessed upon the  
24 benefited property or properties shall be paid by the borough.

25 § 2042. (Reserved).

26 § 2043. Community sewage collection or disposal systems.

27 (a) General rule.--After a community sewage collection or  
28 disposal system has been acquired under this subchapter by the  
29 borough, the council shall have the power to enlarge the system  
30 if it deems it advisable. The cost and expenses of the

1 enlargement may be distributed or assessed in the same manner as  
2 if the enlargement was a regular sewer constructed by the  
3 borough under other provisions of this part.

4 (b) Acquisition and ownership.--If a community sewage  
5 collection or disposal system is established or constructed  
6 within a borough by a private owner or owners and the council is  
7 thereafter empowered by ordinance to acquire the ownership of  
8 the sewage disposal system, or when the system has been enlarged  
9 by the borough, the acquisition and ownership shall be subject  
10 to the following provisions:

11 (1) An agreement shall be considered a valid agreement  
12 by the owners of the sewage collection or disposal system and  
13 shall be a transfer of ownership to the borough when any of  
14 the following enter into an agreement with the borough for  
15 the acquisition of the system by the borough:

16 (i) The person or persons having established or  
17 constructed a community sewage collection or disposal  
18 system.

19 (ii) More than one-half of the number of owners of  
20 properties which are connected with, have a right to use  
21 and are using a community collection or disposal system.

22 (2) The borough shall operate and maintain any sewage  
23 collection or disposal system acquired and any enlargement or  
24 addition thereto for the use of the following:

25 (i) Persons having acquired from the borough or from  
26 the former owner or owners the right to use the system.

27 (ii) Other owners of property accessible to the  
28 system up to the capacity of the sewage collection or  
29 disposal system.

30 (3) All persons whose property connects with the sewage

1 collection or disposal system acquired or constructed by the  
2 borough shall pay to the borough treasurer a monthly,  
3 quarterly, semiannual or annual charge prescribed by a  
4 resolution of the council. The amount of the charges shall  
5 not be in excess of the estimated amount necessary to  
6 maintain and operate the system and to establish a reserve  
7 fund sufficient for its future replacement.

8 (4) All sewer rentals or charges imposed by the council  
9 against properties connected with a community sewage  
10 collection or disposal system under this section shall  
11 constitute liens against the properties and may be collected  
12 in the same manner as other sewer charges.

13 (5) All money received from the sewer charges shall be  
14 deposited as a special reserve fund and shall be used only  
15 for the payment of the cost of operating and maintaining the  
16 sewage collection or disposal system and the replacement of  
17 the collection or disposal system, if necessary and  
18 economically desirable. If, at any time after the acquisition  
19 or enlargement of the community sewage system, a regular  
20 sewer system is made available by the borough for connection  
21 with the properties using the community sewage collection or  
22 disposal system, the owners of the properties shall be  
23 subject to the other provisions of this part relating to  
24 sewers, and all money at that time in the reserve fund which  
25 was received from charges for the use of that particular  
26 sewage collection or disposal system and which is over and  
27 above the amount expended for the operation and maintenance  
28 of that particular sewage collection or disposal system shall  
29 be used towards the payment of any sewer assessments charged  
30 against the properties under other sections of this part.



1 (c) Construction.--Nothing in this section may be construed  
2 to supersede the requirements of the act of January 24, 1966  
3 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage  
4 Facilities Act.

5 SUBCHAPTER E

6 CONNECTION AND USE OF SANITARY SEWERS

7 Sec.

8 2051. Ordinances to require sanitary sewer connections.

9 2052. (Reserved).

10 2053. Tapping fees.

11 2054. (Reserved).

12 § 2051. Ordinances to require sanitary sewer connections.

13 A borough may, by ordinance, require any owner of property  
14 benefited, improved or accommodated by a sanitary sewer to make  
15 connections with the sanitary sewer, in the manner as the  
16 borough may order, for the purpose of discharge of drainage or  
17 waste matter as the borough may specify. All connections  
18 required shall be uniform. The owner shall be given at least 45  
19 days' notice of any ordinance requiring a sanitary sewer  
20 connection. Upon failure of the owner to make the connection,  
21 the borough may make the connection and collect the cost from  
22 the owner by a municipal claim or by an action of assumpsit. The  
23 borough may by penalties enforce any ordinance it enacts with  
24 reference to any sanitary sewer connections.

25 § 2052. (Reserved).

26 § 2053. Tapping fees.

27 The following shall apply to tapping fees:

28 (1) Any borough may, by ordinance, provide for charging  
29 a tapping fee if the owner of any property connects the  
30 property with a sanitary sewer system constructed or acquired

1 by the borough if the tapping fee is calculated in accordance  
2 with 53 Pa.C.S. § 5607 (relating to purposes and powers). The  
3 tapping fee shall be in addition to any charges assessed and  
4 collected against the property in the construction or  
5 acquisition of the sanitary sewer by the borough.

6 (2) If a sanitary sewer system or any part or extension  
7 of a sanitary sewer system owned by a borough has been  
8 constructed by the borough at the expense of a private person  
9 or corporation or has been constructed by a private person or  
10 corporation under the supervision of the borough at the  
11 expense of the private person or corporation, the borough  
12 shall have the right to charge a tapping fee calculated in  
13 accordance with 53 Pa.C.S. § 5607 and refund the tapping fee  
14 or any part of the fee to the person or corporation who has  
15 paid for the construction of the sanitary sewer system or any  
16 part or extension of the sanitary sewer system in accordance  
17 with 53 Pa.C.S. § 5607. The total of the refunds shall never  
18 exceed the cost of the system or any part or extension of the  
19 system to the person or corporation paying for the  
20 construction of the system or any part or extension of the  
21 system.

22 (3) Where the property connected or to be connected with  
23 the sanitary sewer system of the borough is not equipped with  
24 a water meter, the borough may install a meter at its own  
25 cost and expense. If the property is supplied with water from  
26 the facilities of a public water supply agency, the borough  
27 shall not install a meter without the consent and approval of  
28 the public water supply agency.

29 § 2054. (Reserved).

30 SUBCHAPTER F

1                   MONTHLY, QUARTERLY OR ANNUAL RENTALS

2 Sec.

3 2061. Ordinance for monthly, quarterly or annual rental.

4 2062. Rental amount.

5 2063. Collection of rental.

6 2064. (Reserved).

7 § 2061. Ordinance for monthly, quarterly or annual rental.

8     If a borough constructs any sanitary sewer, sewer system or  
9 sewage treatment works or acquires, wholly or partially, the  
10 same at public expense, as authorized in this chapter, the  
11 council may provide, by ordinance, for the collection of a  
12 monthly, quarterly or annual rental or charge or a fixed sum for  
13 the use of the sanitary sewer, sewer system or sewage treatment  
14 works from the owner of property served by it.

15 § 2062. Rental amount.

16     (a) Included amounts.--The monthly, quarterly or annual  
17 rental may include:

18         (1) The amount expended monthly, quarterly or annually  
19 by the borough in maintenance, repair, alteration,  
20 inspection, depreciation or other expense of the sanitary  
21 sewer, sewer system or sewage treatment works.

22         (2) Interest on money expended or borrowed by the  
23 borough in the construction of the sanitary sewer, sewer  
24 system or sewage treatment works or in the acquisition,  
25 enlargement or extension of the sanitary sewer or sewer  
26 system.

27         (3) An amount sufficient for the amortization of debt  
28 incurred by the borough for the purpose of construction of a  
29 sanitary sewer, sewer system or sewage treatment works or for  
30 the purpose of acquisition, enlargement or extension of a

1 sanitary sewer or sewer system.

2 (b) Apportionment.--The monthly, quarterly or annual amount  
3 or fixed sum shall be apportioned equitably among the properties  
4 served by the sanitary sewers, sewer system or sewage treatment  
5 works.

6 § 2063. Collection of rental.

7 (a) General rule.--The monthly, quarterly or annual rental  
8 or charge or the fixed sum shall be authorized and collected as  
9 provided by general ordinances and, if levied and charged, shall  
10 be a lien on the properties charged from the date set forth in  
11 the ordinance. If the rental, charge or fixed sum is not paid  
12 after 30 days' notice, it may be collected by an action of  
13 assumpsit in the name of the borough against the owner of the  
14 property charged or by a lien filed in the nature of a municipal  
15 lien.

16 (b) Collection.--The council shall execute a warrant or  
17 warrants, authorizing the collection of the monthly, quarterly  
18 or annual sewer rentals or charges, or the fixed sum, to the  
19 officer employed by council to collect the same. The officer  
20 shall have the authority now vested by law for the collection of  
21 borough taxes.

22 § 2064. (Reserved).

23 SUBCHAPTER G

24 SEWERS ON BOUNDARY STREETS

25 (Reserved)

26 CHAPTER 21

27 COLLECTION BY INSTALLMENT OF

28 STREET AND SEWER ASSESSMENTS

29 (Reserved)

30 CHAPTER 21A

1                   ASSESSMENTS AND CHARGES FOR

2                               PUBLIC IMPROVEMENTS

3 Sec.

4 21A00. Definitions.

5 21A01. Authority to assess.

6 21A02. Notice of assessments.

7 21A03. Assessment based on front foot basis.

8 21A04. Assessment of benefits conferred.

9 21A05. Assessment awards.

10 21A06. Petition for viewers.

11 21A07. Payment of assessments in installments.

12 21A08. Collection of assessments.

13 § 21A00. Definitions.

14       The following words and phrases when used in this chapter  
15 shall have the meanings given to them in this section unless the  
16 context clearly indicates otherwise:

17       "Personal notice." The term shall mean and include notice  
18 upon the owner of a property either by personal service upon the  
19 owner or by certified mail to the owner at the owner's last  
20 known address or where service, after a reasonable attempt,  
21 shall not have been successfully made by either of these two  
22 methods, then by leaving notice at or upon the property.

23 § 21A01. Authority to assess.

24       (a) General rule.--Council shall have the power to pay the  
25 cost, in whole or in part, of any and all public improvements of  
26 all natures and descriptions, including, but not limited to, the  
27 grading, building, paving, regrading, rebuilding and repaving of  
28 streets as defined in section 1701 (relating to definitions),  
29 the creation, extension, renovation or enlargement of water  
30 mains and sewage collection, transmission, treatment and

1 disposal systems and the creation, extension and renovation of  
2 storm, surface and subsurface drainage systems, the  
3 construction, reconstruction and repair of wharves and docks,  
4 the installation of ornamental street lighting or the planting,  
5 removal, maintenance and protection of shade trees by any of the  
6 following methods:

7 (1) from general borough funds;

8 (2) from special borough funds created for that purpose;

9 or

10 (3) by assessment of costs against the benefited  
11 properties either on the front foot or benefit conferred  
12 method of assessment.

13 Except as provided in subsection (c), the costs and expenses of  
14 sanitary sewers may be assessed against properties benefited,  
15 accommodated or improved regardless of the property line  
16 location and regardless of whether any portion of a property  
17 benefited, accommodated or physically improved abuts upon the  
18 sanitary sewer.

19 (b) Payment of indebtedness.--

20 (1) If a borough that incurs authorized indebtedness  
21 under 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness  
22 and borrowing) for the purposes of funding the cost and  
23 expense of making public improvements for which assessments  
24 can be made in accordance with this chapter, payments made on  
25 the assessment must be applied to pay the debt service for  
26 the indebtedness incurred for funding the cost and expense of  
27 making the public improvement.

28 (2) Notwithstanding section 21A07 (relating to payment  
29 of assessments in installments), when bonds are issued in a  
30 manner provided by law and an assessment is to be paid in

1 installments, the assessment shall be payable in equal  
2 installments during the term for which the bond is issued,  
3 and the cost of the improvement plus interest beginning the  
4 first day when interest is payable on the bond shall be the  
5 cost of the improvement to be assessed on a property.

6 (c) Property outside borough.--Property benefited, improved  
7 or accommodated which is located outside the limits of the  
8 borough that constructed a sanitary sewer may, if located no  
9 more than 150 feet from the sewer main, be assessed for the cost  
10 of the sewer in the same manner as the property would be  
11 assessed under the laws of this Commonwealth if it were entirely  
12 located within the limits of the borough, if the property is  
13 given permission to use the sanitary sewer and is not, at the  
14 time the sanitary sewer is constructed, provided with sanitary  
15 sewer facilities.

16 (d) Water mains.--Boroughs shall have power to assess the  
17 whole cost or any part of the cost of construction of new water  
18 mains built in connection with the establishment or extension of  
19 a municipally owned water supply system, even if the mains are  
20 located outside the limits of the borough, and that serve  
21 abutting properties, against the properties abutting the  
22 boundary line. The borough may provide that the assessment be  
23 rebated to the owner of the assessed property out of rates  
24 charged for water consumed in serving the assessed property. The  
25 borough may also issue a negotiable credit memorandum in the  
26 amount of the assessment which may be used for the payment of  
27 any water service to the extent of the assessment.

28 § 21A02. Notice of assessments.

29 The borough secretary shall cause 30 days' personal notice of  
30 the assessment to be served upon each property owner assessed.

1 If a certificate is required to be filed with council relating  
2 to the public improvement as otherwise provided in this part,  
3 then a copy of the certificate shall accompany the notice.

4 § 21A03. Assessment based on front foot basis.

5 (a) General rule.--If council elects to collect the cost,  
6 including any administrative fees, of any improvement on the  
7 front foot basis, the cost to be collected shall be divided by  
8 the total number of linear feet of street frontage of each  
9 property benefited, and there shall be assessed against each  
10 property that portion of the cost which is determined by  
11 multiplying the dividend of the prior calculation by the number  
12 of linear feet for street frontage of that property.

13 (b) Certificate of assessment.--Council shall issue a  
14 certificate of assessment when assessing on the front foot basis  
15 duly certified under the seal of the borough and attested by the  
16 president of council and secretary. The certificate of  
17 assessment shall be prima facie evidence in any suit for  
18 recovery of the same of the correctness and validity of the  
19 assessment.

20 (c) Adjustments in assessments.--Notwithstanding subsection  
21 (a), council may make equitable adjustments for corner lots,  
22 lots of irregular shape or, where special conditions exist,  
23 where an assessment for full frontage would be unjust.

24 § 21A04. Assessment of benefits conferred.

25 (a) General rule.--In lieu of the front foot basis, council  
26 may elect to have the benefits of public improvements assessed,  
27 in whole or in part, upon property benefited, improved or  
28 accommodated by assessing an equal assessment on the properties  
29 benefited, improved or accommodated in proportion to the total  
30 cost of construction of the improvement. The amount of the



1 charge on each property shall be determined by council.

2 (b) Certificate.--Council shall issue a certificate of  
3 assessment when assessing benefits upon property benefited,  
4 improved or accommodated, duly certified under the seal of the  
5 borough and attested by the president of council and secretary.  
6 The certificate of assessment shall be prima facie evidence in  
7 any suit for recovery of the same of the correctness and  
8 validity of the assessment.

9 § 21A05. Assessment awards.

10 In proceedings to assess benefits, if the land or property is  
11 both benefited and damaged by the public improvements, the  
12 excess of damages over benefits, the excess of benefits over  
13 damages or nothing in case the benefits and damages are equal  
14 shall be awarded to or assessed against the owner of land and  
15 property affected. Damages shall be calculated pursuant to 26  
16 Pa.C.S. (relating to eminent domain).

17 § 21A06. Petition for viewers.

18 (a) Petition.--Taxpayers of the borough whose property is  
19 being assessed for benefits for a public improvement may present  
20 a petition to the court of common pleas stating that the  
21 assessment insufficiently represents the benefits accruing to  
22 abutting, benefited or accommodated properties. The petition may  
23 include a request for the appointment of viewers to assess  
24 benefits if at least 50% of the taxpayers whose parcels are  
25 abutting, benefited or accommodated by the public improvement in  
26 question join the petition or if taxpayers whose property  
27 valuation as assessed for taxable purposes within the borough  
28 amounts to at least 50% of the total property valuation of the  
29 properties being assessed for the public improvement join the  
30 petition. The petition must be presented within three months of

1 the enactment of the ordinance levying the assessment.

2 (b) Viewers.--The court shall appoint three disinterested  
3 viewers, none of whom shall be a resident of that portion of the  
4 borough that is benefited or accommodated by the public  
5 improvement in question, and the viewers shall proceed under  
6 this part and 26 Pa.C.S. (relating to eminent domain) for the  
7 assessment of damages and benefits by viewers. Upon the filing  
8 of the petition by taxpayers for the appointment of viewers, any  
9 assessment made by the council and any proceedings shall be  
10 stayed pending the disposition of the petition by the court.

11 § 21A07. Payment of assessments in installments.

12 (a) Installments.--If an ordinance is passed providing for a  
13 public improvement, the expense of which is to be defrayed by an  
14 assessment against properties benefited by the improvement,  
15 either by the front foot or benefit conferred method, the  
16 ordinance shall specify the length of time over which the  
17 installments may be extended and whether payments are to be made  
18 by equal annual or more frequent installments. If the provisions  
19 of section 21A01(b)(2) (relating to authority to assess) and  
20 this subsection conflict, the provisions of section 21A01(b)(2)  
21 shall prevail to the extent of the conflict.

22 (b) Commencement of payments and rate of interest.--The  
23 ordinance shall set a time when the installment payments shall  
24 commence and shall set forth the rate of interest for the  
25 installments which shall not be more than 6% per year.

26 (c) Installment agreement.--The borough shall enter into a  
27 written installment agreement with each property owner, subject  
28 to the requirements of the ordinance pertaining to the  
29 agreements and this chapter.

30 (d) Unpaid installments.--If an installment remains unpaid

1 for 60 days after it has become due and payable, the entire  
2 unpaid assessment, plus unpaid accrued interest and any costs,  
3 shall be due and payable, and the borough solicitor shall  
4 proceed to collect it by filing a lien in the same manner as  
5 municipal claims are filed or by action in assumpsit.

6 (e) Prepayment.--A property owner upon whom an assessment  
7 has been made may pay all or as many of the installments before  
8 they are due, with interest and costs to the due date of the  
9 next installment.

10 § 21A08. Collection of assessments.

11 (a) Collection methods.--If an assessment remains unpaid at  
12 the expiration of the 30-day personal notice and an installment  
13 agreement has not been entered into pursuant to section 21A06  
14 (relating to petition for viewers), the borough solicitor shall  
15 collect the unpaid assessment, with interest from the time of  
16 completion of the improvement or from the time of filing a  
17 certificate of assessment with council, plus costs, by filing a  
18 lien to be collected in the same manner as municipal claims or  
19 by action in assumpsit. When a property owner has two or more  
20 lots against which there is an assessment for the same  
21 improvement, all of the lots may be embraced in one claim.

22 (b) Payment location.--Assessments, whether paid one time or  
23 by installments, shall be payable at the office of the borough  
24 treasurer or any other place as the applicable ordinance shall  
25 provide.

## 26 CHAPTER 22

### 27 STORM SEWERS AND WATERCOURSES

28 Sec.

29 2201. Authority of boroughs.

30 2202. Right of entry upon lands.

1 2203. Manner of financing work.  
2 2204. Proceedings to assess damages.  
3 2205. Unlawful to build within right-of-way of storm sewers.  
4 2206. Power to acquire storm sewer systems.  
5 § 2201. Authority of boroughs.

6 (a) General rule.--Any borough may, by ordinance, after  
7 obtaining any required permit from the Department of  
8 Environmental Protection or other Federal or State entity do the  
9 following:

10 (1) Widen and deepen any watercourse running through or  
11 within the borough and erect dykes, retaining walls and  
12 embankments along the watercourse as may be necessary to  
13 prevent the water from overflowing the banks.

14 (2) Confine and pave any watercourse or portion thereof,  
15 other than a navigable stream.

16 (3) Engage in channel improvement through the  
17 construction and maintenance of storm sewers and the  
18 accumulation and discharge of water into storm sewers.

19 (4) Vacate or alter the course or channel of any  
20 watercourse, other than a navigable stream.

21 (5) Acquire, operate and maintain areas for the  
22 infiltration, detention or retention of storm water and for  
23 other methods of storm water management authorized by the  
24 Department of Environmental Protection.

25 (b) Authorization and consent.--For any purpose set forth in  
26 subsection (a), a borough may enter upon and condemn property  
27 and materials as may be necessary. No borough may confine and  
28 pave, vacate or alter any watercourse used by any municipality,  
29 municipal authority or water company as a source of supply  
30 unless the municipality, municipal authority or water company

1 shall first consent to the confining and paving, vacation or  
2 alteration.

3 § 2202. Right of entry upon lands.

4 A borough may enter upon any land lying near a watercourse  
5 and secure the material as may be necessary for the purpose of  
6 making and repairing the embankments along the watercourse when  
7 the material cannot be obtained by contract at a reasonable  
8 price. The borough shall cause no unnecessary damage to the  
9 owners of the land, shall repair any fences, structures or  
10 damage to the land that is caused by the borough and shall  
11 compensate the owner, either by agreement or in accordance with  
12 26 Pa.C.S. (relating to eminent domain), for any materials  
13 obtained under this section.

14 § 2203. Manner of financing work.

15 A borough may pay for the costs and expenses of any work  
16 authorized under section 2201 (relating to authority of  
17 boroughs) wholly or in part from money of the borough available  
18 for the purpose. To the extent that a borough does not receive  
19 assistance from the Federal, State or county government for the  
20 costs and expenses of the work, the borough may assess the  
21 benefited properties located within the drainage area of the  
22 watercourse in accordance with Chapter 21A (relating to  
23 assessments and charges for public improvements).

24 § 2204. Proceedings to assess damages.

25 Any person aggrieved by any ordinance enacted or action taken  
26 pursuant to sections 2201 (relating to authority of boroughs),  
27 2202 (relating to right of entry upon lands) and 2203 (relating  
28 to manner of financing work) may file a complaint with the court  
29 of common pleas to fix and determine the damages for property  
30 taken, injured or destroyed under 26 Pa.C.S. (relating to

1 eminent domain).

2 § 2205. Unlawful to build within right-of-way of storm sewers.

3 It shall be unlawful for a person to erect a building or make  
4 an improvement within the right-of-way of a storm sewer laid out  
5 after due notice of the laying out of the storm sewer. If the  
6 erection or improvement is made, no allowance shall be made in  
7 the assessment of damages.

8 § 2206. Power to acquire storm sewer systems.

9 (a) General rule.--A borough may, by ordinance, acquire  
10 ownership of storm sewers, culverts and the necessary inlets and  
11 appliances for surface, under surface and storm sewer drainage  
12 by purchase, by the exercise of eminent domain pursuant to 26  
13 Pa.C.S. (relating to eminent domain) or by gift from the owner  
14 or owners.

15 (b) Eminent domain.--In eminent domain proceedings, the  
16 viewers shall assess the costs and expenses of the storm sewer,  
17 culverts, inlets and appliances acquired by the borough upon the  
18 property or properties benefited according to benefits. Any  
19 deficiency that is not assessed upon the benefited property or  
20 properties shall be paid by the borough.

21 CHAPTER 23

22 UNDERGROUND CONDUITS

23 (Reserved)

24 CHAPTER 24

25 WATER SYSTEM

26 Subchapter

27 A. General Powers to Supply Water

28 A.1. Acquisition by Eminent Domain

29 A.2. Acquisition by Purchase After Appraisement

30 A.3. Power to Lease Water System

1 A.4. Joint Water System

2 A.5. Condemnation of Lands For Road Purposes and to Prevent  
3 Contamination

4 A.6. Commission of Water System

5 A.7. Water Connections

6 B. (Reserved)

7 C. (Reserved)

8 D. (Reserved)

9 SUBCHAPTER A

10 GENERAL POWERS TO SUPPLY WATER

11 Sec.

12 2401. Power to supply water and make regulations.

13 2402. Contracts not to abridge powers.

14 2403. Issue of bonds where water system acquired.

15 2404. Refunding bonds.

16 2405. (Reserved).

17 2406. Contracts to supply water for municipal purposes.

18 2407. Power to supply water beyond limits of borough.

19 2408. Assessment for water mains.

20 2409. Sale of water system.

21 § 2401. Power to supply water and make regulations.

22 (a) Supply of water.--Boroughs may supply water for the use  
23 of the public within the borough by constructing or purchasing  
24 and operating a water system, by entering into contract with  
25 persons or corporations authorized to supply water within the  
26 limits of the borough or partly by constructing or purchasing  
27 and operating a water system and partly by entering into a  
28 contract.

29 (b) Regulations.--Council may make regulations for the  
30 protection of water pipes, reservoirs and other apparatus used

1 in the supplying or storing of water, for the prevention of the  
2 waste of water supplied and for the drilling of water wells  
3 within the borough.

4 (c) Rates.--Council shall fix the rates to be charged for  
5 the water furnished to individuals, partnerships, associations  
6 or corporations and shall provide for the collection of water  
7 rents from users of water supplied by the borough. The borough's  
8 provision of water to users outside the borough limits as to  
9 character of service, extensions and rates shall be subject to  
10 any applicable approval, regulation or control imposed by 66  
11 Pa.C.S. Pt. I (relating to Public Utility Code).

12 § 2402. Contracts not to abridge powers.

13 A borough's power to construct and operate a water system as  
14 provided in section 2401 (relating to power to supply water and  
15 make regulations) shall not be abridged by the borough entering  
16 into a contract with a person or corporation for the supply of  
17 water, but the power shall remain in force as though the  
18 contract had not been made.

19 § 2403. Issue of bonds where water system acquired.

20 Where the price and terms are agreed upon, a borough may  
21 become the owner of and operate any water system owned and  
22 operated by a corporation furnishing water within the acquiring  
23 borough and in nearby municipal corporations. The borough may  
24 pay for the water system from the revenues derived from general  
25 obligation bonds or utility bonds issued in the manner provided  
26 by 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and  
27 borrowing).

28 § 2404. Refunding bonds.

29 (a) General rule.--If a borough acquires a water system  
30 subject to any existing lien or liens and, at the time of



1 acquisition, issues utility bonds secured by the liens on the  
2 water system and which impose no municipal liability, then, when  
3 the utility bonds mature or at any time prior, the borough may  
4 issue and sell utility bonds for the purposes of refunding the  
5 outstanding bonds. The refunding bonds shall be issued as  
6 utility bonds pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating  
7 to indebtedness and borrowing). The issued bonds shall not be  
8 deemed to be the creation of new obligations but shall be deemed  
9 a continuation of the bonds existing or created at the time of  
10 the original acquisition of the water system.

11 (b) Time, interest rate and amount.--The bonds shall not be  
12 refunded for a longer period than 20 years, and the refunding  
13 lien bonds issued shall not bear interest at a rate exceeding  
14 6%. The aggregate amount of the issued refunding lien bonds  
15 shall not exceed the amount of the bonds to be refunded. Any  
16 money placed in any fund by the borough or by any commission of  
17 the water system for the purpose of redeeming or paying the  
18 bonds at maturity shall be first applied to the payment of the  
19 principal of the bonds to be refunded and the balance of the  
20 bonds only shall be refunded by the issue of new bonds.

21 § 2405. (Reserved).

22 § 2406. Contracts to supply water for municipal purposes.

23 Boroughs may receive bids from water companies and municipal  
24 authorities authorized to do business within the borough and  
25 from other municipalities operating a water system for the  
26 supply of water for fire protection and for other municipal  
27 purposes. The borough may contract for the supply of water with  
28 the water company.

29 § 2407. Power to supply water beyond limits of borough.

30 If a borough maintains a water system, it shall be lawful for

1 the borough to supply water to persons and corporations outside  
2 the limits of the borough, but the supply of water shall be  
3 subject to any applicable approval or regulation imposed by 66  
4 Pa.C.S. Pt. I (relating to Public Utility Code). The privilege  
5 shall not conflict with the corporate rights of any water  
6 company or the rights of any other municipality or municipal  
7 authority.

8 § 2408. Assessment for water mains.

9 Boroughs shall have power to assess the whole cost or any  
10 part of the cost of construction of new water mains built in  
11 connection with the establishment or extension of a municipally  
12 owned water supply system in accordance with Chapter 21A  
13 (relating to assessments and charges for public improvements),  
14 notwithstanding if the mains are located within or without the  
15 limits of the borough.

16 § 2409. Sale of water system.

17 (a) General rule.--By ordinance, a borough may sell all or  
18 part of its water system to a purchaser at an agreed upon price,  
19 and, thereafter, for all purposes that price shall be deemed to  
20 be the purchaser's original cost less accrued depreciation of  
21 the plant at the date of purchase. No ordinance shall take  
22 effect until the expiration of ten days following its enactment  
23 and if, within that ten-day period, a protest signed by at least  
24 10% of the registered electors of the borough is filed with the  
25 council, the sale shall be stayed pending a referendum on the  
26 ordinance.

27 (b) Protest.--The following shall apply to a protest:

28 (1) The borough secretary, within five days following  
29 the filing of the protest, shall certify to the county board  
30 of elections a copy of the ordinance and the fact of the

1 protest, together with the number of signers of the protest,  
2 and the county board of elections shall direct a referendum  
3 to be held on the matter at a special election to be held at  
4 the time of the next general or municipal or primary election  
5 occurring not less than 60 days from the date of the  
6 certification by the borough secretary.

7 (2) The referendum shall be conducted by the county  
8 board of elections in the manner provided by the act of June  
9 3, 1937 (P.L.1333, No.320), known as the Pennsylvania  
10 Election Code, for the holding of special elections. The  
11 ballot used when voting upon the question shall contain a  
12 question stating the nature and purpose of the ordinance and  
13 provide that a "yes" vote shall be to sustain the ordinance  
14 and a "no" vote shall be to reject it.

15 (3) If more electors vote to sustain the ordinance than  
16 to reject it, the ordinance shall take effect immediately. If  
17 more electors shall vote to reject the ordinance than to  
18 sustain it, the ordinance shall be null and void and shall  
19 not take effect.

#### 20 SUBCHAPTER A.1

#### 21 ACQUISITION BY EMINENT DOMAIN

22 Sec.

23 2411. Appropriation of lands and waters.

24 2412. Agreements as to damages.

25 2413. (Reserved).

26 § 2411. Appropriation of lands and waters.

27 A borough desiring to build a water system or to improve its  
28 water supply may appropriate springs, streams, rivers or creeks  
29 and lands, easements and rights-of-way, within or without its  
30 limits. If the appropriation is outside its limits, the

1 appropriation shall be in compliance with 26 Pa.C.S. § 206  
2 (relating to extraterritorial takings). For the purpose of  
3 conducting water obtained outside its limits, a borough may lay  
4 pipes under and over any lands, rivers, streams, bridges,  
5 highways and under railroads. No water appropriated under this  
6 section shall be used in a manner as to deprive the owner of the  
7 water of the free use and enjoyment of the water for domestic or  
8 farm purposes. The exercise of the powers in this section shall  
9 be subject to any required approvals or permits from the  
10 Department of Environmental Protection or other Federal or State  
11 entity.

12 § 2412. Agreements as to damages.

13 Prior to any appropriation under section 2411 (relating to  
14 appropriation of lands and waters), the borough shall attempt to  
15 agree with the owner as to the damage done or likely to be done.  
16 If the parties cannot agree, the borough shall proceed pursuant  
17 to 26 Pa.C.S. (relating to eminent domain).

18 § 2413. (Reserved).

19 SUBCHAPTER A.2

20 ACQUISITION BY PURCHASE AFTER APPRAISEMENT

21 Sec.

22 2421. Petition to court.

23 2422. Appointment of appraisers.

24 2423. Powers of appraisers.

25 2424. Appeal from appraisement.

26 2425. Authority to purchase and consent to sell.

27 2426. Bond issue and limitations.

28 2427. (Reserved).

29 § 2421. Petition to court.

30 If a borough desires to own and operate a water system owned

1 by any person, firm or corporation, the borough may present its  
2 petition to the court of common pleas of the county where the  
3 water system is located, setting forth that:

4 (1) The borough desires to own the water system.

5 (2) It will be necessary to issue bonds.

6 (3) A value should be placed upon the water system,  
7 including all property, real and personal, used in connection  
8 with the water system.

9 § 2422. Appointment of appraisers.

10 (a) Valuation.--The court of common pleas shall appoint  
11 three civil engineers as appraisers to value and appraise:

12 (1) The water system.

13 (2) The property used in connection with the water  
14 system.

15 (3) The contracts or agreements with municipalities.

16 (b) Report.--The civil engineers shall file their report in  
17 the court within three months after their appointment unless the  
18 time is extended by the court.

19 § 2423. Powers of appraisers.

20 The appraisers shall have the following powers:

21 (1) To access the books and records of the person, firm  
22 or corporation owning the water system to inform themselves  
23 as to the income and value of the water system.

24 (2) To administer oaths and to take the testimony of  
25 witnesses.

26 (b) Report.--The report of the appraisers shall be final  
27 unless the report is appealed.

28 § 2424. Appeal from appraisement.

29 (a) Filing of petition.--Within ten days after notice of the  
30 filing of any report in the court of common pleas, either party

1 may appeal from the appraisalment by filing a petition for a  
2 hearing before the court alleging an undervaluation or  
3 overvaluation of the property.

4 (b) Hearing.--The court shall fix a time when the appeal may  
5 be heard, giving at least ten days' notice to the parties, and,  
6 upon hearing, the court of common pleas shall have power to  
7 affirm or modify the report as the court deems just and proper.  
8 § 2425. Authority to purchase and consent to sell.

9 (a) Authority to purchase.--After the value is finally  
10 determined, the borough is authorized to buy the water system at  
11 the valuation fixed.

12 (b) Consent to sell.--The person, firm or corporation owning  
13 the water system shall, within ten days after notice, file in  
14 the court of common pleas its consent to sell and convey its  
15 water system and property to the borough at the valuation fixed.  
16 In default of the filing of the consent, the person, firm, or  
17 corporation shall cease to have any exclusive privilege of  
18 supplying the borough or the citizens of the borough with water,  
19 and the borough may install the water system as may be necessary  
20 for the accommodation of the public.

21 § 2426. Bond issue and limitations.

22 (a) Bond issue.--For the purpose of purchasing a water  
23 system, the borough may issue utility bonds in the manner  
24 provided by 53 Pa.C.S. Pt. VII Subpt. B (relating to  
25 indebtedness and borrowing).

26 (b) Limitations.--The bonds shall not exceed in amount the  
27 value fixed by the appraisers or the court of common pleas. The  
28 proceeds of the sale of the bonds shall be used exclusively for  
29 the purpose of paying for the property acquired.

30 § 2427. (Reserved).



1 system.

2 § 2437. Permits.

3 The construction of a water system shall be commenced only  
4 after plans for the water system have been filed with the  
5 Department of Environmental Protection and, if required by law,  
6 other Federal or State entities and permits issued in accordance  
7 with law.

8 § 2438. Joint commission.

9 (a) General rule.--The municipal corporations joining in the  
10 construction or acquisition and maintenance of a water system  
11 may, by ordinance, provide for the appointment of a joint  
12 commission of a water system in order to facilitate the  
13 construction, operation and maintenance of the water system and  
14 to secure preliminary surveys and estimates.

15 (b) Function.--The joint commission shall act generally as  
16 the advisory and administrative agency in the construction of  
17 the improvement and its subsequent operation and maintenance.

18 (c) Composition.--The joint commission shall be composed of  
19 one representative from each of the joining municipal  
20 corporations.

21 (d) Term of members.--The members of the joint commission  
22 shall serve for terms of six years each from the dates of their  
23 respective appointments and until their successors are  
24 appointed.

25 (e) Officers.--The joint commission shall organize by the  
26 election of a chair, secretary and treasurer. The secretary and  
27 treasurer may be the same person.

28 (f) Ordinance provisions.--The municipal corporations may,  
29 in the ordinances creating the joint commission, authorize it to  
30 appoint an engineer, a solicitor and other assistants as are



1 deemed necessary and agree to share the compensation for  
2 attending its meetings as shall be fixed in the budget prepared  
3 by the commission and submitted to and adopted by the joining  
4 municipal corporations.

5 (g) Compensation limitation and expenses.--The budget item  
6 providing for the compensation to the members for attending  
7 meetings shall not exceed \$500 per year, but members shall be  
8 entitled to actual expenses to be paid by the respective  
9 municipal corporations that the members represent. The fee for  
10 each attendance at meetings shall be stipulated, and no member  
11 shall be paid a fee for any meeting the member does not attend.

12 SUBCHAPTER A.5

13 CONDEMNATION OF LANDS FOR ROAD

14 PURPOSES AND TO PREVENT CONTAMINATION

15 Sec.

16 2441. Acquisition of land.

17 2442. Filing maps and plans.

18 2443. (Reserved).

19 2444. (Reserved).

20 § 2441. Acquisition of land.

21 (a) Acquisition for construction of roads.--If a borough  
22 finds it necessary, when storing water for supply to the public,  
23 to occupy and overflow portions of any public road with water or  
24 if any public road leads into or crosses over any reservoir used  
25 for the storage of water, the borough shall, at its own expense,  
26 reconstruct or build a road in a favorable location, which shall  
27 be in the same or better condition as the original road. A  
28 borough is authorized to condemn land for these purposes if an  
29 agreement as to price cannot be reached with the landowner.

30 (b) Land outside borough limits.--A condemnation of land

1 outside the borough limits shall be in conformity with 26  
2 Pa.C.S. § 206 (relating to extraterritorial takings).

3 (c) Acquisition to prevent contamination.--A borough may  
4 acquire, by purchase or condemnation, land along and contiguous  
5 to streams of water or reservoirs from which water is taken for  
6 public use if necessary to preserve the water from  
7 contamination.

8 § 2442. Filing maps and plans.

9 If a change is made under section 2441(a) (relating to  
10 acquisition of land), the borough shall file in the court of  
11 common pleas a map or plan showing the change of road, and, if  
12 the road is outside the limits of the borough, it shall furnish  
13 to the governing body of the municipal corporation a copy of the  
14 map.

15 § 2443. (Reserved).

16 § 2444. (Reserved).

17 SUBCHAPTER A.6

18 COMMISSION OF WATER SYSTEM

19 Sec.

20 2451. Commission.

21 2452. Terms of commissioners and compensation.

22 2453. Organization of commissioners.

23 2454. Powers of commission.

24 2455. Issue of bonds.

25 2456. Preparation of plans and specifications and contracts.

26 2457. Reports by commission.

27 2458. Care of funds.

28 § 2451. Commission.

29 (a) Establishment.--If a borough owns and maintains a water  
30 system, there may be established in the borough, by ordinance, a

1 commission of the water system, which shall have the power of a  
2 nonprofit corporation, to be composed of either three or five  
3 citizens of the borough appointed by the council who shall be  
4 known as commissioners of the water system.

5 (b) Abolishment.--At any time after three years from the  
6 first appointment of the commissioners of the water system, the  
7 borough may abolish the commission by repealing the ordinance  
8 establishing the commission, which shall terminate the terms of  
9 the commissioners then in office.

10 § 2452. Terms of commissioners and compensation.

11 (a) General rule.--If a borough establishes a commission of  
12 the water system, it shall be the duty of the council to appoint  
13 the commissioners of the water system.

14 (b) Commissions with three commissioners.--If there are  
15 three commissioners, one shall be appointed to serve for one  
16 year, one for two years and one for three years. Annually  
17 thereafter, the council shall appoint one commissioner of the  
18 water system to serve a term of three years.

19 (c) Commissions with five commissioners.--If there are five  
20 commissioners, one shall be appointed to serve for one year, one  
21 for two years, one for three years, one for four years and one  
22 for five years. Annually thereafter, the council shall appoint  
23 one commissioner of the water system to serve a term of five  
24 years.

25 (d) Vacancy.--In case of a vacancy, the council shall fill  
26 the vacancy for the unexpired term.

27 (e) Salary and expenses.--The commissioners of the water  
28 system may receive a salary for their services and shall be  
29 reimbursed by the borough for all expenses necessarily incurred  
30 in the performance of their duties.

1 (f) Salary limitations.--The salary of the commissioners  
2 shall not exceed the following:

3 (1) In service areas with fewer than 5,000 metered  
4 accounts, a maximum of \$1,875 per year or \$156.25 per month.

5 (2) In service areas with 5,000 but fewer than 10,000  
6 metered accounts, a maximum of \$2,500 per year or \$208.33 per  
7 month.

8 (3) In service areas with 10,000 but fewer than 15,000  
9 metered accounts, a maximum of \$3,250 per year or \$270.83 per  
10 month.

11 (4) In service areas with 15,000 but fewer than 25,000  
12 metered accounts, a maximum of \$4,125 per year or \$343.75 per  
13 month.

14 (5) In service areas with 25,000 but fewer than 35,000  
15 metered accounts, a maximum of \$4,375 per year or \$364.58 per  
16 month.

17 (6) In service areas with 35,000 or more metered  
18 accounts, a maximum of \$5,000 per year or \$416.67 per month.

19 § 2453. Organization of commissioners.

20 The commissioners of the water system shall meet within ten  
21 days after their first appointment and annually thereafter and  
22 organize by electing a president and secretary.

23 § 2454. Powers of commission.

24 After organization, the commissioners shall take charge and  
25 control of the water system of the borough. The commission shall  
26 have the following powers:

27 (1) To appoint all necessary officers and agents and  
28 take from the officers and agents security for the faithful  
29 performance of their duties as the commission deems proper.

30 (2) To fix the salaries and wages of the officers and

1 agents.

2 (3) To provide for the repair, extension, improvement  
3 and maintenance of the water system and the construction of a  
4 new water system.

5 (4) To collect water rents.

6 (5) To make and establish the rates and conditions upon  
7 which water will be furnished to applicants, subject to any  
8 applicable approval, regulation or control imposed by 66  
9 Pa.C.S. Pt. I (relating to Public Utility Code).

10 (6) To make bylaws and regulations for the economic and  
11 efficient management of the water system, which shall not be  
12 inconsistent with any of the laws of this Commonwealth or the  
13 rules and regulations of the Department of Environmental  
14 Protection. No bylaws or regulations shall become effective  
15 until they have been approved by the council and enacted as  
16 ordinances of the borough.

17 § 2455. Issue of bonds.

18 The borough may, upon the request of the commissioners of the  
19 water system, issue general obligation or nondebt revenue bonds  
20 for the extension of the water system or the erection of a new  
21 water system. The bonds shall be designated "water system bonds"  
22 and shall be issued and sold in the manner provided by 53  
23 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and  
24 borrowing).

25 § 2456. Preparation of plans and specifications and contracts.

26 (a) Preparation of plans and specifications.--The  
27 commissioners shall prepare plans and specifications of all work  
28 to be performed and materials necessary for the repair,  
29 maintenance and extension of the water system or the  
30 construction of a new water system.

1 (b) Contracts.--The commissioners shall, after plans and  
2 specifications for the extension or the construction of a water  
3 system have been submitted to and approved by the Department of  
4 Environmental Protection and a permit has been granted as may be  
5 required by law:

6 (1) Invite proposals for the performing of the work and  
7 the furnishing of materials.

8 (2) Advertise for bids as required by law.

9 (3) Let contracts to the lowest qualified and  
10 responsible bidder.

11 (4) Take adequate security for the performance of the  
12 contracts and for the payment of all labor and materials.

13 § 2457. Reports by commission.

14 The commissioners shall make a monthly report to the council  
15 of the receipts and disbursements during the preceding month and  
16 annually make a detailed report of the condition of the water  
17 system. Both the monthly and annual reports shall be deemed to  
18 be public records.

19 § 2458. Care of funds.

20 (a) Collectors.--Collectors shall be appointed by the  
21 commissioners, in accordance with section 2454 (relating to  
22 powers of commission), who shall collect all money for water  
23 rents.

24 (b) Deposits.--The money collected shall be deposited weekly  
25 with the borough treasurer who shall return a receipt to the  
26 commissioners.

27 (c) Use.--All money collected shall be kept in a separate  
28 fund and shall be used for the purpose of repairing, maintaining  
29 and extending the water system and the construction of a new  
30 water system. All money remaining after the expenditures shall

1 be used solely for the payment of any indebtedness on the water  
2 system and any indebtedness incurred by the borough for  
3 constructing, maintaining, improving, enlarging or extending the  
4 water system.

5 (d) Withdrawals.--No money shall be drawn from the fund  
6 except upon order countersigned by the president and secretary  
7 of the commission.

8 SUBCHAPTER A.7

9 WATER CONNECTIONS

10 Sec.

11 2461. Ordinance.

12 2462. Notice and failure to make required connection.

13 2463. Water main tapping fees.

14 § 2461. Ordinance.

15 (a) General rule.--Council may, by ordinance, require any  
16 owner of property to connect with and use a water system of the  
17 borough or municipal authority or a joint water board in either  
18 of the following cases:

19 (1) Except as provided in subsection (b), if the  
20 property owner's principal building is located within 150  
21 feet of a water system or any part or extension of the  
22 system.

23 (2) If the property owner's principal building has no  
24 supply of water which is safe for human consumption.

25 (b) Exception.--A property owner who after July 16, 2012, is  
26 subject to mandatory connection under subsection (a)(1) shall  
27 not be required to connect to the water system in accordance  
28 with subsection (a) if all of the following conditions exist:

29 (1) The water system or part or extension of the system  
30 that is within 150 feet of the principal building was in

1 existence on July 16, 2012.

2 (2) The principal building has its own supply of water  
3 which is safe for human consumption.

4 (3) Prior to July 16, 2012, the property owner was not  
5 required to connect to the existing system.

6 (c) Backflow prevention.--A borough may require any owner of  
7 property to install and maintain a backflow prevention device  
8 based on the degree of potential hazard of the connected  
9 property in accordance with the Pennsylvania Construction Code  
10 and regulations promulgated under that act.

11 (d) Penalties.--A borough may assess penalties for the  
12 violation of ordinances pertaining to water connections or  
13 backflow prevention devices.

14 § 2462. Notice and failure to make required connection.

15 An owner shall be given at least 45 days' notice of any  
16 ordinance requiring a water connection, and, upon failure of the  
17 owner to make the required connection, the borough may make the  
18 connection and collect the cost from the owner by a municipal  
19 claim or in an action of assumpsit. All connections required  
20 shall be uniform.

21 § 2463. Water main tapping fees.

22 (a) General rule.--A borough may, by ordinance, provide for  
23 charging a tapping fee calculated in accordance with 53 Pa.C.S.  
24 § 5607 (relating to purposes and powers) if the owner of any  
25 property connects the property with a water main constructed or  
26 acquired by the borough. The tapping fee shall be in addition to  
27 any charges assessed and collected against the property in the  
28 construction or acquisition of the water main by the borough.

29 (b) Refund.--If a water main or part or extension owned by a  
30 borough has been constructed by the borough at the expense of a



1 private person or corporation or has been constructed by a  
2 private person or corporation under the supervision of the  
3 borough at the expense of the private person or corporation, the  
4 borough shall have the right to charge a tapping fee calculated  
5 in accordance with 53 Pa.C.S. § 5607 and refund the tapping fee  
6 or any part of the tapping fee to the person or corporation who  
7 has paid for the construction of the water main or any part or  
8 extension. The total of the refunds shall never exceed the cost  
9 of the system or any part or extension to the person or  
10 corporation paying for the construction.

11 SUBCHAPTER B

12 (RESERVED)

13 SUBCHAPTER C

14 (RESERVED)

15 SUBCHAPTER D

16 (RESERVED)

17 CHAPTER 24A

18 MANUFACTURE AND SUPPLY OF ELECTRICITY

19 Sec.

20 24A01. Definitions.

21 24A02. General powers.

22 24A03. Specific powers.

23 24A04. Municipal power agencies.

24 24A05. Additional contracting authority.

25 § 24A01. Definitions.

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

29 "Municipal power agency." A separate body politic and  
30 corporate under the laws of this Commonwealth created by

1 agreement between or among two or more boroughs pursuant to  
2 section 24A04 (relating to municipal power agencies).

3 "Project." Electric plants, hydroelectric plant works,  
4 system, facilities or real or personal property, together with  
5 their parts and appurtenances, used or useful in connection with  
6 the generation, production, transmission, purchase, sale,  
7 exchange or interchange of electric power or energy, or any  
8 interest therein or right to capacity thereof.

9 "Revenue bond." An instrument imposing an obligation for the  
10 repayment of money borrowed, payable as to both principal and  
11 interest exclusively from the income and revenues derived from  
12 an interest in an electric plant or project.

13 § 24A02. General powers.

14 (a) Electric plants and projects.--A borough may, either  
15 singly or jointly, manufacture or purchase electricity for the  
16 use of its inhabitants, own, construct, acquire by lease,  
17 purchase or otherwise gain an interest in, operate and manage or  
18 cause to be operated and managed an electric plant or project  
19 located within or without this Commonwealth. In the exercise of  
20 these powers, a borough may join with any other borough,  
21 political subdivision, agency or instrumentality of the Federal  
22 Government, State government, political subdivision of another  
23 state, private corporation empowered to supply electricity,  
24 electric cooperative corporation formed under 15 Pa.C.S. Ch. 73  
25 Subchs. A (relating to preliminary provisions) and B (relating  
26 to powers, duties and safeguards) or previously formed under the  
27 former act of June 21, 1937 (P.L.1969, No.389), known as the  
28 Electric Cooperative Corporation Act, or an electric cooperative  
29 corporation in another state.

30 (b) Contracts for supplying electricity.--A borough owning

1 or operating an electric plant may make contracts for supplying  
2 electricity for commercial purposes outside the limits of the  
3 borough, if the borough has received the consent of the other  
4 municipal governing body and, if applicable, subject to 66  
5 Pa.C.S. Pt. I (relating to Public Utility Code).

6 (c) Additional sources.--A borough may conduct studies as  
7 necessary to determine the feasibility and cost of any  
8 additional sources and supplies of electric power and energy and  
9 may cooperate with private power companies, other boroughs,  
10 electric cooperative corporations and other public or private  
11 electric power entities, within or without this Commonwealth, in  
12 the development of electric power and energy.

13 (d) Consent of borough to supply electricity.--No person,  
14 partnership or corporation may introduce electric current for  
15 light, heat or power purposes, without the consent of the  
16 council, into the limits of any borough that is furnishing  
17 electric current to its inhabitants. This subsection shall not  
18 apply to any person, partnership or corporation manufacturing  
19 electricity exclusively for its own use.

20 (e) Corporate rights.--Nothing in this chapter may conflict  
21 with the corporate rights of a corporation empowered to supply  
22 electricity in the territory adjacent to the borough or with the  
23 rights of any other municipality.

24 (f) Restrictions.--A borough shall not become a stockholder  
25 in, obtain or appropriate money for or loan its credit to a  
26 corporation, association, institution or individual or otherwise  
27 act contrary to the provisions of section 9 of Article IX of the  
28 Constitution of Pennsylvania.

29 (g) General powers.--A borough, through its governing body,  
30 shall have the power to do and accomplish all actions reasonably

1 necessary and incident to the administration, operation and  
2 management of a plant or project.

3 § 24A03. Specific powers.

4 (a) Specific powers enumerated.--In addition to exercising  
5 its general powers under section 24A02 (relating to general  
6 powers), a borough, through its governing body, shall have the  
7 following powers:

8 (1) To contract for the purchase, sale, exchange,  
9 interchange, wheeling, pooling or transmission of electric  
10 power and energy or for the right to the capacity of electric  
11 power, inside and outside of this Commonwealth, to and from  
12 any public or private power entities, private power  
13 companies, other boroughs and electric cooperative  
14 corporations.

15 (2) To regulate the use of and the charge for  
16 electricity furnished by the borough for use throughout the  
17 borough. A borough may fix, establish, maintain and collect  
18 or authorize by contract or otherwise the establishment,  
19 levying and collection of the rates, fees, rental or other  
20 charges, including connection charges, for the services  
21 afforded by or in connection with any properties which the  
22 borough constructs, erects, owns, acquires, operates or  
23 manages and for the sale or transmission of electric energy  
24 and power as it deems necessary, proper, desirable and  
25 reasonable.

26 (3) To procure insurance against any losses in  
27 connection with its property, operations or assets in the  
28 amounts and from the insurers as the governing body or bodies  
29 deem desirable.

30 (4) To contract for and to accept any gifts, grants or

1 loans of funds, property or financial or other aid in any  
2 form, from the United States or any agency or instrumentality  
3 of the United States, or from any other source.

4 (5) To lease, or otherwise grant the use of, and to make  
5 charges for the use of any property or facility owned or  
6 controlled by the borough.

7 (6) To procure from the United States or any agency or  
8 instrumentality of the United States, or from any state or  
9 agency or instrumentality of a state, any consents,  
10 authorizations or approvals which may be requisite to enable  
11 ownership, operation, construction or repair.

12 (7) To borrow money and from time to time to issue  
13 revenue bonds and to enter into agreements with the  
14 purchasers of the revenue bonds. A borough that incurs debt  
15 for the construction or purchase of an electric plant, or  
16 land on which to construct an electric plant, or gains an  
17 interest in an electric plant or project under section 24A02  
18 shall incur the debt in accordance with and to the extent  
19 permitted by 53 Pa.C.S. Pt. VII Subpt. B (relating to  
20 indebtedness and borrowing). Interest and principal paid on  
21 revenue bonds issued by a borough under this chapter shall be  
22 exempt from all State taxes of any kind or nature.

23 (8) To mortgage a property acquired or owned under  
24 section 24A02 to secure the payment of its revenue bonds or  
25 other obligations issued to finance the acquisition,  
26 ownership or repair.

27 (9) To sell, by ordinance, all or part of its electric  
28 works to a purchaser for the sale price agreed upon by the  
29 parties. After the sale, the price shall be deemed to be the  
30 purchaser's original cost less accrued depreciation of the

1 plant at the date of purchase.

2 (10) To purchase the electric works of any person,  
3 partnership or electric company organized under the laws of  
4 this Commonwealth that is furnishing electricity to the  
5 borough or the public within the borough. The borough and the  
6 person, partnership or a majority in value of the  
7 stockholders of a corporation may agree upon the purchase  
8 price, except that, upon failure of the parties to agree on  
9 the price, the borough may proceed according to 26 Pa.C.S.  
10 (relating to eminent domain).

11 (b) Eminent domain.--In the erection and extension of an  
12 electric plant or project under this chapter and for all other  
13 purposes authorized by this part, a borough may enter upon,  
14 appropriate, injure or destroy private lands, property or  
15 material according to the proceedings set forth in 26 Pa.C.S. A  
16 borough shall not have the power of condemnation with regard to  
17 any property of a private or public retail electric supplier  
18 which geographically lies beyond the boundaries of the corporate  
19 limits of the borough.

20 § 24A04. Municipal power agencies.

21 (a) General rule.--Two or more boroughs may form a municipal  
22 power agency by the execution of an agency agreement authorized  
23 by an ordinance of the governing bodies of each borough. The  
24 agency agreement shall state:

25 (1) The name of the agency, which shall include the  
26 words "municipal power agency."

27 (2) The names of the boroughs which have approved the  
28 agency agreement and are initial members of the municipal  
29 power agency.

30 (3) That the municipal power agency is created pursuant

1 to the authority granted by this part.

2 (4) The names and addresses of the persons initially  
3 appointed by the governing bodies to act as representatives  
4 to the municipal power agency from the member boroughs.

5 (5) The limitations, if any, placed on the powers or  
6 terms of representatives appointed by the governing bodies of  
7 the member boroughs.

8 (6) The names and addresses of the initial board of  
9 directors of the municipal power agency, if known by the time  
10 of filing, which shall be constituted by not less than five  
11 persons who are representatives of the member boroughs,  
12 selected by the vote of a majority of the representatives.

13 (b) Certificate of incorporation.--The agency agreement  
14 under subsection (a) and a certified copy of the ordinance of  
15 the governing body of each borough shall be filed for record  
16 with the Secretary of the Commonwealth. If the agency agreement  
17 meets the requirements of this section, the Secretary of the  
18 Commonwealth shall record the agreement and issue and record a  
19 certificate of incorporation which shall be conclusive proof of  
20 substantial compliance with the requirements of this section.  
21 The certificate shall state the name of the municipal power  
22 agency and the fact and date of incorporation. Upon the issuance  
23 of the certificate of incorporation, the existence of the  
24 municipal power agency as a political instrumentality of the  
25 Commonwealth shall begin.

26 (b.1) Open meetings.--Regular and special meetings of the  
27 representatives of member boroughs and the board of directors as  
28 provided in this section shall be subject to 65 Pa.C.S. Ch. 7  
29 (relating to open meetings).

30 (c) Bylaws.--The bylaws of the municipal power agency and

1 any amendments shall be proposed by the board of directors and  
2 shall be adopted by a majority vote of the representatives of  
3 the member boroughs unless the agency agreement requires a  
4 greater vote at a meeting held after notice. Subject to the  
5 provisions of the agency agreement, the requirements of this  
6 part and the laws of this Commonwealth, the bylaws shall state:

7 (1) The qualifications of member boroughs and  
8 limitations, if any, upon their number.

9 (2) Conditions of membership, if any.

10 (3) The manner and time of calling regular meetings of  
11 representatives of member boroughs.

12 (4) The manner and conditions of termination of  
13 membership.

14 (5) Other provisions for regulating the affairs of the  
15 municipal power agency as the representatives of the member  
16 boroughs shall determine to be necessary.

17 (d) Registered office.--Every municipal power agency shall  
18 maintain an office in this Commonwealth to be known as its  
19 registered office. When a municipal power agency desires to  
20 change the location of its registered office, it shall file with  
21 the Secretary of the Commonwealth a certificate of change of  
22 location of registered office, stating the new location by  
23 address, including street and number, if any, and the effective  
24 date of change. When the certificate of change of location has  
25 been duly filed, the board of directors may make the change  
26 without any further action.

27 (e) Directors.--The following apply:

28 (1) Each of the directors shall hold office for the term  
29 for which the director has been selected and until a  
30 successor has been selected and has qualified. Directors



1 shall discharge their duties in good faith and with that  
2 diligence and care which an ordinary prudent person in a like  
3 position would exercise under similar circumstances.

4 (2) The agency agreement or the bylaws may prescribe the  
5 number, term of office, powers, authority and duties of  
6 directors, the time and place of their meetings and other  
7 regulations concerning directors in a manner consistent with  
8 law.

9 (3) Except where the agency agreement or bylaws  
10 prescribe otherwise, the term of office of a director shall  
11 be for one year.

12 (4) Except where the agency agreement or bylaws  
13 prescribe otherwise, a meeting of the board of directors may  
14 be held at any place within this Commonwealth designated by  
15 the board, after notice, and an act of the majority of the  
16 directors present at a meeting at which a quorum is present  
17 is the act of the board.

18 (5) Except where the agency agreement or bylaws  
19 prescribe otherwise, any vacancy occurring on the board shall  
20 be filled by a person nominated by the remaining members of  
21 the board and elected by a majority of representatives of the  
22 member boroughs.

23 (f) Officers.--Except where the agency agreement or bylaws  
24 prescribe otherwise, the board of directors shall appoint a  
25 president from its membership and a secretary, treasurer and any  
26 other officers or agents deemed necessary who may, but need not  
27 be, borough representatives or directors. An officer may be  
28 removed with or without cause by the board of directors.  
29 Officers of the municipal power agency shall have the authority  
30 and duties in the management of the business of the municipal

1 power agency that the agency agreement or bylaws prescribe or,  
2 in the absence of the prescription, as the board of directors  
3 determines.

4 (g) Representatives of member boroughs.--The following  
5 apply:

6 (1) Except as otherwise provided in the agency agreement  
7 or the bylaws, the duly authorized representatives of each  
8 member borough shall act as and vote on behalf of that  
9 borough.

10 (2) Except where the agency agreement or bylaws provide  
11 otherwise, representatives of the member boroughs shall hold  
12 at least one meeting each year for the election of directors  
13 and for the transaction of any other business.

14 (3) Except where the agency agreement or bylaws  
15 prescribe otherwise, special meetings of the representatives  
16 may be called for any purpose upon written request to the  
17 president or secretary to call the meeting. The officer shall  
18 give notice of the meeting to be held between ten and 60 days  
19 after receipt of the request.

20 (4) Unless the agency agreement or bylaws provide for a  
21 different percentage, a quorum for a meeting of the  
22 representatives of the member boroughs is a majority of the  
23 total members, and a quorum for meetings of the board of  
24 directors is a majority of the membership of the board.

25 (h) Amendment of agency agreement.--The agency agreement may  
26 be amended as proposed at any meeting of the representatives of  
27 the members for which notice stating the purpose shall be given  
28 to each representative and, unless the agency agreement or  
29 bylaws require otherwise, shall become effective when ratified  
30 by ordinances of a majority of the governing bodies of the

1 member boroughs. Each amendment and the ordinances approving it  
2 shall be filed for record with the Secretary of the  
3 Commonwealth.

4 (i) Appropriations.--Each member borough shall have full  
5 power and authority, within budgetary limits applicable to it,  
6 to appropriate money for the payment of expenses of the  
7 formation of the municipal power agency and of its  
8 representative in exercising its functions as a member of the  
9 agency.

10 (j) General powers.--A municipal power agency may own,  
11 construct, acquire by lease, purchase or otherwise gain an  
12 interest by itself or as co-owner or tenant in common and  
13 operate and manage or cause to be operated and managed an  
14 electric plant or project located within or without this  
15 Commonwealth jointly with any political subdivision, subdivision  
16 of the Federal Government, State government, political  
17 subdivision of another state, private corporation empowered to  
18 supply electricity, electric cooperative corporation formed  
19 under the former act of June 21, 1937 (P.L.1969, No.389), known  
20 as the Electric Cooperative Corporation Act, or electric  
21 cooperative corporation in another state.

22 (k) Specific powers.--All powers of a municipal power agency  
23 shall be exercised by its board of directors, unless otherwise  
24 provided by the agency agreement or bylaws. A municipal power  
25 agency shall have the power to do and accomplish all actions  
26 reasonably necessary and incident to the ownership,  
27 construction, acquisition, administration, operation and  
28 management of an electric plant or project. Among the specific  
29 powers of a municipal power agency shall be the following:

30 (1) To sue and be sued.

1           (2) To enter into contracts.

2           (3) To cooperate with private power companies, boroughs,  
3 electric cooperative corporations and other public or private  
4 electric power entities inside and outside of this  
5 Commonwealth in the development of electric power and energy.

6           (4) To make the studies as may be necessary to determine  
7 the feasibility and cost of any additional sources and  
8 supplies of electric power and energy.

9           (5) To contract for the purchase, sale, exchange,  
10 interchange, wheeling, pooling or transmission of electric  
11 power and energy or for the right to the capacity thereof,  
12 inside and outside of this Commonwealth, to and from any  
13 public or private power entities, private power companies,  
14 other boroughs and electric cooperative corporations.

15           (6) To procure insurance against any losses in  
16 connection with its property, operations or assets in amounts  
17 and from insurers as the board of directors deems desirable.

18           (7) To contract for and to accept any gifts, grants or  
19 loans of funds, property or financial or other aid in any  
20 form from the United States or any agency or instrumentality  
21 of the United States or from any other source.

22           (8) To acquire, hold, use, operate and dispose of  
23 personal property.

24           (9) To acquire, hold, use and dispose of its income,  
25 revenues, funds and money.

26           (10) To acquire, own, use, lease, operate and dispose of  
27 real property and interests in real property and to make  
28 improvements to the real property.

29           (11) To grant the use, by lease or otherwise, and to  
30 make charges for the use of any property or facility owned or

1 controlled by it.

2 (12) To procure from the United States or any agency or  
3 instrumentality of the United States, or from any state or  
4 agency or instrumentality of a state, any consents,  
5 authorizations or approvals which may be requisite to enable  
6 ownership, operation, construction or repair.

7 (13) To borrow money and from time to time to issue  
8 revenue bonds and to enter into agreements with the  
9 purchasers of the revenue bonds.

10 (14) To invest funds not required for immediate use,  
11 including, but not limited to, proceeds from the sale of  
12 revenue bonds. The power of a municipal power agency to  
13 invest shall be the same as that of a borough, as exercised  
14 by the council pursuant to sections 1005(6) (relating to  
15 powers of council) and 1316 (relating to investment of  
16 funds).

17 (15) To mortgage any property acquired or owned to  
18 secure the payment of its revenue bonds or other obligations  
19 issued to finance the acquisition, ownership or repair.

20 (1) Eminent domain.--

21 (1) Except as provided under paragraph (2), in the  
22 erection and extension of an electric plant or project and  
23 for all other purposes authorized by this part, a municipal  
24 power agency may enter upon, appropriate, injure or destroy  
25 private lands, property or material according to the  
26 proceedings set forth in 26 Pa.C.S. (relating to eminent  
27 domain).

28 (2) A municipal power agency shall not have the power of  
29 condemnation with regard to any property of a private or  
30 public retail electric supplier which geographically lies

1 beyond the boundaries of the corporate limits of its member  
2 boroughs.

3 (m) Revenue bonds.--A municipal power agency which gains an  
4 interest in an electric plant or project may pay all or part of  
5 the cost from the revenues derived from the sale of revenue  
6 bonds issued in the manner provided by 53 Pa.C.S. Pt. VII Subpt.  
7 B (relating to indebtedness and borrowing).

8 (n) Bylaws.--A municipal power agency may make and enforce  
9 bylaws or rules which it deems necessary or desirable. A  
10 municipal power agency may establish, fix, levy and collect or  
11 may authorize, by contract, franchise, lease or otherwise, the  
12 establishment, levying and collection of rents, rates and other  
13 charges for the services afforded by the municipal power agency,  
14 including connection for the services afforded by the municipal  
15 power agency, including connection charges or by or in  
16 connection with any project or properties which it may  
17 construct, erect, acquire, own, operate or control, or with  
18 respect to which it may have any interest or any right to  
19 capacity thereof, and for the sale of electric energy or of  
20 generation or transmission capacity or services as it may deem  
21 necessary, proper, desirable and reasonable. Rents, rates and  
22 other charges shall be at least sufficient to meet expenses  
23 thereof, including reasonable reserves, interest and principal  
24 payments.

25 (o) State tax exemptions.--Interest and principal paid on  
26 revenue bonds issued by a municipal power agency shall be exempt  
27 from all State taxes of whatsoever kind or nature.

28 § 24A05. Additional contracting authority.

29 (a) Additional contracting authority.--In addition to the  
30 authority provided under section 24A02 (relating to general

1 powers), a borough that, on October 27, 2010, owned or operated  
2 electric generation or distribution facilities and a borough  
3 that is a member of a nonprofit membership corporation may  
4 contract with the nonprofit membership corporation for the  
5 following:

6 (1) The development of electric power and associated  
7 energy, including the conduct of investigations or studies  
8 necessary to determine the feasibility and cost of additional  
9 sources and supplies of electric power and associated energy.

10 (2) The purchase, sale, exchange, interchange, wheeling,  
11 pooling or transmission of electric power and associated  
12 energy or the right to the capacity from sources and projects  
13 in this Commonwealth or another state for a period not to  
14 exceed 50 years.

15 (b) Contract requirements.--A contract under subsection (a)  
16 (2) shall include the purpose of the contract, the duration of  
17 the contract and available procedures to terminate the contract  
18 subsequent to the repayment of all indebtedness secured under  
19 the contract.

20 (c) Minimum quantity of electric power and energy.--If a  
21 borough is a member of a nonprofit membership corporation, a  
22 contract under subsection (a)(2) may, if specifically set forth  
23 in the contract, obligate the borough to:

24 (1) Take and pay for a minimum quantity of electric  
25 power and associated energy if the power and energy are  
26 available for delivery.

27 (2) In connection with a project owned by the nonprofit  
28 membership corporation or in which the nonprofit membership  
29 corporation obtains an undivided ownership interest, take or  
30 pay for a minimum amount of electric power and energy.

1       (3) Pay for electric power and energy only if utilized  
2 by the borough.

3 (d) Applicability of minimum requirements.--

4       (1) The authority under subsection (c)(1) shall apply  
5 whether or not the borough accepts delivery of the power and  
6 energy.

7       (2) The authority under subsection (c)(2) shall apply  
8 notwithstanding the suspension, interruption, interference or  
9 reduction or curtailment of the output of the project or the  
10 electric power and energy contracted for and whether or not:

11       (i) the electric power and energy is available for  
12 delivery to the borough; or

13       (ii) the borough accepts delivery of the electric  
14 power and energy.

15 (e) Take-or-pay or take-and-pay arrangements.--No borough  
16 may be obligated under a take-or-pay or take-and-pay arrangement  
17 entered into with a nonprofit membership corporation in which  
18 the borough maintains membership unless that obligation is  
19 expressly authorized by an act of the council.

20 (f) Restrictions.--A nonprofit membership corporation shall  
21 not:

22       (1) Condition membership in the nonprofit membership  
23 corporation on the inclusion of any take-or-pay or take-and-  
24 pay obligations in a contract under subsection (a)(2).

25       (2) Except as set forth in subsection (g), require take-  
26 or-pay or take-and-pay obligations in a contract with a  
27 borough unless the contract meets the criteria of subsection  
28 (c)(1) or (2).

29 (g) Future contracts.--A borough that is a member of a  
30 nonprofit membership corporation may enter into future power



1 supply contracts, contract renewals or contract extensions with  
2 the nonprofit membership corporation under subsection (c) (3):  
3 (1) with no take-or-pay or take-and-pay obligations as  
4 permitted by subsection (c) (1) and (2); and  
5 (2) without prejudice or discrimination as compared to  
6 any other borough which chooses to enter into contracts  
7 permitted by subsection (c) (1) and (2) with the nonprofit  
8 membership corporation.

9 (h) Future power supply contract terms.--In order to carry  
10 out subsection (g), a nonprofit membership corporation which  
11 provides or offers electric power and associated energy to a  
12 member borough in this Commonwealth under subsection (a) (2)  
13 shall offer, to all of its member boroughs in this Commonwealth,  
14 future power supply contract terms, contract renewals or  
15 contract extensions under subsection (c) (3) on a comparable and  
16 nondiscriminatory basis and with similar terms and conditions to  
17 future power supply contract terms, contract renewals or  
18 contract extensions that would be appropriate under subsection  
19 (c) (3) which the nonprofit membership corporation  
20 contemporaneously offers to its members in other states.

21 (i) Payments.--All obligations under a contract under  
22 subsection (a) (2) shall be paid from revenues derived from the  
23 operation of the borough's electric system, and payments shall  
24 be an operating expense of the borough's electric system.

25 (j) Obligations of other entities.--If explicitly set forth  
26 in a contract under subsection (a) (2), a borough may agree to  
27 assume, prorate or otherwise become liable for the obligations  
28 of another borough of this Commonwealth or of a political  
29 subdivision of another state that is a member of the nonprofit  
30 membership corporation if the borough or other political

1 subdivision defaults in the payment of its obligations for the  
2 purchase of the electric power and associated energy. The  
3 contract may include provisions to permit a borough to succeed  
4 to the rights and interests of the defaulting borough or  
5 political subdivision to purchase electric power and associated  
6 energy. A borough's liability for the obligations of a  
7 defaulting borough of this Commonwealth or a political  
8 subdivision of another state shall not exceed 25% of a borough's  
9 initial nominal entitlement to electric power and associated  
10 energy under the contract.

11 (k) Pledge of borough property prohibited.--None of the  
12 obligations under the contract may constitute a legal or  
13 equitable pledge, charge, lien or encumbrance on any property of  
14 the borough or on any of its income, receipts or revenues,  
15 except revenues of its electric system. The full faith and  
16 credit and the taxing power of the borough shall not be pledged  
17 for the payment of an obligation under the contract.

18 (l) Construction.--This section is intended to add to the  
19 powers and rights of a borough, and nothing in this section may  
20 be construed to limit either the general or specific powers or  
21 rights of a borough set forth in this title.

22 (m) Definition.--As used in this section, the term  
23 "nonprofit membership corporation" means an entity the  
24 membership of which:

25 (1) consists solely of Pennsylvania boroughs, such as a  
26 consortium, buying group or municipal power agency under  
27 section 24A04 (relating to municipal power agencies); or

28 (2) consists of Pennsylvania boroughs and political  
29 subdivisions of another state or states.

30

CHAPTER 25

1 (RESERVED)

2 CHAPTER 25A

3 AIRPORTS

4 Sec.

5 25A01. Authority to secure lands for airports.

6 25A02. Authority to establish and lease airports.

7 25A03. Joint airports.

8 § 25A01. Authority to secure lands for airports.

9 A borough is authorized and empowered to acquire by lease,  
10 purchase or condemnation any land lying either within or without  
11 the limits of the borough which, in the judgment of the council,  
12 may be necessary and desirable for the purpose of establishing  
13 and maintaining municipal airport facilities. The proceedings  
14 for the condemnation of land under the provisions of this  
15 chapter and for the assessment of damages for property taken,  
16 injured or destroyed shall be conducted in the manner provided  
17 by 26 Pa.C.S. (relating to eminent domain). The title acquired  
18 by the borough exercising the power of condemnation shall be a  
19 title in fee simple.

20 § 25A02. Authority to establish and lease airports.

21 A borough acquiring land under the provisions of this chapter  
22 is authorized and empowered to establish, equip, condition,  
23 operate and maintain the land as a municipal airport and may  
24 lease the land, or any part, to any individual or corporation  
25 desiring to use the same for aviation purposes. A borough may  
26 enter into a contract, in the form of a lease, providing for the  
27 use of the land, or any part, by the Federal Government for its  
28 use of the land for aviation purposes upon nominal rental or  
29 without consideration.

30 § 25A03. Joint airports.

1 In accordance with the powers in this chapter, a borough may,  
2 jointly with another municipality, acquire land for aviation  
3 purposes and may jointly operate and maintain the airport on the  
4 terms and conditions as agreed upon by the governing bodies of  
5 the borough and other municipality.

6 CHAPTER 26

7 WHARVES AND DOCKS

8 Sec.

9 2601. Powers.

10 2602. (Reserved).

11 2603. Proceedings.

12 2604. Assessment of damages.

13 2605. Leases.

14 2606. Market houses, terminal sheds, tracks and facilities.

15 2607. Public use preserved.

16 2608. Saving clause.

17 § 2601. Powers.

18 (a) Construction and repair.--Boroughs shall have the power  
19 to construct and repair wharves and docks and may acquire, by  
20 purchase or condemnation, real estate along navigable waters and  
21 within the borough limits as needed for the construction. Prior  
22 to any condemnation, a borough shall enact an ordinance  
23 authorizing the same.

24 (b) Additional powers.--Boroughs have the following  
25 additional powers:

26 (1) To regulate, fix and enforce the collection of the  
27 rate of wharfage for all public wharves and docks within its  
28 limits.

29 (2) To regulate the anchoring of vessels, boats or rafts  
30 within the borough limits.

1           (3) To regulate the depositing of freight on the public  
2           wharves.

3   § 2602. (Reserved).

4   § 2603. Proceedings.

5           The proceedings before the viewers for the assessment of  
6   damages for property taken, injured or destroyed under this  
7   chapter and the proceedings on their report shall be as provided  
8   in 26 Pa.C.S. (relating to eminent domain). The costs of all  
9   proceedings, including the compensation of the viewers, shall be  
10 paid by the borough.

11 § 2604. Assessment of damages.

12           (a) General rule.--The damages for the taking or injury of  
13 any property for use as a wharf, pier or bulkhead shall include  
14 full compensation for the value of the property taken or  
15 injured.

16           (b) Partial taking.--If the property taken or injured shall  
17 constitute a part of a plant used as an entirety, the damage to  
18 the owner or tenant shall be assessed by taking the difference  
19 in market value of the plant as a whole, including buildings and  
20 all equipment installed and used in the plant, before and after  
21 taking or injury, and notwithstanding that part of the plant may  
22 be separated by a street or highway.

23 § 2605. Leases.

24           Any borough may lease any wharf or part and collect rent by  
25 distress or otherwise. No one term of a lease shall be for a  
26 period longer than three years.

27 § 2606. Market houses, terminal sheds, tracks and facilities.

28           (a) Market houses and terminal sheds.--Boroughs may erect  
29 and maintain market houses and terminal sheds on wharves for the  
30 receipt and distribution of freight and express.

1 (b) Tracks and facilities.--Boroughs may construct railroad  
2 and street railway tracks or other facilities on wharves to  
3 provide for the convenient hauling of freight or express matter  
4 and may collect rents, tolls or charges for the use of market  
5 houses, terminal sheds, tracks and facilities. No permit other  
6 than a license revocable at will shall be granted, and no  
7 exclusive permit for the use of the facilities shall be granted.  
8 § 2607. Public use preserved.

9 No structure erected and no right granted under the powers  
10 conferred under this chapter shall interfere with the public use  
11 of wharves for waterborne commerce.  
12 § 2608. Saving clause.

13 Nothing contained in this chapter shall be construed as  
14 conferring upon boroughs any power conferred by existing law on  
15 the Navigation Commission for the Delaware River and its  
16 Navigable Tributaries or to permit boroughs to do any act or to  
17 enact any ordinance inconsistent with the laws, rules and  
18 regulations relating to the commission.

19 CHAPTER 27

20 RECREATION PLACES, SHADE TREES AND FORESTS

21 Subchapter

22 A. Parks and Playgrounds

23 B. Shade Trees

24 C. Forests

25 SUBCHAPTER A

26 PARKS AND PLAYGROUNDS

27 Sec.

28 2700. Definitions.

29 2701. General powers.

30 2702. Power to acquire.

- 1 2703. Appropriation of private property.  
2 2704. (Reserved).  
3 2705. (Reserved).  
4 2706. (Reserved).  
5 2707. (Reserved).  
6 2708. Recreation board or other authority.  
7 2709. Establishment of recreation board.  
8 2710. Organization of board and employees.  
9 2711. (Reserved).  
10 2712. (Reserved).  
11 2713. Lease for school athletics.  
12 § 2700. Definitions.

13 The following words and phrases when used in this chapter  
14 shall have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16 "Recreation places." Public parks, parkways and playgrounds,  
17 playfields, swimming pools, public baths, bathing places, indoor  
18 recreation centers and gymnasiums.

19 § 2701. General powers.

20 (a) General rule.--A borough may provide, improve, maintain  
21 and regulate recreation places within the borough limits or in  
22 any adjacent municipal corporation if the other municipal  
23 corporation shall, by ordinance, signify its consent to the  
24 provision, improvement, maintenance or regulation.

25 (b) Acquisition.--A borough may enter upon, appropriate and  
26 acquire by gift, devise, purchase, lease or otherwise private  
27 property or may designate and set apart any lands or buildings  
28 owned by the borough and not dedicated or devoted to other  
29 public uses for the purpose of making, enlarging and maintaining  
30 recreation places.

1 (c) Joint action.--A borough may join with one or more  
2 political subdivisions to acquire, create, equip, improve,  
3 regulate, maintain and operate any recreation place in  
4 accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to  
5 intergovernmental cooperation).

6 (d) Limitation.--No borough, acting individually or jointly,  
7 may acquire private property within the limits of another  
8 municipal corporation for the purposes designated in this  
9 section without the consent of the governing body of the  
10 municipal corporation in which the property is located in  
11 accordance with 26 Pa.C.S. (relating to eminent domain).

12 (e) Expenses.--All expenses incurred in the maintenance,  
13 improvement, acquisition or operation of recreation places, as  
14 provided in this section, shall be payable from the treasury of  
15 the borough or the borough and other political subdivisions as  
16 may be provided for by agreement of the governing bodies. The  
17 council may annually appropriate, and cause to be raised by  
18 taxation, an amount necessary for the purpose of maintaining and  
19 operating recreation places or for paying its share of the  
20 amount.

21 § 2702. Power to acquire.

22 A borough may enter upon, appropriate and acquire by gift,  
23 devise, purchase, lease or otherwise private property within the  
24 limits of the borough or in any adjacent township. A borough may  
25 designate and set apart any lands or buildings owned by the  
26 borough and not dedicated or devoted to other public uses.

27 (b) Joint acquisition.--Two or more boroughs may jointly  
28 appropriate and acquire by gift, devise, purchase, lease or  
29 otherwise private property within the limits of any township  
30 adjacent to any of the boroughs for the purpose of making,



1 enlarging and maintaining recreation places. All the costs and  
2 expenses relative to the property acquired by two or more  
3 boroughs jointly shall be paid by the respective boroughs in the  
4 proportions as may be agreed upon by the respective councils.

5 (c) Private property of other borough or city.--Any borough  
6 may likewise acquire private property within the limits of  
7 another borough or city for the purposes designated in this  
8 section if the other borough or city shall, by ordinance,  
9 signify its consent to the acquisition.

10 § 2703. Appropriation of private property.

11 The appropriation of private property for the purpose of  
12 making, enlarging and maintaining recreation places is declared  
13 to be the taking of private property for public use, and, for  
14 all damage suffered by the owners of any property taken in that  
15 manner, the funds of the borough raised by taxation shall be  
16 pledged as security. The proceedings for the taking of private  
17 property and the assessment of damages for private property  
18 taken, injured or destroyed under this chapter shall be as  
19 provided in 26 Pa.C.S. (relating to eminent domain).

20 § 2704. (Reserved).

21 § 2705. (Reserved).

22 § 2706. (Reserved).

23 § 2707. (Reserved).

24 § 2708. Recreation board or other authority.

25 (a) Recreation board or other authority.--The authority to  
26 supervise and maintain recreation places may be vested in any  
27 existing body or board, including the council, or in a  
28 recreation board, as the council shall determine. The council of  
29 the borough may equip, operate and maintain the recreation  
30 places, as authorized by this chapter, and may, for the purpose

1 of carrying out the provisions of this chapter, employ any  
2 officers or employees as it may deem proper.

3 (b) (Reserved).

4 (c) Joint recreation board.--Any borough may join or create,  
5 with one or more municipalities, a joint recreation board in  
6 accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to  
7 intergovernmental cooperation). The composition of the board and  
8 its powers and duties shall be as provided by agreement of the  
9 governing bodies of the municipalities.

10 § 2709. Establishment of recreation board.

11 (a) Establishment.--If the council determines that the power  
12 to equip, operate and maintain recreation places shall be  
13 exercised by a recreation board, the council may, by ordinance,  
14 establish in the borough a recreation board which shall possess  
15 those powers and duties as may be delegated to it by ordinance.

16 (b) Composition.--The board shall consist of a minimum of  
17 five and a maximum of nine persons. Two of the members may be  
18 members or appointees of the school board of the school district  
19 in which the borough is located. If the board consists of seven  
20 members, three of the members may be members or appointees of  
21 the school board. The borough members of the board shall be  
22 appointed by the council and shall serve terms not longer than  
23 five years. The terms of the members shall be staggered in a  
24 manner that at least one member's term expires annually.

25 (c) Compensation.--Members of the board shall serve without  
26 pay.

27 (d) Vacancies.--Vacancies in the board, occurring otherwise  
28 than by expiration of term, shall be filled for the unexpired  
29 term in the same manner as original appointments.

30 § 2710. Organization of board and employees.

1 The members of a recreation board established under this  
2 chapter shall elect their own chair and secretary and select all  
3 other necessary officers to serve for a period of one year. The  
4 recreation board may, with the approval of council, establish  
5 employment positions and hire employees to fill the approved  
6 positions. The board shall have power to adopt rules and  
7 regulations for the conduct of all business within its  
8 jurisdiction.

9 § 2711. (Reserved).

10 § 2712. (Reserved).

11 § 2713. Lease for school athletics.

12 (a) Lease.--A borough maintaining a recreation place may  
13 lease a recreation place, or a portion of a recreation place,  
14 suitable for athletic sports and athletic games to any school  
15 board or school athletic association organized by a school board  
16 and organized for the purpose of conducting amateur athletic  
17 sports and games among pupils of the public school.

18 (b) Admission charge.--The borough maintaining a recreation  
19 place may permit a school board or school athletic association  
20 to charge admission to sports and games and to deny persons  
21 refusing to pay admission access to the grounds where sports or  
22 games are being conducted, if sports and games are not conducted  
23 for individual profit.

24 SUBCHAPTER B

25 SHADE TREES

26 Sec.

27 2720. Care, custody and control.

28 2720.1. Maintenance by borough and tax levy.

29 2720.2. Payment by owners and assessments.

30 2720.3. Notice of work.

1 2720.4. Penalties.  
2 2721. Shade tree commission.  
3 2722. Composition of commission.  
4 2723. (Reserved).  
5 2724. (Reserved).  
6 2724.1. Duties of commission.  
7 2725. (Reserved).  
8 2726. (Reserved).  
9 2727. (Reserved).  
10 2728. (Reserved).  
11 2729. (Reserved).  
12 2730. (Reserved).  
13 § 2720. Care, custody and control.

14 (a) Council authority.--Council shall have exclusive care,  
15 custody and control of shade trees in the borough. Council may:

16 (1) Plant, transplant, remove, maintain and protect  
17 shade trees on the streets and highways in the borough.

18 (2) Employ and pay persons and make and enforce  
19 regulations as may be necessary for the care and protection  
20 of the shade trees of the borough.

21 (b) Planting, transplanting or removal.--Council may, by  
22 ordinance, and with or without the petition of a majority of the  
23 property owners, upon any public street in the borough, plant,  
24 transplant or remove shade trees. Council may, with or without  
25 petition, require the planting and replanting of suitable shade  
26 trees along and upon the sides of the streets, upon alignment  
27 and at points as may be designated by ordinance, by the owners  
28 of property abutting the street at the points designated.

29 (c) Limitation.--Nothing in this part may authorize council  
30 to plant or replant, or require the planting or replanting of,

1 trees at any point which may interfere with the necessary or  
2 reasonable use of any street or abutting property or the  
3 business conducted on the property.

4 (d) Assessment of costs.--On failure of any owner, after  
5 reasonable notice, to comply with the terms of an ordinance  
6 requiring the planting or replanting of shade trees, the borough  
7 may cause the trees to be planted or replanted and assess the  
8 cost against the owner in accordance with section 2720.2  
9 (relating to payment by owners and assessments).

10 (e) Diseased plants, shrubs and trees.--Council may, upon  
11 notice as may be provided by ordinance, require owners of  
12 property to cut and remove plants, shrubs and trees afflicted  
13 with any disease that threatens to injure or destroy plants,  
14 shrubs and shade trees in the borough under regulations  
15 prescribed by ordinance. Upon failure of any owner to comply  
16 with the notice, the borough may cause the work to be done by  
17 the borough and assess the cost against the owner in accordance  
18 with section 2720.2.

19 § 2720.1. Maintenance by borough and tax levy.

20 (a) Cost and expenses.--The cost and expenses of caring for  
21 shade trees after having been planted or transplanted and the  
22 expense of publishing any notice required by this subchapter  
23 shall be paid by the borough.

24 (b) Tax levy or appropriation.--Council may levy a general  
25 tax, not to exceed the sum of one-tenth of one mill on the  
26 dollar on the assessed valuation of the property in the borough  
27 taxable for county purposes, for the purpose of defraying the  
28 cost and expenses of caring for the shade trees and the expense  
29 of publishing notices, or it may provide for the expense of the  
30 caring for trees already planted and of publishing the notice by

1 appropriations.

2 § 2720.2. Payment by owners and assessments.

3 (a) Payment by owners.--The cost of planting, transplanting  
4 or removing any shade trees or the necessary and suitable  
5 guards, curbing or grading for their protection and of the  
6 replacing of pavement or sidewalk necessarily disturbed in the  
7 execution of the work shall be paid by the owners of the real  
8 estate abutting the location of the work.

9 (b) Assessment and collection.--In the event that the  
10 borough undertakes the work described in this section, costs  
11 shall be certified, assessed against the abutting owners and  
12 collected in accordance with Chapter 21A (relating to  
13 assessments and charges for public improvements).

14 § 2720.3. Notice of work.

15 If council proposes to plant, transplant or remove shade  
16 trees on any street, notice of the time and place of the meeting  
17 at which the work is to be considered shall be given in one  
18 newspaper of general circulation once a week for two weeks  
19 immediately preceding the time of the meeting. The notice shall  
20 specify in detail the streets or portions upon which trees are  
21 proposed to be planted, transplanted or removed. In the event  
22 that a shade tree commission is to undertake the work, the  
23 commission shall provide the notice.

24 § 2720.4. Penalties.

25 (a) Penalties for violation.--To the extent provided by  
26 ordinance, council may assess penalties for the violation of  
27 regulations relating to shade trees or delegate the power to  
28 assess penalties to a shade tree commission. Any penalty  
29 assessed shall be a lien upon the real estate of the offender  
30 and may be collected as municipal claims are collected.

1 (b) Separate fund.--All penalties or assessments imposed  
2 under this subchapter shall be paid to the borough treasurer, to  
3 be kept in a separate fund and utilized only for the purposes  
4 authorized by this subchapter.

5 § 2721. Shade tree commission.

6 (a) Establishment.--Council by ordinance may establish a  
7 shade tree commission and delegate to the shade tree commission  
8 the exclusive care, custody and control of shade trees and  
9 authorization to plant, transplant, remove, maintain and protect  
10 shade trees on the streets and highways in the borough.

11 (b) Commission authority.--The shade tree commission may  
12 make and enforce regulations for the care and protection of  
13 shade trees. No regulation may be in force until it has been  
14 approved by the council and enacted as an ordinance.

15 (c) Park commission.--If in any borough there exists a  
16 commission for the care of public parks, the council may, by  
17 ordinance, confer on the park commission all the powers and all  
18 the duties prescribed by this chapter for a shade tree  
19 commission.

20 § 2722. Composition of commission.

21 (a) General.--Except as provided in subsection (b), a shade  
22 tree commission shall be composed of three residents of the  
23 borough who shall be appointed by the council and shall serve  
24 without compensation.

25 (b) Council option.--The council, by ordinance, may provide  
26 that a shade tree commission be composed of five members who  
27 shall be residents of the borough, shall be appointed by the  
28 council and shall serve without compensation.

29 (c) Three-member commission.--If a shade tree commission of  
30 three members is established by any borough, the council shall

1 appoint one member for a term of three years, one for a term of  
2 four years and one for a term of five years. On the expiration  
3 of the term of any commissioner, a successor shall be appointed  
4 by the council to serve for a term of five years.

5 (d) Five-member commission.--If a shade tree commission of  
6 five members is established by any borough, the council shall  
7 appoint members to staggered terms so that one term expires  
8 every year. On the expiration of the term of any commissioner, a  
9 successor shall be appointed by the council to serve for a term  
10 of five years.

11 (e) Vacancies.--Vacancies in the office of commissioner  
12 shall be filled by the council for the unexpired term.

13 § 2723. (Reserved).

14 § 2724. (Reserved).

15 § 2724.1. Duties of commission.

16 (a) Annual report.--A shade tree commission shall annually  
17 report in full to the council its transactions and expenses for  
18 the last fiscal year of the borough.

19 (b) Notice.--If a shade tree commission proposes to plant,  
20 transplant or remove shade trees on any street, notice of the  
21 time and place of the meeting at which the work is to be  
22 considered shall be given by the shade tree commission in  
23 accordance with section 2720.3 (relating to notice of work).

24 (c) Certification of amounts required.--The shade tree  
25 commission shall each year certify to council an amount needed  
26 for the care of shade trees and for the publication of notices  
27 required by this subchapter. The shade tree commission shall use  
28 funds appropriated or raised by taxation in accordance with  
29 section 2720.1 (relating to maintenance by borough and tax levy)  
30 for any purpose authorized by council.



1 (d) Certification of assessments.--The shade tree commission  
2 shall ascertain and certify to council and the borough treasurer  
3 the amount of any assessment imposed in accordance with this  
4 subchapter for the planting, transplanting or removal of plants,  
5 shrubs and trees.

6 § 2725. (Reserved).

7 § 2726. (Reserved).

8 § 2727. (Reserved).

9 § 2728. (Reserved).

10 § 2729. (Reserved).

11 § 2730. (Reserved).

12 SUBCHAPTER C

13 FORESTS

14 Sec.

15 2751. Acquisition of land for forest purposes.

16 2752. (Reserved).

17 2753. Ordinance of acquisition.

18 2754. Appropriations.

19 2755. Regulations.

20 2756. Appropriations and revenue.

21 2757. Use of forests.

22 2758. Ordinance of sale.

23 2759. Pruning and thinning.

24 § 2751. Acquisition of land for forest purposes.

25 A borough may acquire by purchase, gift or lease tracts of  
26 land covered with forest or tree growth or suitable for the  
27 growth of trees and administer the tracts in accordance with the  
28 practices and principles of scientific forestry, for the benefit  
29 of the borough. The tracts may be of any size suitable for the  
30 purpose and may be located within or without the borough limits.

1 § 2752. (Reserved).

2 § 2753. Ordinance of acquisition.

3 If the council deems it expedient to acquire land for the  
4 purposes of a municipal forest, it shall enact an ordinance  
5 setting forth the facts and conditions relating to the proposed  
6 action.

7 § 2754. Appropriations.

8 Money necessary for the purchase of the tracts shall be  
9 appropriated in the same manner as appropriations for borough  
10 purposes. Money may be provided from the current revenue or by  
11 the proceeds of a sale of general obligation bonds in accordance  
12 with existing law.

13 § 2755. Regulations.

14 Upon the acquisition of a municipal forest or land suitable  
15 for a municipal forest, the council may promulgate regulations  
16 for the government and proper administration of the same as  
17 necessary to produce continuing borough revenue by the sale of  
18 forest products.

19 § 2756. Appropriations and revenue.

20 Money necessary for the administration, maintenance,  
21 protection and development of forests shall be appropriated and  
22 applied as is now done for borough purposes. The revenue and  
23 return on the revenue arising from the forests shall be paid  
24 into the borough treasury to be used for general borough  
25 purposes.

26 § 2757. Use of forests.

27 A municipal forest may be used by the public as general  
28 outing or recreation grounds subject to the regulations under  
29 section 2755 (relating to regulations).

30 § 2758. Ordinance of sale.

1 (a) Requirement.--If the council deems it expedient to sell  
2 or lease a municipal forest, a part of a municipal forest or a  
3 product from a municipal forest, it shall enact an ordinance  
4 setting forth the facts and conditions relating to the proposed  
5 action.

6 (b) Conditions.--In order to enact an ordinance under this  
7 section, there must be compliance with the advertising and  
8 bidding requirements of section 1201.1 (relating to real  
9 estate).

10 § 2759. Pruning and thinning.

11 (a) Authority.--To comply with the practices and principles  
12 of scientific forestry, the council has the following powers:

13 (1) To pass a resolution to prune or thin out a  
14 municipal forest or portion of a municipal forest.

15 (2) To sell the products of the pruning or thinning out.

16 (b) Personnel.--To carry out subsection (a), the borough may  
17 use its own personnel or contract with skilled personnel.

18 (c) Bidding and advertising.--The bidding and advertising  
19 requirements of this part do not apply to any of the following:

20 (1) Sales under subsection (a)(2).

21 (2) Contracts under subsection (b).

22 CHAPTER 28

23 CEMETERIES

24 Sec.

25 2800. Appropriations for burial ground maintenance.

26 2800.1. Burial of deceased persons.

27 2801. Management by cemetery commission.

28 2802. Transfer from borough to company.

29 2803. (Reserved).

30 2804. (Reserved).

1 2805. Transfer from company to borough.  
2 2805.1. Neglected or abandoned cemeteries.  
3 2806. (Reserved).  
4 2807. (Reserved).  
5 2808. Removing bodies to alter plots.  
6 2809. Removal of bodies to other cemeteries.  
7 2810. (Reserved).  
8 2811. (Reserved).  
9 2812. (Reserved).  
10 2813. (Reserved).  
11 2814. (Reserved).  
12 2815. (Reserved).  
13 2816. Purchase of plots for burial of deceased service members.  
14 § 2800. Appropriations for burial ground maintenance.

15 A borough may appropriate annually, out of the general funds  
16 of the borough, a sum for the care, upkeep, maintenance and  
17 beautifying of:

18 (1) cemeteries and burial grounds lying wholly or partly  
19 within the boundary limits of the borough or in the territory  
20 immediately adjacent to the borough; and

21 (2) private roads in or leading to property under  
22 paragraph (1).

23 § 2800.1. Burial of deceased persons.

24 A borough may prohibit the burial or interment of deceased  
25 persons anywhere within borough limits.

26 § 2801. Management by cemetery commission.

27 If the title and management of a cemetery is vested in a  
28 borough, the council may, by ordinance, vest the care,  
29 management and operation of the cemetery in a cemetery  
30 commission of three citizens to be appointed by the council. The

1 ordinance shall provide for the terms of the cemetery  
2 commissioners.

3 § 2802. Transfer from borough to company.

4 (a) Authority.--Upon petition of at least 10% of living  
5 cemetery lot owners, the council may transfer the cemetery and  
6 its management to an incorporated cemetery company.

7 (b) Procedure.--Upon presentation of a petition under  
8 subsection (a), the council may enact an ordinance declaring  
9 that, upon the acceptance of the ordinance by the incorporated  
10 cemetery company and filed with the borough secretary, the title  
11 and control of the cemetery shall vest in the incorporated  
12 cemetery company.

13 (c) Recording.--A copy of the ordinance and the acceptance  
14 by the incorporated cemetery company, certified by the borough  
15 secretary, shall be recorded in the office of the recorder of  
16 deeds of the county.

17 § 2803. (Reserved).

18 § 2804. (Reserved).

19 § 2805. Transfer from company to borough.

20 (a) Judicial action.--

21 (1) Upon the petition of an incorporated cemetery  
22 company and the owners of a majority of the taxable real  
23 estate in the borough, the court of common pleas may  
24 authorize the transfer of a cemetery to the borough where the  
25 cemetery is located or is adjacent to the borough.

26 (2) A copy of the court order under paragraph (1) shall  
27 be filed with the recorder of deeds.

28 (b) Cost.--The transfer shall be made without cost to the  
29 borough.

30 (c) Effect.--Upon transfer, the following apply:

1       (1) The borough shall exercise the powers and privileges  
2 of the incorporated company.

3       (2) The borough may do all of the following:

4           (i) Purchase up to 30 acres of land within or  
5 adjacent to the borough limits for the extension of the  
6 cemetery;

7           (ii) Pay for the purchase under subparagraph (i) by:

8                   (A) sale of lots or otherwise; or

9                   (B) any means other than taxation.

10          (iii) Lay out lots purchased and alter the original  
11 plot of the cemetery.

12          (iv) Dispose of the grounds in the same manner as  
13 the incorporated company could have done.

14 (d) Deeds.--

15          (1) A deed for a lot, made by the borough, shall have  
16 the same validity as the deed of the incorporated cemetery  
17 company.

18          (2) The borough may make a deed to a person that, prior  
19 to transfer under this section:

20           (i) purchased a lot; but

21           (ii) did not receive a deed.

22 § 2805.1. Neglected or abandoned cemeteries.

23          (a) Maintenance.--The council may, upon compliance with  
24 subsection (b), direct the removal of weeds, refuse and debris  
25 from an abandoned or neglected cemetery.

26 (b) Notice.--

27          (1) To exercise the power under subsection (a), the  
28 council must give notice to the owner directing the removal  
29 of weeds, refuse and debris from the cemetery within 30 days  
30 of service under paragraph (2).

1           (2) Notice must be effected by any of the following  
2 means:

3           (i) Personal service on the owner.

4           (ii) Certified mail, addressee only, return receipt  
5 requested, to the owner at the owner's last known  
6 address.

7           (iii) After reasonable attempts to give notice under  
8 subparagraph (i) or (ii) have failed, posting notice at  
9 or upon the property.

10 (c) Action.--

11           (1) If the removal is not completed within 30 days after  
12 the notice is effected under subsection (b)(2), the council  
13 shall provide for the removal to be done by employees of the  
14 borough or by a contractor at the expense of the borough.

15           (2) The costs of removal under paragraph (1) shall be  
16 assessed against the owner of the cemetery and collected  
17 under Chapter 21A (relating to assessments and charges for  
18 public improvements).

19 § 2806. (Reserved).

20 § 2807. (Reserved).

21 § 2808. Removing bodies to alter plots.

22           In altering the plot of a cemetery, bodies may be removed and  
23 reinterred in a suitable place but without cost to surviving  
24 relatives.

25 § 2809. Removal of bodies to other cemeteries.

26 (a) Authority.--

27           (1) This subsection applies to a privately owned  
28 cemetery, a borough-owned cemetery or a cemetery affiliated  
29 with a religious society or church or any other organization,  
30 when the cemetery:

1           (i) has ceased to be used for interments;  
2           (ii) has become so neglected as to become a public  
3 nuisance;  
4           (iii) hinders the improvement and progressive  
5 interests of the borough; or  
6           (iv) is desired by the borough as a site for any  
7 public purpose.

8           (2) The court of common pleas may, upon compliance with  
9 subsection (b), direct the removal of the remains of the dead  
10 from a cemetery.

11 (b) Procedure.--

12           (1) A petition under this section must be made to the  
13 court by any of the following:

14           (i) The manager of the cemetery in charge of a  
15 religious society or church or an other organization. The  
16 following are required to utilize this subparagraph:

17                   (A) Public notice of a meeting of the entity on  
18 the petition must be given two weeks before the  
19 meeting.

20                   (B) At the meeting, a majority of the members of  
21 the entity must approve the petition.

22                   (C) The petition must set forth that the  
23 cemetery has ceased to be used for interments.

24           (ii) If the cemetery is not under the charge of  
25 anyone, 50 residents of the borough. A petition under  
26 this subparagraph must set forth that the improvements  
27 and progressive interests of the borough are hampered and  
28 the welfare of the borough is injured by the presence of  
29 the cemetery.

30           (iii) The council. A petition under this



1 subparagraph must set forth that:

2 (A) the cemetery has become so neglected as to  
3 become a public nuisance;

4 (B) the improvements and progressive interests  
5 of the borough are hampered and the welfare of the  
6 borough is injured by the presence of the cemetery;

7 or

8 (C) the land is desired for a public purpose.

9 (2) Notice must be given by advertisement in a newspaper  
10 of general circulation once a week for three successive  
11 weeks.

12 (c) Private action.--A relative of the deceased individual  
13 subject to removal or another interested party of the dead may,  
14 prior to action under subsection (d), remove the remains at  
15 private expense.

16 (d) Public action.--

17 (1) The removal shall be made by:

18 (i) the manager of the cemetery;

19 (ii) the borough if the cemetery is:

20 (A) not in charge of a manager; or

21 (B) owned by the borough.

22 (2) The removal shall be made at the expense of the  
23 removing party in a careful manner.

24 (3) The removal shall be made:

25 (i) except as set forth in subparagraph (ii), to a  
26 cemetery selected by the person that makes the removal;

27 or

28 (ii) upon request of a relative of the deceased  
29 individual subject to removal or another interested  
30 party, to a designated cemetery in the vicinity.

1           (4) Each body removed shall be placed in a separate  
2           casket and grave, and the marker over the remains of the body  
3           shall be placed as near as possible in the same relative  
4           position as before removal.

5           (e) Effect.--After the removal of all dead bodies from a  
6           cemetery, the land shall cease to be a cemetery or burial ground  
7           and may be acquired by the borough as other real estate is  
8           acquired for borough purposes.

9           § 2810. (Reserved).

10          § 2811. (Reserved).

11          § 2812. (Reserved).

12          § 2813. (Reserved).

13          § 2814. (Reserved).

14          § 2815. (Reserved).

15          § 2816. Purchase of plots for burial of deceased service  
16                   members.

17          (a) Authority.--A borough may purchase plots of ground in a  
18          cemetery or burial ground within its limits for the interment of  
19          deceased members of the armed forces who:

20               (1) die within the borough or have a legal residence  
21               within the borough at the time of death; and

22               (2) are entitled to be buried by the county under the  
23               provisions of existing law.

24          (b) Cost.--Plots purchased under this section shall be paid  
25          for out of the borough treasury.

26                                   CHAPTER 29

27                                   LICENSES AND LICENSE FEES

28          Sec.

29          2901. Licensing transient retail business.

30          2902. Licensure saved.

1 2903. Licensing parking lots and parking garages operated for  
2 profit.

3 2904. Persons taking orders by samples.

4 2905. Equality of residents and nonresidents.

5 2906. Insurance business.

6 § 2901. Licensing transient retail business.

7 (a) Authority.--A borough may, by ordinance, regulate and  
8 license transient merchants engaged in any transient retail  
9 business within the borough.

10 (b) Licensure.--The following shall apply:

11 (1) An ordinance under this section may prohibit the  
12 transient retail business without a license and provide for  
13 enforcement by penalties or other appropriate means.

14 (2) Except as set forth in paragraph (3), an ordinance  
15 under this section may set a license fee which bears a  
16 reasonable relationship to the cost of administering the  
17 ordinance and regulating and inspecting the transient retail  
18 business.

19 (3) Paragraph (2) does not apply as follows:

20 (i) Except as set forth in paragraph (ii), the  
21 ordinance may not impose a license fee on the following  
22 transient merchants:

23 (A) A farmer selling the farmer's own produce.

24 (B) A person selling personal property if the  
25 proceeds of the sale are to be applied to a  
26 charitable or philanthropic purpose.

27 (C) A manufacturer or producer in the sale of  
28 any of the following:

29 (I) Bread. This subclause includes a bakery  
30 product.

1                   (II) Meat. This subclause includes a meat  
2                   product.

3                   (III) Milk. This subclause includes a milk  
4                   product. This subclause does not include ice  
5                   cream or another frozen dessert.

6                   (ii) The exception under this paragraph does not  
7                   apply to a transient merchant that is also selling other  
8                   personal property not excepted under subparagraph (i).

9                   (c) Registration.--An ordinance under this section may  
10                   require that a transient merchant exempt under subsection (b) (2)  
11                   register with the borough and otherwise be subject to all other  
12                   provisions of the ordinance.

13                   (d) Definition.--As used in this section, the term  
14                   "transient merchant" means a person engaged in transient retail  
15                   business for the sale of personal property, whether the business  
16                   is conducted from a fixed location within the borough or by an  
17                   individual engaged in peddling, soliciting or the taking of  
18                   orders from house to house.

19                   § 2902. Licensure saved.

20                   (a) Commonwealth.--Nothing contained in this chapter shall  
21                   be construed to relieve a person from a statutorily imposed:

22                   (1) licensure requirement;

23                   (2) license tax; or

24                   (3) license fee.

25                   (b) Boroughs.--A Commonwealth license tax or fee shall not  
26                   preempt the registration, licensing or regulatory powers of a  
27                   borough in accordance with this chapter unless the preemption is  
28                   expressly authorized.

29                   § 2903. Licensing parking lots and parking garages operated for  
30                   profit.

1 (a) Authority.--

2 (1) A borough may, by ordinance, regulate the business  
3 of operating parking lots or parking garages for profit  
4 within the borough and may require the lots or garages to  
5 reserve areas exclusively for parking by handicapped  
6 individuals. Under the ordinance:

7 (i) License or permit fees may be charged and  
8 collected from the operators of the parking lots or  
9 parking garages.

10 (ii) Security is subject to the following:

11 (A) Except as set forth in clause (B), the  
12 borough shall require from each operator of a parking  
13 lot or parking garage a bond to be approved by the  
14 council for the protection of the public from loss of  
15 or damage to vehicles parked, stored or placed under  
16 the jurisdiction of a parking lot or parking garage  
17 operator.

18 (B) Clause (A) shall not apply to parking lots  
19 or parking garages operated by a municipal authority  
20 or a parking authority.

21 (2) An ordinance under paragraph (1) must be consistent  
22 with 75 Pa.C.S. (relating to vehicles).

23 (b) Individuals with disabilities.--Nothing in this section  
24 may be construed to limit statutory and regulatory protections  
25 and prohibitions contained relating to the rights of disabled  
26 individuals.

27 § 2904. Persons taking orders by samples.

28 (a) Prohibition.--A borough may not impose, levy or collect  
29 a license fee or mercantile tax upon a person that takes, by  
30 sample, from a dealer or merchant an order for merchandise on

1 behalf of an individual or company that pays a license fee or  
2 mercantile tax at the individual's or company's chief place of  
3 business.

4 (b) Limitation.--Nothing in this section shall authorize a  
5 person to sell by retail to a person other than a dealer or  
6 merchant without payment of a license or permit fee.

7 § 2905. Equality of residents and nonresidents.

8 A borough may not enact an ordinance imposing a license fee  
9 upon a manufacturer, including an agent and employee, that is a  
10 resident of this Commonwealth and solicits orders for or sells  
11 personal property manufactured in this Commonwealth if the  
12 borough could not legally impose the same license fee upon a  
13 manufacturer, including an agent and employee, that is a  
14 nonresident of this Commonwealth and solicits orders for or  
15 sells personal property manufactured outside this Commonwealth.

16 § 2906. Insurance business.

17 A borough may not impose a license fee upon an insurance  
18 company, including an agent, or an insurance broker authorized  
19 to transact business under the act of May 17, 1921 (P.L.682,  
20 No.284), known as The Insurance Company Law of 1921.

21 CHAPTER 29A

22 VETERANS' AFFAIRS

23 Subchapter

24 A. Pennsylvania National Guard

25 B. Support of Veterans' Organizations

26 SUBCHAPTER A

27 PENNSYLVANIA NATIONAL GUARD

28 Sec.

29 29A01. Eminent domain for National Guard purposes.

30 29A02. Land for armory purposes.

1 29A03. Appropriation to assist in erection of armories.

2 29A04. Support of Pennsylvania National Guard units.

3 § 29A01. Eminent domain for National Guard purposes.

4 (a) Authority.--Except as set forth in subsection (b), the  
5 council may take, by right of eminent domain, for the purpose of  
6 appropriating to the borough for the use of the Pennsylvania  
7 National Guard, public lands, easements and property as may be  
8 in its possession or control and used or held by the borough for  
9 any other purpose.

10 (b) Exception.--Eminent domain may not be exercised as to a  
11 street or wharf.

12 § 29A02. Land for armory purposes.

13 (a) Authority.--Except as set forth in subsection (b), the  
14 council may acquire, by purchase or by gift or by the right of  
15 eminent domain, land for the use of the Pennsylvania National  
16 Guard, to be conveyed to the Commonwealth in order to assist the  
17 State Armory Board in the erection of armories.

18 (b) Exception.--The power under subsection (a) may not be  
19 exercised to take any of the following:

20 (1) Church property.

21 (2) A graveyard or cemetery.

22 (3) A dwelling house or the curtilage of property:

23 (i) designated in paragraph (1) or (2); and

24 (ii) in the actual occupancy of the owner.

25 § 29A03. Appropriation to assist in erection of armories.

26 The council has the following powers:

27 (1) To appropriate money or convey land, either  
28 independently or in conjunction with another municipality,  
29 to:

30 (i) assist the State Armory Board in the erection of

1 armories for the use of the Pennsylvania National Guard;

2 and

3 (ii) furnish water, sewer service, light or fuel  
4 free of cost to the Commonwealth for use in any armory of  
5 the Pennsylvania National Guard.

6 (2) To do all things necessary to accomplish the purpose  
7 of this section.

8 § 29A04. Support of Pennsylvania National Guard units.

9 (a) Appropriation.--The council may appropriate annually a  
10 sum to be used and expended exclusively for the support and  
11 maintenance, discipline and training of a unit of the  
12 Pennsylvania National Guard.

13 (b) Payment.--

14 (1) The money appropriated shall be paid by warrant  
15 drawn to the order of the commanding officer of the unit upon  
16 certification to the borough, by the Adjutant General, that  
17 the unit has satisfactorily passed the annual inspection  
18 provided by law.

19 (2) The commanding officer shall account, by proper  
20 vouchers to the borough each year, for the expenditure of the  
21 money appropriated. No appropriation shall be made for any  
22 subsequent year until the expenditure of the previous year is  
23 accounted for. The accounts of the expenditures shall be  
24 subject to the inspection of the Department of Military and  
25 Veterans Affairs and shall be audited by the Auditor General  
26 in accordance with law.

27 SUBCHAPTER B

28 SUPPORT OF VETERANS' ORGANIZATIONS

29 Sec.

30 29A11. Appropriations to organizations and American Gold Star



1 Mothers, Inc.

2 29A12. Payment of rent for meetings.

3 29A13. Rooms for veterans' organizations and children.

4 29A14. Care and erection of memorials.

5 § 29A11. Appropriations to organizations and American Gold Star

6 Mothers, Inc.

7 (a) Appropriation.--

8 (1) The council may appropriate annually money to aid in  
9 defraying the expenses of Memorial Day, Veterans' Day or a  
10 similar day provided for by Federal or State law.

11 (2) The appropriation shall be divided in amounts as  
12 council deems proper to:

13 (i) an organization composed of veterans of a war in  
14 which the United States was engaged; and

15 (ii) American Gold Star Mothers, Inc.

16 (3) The money shall be appropriated to defray actual  
17 expenses only.

18 (b) Payment.--Before payment is made, the organization  
19 receiving the appropriation must submit verified accounts of its  
20 expenditures.

21 § 29A12. Payment of rent for meetings.

22 The council may appropriate annually a sum to an  
23 incorporated organization of American veterans of a war in which  
24 the United States was engaged, to be used in the payment of the  
25 rent for a facility in which the organization has its regular  
26 meetings.

27 § 29A13. Rooms for veterans' organizations and children.

28 The council may furnish without charge to an organization  
29 composed of American veterans of a war in which the United  
30 States was engaged and children of the veterans a room in a

1 public building of the borough.

2 § 29A14. Care and erection of memorials.

3 (a) Authority.--The council may control and maintain a  
4 soldier's memorial which is:

5 (1) situated in the borough;

6 (2) not controlled and maintained by an individual or  
7 entity; and

8 (3) not placed by the Federal Government, the  
9 Commonwealth, the county or another state.

10 (b) Funding.--The council may receive and expend any money  
11 to be used for the maintenance of the memorials.

12 (c) Contributions.--The council may contribute to the  
13 erection and maintenance of a memorial in honor of those who  
14 served in a war in which the United States was engaged.

15 CHAPTER 30

16 REAL ESTATE REGISTRY

17 (RESERVED)

18 CHAPTER 31

19 HEALTH AND SANITATION

20 Sec.

21 3100. Definitions.

22 3101. Administration.

23 3102. Board.

24 3103. Oaths, officers and security.

25 3104. Duties of board secretary.

26 3105. Powers and duties of health officer.

27 3106. Powers and duties of board.

28 3107. Entry upon premises.

29 3108. Abatement of nuisances.

30 3109. Expenditures.

1 3110. Cooperation.

2 3111. Department.

3 3112. (Reserved).

4 3113. (Reserved).

5 3114. (Reserved).

6 § 3100. Definitions.

7 The following words and phrases when used in this chapter  
8 shall have the meanings given to them in this section unless the  
9 context clearly indicates otherwise:

10 "Board." A board of health established under section 3101(a)  
11 (relating to administration).

12 "Board secretary." The secretary of a board.

13 "Department." The Department of Health of the Commonwealth.

14 "Health officer." An individual appointed under section  
15 3101(a) (relating to administration) or 3103(b) (1) (iii)  
16 (relating to oaths, officers and security).

17 "Professional health care provider." An individual who is  
18 licensed, certified or registered to practice or operate in the  
19 health care field under the laws of this Commonwealth. The term  
20 includes:

21 (1) A physician.

22 (2) A dentist.

23 (3) A podiatrist.

24 (4) A chiropractor.

25 (5) An optometrist.

26 (6) A psychologist.

27 (7) A pharmacist.

28 (8) A registered or practical nurse.

29 (9) A physical therapist.

30 (10) A physician's assistant.

1           (11) A paramedic.

2           (12) An administrator of any hospital, nursing or  
3           convalescent home or other health care facility.

4           (13) A veterinarian.

5   § 3101. Administration.

6           (a) Establishment.--The council may, by ordinance, appoint a  
7           board of health or a health officer to administer and enforce  
8           the health ordinances and related ordinances of the borough. A  
9           health officer must have experience or training in public health  
10           work and must, within six months of taking the oath of office,  
11           be certified for the office of health officer by the department.

12           (b) Expenses.--Expenses incurred by the board or a health  
13           officer shall be paid by the borough.

14           (c) Dissolution.--A borough may, by ordinance, dissolve a  
15           board and decide to become subject to the jurisdiction of a  
16           county department of health or joint county department of health  
17           under the act of August 24, 1951 (P.L.1304, No.315), known as  
18           the Local Health Administration Law.

19   § 3102. Board.

20           (a) Membership.--

21           (1) A board appointed by a council shall be composed of  
22           three or five members, subject to the following:

23                   (i) Except as set forth in subparagraph (ii), at  
24                   least one member must be a professional health care  
25                   provider with not less than two years' experience in the  
26                   practice of the member's respective profession.

27                   (ii) If subparagraph (i) cannot be met, at least one  
28                   member must have had experience in or be knowledgeable of  
29                   public health issues.

30           (b) Terms.--

1 (1) Initial terms shall be staggered as follows:

2 (i) For a three-member board:

3 (A) one member shall serve a term of one year;

4 (B) one member shall serve a term of two years;

5 and

6 (C) one member shall serve a term of three  
7 years.

8 (ii) For a five-member board:

9 (A) one member shall serve a term of one year;

10 (B) one member shall serve a term of two years;

11 (C) one member shall serve a term of three  
12 years;

13 (D) one member shall serve a term of four years;

14 and

15 (E) one member shall serve a term of five years.

16 (2) Subsequent terms shall be staggered as follows:

17 (i) For a three-member board, a subsequent term  
18 shall be three years.

19 (ii) For a five-member board, a subsequent term  
20 shall be five years.

21 (c) Compensation.--

22 (1) Except as set forth in paragraph (2), the members of  
23 the board shall serve without compensation.

24 (2) Paragraph (1) shall not apply to a member of the  
25 board who is elected board secretary under section 3103(b) (2)  
26 (relating to oaths, officers and security).

27 § 3103. Oaths, officers and security.

28 (a) Oath of office.--A member of the board must take the  
29 oath prescribed for borough members of council.

30 (b) Officers.--

1           (1) The board shall annually organize by electing:  
2           (i) a president from among the members of the board;  
3           (ii) a board secretary who may or may not be a  
4           member of the board; and  
5           (iii) a health officer.

6           (2) The board secretary and the health officer shall  
7           receive salaries fixed by the board and ratified by the  
8           council.

9           (3) The board secretary and health officer shall serve  
10          until a successor is elected and qualified.

11          (c) Security.--The council may require the board secretary  
12          and health officer to furnish a bond to the borough in a  
13          prescribed amount for the faithful discharge of their duties.

14          § 3104. Duties of board secretary.

15          The board secretary has the following duties:

16           (1) To maintain, under 53 Pa.C.S. Ch. 13 Subch. F  
17           (relating to records), the minutes of the proceedings of the  
18           board and keep accurate accounts of the expenditures of the  
19           board.

20           (2) To draw requisitions for the payment of money on  
21           account of the board from appropriations made by the council  
22           to the board and present the requisitions to the president of  
23           the board for the president's approval.

24           (3) To render statements of the expenditures to the  
25           board at each stated meeting or as frequently as the board  
26           requires.

27           (4) To prepare, under the direction of the board, the  
28           annual report to the council and the estimate of  
29           appropriation needed for the ensuing year.

30           (5) To report to the department at statutory or

1 regulatory intervals the cases of communicable disease  
2 reported to the board on the form provided by the department  
3 and make an annual report to the department.

4 (6) To perform other duties required by the board.

5 § 3105. Powers and duties of health officer.

6 (a) Powers.--A health officer may issue a citation for  
7 violation of a health ordinance or related law.

8 (b) Duties.--A health officer has the following duties:

9 (1) Administer and enforce the health ordinances of the  
10 borough and related law.

11 (2) Perform the duties as are vested in local health  
12 officers by Statute or regulation.

13 (3) Make sanitary inspections.

14 (4) Execute the orders of the board.

15 (5) To attend all regular and special meetings of the  
16 board of health.

17 § 3106. Powers and duties of board.

18 (a) Powers.--A board has the following powers to:

19 (1) Recommend to the council rules and regulations  
20 necessary for the preservation of the public health and for  
21 carrying into effect the functions of the board.

22 (2) Appoint a health officer. A health officer must have  
23 experience or training in public health work and must, within  
24 six months of taking the oath of office, be certified for the  
25 office of health officer by the department.

26 (3) Abate and remove nuisances the board deems  
27 detrimental to the public health.

28 (4) Mark infected premises.

29 (b) Duties.--A board has the duty to enforce all of the  
30 following related to promotion of public health and prevention

1 of the introduction and spread of infectious or contagious  
2 disease:

3 (1) A statute.

4 (2) A regulation of the department.

5 (3) An ordinance of the borough.

6 § 3107. Entry upon premises.

7 (a) Authority.--

8 (1) This subsection applies to all of the following:

9 (i) A member of a board.

10 (ii) A health officer.

11 (iii) An employee of a board or a health officer.

12 (iv) An agent of a board or health officer.

13 (2) An individual subject to paragraph (1) may, upon  
14 order of the board:

15 (i) enter premises in the borough where an  
16 infectious or contagious disease or a nuisance  
17 detrimental to the public health is suspected; and

18 (ii) examine and abate the disease or nuisance.

19 (b) Warrant.--If entry under subsection (a) (2) (i) is  
20 prevented, the board of health or health officer may obtain an  
21 administrative search warrant from a magisterial district judge  
22 with jurisdiction over the premises upon a showing of any of the  
23 following:

24 (1) Reasonable standards and an administrative plan for  
25 conducting inspections.

26 (2) The condition of the premises or general area and  
27 the passage of time since the last inspection.

28 (3) Probable cause of a violation of a law specified in  
29 section 3106(b) (relating to powers and duties of board).

30 § 3108. Abatement of nuisances.



1 (a) Initial order.--If the board finds a condition or  
2 premises to be a nuisance to the health of the people of the  
3 borough, it shall issue a written order of abatement directed to  
4 the owner or agent of the owner of the premises. The order  
5 shall:

6 (1) state that the conditions specified in the premises  
7 constitute the nuisance; and

8 (2) order an abatement of the nuisance within a  
9 specified reasonable time.

10 (b) Subsequent order.--

11 (1) Upon noncompliance of the order under subsection  
12 (a), the board shall issue a written order to the health  
13 officer directing removal or abatement of the nuisance.

14 (2) An order under paragraph (1) shall be executed by  
15 the health officer or an agent of the health officer.

16 (3) The expense of execution under paragraph (2) shall  
17 be recoverable as a municipal claim from the owner of the  
18 premises, with a 10% penalty.

19 (c) Legal action.--In lieu of or in addition to the  
20 procedure under subsections (a) and (b), council may seek relief  
21 from a nuisance or threatened nuisance by an action at law or in  
22 equity. Council may seek guidance of the board or the health  
23 officer in determining the nature of the relief requested.

24 § 3109. Expenditures.

25 (a) Estimate.--The board or the health officer shall submit  
26 to council, before commencement of the borough's fiscal year, an  
27 estimate of the probable expenditures of the board or the health  
28 officer during the ensuing fiscal year.

29 (b) Appropriation.--Council shall make appropriations based  
30 on the estimate as deemed necessary.

1 (c) Report.--The board or the health officer shall, each  
2 January, submit a report to council on:

3 (1) the appropriation and the expenditures for the  
4 preceding fiscal year; and

5 (2) information on subjects relative to the sanitary  
6 conditions or requirements of the borough.

7 § 3110. Cooperation.

8 A borough may cooperate in the administration and enforcement  
9 of health laws with:

10 (1) the department;

11 (2) a county in which the borough is located; and

12 (3) a municipal corporation.

13 § 3111. Department.

14 (a) No limitation.--Nothing in this part may be construed  
15 to limit the powers and duties of the department, including the  
16 powers and duties under Article XXI of the act of April 9, 1929  
17 (P.L.177, No.175), known as The Administrative Code of 1929.

18 (b) Expenses.--

19 (1) Expenses of the department for which the borough is  
20 liable shall be paid by the borough where the expenses have  
21 been incurred.

22 (2) If expenses under paragraph (1) are unpaid for a  
23 period of more than three months after a statement of the  
24 expense has been rendered to the borough and demand for  
25 payment is made, the Secretary of Health shall, with the  
26 approval of the Governor, institute an action against the  
27 borough for the collection of the expense. The reasonableness  
28 of the expenditures made by the secretary shall be submitted  
29 to the jury for its determination.

30 (3) Upon payment, the department shall return the money

1 to the State Treasurer, who shall credit the amount to the  
2 appropriation made to the department.

3 § 3112. (Reserved).

4 § 3113. (Reserved).

5 § 3114. (Reserved).

6 CHAPTER 32

7 ZONING

8 (Reserved)

9 CHAPTER 32A

10 UNIFORM CONSTRUCTION CODE, PROPERTY

11 MAINTENANCE CODE AND RESERVED POWERS

12 Sec.

13 32A01. Primacy of Uniform Construction Code.

14 32A02. Changes in Uniform Construction Code.

15 32A03. Public nuisance.

16 32A04. Property maintenance code.

17 32A05. Reserved powers.

18 § 32A01. Primacy of Uniform Construction Code.

19 (a) General rule.--The following shall apply to the  
20 construction, alteration, repair and occupancy of all buildings  
21 and structures within a borough:

22 (1) The Pennsylvania Construction Code.

23 (2) The Uniform Construction Code adopted under section  
24 301 of the Pennsylvania Construction Code.

25 (b) Primacy.--This section and any ordinance, rule or  
26 regulation adopted under this section shall not supersede or  
27 abrogate the Pennsylvania Construction Code or the Uniform  
28 Construction Code and shall be construed and read in pari  
29 materia with the Pennsylvania Construction Code and the Uniform  
30 Construction Code.

1 § 32A02. Changes in Uniform Construction Code.

2 A borough may propose and enact an ordinance to equal or  
3 exceed the minimum requirements of the Uniform Construction Code  
4 in accordance with section 503 of the Pennsylvania Construction  
5 Code. Any ordinance exceeding the provisions of the Uniform  
6 Construction Code shall be required to meet the standards under  
7 section 503(j)(2) of the Pennsylvania Construction Code.

8 § 32A03. Public nuisance.

9 (a) Abatement.--Except as provided under subsection (b), any  
10 building, housing or property or a part of any building, housing  
11 or property erected, altered, extended, reconstructed, removed  
12 or maintained, contrary to the provisions of an ordinance passed  
13 for the purposes specified under this chapter, may be declared,  
14 by a court of law, a public nuisance and may be abatable.

15 (b) Exception.--A violation of the Uniform Construction Code  
16 or any ordinance that equals or exceeds the Uniform Construction  
17 Code shall be subject to the Pennsylvania Construction Code and  
18 the regulations adopted under the Pennsylvania Construction Code  
19 Act relating to enforcement for noncompliance.

20 § 32A04. Property maintenance code.

21 (a) Enactment.--Notwithstanding the primacy of the Uniform  
22 Construction Code, a borough may enact one of the following:

23 (1) A property maintenance ordinance and may incorporate  
24 a standard or nationally recognized property maintenance  
25 code, or any variations or changes or parts of the code,  
26 published and printed in book form, without incorporating the  
27 text of the code in the ordinance.

28 (2) A standard or nationally recognized property  
29 maintenance code or any variations or changes or parts as its  
30 property maintenance ordinance.

1 (a.1) Notice.--The following shall apply:

2 (1) An ordinance or any variations or changes or parts  
3 under subsection (a) shall not be required to be advertised  
4 after passage. Notice of the consideration of an ordinance or  
5 any variations or changes or parts under subsection (a) shall  
6 be published in a manner that will give adequate notice of  
7 its contents and a reference to the place within the borough  
8 where copies of the proposed property maintenance code may be  
9 examined or obtained.

10 (2) The notice required under paragraph (1) shall be  
11 published once in one newspaper of general circulation at  
12 least one week and not more than three weeks prior to the  
13 presentation of the proposed property maintenance code to  
14 council.

15 (a.2) Inspection.--At least three copies of the ordinance  
16 adopted by council:

17 (1) shall be made available:

18 (i) for public inspection and use during business  
19 hours; or

20 (ii) to any interested party who pays the cost of  
21 copying; or

22 (2) may be furnished or lent without charge.

23 (a.3) A property maintenance code adopted by reference  
24 shall:

25 (1) not be required to be recorded in or attached to an  
26 ordinance book; and

27 (2) be deemed to have been legally recorded if the  
28 ordinance by which the code was adopted by reference has been  
29 recorded with an accompanying notation stating where the full  
30 text of the code has been filed.

1 (a.4) Fines and penalties.--An ordinance under this section  
2 may provide for reasonable property fines and penalties for  
3 violations of the ordinance.

4 (a.5) Procedure.--The procedure under this section relating  
5 to the adoption of an ordinance under this section may be used  
6 in amending, supplementing or repealing any of the provisions of  
7 the ordinance.

8 (b) Property maintenance inspectors.--Council may appoint  
9 property maintenance inspectors who may enter, subject to  
10 constitutional standards in a similar manner as provided under  
11 section 3107 (relating to entry upon premises), and inspect any  
12 premises at reasonable hours and in a reasonable manner for the  
13 administration and enforcement of the borough's property  
14 maintenance code or ordinance under subsection (a). Any fees  
15 payable to property maintenance inspectors under the ordinance  
16 shall be paid by the property maintenance inspectors as soon as  
17 possible to the borough treasurer for the use of the borough.

18 (c) Legal actions.--In addition to the penalties provided by  
19 a property maintenance ordinance, a borough may institute  
20 appropriate actions or proceedings at law or in equity to  
21 prevent or restrain property maintenance violations.

22 (d) Construction.--The powers of a borough under this  
23 section shall be in addition to the powers provided under the  
24 following:

25 (1) The act of November 26, 2008 (P.L.1672, No.135),  
26 known as the Abandoned and Blighted Property Conservatorship  
27 Act.

28 (2) 53 Pa.C.S. Ch. 61 (relating to neighborhood blight  
29 reclamation and revitalization).

30 (3) 68 Pa.C.S. Ch. 21 (relating to land banks).

1 § 32A05. Reserved powers.

2 (a) Power.--If, as a result of legislative action or final  
3 order of court which is not subject to appellate review, the  
4 Uniform Construction Code or any replacement code is no longer  
5 applicable in boroughs, a borough may:

6 (1) Enact and enforce ordinances to govern and regulate  
7 the following in relation to a building and housing, parts of  
8 a building and housing or a facility and service in or about  
9 a building or housing:

10 (i) Construction, reconstruction, alteration,  
11 extension, repair and conversion.

12 (ii) Maintenance.

13 (iii) Occupation.

14 (iv) Sanitation.

15 (v) Ventilation, heating, egress, lighting,  
16 electrical wiring, water supply, toilet facilities,  
17 drainage, plumbing, fire prevention and fireproofing,  
18 including limitations under which only buildings of  
19 noncombustible material and fireproofed roofs are used in  
20 construction.

21 (vi) Erection or substantial reconstruction.

22 (vii) Use and inspection.

23 (viii) Sanitation and inspection of land attached to  
24 a building or housing.

25 (2) Require that the approval of plans and  
26 specifications are secured before construction,  
27 reconstruction, alteration, extension, repair or conversion  
28 of a building is started.

29 (3) Appoint and determine the compensation of the  
30 following:

1           (i) Building inspectors.

2           (ii) Housing inspectors.

3           (iii) Property maintenance inspectors.

4           (iv) Fire prevention inspectors.

5           (v) Electrical inspectors.

6           (vi) Plumbing inspectors.

7           (4) In addition to penalties provided by an ordinance,  
8 institute actions to do any of the following:

9           (i) Prevent or restrain the unlawful construction,  
10 reconstruction, alteration, extension, repair,  
11 conversion, maintenance, use or occupation of property  
12 located within the borough.

13           (ii) Restrain, correct or abate a violation.

14           (iii) Prevent the use or occupancy of a building,  
15 housing or structure.

16 (b) Codes.--The following shall apply:

17           (1) A code under subsection (a)(1) may be combined or  
18 separately enacted or combined with a property maintenance  
19 code.

20           (2) A borough may adopt, amend or incorporate by  
21 reference any standard or nationally recognized code or any  
22 variations or changes or parts of the code as its ordinance  
23 as provided under section 32A04 (relating to property  
24 maintenance code).

25           (3) An ordinance under subsection (a)(1) may provide for  
26 reasonable fines and penalties for violations of the  
27 ordinance in compliance with Chapter 33 (relating to  
28 ordinances).

29           (c) Inspectors.--An inspector under subsection (a)(3) may  
30 enter, subject to constitutional standards in a similar manner



1 as provided under section 3107 (relating to entry upon  
2 premises), and inspect a premises at reasonable hours and in a  
3 reasonable manner for the administration and enforcement of the  
4 borough's adopted codes or ordinances incorporating standard or  
5 nationally recognized codes. Any fees payable to inspectors  
6 under the ordinances shall be paid by the inspectors as soon as  
7 possible to the borough treasurer for the use of the borough.

8 CHAPTER 33

9 ORDINANCES

10 Subchapter

11 A. General Provisions

12 B. Enforcement

13 SUBCHAPTER A

14 GENERAL PROVISIONS

15 Sec.

16 3301.1. Ordinances and resolutions.

17 3301.2. Publication.

18 3301.3. Enactment, approval and veto.

19 3301.4. Recording, advertising and proof.

20 3301.5. Codification of ordinances.

21 3301.6. Appeals from ordinances.

22 3301.7. Replacement of ordinance books.

23 3302. (Reserved).

24 3303. (Reserved).

25 3304. (Reserved).

26 3305. (Reserved).

27 3306. (Reserved).

28 3307. (Reserved).

29 3308. (Reserved).

30 3309. (Reserved).

1 § 3301.1. Ordinances and resolutions.

2 (a) General rule.--Council shall enact ordinances in  
3 accordance with this part and the laws of this Commonwealth in  
4 which the powers of the borough shall be exercised as deemed  
5 beneficial to the borough and to provide for the enforcement of  
6 the powers of the borough. Council may amend, repeal or revise  
7 existing ordinances by the enactment of subsequent ordinances.

8 (b) Legislative acts.--Every legislative act of council must  
9 be by ordinance. Legislative acts shall include, but not be  
10 limited to:

11 (1) Tax ordinances.

12 (2) General appropriation ordinances.

13 (3) Capital expenditures not payable out of current  
14 funds

15 (4) Legislation doing any of the following:

16 (i) Exercising the police power of the borough.

17 (ii) Regulating land use, development and  
18 subdivision.

19 (iii) Imposing building, plumbing, electrical,  
20 property maintenance, housing and similar standards.

21 (iv) Regulating the conduct of a person or entity  
22 within the borough and imposing penalties for violation  
23 of the regulated conduct.

24 (5) Imposing assessments on benefited property for  
25 public improvements in accordance with Chapter 21A (relating  
26 to assessments and charges for public improvements).

27 (c) Resolutions.--Council shall adopt resolutions in  
28 accordance with this part and the laws of this Commonwealth.  
29 Resolutions may be adopted for any purpose, including but not  
30 limited to, the following:

1       (1) Ceremonial or congratulatory expressions of the good  
2 will of the council.

3       (2) Statements of public policy of the council.

4       (3) Approval of formal agreements of the borough, except  
5 for agreements arising under an established purchasing system  
6 of the borough,

7       (4) Approval, if required, of administrative rules,  
8 regulations and bylaws arising under State statutes or  
9 borough ordinances.

10       (5) The filling of borough-appointed positions and of  
11 vacancies of elected officials, except as otherwise provided.

12       (d) Real and personal property.--Council's approval of the  
13 acquisition, disposition and leasing of real or personal  
14 property shall be by adoption of a resolution in a manner  
15 consistent with this part.

16 § 3301.2. Publication.

17       (a) Requirements.--Except as provided under this part or  
18 other law, council shall publish every proposed ordinance once  
19 in one newspaper of general circulation for at least seven days  
20 and not more than 60 days prior to enactment prior to the day  
21 when council shall vote on the proposed ordinance. Publication  
22 of any proposed ordinance shall include all of the following:

23       (1) The full text or the title of the ordinance and a  
24 brief summary prepared by the borough solicitor setting forth  
25 all the provisions in reasonable detail.

26       (2) A reference to the borough office or other place  
27 where borough records are kept where copies of the proposed  
28 ordinance may be examined.

29       (b) Summary.--If the full text is not included in the  
30 publication of the proposed ordinance, the following shall

1 apply:

2 (1) The newspaper in which the proposed ordinance is  
3 published shall, upon request, be furnished a copy of the  
4 full text.

5 (2) The following shall apply:

6 (i) In addition to copies of the full text of the  
7 proposed ordinance retained where borough records are  
8 kept in accordance with subsection (a), an attested copy  
9 of the full text shall be filed in the county law library  
10 or other county office designated by the county  
11 commissioners.

12 (ii) The county commissioners may impose a fee not  
13 greater than the actual costs of storing the proposed  
14 ordinance.

15 (iii) Filing with the county may be completed by the  
16 submission of an electronic copy of the ordinance through  
17 a method available, in the sole discretion of the county,  
18 to permit receipt by the office storing municipal  
19 ordinances.

20 (iv) Upon request by the borough, the county shall  
21 notify the borough of the method by which electronic  
22 copies may be submitted.

23 (v) The county may store the ordinance  
24 electronically, if the public is able to access the  
25 electronically stored borough ordinances during regular  
26 business hours at the office or at a remote location.

27 (vi) The borough shall retain a printed copy of the  
28 email and ordinance as transmitted.

29 (3) The date of the filing with the county under  
30 paragraph (2) shall not affect the effective date of the

1 ordinance and shall not be deemed a defect in the process of  
2 the enactment of the ordinance.

3 (c) Notice of amendments.--If substantial amendments are  
4 made in the proposed ordinance, before voting upon enactment,  
5 council shall, within ten days, readvertise in one newspaper of  
6 general circulation a brief summary setting forth all the  
7 provisions in reasonable detail together with a summary of the  
8 amendments. A copy of the full text of the amended proposed  
9 ordinance shall be retained where borough records are kept.

10 § 3301.3. Enactment, approval and veto.

11 (a) Approval by mayor.--

12 (1) Every ordinance enacted by council shall be  
13 presented to the mayor for the mayor's approval. Presentation  
14 to the mayor shall be deemed to mean delivery to the mayor by  
15 hand delivery or certified mail, addressee only, to the mayor  
16 at the mayor's last known address. Delivery shall be deemed  
17 complete upon depositing in the mail, postage or charges  
18 prepaid, as evidenced by a certificate of mailing.

19 (2) The following shall apply:

20 (i) If the mayor approves the ordinance, the mayor  
21 shall sign it.

22 (ii) If the mayor does not approve the ordinance,  
23 the mayor shall return it with objections, which shall be  
24 entered upon the minutes, to the council at its next  
25 scheduled meeting occurring at least ten days after the  
26 meeting at which the ordinance was enacted by council.

27 (iii) Council shall reconsider the ordinance either  
28 at the meeting at which the vetoed ordinance was returned  
29 or not later than ten days after the meeting at any other  
30 scheduled meeting. If, after reconsideration, a majority

1 of all elected council members plus one votes to override  
2 the mayor's veto, the ordinance shall have full force and  
3 effect as if it had received the approval of the mayor.  
4 The vote shall be determined by yeas and nays and the  
5 names and votes of the members shall be entered upon the  
6 minutes.

7 (iv) A scheduled meeting, as used in this section,  
8 may be either a regular, special or reconvened meeting.

9 (3) If an ordinance is not returned by the mayor at  
10 council's next scheduled meeting occurring at least ten days  
11 after its presentation to the mayor, the ordinance shall have  
12 full force and effect as if it had been approved by the  
13 mayor.

14 (b) Effective date.--The effective date of an enacted  
15 ordinance, except as provided in the ordinance, shall be one of  
16 the following:

17 (1) The date when the mayor approves the ordinance.

18 (2) The date of enactment by the council over the veto  
19 of the mayor.

20 (3) For an ordinance not returned by the mayor at the  
21 next scheduled meeting of council occurring at least ten days  
22 after the meeting at which the ordinance was enacted by the  
23 council, the date of the succeeding scheduled meeting of  
24 council.

25 (c) Tax ordinance.--The following shall apply:

26 (1) If council presents the mayor with the annual tax  
27 ordinance under section 1310.1 (relating to tax ordinance),  
28 the mayor shall, within ten days of receiving the tax  
29 ordinance, approve or return the tax ordinance to the borough  
30 secretary with a statement setting forth the mayor's

1 objections.

2 (2) Council shall reconsider the tax ordinance at any  
3 scheduled meeting held not later than ten days after the  
4 mayor has returned the tax ordinance to the secretary with  
5 the mayor's objections. The mayor's objections shall be  
6 entered upon the minutes of the meeting.

7 (3) A veto of the tax ordinance of the borough may be  
8 overridden by a vote of a majority of all elected council  
9 members plus one. If the veto is overridden, the ordinance  
10 shall have full force and effect as if it had received the  
11 approval of the mayor.

12 (4) If the mayor neither approves the tax ordinance nor  
13 returns it with objections, the date of enactment of the tax  
14 ordinance shall be the date of the adoption of the tax  
15 ordinance by council.

16 § 3301.4. Recording, advertising and proof.

17 (a) Recording.--All borough ordinances shall, within 30 days  
18 after approval by the mayor, the council's override of the  
19 mayor's veto or council's next scheduled meeting after its  
20 presentation to the mayor, be recorded by the borough secretary  
21 in an ordinance book. The ordinance book shall be open to the  
22 inspection of citizens during normal business hours.

23 (b) Proof.--All ordinances may be proved by the certificate  
24 of the borough secretary under the corporate seal. If an  
25 ordinance is printed or published in book or pamphlet form by  
26 the authority of the borough, the ordinance shall be accepted as  
27 evidence without further proof. The entry of the borough  
28 ordinance in the ordinance book shall be sufficient without the  
29 signature of the president of council, mayor or member of  
30 council.

1 (c) Prior ordinances.--The text of a borough ordinance or a  
2 portion of an ordinance which was attached to the ordinance book  
3 before January 1, 1966, shall be considered in force as if the  
4 ordinances or portions of ordinances had been recorded in the  
5 ordinance book if all other requirements of this part applicable  
6 to the enactment, approval, advertising and recording of the  
7 ordinances or portions of ordinances were complied with within  
8 the time limits prescribed under this part.

9 § 3301.5. Codification of ordinances.

10 (a) Consolidation, codification and revision.--The borough  
11 council, under section 3301.1(a) (relating to ordinances and  
12 resolutions), may:

13 (1) enact a consolidation, codification or revision of  
14 borough ordinances as a single ordinance of the borough; and

15 (2) enact a complete group ordinance, repealing or  
16 amending existing ordinances as necessary.

17 (b) Enactment.--For a consolidation, codification or  
18 revision under subsection (a), the following apply:

19 (1) The ordinance must be introduced in the council at  
20 least 30 days before its final enactment.

21 (2) At least 15 days before final enactment, notice of  
22 the introduction of the ordinance must be given by  
23 advertisement in a newspaper of general circulation. For  
24 enactment under subsection (a)(2), the notice must list, in  
25 lieu of a table of contents, the titles of each of the  
26 ordinances in the complete group.

27 (c) Subsequent notice.--When any consolidation, codification  
28 or revision under subsection (a) has been enacted as an  
29 ordinance, it shall not be necessary to advertise the entire  
30 text, but it shall be sufficient to publish a notice referring



1 to notice under subsection (b) (2) and stating final enactment.

2 § 3301.6. Appeals from ordinances.

3 Complaint as to the legality of any ordinance or resolution  
4 must be made to the court of common pleas. In cases of  
5 ordinances laying out streets over private lands, the court  
6 shall have jurisdiction to review the propriety as well as the  
7 legality of the ordinance.

8 § 3301.7. Replacement of ordinance books.

9 (a) Ordinance.--

10 (1) If an ordinance book is unserviceable, the council  
11 may provide by ordinance for the secretary of the borough to  
12 establish a replacement ordinance book recording all  
13 ordinances affected by the replacement.

14 (2) The following apply to an ordinance under this  
15 subsection:

16 (i) The ordinance must be recorded in the ordinance  
17 book immediately following the recorded ordinances  
18 affected by the replacement.

19 (ii) The ordinance must direct the secretary, upon  
20 completion of the recording, to publish once, in one  
21 newspaper of general circulation, a notice:

22 (A) identifying the ordinances contained in the  
23 unserviceable ordinance book; and

24 (B) stating that the old books and records of  
25 borough ordinances and the replacement ordinance book  
26 are open to public inspection for the purpose of  
27 verification and correction for a period of 30 days  
28 from the date of the notice.

29 (b) Secretary.--

30 (1) The secretary, in recording the ordinances, must

1 make complete copies of the ordinances, including the date of  
2 enactment and approval and the names of the officers who  
3 signed them.

4 (2) After notice and corrections under subsection (a)(2)  
5 (ii), the secretary must certify each ordinance as a correct  
6 copy of the original.

7 (c) Effect.--Upon compliance with subsection (b), the  
8 recorded replacement ordinance shall replace the original  
9 ordinance as the ordinances of the borough for the period  
10 covered by the new ordinance book.

11 § 3302. (Reserved).

12 § 3303. (Reserved).

13 § 3304. (Reserved).

14 § 3305. (Reserved).

15 § 3306. (Reserved).

16 § 3307. (Reserved).

17 § 3308. (Reserved).

18 § 3309. (Reserved).

19 SUBCHAPTER B

20 ENFORCEMENT

21 Sec.

22 3321. Fines and penalties.

23 3322. Commitment pending trial.

24 3323. Commitment after trial.

25 3324. Payment of costs by borough.

26 § 3321. Fines and penalties.

27 (a) Prescription.--

28 (1) A borough ordinance shall prescribe fines and  
29 penalties for violation.

30 (2) A civil penalty may not exceed \$600 per violation.

1           (3) The council may prescribe a criminal fine not to  
2 exceed \$1,000 per violation and may prescribe imprisonment to  
3 the extent allowed by law for the punishment of a summary  
4 offense.

5           (4) An ordinance under this subsection may provide that  
6 a separate violation under paragraph (2) or (3) shall arise  
7 for:

8                   (i) each day of violation; and

9                   (ii) each applicable section of the ordinance.

10           (5) An ordinance may provide for assessment of court  
11 costs and reasonable attorney fees incurred by the borough in  
12 the enforcement proceedings.

13           (6) The council may delegate the initial determination  
14 of ordinance violation and the service of notice of violation  
15 to a qualified officer or agent.

16           (b) Enforcement at law.--Unless otherwise provided by  
17 statute, a borough ordinance shall set forth the method of its  
18 enforcement in accordance with the following:

19                   (1) Except as provided in paragraph (2), if the penalty  
20 is not paid, the borough shall initiate a civil action for  
21 collection in accordance with the Pennsylvania Rules of Civil  
22 Procedure. A borough shall be exempt from the payment of  
23 costs in an action under this paragraph.

24                   (2) For an ordinance regulating building, housing,  
25 property maintenance, health, fire, public safety, parking,  
26 solicitation, curfew, water or air or noise pollution,  
27 enforcement shall be by a criminal action in the same manner  
28 provided for the enforcement of summary offenses under the  
29 Pennsylvania Rules of Criminal Procedure. The municipal  
30 solicitor may assume charge of the prosecution without the

1 consent of the district attorney as required under  
2 Pa.R.Crim.P. No. 454 (relating to trial in summary cases).  
3 Violations of the property maintenance code or ordinance may  
4 also be enforced under section 32A04(c) (relating to property  
5 maintenance code).

6 (3) Except for an ordinance subject to paragraph (2), an  
7 ordinance enacted prior to July 16, 2012, shall be deemed  
8 automatically amended so that it shall be enforced under  
9 paragraph (1).

10 (4) If a civil claim under this subsection, exclusive of  
11 interest, costs or fees, exceeds the monetary jurisdiction of  
12 a magisterial district judge under 42 Pa.C.S. § 1515(a)  
13 (relating to jurisdiction and venue), the borough may:

14 (i) bring the action in a court of common pleas; or

15 (ii) make a waiver under 42 Pa.C.S. § 1515(a)(3).

16 (c) Enforcement in equity.--In addition to or in lieu of  
17 enforcement under subsection (b), a borough may enforce an  
18 ordinance in equity in a court of common pleas of the county  
19 where the borough is situate.

20 (d) Payment.--Money collected under subsection (b) shall be  
21 paid to the borough treasurer.

22 § 3322. Commitment pending trial.

23 An individual arrested for the violation of a borough  
24 ordinance may, pending trial, be committed to:

25 (1) the borough correctional facility; or

26 (2) if there is no suitable borough correctional  
27 facility, to a county correctional facility.

28 § 3323. Commitment after trial.

29 A defendant sentenced to imprisonment for a violation of a  
30 borough ordinance may be committed to:



1           (3.1) A law, the enforcement of which is vested in the  
2           Department of Environmental Protection.

3           (4) A law, the enforcement of which is vested in the  
4           Department of Conservation and Natural Resources.

5           (5) The act of December 31, 1965 (P.L.1257, No.511),  
6           known as The Local Tax Enabling Act.

7           (6) The act of February 14, 2008 (P.L.6, No.3), known as  
8           the Right-to-Know Law.

9           (7) 45 Pa.C.S. (relating to legal notices).

10          (8) 65 Pa.C.S. (relating to public officers).

11          (9) 66 Pa.C.S. Pt. I (relating to Public Utility Code).

12          (d) Revival.--Nothing under this part shall be construed to  
13          revive any act or part of a repealed act.

14          Section 2. Section 7132(b) of Title 44 is amended to read:  
15          § 7132. Police officers.

16          \* \* \*

17          (b) Exception.--Unless prevented from doing so by the  
18          operation of 8 Pa.C.S. Ch. 11 Subch. J (relating to civil  
19          service for police and fire apparatus operators), borough  
20          policemen who reside in the borough may hold and exercise the  
21          office of constable in the borough, or in any ward thereof, and  
22          receive all costs, fees and emoluments pertaining to such  
23          office.

24          Section 3. Repeals are as follows:

25                  (1) The General Assembly declares that the repeal under  
26          paragraph (2) is necessary to effectuate the addition of 8  
27          Pa.C.S. Pt. I.

28                  (2) The act of February 1, 1966 (1965 P.L.1656, No.581),  
29          known as The Borough Code, is repealed.

30          Section 4. The addition of 8 Pa.C.S. Pt. I is a continuation

1 of the act of February 1, 1966 (1965 P.L.1656, No.581), known as  
2 The Borough Code. The following apply:

3 (1) Except as otherwise provided in 8 Pa.C.S. Pt. I, all  
4 activities initiated under The Borough Code shall continue  
5 and remain in full force and effect and may be completed  
6 under 8 Pa.C.S. Pt. I. Orders, regulations, rules and  
7 decisions which were made under The Borough Code and which  
8 are in effect on the effective date of section 3(2) of this  
9 act shall remain in full force and effect until revoked,  
10 vacated or modified under 8 Pa.C.S. Pt. I. Contracts,  
11 obligations and collective bargaining agreements entered into  
12 under The Borough Code are not affected nor impaired by the  
13 repeal of The Borough Code.

14 (2) Except as set forth in paragraph (3), any difference  
15 in language between 8 Pa.C.S. Pt. I and The Borough Code is  
16 intended only to conform to the style of the Pennsylvania  
17 Consolidated Statutes and is not intended to change or affect  
18 the legislative intent, judicial construction or  
19 administration and implementation of The Borough Code.

20 (3) Paragraph (2) does not apply to the addition of the  
21 following provisions:

- 22 (i) The definition of "freeholders" in section 200.
- 23 (ii) Section 202(a)(3).
- 24 (iii) Section 210(a).
- 25 (iv) Section 801.
- 26 (v) Section 902.
- 27 (vi) Section 904.1.
- 28 (vii) Section 1104(a) and (f)(3).
- 29 (viii) Section 1121(a)(5).
- 30 (ix) Section 1202(35) and (60).

- 1           (x) Section 21A06.
- 2           (xi) Section 2456(b)(3).
- 3           (xii) Section 2708(b).
- 4           (xiii) Section 3301.1(b)(5).
- 5           (xiv) Section 3301.2(a)(2), (b)(2) and (c).

6       Section 5. The addition of section 1104(f)(3) of the act  
7 shall apply to officials elected or appointed to fill a vacancy  
8 in an elected office after the effective date of this section.

9       Section 6. This act shall take effect in 60 days.