

BOROUGH CODE, THE
Act of Feb. 1, (1966) 1965, P.L. 1656, No. 581 **Cl. 08**
AN ACT

Concerning boroughs, and revising, amending and consolidating the law relating to boroughs.

Compiler's Note: Section 301(a)(16) of Act 58 of 1996, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that all other powers and duties delegated to the Department of Community Affairs not otherwise expressly transferred elsewhere by Act 58 and currently performed by the Department of Community Affairs under Act 581 are transferred to the Department of Community and Economic Development.

Compiler's Note: Section 2 of Act 209 of 1990 provided that this act is repealed insofar as it is inconsistent with that act.

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- (a) Laying Out, Construction and Operation of Sanitary Sewers and Construction of Sewage Treatment Works

- Section 2001. Power to Lay Out and Construct.
- Section 2002. Assessments.
- Section 2003. Assessment by Foot-front Rule (Repealed).
- Section 2004. Places and Manner of Construction (Repealed).
- Section 2005. Permit from Sanitary Water Board (Repealed).
- Section 2006. Assessments of Cost (Repealed).
- Section 2007. Collections of Assessments (Repealed).
- Section 2008. Regulations of Borough (Repealed).
- Section 2009. Extensions Beyond Borough Limits; Eminent Domain.
- Section 2010. Notice of Certain Ordinances.
- Section 2011. Security for Damages; Assessments (Repealed).
- Section 2012. Unlawful to Build Within Right-of-Way of Sanitary Sewers.
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- Section 2021. Joint Sanitary Sewer Systems.
- Section 2022. Approval of Sanitary Water Board (Repealed).
- Section 2023. Connections with Sanitary Sewers of Adjacent Municipalities.
- Section 2024. Applications to Court.
- Section 2025. Appointment of Viewers.
- Section 2026. Report of Viewers; Appeals to Court.

- (c) Power to Supply Sewerage Service Outside Borough Limits (Repealed)

- Section 2031. Power to Supply Service (Repealed).

Section 2032. Power to Extend Lines and Condemn Property
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(d) Acquisition of Community Collection or Disposal Systems

Section 2041. Power to Acquire Sewer Systems (Repealed).

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

Section 2042. Assessment of Damages (Repealed).

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Section 2051. Ordinances to Require Sanitary Sewer Connections.

Section 2052. Notice of Ordinances; Failure to Comply With
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(f) Monthly, Quarterly or Annual Rentals

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Section 2102. Entry of Liens (Repealed).

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Section 2102-A. Notice of assessments.

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

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Section 2202. Right of Entry Upon Lands.

Section 2203. Manner of Financing Work.
Section 2204. Proceedings to Assess Damages.
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Section 2403. Issue of Bonds Where Water System Acquired.
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(a.1) Acquisition by Eminent Domain

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Section 2412. Agreements as to Damages; Bonds.
Section 2413. Appointment of Viewers; Proceedings (Repealed).

(a.2) Acquisition by Purchase after Appraisement

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(a.3) Power to Lease a Water System

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- Section 2451. Commission May Be Established.
- Section 2452. Terms of Commissioners; Compensation.
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(a.7) Water Connections

- Section 2461. Ordinances to Require Water Connections.
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Ordinance.
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(b) Manufacture and Supply of Electricity
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- Section 2471. Manufacture and Purchase of Electricity
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- Section 2471.2. Municipal Power Agencies (Repealed).
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- Section 2472. May Regulate Use and Prices (Repealed).
- Section 2473. Sale of Electric Light Works (Repealed).
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- Section 2476. Duty of Viewers (Repealed).
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(c) Operation of Gas Wells; Gas Works
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(d) Airports
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- Section 2491. Authority to Secure Lands for Airports
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**ARTICLE XXIV-A
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Section 2401-A. Definitions.
Section 2402-A. General powers.
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(a) Eminent Domain; General Provisions
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Section 2501. Exercise of Eminent Domain (Repealed).
Section 2502. Lands Excepted (Repealed).
Section 2503. Declaration of Intention (Repealed).
Section 2504. Proceedings (Repealed).
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Section 2602. Purchase and Condemnation of Real Estate (Repealed).
Section 2603. Proceedings.
Section 2604. How Damages Assessed.
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**ARTICLE XXVII
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(a) Parks and Playgrounds, Et Cetera

Section 2701. Power to Maintain, Improve and Acquire.
Section 2703. Appropriations for Public Purposes.
Section 2704. Proceedings (Repealed).
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Section 2708. Creation of Recreation Board.
Section 2709. Composition of Board.
Section 2710. Organization of Board; Employees.
Section 2711. Joint Ownership and Maintenance (Repealed).
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(1) Power of Boroughs as to Shade Trees

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(2) Shade Tree Commission

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Section 2722. Composition of Commission.
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Section 2724.1. Duties of Commission.
Section 2725. Report of Commission (Repealed).
Section 2726. Notices by Commission (Repealed).
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Section 2728. Assessments; Liens (Repealed).
Section 2729. Maintenance by Borough; Tax Levy (Repealed).
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(2) Power of Boroughs as to Shade Trees
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Section 2742. Power of Borough Where Owners Fail to Comply (Repealed).
Section 2743. Removal of Diseased Plants, Shrubs and Trees (Repealed).

(c) Forests

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Section 2752. Approval of Department of Forests and Waters (Repealed).
Section 2753. Ordinance Declaring Intention.
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Section 2811. Removals; How Made (Repealed).
Section 2812. Notice of Removal (Repealed).
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- Section 3102. Members of Board of Health.
- Section 3103. Oaths of Members, Secretary and Health Officer; Organization; Bonds.
- Section 3104. Duties of Secretary.
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- Section 3106. Powers of Board of Health.
- Section 3107. Entry Upon Premises.
- Section 3108. Inspections; Abatement of Nuisances.
- Section 3109. Estimates of Expenditures; Report.
- Section 3110. Cooperation With Other Units.
- Section 3111. Powers of Department of Health to Administer Health Laws; Expenses.
- Section 3112. Expenses of Board or Secretary of Health (Repealed).
- Section 3113. Failure to Pay Expenses Incurred by State Secretary (Repealed).
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**ARTICLE XXXII
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(Repealed)**

- Section 3201. Grant of Power (Repealed).
- Section 3202. Districts; Procedure (Repealed).
- Section 3203. Purpose in View (Repealed).
- Section 3204. Exercise by Council of Zoning Power; Notice (Repealed).
- Section 3205. Changes (Repealed).
- Section 3206. Zoning Commission (Repealed).
- Section 3207. Board of Adjustment (Repealed).
- Section 3208. Remedies (Repealed).
- Section 3209. Certain Buildings of Public Utility Corporations Exempted (Repealed).
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- Section 3201-A. Primacy of Uniform Construction Code.
- Section 3202-A. Changes in Uniform Construction Code.
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- Section 3301.1. Ordinances; resolutions.
- Section 3301.2. Publication of proposed ordinances.

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effective date.
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Section 3301.6. Appeals from ordinances.
Section 3301.7. Lost ordinance books to be replaced; recording
ordinances.
Section 3302. Arrests for Violation of Ordinances (Repealed).
Section 3303. Commencement of Proceedings (Repealed).
Section 3304. Return of Warrants (Repealed).
Section 3305. Arrests on View; Complaints (Repealed).
Section 3308. Collection of Penalties (Repealed).

(b) Enforcement

Section 3321. Fines and penalties.
Section 3322. Commitments Pending Hearings.
Section 3323. Commitments After Hearing.
Section 3324. Payment of Costs by Borough.

ARTICLE XXXIV
ACTIONS BY AND AGAINST BOROUGHES
(Repealed)

(a) Municipal Claims
(Repealed)

Section 3401. Collection of Municipal Claims (Repealed).

(b) Defenses by Taxpayers
(Repealed)

Section 3411. Intervention by Tax Payers (Repealed).
Section 3412. Appeals by Taxpayers (Repealed).
Section 3413. Affidavit by Taxpayer; Costs (Repealed).
Section 3414. Taxpayer to Be Party to Suit (Repealed).
Section 3415. Liability in Bond Transfers (Repealed).

ARTICLE XXXV
ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE

Section 3501. Acts of Assembly Repealed; Saving Clause.

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

ARTICLE I
PRELIMINARY PROVISIONS
(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

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

(101 reenacted May 17, 2012, P.L.262, No.43)

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

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

(2) The collection of municipal claims by liens.

(3) The method of incurring or increasing indebtedness.

- (4) Conduct of elections.
- (5) Public schools.
- (6) The powers and duties of borough and ward constables.
- (7) Magisterial district judges.
- (8) The giving of municipal consent to public utilities.
- (9) State highways.
- (10) Validations of elections, bonds, ordinances, and acts of corporate officers.
- (11) Any of the provisions of 18 Pa.C.S. (relating to crimes and offenses).
- (12) Any of the provisions of 75 Pa.C.S. (relating to vehicles).

(102 amended May 17, 2012, P.L.262, No.43)

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

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

(103 amended May 17, 2012, P.L.262, No.43)

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

(104 reenacted May 17, 2012, P.L.262, No.43)

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

(105 amended May 17, 2012, P.L.262, No.43)

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

- (1) all boroughs incorporated under general laws;
- (2) all boroughs incorporated under special law which have accepted the provisions of the act of April 3, 1851 (P.L.320, No.218), entitled "An act regulating boroughs";
- (3) all boroughs incorporated either prior to or since April 3, 1851, by special act of Assembly which by the act of

incorporation have been given the general powers of boroughs under the general law;

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

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

(b) This act shall not annul or repeal any local or special act in force at the date of the enactment of this act, or any provision thereof.

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

(106 amended May 17, P.L.262, No.43)

Section 107. Acceptance of Act by Boroughs.--(a) A borough incorporated or acting under any local or special act of Assembly, may surrender the provisions of its special and local acts in their entirety, or so far as they are inconsistent with this act, and be governed by the provisions of this act, by presenting a petition to the court of common pleas of the county setting forth the desire of the borough to accept the provisions of this act. The petition shall also set forth whether it is the desire of the petitioners to surrender all of the provisions of its special and local acts or to retain the provisions of its special and local acts as are not inconsistent with this act. If the petition sets forth a desire to retain provisions of local or special acts, it shall set forth the provisions of the local or special acts to be retained. The petition shall be made by the council or by at least ten percent of the registered electors of the borough as of the date the petition is filed.

(b) Upon the presentation of the petition, the court shall fix a day for hearing, of which notice shall be given as may be directed by the court. At the hearing, any inhabitant of the borough may remonstrate against the granting of the petition, and the court may grant or refuse the petition as to it appears just and proper.

If the court grants the petition, the decree of the court shall be recorded in the office for the recording of deeds, and thereafter the borough shall be subject to all the provisions of this act, and any local or special acts of Assembly retained as set forth in the petition. From the date of the decree, any local or special act of Assembly applicable to the borough shall be of no force and effect to the extent it is inconsistent with this act or has been surrendered.

(c) When a borough shall accept the provisions of this act, as provided by this section, all liabilities incurred, rights accrued or vested, obligations issued or contracted, and all suits and prosecutions pending or to be instituted to enforce any right or penalty accrued or punish any offense committed

prior to the acceptance, and all ordinances shall continue with the same force and effect as if no acceptance had been made.

(107 amended May 17, 2012, P.L.262, No.43)

Section 107.1. Acceptance of Act by Incorporated Towns.--(a) An incorporated town incorporated or acting under a local or special act of Assembly may, by ordinance, elect to be governed by provisions of this act, and shall surrender any provisions of its special and local acts, in whole or in part, that are inconsistent with the provisions of this act adopted by the incorporated town. The ordinance shall set forth, at length or by reference, the provisions of this act to be adopted and, to the extent applicable, those provisions of its special and local acts to be surrendered. As of the effective date of the ordinance and until such time as the ordinance may be repealed or amended, the provisions of this act as set forth in the ordinance shall be the law applicable to the incorporated town and the provisions of any local or special acts of Assembly, to the extent surrendered as set forth in the ordinance, shall be of no force and effect to the extent they would otherwise apply to the incorporated town.

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

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

(107.1 added May 17, 2012, P.L.262, No.43)

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

(108 reenacted May 17, 2012, P.L.262, No.43)

Section 109. Publication of Notices.--(a) Wherever, in any of the provisions of this act, notice is required to be given in one newspaper of general circulation, the notice shall be published in a newspaper of general circulation as defined in 45 Pa.C.S. § 101 (relating to definitions) which is published and circulated in the borough or boroughs affected, or a newspaper of general circulation, circulated in the borough or boroughs affected, which has bona fide paid circulation equal to or greater than any newspaper published in the borough or boroughs affected by the notice.

(b) Unless dispensed with by special order of court, notice required to be published in a newspaper of general circulation shall also be published in the legal newspaper for the county of the borough affected, if a legal newspaper exists, when the notice refers to any proceeding in any court or the holding of elections for the increase of indebtedness or the sale of bonds.

(109 amended May 17, 2012, P.L.262, No.43)

Section 110. Terms of Existing Officers Saved.--This act shall not be construed as affecting or terminating the term of

any officer of a borough holding office at the time the same becomes effective.

(110 reenacted May 17, 2012, P.L.262, No.43)

Section 111. Definitions.--As used in this act, unless the context clearly indicates otherwise, the following words and terms shall be construed as follows:

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

(2) "Department of Transportation" means the Pennsylvania Department of Transportation.

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

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

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

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

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

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

(111 amended May 17, 2012, P.L.262, No.43)

ARTICLE II

CREATION AND ALTERATION OF BOROUGHES

(Art. hdg. amended May 17, 2012, P.L.262, No.43)

(a) Incorporation of Boroughs

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 201. Areas May be Incorporated.--The courts of common pleas may incorporate as a borough any contiguous area from one or more townships within their jurisdiction having a population of at least 500 residents. After having been incorporated as a borough, the area shall be a body corporate and politic and shall have the name decreed by the court. "Township" as used in this subdivision shall mean a township of the second class.

(201 amended May 17, 2012, P.L.262, No.43)

Section 202. Applications for Incorporation.--(a) The application for incorporation shall be by a petition signed by a majority of the freeholders residing within the limits of the proposed borough and by the freeholders of a majority of the territory within the limits of the proposed borough, when all parts of the proposed borough are in the same township. Where portions of the proposed borough are in different townships, the petition shall be signed by a majority of the freeholders residing in each of the separate portions and by the freeholders of a majority of the territory in each of the separate portions. The signatures must be secured within three months immediately preceding the presentation thereof to the court. The petition shall be subscribed by and sworn to by at least one of the signers. The number of signers required to sign the petition

shall be ascertained as of the date the petition was presented to court.

For purposes of this subsection, the residence of freeholders shall be established by evidence of domicile in a permanent structure.

(b) (Deleted by amendment).

(c) (Deleted by amendment).

(d) (Deleted by amendment).

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

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

(202 amended May 17, 2012, P.L.262, No.43)

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

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

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

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

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

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

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

(202.1 added May 17, 2012, P.L.262, No.43)

Section 202.2. Advisability of Incorporation; Certification of Question for Referendum; Decree.--(a) After receiving the findings-of-fact and the advice of the committee, the court shall set a date for a hearing on the proposed incorporation and shall hear the parties interested, which shall include, but not be limited to, the holders of any ownership interest in real property within the limits of the proposed borough, and their witnesses. If, after the hearing, the court deems further investigation necessary to determine the advisability of incorporation, it may make an order as is needed to obtain the additional information. When the court has obtained all reasonably necessary information, and has determined that the conditions prescribed by this section have been complied with, the court shall determine the desirability of the proposed incorporation based upon the evidence submitted at the hearing and by the committee, any additional information obtained after the hearing, and any other applicable factors the court deems relevant.

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

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

(202.2 added May 17, 2012, P.L.262, No.43)

Section 203. Contents of Petition.--(203 repealed May 17, 2012, P.L.262, No.43)

Section 204. Filing of Petition; Notice; Decree; Costs.--(204 repealed May 17, 2012, P.L.262, No.43)

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

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

(1) The corporate name of the borough.

(2) The boundaries of the borough.

(205 amended May 17, 2012, P.L.262, No.43)

Section 206. Exclusion of Farm Lands.--When, in any petition for the incorporation of a borough, the boundaries fixed by the petitioners shall embrace lands exclusively used for the

purposes of farming, the court may, if it deems such land does not properly belong to the proposed borough, at the request of any party aggrieved, change the boundaries so as to exclude therefrom the land used for farming.

(206 amended May 17, 2012, P.L.262, No.43)

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

(207 reenacted May 17, 2012, P.L.262, No.43)

Section 208. Requisites of Charter.--(208 repealed May 17, 2012, P.L.262, No.43)

Section 209. Appeals to Superior Court.--(209 repealed June 3, 1971, P.L.118, No.6)

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

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

(210 amended May 17, 2012, P.L.262, No.43)

Section 211. Existing Government Preserved Temporarily; Organization of Borough; Election of Borough Officers.--(a)

The newly incorporated area shall continue to be governed as before the incorporation until the first Monday of January following the municipal election after the issuance of the final decree establishing the new borough, at which time the officers of the borough who are elected, in accordance with section 805, at the municipal or special election shall enter upon their respective terms of office, and the borough government shall be duly organized under this act.

(b) Borough officers shall be elected at the next municipal election occurring at least ninety days following the issuance of the decree establishing the borough, or at the request of the petitioners, at a special election called by the court of common pleas.

(c) If a special election is to be held, the court shall fix the time, place and manner of holding the special election, and shall designate a person to give notice of the special election and the manner thereof, and appoint from among the electors of the newly established borough a judge and inspectors to hold the election.

(d) Municipal officers elected at the special election shall serve until the first Monday in January following the next succeeding municipal election at which time their successors shall be elected in the manner provided in section 805 and shall take office.

(211 amended May 17, 2012, P.L.262, No.43)

Section 212. Marking Borough Boundaries.--The boundaries of the borough shall, as soon as practicable after its incorporation, be appropriately marked, due notice being first given, as directed by the court, to the governing bodies of adjoining municipal corporations.

(212 amended May 17, 2012, P.L.262, No.43)

Section 213. Agreement to Adjust Indebtedness Where Borough Created.--(a) After the election of borough council under

section 211 when a borough is newly incorporated, the borough council and the governing body of the township or townships from which the borough was created shall make a just and proper adjustment and apportionment of all the public real and personal property owned by the township or townships at the time of the incorporation of the borough. The property to be adjusted and apportioned between the borough and the township or townships shall include funds, as well as indebtedness provided that in adjusting property and indebtedness, streets, sewers, and utilities shall not be considered except to the extent that current and unpaid indebtedness was incurred for the construction and improvement thereof.

(b) In making the adjustment and apportionment under subsection (a), the borough shall be entitled to a division of the property and indebtedness in the same proportion that the assessed valuation of the taxable real estate included within the territorial limits of the newly incorporated borough, bears to the assessed valuation of the taxable real estate in the entire township or townships immediately prior to the incorporation of the borough, and the township or townships shall be entitled to the remainder of the property and indebtedness. Where indebtedness was incurred by the township or townships for an improvement located wholly within the territorial limits of the newly incorporated borough, the indebtedness shall be assumed by the borough. Where only part of the improvement is located within the newly incorporated borough, the part of the indebtedness, representing the part of the improvement located within the borough, shall be assumed by the borough and the adjustment and apportionment of any remaining debt shall be retained by the township or townships.

(c) The adjustment and apportionment made pursuant to this section shall be reduced to writing, and shall be duly executed and acknowledged by the secretary or clerk of the township or townships and by the secretary of the borough, and shall be filed in the office of the clerk of the court of common pleas of the county, and a copy shall also be filed with the Department of Community and Economic Development.

(213 amended May 17, 2012, P.L.262, No.43)

Section 214. Judicial Adjustment on Failure of Agreement.--If the governing bodies of the township or townships and the borough cannot make an amicable adjustment and apportionment of the property and indebtedness within six months after the government of the newly incorporated borough is established, then the supervisors of the township or townships or the council of the borough may present a petition to the court of common pleas. The court shall then appoint three disinterested commissioners, all residents and taxpayers of the county, but who do not reside in or own real estate in the township or townships or borough, who, after hearing, notice of which shall be given to the township or townships and borough as the court shall direct, shall make report to the court making an adjustment and apportionment of all the property as well as the indebtedness between the township or townships and the borough. The report shall state the amount that shall be due and payable from either the borough or the township or townships, to the other and vice versa, and the amount of indebtedness that shall be assumed by any or all of them.

(214 amended May 17, 2012, P.L.262, No.43)

Section 215. Proceeding on Judicial Adjustment Award.--The commissioners shall give the township or townships and the borough at least five days' notice of the filing of their report. Unless exceptions are filed to the report within thirty

days after the date of the filing, the report shall be confirmed by the court absolutely. Any sum awarded by the report to the township or townships or borough shall be a legal and valid claim in its favor against the borough or township or townships charged with the sum. Any real or personal property given to the township or townships or borough shall become its respective property. Any claim or indebtedness charged against the borough or township or townships may be collected from it.

(215 amended May 17, 2012, P.L.262, No.43)

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

(216 reenacted May 17, 2012, P.L.262, No.43)

Section 217. Compensation and Expenses of Commissioners; Costs.--The commissioners shall be allowed compensation and expenses for their services as the court shall fix. The costs of the proceedings, including the compensation and expenses of the commissioners, shall be apportioned by the court between the borough and township or townships as it deems proper.

(217 amended May 17, 2012, P.L.262, No.43)

Section 218. Where Territory of Borough is Located in Two or More Counties.--In case the territory, included within the limits of a newly incorporated borough is located in two or more counties, the court of common pleas of the county where the larger part of the territory of the borough is located shall have exclusive jurisdiction over the proceedings to adjust and apportion the indebtedness between the borough and township or townships.

(218 amended May 17, 2012, P.L.262, No.43)

Section 219. Bond Issues; Taxation.--In any proceeding to adjust and apportion indebtedness, the township or townships or the borough shall have power to issue and deliver to the borough or township or townships interest-bearing bonds in liquidation of the indebtedness ascertained, to be its proportionate share payable, if the bonds are acceptable to the borough or township or townships entitled to receive the bonds. The court may also make all necessary orders for the collection and payment by the township or townships or borough of the amount needed to pay its share of any indebtedness apportioned to it by special taxes to be collected in one year, or by annual installments.

(219 amended May 17, 2012, P.L.262, No.43)

(b) Consolidation of Boroughs
(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 221. Adjacent Boroughs May be Consolidated.--(221 repealed Oct. 13, 1994, P.L.596, No.90)

Section 222. Joint Agreement for Consolidation; Decree of Court.--(222 repealed Oct. 13, 1994, P.L.596, No.90)

Section 223. Elections on Question of Consolidation.--(223 repealed Oct. 13, 1994, P.L.596, No.90)

Section 224. Agreement or Certified Copy of Decree to be Recorded; Effect Thereof.--(224 repealed Oct. 13, 1994, P.L.596, No.90)

Section 225. Payment of Costs and Expenses.--(225 repealed Oct. 13, 1994, P.L.596, No.90)

Section 226. Effect of Consolidation.--(226 repealed Oct. 13, 1994, P.L.596, No.90)

Section 227. Jurisdiction Over Consolidated Boroughs.--(227 repealed Oct. 13, 1994, P.L.596, No.90)

Section 228. Existing Governments Preserved Temporarily.--(228 repealed Oct. 13, 1994, P.L.596, No.90)

(c) Creation of Boroughs from Cities of the Third Class
(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

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

(231 amended May 17, 2012, P.L.262, No.43)

Section 232. Filing Petition; Notice of Election; Return.--Upon the presentation of a petition pursuant to section 231, the court shall determine whether the petition is in due form and properly signed, and if the court so finds, it shall enter an appropriate order and direct that the petition shall be filed with the clerk of the court and that a copy of the petition and order of court shall be filed with the county board of elections. The county board of elections shall frame the proper question to be submitted to the electors at the election ordered by the court. Notice of the time and purpose of the election shall be given in at least one newspaper of general circulation of the proper county once a week for four consecutive weeks. The publication of the notice shall be made on behalf of the petitioners and shall be in the form approved by the court.

The county board of elections shall make return of the vote cast on the question submitted to the clerk of the court of common pleas, which return shall be filed with the petition. If a majority of those voting on the question submitted were in favor of the change of the charter of the city to a borough charter, the court shall order that the record of the proceedings be recorded in the office for the recording of deeds of the county, which record shall constitute the charter of the borough under the name set forth in the petition. The recorder of deeds in each county affected shall certify to the Department of State, the Department of Transportation, the Department of Community and Economic Development and the county planning commission a copy of the record constituting the charter of the borough. If a majority of those voting on the question were against the change of the city charter no further proceedings shall be had, and the same question shall not again be submitted for a period of five years following the election.

(232 amended May 17, 2012, P.L.262, No.43)

Section 233. When Borough Government Effective.--Upon the recording of the record of the proceedings as provided in

section 232, the city form of government shall continue in operation until the first Monday of January next succeeding the first municipal election, occurring at least ninety days after the recording of the record, at which time the borough government shall be organized by the officers elected at the municipal election in accordance with section 805.

(233 amended May 17, 2012, P.L.262, No.43)

Section 234. Property; Assets; Liabilities; Ordinances; Wards; Election Districts and Certain Officers.--Upon the formation of the borough government, all of the property and assets of the city shall become the property of the borough, and the change of government shall not in any way affect any liabilities incurred, rights accrued or vested, obligations issued or contracted, or any suits or prosecutions pending or instituted to enforce any right or penalty accrued, or punish any offense committed prior to the change. All ordinances of the former city shall continue in force in the new borough until altered or repealed in the manner provided by law. The wards and election districts of the city shall become the wards and election districts of the borough until altered or changed as may be provided by law. In the election of members of council from the several wards, two members of council shall be elected from each ward, unless thereafter changed as provided by law. All constables and election officers in office in the city, when the borough government is organized, shall remain in office until the expiration of their respective terms of office.

(234 amended May 17, 2012, P.L.262, No.43)

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

(235 reenacted May 17, 2012, P.L.262, No.43)

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

(Subdiv. added May 17, 2012, P.L.262, No.43)

Section 241. Consolidation or merger.

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

(241 added May 17, 2012, P.L.262, No.43)

Section 242. Change of corporate name.

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

(b) Petition.--Upon the presentation of the petition, the court shall fix a day for hearing of which notice shall be given as directed by the court. At the hearing, an inhabitant of the borough may remonstrate against the granting of the petition, and the court may grant or refuse the petition as appears just and proper to the court. If the court grants the petition, the decree of the court shall be recorded in the office for the

recording of deeds and the corporate name of the borough from the date of the recording shall be as set forth in the petition.

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

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

(242 added May 17, 2012, P.L.262, No.43)

ARTICLE III
ANNULMENT OF CHARTERS AND CHANGE
OF CORPORATE NAMES
(Repealed)

(Art. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 301. Petitions for Annulment of Charters or Change of Corporate Names.--(301 repealed May 17, 2012, P.L.262, No.43)

Section 302. Filing Petition; Notice of Election; Return.--(302 repealed May 17, 2012, P.L.262, No.43)

Section 303. Territory to Revert to Township; Corporate Name Changed; Indebtedness.--(303 repealed May 17, 2012, P.L.262, No.43)

Section 304. Officers Where a New Township is Created.--(304 repealed May 17, 2012, P.L.262, No.43)

Section 305. Change of Corporate Name to Conform to General Usage or to Post Office Designation.--(305 repealed May 17, 2012, P.L.262, No.43)

ARTICLE IV
CHANGE OF BOROUGH LIMITS
(Repealed)

(Art. hdg. repealed May 17, 2012, P.L.262, No.43)

(a) Annexation of Townships of First Class or Parts Thereof
(Repealed)

(Subdiv. hdg. repealed May 17, P.L.262, No.43)

Section 401. Petition For Annexation of a Township of the First Class or Parts Thereof.--(401 repealed May 17, 2012, P.L.262, No.43)

Section 402. Referendum in Township and Borough.--(402 repealed May 17, 2012, P.L.262, No.43)

Section 403. Result of Election.--(403 repealed May 17, 2012, P.L.262, No.43)

Section 404. Wards.--(404 repealed May 17, 2012, P.L.262, No.43)

Section 405. Election Districts and Election Officers.--(405 repealed May 17, 2012, P.L.262, No.43)

Section 406. Government Where Lands Lie In Two or More Counties.--(406 repealed May 17, 2012, P.L.262, No.43)

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

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

(1) Where territory is in one county:

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 411. Annexation by Court; Decree.--(411 repealed May 17, 2012, P.L.262, No.43)

Section 412. Notice of Application.--(412 repealed May 17, 2012, P.L.262, No.43)

Section 413. Signing and Contents of Petition.--(413 repealed May 17, 2012, P.L.262, No.43)

Section 414. Decree of Court; Costs; Limitation of Subsequent Proceedings.--(414 repealed May 17, 2012, P.L.262, No.43)

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

(Repealed)

(Subdiv. hdg repealed May 17, 2012, P.L.262, No.43)

Section 416. Petition For Annexation.--(416 repealed May 17, 2012, P.L.262, No.43)

Section 417. Notice of Application.--(417 repealed May 17, 2012, P.L.262, No.43)

Section 418. Appointment of Commissioners; View; Report.--(418 repealed May 17, 2012, P.L.262, No.43)

Section 419. Rules On Petitioners.--(419 repealed May 17, 2012, P.L.262, No.43)

Section 420. Approval by Court; Compensation of Commissioner; Limitation of Subsequent Proceedings.--(420 repealed May 17, 2012, P.L.262, No.43)

Section 421. Government of Territory.--(421 repealed May 17, 2012, P.L.262, No.43)

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

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 426. Annexation; Ordinance; Limitation of Subsequent Proceedings.--(426 repealed May 17, 2012, P.L.262, No.43)

Section 427. Procedure.--(427 repealed May 17, 2012, P.L.262, No.43)

Section 428. Government of Territory.--(428 repealed May 17, 2012, P.L.262, No.43)

(d) Annexation of Adjacent Territory Owned by a Borough

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 429. Annexation by Ordinance; Procedure.--(429 repealed May 17, 2012, P.L.262, No.43)

(e) Detachment of Territory

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 431. Petitions to Detach Territory.--(431 repealed May 17, 2012, P.L.262, No.43)

Section 432. Signing and Contents of Petition.--(432 repealed May 17, 2012, P.L.262, No.43)

Section 433. Filing Petition; Notice; Decree.--(433 repealed May 17, 2012, P.L.262, No.43)

(f) Adjustment of Indebtedness and Public Property
(Repealed)
(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 441. Adjustment of Indebtedness and Public Property
Where Part of Township Annexed.--(441 repealed May 17, 2012,
P.L.262, No.43)

Section 442. Judicial Adjustment on Failure of
Agreement.--(442 repealed May 17, 2012, P.L.262, No.43)

Section 443. Proceedings on Judicial Adjustment.--(443
repealed May 17, 2012, P.L.262, No.43)

Section 444. Exceptions to Report.--(444 repealed May 17,
2012, P.L.262, No.43)

Section 445. Compensation and Expenses of Commissioners;
Costs.--(445 repealed May 17, 2012, P.L.262, No.43)

Section 446. Where Borough Located In Two or More
Counties.--(446 repealed May 17, 2012, P.L.262, No.43)

Section 447. Payment of Amounts Due; Taxation.--(447
repealed May 17, 2012, P.L.262, No.43)

Section 448. Collection of Taxes Levied Prior to
Annexation.--(448 repealed May 17, 2012, P.L.262, No.43)

(g) When Territory is Detached
(Repealed)
(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 451. Appointment of Auditor.--(451 repealed May 17,
2012, P.L.262, No.43)

Section 452. Duties of Auditor.--(452 repealed May 17, 2012,
P.L.262, No.43)

Section 453. Confirmation of Report; Costs.--(453 repealed
May 17, 2012, P.L.262, No.43)

ARTICLE V
BOROUGH BOUNDARIES
(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 501. Stream Boundaries.--Whenever any borough is
bounded by the nearest margin of a navigable stream, and the
opposite municipal corporation is also bounded by the nearest
margin of the same stream, the middle of the stream shall be
the boundary between the borough and the opposite municipal
corporation. Nothing contained in this section shall be
construed to repeal any local or special law providing to the
contrary.

(501 amended May 17, 2012, P.L.262, No.43)

Section 502. Petition to Court; Establishment of Disputed
Boundaries.--The court of common pleas may, upon presentation
of a petition, ascertain and establish disputed boundaries
between a borough and another municipal corporation. When a
petition is presented, the court may require the petitioners
to file a bond in sufficient sum to secure the payment of all
costs of the proceeding.

(502 amended May 17, 2012, P.L.262, No.43)

Section 503. Commissioners; Report.--Upon application by
petition, in accordance with section 502, the court shall
appoint three impartial persons as commissioners, one of whom
shall be a surveyor or registered engineer. After giving notice
to interested parties and upon publication of the petition, as
directed by the court, the commissioners shall hold a hearing
and view the disputed lines and boundaries. A majority of the

commissioners shall make their report and recommendations to the court, accompanied by a plot or draft of the lines and boundaries proposed to be ascertained and established if they cannot be fully designated by natural lines or boundaries. Upon the filing of the report, the same shall be confirmed subject to exceptions filed under section 504, and the court may, by its order, direct publication of the report and require notice to be given by the petitioners to the interested parties as the court deems proper.

(503 amended May 17, 2012, P.L.262, No.43)

Section 504. Exceptions and Procedure.--Exceptions to the report may be filed by an interested person or political subdivision, within thirty days after the filing of the report, and the court shall set a day for the hearing of the exceptions. Notice of the hearing shall be given as the court may direct. After hearing, the court may sustain the exceptions, dismiss them and confirm the report or refer the report back to the same or new commissioners with authority to make another report. If no exceptions are filed within thirty days after the filing of the report, the court shall confirm the report absolutely. When a report is confirmed absolutely, the court shall enter a decree ascertaining and establishing the lines and boundaries as shown in the report. The court shall direct publication of the decree establishing the lines and boundaries.

(504 amended May 17, 2012, P.L.262, No.43)

Section 505. Compensation and Expenses of Commissioners; Costs.--The compensation and expenses of commissioners appointed to ascertain and establish borough boundaries shall be in a reasonable amount approved by the court. The court shall by its order provide how the costs and expenses of the proceedings, including the furnishing and placing of monuments, shall be paid, and may assess them against the petitioners, the borough or any interested municipal corporation, individually or in apportioned amounts as the court deems equitable.

(505 amended May 17, 2012, P.L.262, No.43)

Section 506. Boundary Monuments.--The court shall cause a borough line ascertained and established pursuant to this article to be appropriately marked.

(506 amended May 17, 2012, P.L.262, No.43)

ARTICLE VI BOROUGH WARDS

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 601. Power of Council to Erect, Abolish and Change Wards and to Adjust, Alter and Establish Lines.--(a) In addition to reapportionment initiated in accordance with 53 Pa.C.S. Pt. II Ch. 9 (relating to municipal reapportionment) and section 11 of Article IX of the Constitution of Pennsylvania, council may, by ordinance, divide boroughs into wards, erect new wards out of two or more adjoining wards or parts thereof, consolidate two or more wards into one ward, divide any ward already erected into two or more wards, alter the lines of any two or more adjoining wards or cause the lines or boundaries of wards to be ascertained or established, or abolish all wards. No borough shall be divided or redivided into more than thirteen wards.

(b) No ward shall be created containing less than three hundred registered electors in the ward, and all wards which now or at any time hereafter shall contain less than three hundred fifty registered electors in the ward may be abolished and the territory of the ward shall be distributed among the

remaining wards as council shall determine. All other wards shall remain as established, until altered or divided as provided in this article.

(c) In boroughs where any ward shall be abolished as provided under this section and the number of wards shall be reduced to less than five, then the member of council or members of council in the ward or wards abolished shall continue in office for the term for which elected and shall become a member of council or members of council at large from the borough.

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

(601 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 9(a) of Act 312 of 1974 provided that section 601 is repealed insofar as it is inconsistent with Act 312. Act 312 was repealed by the act of December 19, 1996 (P.L.1158, No.177). The subject matter is now contained in 53 Pa.C.S. Pt. II Ch. 9 (relating to municipal reapportionment).

Section 602. Petition of Electors.--(a) At least five percent of registered electors of the borough or, in the case of a proposal affecting only a portion of the borough, at least five percent of the registered electors of the ward or wards which would be affected by the proposal may petition council to initiate proceedings under section 601 and may present to council a plot showing the boundaries of the proposed wards of the borough. Council shall, by motion approved by a majority of council and within ninety days of presentment of the petition, determine whether to initiate proceedings under section 601.

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

(602 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 9(a) of Act 312 of 1974 provided that section 602 is repealed insofar as it is inconsistent with Act 312.

Section 603. Notice of Ordinance.--(a) Notice of an ordinance enacted in accordance with section 601 shall be given by publication once in a newspaper of general circulation.

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

(603 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 9(a) of Act 312 of 1974 provided that section 603 is repealed insofar as it is inconsistent with Act 312.

Section 604. (Reserved).

(604 amended May 17, 2012, P.L.262, No.43)

Section 605. (Reserved).

(605 amended May 17, 2012, P.L.262, No.43)

Section 606. Terms of Officers.--Whenever council shall divide a borough into wards, it shall request the court of

common pleas to appoint for each ward a judge and two inspectors of election to hold elections until the officers may be elected as provided by law. In all other cases, officers in office at the time any changes are made pursuant to the preceding sections of this article, shall remain in office until the expiration of the terms for which they have been elected. In case any vacancy shall occur, the vacancy shall be filled by the council, until the first Monday of January next succeeding the election at which the officers are to be elected, as provided in article VIII.

(606 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 9(a) of Act 312 of 1974 provided that section 606 is repealed insofar as it is inconsistent with Act 312.

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

(606.1 added May 17, 2012, P.L.262, No.43)

Section 607. Change of Names and Numbers.--(607 repealed May 17, 2012, P.L.262, No.43)

ARTICLE VII ASSOCIATIONS AND ORGANIZATIONS

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 701. State Association of Boroughs.--(a) The boroughs of the Commonwealth are authorized to organize a State Association of Boroughs for the purpose of advancing the interests of the boroughs. A borough may join the association by motion of council and payment of the annual dues. Each borough, becoming a member of the association, shall pay reasonable dues as may be fixed by the association.

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

(701 amended May 17, 2012, P.L.262, No.43)

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

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

(c) In addition to any compensation allowed under section 701.2, council may, for each attending delegate, elected or appointed officer or employe, pay expenses upon receipt of an itemized account of expenses, which shall be limited to the registration fee, mileage for use of personal vehicle or reimbursement of actual transportation expenses going to and returning from the respective annual meeting, conference, educational training or committee meeting of the association plus all other actual expenses that council may have agreed to pay. Notwithstanding the provisions of this subsection, at least one member of council shall be allowed expenses which shall be

limited to the registration fee, lodging, meals, mileage for use of personal vehicle or reimbursement of actual transportation expenses going to and returning from the meeting plus all other actual expenses that the council may have agreed to pay.

(701.1 added May 17, 2012, P.L.262, No.43)

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

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

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

(d) The borough council may authorize a mayor or any council member employed by the borough to be compensated at their regular employee rate and a mayor or council member who is not employed by the borough to receive total or partial reimbursement for lost wages or salary, including those from self-employment, if they attend a meeting for which the mayor or council member is an officer, a member of the board of directors, a member of the executive committee, a member of a standing committee or a trustee of the association, subject to the following limitations which shall include time spent traveling to and from the event:

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

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

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

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

(701.2 added May 17, 2012, P.L.262, No.43)

Section 702. County and Regional Associations of Boroughs.--The boroughs of any county or of two or more adjoining or nearby counties, may organize a county or regional association of boroughs, composed of elected and appointed

borough officers in the county or counties, organized for the purpose of furthering the interests of the boroughs in the association and their inhabitants. A borough may annually appropriate a sum of money, not exceeding one hundred dollars (\$100) for the support of the association. For attendance at a meeting of the county or regional association of which the borough is a member, the borough may, for each delegate, pay expenses which shall be limited to the registration fee, mileage for use of personal vehicle or reimbursement of actual transportation expense going to and returning from the meeting plus all other actual expenses that the council may have agreed to pay. Every delegate attending the meeting shall submit to the council an itemized account of expenses incurred. The council may authorize borough employees to be compensated at their regular employee rate during their attendance at the meeting. The borough council solely may authorize the mayor and any council member who is not employed by the borough to receive total or partial reimbursement for lost wages or salary while attending the meeting, provided that sufficient documentation is presented to the borough council to justify the reimbursement. A county or regional association of boroughs shall have the option of admitting to membership representatives of political subdivisions other than boroughs within the county or counties but representatives of the other political subdivisions shall have no voice or vote in any matter that is or may be of concern solely to boroughs.

(702 amended May 17, 2012, P.L.262, No.43)

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

(1) join other associations and organizations concerned with municipal or governmental affairs;

(2) pay dues to and appropriate moneys for the support of and participation in the associations and organizations; and

(3) send delegates to meetings or conferences of associations and organizations.

In addition to any compensation allowed by law for each delegate, the borough may, for each delegate, pay expenses which shall be limited to the registration fee, mileage for use of personal vehicle or reimbursement of actual transportation expense going to and returning from the meeting or conference plus all other actual expenses that the council may have agreed to pay. Every delegate attending the annual meeting or conference shall submit to the council an itemized account of expenses incurred. The council may authorize borough employees to be compensated at their regular employee rate during their attendance at the annual meeting or conference. The time spent in attending the meeting or conference shall not be more than four days, including the time employed in traveling to and from the meeting or conference.

(b) A borough, by motion of council, may authorize any of its officers and employees to attend meetings of professional organizations and associations, or educational training sessions for persons holding the same or similar office or employment, and may pay all or any specified portion of the necessary expenses incident to their attendance at the meetings or sessions.

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

(703 amended May 17, 2012, P.L.262, No.43)

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

(704 amended May 17, 2012, P.L.262, No.43)

Section 705. National or State Lodge of Police Officers.--A borough council may grant a borough employe, who is a duly elected representative of a State lodge of police officers or a local lodge being a part of any national or State lodge of police officers, a leave of absence with pay to attend an annual national or State convention or conference of the lodge, for a period not to exceed four days, including necessary time for travel to and from the convention or conference. An employe receiving time off with pay under this section shall, upon return, submit to the employe's immediate superior a certificate testifying to the employe's attendance at the convention or conference, signed by at least two responsible officers of the convention or conference. No more than two elected representatives who are employes of the same borough may attend a convention or conference on behalf of a lodge under this section.

(705 amended May 17, 2012, P.L.262, No.43)

ARTICLE VIII ELECTIONS OF OFFICERS

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

(a) General Provisions Relating to Elected Officers
(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 801. Electors Only to be Eligible; Incompatibility.--(a) Except as provided in subsection (b), only registered electors of the borough shall be eligible to elective borough offices. Before being sworn in to office, each elected borough officer shall present a signed affidavit to the borough secretary that states that the officer resides in the borough from which elected and has resided in the borough continuously for at least one year immediately before the officer's election. A school director shall not be eligible to an elective borough office. No individual shall at the same time hold more than one elective borough office.

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

(801 amended May 17, 2012, P.L.262, No.43)

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

(802 reenacted May 17, 2012, P.L.262, No.43)

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

(803 reenacted May 17, 2012, P.L.262, No.43)

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

Whenever an elected official of a borough is required to give bond for the faithful performance of the elected official's duties, the borough may pay the premium for the bond. For a tax collector's bond, however, the borough shall pay a proportionate share of the cost of the bond with the share to be in the same ratio as the amount of borough taxes bears to the total amount of all taxes indicated by the tax duplicate to be collected by the tax collector during the year preceding the date the premium is due.

(804 amended May 17, 2012, P.L.262, No.43)

Section 805. Election of Borough Officers When Boroughs Created, Etc.--Whenever a borough is incorporated under the provisions of sections 201 to 219, or whenever two or more boroughs are consolidated under the provisions of 53 Pa.C.S. Ch. 7 Subch. C (relating to consolidation and merger), or whenever a borough is created from a city of the third class under the provisions of sections 231 to 235, the officers of the borough, provided for in section 806, shall be elected at the appropriate municipal election as provided in the law and the officers shall take office on the first Monday of January succeeding the election.

At the election, if the borough is not divided into wards, of the seven members of council to be elected, three or four members of council, as the case may be, shall be elected for terms of two years each, and three or four members of council, as the case may be, shall be elected for terms of four years each, to coincide with the number of members of council elected at the election in existing boroughs under the provisions of section 811.

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

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

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

(805 amended May 17, 2012, P.L.262, No.43)

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

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

(2) One tax collector, who shall be elected at the municipal election in the year 1969, and every four years thereafter, and

who shall be a properly qualified person. No magisterial district judge may at the same time hold the office of tax collector.

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

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

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

(4) In boroughs not divided into wards, seven members of council. In a borough with a population, as determined by the latest official census, of less than three thousand, the total number of members of council may be reduced from seven to five or to three upon petition to the court of common pleas, as provided in section 818.

(5) In boroughs divided into wards, at least one, and not more than two members of council in each ward, except in boroughs where prior to the passage of this act three members of council were elected in each ward. In those boroughs, the number of members of council is fixed at three in each ward until the number is reduced in the manner provided by this act. Members of council shall be residents of the ward from which they are elected, and chosen by the electors of the ward.

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

(806 amended May 17, 2012, P.L.262, No.43)

(b) Members of Council

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 811. Election of Members of Council.--(a) At the municipal election to be held in the year 1967, there shall be elected in each borough a sufficient number of members of council to equal one-half of the entire number of which the council is legally composed, to serve for a term of four years from the first Monday of January next succeeding the election. Where the entire number of council is seven, nine, or eleven, then it shall be sufficient to elect three, four, or five council members, as the case may be. The members of council elected in the year 1967, being successors to those elected in the year 1963, whose terms, as heretofore provided by law, expire on the first Monday of January, 1968. All members of council whose terms expire on the first Monday of January, 1970 shall continue to hold their office until the first Monday of January, 1970, as now provided, and their successors shall be elected at the municipal election in the year 1969, to serve for a term of four years, from the first Monday of January next succeeding. If for any reason members of council are not elected as provided under this section, members of council whose terms end on the same date shall cast lots to determine who shall serve for a two-year term and who shall serve for a four-year term. The secretary of the borough shall certify the results to the appropriate county board of elections.

(b) Biennially thereafter, at the municipal election, a sufficient number of members of council shall be elected, for

a term of four years from the first Monday of January next succeeding, to fill the places of those whose terms, under the provisions of this act, shall expire on the first Monday of January next following the election.

(811 amended May 17, 2012, P.L.262, No.43)

Section 812. Election of Members of Council Where New Wards Created.--(a) Whenever council shall, by ordinance, divide any borough into wards, erect new wards out of two or more wards or parts of wards or divide a ward already erected into two or more wards, the ordinance shall provide for the election of an equal number of members of council, in each of the wards, in a manner as not to interfere with the terms of those previously elected.

(b) Where a borough is first divided into wards, the ordinance providing for the division shall fix the number of members of council in each ward at not more than two. When the entire number of council shall be composed of an even number, one-half of the entire number shall thereafter be elected at each municipal election. When the entire number of council shall be an odd number, the ordinance shall establish two classes, and shall provide that one-half of the entire number of members of council, less one, shall, as soon as possible, take their office in a year divisible by four, and the remaining number of members of council shall take their office in an even-numbered year not divisible by four. The apportionment shall be equal or as nearly equal as possible, representation by wards in each class. Biennially thereafter, at each municipal election, a sufficient number of members of council shall be elected, for the term of four years from the first Monday of January next succeeding, to fill the places of those whose terms shall expire on the first Monday of January next following the election.

(812 amended May 17, 2012, P.L.262, No.43)

Section 813. Fixing Number of Members of Council When Wards Created.--Whenever upon the division of a borough into wards, or the creation of a new ward or wards, the number of members of council cannot be equally divided among the wards of the boroughs, it shall be lawful for council to increase the number of council to, and not exceeding, a number that will enable equal apportionment of the same among the several wards of the borough. But where a borough is first divided into wards, the number of members of council provided for a ward shall not exceed two.

(813 amended May 17, 2012, P.L.262, No.43)

Section 814. Increase in Number of Ward Council Members.--Council may, upon petition of at least five percent of the registered electors of the borough, increase the number of members of council to any number not exceeding two for each ward. The sufficiency of the number of signers to the petition shall be ascertained as of the date when the petition is presented to council.

(814 amended May 17, 2012, P.L.262, No.43)

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

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

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

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

(4) a reduction in borough expenditures; and

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

The petition shall clearly state whether the petitioners request that the number of members of the council to be elected in each ward shall be reduced from two to one, or from three to two or one, and shall further state the reasons why the reduction in number shall be desired. The petition may also state whether it is necessary to add a council member or members to be elected at large in order to achieve or maintain a council consisting of at least seven members or to achieve or maintain a council consisting of an odd number of members. The sufficiency of the number of signers to the petition shall be ascertained as of the date the petition is presented to council.

The council shall give notice of the filing of the petition by advertisement in the legal newspaper of the county, if one is published in the county, and in one newspaper of general circulation, and in the notice shall fix a day and time for a public meeting. After the public meeting council may, by ordinance, decrease the number of council members elected from each ward from two to one, or from three to two or one, and may also provide for the election at large of a member or members of council. Council shall, if necessary, establish a schedule for the subsequent at-large election of council members. The schedule may provide that the initial term of one or more of the council members subsequently elected at large shall be reduced to accommodate a schedule of staggered at-large elections to eventually insure that, as nearly as possible, one-half of the members of council elected at large will be elected at each municipal election.

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

At each municipal election thereafter in the boroughs, where there is one member from each ward, the electors from each of the odd-numbered wards shall, at the first municipal election thereafter, elect one council member for a term of four years, and the electors from each of the even-numbered wards shall elect one council member for a term of two years. At each municipal election thereafter, the electors of the even-numbered wards, or odd-numbered wards as the case may be, shall each elect one council member for a term of four years, to take the place of those whose terms are about to expire. The council members shall take office on the first Monday of January following their election.

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

(815 amended May 17, 2012, P.L.262, No.43)

Section 816. Election of Members of Council Where Wards Abolished.--(a) Whenever council shall, by ordinance, abolish all wards in a borough, the ordinance shall provide for the election of seven members of council at large for the borough in a manner as not to interfere with the terms of those ward members of council previously elected. Where there were previously:

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

(2) Eight or more members of council, the ordinance shall provide that, at the first municipal election thereafter the electors shall elect a sufficient number of members of council that, when added to the number of members of council already in office whose terms are not about to expire, will bring the membership of the council to seven. The newly elected members of council shall serve for terms of four years from the first Monday of January next succeeding the first municipal election. At the second municipal election after the effective date of the ordinance, the electors shall elect a sufficient number of members of council, that, when added to the number of members of council elected at the previous municipal election, shall bring the membership of council to its full complement of seven, some of the members of council elected at the second municipal election to serve for a four-year term following the first Monday of January next succeeding, the remainder to serve for a two-year term, the number in each case to be that required to bring the number of members of council to be elected in the borough in succeeding municipal elections into conformity with the number elected in the other boroughs of the Commonwealth not divided into wards. In the third and all subsequent municipal elections following the effective date of the ordinance, the electors shall elect three or four members of council, as the case may be, each to serve for a term of four years from the first Monday of January following the municipal election.

In any borough where, under the ward system of electing members of council, the council shall have been so large that there shall be seven or more members of council whose terms shall not expire on the first Monday of January following the first municipal election after the effective date of the ordinance, no members of council shall be elected at the first municipal election, and the members of council remaining in office shall constitute the borough council until the first Monday of January following the second municipal election following the effective date of the ordinance. At the second municipal election, seven members of council shall be elected in the borough, some to serve for a four-year term of office from the first Monday of January following the second municipal election, the remainder to serve for a two-year term, the number in each case as necessary to bring the number of members of council to be elected in the borough in succeeding elections into conformity with the number elected in other boroughs of

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

(3) Six or fewer members of council, the ordinance shall provide that at the first municipal election thereafter, the electors shall elect a sufficient number of members of council that, when added to the number of members of council already in office whose terms are not about to expire, will bring the membership of council to its full complement of seven. Of the newly elected members of council, either three or four, as necessary to bring the number of members of council to be elected in the borough in succeeding municipal elections into conformity with the number elected in other boroughs of the Commonwealth not divided into wards, shall be elected for four-year terms of office, beginning the first Monday of January following the first municipal election, and the balance shall be elected for two-year terms. Thereafter, at the second municipal election following the effective date of the ordinance and at all subsequent municipal elections, the electors shall elect three or four members of council, as the case may be, to serve for a term of four years from the first Monday of January following the subsequent municipal election.

(b) At any time following the effective date of the ordinance, where a vacancy may occur in the office of a member of council originally elected or appointed from a particular ward, the person appointed to fill the vacancy need not be a resident of the area formerly comprising the ward, but shall be otherwise qualified for office as provided in section 801.

(816 amended May 17, 2012, P.L.262, No.43)

Section 817. Vacancies Created After a Primary Election.--Whenever a vacancy is created in the office of member of council by any ordinance or decree of court as provided in this subdivision after a primary election, it may be filled by nomination made by the committee as is authorized by the rules of the party to make nominations in the event of vacancies on the party ticket.

(817 amended May 17, 2012, P.L.262, No.43)

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

The court shall give notice of the filing of the petition by advertisement in the legal newspaper of the county, if one is published in the county, and in one newspaper of general circulation, and in the notice shall fix a day and time for hearing. After the hearing, the court may decrease the number of members of council elected in the borough from seven to five or three, as requested in the petition.

At the municipal election following the decrease in the number of members of council in the borough, from seven to five, if four members of council would otherwise have been elected, there shall instead be elected three members of council; if three members of council would otherwise have been elected there shall instead be elected two members of council. At the second

municipal election following the decrease in the number of members of council in the borough, if four members of council would otherwise have been elected, there shall instead be elected three members of council; if three members of council would otherwise have been elected, there shall be elected two members of council. At all following municipal elections, there shall be elected the proper number of members of council to correspond to the number of members of council whose terms are to expire the first Monday of the following January.

At the municipal election following the decrease in the number of members of council in the borough from seven to three, if four members of council would otherwise have been elected there shall instead be elected two members of council; if three members of council would otherwise have been elected there shall instead be elected one member of council. At the second municipal election following the decrease in the number of members of council in the borough, if four members of council would otherwise have been elected, there shall instead be elected two members of council; if three members of council would otherwise have been elected, there shall be elected one member of council. At all the following municipal elections, there shall be elected the proper number of members of council to correspond to the number of members of council whose terms are to expire the first Monday of the following January.

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

(818 amended May 17, 2012, P.L.262, No.43)

(c) Mayor

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 821. Election of Mayor.--(821 repealed May 17, 2012, P.L.262, No.43)

(d) Auditors

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 831. Election of Auditors.--(831 repealed May 17, 2012, P.L.262, No.43)

(e) Controller

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 841. Election of Controller.--(841 repealed May 17, 2012, P.L.262, No.43)

(f) Assessors

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 851. Election of Assessors.--(851 repealed May 17, 2012, P.L.262, No.43)

(g) Tax Collector

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 861. Election of Tax Collector.--(861 repealed May 17, 2012, P.L.262, No.43)

ARTICLE IX

VACANCIES IN OFFICE

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 901. Filling Vacancies in Elective Borough Offices.--(a) If any vacancy shall occur in the office of the mayor, member of council, auditor, controller, or tax collector, by death, resignation, termination of residency from the borough, or from a ward in the case of a ward office, or by failure to take the required oath or to give bond as provided by law or ordinance, provide the affidavit required under section 801, or in any other manner whatsoever, the borough council shall fill the vacancy within thirty days by appointing, by resolution, a registered elector of the borough, or of the ward in case of a ward office, to hold the office, if the term continues so long, until the first Monday in January after the first municipal election occurring more than sixty days after the vacancy occurs, at which election an eligible person shall be elected to the office for the remainder of the term. Except as provided in section 801(b), no person shall be appointed to fill a vacancy in an elected borough or ward office unless the person has resided within the borough, or within the ward in the case of a ward office, continuously for at least one year immediately prior to the person's appointment.

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

(c) If the council of any borough shall refuse, fail or neglect, or be unable, for any reason whatsoever, to fill any vacancy within thirty days after the vacancy happens, as provided in this section, then the vacancy shall be filled within fifteen additional days by the vacancy board. The board shall consist of the borough council exclusive of the mayor, and one registered elector of the borough who shall be appointed by the borough council at the council's first meeting each calendar year or as soon thereafter as practical and who shall act as chair of the vacancy board. The board shall appoint a registered elector of the borough, or ward in the case of a ward office, to hold the office, if the term continues so long, until the first Monday in January after the first municipal election occurring more than sixty days after the vacancy occurs, at which election an eligible person shall be elected to the office for the remainder of the term.

(d) If the vacancy is not filled by the vacancy board within fifteen days, the chair shall, or in the case of a vacancy in the chair, the remaining members of the vacancy board shall petition the court of common pleas to fill the vacancy by the appointment of a registered elector of the borough, or ward in the case of a ward, to hold the office, if the term continues so long, until the first Monday in January after the first municipal election occurring more than sixty days after the

vacancy occurs, at which election an eligible person shall be elected to the office for the remainder of the term.

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

(901 amended May 17, 2012, P.L.262, No.43)

Section 902. Collection of Taxes Where Vacancy in Office of Tax Collector Not Filled.--Where a vacancy in the office of tax collector exists and no registered elector of the borough has, within thirty days, received the appointment to fill the vacancy, the county commissioners, the borough council and the board of school directors of the school district shall collect the tax for the county, the borough, and the school district, respectively, through their respective treasurers, or in the case of school districts at the option of the district through their secretaries, and in the case of boroughs, at the option of the borough council, through their secretaries or borough managers.

(902 amended May 17, 2012, P.L.262, No.43)

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

(903 amended May 17, 2012, P.L.262, No.43)

Section 904. Right of Council to Declare Seat of Member Vacant for Failure to Attend Meetings, Etc.--(904 repealed May 17, 2012, P.L.262, No.43)

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

(905 reenacted May 17, 2012, P.L.262, No.43)

ARTICLE X POWERS AND DUTIES OF ELECTED BOROUGH OFFICIALS

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

(a) Council

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1001. Organization of Council; Quorum; Participation by Telecommunication Device; Voting; Compensation; Eligibility.--(a) The borough council shall organize on the first Monday of January of each even-numbered year, by electing one of their number as president and one of their number as vice-president, who shall hold the offices at the pleasure of the council. If the first Monday is a legal holiday, the meeting and organization shall take place the first day following. Any action taken by any borough council at any time between 12:01 o'clock ante meridian on January 1 of an even-numbered year and

the organization of council in that year shall be subject to reconsideration by the new council at any time within ten days after organization. The council may at the organization meeting appoint other officers as may be provided for by law or ordinance, or as may be deemed necessary for the conduct of affairs of the borough and may transact any other business as may come before the meeting. The president, and during the president's absence or incapacity the vice-president, shall preside over the meetings of council and perform other duties as are prescribed by this act or by ordinance.

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

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

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

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

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

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

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

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

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

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

(iii) emergency; and

(iv) family or business travel.

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

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

(e) Members of council may receive compensation to be fixed by ordinance as follows:

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

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

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

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

(5) In boroughs with a population of twenty-five thousand or more but less than thirty-five thousand, a maximum of four thousand three hundred seventy-five dollars (\$4375) a year.

(6) In boroughs with a population of thirty-five thousand or more, a maximum of five thousand dollars (\$5000) a year. The salaries shall be payable monthly or quarterly for the duties imposed by the provisions of this act. Benefits provided to members of council under section 1202(26) shall not be considered pay, salary or compensation, but payment for all or a part of the premiums or charges for the benefits shall be in accordance with section 1202(26). Any change in salary, compensation or emoluments of the elected office shall become effective at the beginning of the next term of the member of council.

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

(1001 amended May 17, 2012, P.L.262, No.43)

Section 1002. Oath of Members of Council.--Before entering upon the duties of their office, the members of council shall take and subscribe an oath or affirmation of office under 53 Pa.C.S. § 1141 (relating to form of oaths of office). The oath or affirmation may be taken before any judge or magisterial district judge of the county, a notary public or before the mayor of the borough when the person has qualified, and shall be filed with the borough secretary and be preserved among the records of the borough for a period of six years.

(1002 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 3(3) of Act 76 of 2008 provided that all acts and parts of acts are repealed insofar as they are inconsistent with Act 76. Section 1 of Act 76 amended 53 Pa.C.S. Ch. 11 (relating to general provisions) by adding section 1141 (relating to form of oaths of office), which provides the form of oaths of office for elected or appointed officials of municipalities.

Section 1003. When the Mayor May Preside Over Council and Vote; Attendance of Mayor at Council Meetings; Breaking Tie Votes.--The mayor shall preside over the organization of the council, until it is organized as provided in section 1001, and shall be deemed a member of council at the organization meeting if the mayor's membership becomes necessary to constitute a quorum. The mayor, however, shall not vote at the meeting unless the mayor's vote shall, for any reason, be required to effect the organization of council, or to elect any officer who is required to be or may be elected at the organization meeting. In case of the absence of the mayor at the organization meeting, one of the members of council physically present at the meeting

and chosen by the members eligible to vote at the meeting, shall preside.

The mayor may attend any or all regular and special meetings of council and may take part in the discussions of the council on matters pertaining to borough affairs, subject to any restrictions applicable to members of council contained in the rules of order or bylaws of the council. In all cases where, by reason of a tie or split vote, the council of any borough shall be unable to enact or pass any ordinance, resolution, or motion, or to declare any vacancy pursuant to section 903 or fill any other vacancy in its membership, or in any other borough office, or to take any action on any matter lawfully brought before it, the mayor, if in attendance at the meeting, may at the mayor's option cast the deciding vote, or shall direct that the matter be tabled until a special meeting of council to be held within not less than five days or more than ten days at which time the matter shall be reconsidered by council and, if a tie or split vote still exists, it shall be the duty of the mayor at that time to cast the deciding vote. If a tie or split vote shall occur at any meeting when the mayor is not in attendance the matter shall be tabled to a special meeting to be held within not less than five days or more than ten days as set by the president of council, and the mayor shall be given at least five days' notice of the meeting, at which meeting it shall be the duty of the mayor to cast the tie-breaking vote.

(1003 amended May 17, 2012, P.L.262, No.43)

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

(1004 amended May 17, 2012, P.L.262, No.43)

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

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

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

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

(4) To appoint and revoke the appointment of one or more depositories for borough funds and to fix and approve security

to be furnished by the depository. The security may be bonds with corporate or individual securities to be approved by council, or collateral security consisting of obligations of the United States or the Commonwealth of Pennsylvania, or any political subdivision thereof, deposited with the borough or with any bank or trust company within the Commonwealth of a market value of one hundred twenty percent of the amount of the deposit to be secured. Any deposit of collateral shall be under proper agreement and be accompanied by proper assignment or power of attorney for the transfer of the collateral. The borough treasurer shall deposit all borough funds in any depository so designated, and when so deposited, the borough treasurer shall be released and discharged from further liability on account of the deposit. This paragraph shall not be construed to require a depository to furnish bond or collateral security to cover the amount of any deposit to the extent that the same is insured with the Federal Deposit Insurance Corporation.

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

(6) With respect to investments, to:

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

(ii) make investment of moneys in the General Fund and in special funds of the borough other than the sinking funds as authorized by Article XIII of this act; and

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

(7) To provide by ordinance passed by a two-thirds vote of the entire number of members of council elected, for the appointment of an independent auditor who shall be a certified public accountant, registered in Pennsylvania, a firm of certified public accountants so registered or a competent public accountant or a competent firm of public accountants. Where an ordinance has been adopted, an independent auditor shall be appointed, annually, by resolution before the close of a fiscal year, to make an independent examination of the accounting records of the borough for the fiscal year and the independent auditor shall also perform the other duties and exercise the powers as conferred upon the independent auditor under subdivision (c). When an independent auditor is appointed as provided in this paragraph, the office of elected borough auditor or controller, as the case may be, is thereby abolished although the borough auditors, or controller, then in office shall continue to hold their office during the term for which elected and the borough auditors or controller shall not audit, settle, or adjust the accounts audited by the independent auditor but shall perform the other duties of their office.

Whenever any borough has provided by ordinance for the audit of its accounts by an appointed auditor, the borough shall have the right at any time to repeal the ordinance, and then the office of appointed auditor shall be abolished, as of the date set in the ordinance and the borough shall have the further right at the next municipal election following the repeal of the ordinance to elect three auditors, one for a term of two

years, one for a term of four years, and one for a term of six years, from the first Monday of January succeeding the election, which auditors so elected shall succeed the appointed auditor and shall have and possess all the powers and perform all the duties provided in this act for elected auditors. If at any time after the effective date of any ordinance abolishing the office of appointed auditor, there shall be a vacancy in the office of elected auditor, council shall fill vacancies in the manner prescribed in section 901.

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

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

(1005 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 1307(b)(5) of Act 185 of 1972 provided that clause (3) is repealed insofar as it relates to the authorization, issue and sale of tax anticipation notes. The act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act, referred to in clause (6)(i), was repealed by the act of December 19, 1996 (P.L.1158, No.177). The subject matter is now contained in 53 Pa.C.S. Pt. VIII Subpt. B (relating to indebtedness and borrowing).

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

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

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

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

(4) To enact, revise, repeal and amend ordinances and resolutions pursuant to Article XXXIII, and bylaws, rules and regulations, not inconsistent with the laws of this Commonwealth as it deems beneficial to the borough and to provide for the enforcement of the same. Unless otherwise provided, all powers shall be exercised by vote of the majority of council eligible to vote at a meeting. Routine, ministerial or administrative purchases and powers may be made and exercised by officers or committees, if authority for the action was previously given, or if the action is subsequently ratified by council. Whenever any action by the council shall result in a specific written contract or agreement, the contract or agreement shall be signed by the president of the borough council.

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

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

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

(1006 amended May 17, 2012, P.L.262, No.43)

Section 1007. Passage, Approval and Veto of Ordinances.--(1007 repealed May 17, 2012, P.L.262, No.43)

Section 1008. Recording, Advertising and Proof Of Ordinances; Codification of Ordinances.--(1008 repealed May 17, 2012, P.L.262, No.43)

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

(b) Where recording or transcribing in a specified book of record is required, including minutes of the proceedings of the council, the records shall be recorded or transcribed as follows:

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

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

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

(1009 amended May 17, 2012, P.L.262, No.43)

Section 1010. Appeals from Ordinances.--(1010 repealed May 17, 2012, P.L.262, No.43)

Section 1011. Lost Ordinance Books to be Replaced; Recording Ordinances.--(1011 repealed May 17, 2012, P.L.262, No.43)

Section 1012. Ordinance Providing for Recording; Notice.--(1012 repealed May 17, 2012, P.L.262, No.43)

Section 1013. Certificate of Secretary.--(1013 repealed May 17, 2012, P.L.262, No.43)

Section 1014. Hearings Before Council; Witnesses.--Borough councils may compel the attendance of witnesses and the

production of books, papers, or other evidence, at any meeting of the council, or any committee of the council and for that purpose may issue subpoenas, signed by the president of council or the chair of the committee, which shall be served in any part of this Commonwealth. If any witness shall refuse to testify to any fact within the witness's knowledge, or to produce any books or papers in the witness's possession or control, required to be used as evidence in any case, the borough solicitor shall report the facts relating to the refusal to the court of common pleas. If the court determines the evidence required of the witness to be legal and competent, it shall order the witness to testify or produce the evidence required.

(1014 amended May 17, 2012, P.L.262, No.43)

Section 1015. Witness Fees and Mileage.--No person residing outside the borough and subpoenaed under section 1014 shall be required to respond to the subpoena until mileage to and from the borough at the rate established by the borough council under the act of July 20, 1979 (P.L.156, No.51), referred to as the Uniform Mileage Fee Law, and witness fees as required by law relating to witnesses, have been paid.

(1015 amended May 17, 2012, P.L.262, No.43)

Section 1016. Examination of Witnesses; Penalty.--Any person called as a witness, as provided in this article, may be examined under oath, administered by the president of council or chair of the committee and, for the giving of false testimony, shall be liable for prosecution under applicable laws for perjury.

(1016 amended May 17, 2012, P.L.262, No.43)

(b) Mayor

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 1021. Eligibility of Mayor.--(1021 repealed May 17, 2012, P.L.262, No.43)

Section 1022. Incompatible Offices.--(1022 repealed May 17, 2012, P.L.262, No.43)

Section 1023. Oath of Mayor.--(1023 repealed May 17, 2012, P.L.262, No.43)

Section 1024. Salary of Mayor; Fixed by Ordinance.--(1024 repealed May 17, 2012, P.L.262, No.43)

Section 1025. Salary of Mayor Limited.--(1025 repealed May 17, 2012, P.L.262, No.43)

Section 1026. Salaried Mayor Not to Receive Fees.--(1026 repealed May 17, 2012, P.L.262, No.43)

Section 1027. Mayor to Collect Costs and Fees.--(1027 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1028. General Powers of Mayor.--(1028 repealed May 17, 2012, P.L.262, No.43)

Section 1029. Duties of Mayor.--(1029 repealed May 17, 2012, P.L.262, No.43)

Section 1030. When President or Vice-President of Council to Act as Mayor.--(1030 repealed May 17, 2012, P.L.262, No.43)

(c) Auditors

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1041. Auditors to Meet Yearly, and Audit Accounts.--(a) The auditors of the borough shall meet on the first Tuesday of January of each year, and shall organize by the election of a chair and a secretary. If the first Tuesday

is a legal holiday, the meeting and organization shall take place the first day following. Two auditors shall constitute a quorum.

(b) The auditors shall audit, adjust, and settle the accounts of the tax collectors, the magisterial district judge and all officers of the borough, and may also audit, adjust and settle the accounts of any person, corporation, association, organization, committee or commission receiving or expending borough funds. The auditors shall also audit and report to the borough council, upon the accounts of every officer of the borough, upon the death, resignation, removal or expiration of the term of the officer. Unless otherwise agreed to by the auditors and the person being audited, the audit shall be conducted at the place the records of the person are normally kept.

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

(c) (Deleted by amendment).

(d) (Deleted by amendment).

(e) (Deleted by amendment).

(f) (Deleted by amendment).

(g) (Deleted by amendment).

(1041 amended May 17, 2012, P.L.262, No.43)

Section 1042. Orders and Vouchers to be Marked "Audited".--(1042 repealed May 17, 2012, P.L.262, No.43)

Section 1043. Completion of Auditors' Report; Publication of Financial Statement.--(1043 repealed May 17, 2012, P.L.262, No.43)

Section 1044. Appeals from Audit.--(1044 repealed May 17, 2012, P.L.262, No.43)

Section 1045. Taxpayers Appealing to Enter Bond.--(1045 repealed May 17, 2012, P.L.262, No.43)

Section 1046. Taxpayers May Intervene in Appeals.--(1046 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1047. Procedure on Appeals.--(1047 repealed May 17, 2012, P.L.262, No.43)

Section 1048. Framed Issues.--(1048 repealed May 17, 2012, P.L.262, No.43)

Section 1049. Findings of Fact and Law; Judgment.--(1049 repealed May 17, 2012, P.L.262, No.43)

Section 1050. Exceptions and Appeals.--(1050 repealed May 17, 2012, P.L.262, No.43)

Section 1051. Balances Due to be Entered as Judgments.--(1051 repealed May 17, 2012, P.L.262, No.43)

Section 1052. Attorney to Auditors.--(1052 repealed May 17, 2012, P.L.262, No.43)

Section 1053. Compensation of Auditors.--(a) Subject to the limitations set forth in subsection (b), each auditor shall receive ten dollars (\$10) per hour for each hour or portion thereof necessarily employed in the discharge of his duties, to be paid by the borough.

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

(c) Each auditor shall be reimbursed for travel costs incurred in the performance of the auditing duties at the rate

established by the borough council under the act of July 20, 1979 (P.L.156, No.51), referred to as the Uniform Mileage Fee Law, and for other actual expenses, including postage, notary fees or publication costs, necessarily incurred during the audit.

(1053 amended May 17, 2012, P.L.262, No.43)

Section 1054. Penalty for Failure to Comply with Law.--(1054 repealed May 17, 2012, P.L.262, No.43)

Section 1055. Subpoenas; Oath; Perjury.--(a) A majority of the auditors of any borough shall have the power to issue subpoenas to obtain the attendance of the persons whose accounts they are required to adjust, their executors, and administrators, and of any persons whom it may be necessary to examine as witnesses, and to compel their attendance, and may also compel the production of all documents, including books, vouchers and papers relative to borough accounts. If any person shall refuse or neglect to appear, to produce documents or to testify, the auditors shall petition the court of common pleas of the county to issue a subpoena to the person and to require the person to produce documents or to appear and to testify before the court. The court shall issue the subpoena if it deems the documents or testimony relevant to the issue.

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

(1055 amended May 17, 2012, P.L.262, No.43)

Section 1056. Auditors May Administer Oaths; Penalty.--(1056 repealed May 17, 2012, P.L.262, No.43)

Section 1057. Persons Refusing to Testify to be Committed.--(1057 repealed May 17, 2012, P.L.262, No.43)

Section 1058. Pay of Witnesses.--Witnesses, other than officers of the borough, attending before the auditors, and persons or officers serving subpoenas, shall be paid, out of the borough treasury upon authorization signed by a majority of the auditors and orders drawn on the borough treasury, the same fees as are payable for rendering similar services in civil proceedings before a magisterial district judge. The amount paid shall be made a part of the charge against any officer who shall be charged by the auditors with any balance, provided that the costs shall have been incurred in establishing the balance. The costs collected from any officer shall be repaid into the borough treasury.

(1058 amended May 17, 2012, P.L.262, No.43)

Section 1059. Auditors to Settle Accounts Where Witnesses Do Not Appear.--If any person in possession of documents relative to public accounts before auditors, shall refuse to produce the same, or, if any officer whose accounts are to be settled and adjusted by the auditors shall refuse to attend or submit to examination as is directed by this subdivision, the auditors or a majority of them may proceed, by the examination of witnesses and other evidence, to ascertain and settle as near as may be, the amount of public money received by the officer and its application to public purposes or otherwise.

(1059 amended May 17, 2012, P.L.262, No.43)

Section 1059.1. Completion, Filing and Publication of Auditor's Report and Financial Statement.--(a) The auditors shall complete the annual audit, adjustment and settlement as soon as possible after the end of the fiscal year. The auditors shall, within ten days after completing the annual audit,

publish once in at least one newspaper of general circulation a concise financial statement setting forth:

- (1) the balance in the treasury at the beginning of the fiscal year;
- (2) all revenue received during the fiscal year by major classifications;
- (3) all expenditures made during the fiscal year by major functions and the current resources and liabilities of the borough at the end of the fiscal year;
- (4) the gross liability and net debt of the borough;
- (5) the amount of assessed valuation of the borough;
- (6) the assets of the borough with their character and value;
- (7) the date of the last maturity of the respective forms of funded debt; and
- (8) the assets in each sinking fund.

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

- (1) the actual indebtedness;
- (2) the amount of funded debt;
- (3) the amount of floating debt;
- (4) the valuation of taxable property in the borough;
- (5) the assets of the borough with their character and value; and
- (6) the date of maturity of the respective forms of funded debt of the borough.

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

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

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

(1059.1 added May 17, 2012, P.L.262, No.43)

Section 1059.2. Attorney to Auditors.--The borough auditors may employ an attorney whenever deemed advisable by a majority

of the auditors. The auditors, with the agreement of borough council, shall determine the compensation to be paid to the attorney. If the auditors and borough council cannot agree on the compensation, upon petition of the auditors, the court of common pleas shall establish the compensation for the attorney employed by the auditors. The compensation for the attorney shall be paid out of the borough general fund.

(1059.2 added May 17, 2012, P.L.262, No.43)

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

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

(1059.3 added May 17, 2012, P.L.262, No.43)

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

(1059.4 added May 17, 2012, P.L.262, No.43)

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

(1059.5 added May 17, 2012, P.L.262, No.43)

Section 1059.6. Procedure on Appeals.--(a) In any proceeding upon an appeal from a report of the auditors, the accounts of the office or officers, or the person, corporation, association, organization, committee or commission in question may be investigated de novo, and the burden shall be upon each officer, person, corporation, association, organization, committee or commission whose accounts are involved in the

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

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

(1059.6 added May 17, 2012, P.L.262, No.43)

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

(1059.7 added May 17, 2012, P.L.262, No.43)

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

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

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

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

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

(1059.8 added May 17, 2012, P.L.262, No.43)

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

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

(1059.9 added May 17, 2012, P.L.262, No.43)

Section 1059.10. Penalty for Failure to Comply with Law.--(a) An auditor neglecting or refusing to comply with the provisions of this article shall be guilty of a summary offense.

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

(1059.10 added May 17, 2012, P.L.262, No.43)

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

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

(1) The scope of the examination.

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

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

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

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

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

(1059.11 added May 17, 2012, P.L.262, No.43)

(d) Controller
(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1061. Oath and Bond of Controller.--The borough controller shall, before entering upon the duties of office, take the required oath or affirmation of office under 53 Pa.C.S. § 1141 (relating to form of oaths of office). The controller shall give bond to the borough with a surety company to be approved by the council, in a sum as council may direct by ordinance, conditioned for the faithful discharge of the controller's duties. The amount of the bond shall be sufficient to adequately protect the borough from any illegal or unfaithful action by the controller. The cost of the bond shall be paid by the borough.

(1061 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 3(3) of Act 76 of 2008 provided that all acts and parts of acts are repealed insofar as they are inconsistent with Act 76. Section 1 of Act 76 amended 53 Pa.C.S. Ch. 11 (relating to general provisions) by adding section 1141 (relating to form of oaths of office), which provides the form of oaths of office for elected or appointed officials of municipalities.

Section 1062. Salary of Controller.--The borough council shall fix the annual salary of the controller. Any change in salary, compensation or emoluments of the elected office shall become effective at the beginning of the next term of the controller.

(1062 amended May 17, 2012, P.L.262, No.43)

Section 1063. General Powers and Duties of Controller.--The borough controller, shall manage the fiscal affairs of the borough. The controller shall examine, audit, and settle all accounts in which the borough is concerned either as debtor or creditor, where provision for the settlement is made by law. Where no provision or an insufficient provision has been made, the controller shall examine the accounts and report to the borough council the relevant facts and opinion on the accounts.

In the examination, audit, and settlement of accounts, the controller shall have all of the powers and perform all of the duties vested in and imposed on the auditors by this act. A person guilty of swearing or affirming falsely before the controller shall be guilty of perjury. The controller shall make and file an annual report of the audit, and make and publish the annual financial report in the same form and manner and at the same time as in this act required of the auditors of the borough.

The borough controller shall have supervision and control of the accounts of all departments, bureaus, and officers of the borough, authorized to collect, receive, or disburse the public moneys, or who are charged with the management or custody of the accounts. The controller shall audit their respective accounts, and may at any time require from any of them a statement in writing of any moneys or property of the borough in their possession, or under their control, showing the amount of cash on hand and the amount deposited in banks and banking institutions together with the names of the institutions. The controller shall have power to examine every account of a borough officer in any bank or banking institution to verify the accuracy of the statement of the borough, department, bureau or officer and it shall be the duty of every department, bureau

or officer, and of every bank and banking institution, its officers and agents, to furnish full information to the controller in relation to the account. No banker or banking institution, its officers or agents, shall be subject to prosecution under other laws of this Commonwealth for disclosing information with respect to an account. The controller shall, immediately upon the discovery of any default, irregularity, or delinquency, report the same to the borough council. The controller shall also audit and report upon the accounts of an officer upon the death, resignation, removal, or expiration of the term of the officer.

(1063 amended May 17, 2012, P.L.262, No.43)

Section 1064. Controller May Require Attendance of Witnesses; Penalty.--(1064 repealed May 17, 2012, P.L.262, No.43)

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

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

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

(1065 amended May 17, 2012, P.L.262, No.43)

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

(1066 amended May 17, 2012, P.L.262, No.43)

Section 1067. Amount of Contracts to be Charged Against Appropriations.--A contract involving appropriation of money shall designate the item of appropriation on which it is founded, and the estimated amount of the expenditure shall be charged against the item, and certified by the borough controller on the contract, before it shall take effect as a contract, and the payment required by the contract shall be made from the fund appropriated. If the controller shall certify a contract in excess of the appropriation made, the borough shall not be liable for the excess, but the controller and the controller's sureties shall be liable for the same, which may be recovered in an action at law by the aggrieved contracting party. It shall be the duty of the controller to certify contracts for the payment of which sufficient appropriations have been made.

(1067 amended May 17, 2012, P.L.262, No.43)

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

(1068 amended May 17, 2012, P.L.262, No.43)

Section 1069. Books to be Kept by Controller.--The borough controller shall keep a regular set of books, in which shall

be opened and kept as many accounts, under appropriate titles, as may be necessary to show separately and distinctly all the estates and property, whatsoever, real and personal, vested in the borough, all trusts in the care of the same, all debts due and owing the borough, all receipts and expenditures of the various departments of the borough government, and all appropriations made by council and the sums under the same, respectively.

(1069 reenacted May 17, 2012, P.L.262, No.43)

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

(1070 reenacted May 17, 2012, P.L.262, No.43)

Section 1071. Acceptance by Ordinance.--The foregoing provisions of subdivision (d) shall not become operative or effective in any borough not having a controller, until the borough shall, by ordinance, accept the provisions of subdivision (d). When any borough accepts the provisions of subdivision (d), the court of common pleas, upon petition of council, shall appoint a controller to hold office until the first Monday of January, next succeeding the next municipal election at which a controller shall be elected under the provisions of this act.

In all boroughs accepting the provisions of subdivision (d), the borough auditors then in office, or the appointed auditor serving as borough auditor, shall continue to hold their office until the first day of January succeeding the election of a borough controller, after which date the office of borough auditor shall be abolished.

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

(1071 amended May 17, 2012, P.L.262, No.43)

(e) Assessors

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 1081. Powers of Assessors.--(1081 repealed May 17, 2012, P.L.262, No.43)

(f) Tax Collector

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1086. Powers and Duties of Tax Collector.--The tax collector shall be the collector of all State, county, borough, school, institution district and other taxes, levied within the borough by the authorities empowered to levy taxes. The tax collector shall not collect any tax levied and imposed under the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act," unless the ordinance imposing the tax shall provide that the tax collector shall be the collector of the tax. No ordinance, however, may authorize the collection of income taxes in a manner other than that provided in Chapter

5 of "The Local Tax Enabling Act." The tax collector shall, in addition to the powers, authority, duties and responsibilities provided for by this act, have all the powers, perform all the duties, and be subject to all the obligations and responsibilities, for the collection of taxes, as are now vested in, conferred upon, or imposed upon tax collectors by law.

(1086 amended May 17, 2012, P.L.262, No.43)

ARTICLE X-A

MAYOR

(Art. added May 17, 2012, P.L.262, No.43)

Section 1001-A. Eligibility of mayor.

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

(1001-A added May 17, 2012, P.L.2012, No.43)

Section 1002-A. Incompatible offices.

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

(1002-A added May 17, 2012, P.L.2012, No.43)

Section 1003-A. Oath of mayor.

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

(1003-A added May 17, 2012, P.L.2012, No.43)

Section 1004-A. Salary of mayor.

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

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

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

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

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

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

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

(1004-A added May 17, 2012, P.L.2012, No.43)

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

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

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

(1005-A added May 17, 2012, P.L.2012, No.43)

Section 1006-A. General powers of mayor.

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

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

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

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

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

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

(5) Any other activities as the mayor reasonably believes should be prohibited to help preserve life, health, property or the public peace.
The proclamation shall describe the specific restricted area with particularity and shall specify the hours when restrictions are to be in effect.

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

(1006-A added May 17, 2012, P.L.2012, No.43)

Section 1007-A. Duties of mayor.

It shall be the duty of the mayor:

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

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

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

(1007-A added May 17, 2012, P.L.2012, No.43)

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

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

(1008-A added May 17, 2012, P.L.2012, No.43)

ARTICLE XI
POWERS, DUTIES AND RIGHTS OF APPOINTED
OFFICERS AND EMPLOYES

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

(a) General Provisions

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1101. Compensation; Hours and Days of Work; Outside Employment.--Appointed officers and employes of the borough shall receive compensation for their services as the council shall prescribe, and council may also establish the hours and

days of work and may restrict the outside employment of borough employees or any class or category thereof.

(1101 amended May 17, 2012, P.L.262, No.43)

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

(1102 reenacted May 17, 2012, P.L.262, No.43)

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

(1103 amended May 17, 2012, P.L.262, No.43)

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

(b) The following apply to employment:

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

(2) This subsection shall not apply to a borough official serving as an employe of that borough prior to the certification of the 2010 census or a subsequent decennial census which indicates an increase in the population of that borough to 3,000 or more.

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

(d) No person holding the office of magisterial district judge may at the same time hold any elected or appointed borough office.

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

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

(g) Nothing contained in this section shall affect the eligibility of any borough official to hold any other public office or receive compensation therefor.

(h) All appointments to be made by the council shall be made by a majority of the members of council, unless a different vote is required by statute.

(1104 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 359 of Act 43 of 2012, which added subsec. (f), provided that subsec. (f) shall apply to officials elected or appointed to fill a vacancy in an elected office after the effective date of section 359.

A police officer or firefighter holding an elective office in the borough on the effective date of this section shall be subject to the restrictions in subsec. (f) for any term beginning, or vacancy occurring, after the effective date of section 359.

Section 1105. Compensation to Aged Employees.--A borough may provide, by ordinance, for compensation to appointees and employees of not less than ten years of satisfactory service, and who are not less than sixty years of age, upon termination of active employment with the borough a proportion of the compensation last paid to them but not in excess of fifty percent thereof, including benefits received under the social security act, if any, as fixed in the ordinance or amendment thereto. Any arrangement to provide post-retirement compensation to aged appointees and employees pursuant to this section shall be a pension plan within the meaning of that term pursuant to the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act," and the borough establishing that plan shall provide funding of that pension plan in an amount sufficient to meet the minimum obligation of the municipality with respect to the pension plan pursuant to that act. The expenditures herein authorized shall be paid out of the general tax levy for the current expenditures of the year, and not by any special tax therefor. Nothing in this section shall preclude any appointee or employee of the borough from joining in any pension system or municipal retirement system that the borough may adopt.

(1105 amended May 17, 2012, P.L.262, No.43)

Section 1105.1. Retirement Benefits of Employees Transferred to Authorities.--(a) The following employees of municipal authorities shall be members of the borough retirement system upon a written election as provided in this section:

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

(2) An employee of a municipal authority created by a borough pursuant to 53 Pa.C.S. Ch. 56 that commenced operations after October 4, 2010, who satisfies the requirements of subsection (b), has past service credits under the borough retirement plan and files a written election with the borough council and the authority to be a member of the borough retirement system within one year of the effective date of this paragraph.

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

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

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

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

(i) Deduct from the employee's salary an amount equal to the employee contribution that would have been deducted had the

employee continued to be a borough employee and shall pay the deducted amount to the borough's retirement fund.

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

(c) All employees who elect to be members of the borough retirement system under this section shall be treated as borough employees in determining the borough's annual allocation of general municipal pension system State aid pursuant to section 402(e) of the "Municipal Pension Plan Funding Standard and Recovery Act," and the annual allocation of general municipal pension system State aid pursuant to section 402(e) of the "Municipal Pension Plan Funding Standard and Recovery Act" shall be payable to the borough.

(1105.1 reenacted and amended May 17, 2012, P.L.262, No.43)

(b) Treasurer

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1106. Bond and Duties.--(a) The borough treasurer shall, before entering upon the duties of office, give bond in an amount determined by council, conditioned for the faithful performance of the treasurer's duties.

(b) The treasurer shall:

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

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

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

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

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

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

(1106 amended May 17, 2012, P.L.262, No.43)

Section 1107. Assistant Treasurer.--Any borough council may, by resolution, appoint an assistant treasurer, who shall not be a member of the council. Council may appoint the assistant treasurer as the assistant secretary provided that the assistant treasurer is not a member of council. The assistant treasurer shall assist the treasurer in the performance of the treasurer's duties, and, in case of absence or disability of the treasurer, shall perform the duties and may exercise the powers of the treasurer.

(1107 amended May 17, 2012, P.L.262, No.43)

(c) Secretary
(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1111. Duties.--(a) The secretary shall attend all meetings of the borough council and shall keep full minutes of its proceedings.

(b) The secretary shall:

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

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

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

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

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

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

(1111 amended May 17, 2012, P.L.262, No.43)

Section 1112. Assistant Secretary.--Every borough council may, by resolution, appoint an assistant secretary. The assistant secretary shall assist the secretary in the performance of the secretary's duties, and, in case of absence or disability of the secretary, shall perform the duties and may exercise the powers of the secretary. The assistant secretary may be appointed from the membership of the borough council, but shall not be any other officer thereof. Council may appoint the assistant secretary as the assistant treasurer provided that the assistant secretary is not a member of council.

(1112 amended May 17, 2012, P.L.262, No.43)

Section 1113. Records Open to Inspection.--The fiscal records and documents and the minute book and other records and documents of every borough shall be open in accordance with the act of February 14, 2008 (P.L.6, No.3), known as the "Right-to-Know Law."

(1113 amended May 17, 2012, P.L.262, No.43)

(d) Solicitor
(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1116. Solicitor to Have Control of Legal Matters.--The legal matters of the borough shall be under the control of the borough solicitor, and no department or officer of the borough, except as otherwise provided by law, shall employ an additional counsel without the assent or ratification of the council. The borough solicitor shall be licensed to practice law in this Commonwealth and may be one person or a law firm, partnership, association or professional corporation.

The borough solicitor serves at the pleasure of council. In the absence of the solicitor, the law firm of which the solicitor is a member or associate may perform any of the duties or functions of the solicitor.

(1116 amended May 17, 2012, P.L.262, No.43)

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

The borough solicitor shall:

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

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

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

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

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

(1117 amended May 17, 2012, P.L.262, No.43)

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

(1118 amended May 17, 2012, P.L.262, No.43)

(e) Police

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1121. Council's Powers; Police.--(a) Council may, by ordinance, establish a police department. If council has established a police department, the following shall apply:

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

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

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

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

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

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

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

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

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

(1121 amended May 17, 2012, P.L.262, No.43)

Section 1122. Police Serving Under Cooperative Agreement or Contract.--Whenever any borough shall have entered into a cooperative agreement or contract with any municipal corporation, regional police force or other governmental entity created by two or more municipal corporations pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation), for the furnishing or receiving of police protection, as authorized by clause (35) of section 1202, the police force of the municipal corporation, regional police force or other governmental entity furnishing the police protection shall be appointed and accepted as the police force of the borough receiving the police service by resolution of the borough council. Police officers of the police force of a municipal corporation, regional police force or other governmental entity so appointed shall, however, in so far as civil service and pensions are concerned, be deemed to be appointees and employees only of the municipal corporation, regional police force or other governmental entity furnishing their service and making the original appointment.

(1122 amended May 17, 2012, P.L.262, No.43)

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

(1123 amended May 17, 2012, P.L.262, No.43)

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

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

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

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

(e) The mayor may activate auxiliary police in accordance with general law, and notwithstanding any other provision of law, the mayor may also activate auxiliary police for purposes of crowd and traffic control for limited periods during events where, in the mayor's discretion, public safety is promoted by the activation of the auxiliary police.

(1123.1 added May 17, 2012, P.L.262, No.43)

Section 1124. Suspension by Mayor.--In addition to the powers of council to suspend police officers, the mayor may, for cause and without pay, suspend any police officers until the succeeding regular meeting of the council, at which time or later the council may, subject to the civil service provisions of this act, if they be in effect at the time, suspend, discharge, reduce in rank or reinstate with pay, the police officers. A police officer suspended by the mayor may not be reinstated by council at a date earlier than ten working days from the date fixed by the mayor for the suspension to commence. In any case where the council has reinstated a police officer, after having been suspended by the mayor, the mayor shall not thereafter suspend the police officer for reasons arising from the same act for which the first suspension was made, or for reasons that the council, in reinstating the police officer, shall have determined not to be grounds for suspension.

(1124 amended May 17, 2012, P.L.262, No.43)

Section 1125. Compensation.--The borough police and special police appointed by the mayor shall receive compensation as shall be fixed by the borough council.

(1125 amended May 17, 2012, P.L.262, No.43)

Section 1126. Office of Police and Constable Not Incompatible; Exception.--(1126 repealed Oct. 9, 2009, P.L.494, No.49).

Section 1127. School Crossing Guards.--(a) Upon request of the board of school directors of the school district in which a borough is wholly or partially located, the borough council may appoint school crossing guards who shall have the duty of controlling and directing traffic and pedestrians at or near schools and who shall be in suitable and distinctive uniform. While on duty, these crossing guards shall be under and subject to the direction of the mayor. They shall serve at the pleasure of the borough council, except as noted in subsection (b), and shall not come within the civil service provisions of this act and shall not be entitled to participate in any borough pension plan or plans now in effect or hereafter effective. The compensation of the school crossing guards, if any, shall be fixed by the borough council and shall be jointly paid by the borough council and the board of school directors, in a ratio to be determined by the borough council and board of school directors. If the borough council and board of school directors are unable to determine the ratio of compensation of the crossing guards to be paid by the council and the board, each shall pay one-half of the compensation of the crossing guards. Notwithstanding any other provision of law, auxiliary police officers, appointed as prescribed by general law, may be designated to serve as crossing guards.

(b) The borough council may enact an ordinance allowing a board of school directors to assume hiring and oversight of school crossing guards. Before the borough council may enact the ordinance, the board of directors of the school district shall adopt a resolution requesting the authority to assume the hiring and oversight of school crossing guards. The ordinance enacted by the borough council shall outline how the police department will provide any necessary training and assistance

of the school crossing guards while on duty. The school crossing guards shall be authorized only in the management of traffic and pedestrians in and around areas identified by the police department and the school district superintendent or his or her designees. The school crossing guards shall not come within the civil service provisions of this act, nor shall they fall under the bargaining unit of the school district nor be considered an employe as defined under section 1101-A of the act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949," or a school employee as defined under 24 Pa.C.S. § 8102 (relating to definitions), or under any plans hereafter effective. After the ordinance is enacted by the borough council, the school district shall assume the cost of compensation, including fixing compensation, if any, of the school crossing guards. Notwithstanding any other provision of law, auxiliary police officers, appointed as prescribed by general law, may be hired by the school district to serve as school crossing guards. The board of school directors shall notify the borough council of those hired to serve as school crossing guards and request the necessary training or assistance be provided as outlined by the ordinance.

(1127 amended May 17, 2012, P.L.262, No.43)

- (f) Police Pension Fund in Boroughs Having a Police Force
of Less Than Three Members
(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1131. Police Pension Fund.--(a) Where a police force of less than three full-time members is being maintained, the borough may, unless there is a private organization or association constituting and managing an existing pension fund for the members of the police force in the borough, by ordinance, establish a police pension fund into which each member of the police force shall pay an equal and proportionate monthly charge to be withheld from the pay of the member.

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

(c) All pension funds or investment or insurance instruments established under the provisions of this section shall be under the direction of the borough council, or a committee as it may designate, and shall be applied under regulations as the council may by ordinance prescribe for the benefit of the members of the police force as shall receive honorable discharge therefrom by reason of age or disability and the families of members of the police force that may be injured or killed in the service. Council shall appoint, by resolution, a chief administrative officer who shall have the primary responsibility for the execution of the administrative affairs of the pension plan, subject to the direction of council. Any allowances made to those who are retired by reason of disability or age shall be in conformity with a uniform scale.

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

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

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

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

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

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

(1131 amended May 17, 2012, P.L.262, No.43)

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

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

(1132 amended May 17, 2012, P.L.262, No.43)

Section 1133. Service Required Before Retirement.--(1133 repealed May 17, 2012, P.L.262, No.43)

Section 1134. Pensions Not to be Charged on Other Funds; Pension Plan Funding.--(1134 repealed May 17, 2012, P.L.262, No.43)

Section 1135. Gifts to Pension Fund.--(1135 repealed May 17, 2012, P.L.262, No.43)

Section 1136. Rights of Members.--(1136 repealed May 17, 2012, P.L.262, No.43)

Section 1137. Annuity Contracts in Lieu of Establishing a Police Pension Fund.--(1137 repealed May 17, 2012, P.L.262, No.43)

(g) Borough Manager
(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1141. Borough Manager May be Created by Ordinance; Election.--The council of any borough may, at its discretion at any time, create by ordinance the office of borough manager and may in like manner abolish the same. While the office exists, the council shall, from time to time, and whenever there is a vacancy, elect, by a vote of a majority of all the members, one person to fill the office. The borough manager shall serve at the pleasure of council, subject to contractual rights that may arise under an employment agreement that may be entered in accordance with section 1142.

(1141 amended May 17, 2012, P.L.262, No.43)

Section 1142. Powers and Duties.--The powers and duties of the borough manager shall be regulated by ordinance. Council may enter into an employment agreement with the borough manager. The employment agreement may set forth the terms and conditions of employment, and the agreement may provide that it shall remain in effect for a specified period terminating no later than two years after the effective date of the agreement or the date of the organizational meeting of council following the next municipal election, whichever shall first occur. An employment agreement entered into pursuant to this section may specify conditions under which a borough manager would be entitled to severance compensation, but in no event shall an employment agreement guarantee employment through the term of the agreement or confer upon the borough manager any legal remedy based on specific performance. Any employment agreement with a borough manager executed on or after a municipal election but before the first meeting in January the year after the municipal election shall be void. The council, by ordinance, may delegate, subject to recall, any of the nonlegislative and nonjudicial powers and duties of the council, the planning commission and the shade tree commission, to the borough manager. With approval of borough council, the mayor may delegate to the borough manager any of the mayor's nonlegislative and nonjudicial powers and duties.

(1142 amended May 17, 2012, P.L.262, No.43)

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

(1143 reenacted May 17, 2012, P.L.262, No.43)

(h) Borough Planning Commission
(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 1151. Creation of Borough Planning Commission; Appointment of Members; Powers; No Compensation.--(1151 repealed July 31, 1968, P.L.805, No.247)

Section 1152. Commission to Receive Copies of Ordinances; Action Thereon.--(1152 repealed July 31, 1968, P.L.805, No.247)

Section 1153. Maps; Recommendations.--(1153 repealed July 31, 1968, P.L.805, No.247)

Section 1154. Recommendations to Private Persons, Etc.--(1154 repealed July 31, 1968, P.L.805, No.247)

Section 1155. Plans of Improvements to be Submitted Before Recording; Approval.--(1155 repealed July 31, 1968, P.L.805, No.247)

Section 1156. Reference of Proposals to Planning Commission.--(1156 repealed July 31, 1968, P.L.805, No.247)

(i) Mine and Quarry Inspection and Surface Support
(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 1161. Ordinance Creating.--(1161 repealed May 17, 2012, P.L.262, No.43)

Section 1162. Engineer and Other Personnel.--(1162 repealed May 17, 2012, P.L.262, No.43)

Section 1163. Inspection.--(1163 repealed May 17, 2012, P.L.262, No.43)

Section 1164. Maps and Drawings.--(1164 repealed May 17, 2012, P.L.262, No.43)

Section 1165. Extensions to be Placed on Maps.--(1165 repealed May 17, 2012, P.L.262, No.43)

Section 1166. Certain Surface Supports Not to be Removed.--(1166 repealed May 17, 2012, P.L.262, No.43)

Section 1167. Penalty.--(1167 repealed May 17, 2012, P.L.262, No.43)

Section 1168. Enactment of Ordinances.--(1168 repealed May 17, 2012, P.L.262, No.43)

(j) Civil Service for Police and Fire Apparatus Operators
(Subdiv. hdg. amended May 17, 2012, P.L.262, No.43)

Section 1171. Appointments of Police and Fire Apparatus Operators.--This subdivision shall not apply to any borough having a police force of less than three members or to those having three or more members if those members in excess of two are appointed on a temporary basis through a Federally funded program or to volunteer fire departments or companies employing their own operators, or to boroughs having less than three salaried operators of fire apparatus. This subdivision is subject to the power of council to determine compensation. Every appointment to and promotion in the police force or as fire apparatus operators paid directly by the borough in every borough shall be made only according to qualifications and fitness, to be ascertained by examinations which shall be competitive as hereinafter provided.

No person shall be suspended, removed or reduced in rank as a paid employe in any police force or as a paid operator of fire apparatus of any borough, except in accordance with the provisions of this subdivision. However, nothing in this subdivision shall apply to retirement nor shall anything herein prevent any borough from adopting a compulsory retirement age for its employes or for any class or classes thereof and from retiring all employes automatically when they reach such age.

(1171 amended May 17, 2012, P.L.262, No.43)

Section 1172. Civil Service Commission Created; Appointments; Vacancies; Oath; Compensation.--(a) There is hereby created in each borough, where a police force or paid fire apparatus operators as hereinbefore provided are being maintained, a civil service commission hereinafter referred to as the commission. The commission shall consist of three commissioners who shall be qualified electors of the borough and shall be appointed by the borough council initially to serve for the terms of two, four and six years, and as terms thereafter expire shall be appointed for terms of six years.

Any vacancy occurring in any commission for any reason whatsoever shall be filled by the borough council for the

unexpired term within the period of thirty days after the vacancy occurs.

(b) Borough council may appoint no more than three qualified electors of the borough to serve as alternate members of the commission. The term of office of the alternate members shall be six years. When seated pursuant to section 1174, an alternate shall be entitled to participate in all proceedings and discussions of the commission to the same and full extent as provided by law for commission members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this act and as otherwise provided by law. Alternates shall hold no other office in the borough. An alternate may participate in any proceeding or discussion of the commission but shall not be entitled to vote as a member of the commission unless designated as a voting alternate member pursuant to section 1174.

(c) Each member of the commission created by this subdivision, before entering upon the discharge of the duties of office, shall take an oath or affirmation of office pursuant to 53 Pa.C.S. § 1141 (relating to form of oaths of office). The civil service commissioners shall receive no compensation.

(1172 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 3(3) of Act 76 of 2008 provided that all acts and parts of acts are repealed insofar as they are inconsistent with Act 76. Section 1 of Act 76 amended 53 Pa.C.S. Ch. 11 (relating to general provisions) by adding section 1141 (relating to form of oaths of office), which provides the form of oaths of office for elected or appointed officials of municipalities.

Section 1173. Offices Incompatible with Civil Service Commissioner.--No commissioner shall at the same time hold an elective or appointed office under the United States Government, the Commonwealth of Pennsylvania or any political subdivision of the Commonwealth, except that one member of the commission may be a member of the borough council and one may be a member of the teaching profession.

(1173 amended May 17, 2012, P.L.262, No.43)

Section 1174. Organization of Commission; Quorum.--The commission first appointed shall organize within ten days of its appointment and shall elect one of its members as the chair and one as the secretary. The commission shall thereafter meet and organize on the first Monday of each even-numbered year. Each commissioner shall be notified in writing of each and every meeting. Three members of the commission shall constitute a quorum. If, by reason of absence or disqualification of a member a quorum is not reached, the chair shall designate as many alternate members of the commission to sit on the commission as may be needed to provide a quorum. An alternate member of the commission shall continue to serve on the commission in all proceedings involving the matter or case for which the alternate was initially designated until the commission has made a final determination of the matter or case. Designation of an alternate member pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among the alternates. No action of the commission may be valid unless it shall have the concurrence of at least two members.

(1174 amended May 17, 2012, P.L.262, No.43)

Section 1175. Clerks and Supplies, Etc.; Solicitor.--The borough shall furnish to the commission, on its requisition,

clerical assistance that may be necessary for the work of the commission. The borough shall provide a suitable and convenient room for the use of the commission. The commission shall order from the borough the necessary stationery, postage, printing and supplies. The borough shall also provide the services of a solicitor for the commission to be appointed by the commission and paid by the borough. The borough shall have the authority to place a reasonable limit on the amount allowed each year for the services of the commission solicitor. The elected and appointed officials of every borough shall aid the commission in all proper ways in carrying out the provisions of this subdivision relating to civil service.

(1175 amended May 17, 2012, P.L.262, No.43)

Section 1176. Rules and Regulations.--The commission shall have power to prescribe, amend and enforce rules and regulations for carrying into effect the provisions of this subdivision and shall be governed thereby. Before the effective date of the rules and regulations, or amendments thereto, the same shall be first approved by borough council. When the rules and regulations, or amendments, have been approved, they shall not be annulled, amended, or added to, without the approval of council. All rules and regulations and modifications shall be made available by the boroughs for public distribution or inspection.

(1176 amended May 17, 2012, P.L.262, No.43)

Section 1177. Minutes and Records.--The commission shall keep minutes of its proceedings and records of examinations and other official actions. All recommendations of applicants for appointment received by the commission shall be kept and preserved for a period of five years, and all records and all written causes of removal filed with the commission, except as otherwise provided in section 1191, shall be open to public inspection and subject to reasonable regulation.

(1177 amended May 17, 2012, P.L.262, No.43)

Section 1178. Investigations.--The commission shall have power to make investigations concerning all matters touching the administration and enforcement of this subdivision and rules and regulations adopted thereunder. The chair of the commission is hereby given power to administer oaths and affirmations in connection with the investigations.

(1178 amended May 17, 2012, P.L.262, No.43)

Section 1179. Subpoenas.--The commission shall have power to issue subpoenas over the signature of the chair, to require the attendance of witnesses and the production of records and papers pertaining to any investigation or inquiry. The fees of witnesses for attendance and travel shall be the same as for witnesses appearing in the courts and shall be paid from appropriations for the incidental expenses of the commission.

All officers in public service and employees shall attend and testify when required to do so by the commission.

If any person shall refuse or neglect to obey any subpoena issued by the commission, the person shall upon conviction thereof in a summary proceeding, be sentenced to pay a fine not to exceed one hundred dollars (\$100), and in default of the payment of the fine and costs, shall be imprisoned not to exceed thirty days.

If any person shall refuse or neglect to obey any subpoena issued by the commission, the commission may apply by petition to the court of common pleas of the county for its subpoena, requiring the attendance of persons before the commission or the court there to testify and to produce any records and papers

necessary, and in default thereof, shall be held in contempt of court.

(1179 amended May 17, 2012, P.L.262, No.43)

Section 1180. Annual Report.--The commission shall make an annual report to the council containing a brief summary of its work during the year, which shall be available for public inspection.

(1180 reenacted May 17, 2012, P.L.262, No.43)

Section 1181. General Provisions Relating to Examinations.--(a) The commission shall make rules and regulations, to be approved as provided in section 1176, providing for the examination of applicants for positions in the police force and as paid operators of fire apparatus and for promotions, which rules and regulations shall prescribe the minimum qualifications of all applicants to be examined and the passing grades. All examinations for positions or promotions shall be practical in character and shall relate to matters and include inquiries as will fairly test the merit and fitness of the persons examined to discharge the duties of the employment sought by them. All examinations shall be open to all applicants who have the minimum qualifications required by the rules and regulations. Each applicant for an original position shall:

(1) be subject to the regulations adopted by the commission;
(2) either before or after the written examination, be required to submit to a physical fitness or agility examination that is job related and consistent with business necessity;

(3) if made a conditional offer of employment, be given a physical and psychological medical examination as provided in section 1189; and

(4) be subject to a background investigation. Background investigations may be restricted to those candidates on an eligibility list or those to be certified to borough council for appointment in accordance with section 1184.

(a.1) Each applicant for promotion shall be subject to the regulations adopted by the commission and to examination and selection in accordance with section 1188. Physical fitness or agility examinations that are job-related and consistent with business necessity and physical and psychological medical examinations may, but need not, be required for promotions.

(b) Public notice of the time and place of every examination, together with the information as to the kind of position or place to be filled, shall be given by publication once in a newspaper of general circulation, at least two weeks prior to each examination, and a copy of the notice shall be prominently posted in the office of the commission or other public place.

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

(1181 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 2 of Act 104 of 2011, which amended section 1181, provided that the amendment of section 1181 shall apply to all promotion examinations conducted on or after October 27, 2010.

Compiler's Note: Section 5 of Act 91 of 2010, which amended section 1181, provided that nothing contained in the amendment shall affect the validity of civil service appointments or promotions made prior to the effective date of section 5.

Section 1182. Application for Examination.--Each person desiring to apply for examination shall file with the commission

a formal application in which the applicant shall provide, under oath or affirmation the following information:

- (1) full name and residence or post office address;
- (2) citizenship, place and date of birth;
- (3) condition of health and physical capacity for public service;
- (4) business or employment and his residence for the past five years; and
- (5) other information as may be required by the commission's rules and regulations, showing the applicant's qualifications for the position for which the applicant is being examined.

(1182 amended May 17, 2012, P.L.262, No.43)

Section 1183. Rejection of Applicant; Hearing.--(a) The commission may refuse to examine, or, if examined, may refuse to certify after examination as eligible, any applicant who is found to lack any of the minimum qualifications for examination prescribed in the rules and regulations adopted for the position or employment for which he has applied, or who is physically unfit for the performance of the duties of the position to which he seeks employment, or who is illegally using a controlled substance, as defined in section 102 of the Controlled Substances Act (Public Law 91-513, 21 U.S.C. § 802), or who has been guilty of any crime involving moral turpitude, or of infamous or notoriously disgraceful conduct, or who has been dismissed from public service for delinquency or misconduct of office, or who is affiliated with any group whose policies or activities are subversive to the form of government set forth in the constitutions and laws of the United States and Pennsylvania.

(b) If any applicant is aggrieved by the refusal of the commission to certify the applicant as eligible after examination, or a person is aggrieved by refusal of the commission to examine the person, the commission shall, at the request of the applicant or person aggrieved, within ten days, appoint a time and place for a public hearing. At the hearing, the applicant or person aggrieved may appear with or without counsel, and the commission shall take testimony and review its refusal to provide examination or certification. The deliberations of the commission, including interim rulings on evidentiary or procedural issues, may be held in the nature of a closed executive session. The commission's disposition of the matter shall constitute official action which shall occur at a public meeting held pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings). The decision of the commission shall be final.

(1183 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 5 of Act 91 of 2010, which amended section 1183, provided that nothing contained in the amendment shall affect the validity of civil service appointments or promotions made prior to the effective date of section 5.

Section 1184. Eligibility List and Manner of Filling Appointments.--(a) At the completion of the testing process, including any physical agility or other examination, with the exception of any background investigation to be conducted after the establishment of an eligibility list and physical and psychological medical examination pursuant to section 1189, the commission shall rank the candidates who have satisfied the minimum requirements for appointment on an eligibility list. The eligibility list shall contain the names of individuals eligible for appointment listed from highest to lowest based on their scores on the examinations administered by the

commission and any points for which the applicant was entitled by virtue of 51 Pa.C.S. Ch. 71 (relating to veterans' preference). The eligibility list will be valid for one year from the date the commission formally adopts the eligibility list. Prior to expiration of the one-year period, the commission may extend the validity of the eligibility list for up to an additional twelve months by a majority vote of the commission at a duly authorized commission meeting. In the absence of a lawful extension by the commission, the list shall expire.

(b) Except as provided in subsection (c), every original position or employment in the police force or as paid operators of fire apparatus, except that of chief of police or chief of the fire department, or equivalent, shall be filled only in the following manner: the council shall notify the commission of any vacancy which is to be filled and shall request the certification of an eligibility list. The commission shall certify for each existing vacancy from the eligibility list, the names of the three persons, or a lesser number where three are not available, who have received the highest average. The council shall make a conditional appointment from the three names certified, based solely on the merits and fitness of the candidates, unless borough council makes objections to the commission regarding one or more of the certified persons for any of the reasons stated in section 1183. Should the objections be sustained by the commission, as provided in section 1183, or if the conditional appointee is determined to be unqualified in accordance with the procedures set forth in section 1189, the commission shall strike the name of the person from the eligibility list and certify the next highest name for each name stricken from the eligibility list. As each subsequent vacancy occurs in the same or another position precisely the same procedure shall be followed.

(c) Any vacancy in an existing position in the police force or as a paid operator of fire apparatus which occurs as a result of retirement, resignation, disability or death may be filled by council by the reappointment or reinstatement of a former employe of the police force or fire department who had previously complied with the provisions of this section. No examination, other than a physical examination as directed by the civil service commission, shall be required in any case of reappointment or reinstatement.

(d) In the case of a vacancy in the office of chief of police or chief of the fire department, or equivalent official, the appointive power may nominate a person to the commission. It shall then become the duty of the commission to subject the person to a non-competitive examination, and if the person shall be certified by the commission as qualified, he may then be appointed to the position, and shall be subject to all the provisions of this subdivision.

(1184 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 5 of Act 91 of 2010, which amended section 1184, provided that nothing contained in the amendment shall affect the validity of civil service appointments or promotions made prior to the effective date of section 5.

Section 1185. Age, Applicant's Residence.--No person shall be eligible to apply for examination unless the person is at least eighteen years of age at the date of application. An applicant need not be a resident of the borough. The council of the borough may authorize the commission, by rule or regulation, to require police officers and paid operators of

fire apparatus to become residents of the borough after appointment to the positions.

(1185 amended May 17, 2012, P.L.262, No.43)

Section 1186. Probationary Period.--All original appointments to any position in the police force or as paid operators of fire apparatus shall be for a probationary period of not less than six months, and not more than one year, but during the probationary period an appointee may be dismissed only for a cause specified in section 1183 or because of incapacity for duty due to the use of alcohol or drugs. If at the close of a probationary period the conduct or fitness of the probationer has not been satisfactory to the council, the probationer shall be notified in writing that the probationer will not receive a permanent appointment, and the appointment shall cease. If the probationer is not notified or dismissed in accordance with this section, the probationer's retention shall be equivalent to a permanent appointment. The decision of a borough to suspend or discharge a probationer shall be final and shall not be subject to the hearing provisions of section 1191.

(1186 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 5 of Act 91 of 2010, which amended section 1186, provided that nothing contained in the amendment shall affect the validity of civil service appointments or promotions made prior to the effective date of section 5.

Section 1187. Provisional Appointments.--Whenever there are urgent reasons for the filling of a vacancy in any position in the police force and there are no names on the eligibility list for the appointment, the council may nominate a person to the commission for noncompetitive examination, and if the nominee shall be certified by the commission as qualified after noncompetitive examination, the nominee may be appointed provisionally to fill the vacancy. Within three weeks of the provisional appointment, the commission shall hold a competitive examination and certify an eligibility list and a regular appointment shall then be made from the name or names submitted by the commission, provided that nothing in this section shall prevent the appointment, without examination, of persons, temporarily as police officers in cases of riot or other emergency or as operators of fire apparatus in emergency cases.

(1187 amended May 17, 2012, P.L.262, No.43)

Section 1188. Promotions.--Promotions shall be based on merit to be ascertained by examinations to be prescribed by the commission. All questions relative to promotions shall be practical in character and will fairly test the merit and fitness of persons seeking promotion. Borough council shall notify the commission of a vacancy in the police force or as a paid operator of fire apparatus in the borough which is to be filled by promotion and shall request the certification of an eligibility list. The commission shall certify for each vacancy the names of three persons on the eligibility list who have received the highest average in the last preceding promotional examination held within a period of two years preceding the date of the request for the eligibility list. If three names are not available, the commission shall certify the names remaining on the eligibility list. The borough council shall make an appointment from the names certified, based solely on the merits and fitness of the candidate, unless council makes objections to the commission regarding one or more of the persons so certified for any reason provided under section 1183.

The council shall have power to determine in each instance whether an increase in salary shall constitute a promotion.

(1188 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 5 of Act 91 of 2010, which amended section 1188, provided that nothing contained in the amendment shall affect the validity of civil service appointments or promotions made prior to the effective date of section 5.

Section 1189. Physical and Psychological Medical Examination.--(a) An applicant selected from the eligibility list shall receive a conditional offer of employment. The offer of employment shall be conditioned upon the conditional appointee undergoing a physical and psychological medical examination and a determination that the conditional appointee is capable of performing all the essential functions of the position. Physical medical examinations shall be under the direction of a physician or other qualified medical professional. Psychological medical examinations shall be under the direction of a psychiatrist or psychologist.

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

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

(d) If, at the conclusion of the interactive discussion under subsection (c), council determines that the conditional appointee is not qualified, council shall give written notice to the conditional appointee and the commission.

(e) Nothing in this act shall be construed to authorize physical or psychological medical examinations prior to conditional appointment.

(f) As used in this section, the following definitions shall apply:

"Medical examination" shall mean any examination, procedure, inquiry or test designed to obtain information about medical history or a physical or mental condition which might disqualify an applicant if it would prevent the applicant from performing, with or without a reasonable accommodation, all of the essential functions of the position.

"Physician" shall have the meaning given to it in 1 Pa.C.S. § 1991 (relating to definitions).

"Qualified medical professional" shall mean an individual, in collaboration with or under the supervision or direction of a physician, as may be required by law, who is licensed:

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

(2) as a certified registered nurse practitioner pursuant to the act of May 22, 1951 (P.L.317, No.69), known as "The Professional Nursing Law."

(1189 reenacted May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 5 of Act 91 of 2010, which amended section 1189, provided that nothing contained in the amendment shall affect the validity of civil service appointments or promotions made prior to the effective date of section 5.

Section 1190. Removals.--No person employed in any police or fire force of any borough shall be suspended without pay, removed or reduced in rank except for the following reasons:

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

(2) Neglect or violation of any official duty.

(3) Violation of any law which provided that the violation constitutes a misdemeanor or felony.

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

(5) Intoxication while on duty.

(6) Engaging or participating in conducting of any political or election campaign while on duty or in uniform or while using borough property otherwise than to exercise the person's own right of suffrage.

(7) Engaging or participating in the conduct of a political or election campaign for an incompatible office as provided in section 1104(f).

A person so employed shall not be removed for religious, racial or political reasons. A written statement of any charges made against any person so employed shall be furnished to the person within five days after the same are filed. The person so employed shall have ten days from the date of receiving the notice in which to submit a written request for a hearing to the civil service commission under section 1191.

If for reasons of economy or other reasons it shall be deemed necessary by any borough to reduce the number of paid employees of the police or fire force, then the borough shall furlough the person or persons, including probationers, last appointed to the respective force. Such removal shall be accomplished by furloughing in numerical order commencing with the person last appointed until such reduction shall have been accomplished. In the event the said police force or fire force shall again be increased the employees furloughed shall be reinstated in the order of their seniority in the service. The provisions of this paragraph as to reductions in force are not applicable to a chief of police.

(1190 amended May 17, 2012, P.L.262, No.43)

Section 1191. Hearings on Dismissals and Reductions.--(a)

The person suspended, removed or reduced in rank may make written answers to any charges filed against the person not later than the day fixed for hearing. The commission shall grant the person a hearing which shall be held within a period of ten days from the filing of charges in writing, unless continued by the commission for cause at the request of the council or the accused. Notwithstanding this provision, the failure of the commission to hold a hearing within ten days from the filing of the charges in writing shall not result in the dismissal of the charges filed.

(b) At any hearing, the person against whom the charges are made may be present in person and by counsel. The council may

suspend the person, without pay, pending the determination of the charges against the person, but in the event the commission fails to uphold the charges, then the person sought to be suspended, removed or reduced in rank shall be reinstated with full pay for the period during which the person was suspended, removed or reduced in rank, and no charges shall be officially recorded against the person's record. A stenographic record of all testimony taken at the hearings shall be filed with, and preserved by, the commission, which record shall be sealed and not be available for public inspection in the event the charges are dismissed.

(c) All parties concerned shall have immediate right of appeal to the court of common pleas of the county, and the case shall there be determined as the court deems proper. No order of suspension made by the commission shall be for a longer period than one year. The appeal shall be taken within thirty days from the date of entry by the commission of its final order and shall be by petition. Upon the appeal being taken and docketed, the court of common pleas shall fix a day for a hearing and shall proceed to hear the appeal on the original record and additional proof or testimony as the parties concerned may desire to offer in evidence. The decision of the court affirming or revising the decision of the commission shall be final, and the employe shall be suspended, discharged, reduced in rank or reinstated in accordance with the order of court.

(d) The council and the person sought to be suspended, removed or reduced in rank shall at all times have the right to employ counsel before the commission and upon appeal to the court of common pleas. Unless the council or the person sought to be suspended, removed or reduced in rank requests that the proceedings before the commission be open to the public, the proceedings before the commission pursuant to this section shall be held in the nature of a closed executive session that shall not be open to the public. Any such request shall be presented to the commission before the civil service hearing commences. The deliberations of the commission, including interim rulings on evidentiary or procedural issues, may be held in private and shall not be subject to a request for being open to the public, the council or to the person sought to be suspended, removed or reduced in rank. The commission's disposition of the disciplinary action shall constitute official action which shall occur at a public meeting held pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings).

(1191 amended May 17, 2012, P.L.262, No.43)

Section 1192. Employees Exempted.--All appointments in the police or fire forces of boroughs, including the chief of police or equivalent official, prior to the creation of a commission, shall continue to hold their positions and shall not be required to take any examination under the provisions of this subdivision, except that which may be required for promotion, provided that this section shall not be construed to apply to persons employed temporarily in emergency cases.

(1192 amended May 17, 2012, P.L.262, No.43)

Section 1193. Discrimination on Account of Political or Religious Affiliations.--No question in any form of application for examination or in any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant, nor shall inquiry be made concerning the opinion or affiliations and all disclosures of opinion or affiliation shall be ignored.

No discrimination shall be exercised, threatened or promised by any person against or in favor of any applicant or employee because of political or religious opinions or affiliations or race, and no offer or promise or reward, favor or benefit, directly or indirectly, shall be made to or received by any person for any act done or duty omitted or to be done under this subdivision.

(1193 amended May 17, 2012, P.L.262, No.43)

Section 1194. Penalty.--Any member of council who, by vote, causes to be appointed any person to the police force or as a fire apparatus operator contrary to the provisions of this subdivision, or any member of council or member of the commission who wilfully refuses to comply with, or conform to, the provisions of this subdivision, shall be deemed guilty of a misdemeanor, and upon conviction, shall be sentenced to pay a fine not exceeding one hundred dollars (\$100), or suffer imprisonment not exceeding ninety days, or both.

(1194 amended May 17, 2012, P.L.262, No.43)

Section 1195. Police Force and Fire Apparatus Operators Defined.--Police force as used in subdivision (j) of this article shall mean a police force organized and operating as prescribed by law, the members of which devote their normal working hours to police duty or duty in connection with the bureau, agencies and services connected with police protection work, and who are paid a stated salary or compensation for such work by the borough. Police force as used in this subdivision shall not include:

(1) Any special police appointed by the mayor to act in emergencies,

(2) Any person appointed solely for parking meter enforcement duties,

(3) Any special school police,

(4) Any extra police serving from time to time or on an hourly or daily basis, or,

(5) Any auxiliary policeman appointed under the act of January 14, 1952 (P.L.2016).

Fire apparatus operators as used in this subdivision (j) of this article shall mean any person who operates fire apparatus and devotes his normal working hours to operating any piece of fire apparatus or other services connected with fire protection work, and who is paid a stated salary or compensation for such work done by the borough.

(1195 reenacted May 17, 2012, P.L.262, No.43)

(k) Independent Auditor

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 1196. General Powers and Duties of Independent Auditor.--(1196 repealed May 17, 2012, P.L.262, No.43)

Section 1197. Appeals From Report of Independent Auditor.--(1197 repealed May 17, 2012, P.L.262, No.43)

Section 1198. Balances Due to be Entered as Judgments.--(1198 repealed May 17, 2012, P.L.262, No.43)

Section 1199. Employment of Attorney, Compelling Attendance of Witnesses, Administration of Oath, Penalties and Settlement of Accounts.--(1199 repealed May 17, 2012, P.L.262, No.43)

ARTICLE XII CORPORATE POWERS

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1201. General Powers.--A borough may:

- (1) Have succession perpetually by its corporate name.
- (2) Sue and be sued, and complain and defend in the courts of the Commonwealth.
- (3) Make and use a common seal, and alter the same at pleasure.
- (4) Purchase, exchange, acquire by gift, or otherwise, hold, lease, let and convey, by sale or lease, real and personal property deemed to be to the best interest of the borough, subject to the restrictions, limitations or exceptions as set forth in this article.

(1201 renumbered and amended May 17, 2012, P.L.262, No.43)

Section 1201.1. Real Property.--(a) No real estate owned by the borough may be sold except upon approval of council by resolution. Additionally, no real estate owned by the borough shall be sold for a consideration in excess of fifteen hundred dollars (\$1500), except to the highest bidder after due notice by advertisement for bids or advertisement of a public auction in one newspaper of general circulation. The advertisement shall be published once not less than ten days prior to the date fixed for the opening of bids or public auction, and the date for opening bids or public auction shall be announced in the advertisement. The award of contracts shall be made only by public announcement at a regular or special meeting of council or at the public auction. All bids shall be accepted on the condition that payment of the purchase price in full shall be made within sixty days of the acceptance of bids. If no compliant bids are received after advertisement, the applicable procedures in the act of October 27, 1979 (P.L.241, No.78), entitled, as amended, "An act authorizing political subdivisions, municipality authorities and transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received," shall be followed.

(b) The borough council shall have the authority to reject all bids if the bids are deemed to be less than the fair market value of the real property. In the case of a public auction, the borough council may establish a minimum bid based on the fair market value of the real property.

(c) Real estate owned by a borough may be sold at a consideration of fifteen hundred dollars (\$1500) or less without advertisement or competitive bidding only after council estimates the value thereof upon receipt of an appraisal by a qualified real estate appraiser.

(d) (1) Notwithstanding the foregoing provisions of this section, borough council shall have the authority to exchange real property for real property of equal or greater value without complying with the foregoing provisions of this section, provided that the property being acquired by the borough is to be used for municipal purposes. Municipal purposes as used in this subsection include a subsequent sale or lease of the property to any of the delineated entities listed in section 1201.3.

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

(3) If borough council chooses to exercise its power of real property exchange pursuant to this section, it shall be by resolution adopted by council. Notice of the resolution, including a description of the properties to be exchanged, shall be published once in one newspaper of general circulation not

more than sixty days nor fewer than seven days prior to adoption.

(4) Participation in a real property exchange shall not prohibit the application of the requirements of the act of October 4, 1978 (P.L.851, No.166), known as the "Flood Plain Management Act."

(1201.1 renumbered from 1201 and amended May 17, 2012, P.L.262, No.43)

Section 1201.2. Personal Property.--(a) (1) Except as otherwise hereinafter provided in the case of personal property of an estimated fair market value of less than one thousand dollars (\$1,000), no borough personal property shall be disposed of, by sale or otherwise, except upon approval of council, by resolution. In cases where council shall approve a sale of the property, it shall estimate the fair market value of the entire lot to be disposed of. If council shall estimate the fair market value to be one thousand dollars (\$1,000) or more, the entire lot shall be advertised for sale once, in at least one newspaper of general circulation, not less than ten days prior to the date fixed for the opening of bids or public auction, and the date of opening of bids or public auction, shall be announced in the advertisement, and sale of the property so advertised shall be made to the best responsible bidder.

(2) A public auction of personal property may be conducted by means of an online or electronic auction sale. During an electronic auction sale, bids shall be accepted electronically at the time and in the manner designated in the advertisement. During the electronic auction, each bidder shall have the capability to view the bidder's bid rank or the high bid price. Bidders may increase their bid prices during the electronic auction. The record of the electronic auction shall be accessible for public inspection. The purchase price shall be paid by the high bidder immediately or at a reasonable time after the conclusion of the electronic auction as determined by council. In the event that shipping costs are incurred, they shall be paid by the high bidder. A borough that has complied with the advertising requirements of this section may provide additional public notice of the sale by bids or public auction in any manner deemed appropriate by council. The advertisement for electronic auction sales authorized in this paragraph shall include the Internet address or means of accessing the electronic auction and the date, time and duration of the electronic auction.

(3) Council may reject any bids received if the bids are believed to be less than the fair market value of the property. If no bids are received after advertisement, the applicable procedures in the act of October 27, 1979 (P.L.241, No.78), entitled, as amended, "An act authorizing political subdivisions, municipality authorities and transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received," shall be followed.

(b) Council shall, by resolution, adopt a procedure for the sale of surplus personal property, either individual items or lots of items, of an estimated fair market value of less than one thousand dollars (\$1,000) and the approval of council shall not be required for any individual sale that shall be made in conformity to the procedure.

(c) The provisions of this section shall not be mandatory where borough personal property is to be traded in or exchanged for new or used personal property being acquired by the borough, except that the trade or exchange shall be by resolution.

(1201.2 renumbered from 1201 and amended May 17, 2012, P.L.262, No.43)

Section 1201.3. Exceptions.--(a) The provisions of this article requiring advertising for bids or sale at public auction and sale to the highest bidder shall not apply where borough real or personal property is to be sold to:

(1) a county, city, borough, town, township, institution district, school district, volunteer fire company, volunteer ambulance service or volunteer rescue squad located within the borough;

(2) a council of government, consortium, cooperative or other similar entity created pursuant to 53 Pa.C.S. Ch. 23 (relating to intergovernmental cooperation);

(3) an authority as defined in 53 Pa.C.S. § 5602 (relating to definitions);

(4) a non-profit corporation engaged in community development or reuse only upon entering into a written agreement with the non-profit corporation that requires the property to be used for industrial, commercial or affordable housing purposes. This exemption shall not apply to property on which existing governmental functions are conducted. This exemption shall also not apply to property owned and operated by the borough or subcontracted or operated on behalf of the borough in order to conduct existing government functions;

(5) a person for the person's exclusive use in an industrial development program;

(6) a non-profit corporation organized as a public library for its exclusive use as a library;

(7) a non-profit medical service corporation as authorized by clause (50) of section 1202;

(8) a non-profit housing corporation as authorized by clause (51) of section 1202;

(9) the Commonwealth or to the Federal Government; or

(10) a non-profit museum or historical society for its exclusive use as a non-profit museum or historical society.

(b) When real property is to be sold to a non-profit corporation organized as a public library for its exclusive use as a library or to a non-profit medical service corporation or to a non-profit housing corporation, council may elect to accept nominal consideration for the sale as it shall deem appropriate.

(c) Real property sold pursuant to this section to a volunteer fire company, volunteer ambulance service or volunteer rescue squad, non-profit medical service corporation or to a non-profit housing corporation shall be subject to the condition that when the property is not used for the purposes of the company, service, squad or the corporation the property shall revert to the borough.

(1201.3 renumbered from 1201 and amended May 17, 2012, P.L.262, No.43)

Section 1202. Specific Powers.--The powers of the borough shall be vested in the borough council. In the exercise of any specific powers involving the enactment of an ordinance or the making of any regulation, restriction or prohibition, the borough may provide for enforcement and penalties for violations. The specific powers of the borough shall include the following:

(1) Fees for service of officers. To prescribe reasonable fees for the services of their officers and to enforce the payment of the same. This paragraph shall not be applicable to the services rendered by borough police officers in responding to motor vehicle accidents pursuant to 53 Pa.C.S. § 1392 (relating to prohibition of fees for police services).

(2) Regulation of charges in the operation of its utilities, parking meters, parking lots, recreational facilities or its other facilities and services to the public. In the operation of its utilities, parking meters, parking lots, recreational facilities, and other facilities and services, to make and regulate charges therefor for general borough purposes.

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

(4) Nuisances and dangerous structures. To prohibit and remove any nuisance or dangerous structure on public or private grounds, including but not limited to accumulations of garbage and rubbish, the storage of abandoned or junked automobiles and obstructions or nuisances in the streets of the borough. The borough may require the removal of any nuisance or dangerous structure by the owner or occupier of the grounds, in default of which the borough may cause the same to be done, and collect the cost of removal, together with a penalty of ten percent of the cost, in the manner provided by law for the collection of municipal claims, or by action of assumpsit, or may seek relief by bill in equity.

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

(6) Regulation of vaults, cesspools and drains. To make regulations respecting vaults, cesspools and drains.

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

(8) Garbage and other refuse material.

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

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

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

(C) To purchase real estate for the purpose of erecting, operating and maintaining refuse disposal or incineration facilities or sanitary landfills, provided, however, that prior to any acquisition of property pursuant to this paragraph the borough shall, individually or jointly, as the case may be, obtain the approval of the court of common pleas for the location of the facilities or landfill after a hearing and subject to notice as the court shall require. If no objections are heard at the hearing, the court shall approve the location. If any objection is made, the court shall proceed to hear the matter and determine whether the location is a detriment to neighboring properties. The finding of the court shall be conclusive, but in no way shall adjudicate any question relating to damages for injury to property.

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

landfills in accordance with Article XV if a purchase price cannot first be agreed upon, provided, however, that no real estate located outside the limits of the borough, or outside the limits of the joint municipal corporations in the case of a joint effort, shall be taken and appropriated if the real estate currently contains or is being used for a refuse disposal or incineration facility or a sanitary landfill.

(ii) Regulations enacted pursuant to this section shall be consistent with the act of July 7, 1980 (P.L.380, No.97), known as the "Solid Waste Management Act," the act of July 28, 1988 (P.L.556, No.101), known as the "Municipal Waste Planning, Recycling and Waste Reduction Act," and subject to any other necessary Federal or State approval.

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

(10) Livestock, fowls and all other animals. To enact ordinances prohibiting or regulating the keeping or running at large of livestock and fowls and any other animals not covered in clause (9), and authorizing their seizure, detention, or, in the case of unowned pigeons, humane destruction. The borough may prescribe reasonable charges for the seizure and detention of the animals and provide for their sale for the benefit of the borough, in default of the redemption of the animals by their owners. Ordinances enacted pursuant to this clause shall not unreasonably interfere with any agricultural operation to the extent prohibited by applicable State law.

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

(12) Street and sewer regulations; obstructions. To regulate the streets, sewers, public squares, common grounds, sidewalks, curbs, gutters, culverts and drains, and the heights, grades, widths, slopes and their construction and to prohibit the erection or construction of any building or other obstruction to the convenient use of the same.

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

(14) Disorderly conduct; disturbance of the peace; ordinances. To adopt ordinances defining disorderly conduct or disturbing the peace within the limits of the borough, and to provide for the imposition of penalties for the conduct in amounts, without limitation except as in this act provided, as council shall establish, and notwithstanding any statutes of the Commonwealth upon disorderly conduct or disturbing the peace and the penalties therefor.

(15) Construction code, property maintenance code, fire prevention code and reserved powers. To adopt and enforce a construction code, a property maintenance code, a fire prevention code and exercise any additional reserved powers pursuant to Article XXXII-A.

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

(17) Fireworks and inflammable articles.

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

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

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

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

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

(19) Party wall and fence regulations. To make regulations respecting partition fences and the foundations and party walls of buildings.

(20) Prohibition, licensing and regulation of business.

(i) In addition to licensing in accordance with Article XXIX, council may prohibit, license and regulate by ordinance the following:

(A) Noxious and offensive businesses. Council may prohibit, within the borough, the carrying on of any manufacture, art, trade or business which may be noxious or offensive and therefore prejudicial to the public health or safety of the inhabitants.

(B) Junk yards. Council may prohibit, regulate and license the establishment and maintenance of junk yards, salvage yards and other places used and maintained for the collection, storage and disposal of used or second-hand goods and materials.

(C) Market places. Council may:

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

(II) purchase and own ground;

(III) erect, establish and maintain market places for which purposes parts of a street or sidewalk may be temporarily used;

(IV) contract with a person or association of persons, companies or corporations for the erection, maintenance and regulation of market places, on terms and conditions, and in a manner, as the council may prescribe;

(V) provide and enforce suitable regulations respecting market places;

(VI) provide for the payment of the cost or expense of market places, either in whole or in part, out of the funds of the borough; and

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

(ii) Notwithstanding the enumeration in subparagraph (i), boroughs may prohibit, license and regulate businesses unless prohibited by law.

(21) Zoning and land use regulations; building lines. To plan for and regulate the development of the borough by:

(i) establishing and maintaining uniform building lines upon any or all borough streets pursuant to applicable law; and

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

(22) Creation of capital reserve fund for anticipated capital expenditures. To create and maintain a separate capital reserve fund for anticipated legal capital expenditures. The money in the fund shall be used, from time to time, for the construction, purchase or replacement of or addition to municipal buildings, equipment, machinery, motor vehicles or other capital assets of the borough and for no other purpose.

Council may appropriate moneys from the general borough funds to be paid into the capital reserve fund or place in the fund any moneys received from the sale, lease or other disposition of any borough property or from any other source, unless received or acquired for a particular purpose. The fund shall be controlled, invested, reinvested and administered and the moneys expended for any of the purposes for which the fund is created in a manner as may be determined by council. The money in the fund, when invested, shall be invested in securities designated by 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) as legal investments for sinking funds of municipalities.

This clause shall not be construed to limit the powers of the borough to the use of moneys in the capital reserve fund in making lawful capital expenditures.

(23) Operating Reserve Fund. To create and maintain a separate operating reserve fund from which appropriations may be made to meet emergencies involving the health, safety and welfare of the residents of the borough, to counterbalance potential budget deficits resulting from shortfalls in anticipated revenues or program receipts from whatever source, or to provide anticipated operating expenditures related either to the planned growth of existing projects or programs or to the establishment of new projects or programs if for a project or program appropriations have been made and allocated to a separate restricted account established within the operating reserve fund. Council may annually make appropriations from the general fund to the operating reserve fund, but no appropriation shall be made to the operating reserve fund if the effect of the appropriation would cause the fund to exceed five per centum of the estimated revenues of the borough's general fund in the current fiscal year. The operating reserve fund shall be invested, reinvested and administered in a manner consistent with the provisions of section 1316 relating to investment of funds.

(24) Intergovernmental Cooperation. To enter into agreements with other political subdivisions, in accordance with existing laws, in making joint purchases of materials, supplies or equipment and in performing governmental powers, duties and functions and in carrying into effect provisions of 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation), and agreements with the proper authorities of municipal corporations, regional police or fire forces, or other public safety or governmental entities created by two or more municipal

corporations pursuant to 53 Pa.C.S. Ch. 23 Subch. A, either for mutual aid or assistance in police and fire protection or any other public safety services, or for the furnishing to or, receiving from the municipal corporations or governmental entities, police and fire protection or any other public safety services, and to make appropriations for public safety services. In connection with agreements for police or fire protection or any other public safety services, it shall not be necessary to advertise for bids or receive bonds as required for contracts under existing law. When an agreement has been entered into, the police, firefighters, fire police or any other public safety services of the employing municipal corporation or governmental entity shall have all the powers and authority conferred by law on police, firefighters, fire police or any other public safety services in the territory of the municipal corporation which has contracted to secure the service.

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

(26) Other insurance.

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

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

(B) other borough employes as "employee" is defined in section 601 of the "Workers' Compensation Act."

(ii) Life and health insurance. To make contracts of insurance with any insurance company, association or exchange, authorized to transact business in the Commonwealth, insuring borough employes, or any class or classes of employes, or mayor and council, or their dependents, under a policy or policies of insurance covering life, health, hospitalization, medical and surgical service or accident insurance.

(iii) Pension contracts. To contract with an insurance company, granting annuities or pensions, for the pensioning of borough employes, or any class, or classes of employes, and to agree to pay part or all of the premiums or charges for carrying the contracts, and to appropriate moneys from the borough treasury for such purposes.

(iv) Liability insurance. To make contracts with any insurance company, association or exchange, authorized to transact business in this Commonwealth, insuring any public liability of the borough, and to appropriate moneys from the borough treasury for such purpose.

(v) Nothing in this clause shall affect any contract, right or coverage of insurance vested or existing on the effective date of this clause. Contract, as used in this clause, includes an annuity contract, provided that the option to renew continues to provide the same rights to the annuitant that existed on the effective date of this clause.

(27) Public transportation. To contract with a company owning, leasing or operating a light rail or similar transportation system, whether surface, elevated or underground, within the limits of the borough, for the acquisition, leasing or regulation of the franchises, property, powers, duties and

liabilities of the company for the purpose of providing public transportation. A contract may provide that the companies may make payments to the borough in lieu of the performance of certain duties or may include a provision that municipal consent shall not be granted to any other company for the same services covered by the contract. A contract may also provide, subject to any required approval by the Pennsylvania Public Utility Commission and consistent with the jurisdictional limits established under 49 U.S.C. (relating to transportation), for the laying, installation or removal of tracks or lines, to prevent the laying or installation of otherwise authorized tracks or lines, or to change the route of any tracks or lines, for the considerations and upon conditions as may be agreed upon. Borough council may acquire, maintain and operate any existing inclined plane passenger transportation facilities and may acquire or may establish vehicular feeder lines for those facilities.

(28) Community buildings and public facilities. To acquire land or buildings by purchase, gift, exchange or eminent domain, to erect a building or to lease land or buildings, within the borough limits, for community purposes, or for public facilities such as comfort and waiting stations and drinking fountains, and to erect watering troughs, and to maintain the public facilities; to provide for the payment of their cost, and the expense of their maintenance either in whole or in part out of the funds of the borough.

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

(30) Flags. To display the flag of the United States of America, of the Commonwealth of Pennsylvania, the official POW/MIA flag or the flag of any county, city, borough or other municipality in the State, on the public buildings or grounds and in public places of the borough.

(31) Parking lots. To acquire by lease, purchase or eminent domain any land which the borough council may deem necessary or desirable for the purpose of establishing and maintaining parking lots, and to regulate the use of parking lots, and to regulate parking and provide parking accommodations so as to promote the convenience and protection of the public and to establish or designate, at the discretion of the borough council, areas exclusively reserved for parking by handicapped individuals and to post signs regulating the areas. The right to regulate the use of the lots shall include the right to impose fines and fees for violation of any law or ordinance regulating parking. Regulation of parking lots shall be consistent with 75 Pa.C.S (relating to vehicles) and the act of October 27, 1955 (P.L.744, No.222), known as the "Pennsylvania Human Relations Act."

(32) Historical property. To acquire by purchase, or by gift, and to repair, supervise, operate and maintain ancient landmarks, and other property of historical or antiquarian interest and to make appropriations to nonprofit associations or corporations organized for the purpose of acquiring and maintaining historical properties. The appropriations shall only be used by the association or corporation for the acquisition, restoration and maintenance of the historical properties.

(33) Provisions against hazards of war, terrorism and disasters. To provide against all hazards of war, terrorism and other disasters and their consequences; and for those purposes, to have the power of eminent domain, to cooperate with any other unit and agency of government, Federal, State or local, in every

lawful way, for purposes of defense against the hazards of war and terrorism and to further provide against the hazards of manmade or natural disasters in conjunction with the powers applicable to boroughs in 35 Pa.C.S. Pt. V (relating to emergency management services).

(34) Towing. To purchase vehicles and other equipment necessary for the towing of motor vehicles, tractors, trailers, recreational trailers and other vehicles from highways, roads, streets, and public property of the borough and to impose fees for towing whenever the towing equipment is used for the lawful removal of motor vehicles, tractors, trailers, recreational trailers and other vehicles from highways, roads, streets, and public property of the borough and to authorize or contract with commercial towers that agree to tow vehicles for a negotiated price as the official towers for the borough for the lawful removal of motor vehicles, tractors, trailers, recreational trailers and other vehicles from highways, roads, streets and public property of the borough in accordance with Federal and State law and to impose fees in the same manner as hereby authorized when the towing is performed with borough vehicles and equipment. A commercial tower that agrees not to charge in excess of the negotiated price and is otherwise lawfully authorized to tow vehicles in accordance with Federal and State law, shall be put on an official rotation list for the borough if borough council provides for a list. This clause shall apply only when the borough is requesting a vehicle to be towed. In all other cases, the owner or operator of a vehicle shall be permitted to select and pay for the tower.

(35) Fire, rescue and life saving apparatus and buildings. To purchase, or contribute to the purchase of fire engines and fire apparatus, boats, rescue and life saving equipment and supplies for the use of the borough for fire, rescue and life saving services including community ambulance service. To appropriate money for fire companies and rescue units located within the borough including for the construction, repair and maintenance of buildings for fire companies and rescue units and to acquire land for those purposes. Appropriations may include funds to establish, equip, maintain and operate lawfully organized or incorporated fire training schools within the county or regional fire fighters' associations or an entity created pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) for the purpose of giving instruction and practical training in the prevention, control and fighting of fire and related fire department emergencies to the members of fire departments and volunteer fire companies in any city, borough or town within this Commonwealth. Annual appropriations may also be made to an ambulance service, or borough council may enter into contracts for use in providing community ambulance service.

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

(37) Purchase and planting of trees. To accept, purchase and plant, or contribute to the purchasing and planting of shade trees along the streets and sidewalks of the borough and to have the care, custody and control of shade trees pursuant to subdivision (b) of Article XXVII.

(38) Hospital appropriations. To appropriate moneys for the support of any incorporated hospital which is engaged in charitable work and extends treatment and medical attention to residents of the borough, but no appropriation shall exceed in any year the cost of free service extended to residents of the

borough which is in excess of any amount paid by the Commonwealth towards free service.

(39) Building hospitals. To appropriate moneys toward the maintenance and support of any medical center or hospital building and further appropriate from the funds toward the purchase and erection of medical or hospital facilities. Where the total cost of the purchase or erection exceeds one hundred thousand dollars (\$100,000), it will necessitate approval by the appropriate health planning agency.

(40) Community nurse services. To appropriate money annually for the expense of community nurse services to any nonprofit associations or corporations which provide community nursing services for the elderly and other needy persons, the control of communicable disease, the immunization of children, the operation of child health centers (Well-Baby Clinics), instructive visits to parents of new babies, beginning in the prenatal period, and family health guidance, including nutrition, detection and correction of defects all of which relate to the responsibilities of local boards of health.

(41) Appropriation for civic purposes. To appropriate, in any year out of the general funds of the borough for the observance of holidays or centennials or other anniversaries or for borough celebrations or other civic projects or programs.

(42) Appropriations for handling, storage and distribution of surplus foods. To appropriate from borough funds moneys for the handling, storage and distribution of surplus foods obtained through either a local, State or Federal agency. All appropriations of moneys heretofore made by any borough for the handling, storage and distribution of surplus foods obtained through either a local, State or Federal agency are hereby validated.

(43) Appropriations for industrial promotions. To make appropriations to an industrial development agency.

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

(45) Appropriating money to assist municipalities and municipal authorities for airports. To appropriate moneys to assist any municipality or municipal airport authority to acquire, establish, operate and maintain any and all air navigation facilities lying either within or without the limits of the borough.

(46) Non-Debt revenue bonds. To issue non-debt revenue bonds pursuant to provisions of 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) to provide sufficient moneys for and toward the acquisition, construction, reconstruction, extension or improvement of municipal facilities, including water systems or facilities, sewers, sewer systems and sewage disposal systems or facilities, systems for the treatment or disposal of garbage and refuse, gas plants or gas distribution systems for its own municipal purposes, electric light or power plants or power distribution systems, aeronautical facilities including but not limited to airports, terminals and hangars and park and recreational facilities and parking lots and facilities to be secured solely by the pledge of the whole or part of the rent, toll or charge for the use or services of the facilities.

Included in the cost of the issue may be any costs and expenses incident to construction and financing the facilities and selling and distributing the bonds.

(47) Rewards for apprehension of certain criminals. To offer rewards for the arrest and conviction of persons guilty of capital or other crimes within the borough.

(48) Appropriations for Urban Common Carrier Mass Transportation. To appropriate funds for urban common carrier mass transportation purposes from current revenues and to make annual contributions to county departments of transportation or to urban common carrier mass transportation authorities to assist the departments or the authorities to meet costs of operation, maintenance, capital improvements, and debt service, and to enter into long-term agreements providing for the payment of the contributions.

(49) To undertake community development programs, including but not limited to urban renewal, public housing, model cities programs and neighborhood development projects.

(50) Sale of real or personal property to non-profit medical service corporation. To sell to a non-profit medical service corporation borough-owned:

(i) real property for its exclusive use as a site for a medical service facility; and

(ii) personal property for use at the medical service facility.

(51) Sale of real or personal property to non-profit housing corporation. To sell to a non-profit housing corporation borough-owned:

(i) real property for its exclusive use for housing for the elderly; and

(ii) personal property for its use at the non-profit housing corporation.

(52) Grants to nonprofit art corporations. To make grants annually to nonprofit art corporations for the conduct of their artistic and cultural activities. For the purposes of this section nonprofit art corporation shall mean a local arts council, commission or coordinating agency, or any other nonprofit corporation engaged in the production or display of works of art, including the visual, written or performing arts. Artistic and cultural activities shall include the display or production of theater, music, dance, painting, architecture, sculpture, arts and crafts, photography, film, graphic arts and design and creative writing.

(53) Appropriations for neighborhood crime watch programs. To appropriate annually an amount toward a neighborhood crime watch program. Notwithstanding any other provision of law, no borough or official thereof shall become subject to contractual, tort or other liability as a result of having made an appropriation pursuant to this clause.

(54) Appropriations to Senior Citizens Organizations. To appropriate funds for programs which benefit senior citizens, or make grants to civic organizations which represent senior citizens, provide services to senior citizens, or of which its members are senior citizens.

(55) Appropriations to watershed associations. To appropriate money to nonprofit watershed associations for watersheds serving the borough. Appropriations may not be used to undertake litigation against any municipality or to seek redress against any individual landowner.

(56) Emergency services. The borough shall be responsible for ensuring that fire and emergency medical services are provided within the borough by the means and to the extent determined by the borough, including the appropriate financial and administrative assistance for these services. The borough shall consult with fire and emergency medical services providers

to discuss the emergency services needs of the borough. The borough shall require any emergency services organization receiving borough funds to provide to the borough an annual itemized listing of all expenditures of these funds before the borough may consider budgeting additional funding to the organization.

(57) Appropriations to conservation district. To appropriate money to the conservation district, as defined in the act of May 15, 1945 (P.L.547, No.217), known as the "Conservation District Law," in which the borough is located.

(58) Mines and quarries. To require the owner, operator or superintendent of every mine, colliery or quarry located wholly or partially within the limits of the borough, to furnish to the borough maps, plans and drawings of workings, excavations and surface support as the council may require. In the case of coal mines and collieries, the map or plan shall exhibit the workings or excavations in every seam of coal on a separate sheet, and the tunnels and passages connecting with the workings or excavations. It shall show in degrees the general inclination of the strata, with any material deflection in the strata in the workings or excavations, and shall also show the tidal elevations of the bottom of every shaft, slope, tunnel and gangway, and of any other point in the mine or on the surface where the elevation shall be deemed necessary by the borough. The map or plan shall show the number of the last survey on the gangways or the most advanced workings. Every owner, operator, or superintendent, of a mine, colliery or quarry, shall update, at least once every three months, the pertinent maps, plans and drawings to reflect any extensions made in any mine, colliery or quarry during the three preceding months, except those made within thirty days immediately preceding the time of placing the extensions upon the map or drawing. A borough engineer, assistant or other person authorized by council may enter and survey any mine, colliery or quarry within the limits of the borough, at all reasonable times, but not so as to impede or obstruct the workings of the mine, colliery or quarry. The owner, operator or superintendent of the mine, colliery or quarry, shall furnish the means necessary for the entry, survey and exit.

(59) Assessment of benefits. To petition the court of common pleas for the appointment of viewers to assess the total cost of an improvement as set forth in Article XXI-A. The viewers shall assess the total cost of the improvement, or so much of the cost as may be just and reasonable, upon the lands or properties peculiarly benefited.

(60) Authority to purchase natural gas wells. To authorize any borough to purchase, own, use, operate and control any natural gas well or wells for the purpose of supplying natural gas for its own municipal purposes.

(61) Real estate registry. To establish, by ordinance, and maintain a real estate registry for the purpose of procuring accurate information in reference to the ownership of real estate in the borough in a manner not inconsistent with the act of October 9, 2008 (P.L.1400, No.110), known as the "Uniform Municipal Deed Registration Act." Council shall designate a person to have charge of the registry, who shall cause to be made and carefully preserve all necessary books, maps and plans as may show the location and ownership of every lot, piece of real estate and subdivision thereof. For purposes of establishing or maintaining the registry, the person in charge of the registry shall have access to public records without charge. Information contained within a real estate registry

shall not affect the validity of any municipal claim or tax claim of the borough. Nothing in this paragraph shall prohibit a borough from requiring owners to provide information relevant to the enforcement of any borough ordinance in accordance with law.

(62) Authority to manufacture and supply electricity. To manufacture, purchase or otherwise supply electricity pursuant to Article XXIV-A, relating to manufacture and supply of electricity.

(63) Authority to provide telecommunications and cable television services. To provide the following:

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

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

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

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

(1202 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 1204(d)(6) of Act 106 of 1933 provided that section 1202 is repealed insofar as it is inconsistent with Act 106.

Compiler's Note: Section 302(d) of Act 177 of 1988, known as the General Association Act of 1988, provided that section 1202 is repealed insofar as it is inconsistent with that act.

Section 1203. Reserved Powers.--The council may make and adopt all ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution of Pennsylvania and laws of this Commonwealth as may be expedient or necessary for the proper management, care and control of the borough and its finances, and the maintenance of peace, good

government, safety and welfare of the borough and its trade, commerce and manufactures.

(1203 added May 17, 2012, P.L.262, No.43)

ARTICLE XIII
TAXATION AND FINANCE

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1301. Fiscal Year.--The fiscal year of every borough shall coincide with the calendar year, beginning January 1 and ending December 31.

(1301 reenacted May 17, 2012, P.L.262, No.43)

Section 1302. Tax Levy.--(a) The council of the borough shall have power, by ordinance, to levy and collect annually, a tax, not exceeding thirty mills for general borough purposes, unless the council by majority action shall, upon due cause shown by resolution, petition the court of common pleas, in which case the court may order a rate of not more than five mills additional to be levied and in addition any of the following taxes:

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

(2) To provide for pensions, retirement or the purchase of annuity contracts for borough employes, not exceeding one-half mill;

(3) To defray the cost and expenses of caring for shade trees as provided in section 2720.1, and the expense of publishing the notice referred to in such section, not exceeding one-tenth mill;

(4) For lighting and illuminating the streets, highways and other public places, not exceeding eight mills;

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

(6) For the purchase of fire engines, fire apparatus and fire hose for the use of the borough, or for assisting any fire company in the borough in the purchase, renewal or repair of any of its fire engines, fire apparatus or fire hose, for the purposes of making appropriations to fire companies both within and without the borough and of contracting with adjacent municipalities or volunteer fire companies therein for fire protection, for the training of fire personnel and payments to fire training schools and centers or for the purchase of land upon which to erect a fire house, or for the erection and maintenance of a fire house or fire training school and center or fire houses, not exceeding three mills.

(i) The borough may appropriate up to one-half, but not to exceed one mill, of the revenue generated from a tax under this clause for the purpose of paying salaries, benefits or other compensation of fire suppression employes of the borough or a fire company serving the borough.

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

(7) For building a fire house, fire training school and center, lockup or municipal building, not exceeding two mills, such additional millage permitted only following a favorable referendum on the matter held in accordance with the election laws of this Commonwealth;

(8) To establish and maintain a local library or to maintain or aid in the maintenance of a local library established by deed, gift or testamentary provision, for the use of the residents of the borough, in accordance with the act of June 14, 1961 (P.L.324, No.188), known as The Library Code.

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

(b) The taxes shall be levied on the dollar on the valuation assessed for county purposes, as now is or may be provided by law. All real property, offices, professions and persons, made taxable by the laws of this Commonwealth for county rates and levies, may, in the discretion of council, be taxed after the same manner for such purposes. No action on the part of the borough authorities fixing the tax rate for any year at a mill rate need include a statement expressing the rate of taxation in dollars and cents on each one hundred dollars (\$100) of assessed valuation of taxable property.

(c) Nothing contained in this section shall prevent the application of moneys received from taxes levied for general purposes to the purposes of paying interest and sinking fund charges on indebtedness.

(d) The proceeds of all taxes for which additional millage is hereby authorized shall be kept in a separate fund and used only for the purposes hereby provided, provided that the additional taxes authorized by referendum shall continue to be levied annually for so long a period as provided in the question submitted in the referendum, and, in the case of any taxes for which the question voted upon shall not have stated the duration of the tax, until the tax shall be abolished by vote of the electors in a subsequent referendum.

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

(1302 amended May 17, 2012, P.L.262, No.43)

Section 1302.1. Different and Separate Tax Levies.--(a) A borough may in any year levy separate and different rates of taxation for municipal purposes on all real estate classified as nonfarmland, exclusive of the buildings thereon, and on all real estate classified as either buildings on land or farmland. When real estate tax rates are so levied:

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

(2) A higher rate may be levied on real estate classified as nonfarmland than on real estate classified as either buildings on land or farmland if the respective rates on nonfarmland and on buildings or farmland are so fixed as not

to constitute a greater levy in the aggregate than the levy to result from the maximum rate allowed by law on all real estate.

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

(b) For purposes of this section:

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

(2) "Nonfarmland" shall include any tract of land that is not farmland.

(c) Notwithstanding section 104, the provisions of this section are nonseverable. If any provision of this section or its application to any person or circumstance is held invalid, the remaining provisions or applications of this section are void.

(1302.1 amended May 17, 2012, P.L.262, No.43)

Section 1303. Special Levy to Pay Debts.--In addition to the levies provided for in the preceding section, when it shall be shown to the court that the borough council refuses or neglects to levy a sufficient tax to pay the debts due by the borough, the court may, after ascertaining the amount of the indebtedness of the borough, direct a writ of mandamus to the proper officers of the borough to collect by special taxation an amount sufficient to pay the same in one or more annual installments, as may be adjudged reasonable by the court, during such years as may be required for the payment of the same.

(1303 amended May 17, 2012, P.L.262, No.43)

Section 1304. Special Road Fund Tax.--Any borough shall be empowered, within its general power to levy taxes, to collect annually a tax upon all property taxable for borough purposes not to exceed five mills on the dollar in any one year, for the purpose of creating and maintaining a special fund, to be used by its borough in making permanent street improvements, and to pay contract prices for paving and other permanent street improvements, prior to the collection of the cost and expense or any part thereof from the property owners adjoining or abutting thereon by the borough under existing laws.

When the cost and expense, or any part of the cost and expense of the construction of any permanent street improvement, which has been made under existing laws, and which has been aided in its construction from the special fund provided for under this section, shall have been assessed and collected from the owners of the property adjoining or abutting upon the improvement, it shall be applied to the credit of the special fund, to the extent of the withdrawal from the special fund for that purpose.

(1304 amended May 17, 2012, P.L.262, No.43)

Section 1305. Date Tax Duplicate to Issue.--Borough council shall, within thirty days after adoption of the budget or within thirty days after receipt of the assessment roll from the county, whichever is later, issue their duplicate of taxes assessed to the collector of taxes of the borough.

(1305 amended May 17, 2012, P.L.262, No.43)

Section 1306. Additions and Revisions to Duplicates.--Whenever in any borough, there is any construction of a building or buildings not otherwise exempt as a dwelling after the borough council has prepared a duplicate of the assessment of borough taxes and the building is not included in the tax duplicate of the borough, the county assessment office shall, upon the request of the borough council, direct

the assessor in the county assessment office to inspect and reassess, subject to the right of appeal and adjustment provided by the act of assembly under which assessments are made, all taxable property in the borough to which major improvements have been made after the original duplicates were prepared, and to give notice of such reassessments within ten days to the authority responsible for assessments, the borough and the property owner. The property shall then be added to the duplicate and shall be taxable for borough purposes at the reassessed valuation for that proportionate part of the fiscal year of the borough remaining after the property was improved. Any improvement made during the month shall be computed as having been made on the first of the month. A certified copy of the additions or revisions to the duplicate shall be furnished by the borough council to the borough tax collector, together with their warrant for collection of the same, and within ten days thereafter, the borough tax collector shall notify the owner of the property of the taxes due the borough.

(1306 amended May 17, 2012, P.L.262, No.43)

Section 1307. Preparation of Budget.--Beginning at least thirty days prior to the adoption of the budget a proposed budget or annual estimate of revenues and expenditures for the ensuing year shall be prepared in a manner designated by the council. The proposed budget shall be kept on file with the borough secretary and be made available for public inspection by the borough secretary for a period of ten days.

(1307 amended May 17, 2012, P.L.262, No.43)

Section 1308. Notice of Proposed Budget; Penalty.--(a)

Notice that the proposed budget is available for inspection shall be published by the borough secretary in a newspaper of general circulation, except in boroughs where the estimated budget receipts are less than fifty thousand dollars (\$50,000) in the year in which this amendment is enacted, where in lieu of such newspaper publications, notice may be conspicuously posted during the ten day period, in a place readily viewable by the public at the office of the borough secretary and with such further notice as shall be prescribed by council.

(b) Failure to give the notice herein required shall not invalidate the budget adopted or the tax ordinance. Any borough secretary who shall fail or refuse to give the notice that the proposed budget is available for inspection, as herein required, shall, upon conviction in a summary proceeding, be sentenced to pay a fine not exceeding one hundred dollars (\$100) and costs of prosecution.

(1308 amended May 17, 2012, P.L.262, No.43)

Section 1309. Revision and Completion of Budget.--After the expiration of the said ten days, council shall make such revision in the budget as shall be deemed advisable. The budget shall be as comprehensive and exact as the information available will admit. In addition to expenditures proposed for the current fiscal year, council may include as proposed expenditures a sum sufficient to pay any existing indebtedness and to pay the ordinary operating expenses for the subsequent year until the taxes of the subsequent year are received therefor, and may also include a sum to provide in whole or in part for any deferred maintenance, depreciation and replacements. Within the tax levy and debt limitations, council may also include, in whole or in part, expenditures for capital investments and purchases. Expenditures of a legislative character shall be made, authorized or ratified by ordinance. Other expenditures allowed by law may be made or ratified by motion in council. Such expenditures, whether by ordinance or motion, shall then

be considered as appropriations affecting the budget. Any balance of revenues over expenditures may be expended in any subsequent year for any lawful purpose.

(1309 reenacted May 17, 2012, P.L.262, No.43)

Section 1310. Adoption of Budget.--Upon completion of the budget, containing the estimated receipts and expenditures, the borough council shall adopt the budget by motion of the borough council, which shall not be later than December thirty-first.

(1310 amended May 17, 2012, P.L.262, No.43)

Section 1310.1. Tax Ordinance.--After borough council has adopted the budget, it shall be the duty of the borough council to enact an ordinance levying the taxes referred to in this act for the fiscal year subject to approval of the mayor or enactment over the mayor's veto pursuant to the procedure established in section 3301.3(c).

(1310.1 added May 17, 2012, P.L.262, No.43)

Section 1311. Amending Budget; Notice.--During the month of January next following any municipal election the council of any borough may amend the budget and the levy and tax rate to conform with its amended budget. A period of ten days' public inspection at the office of the borough secretary of the proposed amended budget after notice by the borough secretary to that effect is published once in a newspaper of general circulation, shall intervene between the proposed amended budget and the adoption thereof. Any amended budget must be adopted by council on or before the fifteenth day of February.

(1311 amended May 17, 2012, P.L.262, No.43)

Section 1312. Modification of Budget; Supplemental Appropriations and Transfers.--The council in its reasonable discretion may, in any year, by motion, modify the budget after its final adoption. New appropriations, supplementary appropriations and transfers from one appropriation to another may be made during the fiscal year, either before or after the expenditure is authorized or ratified after the expenditure is made, provided it is within the current year's revenues, or the money therefor promptly made available through borrowing as allowed by law.

(1312 reenacted May 17, 2012, P.L.262, No.43)

Section 1313. Payment from Borough Funds.--All payments made by the council of any borough from the borough funds shall be made by proper borough orders, drawn upon the treasurer; no borough order shall be authorized by council or signed by the president or secretary of any council unless there are sufficient funds in the treasury of the borough to pay the same, and no orders shall be made payable at any time in the future or draw interest. A separate borough order shall be drawn for each account or payment.

(1313 reenacted May 17, 2012, P.L.262, No.43)

Section 1313.1. Creation of Special Funds; Investments.--Borough council may set aside in a separate fund any moneys received out of or from the sale, lease or other disposition of any borough property or received from any source unless such money was received or acquired for a particular purpose. The fund shall be controlled, invested and administered, and the income arising therefrom expended, in the manner as may be determined by action of the council pursuant to the ordinance creating the fund. The ordinance may provide that only the income from the fund may be used or expended, and that neither principal, nor any part thereof, may be used or expended unless upon authorization of a majority vote of the qualified electors of the borough. All ordinances previously enacted by any borough, creating and establishing a separate

fund as is authorized by this section, shall be deemed and taken as valid and effectual for all purposes provided that all other requirements of law concerning the enactment of the same have been complied with.

(1313.1 added May 17, 2012, P.L.262, No.43)

Section 1314. Uniform Financial Report; Forms.--The uniform forms for the annual financial statement required to be made by the auditors or the controller shall be prepared by a committee consisting of four representatives from the Pennsylvania State Association of Boroughs, the Secretary of Community and Economic Development, or the secretary's designee and any additional members appointed pursuant to statute.

The representatives of boroughs shall be appointed by the president of the Pennsylvania State Association of Boroughs. The representatives shall be chosen from among the finance officers or other officers of the borough who have knowledge of their fiscal procedures. As far as possible, they shall be chosen to represent boroughs in the various population groups. The president of the organization shall supply to the Department of Community and Economic Development the names and addresses of the representatives immediately upon their appointment.

The representatives shall serve without compensation, but shall be reimbursed by the Commonwealth for all necessary expenses incurred in attending meetings of the committee. The committee shall meet from time to time as conditions may warrant at the call of the Secretary of Community and Economic Development, or the secretary's designee, who shall serve as chair of the committee.

It shall be the duty of the Secretary of Community and Economic Development, or the secretary's designee, to see to it that the forms required by this article are prepared in cooperation with the committee. In the event that the committee should for any reason fail to furnish such cooperation, the Secretary of Community and Economic Development, or the secretary's designee, shall prepare the forms. After their preparation, the secretary shall issue the forms and distribute them annually, as needed to the proper officers of each borough.

(1314 amended May 17, 2012, P.L.262, No.43)

Section 1315. Capital Improvements to Certain Public Service Facilities.--(a) For the purpose of financing the cost and expense or its share of the cost and expense of capital improvements by altering, improving or enlarging (i) its sewer, sewer system or sewage treatment works, either singly or jointly, with other municipalities, or (ii) its water works, either singly or jointly, with other municipalities, or (iii) its electric light or power plant or power distribution system, or (iv) its gas plant or gas distribution system for its own municipal purposes, including the purchase and installation of machinery and equipment, any borough owning any such plant or facility may issue non-debt revenue bonds as provided in clause (46) of section 1202 of this act.

(b) Any borough issuing non-debt revenue bonds under the authority of this section shall adjust and, where necessary, increase the rates of rentals or charges pledged as security for the bonds, in order to provide sufficient revenue which shall be set aside as reserve funds to cover depreciation of the properties involved, and for future improvements to the plant or facility involved, as well as for the payment of the interest on the bonds and the principal at the time of maturity.

(1315 amended May 17, 2012, P.L.262, No.43)

Section 1316. Investment of Funds.--(a) Council shall invest borough funds consistent with sound business practice.

(b) Council shall provide for an investment program subject to restrictions contained in this act and in any other applicable statute and any rules and regulations adopted by council.

(c) Authorized types of investments for borough funds shall be:

(i) United States Treasury bills.

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

(iii) Deposits in savings accounts or time deposits, other than certificates of deposit, or share accounts of institutions insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund to the extent that such accounts are so insured, and, for any amounts above the insured maximum, provided that approved collateral as provided by law therefore shall be pledged by the depository.

(iv) Obligations of the United States of America or any of its agencies or instrumentalities backed by the full faith and credit of the United States of America, the Commonwealth of Pennsylvania or any of its agencies or instrumentalities backed by the full faith and credit of the Commonwealth, or of any political subdivision of the Commonwealth of Pennsylvania or any of its agencies or instrumentalities backed by the full faith and credit of the political subdivision.

(v) Shares of an investment company registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933, provided that the only investments of that company are in the authorized investments for borough funds listed in (i) through (iv).

(vi) Certificates of deposit purchased from institutions insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund to the extent that such accounts are so insured. However, for any amounts above the insured maximum, such certificates of deposit shall be collateralized by a pledge or assignment of assets of the institution, and such collateral may include loans (including interest in pools of loans) secured by first mortgage liens on real property. Certificates of deposit purchased from commercial banks shall be limited to an amount equal to twenty percent of a bank's total capital and surplus. Certificates of deposit purchased from savings and loan associations or savings banks shall be limited to an amount equal to twenty percent of an institution's assets minus liabilities.

(vii) Any investment authorized by 20 Pa.C.S. Ch.73 (relating to fiduciaries investments) shall be an authorized investment for any pension or retirement fund.

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

(d) In making investments of borough funds, council shall have authority:

(i) To permit assets pledged as collateral under subsection (c)(iii), to be pooled in accordance with the act of August 6, 1971 (P.L.281, No.72), relating to pledges of assets to secure deposits of public funds.

(ii) To combine moneys from more than one fund under borough control for the purchase of a single investment, provided that each of the funds combined for the purpose shall be accounted

for separately in all respects and that the earnings from the investment are separately and individually computed and recorded, and credited to the accounts from which the investment was purchased.

(iii) To join with one or more other political subdivisions and municipal authorities in accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) in the purchase of a single investment, provided that the requirements of subclause (ii) on separate accounting of individual funds and separate computation, recording and crediting of the earnings therefrom are adhered to.

(1316 amended May 17, 2012, P.L.262, No.43)

Section 1317. Conservation District.--(1317 repealed May 17, 2012, P.L.262, No.43)

ARTICLE XIV

CONTRACTS

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1401. Power to Make Contracts.--(a) Each borough may make contracts for lawful purposes and for the purposes of carrying into execution the provisions of this act and laws of the Commonwealth.

(b) Except as otherwise specifically provided in this act, all contracts and purchases shall be made with and from the lowest qualified and responsible bidder. In awarding contracts and making purchases, council shall have the right to take into consideration such factors as the availability, cost and quality of service, and may establish pre-qualification standards for contracts and purchases. Any pre-qualification standards shall be reasonably designed to assist council in determining the ability of a bidder to successfully complete a contract or purchase.

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

(1401 amended May 17, 2012, P.L.262, No.43)

Section 1402. Regulation of Contracts.--(a) All contracts or purchases in excess of the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under subsection (a.2), except those mentioned in this section and except as provided by the act of October 27, 1979 (P.L.241, No.78), entitled "An act authorizing political subdivisions, municipality authorities and transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received," shall not be made except with and from the lowest qualified and responsible bidder after due notice in one newspaper of general circulation, at least two times at intervals of not less than three days where daily newspapers of general circulation are available for publication, in case of weekly newspapers, notice once a week for two successive weeks. The first advertisement shall be published not more than forty-five days and the second advertisement not less than ten days prior to the date fixed for the opening of bids. Advertisements for contracts or purchases shall also be posted in a conspicuous place within the borough. Advertisements for contracts and purchases shall contain the date, time and location for opening of bids and shall state the amount of the performance bond determined under subsection (c). The amount of the contract shall in all cases, whether of straight sale price, conditional sale, lease, lease

purchase or otherwise, be the entire amount which the borough pays to the successful bidder or his assigns in order to obtain the services or property, or both, and shall not be construed to mean only the amount which is paid to acquire title or to receive any other particular benefit or benefits of the whole bargain.

(a.1) Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts in excess of the base amount of ten thousand dollars (\$10,000) subject to adjustment under subsection (a.2), but are less than the amount requiring advertisement and competitive bidding or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years. Written price quotations as used throughout this section shall include electronic mail.

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

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

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

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

(ii) The preliminary adjusted amounts shall be rounded to the nearest one hundred dollars (\$100) to determine the final adjusted base amounts for purposes of subsections (a) and (a.1).

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts, for the current year. The sums thereof shall be rounded to the nearest one hundred dollars (\$100) to determine the new final adjusted base amounts for purposes of subsections (a) and (a.1).

(5) The determinations and adjustments required under this subsection shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection and annually between October 1 and November 15 of each year thereafter.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become

effective January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.

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

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed three percent.

(b) (1) The award of contracts shall only be made by public announcement at the meeting at which bids are received, or at a subsequent meeting, the time and place of which shall be publicly announced when bids are received. If for any reason one or both of the above meetings shall not be held, the same business may be transacted at any subsequent meeting if at least five days' notice thereof shall be published in the newspaper of general circulation aforesaid. At council's request, all bids advertised for shall be accompanied by cash, money order, a certified or cashier's good faith check, or other irrevocable letter of credit drawn upon a bank authorized to do business in this Commonwealth or by a bond with corporate surety in such amount as council shall determine, and, when requested, no bid shall be considered unless so accompanied.

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

(c) The successful bidder when advertising as required herein may, at the discretion of council, be required to furnish a bond or irrevocable letter of credit or other security with suitable reasonable requirements guaranteeing the work to be done with sufficient surety in an amount as determined by council which shall be not less than ten percent nor more than one hundred percent of the amount of the liability under the contract within twenty days after the contract has been awarded, unless council shall prescribe a shorter period of not less than ten days, and upon failure to furnish such security within such time the previous award shall be void. Deliveries, accomplishment and guarantees may be required in all cases of expenditures.

(d) The contracts or purchases made by council, which shall not require advertising, bidding or price quotations as hereinbefore provided, are as follows:

(1) Those for maintenance, repairs or replacements for water, electric light or public works of the borough, provided they do not constitute new additions, extensions or enlargements of existing facilities and equipment, but security may be required by council, as in other cases of work done;

(2) Those made for improvements, repairs and maintenance of any kind, made or provided by any borough, through its own employees, provided that all materials used for street improvement, maintenance or construction in excess of the amount specified or adjusted under subsection (a.1) be subject to the relevant price quotation or advertising requirements contained in this section;

(3) Those where particular types, models or pieces of new equipment, articles, apparatus, appliances, computer software, vehicles or parts thereof are desired by council, which are patented and manufactured or copyrighted products;

(3.1) Those for used equipment, articles, apparatus, appliances, vehicles or parts thereof being purchased from a public utility, municipal corporation, county, school district, municipal authority, council of government or Federal or State government;

(4) Those involving any policies of insurance or surety company bonds; those made for utility service for borough purposes, including, but not limited to, those made for natural gas or telecommunications services; those made for electricity with the entities set forth in clause 6(i), (ii), (iii), (iv), (v), (vi) and (vii)(A); those made with another political subdivision, or a county, or council of government, consortium, cooperative or other similar entity created pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) or the Commonwealth of Pennsylvania, the Federal Government, any agency of the Commonwealth or the Federal Government, or any municipal authority, including the sale, leasing or loan of any supplies or materials by the Commonwealth or the Federal Government or their agencies. The price thereof shall not be in excess of that fixed by the Commonwealth, the Federal Government, or their agencies;

(5) Those involving personal or professional services;

(6) Those made relating to the purchase of electricity and associated energy and related services by a borough owning or operating electric generation or distribution facilities on the effective date of this section with any of the following:

(i) A political subdivision.

(ii) Another state.

(iii) The Commonwealth or an agency thereof.

(iv) The Federal Government.

(v) A private corporation.

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

(vii) A non-profit membership corporation. As used in this subclause, the term "non-profit membership corporation" means an entity, the membership of which:

(A) consists solely of Pennsylvania boroughs, such as a consortium, buying group or municipal power agency under section 2404-A; or

(B) consists of Pennsylvania boroughs and political subdivisions of another state or states.

(viii) An electric cooperative of another state.

Nothing in this clause shall prohibit council from engaging in advertising, bidding or price quotations if the council determines that the advertising, bidding or price quotations are in the public interest.

(e) Council shall award contracts subject to the requirements of, and may exercise any powers granted by, the following acts to the extent applicable: the act of March 3, 1978 (P.L.6, No.3), known as the "Steel Products Procurement Act," the act of December 20, 1967 (P.L.869, No.385), known as

the "Public Works Contractors' Bond Law of 1967," the act of August 15, 1961 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage Act," the act of January 17, 1968 (P.L.11, No.5), known as "The Minimum Wage Act of 1968," the act of February 17, 1994 (P.L.73, No.7), known as the "Contractor and Subcontractor Payment Act," the act of January 23, 1974 (P.L.9, No.4), referred to as the Public Contract Bid Withdrawal Law, and 62 Pa.C.S. Pt. II (relating to general procurement provisions).

(f) No person, consultant, firm or corporation contracting with the borough for purposes of rendering personal or professional services to the borough shall share with any borough officer or employee, and no borough officer or employee shall accept, any portion of the compensation or fees paid by the borough for the contracted services provided to the borough except under the following terms or conditions:

(1) Full disclosure of all relevant information regarding the sharing of the compensation or fees shall be made to the council of the borough.

(2) The council of the borough must approve the sharing of any fee or compensation for personal or professional services prior to the performance of the services.

(3) No fee or compensation for personal or professional services may be shared except for work actually performed.

(4) No shared fee or compensation for personal or professional services may be paid at a rate in excess of that commensurate for similar personal or professional services.

(1402 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 3 of Act 92 of 2011, which amended subsecs. (a.), (a.1) and (d) and added subsec. (a.2), provided that Act 92 shall apply to contracts and purchases advertised after December 31 of the year in which section 3 takes effect.

Section 1403. Evasion of Advertising Requirements.--(a) No member or members of council shall evade the provisions of section 1402 hereof as to advertising for bids, by purchasing or contracting for services and personal properties piecemeal for the purpose of obtaining prices under the amount specified or adjusted under section 1402(a) upon transactions, which transactions should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than the amount specified or adjusted under section 1402(a). This provision is intended to make unlawful the evading of advertising requirements by making a series of purchases or contracts, each for less than the advertising requirement price, or by making several simultaneous purchases or contracts, each below said price, when, in either case, the transactions involved should have been made as one transaction for one price. Any members of council who so vote in violation of this provision and who know that the transaction upon which they so vote is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids, shall be jointly and severally subject to surcharge for ten percent of the full amount of the contract or purchase. Whenever it shall appear that a member of council may have voted in violation of this section but the purchase or contract on which the member of council voted was not approved by council, this section shall be inapplicable.

(b) Any council member who votes to unlawfully evade the provisions of section 1402 and who knows that the transaction upon which he so votes is or ought to be a part of a larger

transaction and that it is being divided in order to evade the requirements as to advertising for bids commits a misdemeanor of the third degree for each contract entered into as a direct result of that vote. This penalty shall be in addition to any surcharge which may be assessed pursuant to subsection (a).

(1403 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 3 of Act 92 of 2011, which amended subsec. (a), provided that Act 92 shall apply to contracts and purchases advertised after December 31 of the year in which section 3 takes effect.

Section 1404. Personal Interest in Contracts or Purchases.--Elected and appointed borough officials and borough employees shall be restricted from any interest in borough contracts and purchases to the extent provided in 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

(1404 amended May 17, 2012, P.L.262, No.43)

Section 1404.1. Purchase Contracts for Petroleum Products; Fire Company, Etc., Participation.--The council of each borough shall have power to permit, subject to such terms and conditions as it may, and as hereinafter specifically provided, shall, prescribe any paid or volunteer fire company, paid or volunteer rescue company and paid or volunteer ambulance company in the borough to participate in purchase contracts for petroleum products entered into by the borough. Any such company desiring to participate in purchase contracts shall file with the borough secretary a request that it be authorized to participate in contracts for the purchase of petroleum products of the borough and agreeing that it will be bound by the terms and conditions as the borough may, and as hereinafter specifically provided, shall, prescribe and that it will be responsible for payment directly to the vendor under each purchase contract. Among the terms and conditions, the borough shall prescribe that all prices shall be F.O.B. destination.

(1404.1 amended May 17, 2012, P.L.262, No.43)

Section 1405. Separate Bids for Plumbing, Heating, Ventilating and Electrical Work.--In the preparation for the erection, construction and alteration of any public building, when the entire cost of the work shall exceed the amount specified or adjusted under section 1402(a), the architect, engineer, or other person preparing the specifications may, if so requested by the borough council, prepare separate specifications for the plumbing, heating, ventilating and electrical work. The person or persons authorized to enter into contracts for the erection, construction or alteration of the public buildings may, if the separate specifications shall have been proposed, receive separate bids upon each of the branches of work and shall award the contract to the lowest responsible bidder for each of the branches.

(1405 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 3 of Act 92 of 2011, which amended section 1405, provided that Act 92 shall apply to contracts and purchases advertised after December 31 of the year in which section 3 takes effect.

Section 1406. Bonds for the Protection of Labor and Materials.--Before any contract exceeding ten thousand dollars (\$10,000) is awarded to any prime contractor or construction manager for the construction, erection, installation, completion, alteration, repair of or addition to any public work or improvement of any kind, the contractor shall furnish to the borough a payment bond for the protection of claimants

supplying labor or materials to the prime contractor to whom the contract is awarded, at one hundred percent of the contract amount, conditioned for the prompt payment of all materials furnished or labor supplied or performed in the prosecution of the contract under the act of December 20, 1967 (P.L.869, No.385), known as the "Public Works Contractors' Bond Law of 1967." This bond requirement shall be in addition to any other bond requirement that may now or hereafter be required by law to be given in connection with the contract.

(1406 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 10 of Act 385 of 1967 provided that Act 581 is repealed insofar as it is inconsistent with Act 385.

Section 1407. Minimum Wage Specifications in Contracts.--(1407 repealed May 17, 2012, P.L.262, No.43)

Section 1408. Discrimination Between Employees.--(1408 repealed May 15, 1998, P.L.358, No.57)

Section 1409. Publication of Contract Notices in Trade Journals.--(1409 repealed July 9, 1976, P.L.877, No.160)

Section 1410. Acceptance by Contractor of Workers' Compensation Act.--All contracts executed by any borough, or any officer of a borough, which involves the construction or doing of any work involving the employment of labor, shall contain a provision that the contractor shall accept, insofar as the work covered by the contract is concerned, the provisions of the act of June 2, 1915 (P.L.736, No.338), known as the "Workers' Compensation Act," and the supplements and amendments to the act, and that the contractor will insure his or her liability under the act and will file with the borough with which the contract is made a certificate of insurance providing evidence of such coverage, or file with the borough with which the contract is made a certificate of exemption from insurance from the Bureau of Workers' Compensation of the Department of Labor and Industry. The certificate of exemption from insurance may be issued on the basis of either individual self-insurance or group self-insurance. Additionally, a contractor shall file with the borough with which the contract is made any applications to be excepted by the provisions of the "Workers' Compensation Act" in respect to certain employees on religious grounds if the applications have been accepted by the Department of Labor and Industry.

Any contract executed in violation of this section shall be null and void.

(1410 amended May 17, 2012, P.L.262, No.43)

Section 1411. Architects and Engineers Employed Prohibited From Bidding on Public Works; Penalty.--(1411 repealed May 17, 2012, P.L.262, No.43)

ARTICLE XV

EMINENT DOMAIN; ASSESSMENT OF DAMAGES; DAMAGES FOR INJURY TO PROPERTY

(Art. hdg. amended May 17, 2012, P.L.262, No.43)

(a) General Provisions Relating to Eminent Domain
(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1501. Exercise of Eminent Domain.--In the laying out, opening, widening, extending, vacating, grading, or changing the grades or lines of streets; the construction of bridges, and the piers and abutments therefor; the construction of slopes, embankments, and sewers; the erection and extension

of water systems, wharves, and docks, public buildings, public auditoriums, memorials, monuments, public works, filtration plants, sewerage systems, sewage treatment works, refuse disposal or incineration plants, sanitary landfills, gas plants, electric light plants and libraries; the establishing of parks, playgrounds and recreation places; the changing of watercourses; and for all other purposes authorized by this act, a borough may enter upon, appropriate, injure, or destroy, private lands, property or material, or lands previously granted or dedicated to public use and which are no longer used for the purpose for which the lands were granted, according to the proceedings set forth in the law governing eminent domain.

(1501 amended May 17, 2012, P.L.262, No.43)

Section 1502. Restrictions as to Certain Property.--(a) In addition to any restrictions made by other provisions of this act in particular cases, no borough shall exercise the right of eminent domain as against land now occupied by any building which was used during the Colonial or Revolutionary period as a place of assembly by the Council of the Colony of Pennsylvania, the Supreme Executive Council of the Commonwealth of Pennsylvania, or the Congress of the United States; or as against the land occupied by any fort, redoubt, or blockhouse erected during the Colonial or Revolutionary period, or any building used as headquarters by the Commander-in-Chief of the Continental Army; or as against the site of any building, fort, redoubt, blockhouse, or headquarters, which are preserved for their historic associations and not for private profit. The Colonial and Revolutionary period shall be taken as ended on September 3, 1783.

(b) No land or property used for a cemetery, burying ground or place of public worship may be taken or appropriated by virtue of any power contained in this article.

(1502 amended May 17, 2012, P.L.262, No.43)

Section 1502.1. Declaration of Intention.--A borough shall declare its intention to acquire, enter upon, take, use and appropriate any private property or land for any of the purposes authorized by this article through a duly enacted ordinance.

(1502.1 added May 17, 2012, P.L.262, No.43)

Section 1503. Application of 26 Pa.C.S.--All eminent domain proceedings shall conform to the provisions of 26 Pa.C.S. (relating to eminent domain), including, but not limited to, payment of damages and costs.

(1503 amended May 17, 2012, P.L.262, No.43)

(b) Procedure for the Assessment of Benefits by Viewers
(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 1521. Petition for Viewers; Time of Meeting.--(1521 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1522. When Viewers May Be Appointed.--(1522 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1523. Notice of Meeting of Viewers.--(1523 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1524. Swearing Viewers; Hearings; Schedules of Damages and Benefits.--(1524 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1525. Assessment of Benefits.--(1525 repealed May 17, 2012, P.L.262, No.43)

Section 1526. Notice When Schedules Will Be Exhibited.--(1526 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1527. Service of Notices.--(1527 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1528. Reports of Viewers; Plan of Improvements.--(1528 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1529. Notice of Filing of Report.--(1529 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1530. Borough to Pay Costs of Proceedings.--(1530 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1531. Exceptions to Report of Viewers.--(1531 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1532. Confirmation of Report of Viewers.--(1532 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1533. Effect of Exceptions on Confirmation of Report.--(1533 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1534. Appeals from Confirmations After Exceptions.--(1534 repealed June 3, 1971, P.L.118, No.6 and Apr. 28, 1978, P.L.202, No.53)

Section 1535. Effect of Appeals.--(1535 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1536. Filing Assignments of Error, Et Cetera.--(1536 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1537. Certificate of Judge of the Court Below.--(1537 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1538. Effect on Affirmation of Decree of Court Below.--(1538 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1539. Consolidation of Appeals.--(1539 repealed June 3, 1971, P.L.118, No.6 and Apr. 28, 1978, P.L.202, No.53)

Section 1540. Appellants May Unite In Appeals; Effect Thereof.--(1540 repealed June 3, 1971, P.L.118, No.6 and Apr. 28, 1978, P.L.202, No.53)

Section 1541. Appeals from Reports of Viewers for Jury Trial.--(1541 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1542. Reasons for Appeals to Be Stated.--(1542 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1543. Costs.--(1543 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1544. Notices; Appeals from the Court Below.--(1544 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1545. Appeals to the Wrong Court.--(1545 repealed June 3, 1971, P.L.118, No.6 and Apr. 28, 1978, P.L.202, No.53)

Section 1546. Appeals Not to Prevent Filing Liens.--(1546 repealed Apr. 28, 1978, P.L.202, No.53)

Section 1547. Assessments to Bear Interest.--(1527 repealed May 17, 2012, P.L.262, No.43)

(c) Damages for Injury to Property
(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1561. Right to Damage Given in Certain Cases.--The right to damage against boroughs is given to all owners or tenants of lands, property, or material, abutting on, or through which pass, streets, injured by the vacating of the streets, or the vacation of bridges and piers, abutments and approaches therefor.

(1561 amended May 17, 2012, P.L.262, No.43)

Section 1562. Juries of View to Assess Damages and Benefits.--(1562 repealed May 17, 2012, P.L.262, No.43)

Section 1563. Appeals from Viewers' Reports.--(1563 repealed May 17, 2012, P.L.262, No.43)

Section 1564. Appeals from Court Below.--(1564 repealed June 3, 1971, P.L.118, No.6)

Section 1565. Damages for Vacations.--(1565 repealed May 17, 2012, P.L.262, No.43)

ARTICLE XVI
LAND SUBDIVISION
(Repealed)

(Art. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 1601. Grant of Power.--(1601 repealed July 31, 1968, P.L.805, No.247)

Section 1602. Enactment of Land Subdivision Ordinance.--(1602 repealed July 31, 1968, P.L.805, No.247)

Section 1603. Definition of "Subdivision".--(1603 repealed July 31, 1968, P.L.805, No.247)

Section 1604. Public Hearing.--(1604 repealed July 31, 1968, P.L.805, No.247)

Section 1605. Subdivision Control.--(1605 repealed July 31, 1968, P.L.805, No.247)

Section 1606. Subdivisions Wherein Lots Abut Existing Improved Streets of Sufficient Width.--(1606 repealed July 31, 1968, P.L.805, No.247)

Section 1607. Subdivisions Wherein Lots Abut Existing Streets of Insufficient Width or Proposed Streets.--(1607 repealed July 31, 1968, P.L.805, No.247)

Section 1608. Sale of Lots; Issuance of Building Permit or Erection of Building.--(1608 repealed July 31, 1968, P.L.805, No.247)

Section 1609. Penalty.--(1609 repealed July 31, 1968, P.L.805, No.247)

ARTICLE XVII
STREETS

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

(a) General Provisions Relating to Streets
(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1701. Definitions.--The following words and terms, as used in this article, shall be construed as follows:

(1) "Street" shall mean and include any street, road, lane, court, cul-de-sac, alley, public way and public square, either for or intended for public use, and shall include the cartway, sidewalk, gutter, and the right-of-way area, whether or not the street, or any part of the street, is owned in fee by others than the borough. Streets shall be of two classes, opened and unopened.

(2) "Opened streets" shall mean and include all streets within the borough used as public passageways.

(3) "Unopened streets" shall mean and include all streets within the borough neither used as a public passageway, nor accepted or maintained, but plotted in one of the following:

(i) a borough plan or official map adopted in accordance with the "Pennsylvania Municipalities Planning Code";

(ii) an ordinance laying out the street in accordance with this article;

(iii) a subdivision or land development plan; or

(iv) an individual deed.

(4) "Laying out" shall mean and include the plotting of an unopened street or portion of the street on a borough plan or official map adopted in accordance with the "Pennsylvania Municipalities Planning Code," on a subdivision or land development plan or by the enactment of an ordinance adopted

in accordance with this article, and shall include the plotting of an unopened street in any case where any of the lines of the same are proposed to be revised, or in any case where the same was never previously laid out, although the street may have been opened and used.

(5) "Opening a street" shall mean and include the construction and grading of a street or portion thereof and the act of physically taking possession of an area or laid-out street for the purpose of making the same usable to the traveling public.

(6) "Improving a street" shall mean and include any work upon any street or portion thereof done or proposed to be done in order to open the same, if the street shall not previously have been opened, or if previously opened, to make the same more usable, or more suitable for use by the traveling public or safer for such use, and shall include, but shall not be limited to grading, paving, curbing and macadamizing.

(7) "Portion" shall mean and include a portion either of the width or of the length of a street and, therefore, opening a portion of a street may mean extending or widening a street, and vacating a portion of a street may mean closing or narrowing a street.

(8) "Personal notice" shall mean and include notice upon the owner of a premises either by personal service upon the owner or by certified mail to the owner at the owner's last known address, or where service shall not have been successfully made by either of the two methods first mentioned herein, then by leaving such notice at or upon the premises.

(9) "Person" shall mean and include a natural person, association, firm, corporation or political subdivision.

(1701 amended May 17, 2012, P.L.262, No.43)

Section 1702. Right of Borough to Take Over Streets.--(1702 repealed May 17, 2012, P.L.262, No.43)

Section 1703. Dedication of Streets Privately Constructed.--(1703 repealed May 17, 2012, P.L.262, No.43)

Section 1704. Streets Connecting With Street of Other Municipality.--No action shall be taken under this article that would result in the change of location or grade, or the vacation of any street or portion thereof that connects with a street of another municipality, without approval of the court of common pleas of the county in which the municipality is located, unless the municipality shall itself first file with the borough secretary its approval of the proposed action.

(1704 amended May 17, 2012, P.L.262, No.43)

Section 1705. Entry on Land to Maintain Marks and Monuments.--The borough council, its agents and employees, may enter upon any land or property, and maintain marks and monuments, so far as the council may deem necessary, in carrying out its powers and duties under this article.

(1705 reenacted May 17, 2012, P.L.262, No.43)

Section 1706. Exclusive Nature of Provisions.--The provisions in this article, as applicable to the dedication, acceptance, laying out, opening and vacation of streets, shall be exclusive, and no streets shall be acquired, laid out, opened or vacated by any borough except under such provisions.

(1706 reenacted May 17, 2012, P.L.262, No.43)

Section 1707. Failure of Council to Hold Hearing.--If, after the filing of a petition pursuant to this article, council fails to hold a required hearing, any aggrieved party may file a mandamus action in the court of common pleas requesting that a hearing be held.

(1707 added May 17, 2012, P.L.262, No.43)

Section 1708. Street Lighting, Ornamental Lighting and Traffic Control Signals and Devices.--Council may provide street lights and ornamental lighting and make regulations for the protection of lighting. Council may assess the costs for the erection of lighting in accordance with Article XXI-A. Council may provide for the erection, maintenance and operation of traffic control signals and devices in accordance with 75 Pa.C.S. (relating to vehicles).

(1708 added May 17, 2012, P.L.262, No.43)

(b) Plan of Streets

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1711. Borough Street Plan.--(1711 repealed July 31, 1968, P.L.805, No.247)

Section 1712. Borough Street Plan.--(a) A borough that has not maintained an accurate plan of borough streets adopted in accordance with this act prior to the effective date of this section may only adopt a plan of streets pursuant to the "Pennsylvania Municipalities Planning Code," governing the adoption of an official map.

(b) If a borough maintains a plan of streets adopted prior to the effective date of this section, or maintains an official map containing opened and unopened streets, a street laid out in accordance with this act by ordinance or by final approval of a subdivision or land development plan shall be deemed an amendment to the plan. Notwithstanding any other provision of law, a deemed amendment as provided in this section and any subsequent placement of the street on a plan shall not be subject to public notice or public hearing, provided that the street has been laid out in accordance with the requirements of this article.

(c) The maintenance of a plan of streets or official map shall not be required in order for a borough to lay out streets in accordance with section 1721.2(b) or lay out and open a street in accordance with section 1724.

(1712 added May 17, 2012, P.L.262, No.43)

(c) Laying Out Streets

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1721. Authority to Lay Out Streets; Procedure.--(1721 repealed July 31, 1968, P.L.805, No.247)

Section 1721.1. Power to Lay Out, Open, Etc.--(a) In accordance with the provisions of this article, boroughs may, with or without petition of abutting property owners, lay out, open, widen, straighten, alter, extend and improve, and may establish or reestablish the grades of, and keep in order and repair and in safe passable condition, any street or portion of a street within the borough limits, or may vacate the same whenever deemed expedient for the public good and provide for the costs of alteration.

(b) Boroughs may lay out or open:

(1) any street, or portion of a street, as it appears upon a borough plan, or an official map adopted in accordance with the "Pennsylvania Municipalities Planning Code," or is described in an ordinance adopted in accordance with this article;

(2) any street, or portion of a street, which the borough shall determine to acquire by eminent domain;

(3) any street to which the public shall have acquired rights by constant use over a period exceeding twenty-one years; or

(4) any street or portion of a street, laid out or constructed by any person, which the borough shall see fit to open or accept as provided in this article.

(1721.1 added May 17, 2012, P.L.262, No.43)

Section 1721.2. Laying Out Streets; Procedure.--(a) Any street identified in a plan of streets, an official map adopted in accordance with the "Pennsylvania Municipalities Planning Code," or identified in a recorded subdivision or land development plan shall be deemed to be laid out for purposes of this act.

(b) Boroughs shall have the authority, by ordinance, to lay out any area for future opening as a public street. The proposed ordinance laying out such street shall be advertised in a newspaper of general circulation once a week for two successive weeks. On or before the publication of the first advertisement, personal notice shall be provided to all owners of any property abutting the proposed street or through which the proposed street is to be laid out, and, if the proposed street will lead into an adjacent municipality, a copy of the proposed ordinance shall be sent to the adjacent municipality. The proposed ordinance shall have appended to the ordinance or referenced a map sufficient to apprise the public of the proposed location, profile and dimensions of the street, and shall list the names of the owners of any property through which the proposed street has been laid out.

(c) Within ten days after the second publication of the notice required in subsection (b), any interested party may petition council for a hearing, which council shall hold within sixty days after the date of the petition. Council shall give at least fifteen days' notice of the hearing in a newspaper of general circulation and by personal notice to persons entitled to such notice under subsection (b). Council may enact the ordinance no later than thirty days following the date of the hearing, or, where no timely petition has been filed, within thirty days of the second publication of the notice required by subsection (b). The enactment of the ordinance shall constitute public notice of the borough's intent to recognize the street within the system of borough streets and the borough's rights in the street. Within thirty days of the enactment of the ordinance, any party aggrieved by council's action may appeal to the court of common pleas.

(d) If, at the time of the enactment of an ordinance in accordance with subsection (c), the lines of the laid out street include property not subject to use as a public passageway, the ordinance shall be filed with the recorder of deeds of the county where the borough is located. The recorder of deeds shall index the ordinance by name of borough, name of the property owner, and, if applicable, parcel number, of the property through which the proposed street is laid out.

(e) Whenever a street shall have been laid out by ordinance as provided in this section, the owner or subsequent owner shall have no right to damages for buildings or improvements placed on streets after the date of enactment, and the buildings or improvements shall be removed at the expense of the landowner after the opening of the street in accordance with this act.

(f) The laying out of a street, without opening the street, shall create no right to public use of the street and shall not constitute the taking or acceptance of any property or obligate the borough to improve or maintain the street or the property on which the street has been laid out.

(g) Nothing in this section may affect the validity or legal effect of a street laid out in accordance with law prior to the effective date of this section.

(1721.2 added May 17, 2012, P.L.262, No.43)

Section 1722. Improvements Erected Within Lines Laid Out; Right to Damages.--(1722 repealed July 31, 1968, P.L.805, No.247)

Section 1723. Effect of Laying Out Street Without Opening Thereof.--(1723 repealed May 17, 2012, P.L.262, No.43)

Section 1724. Effect of Laying Out Street.--(a) At any time after any street or portion thereof shall have remained laid out but not opened for a period of ten years or longer, any owner or owners of fifty percent of the front feet of the land over which the street or portion thereof was laid out may petition the borough council to cancel the laying out of the street. Council shall thereupon, following at least fifteen days' notice in a newspaper of general circulation, and at least fifteen days' personal notice to the owners of all real estate abutting upon the land over which the street or portion of the street was laid out, hold a public hearing on the matter. Council may, on motion, deny the petition, or, by ordinance, grant the petition and cancel the laying out thereof. Any person aggrieved by the decision of the council, either granting or denying the petition, may appeal therefrom. The ordinance providing for the cancellation of the laying out of a street shall be filed with the recorder of deeds in accordance with section 1721.2(d).

(b) Whenever any street shall have been laid out and shall not have been opened to, or used by the public for a period of twenty-one years, the street shall not thereafter be opened without the consent of at least fifty-one percent of the number of owners of the abutting real estate and without the consent of the owners of at least fifty-one percent of the property abutting the street, based on a front foot basis.

(1724 amended May 17, 2012, P.L.262, No.43)

(d) Opening; Acceptance and Vacation of Streets
(Subdiv. hdg. amended May 17, 2012, P.L.262, No.43)

Section 1731. Authority to Open and Vacate Streets; Procedure.--(a) Council shall have authority, by ordinance, to:

(1) Open any street or portion thereof previously laid out or simultaneously to lay out and open any street or portion thereof. Any street or portion of a street so opened shall be a public street of the borough.

(2) Vacate or close any street or portion of a street previously opened or laid out, provided that no street or portion of a street providing the sole means of access to any tract of land shall be vacated without the consent of those to whom access would be denied. Vacation of a street shall terminate all public right in or to the street but shall not affect any private rights acquired by any of the owners of abutting property.

(b) The proposed ordinance, opening or vacating any street or portion of a street shall be advertised in a newspaper of general circulation once a week for two successive weeks. On or before the publication of the first advertisement, personal notice shall be provided to all owners of any property abutting the street proposed to be opened or vacated. The proposed ordinance shall have appended to it or shall reference a map or a survey sufficient to apprise the public of the proposed

location, profile and dimensions of the street, and shall list the names of the owners of any property abutting the street.

(c) Within ten days after the second publication of the notice required under subsection (b), any interested party may petition council for a hearing, which council shall hold within sixty days after the date of the petition. Council shall give at least fifteen days' notice of the hearing in a newspaper of general circulation and by personal notice to persons entitled to notice under subsection (b). Council may enact the ordinance no later than thirty days following the date of the hearing or, where no timely petition has been filed, within thirty days of the second publication of the notice required under subsection (b). Within thirty days of the enactment of the ordinance, any party aggrieved by council's action may appeal to the court of common pleas.

(1731 amended May 17, 2012, P.L.262, No.43)

Section 1732. Petition for Opening or Vacating Street; Action Thereon.--(a) Any person or persons, constituting a majority in number and interest of the owner of the real estate abutting upon any area not opened as a street or abutting upon an existing street or portion of a street, may petition the council to:

(1) Open or lay out and open such area as a street or portion thereof.

(2) Vacate a street or portion of a street.

(b) Council shall hold a hearing after receiving a petition filed with council in accordance with subsection (a), following at least fifteen days' personal notice to all owners of abutting real estate not joining in the petition, and following at least fifteen days' notice thereof in a newspaper of general circulation. Following such hearing, council shall either by motion deny the petition or by ordinance open, lay out and open or vacate the street or portion of the street. All provisions of section 1731 applicable to ordinances enacted by authority of that section shall apply to ordinances enacted by authority of this section.

(c) A petition for the vacation of any street or portion of a street may release the borough from all damages sustained as a result of the vacation if the petition is signed by the owners of all the property abutting upon the street or portion of the street and, where the release shall have been included in the petition, no proceedings for award of damages may be had and no damages as a result of the vacation shall under any conditions be awarded to any abutting property owner.

(1732 amended May 17, 2012, P.L.262, No.43)

Section 1733. Action for Damages and Benefits; Award.--(a) Upon the effective date of an ordinance enacted to open a street or portion of a street by authority of section 1731 or 1732, the borough shall have authority to enter upon and take possession of the street or portion thereof opened by the ordinance, if no structures are upon the street. If any structure shall have been located upon the street or portion of the street so opened, prior to the laying out of the street or prior to the simultaneous laying out and opening of the street, the street shall not be opened until the owner of the structure shall have been given sixty days' personal notice to vacate the same. Council shall not be required to file any bond or security for the exercise of the right granted by this section.

(b) All parties whose ground is taken in the opening of a street or portion of the street shall have three years from and after the effective date of the ordinance opening the street

or portion of the street in which to bring an action for damages resulting from the opening of the street or portion of the street. In case of the assessment of damages for the opening of any street or portion of the street, the award of damages, if any, shall include all damages resulting from the grade at which the street or portion of the street is to be opened; the plan attached to the report of the viewers awarding the damages shall include a profile plan showing the existing grade as well as the grade to which the street or portion of the street is to be opened. Any costs and expenses which cannot be assessed upon property benefited shall be paid by the borough.

(c) If the parties cannot agree upon damages sustained by reason of the opening or vacation of any street or portion of a street, the damages shall be assessed by a jury of view under the law governing eminent domain.

(1733 amended May 17, 2012, P.L.262, No.43)

Section 1734. Acceptance and Dedication of Streets.--(a)

Any borough may, by ordinance, accept any opened street not previously dedicated to or laid out by the borough, by following the procedure set forth in section 1731 or 1732, and the effect of the acceptance shall be the same as of opening the street. No street may be accepted unless the street connects with at least one other previously opened street or State highway.

(b) No borough shall acquire any right in or responsibility for any street privately constructed until dedication of the street shall have been presented to and accepted by the borough and until the dedication shall have been recorded in the county office for the recording of deeds.

(1734 amended May 17, 2012, P.L.262, No.43)

Section 1735. Streets Not to Be Constructed, or Dedicated or Opened to Travel Without the Approval of Council.--(a) No person shall construct, dedicate, or open to travel any street, or any drainage facilities in connection with the street, for public use or travel or for the common use of occupants of buildings abutting thereon in any borough, without first submitting suitable plans to the council and obtaining its approval. The plans shall be prepared in accordance with rules and regulations as may be prescribed by the council, and shall show the profiles of the street, the course, structure and capacity of any drainage facilities, and the method of drainage of the adjacent or contiguous territory, and also any other or further details that may be required under the rules or regulations adopted by the council.

(b) The provisions of the "Pennsylvania Municipalities Planning Code" shall govern the construction, security requirements and dedication of streets and connected drainage facilities when the streets proposed to be constructed are part of a plan required by an ordinance adopted pursuant to the "Pennsylvania Municipalities Planning Code."

(c) Before acting upon plans not subject to review under subsection (b), council may, at its discretion, arrange for a public hearing after giving such notice as it may deem desirable in each case. Council may alter the plans, and specify changes or modifications of any kind and may make its approval of the plans subject to alterations, changes or modifications. Any plans, when so approved, shall be signed on behalf of the borough by such officer as the council may designate, and shall be filed where the same shall be available to public inspection among the records of the borough at all reasonable times. No approval of plans by council may obligate or require the borough to construct, reconstruct, maintain, repair or grade any street or drainage facilities associated therewith.

(d) In any case where the borough council shall refuse to approve any plans submitted to it, any person aggrieved by the action of council may, within thirty days after the action, appeal from the action, by petition to the court of common pleas of the county which court shall hear the matter de novo, and, after hearing, may enter decree affirming, reversing or modifying the action of the council as may appear just. The court shall designate the manner in which notice of the hearing of an appeal shall be given to all parties interested. The decision of the court shall be final. Any plan approved by the action of borough council or by the court on appeal shall be recorded by the person applying for approval in the office of the recorder of deeds in the county.

(e) If any street, or any drainage facilities in connection with the street, shall be opened, constructed or dedicated for public use or travel, except in strict accordance with plans approved by the council, or the court on appeal, as provided in this article, neither the borough council nor any other public authority shall place, construct or operate any sewer, drain, water pipe or other facilities, or do any work of any kind in or upon the street; and neither borough council nor any other public authorities shall have any responsibility of any kind with respect to any such street, or drainage facilities, notwithstanding any use of the same by the public, provided that nothing in this article shall prevent the laying of trunk sewers, drains, water or gas mains, if required by engineering necessity for the accommodation of other territory.

(f) Any person who constructs, opens or dedicates any street or any drainage facilities in connection with a street, for public use or travel in any borough, without having first complied with the provisions of this article shall be guilty of a misdemeanor of the third degree and shall be subject to a suit for all costs and damages incurred by the borough or property owners in the course of correcting all substantive violations of State law or borough ordinance resulting from or arising out of the unlawfully constructed street or facilities. Nothing in this section shall be construed to apply to the Department of Transportation.

(1735 amended May 17, 2012, P.L.262, No.43)

Section 1736. Appeal From Refusal of Council.--(1736 repealed May 17, 2012, P.L.262, No.43)

Section 1737. Streets Opened Without Approval; Penalty.--(1737 repealed May 17, 2012, P.L.262, No.43)

(e) Vacating Streets

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 1741. Authority to Vacate Streets; Procedure.--(1741 repealed May 17, 2012, P.L.262, No.43)

Section 1742. Petition for Vacating Street; Action Thereon.--(1742 repealed May 17, 2012, P.L.262, No.43)

Section 1743. Action for Damages.--(1743 repealed May 17, 2012, P.L.262, No.43)

Section 1744. Effect of Vacation.--(1744 repealed May 17, 2012, P.L.262, No.43)

(f) Straightening and Relocating Streets

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1751. Authority to Straighten and Relocate Streets; Procedure.--Council may, by ordinance, provide for straightening

or relocating any street previously opened, involving the opening of a portion of the straightened or relocated street over land not previously a portion of the street or the vacation of a portion of such previously opened street no longer to be used for street purposes. The straightening or relocation shall be considered as an opening or vacation and shall be effected in the same manner and by the same procedure as provided in section 1731 but may be considered as a single proceeding, to be effected by enactment of a single ordinance.

(1751 amended May 17, 2012, P.L.262, No.43)

(g) Improvement of Borough Streets

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1761. Proceedings With or Without Petition.--Boroughs with petition or without petition may improve streets, or parts of streets, or a particular width, or additional widths of streets, with or without the assistance or contribution of the United States of America, the Commonwealth, the county, or a corporation occupying the thoroughfare and may assess and collect the whole cost of improvement, or the whole cost not thus aided or contributed, or any part of the cost, from the owners of real estate abutting on the improvement in accordance with Article XXI-A.

(1761 amended May 17, 2012, P.L.262, No.43)

Section 1762. Notice of Assessments.--(1762 repealed May 17, 2012, P.L.262, No.43)

Section 1763. Collection of Assessments.--(1763 repealed May 17, 2012, P.L.262, No.43)

(h) Improvement of Streets Outside or Partly

Outside Borough Limits

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1771. Improvement of Streets Outside or Partly Outside Borough Limits.--(a) Any borough may enter into a written agreement, with any adjoining municipality for improving streets which may be boundaries between the borough and municipality, and may provide in the contract for the division of the damages, costs, and expenses of the improvement. The borough may assess its share of the costs against the owner of property abutting upon the borough's side of the improvement, in the manner provided in Article XXI-A or may agree to pay any part of the costs, damages and expenses of the improvements out of the general funds.

The portion of the damages, costs, and expenses agreed to be paid by the borough, shall be ascertained as provided in the law governing eminent domain.

(b) Whenever the center line of any street constitutes the dividing line between any borough and a township located in the same county, any agreement to improve and maintain the street shall be made with the governing bodies of the township and, if necessary, the county. The improvement shall be constructed and subsequent repairs shall be made under the supervision of the borough, and in compliance with plans to be agreed upon, in writing, by the parties. One-half of the cost of the repairs shall be borne by the borough. The borough may assess its share of costs against the owners of property abutting on the borough's side of the improvement, in the manner provided in Article XXI-A.

(c) Whenever any street, more than one-half the width or the entire width of which is within the limits of any borough,

shall divide the borough from any other municipality, the street may be improved by the borough. The property abutting on the side of the street, which is located outside the limits of the borough making the improvements, may, for a depth of one hundred and fifty feet, plus one-half the width of the street, from its center line, be assessed for any and all municipal improvements to or on the street in accordance with Article XXI-A.

(d) A borough may appropriate and expend moneys for the improvement of a street, not to exceed one mile in length, outside the limits of the borough for the purpose of connecting improved streets in the borough with State highways, interstate highways and county roads.

(1771 amended May 17, 2012, P.L.262, No.43)

Section 1772. Proceedings to Improve Boundary Streets by Agreement with Counties and Townships.--(1772 repealed May 17, 2012, P.L.262, No.43)

Section 1773. Streets More Than One-Half the Width of Which Are Within the Borough.--(1773 repealed May 17, 2012, P.L.262, No.43)

Section 1774. Assessment on Property Outside Limits Where Boundary Line Street Entirely Within Borough.--(1774 repealed May 17, 2012, P.L.262, No.43)

Section 1775. Streets Outside Limits; Appropriations to Improve Connecting Links.--(1775 repealed May 17, 2012, P.L.262, No.43)

(i) Acquisition or Use of Abutting Lands

(Subdiv. hdg. amended May 17, 2012, P.L.262, No.43)

Section 1781. Use of Abutting Lands for Embankments, Slopes, Fills, and Culverts.--(1781 repealed May 17, 2012, P.L.262, No.43)

Section 1782. Acquisition of Property for Unobstructed View.--(a) Any borough may, singly or jointly with another municipality, acquire, by purchase or by the right of eminent domain, a free and unobstructed view down and across lands located at or near the intersection of any two streets or highways or a street or highway and a railroad or railway or at a curve in any street or highway as may be necessary to assure a free and unobstructed view in all directions at such crossings, and to so prevent the use of the lands for any purpose or in any manner which may interfere with or obstruct the view of persons traveling upon any such street or highway.

(b) After condemnation, the borough may, from time to time, abate or remove or cause to be abated or removed any obstruction to the view over and across the lands except poles used in furnishing service to the public.

(c) The proceedings for the condemnation of the view over and across lands and for the assessment of damages for property taken, injured or destroyed, or the portion thereof agreed to be paid by the borough if the taking is jointly with another municipality, shall be taken in the manner provided in the law governing eminent domain.

(d) Upon the purchase or condemnation of a view, the owner of the lands may make every use of the lands as will not interfere with a free and unobstructed view at the dangerous crossing or curve.

(1782 amended May 17, 2012, P.L.262, No.43)

ARTICLE XVIII

SIDEWALKS

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1801. Power to Lay Out and Establish Sidewalks and to Compel the Construction Thereof.--Any borough may, by ordinance, lay out and establish sidewalks, curbs, gutters and surface water drains along any street, and, with the consent of the Secretary of Transportation of the Commonwealth, along any State highway, and may, with or without petition, require owners of property abutting on any street or State highway to grade, construct, drain, pave and repave the sidewalk, curb or gutter and keep them in repair, and in safe and usable condition along the property, at such grades and under such regulations and specifications as council may prescribe. The word "sidewalk" as used in this article, shall mean and include the portion of a street located outside the cartway, and may include paved footway, unpaved grassplot, curb and gutter.

(1801 amended May 17, 2012, P.L.262, No.43)

Section 1802. Sidewalks on Land Abutting State Highways and Along Roads Outside Borough.--Any borough may, by ordinance, lay out sidewalks, gutters, and surface water drains upon land abutting the sides of State highways, and upon land abutting the sides of public roads, where such roads are outside the borough limits, but the land upon which the sidewalks, gutters and surface water drains are to be laid out is within the borough limits.

(1802 amended May 17, 2012, P.L.262, No.43)

Section 1803. Establishment of Grades.--Any borough may establish a grade or grades for sidewalks, which grade or grades may be separate and apart from the grade or grades established for the cartway or roadway.

(1803 reenacted May 17, 2012, P.L.262, No.43)

Section 1804. Boroughs May Pay All or Part of Cost of Grading and Curbing.--The borough may pay all or any part of the cost and expenses of grading and curbing any sidewalk.

(1804 reenacted May 17, 2012, P.L.262, No.43)

Section 1805. Borough May Do Work; Collection of Cost.--Upon the failure of any property owner to comply with any of the requirements provided in the preceding sections of this article, the borough may, after notice, cause the grading, paving, repairing, curbing, and guttering to be done at the cost of the owner, and may collect the cost of the work and ten percent additional, together with all charges and expenses, from the owner, and may file a municipal claim for the amounts or collect the amounts by action in assumpsit.

All notices shall be served upon the owner of the premises to which the notice refers, if the owner is a resident of the borough. If the owner is not a resident, then the notice may be served upon the agent or tenant of the owner, or upon the occupant of the premises. If the owner has no agent or tenant or there is no occupier of the premises, then service shall be by notice posted upon the premises. The notice required by this section shall specify a period of time of not less than thirty days for the owner to complete the specified work. If the work has not been completed after the specified time has elapsed, the owner shall be deemed to have failed to comply.

(1805 amended May 17, 2012, P.L.262, No.43)

Section 1806. Emergency Repairs to Sidewalks.--In addition to the remedies now vested in boroughs to make repairs to sidewalks, any borough shall have power to make emergency repairs to any sidewalks within the borough if an inspection of the sidewalk discloses that, and a certificate made by the officer or head of the department or committee lawfully having charge of sidewalk repairs specifies that, a dangerous condition

exists that can be repaired by an expenditure of not more than one thousand dollars (\$1,000). Before repairs are made, a notice to make the repairs within forty-eight hours shall be served upon the owner of the property. If the owner cannot be served within the county, notice may be served upon the agent of the owner or the party in possession, or if there is no agent or party in possession, the notice may be served by posting the same upon the premises.

Upon the completion of the work, the cost shall be a charge against the owner of the property, and shall be a lien, until paid, upon the abutting property, provided a claim is filed in accordance with the law providing for the filing and collection of municipal claims. The charge may also be collected by action of assumpsit. This section is intended to provide an additional remedy for boroughs in connection with emergency repairs, where the actual cost of doing the work does not exceed one thousand dollars (\$1,000), and the certificate of the officer or head of the department or committee in charge of repairs to sidewalks shall be conclusive evidence of the existence of the emergency justifying the repair under the terms of this section.

(1806 amended May 17, 2012, P.L.262, No.43)

ARTICLE XIX
BRIDGES, VIADUCTS AND UNDERGROUND
PASSAGEWAYS

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 1901. Construction or Acquisition and Maintenance of Bridges and Viaducts.--Any borough may locate and build, or acquire by purchase, condemnation or otherwise, any bridge or viaduct and the piers, approaches and abutments therefor, to be used and thereafter improved and maintained as a street, over any river, creek, stream, railroad or public or private property or over and across a combination of any of them, whether the bridge or viaduct shall be wholly or partly within the borough limits. The proceedings for laying out and opening a bridge or viaduct shall be the same as provided by this act for the laying out and opening of streets, and the bridge or viaduct or portion of the bridge or viaduct may thereafter be vacated under the same procedure as provided in this act for the relocation or vacation of streets or portions thereof.

(1901 amended May 17, 2012, P.L.262, No.43)

Section 1902. Right to Appropriate Property; Assessment of Damages.--In any case where the borough shall not have agreed with the owner or owners for damages done, or likely to be done, by the erection of a bridge or viaduct, the borough may take and appropriate the land and property necessary, over and across which to erect the bridge or viaduct and the damages caused by the taking and appropriation shall be assessed according to the law governing eminent domain.

(1902 amended May 17, 2012, P.L.262, No.43)

Section 1903. Boundary Bridges.--Whenever a bridge or viaduct shall cross the boundary line of a borough and another municipality, the borough may enter into an intergovernmental cooperation agreement in accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) with the municipality in the construction and maintenance of the bridge, and shall apportion the costs as per the intergovernmental agreement.

(1903 amended May 17, 2012, P.L.262, No.43)

Section 1904. Contracts With Railroads and Other Companies and With Counties.--The borough may also enter into a contract

with the county commissioners, and also with railroads, street railways, and other companies, or parties interested, for the building and maintenance of bridges or viaducts, and for the payment of any damages caused by the location or erection thereof. The contracts may stipulate that the borough, county, railroad company, street railway, or other company or party interested, shall pay a certain part of the contract price of the work, including damages; or may stipulate that each shall construct a certain portion of the work, and may provide otherwise for the payment of damages.

When any railroad company, street railway, or other company or party interested, shall agree to pay a certain portion of the cost of the work, it shall pay the same into the borough treasury; and the borough treasurer shall pay the same over to the contractor, as may be provided in the contract; but the amount to be paid by the county shall be paid directly to the contractor. The agreement may provide for the maintenance of the bridges and viaducts after their erection. Nothing in this section shall authorize any borough to contract with a county for the maintenance of any bridge or viaduct which does not cross a place over which the county is authorized to build bridges; but the bridge or viaduct shall be maintained as a borough structure, and the borough may contract with any party interested, except the county, for the maintenance of the bridge or viaduct. Nothing in this section shall affect the powers or duties of the Public Utility Commission to the extent otherwise provided by law.

(1904 amended May 17, 2012, P.L.262, No.43)

Section 1905. Overhead and Underground Passageways.--Whenever the comfort and safety of the residents of any borough and any adjoining municipality be enhanced by any overhead or underground passageway connecting with adjoining streets in either borough or municipality, and extending to any plant or place of business where residents of the borough are employed, the borough may jointly with each adjoining municipality, construct and maintain any passageway or they may join with other interests in the construction and maintenance of the passageway.

(1905 amended May 17, 2012, P.L.262, No.43)

ARTICLE XX SANITARY SEWERS

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

- (a) Laying Out, Construction and Operation of Sanitary Sewers and Construction of Sewage Treatment Works
(Subdiv. hdg. amended May 17, 2012, P.L.262, No.43)

Section 2001. Power to Lay Out and Construct.--(a) (1)
Upon enactment of an ordinance, boroughs may lay out and construct sanitary sewers and branches of sanitary sewers in streets and on public or private property, and may construct sewage treatment works on land owned or acquired for such purposes. Boroughs may pay the costs and expenses of sanitary sewer systems and treatment works out of borough funds, or may assess the costs and expenses pursuant to Article XXI-A.

(2) Boroughs may determine the location and the manner in which sanitary sewer systems shall be constructed. Sanitary sewers laid and constructed in streets may be located in the center of the street or in the right-of-way or the curb lines of the street in any street and may be for the service and use of properties on both sides of the street or on only one side

of the street in which they are laid, as directed by the borough council. Boroughs shall have the authority to lay out and construct sanitary sewers in any street, any portion of which is within the limits of the borough, and which forms a portion of the boundary dividing the borough from any other municipal corporation within the same county, in the same manner and to the same extent as if the whole of the street was within the limits of the borough.

(3) Whenever any borough is maintaining and operating a sanitary sewer system and sewage treatment works, it shall be lawful for the borough to supply sewerage service to municipalities, persons and corporations outside the limits of the borough and to enter into contracts for service at rates not less than those required to be paid by persons and corporations within the limits of the borough. This privilege shall not conflict with the rights of any sewer company or the rights of any other borough.

(b) (1) If required by other law, a borough shall obtain the consent and permit of the Department of Environmental Protection, or other Federal, State or county entity, including the Pennsylvania Turnpike Commission, for the laying out and construction of a sanitary sewer and treatment works.

(2) Where construction beyond the limits of the borough is entirely within the limits of a State or county highway or the turnpike, a sanitary sewer may be constructed in or under the State or county highway, or turnpike, provided that written notice is given to the Department of Transportation, county commissioners or Pennsylvania Turnpike Commission, respectively, and its consent obtained before construction is commenced. Permission shall not be unreasonably withheld.

(c) Borough council may by ordinance make regulations respecting the use and maintenance of the sanitary sewer system and treatment works. The regulations may:

(1) specify materials and substances which may or may not enter the public sewer or sewer system;

(2) require that certain types or classes of waste be subjected to treatment or to grinding or other reduction in size before entering into the sewer;

(3) restrict the quantity of waste material that may enter a sanitary sewer from any premises within any time interval; and

(4) require that property owners provide means other than the public sanitary sewers for disposal of storm, surface and roof water originating or accumulating upon their property. Violations of the ordinance may be enforced by penalties.

(d) (1) "Sanitary sewer" or "sanitary sewer system," as used in this article, shall mean a sewer or sewers used for receiving and collecting sewage matter and liquid waste from the inside of buildings and structures. Storm water shall not be permitted to enter into a sanitary sewer. A sanitary sewer or sanitary sewer system shall not include a combined sewer.

(2) "Combined sewer" shall mean a sewer used for the receiving and collecting of sewage and liquid waste from the inside of buildings and structures, storm water, roof or surface drainage, sump pump discharge and draining from foundation drains.

(3) "Sewer system," as opposed to a "sanitary sewer system," shall be either a sanitary sewer or a combined sewer and shall include pump stations and force mains.

(2001 amended May 17, 2012, P.L.262, No.43)

Section 2002. Assessments.--Assessments, whether based according to benefits conferred or by the front foot basis, and

assessment awards, if any, shall be calculated pursuant to Article XXI-A.

(2002 amended May 17, 2012, P.L.262, No.43)

Section 2003. Assessment by Foot-front Rule.--(2003 repealed May 17, 2012, P.L.262, No.43)

Section 2004. Places and Manner of Construction.--(2004 repealed May 17, 2012, P.L.262, No.43)

Section 2005. Permit from Sanitary Water Board.--(2005 repealed May 17, 2012, P.L.262, No.43)

Section 2006. Assessments of Cost.--(2006 repealed May 17, 2012, P.L.262, No.43)

Section 2007. Collections of Assessments.--(2007 repealed May 17, 2012, P.L.262, No.43)

Section 2008. Regulations of Borough.--(2008 repealed May 17, 2012, P.L.262, No.43)

Section 2009. Extensions Beyond Borough Limits; Eminent Domain.--The borough may extend the necessary sewer mains, pipes and outlets beyond the limits of the borough, to a point where the sewage is to be disposed or collected and received and shall have power to enter upon and condemn land for the construction of all sewer mains, outlets, and treatment works as may be necessary for the disposal or the collection of the sewage, provided that the extension is in conformity with 26 Pa.C.S. § 206 (relating to extraterritorial takings) and any other applicable requirement of 26 Pa.C.S. (relating to eminent domain).

(2009 amended May 17, 2012, P.L.262, No.43)

Section 2010. Notice of Certain Ordinances.--No ordinance for any construction of sewers or treatment works beyond the limits of the borough, shall be enacted until notice of the ordinance has been given, by publication of the proposed ordinance, once a week for four weeks in one newspaper of general circulation, and also by serving copies of the proposed ordinance upon all land owners through whose land the sewer is to pass, or on whose lands any treatment works are to be located, at least ten days before the enactment of the ordinance.

(2010 amended May 17, 2012, P.L.262, No.43)

Section 2011. Security for Damages; Assessments.--(2011 repealed May 17, 2012, P.L.262, No.43)

Section 2012. Unlawful to Build Within Right-of-Way of Sanitary Sewers.--It shall be unlawful for any person to erect any building or make any improvement, within the right-of-way of any sanitary sewer laid out, after due notice of the laying out of the sanitary sewer, and, if any erection or improvement shall be made, no allowance shall be had for the building or improvement in the assessment of damages.

(2012 amended May 17, 2012, P.L.262, No.43)

Section 2013. Opening Sanitary Sewers.--(a) If any borough shall lay out any sanitary sewer, over or under private property, located in whole or in part within the limits of the borough, and proceedings to open the same and to assess the damage arising therefrom shall not be proceeded with by the borough, within two years from the enactment of the ordinance, the whole proceeding shall be void.

(b) If any borough has laid out a sanitary sewer without the enactment of an ordinance prior to the effective date of this subsection and shall have not opened the same, the proceedings shall not be deemed to be void but the borough shall have two years from the effective date of this subsection to open the sanitary sewer or the whole proceeding shall be void.

(2013 amended May 17, 2012, P.L.262, No.43)

(b) Joint Sanitary Sewers
(Subdiv. hdg. amended May 17, 2012, P.L.262, No.43)

Section 2021. Joint Sanitary Sewer Systems.--(a) Pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation), boroughs may contract with other municipal corporations providing for the joint construction or maintenance of sanitary sewer systems and for the joint construction onto existing sanitary sewer systems. The agreement shall provide for the apportionment of costs among the municipal corporations. The borough council may assess the borough's respective portion of the costs, as may be legally assessable, upon property benefited by the facilities pursuant to Article XXI-A. Any portion of the cost not assessed or assessable shall be paid by the respective municipal corporations under the agreement.

(b) The municipal corporations joining or contemplating joining in any improvement, in order to facilitate the building of the sanitary sewer system and in securing preliminary surveys and estimates, may by ordinance provide for the appointment of a joint sanitary sewer board composed of one representative from each of the municipal corporations joining which shall act generally as the advisory and administrative agency in the construction of the improvement and its subsequent operation and maintenance. Members of the joint sanitary sewer board shall serve for terms of six years each from the dates of their respective appointments and until their successors are appointed. The joint sanitary sewer board shall organize by the election of a chair, secretary, and treasurer. The secretary and treasurer may be the same person. The municipal corporations may in the ordinances creating the joint sanitary sewer board, authorize the board to appoint an engineer, a solicitor, and other assistants as are deemed necessary, and agree to the share of the compensation of those persons each municipal corporation is to pay. The members of the joint sanitary sewer board shall receive compensation for attending board meetings as established in the budget that is prepared by the joint sanitary sewer board and submitted to and adopted by the municipal corporations. The members shall be entitled to actual expenses to be paid by the respective municipal corporations the members represent.

(c) The joint sanitary sewer board may adopt rules and regulations consistent with the requirements of this act to govern its proceedings, and shall prepare and suggest any practical measures and plans by which the joint improvement may be carried to successful completion and plan the future development of the system, so as to conform to a general plan. It may prepare a joint agreement or agreements for submission to and adoption by the municipal corporations defining the advisory and administrative powers of the joint sanitary sewer board and setting forth the consents of the municipal corporations to the proposed improvement; the manner in which preliminary and final plans, specifications and estimates for the proposed improvement shall be prepared and adopted; how proposals for bids shall be advertised and contracts let; the manner in which the costs of the improvement and other incidental and preliminary expenses in connection with the improvement, and the future cost of operation and maintenance shall be equitably shared, apportioned and paid; and all other matters, including the preparation and submission of annual and other budgets, as may be deemed necessary or required by law to complete the proposed improvement and to assure future maintenance and operation thereof. The board may not make any

improvement or spend any public moneys which have not first been authorized by all of the municipal corporations proceeding with the improvement.

(d) When it is necessary to acquire, appropriate, injure, or destroy private property to build a joint sanitary sewer system or improvement and the property cannot be acquired by purchase or gift, the right of eminent domain shall vest in the municipal corporation where the property is located. When it is necessary to acquire, injure, or destroy property in any territory not within the limits of any of the municipal corporations joining in the improvement, then the right of eminent domain shall be vested in the municipal corporation adjacent to the territory where the property is located subject to 26 Pa.C.S. § 206 (relating to extraterritorial takings). Damages for any property taken, injured, or destroyed shall be assessed under laws relating to the municipal corporation exercising the right of eminent domain and shall be paid by the municipal corporations joining in the same proportion as other costs of the improvements.

(e) Each of the boroughs joining in the improvement shall have power to incur or increase its indebtedness, not exceeding the constitutional limits, for the purpose of paying its share or portion of the cost of the improvement in the manner now provided by law for the incurring of indebtedness.

(2021 amended May 17, 2012, P.L.262, No.43)

Section 2022. Approval of Sanitary Water Board.--(2022 repealed May 17, 2012, P.L.262, No.43)

Section 2023. Connections with Sanitary Sewers of Adjacent Municipalities.--Any borough may connect with an existing sanitary sewer, owned by any adjacent municipality for sewerage purposes in the manner prescribed in sections 2024, 2025 and 2026.

(2023 amended May 17, 2012, P.L.262, No.43)

Section 2024. Applications to Court.--Whenever any borough shall desire to connect with the existing sanitary sewer of any adjacent municipality and no agreement, either upon the basis of a rental payment for the use of an existing sanitary sewer or a division of the cost of the construction or maintenance of the sanitary sewer, has been reached between the borough and the adjacent municipality, an application shall be made by council to the court of common pleas of the county where the proposed connection is to be located, setting forth that fact.

(2024 amended May 17, 2012, P.L.262, No.43)

Section 2025. Appointment of Viewers.--If the court shall be of the opinion that the connection can be made without impairing the usefulness of the existing sanitary sewer, it shall appoint three viewers, who shall view the premises and investigate the facts of the case, and shall assess the proportionate part of the expense of building the original sanitary sewer upon the borough, and shall fix the proportion of the expense for repairs which each municipality shall thereafter bear, and determine all other questions liable to arise in connection with the sanitary sewer.

(2025 amended May 17, 2012, P.L.262, No.43)

Section 2026. Report of Viewers; Appeals to Court.--The viewers shall report to the court the result of their investigation, which report shall be confirmed within thirty days unless exceptions are filed. After confirmation of the report, or the disposal of any exceptions, any party interested may appeal from the decision of the court of common pleas.

(2026 amended May 17, 2012, P.L.262, No.43)

(c) Power to Supply Sewerage Service Outside Borough Limits
(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 2031. Power to Supply Service.--(2031 repealed May 17, 2012, P.L.262, No.43)

Section 2032. Power to Extend Lines and Condemn Property.--(2032 repealed May 17, 2012, P.L.262, No.43)

(d) Acquisition of Community Collection or Disposal Systems
(Subdiv. hdg. amended May 17, 2012, P.L.262, No.43)

Section 2041. Power to Acquire Sewer Systems.--(2041 repealed May 17, 2012, P.L.262, No.43)

Section 2041.1. Power to Acquire Community Collection or Disposal Systems.--(a) A borough may, by ordinance, acquire ownership of a community sewage collection or disposal system as defined in section 2043 by purchase or by the exercise of eminent domain pursuant to 26 Pa.C.S. (relating to eminent domain), or by gift from the owner or owners.

(b) In eminent domain proceedings, the viewers shall assess the costs and expenses of the community sewage collection or disposal system acquired by the borough upon the property or properties benefited according to benefits. Any deficiency that is not assessed upon the benefited property or properties shall be paid by the borough.

(2041.1 added May 17, 2012, P.L.262, No.43)

Section 2042. Assessment of Damages.--(2042 repealed May 17, 2012, P.L.262, No.43)

Section 2043. Community Sewage Collection or Disposal Systems.--(a) For the purpose of this subdivision, a community sewage collection or disposal system is all or part of a device or devices installed on any privately or publicly owned parcel of land, intended to treat or dispose of the sewage or equivalent volume of domestic sewage from two or more residences, buildings or occupied parcels of land, or any system of piping used in collection and conveyance of sewage on private or public property.

(b) After a community sewage collection or disposal system has been acquired under the provisions of this subdivision by the borough, the council shall have the power to enlarge the system if it deems it advisable. In such cases, the cost and expenses of the enlargement may be distributed or assessed in the same manner as if the enlargement was a regular sewer constructed by the borough under other provisions of this act.

(c) Whenever a community sewage collection or disposal system is established or constructed within a borough by a private owner or owners, and the borough council is thereafter empowered by ordinance to acquire the ownership of the sewage disposal system so established, or when the system has been enlarged by the borough, the acquisition and ownership shall be subject to the following provisions of this subsection:

(1) When the person or persons having established or constructed a community sewage collection or disposal system, or when more than one-half the number of the owners of properties which are connected with, have a right to use and are using a community collection or disposal system, enter into an agreement with the borough for the acquisition of the system by the borough, the agreement shall be considered a valid agreement by the owners of the sewage collection or disposal system and a transfer of ownership to the borough.

(2) The borough shall operate and maintain any sewage collection or disposal system acquired and any enlargement or addition thereto for the use of persons having acquired from the borough or from the former owner or owners the right to use the system, and for the use of other owners of property accessible thereto up to the capacity of the sewage collection or disposal system.

(3) All persons whose property connects with the sewage collection or disposal system acquired or constructed by the borough shall pay to the borough treasurer, a monthly, quarterly, semi-annual or annual charge prescribed by a resolution of the council. The amount of the charges shall not be in excess of the estimated amount necessary to maintain and operate the system and to establish a reserve fund sufficient for its future replacement.

(4) All sewer rentals or charges imposed by the council against properties connected with a community sewage collection or disposal system under the provisions of this section shall constitute liens against the properties and may be collected in the same manner as other sewer charges.

(5) All moneys received from the sewer charges shall be deposited as a special reserve fund, and shall be used only for the payment of the cost of operating and maintaining the sewage collection or disposal system and the replacement of the collection or disposal system, if necessary and economically desirable. If at any time after the acquisition or enlargement of the community sewage system, a regular sewer system is made available by the borough for connection with the properties using the community sewage collection or disposal system, the owners of the properties shall be subject to the other provisions of this act relating to sewers, and all money at that time in the reserve fund which was received from charges for the use of that particular sewage collection or disposal system, and which is over and above the amount expended for the operation and maintenance of that particular sewage collection or disposal system, shall be used towards the payment of any sewer assessments charged against the properties under other sections of this act.

(d) Nothing in this section may be construed to supersede the requirements of the act of January 24, 1966 (1965 P.L.1535, No.537), known as the "Pennsylvania Sewage Facilities Act."

(2043 amended May 17, 2012, P.L.262, No.43)

(e) Connection and Use of Sanitary Sewers
(Subdiv. hdg. amended May 17, 2012, P.L.262, No.43)

Section 2051. Ordinances to Require Sanitary Sewer Connections.--Any borough may, by ordinance, require any owner of property, benefited, improved or accommodated by a sanitary sewer, to make connections with the sanitary sewer, in the manner as the borough may order, for the purpose of discharge of drainage or waste matter as the borough may specify. All connections required shall be uniform. The owner shall be given at least forty-five days' notice of any ordinance requiring a sanitary sewer connection and, upon failure of the owner to make the connection, the borough may make the connection and collect the cost from the owner by a municipal claim or by an action of assumpsit. The borough may by penalties enforce any ordinance it may enact with reference to any sanitary sewer connections.

(2051 amended May 17, 2012, P.L.262, No.43)

Section 2052. Notice of Ordinances; Failure to Comply With Ordinance.--(2052 repealed May 17, 2012, P.L.262, No.43)

Section 2053. Tapping Fees.--Any borough may by ordinance provide for charging a tapping fee whenever the owner of any property connects the property with a sanitary sewer system constructed or acquired by the borough provided that the tapping fee is calculated in accordance with 53 Pa.C.S. § 5607 (relating to purposes and powers), which fee shall be in addition to any charges assessed and collected against the property in the construction or acquisition of the sanitary sewer by the borough. Whenever a sanitary sewer system or any part or extension of a sanitary sewer system, owned by a borough, has been constructed by the borough at the expense of a private person or corporation or has been constructed by a private person or corporation under the supervision of the borough at the expense of the private person or corporation, the borough shall have the right to charge a tapping fee calculated in accordance with 53 Pa.C.S. § 5607 and refund the tapping fee or any part of the fee to the person or corporation who has paid for the construction of the sanitary sewer system or any part or extension of the sanitary sewer system in accordance with 53 Pa.C.S. § 5607. The total of the refunds shall never exceed the cost of the system or any part or extension of the system to the person or corporation paying for the construction of the system or any part or extension of the system. In any case, where the property connected or to be connected with the sanitary sewer system of the borough is not equipped with a water meter the borough may install a meter at its own cost and expense. If the property is supplied with water from the facilities of a public water supply agency, the borough shall not install a meter without the consent and approval of the public water supply agency.

(2053 amended May 17, 2012, P.L.262, No.43)

Section 2054. Regulations and Restrictions in Use of Sanitary Sewers.--(2054 repealed May 17, 2012, P.L.262, No.43)

(f) Monthly, Quarterly or Annual Rentals
(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 2061. Ordinance for Monthly, Quarterly or Annual Rental.--Whenever any borough shall have constructed any sanitary sewer, sewer system or sewage treatment works, or shall have acquired wholly or partially the same at public expense, as authorized in this article, the borough council may provide, by ordinance, for the collection of a monthly, quarterly or annual rental or charge or a fixed sum, for the use of the sanitary sewer, sewer system or sewage treatment works, from the owner of property served by it.

(2061 amended May 17, 2012, P.L.262, No.43)

Section 2062. How Rental Fixed.--The monthly, quarterly or annual rental may include the amount expended monthly, quarterly or annually by the borough in maintenance, repair, alteration, inspection, depreciation, or other expense, of the sanitary sewer, sewer system or sewage treatment works, and may include interest on money expended or borrowed by the borough in the construction of the sanitary sewer, sewer system or sewage treatment works, or in the acquisition, enlargement or extension of the sanitary sewer or sewer system, and may also include an amount sufficient for the amortization of debt incurred by the borough for those purposes, including the construction of sewage treatment works according to law. The monthly, quarterly or annual amount or fixed sum shall be apportioned equitably among

the properties served by the sanitary sewers, sewer system or sewage treatment works.

(2062 amended May 17, 2012, P.L.262, No.43)

Section 2063. Collection of Rental.--The monthly, quarterly or annual rental or charge, or the fixed sum, shall be authorized and collected as provided by general ordinances, and, when so levied and charged, shall be a lien on the properties charged from the date set forth in the ordinance. If the rental, charge or fixed sum is not paid after thirty days' notice, it may be collected by an action of assumpsit, in the name of the borough against the owner of the property charged, or by a lien filed in the nature of a municipal lien.

The borough council shall execute a warrant or warrants, authorizing the collection of the monthly, quarterly or annual sewer rentals or charges, or the fixed sum, to the officer employed by council to collect the same. The officer shall have the authority now vested by law for the collection of borough taxes.

(2063 amended May 17, 2012, P.L.262, No.43)

Section 2064. Lien.--(2064 repealed May 17, 2012, P.L.262, No.43)

(g) Sewers on Boundary Streets

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 2071. Power to Lay and Construct.--(2071 repealed May 17, 2012, P.L.262, No.43)

Section 2072. Assessment of Benefits.--(2072 repealed May 17, 2012, P.L.262, No.43)

ARTICLE XXI COLLECTION BY INSTALMENT OF STREET AND SEWER ASSESSMENTS

(Repealed)

(Art. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 2101. Authority for Instalment Payments.--(2101 repealed May 17, 2012, P.L.262, No.43)

Section 2102. Entry of Liens.--(2102 repealed May 17, 2012, P.L.262, No.43)

Section 2103. Assessments; Where Payable.--(2103 repealed May 17, 2012, P.L.262, No.43)

Section 2104. Default in Payment of Instalment.--(2104 repealed May 17, 2012, P.L.262, No.43)

Section 2105. Payments in Full.--(2105 repealed May 17, 2012, P.L.262, No.43)

ARTICLE XXI-A ASSESSMENTS AND CHARGES FOR PUBLIC IMPROVEMENTS

(Art. added May 17, 2012, P.L.262, No.43)

Section 2101-A. Authority to assess.

(a) General rule.--Borough council shall have the power to pay the cost, in whole or in part, of any and all public improvements of all natures and descriptions, including, but not limited to, the grading, building, paving, regrading, rebuilding and repaving of streets as defined in section 1701, the creation, extension, renovation or enlargement of water mains and sewage collection, transmission, treatment and disposal systems and the creation, extension and renovation of storm, surface and subsurface drainage systems, the

construction, reconstruction and repair of wharves and docks, the installation of ornamental street lighting or the planting, removal, maintenance and protection of shade trees by any of the following methods:

- (1) from general borough funds;
- (2) from special borough funds created for that purpose;

or

- (3) by assessment of costs against the benefited properties either on the front foot or benefit conferred method of assessment.

Except as provided in subsection (c), the costs and expenses of sanitary sewers may be assessed against properties benefited, accommodated or improved regardless of the property line location and regardless of whether any portion of a property so benefited, accommodated or physically improved abuts upon the sanitary sewer.

(b) Payment of indebtedness.--

(1) If a borough that incurs authorized indebtedness pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) for the purposes of funding the cost and expense of making public improvements for which assessments can be made in accordance with this article, payments made on the assessment must be applied to pay the debt service for the indebtedness incurred for funding the cost and expense of making the public improvement.

(2) Notwithstanding section 2107-A, when bonds are issued in a manner provided by law and an assessment is to be paid in installments, the assessment shall be payable in equal installments during the term for which the bond is issued, and the cost of the improvement plus interest beginning the first day when interest is payable on the bond shall be the cost of the improvement to be assessed on a property.

(c) Property outside borough.--Property benefited, improved or accommodated which is located outside the limits of the borough that constructed a sanitary sewer may, if located no more than 150 feet from the sewer main, be assessed for the cost of the sewer in the same manner as the property would be assessed under the laws of this Commonwealth if it were entirely located within the limits of the borough, if the property is given permission to use the sanitary sewer and is not, at the time the sanitary sewer is constructed, provided with sanitary sewer facilities.

(d) Water mains.--Boroughs shall have power to assess the whole cost or any part of the cost of construction of new water mains built in connection with the establishment or extension of a municipally owned water supply system, even if the mains are located outside the limits of the borough, and that serve abutting properties, against the properties abutting the boundary line. The borough may provide that the assessment be rebated to the owner of the assessed property out of rates charged for water consumed in serving the assessed property. The borough may also issue a negotiable credit memorandum in the amount of the assessment which may be used for the payment of any water service to the extent of the assessment.

(2101-A added May 17, 2012, P.L.262, No.43)

Section 2102-A. Notice of assessments.

The borough secretary shall cause 30 days' personal notice of the assessment to be served upon each property owner assessed. If a certificate is required to be filed with council relating to the public improvement as otherwise provided in this act, then a copy of the certificate shall accompany the

notice. "Personal notice" as used in this article shall mean and include notice upon the owner of a property either by personal service upon the owner or by certified mail to the owner at the owner's last known address, or where service, after a reasonable attempt, shall not have been successfully made by either of these two methods, then by leaving notice at or upon the property.

(2102-A added May 17, 2012, P.L.262, No.43)

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

(a) General rule.--If borough council elects to collect the cost, including any administrative fees, of any improvement on the front foot basis, the cost to be collected shall be divided by the total number of linear feet of street frontage of each property benefited and there shall be assessed against each property that portion of the cost which is determined by multiplying the dividend of the prior calculation by the number of linear feet for street frontage of that property.

(b) Certificate of assessment.--Council shall issue a certificate of assessment when assessing on the front foot basis, duly certified under the seal of the borough and attested by the president of council and secretary. The certificate of assessment shall be prima facie evidence in any suit for recovery of the same of the correctness and validity of the assessment.

(c) Adjustments in assessments.--Notwithstanding subsection (a), council may make equitable adjustments for corner lots, lots of irregular shape, or, where special conditions exist, where an assessment for full frontage would be unjust.

(2103-A added May 17, 2012, P.L.262, No.43)

Section 2104-A. Assessment of benefits conferred.

(a) General rule.--In lieu of the front foot basis, borough council may elect to have the benefits of public improvements assessed, in whole or in part, upon property benefited, improved or accommodated by assessing an equal assessment on the properties benefited, improved or accommodated in proportion to the total cost of construction of the improvement. The amount of the charge on each property shall be determined by borough council.

(b) Certificate.--Council shall issue a certificate of assessment when assessing benefits upon property benefited, improved or accommodated, duly certified under the seal of the borough and attested by the president of council and secretary. The certificate of assessment shall be prima facie evidence in any suit for recovery of the same of the correctness and validity of the assessment.

(2104-A added May 17, 2012, P.L.262, No.43)

Section 2105-A. Assessment awards.

In proceedings to assess benefits, if the land or property is both benefited and damaged by the public improvements, the excess of damages over benefits, or the excess of benefits over damages, or nothing in case the benefits and damages are equal, shall be awarded to or assessed against the owner of land and property affected thereby. Damages shall be calculated pursuant to 26 Pa.C.S. (relating to eminent domain).

(2105-A added May 17, 2012, P.L.262, No.43)

Section 2106-A. Petition for viewers.

(a) Petition.--Taxpayers of the borough whose property is being assessed for benefits for a public improvement may present a petition to the court of common pleas stating that the assessment insufficiently represents the benefits accruing to abutting, benefited or accommodated properties and may include in the petition a request for the appointment of viewers to

assess benefits provided that at least 50% of the taxpayers whose parcels are abutting, benefited or accommodated by the public improvement in question join the petition or provided that taxpayers whose property valuation as assessed for taxable purposes within the borough amounts to at least 50% of the total property valuation of the properties being assessed for the public improvement join the petition. The petition must be presented within three months of the adoption of the resolution or enactment of the ordinance levying the assessment.

(b) Viewers.--The court shall appoint three disinterested viewers, none of whom shall be a resident of that portion of the borough that is benefited or accommodated by the public improvement in question, and the viewers shall proceed under this act and 26 Pa.C.S. (relating to eminent domain) for the assessment of damages and benefits by viewers. Upon the filing of the petition by taxpayers for the appointment of viewers, any assessment made by the borough council and any proceedings shall be stayed pending the disposition of the petition by the court.

(2106-A added May 17, 2012, P.L.262, No.43)

Section 2107-A. Payment of assessments in installments.

(a) Installments.--Whenever any ordinance is passed providing for a public improvement the expense of which is to be defrayed by an assessment against properties benefited by the improvement, either by the front foot or benefit conferred methods, the ordinance shall specify the length of time over which the installments may be extended and whether payments are to be made by equal annual or more frequent installments. If the provisions of section 2101-A(b)(2) and this subsection conflict, the provisions of section 2101-A(b)(2) shall prevail to the extent of the conflict.

(b) Commencement of payments and rate of interest.--The ordinance shall set a time when the installment payments shall commence and shall set forth the rate of interest for the installments which shall not be more than 6% per year.

(c) Installment agreement.--The borough shall enter into a written installment agreement with each property owner, subject to the requirements of the ordinance pertaining to such agreements and this article.

(d) Unpaid installments.--If any of the installments shall remain unpaid for 60 days after the same has become due and payable, the entire unpaid assessment, plus unpaid accrued interest and any costs, shall be due and payable and the borough solicitor shall proceed to collect the same by filing a lien in the same manner as municipal claims are filed or by action in assumpsit.

(e) Prepayment.--A property owner upon whom an assessment has been made may pay all or as many of the installments before the same are due, with interest and costs to the due date of the next installment.

(2107-A added May 17, 2012, P.L.262, No.43)

Section 2108-A. Collection of assessments.

(a) Collection methods.--If any assessment remains unpaid at the expiration of the 30-day personal notice, and an installment agreement has not been entered into pursuant to section 2106-A, the borough solicitor shall collect the unpaid assessment, with interest from the time of completion of the improvement, or from the time of filing a certificate of assessment with council, plus costs, by filing a lien to be collected in the same manner as municipal claims or by action in assumpsit. When a property owner has two or more lots,

against which there is an assessment for the same improvement, all of the lots may be embraced in one claim.

(b) Payment location.--Assessments, whether paid one time or by installments, shall be payable at the office of the borough treasurer or any other place as the applicable ordinance shall provide.

(2108-A added May 17, 2012, P.L.262, No.43)

ARTICLE XXII

STORM SEWERS AND WATER COURSES

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 2201. Authority of Boroughs.--Any borough may, by ordinance, after obtaining any required permit from the Department of Environmental Protection, or other Federal or State entity, do the following:

(1) Widen and deepen any water course running through or within the borough, erecting dykes, retaining walls and embankments along the water course as may be necessary to prevent the water from overflowing the banks;

(2) Confine and pave any water course or portion thereof, other than a navigable stream;

(3) Engage in channel improvement through the construction and maintenance of storm sewers and the accumulation and discharge of water into storm sewers;

(4) Vacate or alter the course or channel of any water course, other than a navigable stream;

(5) Acquire, operate and maintain areas for the infiltration, detention or retention of storm water and for other methods of storm water management authorized by the Department of Environmental Protection.

For any of these purposes, a borough may enter upon and condemn property and materials as may be necessary. No borough may confine and pave, vacate or alter any water course used by any municipality, municipal authority or water company as a source of supply, unless the municipality, municipal authority or water company shall first consent to the confining and paving, vacation or alteration.

(2201 amended May 17, 2012, P.L.262, No.43)

Section 2202. Right of Entry Upon Lands.--Any borough may enter upon any land lying near any water course, and secure such material as may be necessary for the purpose of making and repairing the embankments along the water course, when the same cannot be obtained by contract at reasonable price. The boroughs shall cause no unnecessary damage to the owners of the land, and shall repair any fences, structures or damage to the land that is caused by the borough, and shall compensate the owner, either by agreement or in accordance with the law governing eminent domain, for any materials obtained pursuant to this section.

(2202 amended May 17, 2012, P.L.262, No.43)

Section 2203. Manner of Financing Work.--A borough may pay for the costs and expenses of any work authorized under section 2201 wholly or in part from any moneys of the borough available for the purpose. To the extent that a borough does not receive assistance from the Federal, State or county government for the costs and expenses of the work, the borough may assess the benefited properties located within the drainage area of the water course in accordance with Article XXI-A.

(2203 amended May 17, 2012, P.L.262, No.43)

Section 2204. Proceedings to Assess Damages.--Any person aggrieved by any ordinance enacted or action taken pursuant to

the preceding sections of this article may file a complaint with the court of common pleas to fix and determine the damages for property taken, injured or destroyed pursuant to the law governing eminent domain.

(2204 amended May 17, 2012, P.L.262, No.43)

Section 2205. Unlawful to Build Within Right-of-Way of Storm Sewers.--It shall be unlawful for any person to erect any building or make any improvement within the right-of-way of any storm sewer laid out after due notice of the laying out of the storm sewer. If the erection or improvement is made, no allowance shall be had in the assessment of damages.

(2205 added May 17, 2012, P.L.262, No.43)

Section 2206. Power to Acquire Storm Sewer Systems.--(a) A borough may, by ordinance, acquire ownership of storm sewers, culverts and the necessary inlets and appliances for surface, under surface and storm sewer drainage by purchase, by the exercise of eminent domain pursuant to 26 Pa.C.S. (relating to eminent domain) or by gift from the owner or owners.

(b) In eminent domain proceedings, the viewers shall assess the costs and expenses of the storm sewer, culverts, inlets and appliances acquired by the borough, upon the property or properties benefited, according to benefits. Any deficiency that is not assessed upon the benefited property or properties shall be paid by the borough.

(2206 added May 17, 2012, P.L.262, No.43)

ARTICLE XXIII UNDERGROUND CONDUITS (Repealed)

(Art. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 2301. Powers of Boroughs.--(2301 repealed May 17, 2012, P.L.262, No.43)

Section 2302. Borough Regulations.--(2302 repealed May 17, 2012, P.L.262, No.43)

Section 2303. Acquisition of Conduits; Assessment of Damages.--(2303 repealed May 17, 2012, P.L.262, No.43)

Section 2304. Borough Not to Surrender Rights.--(2304 repealed May 17, 2012, P.L.262, No.43)

ARTICLE XXIV WATER SYSTEM

(Art. hdg. amended May 17, 2012, P.L.262, No.43)

(a) General Powers to Supply Water
(Subdiv. hdg. amended May 17, 2012, P.L.262, No.43)

Section 2401. Power to Supply Water and Make Regulations.--(a) Boroughs may supply water for the use of the public within the borough, by constructing or purchasing and operating a water system, by entering into contract with persons or corporations authorized to supply water within the limits of the borough, or partly by constructing or purchasing and operating a water system, and partly by entering into a contract.

(b) Borough council may make regulations for the protection of water pipes, reservoirs and other apparatus used in the supplying or storing of water, for the prevention of the waste of water supplied and for the drilling of water wells within the borough.

(c) Borough council shall fix the rates to be charged for the water furnished to individuals, partnerships, associations

or corporations and shall provide for the collection of water rents from users of water supplied by the borough. The borough's provision of water to users outside the borough limits, as to character of service, extensions and rates, shall be subject to any applicable approval, regulation, or control imposed by 66 Pa.C.S. Pt. I (relating to Public Utility Code).

(2401 amended May 17, 2012, P.L.262, No.43)

Section 2402. Contracts Not to Abridge Powers.--A borough's power to construct and operate a water system as provided in section 2401 shall not be abridged by the borough entering into a contract with a person or corporation for the supply of water, but the power shall remain in force as though the contract had not been made.

(2402 amended May 17, 2012, P.L.262, No.43)

Section 2403. Issue of Bonds Where Water System Acquired.--Where the price and terms are agreed upon, a borough may become the owner of and operate any water system owned and operated by a corporation furnishing water within the acquiring borough, and in nearby municipal corporations, and may pay for the water system from the revenues derived from general obligation bonds or utility bonds issued in the manner provided by 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing).

(2403 amended May 17, 2012, P.L.262, No.43)

Section 2404. Refunding Bonds.--(a) If a borough acquires a water system, subject to any existing lien or liens and, at the time of acquisition, issues utility bonds secured by the liens on the water system and which imposes no municipal liability, then, when the utility bonds mature or at any time prior, the borough may issue and sell utility bonds for the purposes of refunding the outstanding bonds. The refunding bonds shall be issued as utility bonds pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing). The issued bonds shall not be deemed to be the creation of new obligations but be deemed a continuation of the bonds existing or created at the time of the original acquisition of the water system.

(b) The bonds shall not be refunded for a longer period than twenty years, and the refunding lien bonds issued shall not bear interest at a rate exceeding six percent. The amount of the issued refunding lien bonds shall not exceed, in the aggregate, the amount of the bonds to be refunded, provided that any moneys placed in any fund by the borough or by any commission of the water system for the purpose of redeeming or paying the bonds at maturity, shall be first applied to the payment, as far as applicable, of the principal of the bonds to be refunded, and the balance of the bonds only shall be refunded by the issue of new bonds.

(2404 amended May 17, 2012, P.L.262, No.43)

Section 2405. Rates in Particular Boroughs.--(2405 repealed May 17, 2012, P.L.262, No.43)

Section 2406. Contracts to Supply Water for Municipal Purposes.--Boroughs may receive bids from water companies and municipal authorities, authorized to do business within the borough, and from other municipalities operating a water system, for the supply of water for fire protection and for other municipal purposes, and may contract for the supply of water with the company.

(2406 amended May 17, 2012, P.L.262, No.43)

Section 2407. Power to Supply Water Beyond Limits of Borough.--Whenever any borough is maintaining a water system, it shall be lawful for the borough to supply water to persons and corporations outside the limits of the borough, but shall

be subject to any applicable approval or regulation imposed by 66 Pa.C.S. Pt. I (relating to Public Utility Code). The privilege shall not conflict with the corporate rights of any water company, or the rights of any other municipality or municipal authority.

(2407 amended May 17, 2012, P.L.262, No.43)

Section 2408. Assessment for Water Mains.--Boroughs shall have power to assess the whole cost, or any part of the cost, of construction of new water mains, built in connection with the establishment or extension of a municipally owned water supply system in accordance with Article XXI-A, whether the mains are located within or without the limits of the borough.

(2408 amended May 17, 2012, P.L.262, No.43)

Section 2409. Sale of Water System.--(a) By ordinance, a borough may sell all or part of its water system to a purchaser at an agreed upon price, and thereafter for all purposes that price shall be deemed to be the purchaser's original cost less accrued depreciation of the plant at the date of purchase. No such ordinance, however, shall take effect until the expiration of ten days following its enactment and if, within that ten-day period, a protest, signed by at least ten percent of the registered electors of the borough is filed with the borough council, the sale shall be stayed pending a referendum on the ordinance.

(b) The borough secretary within five days following the filing of the protest, shall certify to the county board of elections a copy of the ordinance and the fact of the protest, together with the number of signers of the protest, and the county board of elections shall direct a referendum to be held on the matter at a special election to be held at the time of the next general or municipal or primary election occurring not less than sixty days from the date of the certification by the borough secretary. The referendum shall be conducted by the county board of elections in the manner provided by the Pennsylvania Election Code for the holding of special elections. The ballot used when voting upon the question shall contain a question stating the nature and purpose of the ordinance and providing that a "yes" vote shall be to sustain the ordinance and a "no" vote shall be to reject it. If more electors vote to sustain the ordinance than to reject it, the ordinance shall take effect immediately. If more electors shall vote to reject the ordinance than to sustain it, the ordinance shall be null and void and shall not take effect.

(2409 amended May 17, 2012, P.L.262, No.43)

(a.1) Acquisition by Eminent Domain
(Subdiv. hdg. renumbered and amended
May 17, 2012, P.L.262, No.43)

Section 2411. Appropriation of Lands and Waters.--Any borough desiring to build a water system or to improve its water supply may appropriate springs, streams, rivers, or creeks and lands, easements and rights of way, within or without its limits, provided that if the appropriation is outside its limits, the appropriation shall be in compliance with 26 Pa.C.S. § 206 (relating to extraterritorial takings). For the purpose of conducting water obtained outside its limits a borough may lay pipes under and over any lands, rivers, streams, bridges, highways and under railroads. No water appropriated under the provisions of this section shall be used in a manner as to deprive the owner of the water of the free use and enjoyment of the same for domestic or farm purposes. The exercise of the

powers in this section shall be subject to any required approvals or permits from the Department of Environmental Protection or other Federal or State entity.

(2411 amended May 17, 2012, P.L.262, No.43)

Section 2412. Agreements as to Damages; Bonds.--Prior to any appropriation pursuant to section 2411, the borough shall attempt to agree with the owner as to the damage done, or likely to be done. If the parties cannot agree, the borough shall proceed pursuant to 26 Pa.C.S. (relating to eminent domain).

(2412 amended May 17, 2012, P.L.262, No.43)

Section 2413. Appointment of Viewers; Proceedings.--(2413 repealed May 17, 2012, P.L.262, No.43)

(a.2) Acquisition by Purchase after Appraisement
(Subdiv. hdg. renumbered and amended
May 17, 2012, P.L.262, No.43)

Section 2421. Petition to Court Expressing Desire to Acquire a Water System.--Whenever any person, firm, or corporation owns any water system, and a borough is desirous of owning and operating the water system, a borough may present its petition to the court of common pleas of the county where the water system is located, setting forth that the borough is desirous of owning the water system, and that it will be necessary to issue bonds, and that a value should be placed upon the water system, including all property, real and personal, used in connection therewith.

(2421 amended May 17, 2012, P.L.262, No.43)

Section 2422. Appointment of Engineers as Appraisers to Make Valuation.--The court shall appoint three civil engineers as appraisers, to value and appraise the water system, and the property used in connection with the water system, and the contracts or agreements with municipalities. The civil engineers shall file their report in the court within three months after their appointment, unless the time is extended by the court.

(2422 amended May 17, 2012, P.L.262, No.43)

Section 2423. Powers of Appraisers.--The appraisers shall have access to the books and records of the person, firm, or corporation owning the water system, to inform themselves as to the income and value of the water system. They shall have power to administer oaths and are authorized to take the testimony of witnesses. Their report shall be final if not appealed from.

(2423 amended May 17, 2012, P.L.262, No.43)

Section 2424. Appeal from Appraisement.--Within ten days after notice of the filing of any report in court, either party may appeal from the appraisal by filing a petition for a hearing before the court, alleging an undervaluation or overvaluation of the property. The court shall fix a time when the appeal may be heard, giving at least ten days' notice to the parties, and, upon such hearing, the court shall have power to affirm or modify the report as to it appears just and proper.

(2424 amended May 17, 2012, P.L.262, No.43)

Section 2425. Effect of Failure of Owner of Works to Accept Price Fixed.--After the value is finally determined, the borough is authorized to buy the water system at the valuation so fixed. The person, firm, or corporation owning the water system shall, within ten days after notice, file in court its consent to sell and convey its water system and property to the borough at the valuation fixed and, in default of the filing of the consent, the person, firm, or corporation shall cease to have any exclusive privilege of supplying the borough, or the citizens

of the borough, with water, and the borough may install the water system as may be necessary for the accommodation of the public.

(2425 amended May 17, 2012, P.L.262, No.43)

Section 2426. Bond Issue and Limitations.--For the purpose of purchasing a water system, the borough may issue utility bonds in the manner provided by 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing). The bonds shall not exceed in amount the value fixed by the appraisers or the court. The proceeds of the sale of the bonds shall be used exclusively for the purpose of paying for the property acquired.

(2426 amended May 17, 2012, P.L.262, No.43)

Section 2427. Limit of Bond Issue.--(2427 repealed May 17, 2012, P.L.262, No.43)

(a.3) Power to Lease a Water System
(Subdiv. hdg. renumbered and amended
May 17, 2012, P.L.262, No.43)

Section 2431. Lease of a Water System.--The council of any borough may enter into a contract with any individual, partnership, association, or corporation, for the leasing of any water system of the individual, partnership, association, or corporation.

(2431 amended May 17, 2012, P.L.262, No.43)

Section 2432. Term of Lease; Rental.--The lease term may be for a term of years and at a rental price, as shall be agreed upon by the borough and the individual, copartnership, association, or corporation.

(2432 amended May 17, 2012, P.L.262, No.43)

Section 2433. Operation of Property.--A borough shall have the same powers in operating a leased water system as it would have in operating a purchased or condemned water system.

(2433 amended May 17, 2012, P.L.262, No.43)

Section 2434. Rates.--(2434 repealed May 17, 2012, P.L.262, No.43)

(a.4) Joint Water System
(Subdiv. hdg. renumbered and amended
May 17, 2012, P.L.262, No.43)

Section 2436. Joint Acquisitions and Constructions.--A borough may join with one or more municipal corporations in the construction or acquisition and maintenance of a water system.

(2436 amended May 17, 2012, P.L.262, No.43)

Section 2437. Permit of Department of Environmental Protection.--The construction of a water system shall be commenced only after plans for the water system has been filed with the Department of Environmental Protection and, if required by law, other Federal or State entities, and permits issued in accordance with law.

(2437 amended May 17, 2012, P.L.262, No.43)

Section 2438. Joint Commission of a Water System.--The municipal corporations joining in the construction or acquisition and maintenance of a water system may, by ordinance, provide for the appointment of a joint commission of a water system in order to facilitate the construction, operation and maintenance of the water system and to secure preliminary surveys and estimates. The joint commission shall act generally as the advisory and administrative agency in the construction of the improvement and its subsequent operation and maintenance and shall be composed of one representative from each of the

joining municipal corporations. The members of the commission shall serve for terms of six years each from the dates of their respective appointments and until their successors are appointed. The commission shall organize by the election of a chair, secretary and treasurer. The secretary and treasurer may be the same person. The municipal corporations may in the ordinances creating the commission authorize it to appoint an engineer, a solicitor and other assistants as are deemed necessary and agree to share the compensation for attending its meetings as shall be fixed in the budget prepared by the commission and submitted to and adopted by the joining municipal corporations. The budget item providing for the compensation to the members for attending meetings shall not exceed five hundred dollars (\$500) per year, but members in addition thereto shall be entitled to actual expenses to be paid by the respective municipal corporations that the members represent. The fee for each attendance at meetings shall be stipulated and no member shall be paid a fee for any meeting the member does not attend.

(2438 amended May 17, 2012, P.L.262, No.43)

(a.5) Condemnation of Lands for Road Purposes
and to Prevent Contamination
(Subdiv. hdg. renumbered and amended
May 17, 2012, P.L.262, No.43)

Section 2441. Prevention of Contamination of Water Supply; Acquisition of Lands to Reconstruct Roads.--(a) If a borough finds it necessary, when storing water for supply to the public, to occupy and overflow portions of any public road with water, or whenever any public road leads into or crosses over any reservoir used for the storage of water, the borough shall, at its own expense, reconstruct or build a road in a favorable location and it shall be in the same or better condition as the original road. A borough is authorized to condemn land for these purposes if an agreement as to price cannot be reached with the landowner. A condemnation of land outside the borough limits shall be in conformity with 26 Pa.C.S. § 206 (relating to extraterritorial takings).

(b) A borough may acquire, by purchase or condemnation, land along and contiguous to streams of water or reservoirs from which water is taken for public use if necessary to preserve the water from contamination.

(2441 amended May 17, 2012, P.L.262, No.43)

Section 2442. Filing Maps and Plans.--If a change is made pursuant to section 2441(a), the borough shall file in the court of common pleas a map or plan showing the change of road, and if the road is outside the limits of the borough, it shall furnish to the governing body of the municipal corporation, a copy of the map.

(2442 amended May 17, 2012, P.L.262, No.43)

Section 2443. Condemnation of Lands to Prevent Contamination.--(2443 repealed May 17, 2012, P.L.262, No.43)

Section 2444. Condemnation Proceedings.--(2444 repealed May 17, 2012, P.L.262, No.43)

(a.6) Commission of the Water System
(Subdiv. hdg. renumbered and amended
May 17, 2012, P.L.262, No.43)

Section 2451. Commission May Be Established.--Whenever any borough owns and maintains a water system, there may be

established in the borough, by ordinance, a commission of the water system, which shall have the power of a nonprofit corporation, to be composed of either three or five citizens of the borough, appointed by the borough council who shall be known as commissioners of the water system. At any time after three years from the first appointment of the commissioners of the water system, the borough may abolish the commission by repealing the ordinance establishing the same, which shall terminate the terms of the commissioners then in office.

(2451 amended May 17, 2012, P.L.262, No.43)

Section 2452. Terms of Commissioners; Compensation.--(a)

If a borough establishes a commission of the water system, it shall be the duty of the borough council to appoint the commissioners of the water system. If there are three commissioners, one shall be appointed to serve for one year, one for two years, and one for three years, and annually thereafter, the council shall appoint one commissioner of the water system to serve a term of three years. If there are five commissioners, one shall be appointed to serve for one year, one for two years, one for three years, one for four years and one for five years, and annually thereafter, the council shall appoint one commissioner of the water system to serve a term of five years. In case of a vacancy, the council shall fill the same for the unexpired term. The commissioners of the water system may receive a salary for their services and shall be reimbursed by the borough for all expenses necessarily incurred in the performance of their duties.

(b) The salary of the commissioners shall not exceed in service areas with fewer than five thousand metered accounts a maximum of one thousand eight hundred seventy-five dollars (\$1875) per year or one hundred fifty-six dollars and twenty-five cents (\$156.25) per month; in service areas with five thousand but fewer than ten thousand metered accounts, a maximum of two thousand five hundred dollars (\$2500) per year or two hundred and eight dollars and thirty-three cents (\$208.33) per month; in service areas with ten thousand but fewer than fifteen thousand metered accounts, a maximum of three thousand two hundred and fifty dollars (\$3250) per year or two hundred and seventy dollars and eighty-three cents (\$270.83) per month; in service areas with fifteen thousand but fewer than twenty-five thousand metered accounts, a maximum of four thousand one hundred and twenty-five dollars (\$4125) per year or three hundred and forty-three dollars and seventy-five cents (\$343.75) per month; in service areas with twenty-five thousand but fewer than thirty-five thousand metered accounts, a maximum of four thousand three hundred seventy-five dollars (\$4375) per year or three hundred sixty-four dollars and fifty-eight cents (\$364.58) per month; and in service areas with thirty-five thousand or more metered accounts, a maximum of five thousand dollars (\$5000) per year or four hundred and sixteen dollars and sixty-seven cents (\$416.67) per month.

(2452 amended May 17, 2012, P.L.262, No.43)

Section 2453. Organization of Commissioners.--It shall be the duty of the commissioners of the water system to meet within ten days after their first appointment, and annually thereafter, and organize by electing a president and secretary.

(2453 amended May 17, 2012, P.L.262, No.43)

Section 2454. Powers of Commission.--After organization, the commissioners shall take charge and control of the water system of the borough. The commission shall have power to appoint all necessary officers and agents, and take from the officers and agents security for the faithful performance of

their duties as the commission shall deem proper, to fix the salaries and wages of the officers and agents, to provide for the repair, extension, improvement and maintenance of the water system, and the construction of a new water system, to collect water rents and to make and establish the rates and conditions upon which water will be furnished to applicants, subject to any applicable approval, regulation or control imposed by 66 Pa.C.S. Pt. I (relating to Public Utility Code) and to make bylaws and regulations for the economic and efficient management of the water system, which shall not be inconsistent with any of the laws of the Commonwealth, or the rules and regulations of the Department of Environmental Protection. No such bylaws or regulations shall become effective until they have been approved by the borough council and enacted as ordinances of the borough.

(2454 amended May 17, 2012, P.L.262, No.43)

Section 2455. Issue of Bonds.--The borough may, upon the request of the commissioners of the water system, issue general obligation or non-debt revenue bonds for the extension of the water system or the erection of a new water system. The bonds shall be designated "water system bonds" and shall be issued and sold in the manner provided by 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing).

(2455 amended May 17, 2012, P.L.262, No.43)

Section 2456. Plans and Specifications for the Improvements; Contracts.--The commissioners shall prepare plans and specifications of all work to be performed and materials necessary for the repair, maintenance, and extension of the water system, or the construction of a new water system. The commissioners shall, after plans and specifications for the extension or the construction of a water system has been submitted to and approved by the Department of Environmental Protection, and a permit granted as may be required by law, invite proposals for the performing of the work and the furnishing of materials, and shall advertise for bids as required by law, and shall let contracts to the lowest responsible bidder, and shall take adequate security for the performance of all such contracts and for the payment of all labor and materials.

(2456 amended May 17, 2012, P.L.262, No.43)

Section 2457. Reports by Commission.--The commissioners shall make a monthly report to the borough council of the receipts and disbursements during the preceding month, and annually make a detailed report of the condition of the water system. Both the monthly and annual reports shall be deemed to be public records.

(2457 amended May 17, 2012, P.L.262, No.43)

Section 2458. Care of Funds.--Collectors shall be appointed by the commissioners, pursuant to section 2454, who shall collect all moneys for water rents. The moneys collected shall be deposited weekly with the borough treasurer, who shall return a receipt to the commissioners. All moneys collected shall be kept in a separate fund, and shall be used for the purpose of repairing, maintaining and extending the water system, and the construction of a new water system. All moneys remaining after the expenditures shall be used solely for the payment of any indebtedness on the water system and any indebtedness incurred by the borough for constructing, maintaining, improving, enlarging or extending the water system. No money shall be drawn from the fund except upon order countersigned by the president and secretary of the commission.

(2458 amended May 17, 2012, P.L.262, No.43)

(a.7) Water Connections
(Subdiv. hdg. renumbered May 17, 2012, P.L.262, No.43)

Section 2461. Ordinances to Require Water Connections.--(a) Borough council may, by ordinance, require any owner of property to connect with and use a water system of the borough or municipal authority or a joint water board in either of the following cases:

(1) Except as provided in subsection (b), if the property owner's principal building is located within one hundred fifty feet of a water system or any part or extension of the system.

(2) If the property owner's principal building has no supply of water which is safe for human consumption.

(b) A property owner who, after the effective date of this subsection, is subject to mandatory connection pursuant to subsection (a)(1) shall not be required to connect to the water system pursuant to that subsection if all of the following conditions exist:

(1) The water system or part or extension of the system that is within one hundred fifty feet of the principal building was in existence on the effective date of this subsection.

(2) The principal building has its own supply of water which is safe for human consumption.

(3) Prior to the effective date of this subsection, the property owner was not required to connect to the existing system.

(c) A borough may also require any owner of property to install and maintain a backflow prevention device based on the degree of potential hazard of the connected property in accordance with the act of November 10, 1999 (P.L.491, No.45), known as the "Pennsylvania Construction Code Act," and regulations promulgated thereunder.

(d) A borough may assess penalties for the violation of ordinances pertaining to water connections or backflow prevention devices.

(2461 amended May 17, 2012, P.L.262, No.43)

Section 2462. Notice of Ordinance; Failure to Comply With Ordinance.--The owner shall be given at least forty-five days' notice of any ordinance requiring a water connection, and, upon failure of the owner to make the required connection, the borough may make the connection, and collect the cost from the owner by a municipal claim or in an action of assumpsit. All connections required shall be uniform.

(2462 amended May 17, 2012, P.L.262, No.43)

Section 2463. Water Main Tapping Fees.--Any borough may, by ordinance, provide for charging a tapping fee calculated in accordance with 53 Pa.C.S. § 5607 (relating to purposes and powers) whenever the owner of any property connects the property with a water main constructed or acquired by the borough. The tapping fee shall be in addition to any charges assessed and collected against the property in the construction or acquisition of the water main by the borough. Whenever a water main or part or extension owned by a borough has been constructed by the borough at the expense of a private person or corporation or has been constructed by a private person or corporation under the supervision of the borough at the expense of the private person or corporation, the borough shall have the right to charge a tapping fee calculated in accordance with 53 Pa.C.S. § 5607 and refund the tapping fee or any part of the tapping fee to the person or corporation who has paid for the construction of the water main or any part or extension. The

total of the refunds shall never exceed the cost of the system or any part or extension to the person or corporation paying for the construction.

(2463 amended May 17, 2012, P.L.262, No.43)

(b) Manufacture and Supply of Electricity
(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 2471. Manufacture and Purchase of Electricity.--(2471 repealed May 17, 2012, P.L.262, No.43)

Section 2471.1. Operation of Electric Plants.--(2471.1 repealed May 17, 2012, P.L.262, No.43)

Section 2471.2. Municipal Power Agencies.--(2471.2 repealed May 17, 2012, P.L.262, No.43)

Section 2471.3. Additional Contracting Authority for Electric Power and Energy.--(2471.3 repealed May 17, 2012, P.L.262, No.43)

Section 2472. May Regulate Use and Prices.--(2472 repealed May 17, 2012, P.L.262, No.43)

Section 2473. Sale of Electric Light Works.--(2473 repealed May 17, 2012, P.L.262, No.43)

Section 2474. Purchase of Electric Light Works.--(2474 repealed May 17, 2012, P.L.262, No.43)

Section 2475. Petition for Viewers.--(2475 repealed May 17, 2012, P.L.262, No.43)

Section 2476. Duty of Viewers.--(2476 repealed May 17, 2012, P.L.262, No.43)

Section 2477. Appeal from Report; Trial by Jury.--(2477 repealed May 17, 2012, P.L.262, No.43)

Section 2478. Exceptions to Report.--(2478 repealed May 17, 2012, P.L.262, No.43)

Section 2479. Notices.--(2479 repealed May 17, 2012, P.L.262, No.43)

(c) Operation of Gas Wells; Gas Works
(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 2481. Authority to Purchase Natural Gas Well.--(2481 repealed May 17, 2012, P.L.262, No.43)

(d) Airports
(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 2491. Authority to Secure Lands for Airports.--(2491 repealed May 17, 2012, P.L.262, No.43)

Section 2492. Authority to Establish Airports and Lease the Same.--(2492 repealed May 17, 2012, P.L.262, No.43)

Section 2493. Joint Airports.--(2493 repealed May 17, 2012, P.L.262, No.43)

ARTICLE XXIV-A
MANUFACTURE AND SUPPLY OF ELECTRICITY
(Art. added May 17, 2012, P.L.262, No.43)

Section 2401-A. Definitions.

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

"Municipal power agency." A separate body politic and corporate under the laws of this Commonwealth created by agreement between or among two or more boroughs pursuant to section 2404-A.

"Project." Electric plants, hydroelectric plant works, system, facilities or real or personal property, together with their parts and appurtenances, used or useful in connection with the generation, production, transmission, purchase, sale, exchange or interchange of electric power or energy, or any interest therein or right to capacity thereof.

"Revenue bond." An instrument imposing an obligation for the repayment of money borrowed, payable as to both principal and interest exclusively from the income and revenues derived from an interest in an electric plant or project.

(2401-A added May 17, 2012, P.L.262, No.43)

Section 2402-A. General powers.

(a) Electric plants and projects.--A borough may, either singly or jointly, manufacture or purchase electricity for the use of its inhabitants, own, construct, acquire by lease, purchase or otherwise gain an interest in, operate and manage or cause to be operated and managed, an electric plant or project located within or without this Commonwealth. In the exercise of any of the foregoing powers, a borough may join with any other borough, political subdivision, agency or instrumentality of the Federal Government, State government, political subdivision of another state, private corporation empowered to supply electricity, electric cooperative corporation formed under 15 Pa.C.S. Ch. 73 Subchs. A (relating to preliminary provisions) and B (relating to powers, duties and safeguards), or previously formed under the former act of June 21, 1937 (P.L.1969, No.389), known as the Electric Cooperative Corporation Act, or electric cooperative corporation in another state.

(b) Contracts for supplying electricity.--A borough owning or operating an electric plant may make contracts for supplying electricity for commercial purposes outside the limits of the borough, provided that the borough has received the consent of the other municipal governing body and, if applicable, subject to 66 Pa.C.S. Pt. I (relating to Public Utility Code).

(c) Additional sources.--A borough may conduct studies as necessary to determine the feasibility and cost of any additional sources and supplies of electric power and energy and may cooperate with private power companies, other boroughs, electric cooperative corporations and other public or private electric power entities, within or without this Commonwealth, in the development of electric power and energy.

(d) Consent of borough to supply electricity.--No person, partnership or corporation may introduce electric current for light, heat or power purposes, without the consent of the borough council, into the limits of any borough that is furnishing electric current to its inhabitants, provided, however, that this subsection shall not apply to any person, partnership or corporation manufacturing electricity exclusively for its own use.

(e) Corporate rights.--Nothing in this article may conflict with the corporate rights of any corporation empowered to supply electricity in the territory adjacent to the borough, or with the rights of any other municipality.

(f) Restrictions.--A borough shall not become a stockholder in, obtain or appropriate money for or loan its credit to any corporation, association, institution or individual or otherwise

act contrary to the provisions of section 9 of Article IX of the Constitution of Pennsylvania.

(g) General powers.--A borough, through its governing body, shall have the power to do and accomplish all actions reasonably necessary and incident to the administration, operation and management of a plant or project.

(2402-A added May 17, 2012, P.L.262, No.43)

Section 2403-A. Specific powers.

(a) Specific powers enumerated.--In addition to exercising its general powers under section 2402-A, a borough, through its governing body, shall have the following powers:

(1) To contract for the purchase, sale, exchange, interchange, wheeling, pooling or transmission of electric power and energy or for the right to the capacity thereof, inside and outside of this Commonwealth, to and from any public or private power entities, private power companies, other boroughs and electric cooperative corporations.

(2) To regulate the use of and the charge for electricity furnished by the borough for use throughout the borough. A borough may fix, establish, maintain and collect or authorize by contract or otherwise, the establishment, levying and collection of the rates, fees, rental or other charges, including connection charges, for the services afforded by or in connection with any properties which the borough constructs, erects, owns, acquires, operates or manages, and for the sale or transmission of electric energy and power as it deems necessary, proper, desirable and reasonable.

(3) To procure insurance against any losses in connection with its property, operations or assets in the amounts and from such insurers as the governing body or bodies deem desirable.

(4) To contract for and to accept any gifts, grants or loans of funds or property, or financial or other aid in any form from the United States of America or any agency or instrumentality of the United States of America, or from any other source.

(5) To lease, or otherwise grant the use of, and to make charges for the use of any property or facility owned or controlled by the borough.

(6) To procure from the United States of America or any agency or instrumentality of the United States of America, or from any state or agency or instrumentality of the State, any consents, authorizations or approvals which may be requisite to enable ownership, operation, construction or repair.

(7) To borrow money and from time to time to issue revenue bonds, and to enter into agreements with the purchasers of the revenue bonds. Any borough that incurs debt for the construction or purchase of an electric plant, or land on which to construct an electric plant, or gains an interest in an electric plant or project under section 2402-A shall incur the debt in accordance with and to the extent permitted by 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing). Interest and principal paid on revenue bonds issued by a borough under this article shall be exempt from all State taxes of whatsoever kind or nature.

(8) To mortgage any property acquired or owned under section 2402-A to secure the payment of its revenue bonds or other obligations issued to finance the acquisition, ownership or repair.

(9) To sell, by ordinance, all or part of its electric works to a purchaser for the sale price agreed upon by the parties, and thereafter, for all purposes, that price shall be deemed to be the purchaser's original cost less accrued depreciation of the plant at the date of purchase.

(10) To purchase the electric works of any person, partnership, or electric company organized under the laws of this Commonwealth that is furnishing light to the borough or the public within the borough. The borough and the person, partnership or a majority in value of the stockholders of a corporation, may agree upon the purchase price, but upon failure of the parties to agree on the price, the borough may proceed according to the laws of eminent domain.

(b) Eminent domain.--In the erection and extension of an electric plant or project under this article, and for all other purposes authorized by this act, a borough may enter upon, appropriate, injure or destroy private lands, property or material according to the proceedings set forth in 26 Pa.C.S. (relating to eminent domain). A borough, however, shall not have the power of condemnation with regard to any property of a private or public retail electric supplier which geographically lies beyond the boundaries of the corporate limits of the borough.

(2403-A added May 17, 2012, P.L.262, No.43)

Section 2404-A. Municipal power agencies.

(a) General rule.--Two or more boroughs may form a municipal power agency by the execution of an agency agreement authorized by an ordinance of the governing bodies of each borough. The agency agreement shall state:

(1) The name of the agency, which shall include the words "municipal power agency."

(2) The names of the boroughs which have approved the agency agreement and are initial members of the municipal power agency.

(3) That the municipal power agency is created pursuant to the authority granted by this act.

(4) The names and addresses of the persons initially appointed by the governing bodies to act as representatives to the municipal power agency from the member boroughs.

(5) The limitations, if any, placed on the powers or terms of representatives appointed by the governing bodies of the member boroughs.

(6) The names and addresses of the initial board of directors of the municipal power agency, if known by the time of filing, which shall be constituted by not less than five persons who are representatives of the member boroughs, selected by the vote of a majority of the representatives.

(b) Certificate of incorporation.--The agency agreement under subsection (a) and a certified copy of the ordinance of the governing body of each borough shall be filed for record with the Secretary of the Commonwealth. If the agency agreement meets the requirements of this section, the Secretary of the Commonwealth shall record the agreement and issue and record a certificate of incorporation which shall be conclusive proof of substantial compliance with the requirements of this section. The certificate shall state the name of the municipal power agency and the fact and date of incorporation. Upon the issuance of the certificate of incorporation, the existence of the municipal power agency as a political instrumentality of the Commonwealth shall begin.

(b.1) Open meetings.--Regular and special meetings of the representatives of member boroughs and the board of directors

as provided in this section shall be subject to 65 Pa.C.S. Ch. 7 (relating to open meetings).

(c) Bylaws.--The bylaws of the municipal power agency and any amendments, shall be proposed by the board of directors and shall be adopted by a majority vote of the representatives of the member boroughs, unless the agency agreement requires a greater vote at a meeting held after notice. Subject to the provisions of the agency agreement, the requirements of this act and the laws of this Commonwealth, the bylaws shall state:

- (1) the qualifications of member boroughs, and limitations, if any, upon their number;
- (2) conditions of membership, if any;
- (3) the manner and time of calling regular meetings of representatives of member boroughs;
- (4) the manner and conditions of termination of membership; and
- (5) such other provisions for regulating the affairs of the municipal power agency as the representatives of the member boroughs shall determine to be necessary.

(d) Registered office.--Every municipal power agency shall maintain an office in this Commonwealth to be known as its registered office. When a municipal power agency desires to change the location of its registered office, it shall file with the Secretary of the Commonwealth a certificate of change of location of registered office, stating the new location by address, including street and number, if any, and effective date of change. When the certificate of change of location has been duly filed, the board of directors may make the change without any further action.

(e) Directors.--Each of the directors shall hold office for the term for which the director has been selected and until a successor has been selected and has qualified. Directors shall discharge their duties in good faith, and with that diligence and care which an ordinary prudent person in a like position would exercise under similar circumstances. The agency agreement or the bylaws may prescribe the number, term of office, powers, authority and duties of directors, the time and place of their meetings and other regulations concerning directors, in a manner consistent with law. Except where the agency agreement or bylaws prescribe otherwise, the term of office of a director shall be for one year. Except where the agency agreement or bylaws prescribe otherwise, a meeting of the board of directors may be held at any place within this Commonwealth designated by the board, after notice, and an act of the majority of the directors present at a meeting at which a quorum is present is the act of the board. Except where the agency agreement or bylaws prescribe otherwise, any vacancy occurring on the board shall be filled by a person nominated by the remaining members of the board and elected by a majority of representatives of the member boroughs.

(f) Officers.--Except where the agency agreement or bylaws prescribe otherwise, the board of directors shall appoint a president from its membership, and a secretary, treasurer and any other officers or agents deemed necessary who may, but need not be, borough representatives or directors. An officer may be removed with or without cause by the board of directors. Officers of the municipal power agency shall have the authority and duties in the management of the business of the municipal power agency that the agency agreement or bylaws prescribe or, in the absence of such prescription, as the board of directors determines.

(g) Representatives of member boroughs.--Except as otherwise provided in the agency agreement or the bylaws, the duly authorized representatives of each member borough shall act as and vote on behalf of that borough. Except where the agency agreement or bylaws provide otherwise, representatives of the member boroughs shall hold at least one meeting each year for the election of directors and for the transaction of any other business. Except where the agency agreement or bylaws prescribe otherwise, special meetings of the representatives may be called for any purpose upon written request to the president or secretary to call the meeting. Such officer shall give notice of the meeting to be held between ten and 60 days after receipt of the request. Unless the agency agreement or bylaws provide for a different percentage, a quorum for a meeting of the representatives of the member boroughs is a majority of the total members and a quorum for meetings of the board of directors is a majority of the membership of the board.

(h) Amendment of agency agreement.--The agency agreement may be amended as proposed at any meeting of the representatives of the members for which notice stating the purpose shall be given to each representative and, unless the agency agreement or bylaws require otherwise, shall become effective when ratified by ordinances of a majority of the governing bodies of the member boroughs. Each amendment and the ordinances approving it shall be filed for record with the Secretary of the Commonwealth.

(i) Appropriations.--Each member borough shall have full power and authority, within budgetary limits applicable to it, to appropriate money for the payment of expenses of the formation of the municipal power agency and of its representative in exercising its functions as a member of the agency.

(j) General powers.--A municipal power agency may own, construct, acquire by lease, purchase or otherwise gain an interest by itself or as co-owner or tenant in common and operate and manage or cause to be operated and managed an electric plant or project located within or without this Commonwealth jointly with any political subdivision, subdivision of the Federal Government, State government, political subdivision of another state, private corporation empowered to supply electricity, electric cooperative corporation formed under the former act of June 21, 1937 (P.L.1969, No.389), known as the Electric Cooperative Corporation Act, or electric cooperative corporation in another state.

(k) Specific powers.--All powers of a municipal power agency shall be exercised by its board of directors, unless otherwise provided by the agency agreement or bylaws. A municipal power agency shall have the power to do and accomplish all actions reasonably necessary and incident to the ownership, construction, acquisition, administration, operation and management of an electric plant or project. Among the specific powers of a municipal power agency shall be the following:

- (1) to sue and be sued;
- (2) to enter into contracts;
- (3) to cooperate with private power companies, boroughs, electric cooperative corporations and other public or private electric power entities inside and outside of this Commonwealth in the development of electric power and energy;
- (4) to make such studies as may be necessary to determine the feasibility and cost of any additional sources and supplies of electric power and energy;

(5) to contract for the purchase, sale, exchange, interchange, wheeling, pooling or transmission of electric power and energy or for the right to the capacity thereof inside and outside of this Commonwealth, to and from any public or private power entities, private power companies, other boroughs and electric cooperative corporations;

(6) to procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as the board of directors deems desirable;

(7) to contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality of the United States of America, or from any other source;

(8) to acquire, hold, use, operate and dispose of personal property;

(9) to acquire, hold, use and dispose of its income, revenues, funds and moneys;

(10) to acquire, own, use, lease, operate and dispose of real property and interests in real property and to make improvements thereon;

(11) to grant the use, by lease or otherwise, and to make charges for the use of any property or facility owned or controlled by it;

(12) to procure from the United States of America or any agency or instrumentality of the United States of America, or from any state or agency or instrumentality of a state, any consents, authorizations or approvals which may be requisite to enable ownership, operation, construction or repair;

(13) to borrow money and from time to time to issue revenue bonds and to enter into agreements with the purchasers of such revenue bonds;

(14) to invest funds not required for immediate use, including, but not limited to, proceeds from the sale of revenue bonds, provided, however, that the power of a municipal power agency to invest shall be the same as that of a borough, as exercised by the borough council pursuant to clause (6) of section 1005 and section 1316; and

(15) to mortgage any property acquired or owned to secure the payment of its revenue bonds or other obligations issued to finance the acquisition, ownership or repair.

(l) Eminent domain.--In the erection and extension of an electric plant or project, and for all other purposes authorized by this act, a municipal power agency may enter upon, appropriate, injure or destroy private lands, property or material according to the proceedings set forth in the law governing eminent domain, provided, however, that a municipal power agency shall not have the power of condemnation with regard to any property of a private or public retail electric supplier which geographically lies beyond the boundaries of the corporate limits of its member boroughs.

(m) Revenue bonds.--A municipal power agency which gains an interest in an electric plant or project may pay all or part of the cost from the revenues derived from the sale of revenue bonds issued in the manner provided by 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing).

(n) Bylaws.--A municipal power agency may make and enforce bylaws or rules which it deems necessary or desirable and may establish, fix, levy and collect or may authorize, by contract, franchise, lease or otherwise, the establishment, levying and

collection of rents, rates and other charges for the services afforded by the municipal power agency, including connection for the services afforded by the municipal power agency, including connection charges or by or in connection with any project or properties which it may construct, erect, acquire, own, operate or control, or with respect to which it may have any interest or any right to capacity thereof and for the sale of electric energy or of generation or transmission capacity or services as it may deem necessary, proper, desirable and reasonable. Rents, rates and other charges shall be at least sufficient to meet expenses thereof, including reasonable reserves, interest and principal payments.

(o) State tax exemptions.--Interest and principal paid on revenue bonds issued by a municipal power agency shall be exempt from all State taxes of whatsoever kind or nature.

(2404-A added May 17, 2012, P.L.262, No.43)

Section 2405-A. Additional contracting authority for electric power and energy.

(a) Additional contracting authority.--In addition to the authority provided under section 2402-A, a borough that, on October 27, 2010, owns or operates electric generation or distribution facilities and a borough that is a member of a nonprofit membership corporation may contract with the nonprofit membership corporation for the following:

(1) The development of electric power and associated energy, including the conduct of investigations or studies necessary to determine the feasibility and cost of additional sources and supplies of electric power and associated energy.

(2) The purchase, sale, exchange, interchange, wheeling, pooling or transmission of electric power and associated energy or the right to the capacity from sources and projects in this Commonwealth or another state for a period not to exceed 50 years.

(b) Contract requirements.--A contract under subsection (a)(2) shall include the purpose of the contract, the duration of the contract and available procedures to terminate the contract subsequent to the repayment of all indebtedness secured under the contract.

(c) Minimum quantity of electric power and energy.--If a borough is a member of a nonprofit membership corporation, a contract under subsection (a)(2) may, if specifically set forth in the contract, obligate the borough to:

(1) take and pay for a minimum quantity of electric power and associated energy if the power and energy is available for delivery;

(2) in connection with a project owned by the nonprofit membership corporation or in which the nonprofit membership corporation obtains an undivided ownership interest, to take or pay for a minimum amount of electric power and energy; or

(3) pay for electric power and energy only if utilized by the borough.

(d) Applicability of minimum requirements.--

(1) The authority under subsection (c)(1) shall apply whether or not the borough accepts delivery of the power and energy.

(2) The authority under subsection (c)(2) shall apply notwithstanding the suspension, interruption, interference or reduction or curtailment of the output of the project or the electric power and energy contracted for, and whether or not:

(i) the electric power and energy is available for delivery to the borough; or

(ii) the borough accepts delivery of the electric power and energy.

(e) Take-or-pay or take-and-pay arrangements.--No borough may be obligated under a take-or-pay or take-and-pay arrangement entered into with a nonprofit membership corporation in which the borough maintains membership unless that obligation is expressly authorized by an act of the borough council.

(f) Restrictions.--A nonprofit membership corporation shall not:

(1) condition membership in the nonprofit membership corporation on the inclusion of any take-or-pay or take-and-pay obligations in a contract under subsection (a)(2); or

(2) except as set forth in subsection (g), require take-or-pay or take-and-pay obligations in a contract with a borough unless the contract meets the criteria of subsection (c)(1) or (2).

(g) Future contracts.--A borough that is a member of a nonprofit membership corporation may enter into future power supply contracts, contract renewals or contract extensions with the nonprofit membership corporation under subsection (c)(3):

(1) with no take-or-pay or take-and-pay obligations as permitted by subsection (c)(1) and (2); and

(2) without prejudice or discrimination as compared to any other borough which chooses to enter into contracts permitted by subsection (c)(1) and (2) with the nonprofit membership corporation.

(h) Future power supply contract terms.--In order to carry out subsection (g), a nonprofit membership corporation which provides or offers electric power and associated energy to a member borough in this Commonwealth under subsection (a)(2) shall offer, to all of its member boroughs in this Commonwealth, future power supply contract terms, contract renewals or contract extensions under subsection (c)(3) on a comparable and nondiscriminatory basis and with similar terms and conditions to future power supply contract terms, contract renewals or contract extensions that would be appropriate under subsection (c)(3) which the nonprofit membership corporation contemporaneously offers to its members in other states.

(i) Payments.--All obligations under a contract under subsection (a)(2) shall be paid from revenues derived from the operation of the borough's electric system, and payments shall be an operating expense of the borough's electric system.

(j) Obligations of other entities.--If explicitly set forth in a contract under subsection (a)(2), a borough may agree to assume, prorate or otherwise become liable for the obligations of another borough of this Commonwealth or of a political subdivision of another state that is a member of the nonprofit membership corporation if the borough or other political subdivision defaults in the payment of its obligations for the purchase of the electric power and associated energy. The contract may include provisions to permit a borough to succeed to the rights and interests of the defaulting borough or political subdivision to purchase electric power and associated energy. A borough's liability for the obligations of a defaulting borough of this Commonwealth or a political subdivision of another state shall not exceed 25% of a borough's initial nominal entitlement to electric power and associated energy under the contract.

(k) Pledge of borough property prohibited.--None of the obligations under the contract may constitute a legal or equitable pledge, charge, lien or encumbrance on any property of the borough or on any of its income, receipts or revenues, except revenues of its electric system. The full faith and credit and the taxing power of the borough shall not be pledged for the payment of an obligation under the contract.

(l) Construction.--The provisions of this section are intended to add to the powers and rights of a borough, and nothing in this section may be construed to limit either the general or specific powers or rights of a borough set forth in this act.

(m) Definition.--As used in this section, the term "non-profit membership corporation" means an entity the membership of which:

(1) consists solely of Pennsylvania boroughs, such as a consortium, buying group or municipal power agency under section 2404-A; or

(2) consists of Pennsylvania boroughs and political subdivisions of another state or states.

(2405-A added May 17, 2012, P.L.262, No.43)

ARTICLE XXV PUBLIC BUILDINGS AND WORKS

(Repealed)

(Art. hdg. repealed May 17, 2012, P.L.262, No.43)

(a) Eminent Domain; General Provisions

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 2501. Exercise of Eminent Domain.--(2501 repealed May 17, 2012, P.L.262, No.43)

Section 2502. Lands Excepted.--(2502 repealed May 17, 2012, P.L.262, No.43)

Section 2503. Declaration of Intention.--(2503 repealed May 17, 2012, P.L.262, No.43)

Section 2504. Proceedings.--(2504 repealed May 17, 2012, P.L.262, No.43)

Section 2505. Payment of Damages and Costs.--(2505 repealed May 17, 2012, P.L.262, No.43)

(b) Refuse Disposal Facilities

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 2511. Power to Purchase Real Estate.--(2511 repealed May 17, 2012, P.L.262, No.43)

Section 2512. Approval of Site.--(2512 repealed May 17, 2012, P.L.262, No.43)

Section 2513. Authority to Take or Appropriate Real Estate.--(2513 repealed May 17, 2012, P.L.262, No.43)

Section 2514. Proceedings.--(2514 repealed May 17, 2012, P.L.262, No.43)

ARTICLE XXV-A AIRPORTS

(Art. added May 17, 2012, P.L.262, No.43)

Section 2501-A. Authority to secure lands for airports.

Any borough is hereby authorized and empowered to acquire, by lease, purchase or condemnation, any land lying either within

or without the limits of the borough which, in the judgment of the council, may be necessary and desirable for the purpose of establishing and maintaining municipal airport facilities. The proceedings for the condemnation of land under the provisions of this article and for the assessment of damages for property taken, injured or destroyed, shall be conducted in the manner provided by the law governing eminent domain. The title acquired by the borough exercising the power of condemnation shall be a title in fee simple.

(2501-A added May 17, 2012, P.L.262, No.43)

Section 2502-A. Authority to establish and lease airports.

Any borough acquiring land under the provisions of this article is authorized and empowered to establish, equip, condition, operate and maintain the land as a municipal airport, and may lease the land, or any part, to any individual or corporation desiring to use the same for aviation purposes. Any borough may enter into a contract, in the form of a lease, providing for the use of the land, or any part, by the Federal Government, for its use of the land for aviation purposes upon nominal rental or without consideration.

(2502-A added May 17, 2012, P.L.262, No.43)

Section 2503-A. Joint airports.

Pursuant to the powers in this article, any borough may, jointly with another municipality, acquire land for aviation purposes, and may jointly operate and maintain the airport on the terms and conditions as agreed upon by the governing bodies of the borough and other municipality.

(2503-A added May 17, 2012, P.L.262, No.43)

ARTICLE XXVI WHARVES AND DOCKS

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 2601. Power With Regard to Wharves and Docks.--(a) Boroughs shall have the power to construct and repair wharves and docks and may acquire, by purchase or condemnation, real estate along navigable waters and within the borough limits as needed for the construction. Prior to any condemnation, a borough shall enact an ordinance authorizing the same.

(b) Boroughs shall also have the following powers:

(1) To regulate, fix and enforce the collection of the rate of wharfage for all public wharves and docks within its limits.

(2) To regulate the anchoring of vessels, boats or rafts within the borough limits.

(3) To regulate the depositing of freight on the public wharves.

(2601 amended May 17, 2012, P.L.262, No.43)

Section 2602. Purchase and Condemnation of Real Estate.--(2602 repealed May 17, 2012, P.L.262, No.43)

Section 2603. Proceedings.--The proceedings before the viewers for the assessment of damages for property taken, injured, or destroyed under this article, and the proceedings on their report shall be as provided in the law governing eminent domain. The costs of all proceedings, including the compensation of the viewers, shall be paid by the borough.

(2603 reenacted May 17, 2012, P.L.262, No.43)

Section 2604. How Damages Assessed.--The damages for the taking or injury of any property for use as a wharf, pier, or bulkhead, shall include full compensation for the value of the property taken or injured. If the property taken or injured shall constitute a part of a plant used as an entirety, the damage to the owner or tenant shall be assessed by taking the

difference in market value of the plant as a whole, including buildings and all equipment installed and used in the plant, before and after taking or injury, and notwithstanding that part of the plant may be separated by a street or highway.

(2604 amended May 17, 2012, P.L.262, No.43)

Section 2605. Leases.--Any borough may lease any wharf or part and collect rent by distress or otherwise. No one term of a lease shall be for a period longer than three years.

(2605 amended May 17, 2012, P.L.262, No.43)

Section 2606. Market-Houses and Terminal Sheds.--Boroughs may erect and maintain market-houses and terminal sheds on wharves, for the receipt and distribution of freight and express. Boroughs may also construct railroad and street railway tracks, or other facilities, on wharves, to provide for the convenient hauling of freight or express matter and may collect rents, tolls, or charges for the use of market-houses, terminal sheds, tracks and facilities. No permit other than a license revocable at will shall be granted, and no exclusive permit for the use of such facilities shall be granted.

(2606 amended May 17, 2012, P.L.262, No.43)

Section 2607. Public Use Preserved.--No structure erected, and no right granted under the powers conferred by any of the preceding sections of this article, shall interfere with the public use of wharves for water-borne commerce.

(2607 reenacted May 17, 2012, P.L.262, No.43)

Section 2608. Saving Clause.--Nothing contained in this article shall be construed as conferring upon boroughs any power conferred by existing law on the Navigation Commission for the Delaware River and its Navigable Tributaries, or to permit boroughs to do any act, or to enact any ordinance, inconsistent with the laws, rules and regulations relating to the commission.

(2608 amended May 17, 2012, P.L.262, No.43)

ARTICLE XXVII

RECREATION PLACES, SHADE TREES, FORESTS

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

(a) Parks and Playgrounds, Et Cetera

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 2701. Power to Maintain, Improve and Acquire.--(a) Any borough may provide, improve, maintain and regulate public parks, parkways and playgrounds, playfields, swimming pools, public baths, bathing places, indoor recreation centers and gymnasiums, hereinafter called "recreation places," within the borough limits or in any adjacent municipal corporation if the other municipal corporation shall, by ordinance, signify its consent thereto.

(b) Any borough may enter upon, appropriate and acquire by gift, devise, purchase, lease, or otherwise, private property or may designate and set apart any lands or buildings, owned by the borough and not dedicated or devoted to other public uses for the purpose of making, enlarging and maintaining recreation places.

(c) Any borough may join with one or more political subdivisions to acquire, create, equip, improve, regulate, maintain and operate any recreation place in accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).

(d) No borough, acting individually or jointly, may acquire private property within the limits of another municipal corporation for the purposes designated in this section, without

the consent of the governing body of the municipal corporation in which the property is located in accordance with the law governing eminent domain.

(e) All expenses incurred in the maintenance, improvement, acquisition or operation of recreation places, as provided in this section, shall be payable from the treasury of the borough, or the borough and other political subdivisions as may be provided for by agreement of the governing bodies. The borough council may annually appropriate, and cause to be raised by taxation, an amount necessary for the purpose of maintaining and operating recreation places, or for paying its share of such amount.

(2701 amended May 17, 2012, P.L.262, No.43)

Section 2702. Power to Acquire.--Any borough may enter upon, appropriate and acquire by gift, devise, purchase, lease, or otherwise, private property within the limits of the borough, or in any adjacent township, or any borough may designate and set apart any lands or buildings, owned by the borough and not dedicated or devoted to other public uses; and two or more boroughs may jointly appropriate and acquire by gift, devise, purchase, lease, or otherwise, private property within the limits of any township adjacent to any of such boroughs, for the purpose of making, enlarging and maintaining recreation places. All the costs and expenses relative to any such property, acquired by two or more boroughs jointly, shall be paid by the respective boroughs in such proportions as may be agreed upon by the councils thereof.

Any borough may likewise acquire private property within the limits of another borough or city, for the purposes designated in this section, if the other borough or city shall, by ordinance, signify its consent thereto.

Section 2703. Appropriations for Public Purposes.--The appropriation of private property for the purpose of making, enlarging and maintaining recreation places, is declared to be the taking of private property for public use, and for all damage suffered by the owners of any property so taken, the funds of the borough raised by taxation shall be pledged as security. The proceedings for the taking of private property and the assessment of damages for private property taken, injured or destroyed under this article shall be as provided in the law governing eminent domain.

(2703 amended May 17, 2012, P.L.262, No.43)

Section 2704. Proceedings.--(2704 repealed May 17, 2012, P.L.262, No.43)

Section 2705. Validation of Prior Acquisitions.--(2705 repealed May 17, 2012, P.L.262, No.43)

Section 2706. Plan of Parks and Playgrounds.--(2706 repealed July 31, 1968, P.L.805, No.247)

Section 2707. No Damages for Building Within Lines.--(2707 repealed July 31, 1968, P.L.805, No.247)

Section 2708. Creation of Recreation Board.--(a) The authority to supervise and maintain recreation places, may be vested in any existing body or board, including the borough council, or in a recreation board, as the borough council shall determine. The council of any such borough may equip, operate and maintain the recreation places, as authorized by this article, and may, for the purpose of carrying out the provisions of this article, employ any officers or employes, as it may deem proper.

(b) Notwithstanding subsection (a), a borough council shall not delegate the power to maintain accounts or expend funds

from the borough treasury for the purposes authorized by this subdivision to any existing or newly created body or board.

(c) Any borough may join or create, with one or more municipalities, a joint recreation board in accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation). The composition of the board and its powers and duties shall be as provided by agreement of the governing bodies of the municipalities.

(2708 amended May 17, 2012, P.L.262, No.43)

Section 2709. Composition of Board.--If the borough council shall determine that the power to equip, operate, and maintain recreation places, shall be exercised by a recreation board, it may, by ordinance, establish in the borough a recreation board, which shall possess those powers and duties as may be delegated to it by ordinance. The board shall consist of a minimum of five and a maximum of nine persons. Two of the members may be members or appointees of the school board of the school district in which the borough is located. If the board consists of seven members, three of the members may be members or appointees of the school board. The borough members of the board shall be appointed by the borough council, and shall serve no longer than five years and the terms of the members shall be staggered in such a manner that at least one expires annually. Members of the board shall serve without pay. Vacancies in the board, occurring otherwise than by expiration of term, shall be filled for the unexpired term in the same manner as original appointments.

(2709 amended May 17, 2012, P.L.262, No.43)

Section 2710. Organization of Board; Employees.--The members of a recreation board, established pursuant to this article, shall elect their own chair and secretary and select all other necessary officers, to serve for a period of one year. The recreation board may, with the approval of council, establish employment positions and hire employees to fill the approved positions. The board shall have power to adopt rules and regulations for the conduct of all business within its jurisdiction.

(2710 amended May 17, 2012, P.L.262, No.43)

Section 2711. Joint Ownership and Maintenance.--(2711 repealed May 17, 2012, P.L.262, No.43)

Section 2712. Maintenance and Tax Levy.--(2712 repealed May 17, 2012, P.L.262, No.43)

Section 2713. Lease for School Athletics.--Any borough maintaining a recreation place, may lease a recreation place or a portion of a recreation place, suitable for athletic sports and athletic games, to any school board, or school athletic association organized by a school board, and organized for the purpose of conducting amateur athletic sports and games among pupils of the public school, and may permit a school board or school athletic association to charge admission to sports and games and to deny persons refusing to pay admission access to the grounds where sports or games are being conducted, if sports and games are not conducted for individual profit.

(2713 amended May 17, 2012, P.L.262, No.43)

(b) Shade Trees

(1) Power of Boroughs as to Shade Trees

(Subdiv. hdg. amended May 17, 2012, P.L.262, No.43)

Section 2720. Care, Custody and Control of Shade Trees.--(a) Council shall have exclusive care, custody and control of shade trees in the borough. Council may plant, transplant, remove,

maintain and protect shade trees on the streets and highways in the borough, employ and pay persons and make and enforce regulations as may be necessary for the care and protection of the shade trees of the borough.

(b) Council may, by ordinance, and with or without the petition of a majority of the property owners upon any public street in the borough, plant, transplant or remove shade trees. Council may, with or without petition, require the planting and replanting of suitable shade trees along and upon the sides of the streets, upon such alignment and at such points as may be designated by ordinance, by the owners of property abutting the street at the points designated. Nothing in this act may authorize council to plant or replant, or require the planting or replanting, of trees at any point which may interfere with the necessary or reasonable use of any street or abutting property or the business conducted on the property. On failure of any owner, after reasonable notice, to comply with the terms of an ordinance requiring the planting or replanting of shade trees, the borough may cause such trees to be planted or replanted and assess the cost against the owner in accordance with section 2720.2.

(c) Council may, upon notice as may be provided by ordinance, require owners of property to cut and remove plants, shrubs and trees afflicted with any disease that threatens to injure or destroy plants, shrubs and shade trees in the borough under regulations prescribed by ordinance. Upon failure of any owner to comply with the notice, the borough may cause the work to be done by the borough, and assess the cost against the owner in accordance with section 2720.2.

(2720 added May 17, 2012, P.L.262, No.43)

Section 2720.1. Maintenance by Borough; Tax Levy.--(a) The cost and expenses of caring for shade trees after having been planted or transplanted and the expense of publishing any notice required by this subdivision shall be paid by the borough.

(b) Council may levy a general tax, not to exceed the sum of one-tenth of one mill on the dollar on the assessed valuation of the property in the borough taxable for county purposes, for the purpose of defraying the cost and expenses of caring for the shade trees and the expense of publishing notices; or it may provide for the expense of the caring for trees already planted and of publishing the notice by appropriations.

(2720.1 added May 17, 2012, P.L.262, No.43)

Section 2720.2. Payment by Owners; Assessments.--The cost of planting, transplanting or removing any shade trees or the necessary and suitable guards, curbing or grading for their protection and of the replacing of pavement or sidewalk necessarily disturbed in the execution of the work shall be paid by the owners of the real estate abutting the location of the work. In the event that the borough undertakes the work described in this section, costs shall be certified, assessed against the abutting owners and collected in accordance with Article XXI-A.

(2720.2 added May 17, 2012, P.L.262, No.43)

Section 2720.3. Notice of Work.--Whenever council proposes to plant, transplant or remove shade trees on any street, notice of the time and place of the meeting at which the work is to be considered shall be given in one newspaper of general circulation once a week for two weeks immediately preceding the time of the meeting. The notice shall specify in detail the streets or portions upon which trees are proposed to be planted, transplanted or removed. In the event that a shade tree

commission is to undertake the work, the commission shall provide the notice.

(2720.3 added May 17, 2012, P.L.262, No.43)

Section 2720.4. Penalties.--(a) To the extent provided by ordinance, council may assess penalties for the violation of regulations relating to shade trees or delegate the power to assess such penalties to a shade tree commission. Any penalty so assessed shall be a lien upon the real estate of the offender and may be collected as municipal claims are collected.

(b) All penalties or assessments imposed under this subdivision shall be paid to the borough treasurer, to be kept in a separate fund and utilized only for the purposes authorized by this subdivision.

(2720.4 added May 17, 2012, P.L.262, No.43)

(2) Shade Tree Commission

(Subdiv. added May 17, 2012, P.L.262, No.43)

Section 2721. Shade Tree Commission.--(a) Council by ordinance may establish a commission to be known as the shade tree commission, and delegate to the commission the exclusive care, custody and control of shade trees and authorization to plant, transplant, remove, maintain and protect shade trees on the streets and highways in the borough. The commission may make and enforce regulations for the care and protection of shade trees. No regulation may be in force until it has been approved by the council and enacted as an ordinance.

(b) Whenever in any borough there exists a commission for the care of public parks, the council may, by ordinance, confer on the park commission all the powers and all the duties prescribed by this article for the shade tree commission.

(2721 amended May 17, 2012, P.L.262, No.43)

Section 2722. Composition of Commission.--(a) Except as provided in subsection (b), the commission shall be composed of three residents of the borough, who shall be appointed by the council and shall serve without compensation.

(b) The council, by ordinance, may provide that the commission be composed of five members who shall be residents of the borough, shall be appointed by the council and shall serve without compensation.

(c) Whenever a shade tree commission of three members is established by any borough, the council shall appoint one member for a term of three years, one for a term of four years, and one for a term of five years. On the expiration of the term of any commissioner, a successor shall be appointed by the council to serve for a term of five years.

(d) Whenever a shade tree commission of five members is established by any borough, the council shall appoint members to staggered terms so that one term expires every year. On the expiration of the term of any commissioner, a successor shall be appointed by the council to serve for a term of five years.

(e) Vacancies in the office of commissioner shall be filled by the council for the unexpired term.

(2722 reenacted May 17, 2012, P.L.262, No.43)

Section 2723. Powers May Be Vested in Park

Commission.--(2723 repealed May 17, 2012, P.L.262, No.43)

Section 2724. Powers of Commission.--(2724 repealed May 17, 2012, P.L.262, No.43)

Section 2724.1. Duties of Commission.--(a) The shade tree commission shall annually report in full to the council its transactions and expenses for the last fiscal year of the borough.

(b) Whenever any shade tree commission proposes to plant, transplant or remove shade trees on any street, notice of the time and place of the meeting at which such work is to be considered shall be given by the commission in accordance with section 2720.3.

(c) The commission shall each year certify to council an amount needed for the care of shade trees and for the publication of notices required by this subdivision. The commission shall use funds appropriated or raised by taxation in accordance with section 2720.1 for any purpose authorized by council.

(d) The commission shall ascertain and certify to council and the borough treasurer the amount of any assessment imposed in accordance with this subdivision for the planting, transplanting or removal of plants, shrubs and trees.

(2724.1 added May 17, 2012, P.L.262, No.43)

Section 2725. Report of Commission.--(2725 repealed May 17, 2012, P.L.262, No.43)

Section 2726. Notices by Commission.--(2726 repealed May 17, 2012, P.L.262, No.43)

Section 2727. Payment by Owners.--(2727 repealed May 17, 2012, P.L.262, No.43)

Section 2728. Assessments; Liens.--(2728 repealed May 17, 2012, P.L.262, No.43)

Section 2729. Maintenance by Borough; Tax Levy.--(2729 repealed May 17, 2012, P.L.262, No.43)

Section 2730. Penalties.--(2730 repealed May 17, 2012, P.L.262, No.43)

(2) Power of Boroughs as to Shade Trees

(Repealed)

(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 2741. Ordinances to Require Planting and Replanting.--(2741 repealed May 17, 2012, P.L.262, No.43)

Section 2742. Power of Borough Where Owners Fail to Comply.--(2742 repealed May 17, 2012, P.L.262, No.43)

Section 2743. Removal of Diseased Plants, Shrubs and Trees.--(2743 repealed May 17, 2012, P.L.262, No.43)

(c) Forests

(Subdiv. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 2751. Acquisition of Land for Forest Purposes.--Any borough may acquire, by purchase, gift, or lease, and hold tracts of land covered with forest or tree growth or suitable for the growth of trees, and administer the same in accordance with the practices and principles of scientific forestry, for the benefit of the borough. Such tracts may be of any size suitable for the purpose and may be located within or without the borough limits.

(2751 amended May 17, 2012, P.L.262, No.43)

Section 2752. Approval of Department of Forests and Waters.--(2752 repealed May 17, 2012, P.L.262, No.43)

Section 2753. Ordinance Declaring Intention.--Whenever the council of any borough deems it expedient to acquire any land for the purposes of municipal forests, it shall so declare in an ordinance wherein shall be set forth all facts and conditions relating to the proposed action.

(2753 reenacted May 17, 2012, P.L.262, No.43)

Section 2754. Appropriations of Money.--All moneys necessary for the purchase of such tracts shall be appropriated in the

same manner as appropriations for borough purposes, and the funds may be provided from the current revenue or by the proceeds of a sale of general obligation bonds in accordance with existing law.

(2754 amended May 17, 2012, P.L.262, No.43)

Section 2755. Rules and Regulations.--Upon the acquisition of any municipal forest or land suitable for municipal forests, the council may make rules for the government and proper administration of the same as may be deemed necessary. The rules governing the administration of the forest shall have for their main purpose the production of continuing borough revenue by the sale of forest products.

(2755 amended May 17, 2012, P.L.262, No.43)

Section 2756. Appropriations and Revenues.--All moneys necessary to be expended for the administration, maintenance, protection and development of forests, shall be appropriated and applied as is now done for borough purposes. All revenue and emoluments arising from the forests shall be paid into the borough treasury to be used for general borough purposes.

(2756 amended May 17, 2012, P.L.262, No.43)

Section 2757. Use of Forests.--Municipal forests may be used by the public as general outing or recreation grounds subject to the rules adopted by the council.

(2757 amended May 17, 2012, P.L.262, No.43)

Section 2758. Ordinance of Sale.--Whenever the council of any borough deems it expedient to sell or lease any municipal forest or part thereof, or products therefrom, it shall so declare in an ordinance wherein shall be set forth all the facts and conditions relating to the proposed action. No ordinance for the sale of a municipal forest, or part thereof, shall be enacted until the provisions of this act relative to the sale of borough-owned real estate have been complied with.

(2758 reenacted May 17, 2012, P.L.262, No.43)

Section 2759. Pruning or Thinning Out; Sale of Products Thereof.--In order to comply with the practices and principles of scientific forestry, the council, by resolution, shall have the power to prune or thin out any municipal forest or portion of a municipal forest, and shall have the right to sell the products of the pruning or thinning out without complying with the provisions of this act relative to advertising and bidding. In doing so, the borough may either use its own personnel or hire or contract with skilled personnel, and in the hiring or contracting, council shall not be required to obtain bids or to advertise.

(2759 amended May 17, 2012, P.L.262, No.43)

ARTICLE XXVIII CEMETERIES

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 2800. Appropriations for Burial Ground Maintenance.--Any borough may appropriate annually, out of the general funds of the borough, a sum for the care, upkeep, maintenance and beautifying of cemeteries, burial grounds and private roads in or leading to those areas, lying wholly or partly within the boundary limits of the borough or in the territory immediately adjacent to the borough.

(2800 added May 17, 2012, P.L.262, No.43)

Section 2800.1. Burial of Deceased Persons.--Any borough may prohibit, within the borough limits, or within any described territory within the limits, the burial or interment of deceased persons.

(2800.1 added May 17, 2012, P.L.262, No.43)

Section 2801. Management by Commission.--When the title and management of any cemetery is vested in a borough, the council of the borough may, by ordinance, vest the care, management and operation of the cemetery in a commission of three citizens to be appointed by the council. The ordinance shall provide for the terms of the cemetery commissioners.

(2801 amended May 17, 2012, P.L.262, No.43)

Section 2802. Transfer from Borough to Company.--(a) Upon petition of at least ten per centum of living cemetery lot owners, the council may, in its discretion, transfer the cemetery and the management thereof to an incorporated cemetery company.

(b) Upon the presentation to council of the petition, the council may enact an ordinance declaring that, upon the acceptance of the provisions of the ordinance by the incorporated cemetery company, filed with the borough secretary, the title and control of the cemetery shall vest in the incorporated cemetery company.

(c) A copy of the ordinance and the acceptance thereof, certified by the borough secretary, shall be recorded in the office of the recorder of deeds of the county.

(2802 amended May 17, 2012, P.L.262, No.43)

Section 2803. Recording of Ordinance and Acceptance.--(2803 repealed May 17, 2012, P.L.262, No.43)

Section 2804. Orders of Court as to Neglected Cemeteries.--(2804 repealed May 17, 2012, P.L.262, No.43)

Section 2805. Transfer from Company to Borough.--(a) Upon the petition of any incorporated cemetery company and the owners of a majority of the taxable real estate in any borough, the court of common pleas may authorize the transfer of any cemetery to any borough in which the cemetery may be located or which is adjacent to the borough. A copy of the court order authorizing the transfer shall be filed with the recorder of deeds.

(b) The transfer shall be made without cost to the borough and upon being made the borough shall exercise the powers and privileges of the incorporated company, and may purchase land within or adjacent to the borough limits, not to exceed thirty acres, for the extension of the cemetery, and may raise the means to pay for the same, by the sale of lots or otherwise, but in no event by taxation. The borough may lay out lots so purchased and alter the original plot of the cemetery, and may dispose of such grounds in the same manner as the incorporated company could have done.

(c) A deed for any lot, made by the borough, shall be of the same validity as the deed of the incorporated cemetery company and the borough may make deeds to those who theretofore purchased lots, but had not been furnished with deeds by the cemetery company.

(2805 amended May 17, 2012, P.L.262, No.43)

Section 2805.1. Neglected or Abandoned Cemeteries.--Borough council shall have the power to direct the removal of weeds, refuse and debris from an abandoned or neglected cemetery. To exercise this power, council shall give personal notice to the owner, if known, directing the removal of weeds, refuse and debris from the cemetery within thirty days from the giving of personal notice. Personal notice shall be by any of the following means: (1) personal service on the owner, (2) certified mail, addressee only, return receipt requested, to the owner at the owner's last known address, or (3) posting notice at or upon the property after reasonable attempts to

give personal notice pursuant to (1) or (2) has failed. If the removal is not completed within thirty days after personal notice was effected, borough council shall provide for the removal to be done by employees of the borough or persons hired for that purpose at the expense of the borough. The costs of removal shall be assessed against the owner of the cemetery, if known, and collected pursuant to Article XXI-A.

(2805.1 added May 17, 2012, P.L.262, No.43)

Section 2806. Powers of Borough.--(2806 repealed May 17, 2012, P.L.262, No.43)

Section 2807. Deeds to Lots.--(2807 repealed May 17, 2012, P.L.262, No.43)

Section 2808. Removing Bodies to Alter Plots.--In altering the plot of any cemetery, the bodies may be removed and reinterred in a suitable place, but without cost to surviving relatives.

(2808 amended May 17, 2012, P.L.262, No.43)

Section 2809. Removal of Bodies to Other Cemeteries.--(a) The court of common pleas may, upon petition and notice as set forth in this section, direct the removal of the remains of the dead from a privately owned cemetery, borough-owned cemetery, any cemetery affiliated with any religious society or church or with any other organization, when the cemetery has ceased to be used for interments, or has become so neglected as to become a public nuisance, or when the cemetery hinders the improvement and progressive interests of the borough, or is desired by the borough as a site for any public purpose.

(b) The petition to the court for the removal of the remains of the dead shall be made in accordance with any of the following:

(1) The managers of the cemetery in charge of a religious society or church or any other organization, but only in pursuance of the wishes of a majority of the members of the society or church or any other organization, expressed at a meeting held for that purpose after two weeks' public notice. The managers' petition shall set forth that the cemetery has ceased to be used for interments.

(2) Approval of fifty residents of the borough if the cemetery is not in charge of anyone, setting forth that the improvements and progressive interests of the borough are hampered and the welfare of the borough is injured by the presence of the cemetery.

(3) Borough council setting forth that the cemetery has become so neglected as to become a public nuisance, or that the improvements and progressive interests of the borough are hampered and the welfare of the borough is injured by the presence of the cemetery, or that the land is desired for a public purpose.

(c) Prior to the court authorizing the removal of the remains of the dead from a cemetery, notice shall be given by advertisement in a newspaper of general circulation once a week for three successive weeks.

(d) The removal shall be made by the managers of the cemetery, or by the borough when the cemetery is in charge of no one or is a borough-owned cemetery, in a careful manner, at the expense of the party making the removal, to another cemetery as may be selected, or if so desired by relatives or other interested parties, to some cemetery in the vicinity.

(e) Relatives or other interested parties of the dead may remove the remains, at any time during the proceedings, at their own expense, before removal by the managers or the borough.

(f) All bodies, when so removed, shall be placed in separate caskets and graves, and the markers placed over the remains of the bodies shall be taken by the persons authorized to make the removal, and placed as near as can be in the same relative position as before removal.

(g) After the removal of all dead bodies from any such cemetery, the land shall cease to be a cemetery or burial ground, and may be acquired by the borough as other real estate is acquired for borough purposes.

(2809 amended May 17, 2012, P.L.262, No.43)

Section 2810. Applications for Removal.--(2810 repealed May 17, 2012, P.L.262, No.43)

Section 2811. Removals; How Made.--(2811 repealed May 17, 2012, P.L.262, No.43)

Section 2812. Notice of Removal.--(2812 repealed May 17, 2012, P.L.262, No.43)

Section 2813. Removal by Relatives and Friends.--(2813 repealed May 17, 2012, P.L.262, No.43)

Section 2814. Care in Removal.--(2814 repealed May 17, 2012, P.L.262, No.43)

Section 2815. Right to Use Property From Which Bodies Removed.--(2815 repealed May 17, 2012, P.L.262, No.43)

Section 2816. Purchase of Plots for Burial of Deceased Service Persons.--Any borough may purchase plots of ground, in any cemetery or burial ground within its limits, for the interment of deceased members of the armed forces, as have died before or shall die later within the borough, or shall die beyond the borough and shall have a legal residence within the borough at the time of their death, and whose bodies are entitled to be buried by the county under the provisions of existing law. The plots of ground shall be paid for out of the treasury of the borough.

(2816 amended May 17, 2012, P.L.262, No.43)

ARTICLE XXIX

LICENSES AND LICENSE FEES

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 2901. Licensing Transient Retail Business.--(a)

Any borough may, by ordinance, regulate and license transient merchants engaged in any transient retail business within the borough. Transient merchants shall include any person, partnership or corporation engaged in any transient retail business for the sale of goods, wares, or merchandise, whether the business is conducted from a fixed location within the borough or by any person or persons engaged in peddling, soliciting, or taking of orders from house to house. The ordinance may prohibit the commencement or doing of any transient retail business unless the license required by the ordinance has been procured from the proper authorities by the person, firm, or corporation desiring to commence the transient retail business. The ordinance may provide for enforcement by penalties or other appropriate means. The amount of any license fee shall bear a reasonable relationship to the cost of administering the ordinance and regulating and inspecting the transient retail business.

(b) No license fee shall be charged under this section to the following transient merchants, unless such transient merchant is also selling other goods, wares and merchandise not excepted:

(i) Farmers selling their own produce.

(ii) Persons selling goods, wares and merchandise if the proceeds of the sale are to be applied to any charitable or philanthropic purpose.

(iii) Manufacturers or producers in the sale of bread and bakery products, meat and meat products, or milk and milk products, provided that milk and milk products shall not include or apply to ice cream or other frozen desserts.

(c) The ordinance may require that the transient merchants excepted from payment of a license fee in subsection (b) must register with the borough and otherwise be subject to all other provisions of the ordinance.

(2901 amended May 17, 2012, P.L.262, No.43)

Section 2902. Commonwealth Licenses Saved.--Nothing contained in this article shall be construed to relieve any person, partnership, or corporation from the duty of taking out a license, or from the payment of any license tax or fee imposed or authorized by any other statute of this Commonwealth, nor shall any Commonwealth license tax or fee preempt the registration, license, or regulatory powers of a borough in accordance with this article, unless the preemption is expressly authorized.

(2902 amended May 17, 2012, P.L.262, No.43)

Section 2903. Licensing Parking Lots and Parking Garages Operated for Profit.--Any borough may, by ordinance, regulate the business of operating parking lots or parking garages for profit within the borough and may require such lots or garages to reserve areas exclusively for parking by handicapped individuals. Ordinances shall be consistent with 75 Pa.C.S. (relating to vehicles). Nothing in this section may be construed to limit the protections and prohibitions contained in any law or regulation relating to the rights of the disabled. License or permit fees may be charged and collected from the operators of the parking lots or parking garages. Any borough adopting such a regulatory plan shall require from each operator of a parking lot or parking garage a bond to be approved by council for the protection of the public from loss of or damage to vehicles parked, stored or placed under the jurisdiction of a parking lot or parking garage operator, provided that nothing in this section shall apply to parking lots or parking garages operated by a municipal authority or a parking authority.

(2903 amended May 17, 2012, P.L.262, No.43)

Section 2904. Persons Taking Orders by Samples.--It shall be unlawful for any borough to impose, levy or collect any license fee or mercantile tax upon any persons taking orders for merchandise by sample, from dealers or merchants for individuals or companies who pay a license fee or mercantile tax at their chief places of business. Nothing in this section shall authorize any such person, firm or corporation to sell by retail to others than dealers or merchants without payment of a license or permit fee.

(2904 amended May 17, 2012, P.L.262, No.43)

Section 2905. Equality of Residents and Non-Residents.--It shall be unlawful for any borough to impose, by ordinance, or collect under the provisions of any ordinance, any license fee upon or from any manufacturer, or the agent, representative or employe of any manufacturer who is a resident of the Commonwealth, for soliciting orders for, or for selling, any goods, merchandise or wares manufactured within this Commonwealth, that is not or cannot legally be imposed upon, or collected from, any manufacturer or dealer, or the agent, representative, or employe of any manufacturer, who is a non-resident of the Commonwealth, for soliciting orders for or

for selling any goods, merchandise, or wares manufactured outside this Commonwealth.

(2905 amended May 17, 2012, P.L.262, No.43)

Section 2906. Insurance Business.--It shall be unlawful for any borough to impose or collect any license fee upon any insurance company or its agents, or insurance broker, authorized to transact business under the laws of the Commonwealth.

(2906 reenacted May 17, 2012, P.L.262, No.43)

ARTICLE XXIX-A
VETERANS' AFFAIRS

(Art. added May 17, 2012, P.L.262, No.43)

(a) Pennsylvania National Guard
(Subdiv. added May 17, 2012, P.L.262, No.43)

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

Borough council may take, by right of eminent domain, for the purpose of appropriating to the borough for the use of the Pennsylvania National Guard, public lands, easements and public property, as may be in its possession or control and used or held by the borough for any other purpose. The right, however, shall not be exercised as to any street or wharf.

(2901-A added May 17, 2012, P.L.262, No.43)

Section 2902-A. Lands for armory purposes.

Borough council may acquire, by purchase or by gift or by the right of eminent domain, any land for the use of the Pennsylvania National Guard, to convey the lands so acquired to the Commonwealth in order to assist the State Armory Board in the erection of armories. The power conferred by this section shall not be exercised to take any church property, graveyard, cemetery or any dwelling-house or the curtilage of the same in the actual occupancy of the owner.

(2902-A added May 17, 2012, P.L.262, No.43)

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

Borough council may appropriate money or convey land, either independently or in conjunction with any municipality for the purpose of assisting the State Armory Board in the erection of armories for the use of the Pennsylvania National Guard and to furnish water, sewer service, light or fuel, free of cost, to the Commonwealth for use in any armory of the Pennsylvania National Guard, and to do all things necessary to accomplish the purpose of this section.

(2903-A added May 17, 2012, P.L.262, No.43)

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

Borough council may appropriate annually a sum to be used and expended exclusively for the support and maintenance, discipline and training of any company, battalion, regiment or similar unit of the Pennsylvania National Guard. Where the units are organized as a company, battalion, regiment or similar organization, the total amount due may be paid to the commanding officer of the company, battalion, regiment or similar organization. Any moneys so appropriated shall be paid by warrant drawn to the order of the commanding officer of the company, battalion, regiment or similar organization, only when it shall be certified to the borough, by the Adjutant General, that the company or companies have satisfactorily passed the annual inspection provided by law. The commanding officer shall account, by proper vouchers to the borough each year, for the expenditure of the money appropriated, and no appropriation shall be made for any subsequent year until the expenditure of

the previous year is duly and satisfactorily accounted for. The accounts of the expenditures shall be subject to the inspection of the Department of Military and Veterans Affairs, and shall be audited by the Auditor General in the manner provided by law for the audit of accounts of State moneys.

(2904-A added May 17, 2012, P.L.262, No.43)

(b) Support of Veterans' Organizations
(Subdiv. added May 17, 2012, P.L.262, No.43)

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

Borough council may appropriate annually a sum to be divided in amounts as council deems proper to organizations composed of veterans of any war in which the United States was engaged or the American Gold Star Mothers' Organization, to aid in defraying the expenses of Memorial Day, Veterans' Day or any similar day hereafter provided for by Federal or State law. The payments shall be made to defray actual expenses only. Before any payment is made, the organization receiving the appropriation shall submit verified accounts of its expenditures.

(2911-A added May 17, 2012, P.L.262, No.43)

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

Borough council may appropriate annually a sum as council deems proper to incorporated organizations of American veterans of any war in which the United States was engaged, to be used in the payment of the rent of any building or room or rooms in which the post, branch, camp, detachment or lodge has its regular meetings.

(2912-A added May 17, 2012, P.L.262, No.43)

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

Borough council may furnish without charge to each organization composed of American veterans of any war in which the United States was engaged and children of such veterans, a room or rooms in any public building of the borough.

(2913-A added May 17, 2012, P.L.262, No.43)

Section 2914-A. Care and erection of memorials.

Borough council may take charge of, care for, maintain and keep in good order and repair, at the expense of the borough, any soldiers' monument, gun or carriage or similar memorial situated in the borough, and not in the charge or care of any person, body or organization, and not put up or placed by the Government of the United States, the Commonwealth of Pennsylvania, or the commissioners of the county, or by the direction or authority of any other state. Borough council may also receive and expend any moneys or funds from any person or organization to be used for the maintenance of the memorials. Additionally, borough council may contribute to the erection of memorials in honor of those who served in any war in which the United States was engaged and thereafter to properly and adequately maintain the same.

(2914-A added May 17, 2012, P.L.262, No.43)

ARTICLE XXX
REAL ESTATE REGISTRY
(Repealed)

(Art. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 3001. Real Estate Registry Established.--(3001 repealed May 17, 2012, P.L.262, No.43)

Section 3002. Maintenance of Real Estate Registry.--(3002 repealed May 17, 2012, P.L.262, No.43)

Section 3003. Access to Public Records.--(3003 repealed May 17, 2012, P.L.262, No.43)

Section 3004. Keeping of Records.--(3004 repealed May 17, 2012, P.L.262, No.43)

Section 3005. Duties of Owners of Real Estate.--(3005 repealed May 17, 2012, P.L.262, No.43)

Section 3006. Registry Required Before Recording.--(3006 repealed May 17, 2012, P.L.262, No.43)

ARTICLE XXXI

HEALTH AND SANITATION

(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 3101. Establishment of Board of Health; Health Officers.--(a) Borough council may, by ordinance, appoint a board of health, or a health officer or officers in lieu of a board of health, to administer and enforce the health laws and related ordinances of the borough. Health officers appointed by borough council shall have the same powers and duties, and exercise the same authority, as is prescribed for boards of health in boroughs. All health officers, whether appointed by boards of health pursuant to section 3106(b) or by the borough council, shall have had some experience or training in public health work and shall be, or within six months of taking the oath of office, shall become certified for the office of health officer by the Department of Health.

(b) All expenses incurred by the board of health, its officers or employees in the performance of the duties required by law or by ordinance, shall be paid by the borough where the duties are performed, in the same manner as other expenses of the borough are paid.

(c) A borough may, by ordinance, dissolve a board of health and decide to become subject to the jurisdiction of a county department of health or joint county department of health in accordance with the act of August 24, 1951 (P.L.1304, No.315), known as the "Local Health Administration Law."

(3101 amended May 17, 2012, P.L.262, No.43)

Section 3102. Members of Board of Health.--(a) Where the borough council decides to appoint a board of health, the board shall be composed of three or five members, appointed by borough council, at least one of whom shall be a professional health care provider of not less than two years' experience in the practice of the respective profession. If no professional health care provider can be identified to serve on the board, council may, instead, appoint an individual who has experience in or is knowledgeable of public health issues. At the first appointment one member shall be appointed to serve for one year, one for two years, one for three years, and, in the case of boards with five members, one for four years, and one for five years; and thereafter one member shall, in like manner, be appointed each year to serve for three years or, in the case of boards with five members, five years. The members of the board of health shall serve without compensation, but if any member of the board shall be elected to the office of secretary of the board of health, the member shall be entitled to receive a salary fixed by the board for that office.

(b) "Professional health care provider" as described in this section shall mean an individual who is approved, licensed, certified or otherwise regulated to practice or operate in the health care field under the laws of this Commonwealth,

including, but not limited to, a physician, a dentist, a podiatrist, a chiropractor, an optometrist, a psychologist, a pharmacist, a registered or practical nurse, a physical therapist, a physician's assistant, a paramedic, an administrator of a hospital, nursing or convalescent home or other health care facility or individuals licensed to practice veterinary medicine under the laws of this Commonwealth.

(3102 amended May 17, 2012, P.L.262, No.43)

Section 3103. Oaths of Members, Secretary and Health Officer; Organization; Bonds.--The members of the board shall severally take and subscribe to the oath prescribed for borough members of council and shall annually organize by electing a president from among the members of the board, a secretary who may or may not be a member of the board, and a health officer. The secretary and the health officer shall receive such salary as may be fixed by the board, and ratified by the borough council, and shall serve until such time as their successors may be elected and qualified. If the borough council shall so require, they shall severally give bond to the borough in such sums as council shall prescribe for the faithful discharge of their duties. They shall take and subscribe to the oaths required of members of the board.

(3103 amended May 17, 2012, P.L.262, No.43)

Compiler's Note: Section 3(3) of Act 76 of 2008 provided that all acts and parts of acts are repealed insofar as they are inconsistent with Act 76. Section 1 of Act 76 amended 53 Pa.C.S. Ch. 11 (relating to general provisions) by adding section 1141 (relating to form of oaths of office), which provides the form of oaths of office for elected or appointed officials of municipalities.

Section 3104. Duties of Secretary.--The secretary of the board shall:

(1) Keep and maintain, in accordance with 53 Pa.C.S. Ch. 13 Subch. F (relating to records), the minutes of the proceedings of the board and keep accurate accounts of the expenditures of the board.

(2) Draw all requisitions for the payment of moneys on account of the board of health from appropriations made by the borough council to the board, and present the same to the president of the board for the president's approval.

(3) Render statements of the expenditures to the board at each stated meeting, or as frequently as the board may require.

(4) Prepare, under the directions of the board, the annual report to the borough council together with the estimate of appropriation needed for the ensuing year.

(5) Report to the State Department of Health at such intervals as shall be specified by law or regulation, the cases of communicable disease reported to the board of health, on the form provided for that purpose by the department and make an annual report to the department.

(6) Make such other reports and perform such other duties as the board may require.

(3104 amended May 17, 2012, P.L.262, No.43)

Section 3105. Powers and Duties of Health Officer.--It shall be the duty of the health officer to attend all regular and special meetings of the board of health, and at all times be ready and available for the prompt performance of the officer's official duties, including such duties as are vested in local health officers by State laws and regulations. The health officer shall make sanitary inspection and shall execute the

orders of the board of health and shall, in the performance of the health officer's duties, have the power and authority to issue citations for the violation of applicable laws and ordinances.

(3105 amended May 17, 2012, P.L.262, No.43)

Section 3106. Powers of Board of Health.--(a) The board of health shall have the power, and it shall be its duty to:

(1) Enforce the laws of the Commonwealth, the regulations of the State Department of Health, and all ordinances of the borough enacted to promote public health and prevent the introduction and spread of infectious or contagious disease.

(2) Abate and remove all nuisances that the board shall deem detrimental to the public health and to mark infected houses or places.

(3) Recommend rules and regulations as shall be deemed necessary for the preservation of the public health and for carrying into effect the powers and functions of the board. The rules and regulations shall not become effective until they have been approved by the borough council and enacted as ordinances of the borough.

(b) The board of health may appoint a health officer or officers.

(3106 amended May 17, 2012, P.L.262, No.43)

Section 3107. Entry Upon Premises.--(a) The board of health as a body, or by committee, as well as the health officer, together with their assistants, subordinates, and employes, under and by order of the board, shall have the power to enter at a reasonable time and in a reasonable manner upon any premises in the borough upon which there is suspected to be any infectious or contagious disease, or nuisance detrimental to the public health, for the purpose of examining and abating the same.

(b) In the event that entry upon any premises is refused by an owner, an agent of an owner or a tenant, the board of health or health officer shall obtain an administrative search warrant from any magisterial district judge within the judicial district where the premises to be inspected is located.

(c) It shall be sufficient to support the issuance of a warrant for the board of health or health officer to provide to the magisterial district judge evidence of any of the following:

(1) Reasonable standards and an administrative plan for conducting inspections.

(2) The condition of the premises or general area and the passage of time since the last inspection.

(3) Facts, supported by oath or affirmation, alleging that probable cause exists that a law, regulation or ordinance subject to enforcement by the board of health or health officer has been violated.

(3107 amended May 17, 2012, P.L.262, No.43)

Section 3108. Inspections; Abatement of Nuisances.--The board of health shall have the power to inspect any conditions or places in the borough which may constitute a nuisance or a menace to public health. Whenever any condition or place in the borough is found by the board to be a nuisance or a menace to the health of the people of the borough it shall issue a written order of abatement, directed to the owner, or agent of the owner, of the premises, stating that the conditions specified in the premises constitute a nuisance or a menace to health, and ordering an abatement thereof within reasonable time as may be specified by the board in the order. If the order of abatement is not obeyed within the time specified, the board

shall issue a further written order to the health officer, directing the health officer to remove or abate the same. The order shall be executed by the health officer and subordinates and agents, and the expense of execution with a penalty of ten percent, shall be recoverable from the owner of the premises upon or from which the nuisance or menace to health is abated or removed, in the same manner as debts of like character are now collected by law. In lieu of, or in addition to the above procedure, borough council may seek relief from a nuisance or threatened nuisance by an action at law or in equity. Council may seek the guidance of the board of health or the health officer in determining the nature of the relief requested.

(3108 amended May 17, 2012, P.L.262, No.43)

Section 3109. Estimates of Expenditures; Report.--It shall be the duty of the board of health or of the health officer or officers appointed by borough council to submit annually to the council, before the commencement of the fiscal year, an estimate of the probable expenditures of the board or the health officer or officers during the ensuing year; and council shall then proceed to make appropriations as may be deemed necessary. The board of health, or the health officer or officers, shall, in the month of January of each year, submit a report, in writing, to council of its appropriation and expenditures for the preceding year, together with such other information on subjects relative to the sanitary conditions or requirements of the borough as may be necessary.

(3109 amended May 17, 2012, P.L.262, No.43)

Section 3110. Cooperation With Other Units.--Any borough may cooperate with the county or counties in which it is located, or with any municipal corporation, as well as with the State Department of Health, in the administration and enforcement of health laws.

(3110 amended May 17, 2012, P.L.262, No.43)

Section 3111. Powers of Department of Health to Administer Health Laws; Expenses.--(a) Nothing in this act may be construed as to limit any power or duty of the Department of Health, including the power to take full charge of the administration of health laws, regulations and ordinances in a borough and collect any costs associated therewith in accordance with Article XXI of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(b) Any expenses of the Department of Health for which the borough is liable shall be paid by the borough where the expenses have been incurred, in the same manner as other expenses of the borough are paid. All expenses incurred by the Department of Health, when paid or when collected, shall be returned by the department to the State Treasurer, who shall credit the amount so received to the appropriation made to the Department of Health.

(c) Whenever expenses incurred in accordance with the provisions of subsection (b) shall remain unpaid by a borough for a period over three months after a statement of the expense has been rendered to the borough and demand for payment is made, the Secretary of Health shall, with the approval of the Governor, institute, in the name of the Commonwealth as plaintiff, an action of assumpsit against the borough for the collection of the expense from the borough in the same manner as debts of like amount are collected by law. Upon the trial of the action, the reasonableness of the expenditures made by the secretary shall be submitted to the jury for its determination.

(3111 amended May 17, 2012, P.L.262, No.43)

Section 3112. Expenses of Board or Secretary of Health.--(3112 repealed May 17, 2012, P.L.262, No.43)
Section 3113. Failure to Pay Expenses Incurred by State Secretary.--(3113 repealed May 17, 2012, P.L.262, No.43)
Section 3114. Disposition of Collected Funds.--(3114 repealed May 17, 2012, P.L.262, No.43)

ARTICLE XXXII
ZONING

(Repealed)

(Art. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 3201. Grant of Power.--(3201 repealed July 31, 1968, P.L.805, No.247)

Section 3202. Districts; Procedure.--(3202 repealed July 31, 1968, P.L.805, No.247)

Section 3203. Purpose in View.--(3203 repealed July 31, 1968, P.L.805, No.247)

Section 3204. Exercise by Council of Zoning Power; Notice.--(3204 repealed July 31, 1968, P.L.805, No.247)

Section 3205. Changes.--(3205 repealed July 31, 1968, P.L.805, No.247)

Section 3206. Zoning Commission.--(3206 repealed July 31, 1968, P.L.805, No.247)

Section 3207. Board of Adjustment.--(3207 repealed July 31, 1968, P.L.805, No.247)

Section 3208. Remedies.--(3208 repealed July 31, 1968, P.L.805, No.247)

Section 3209. Certain Buildings of Public Utility Corporations Exempted.--(3209 repealed July 31, 1968, P.L.805, No.247)

Section 3210. Finances.--(3210 repealed July 31, 1968, P.L.805, No.247)

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

(Art. added May 17, 2012, P.L.262, No.43)

Section 3201-A. Primacy of Uniform Construction Code.

(a) General rule.--The act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act, and the Uniform Construction Code adopted under section 301 of the Pennsylvania Construction Code Act shall apply to the construction, alteration, repair and occupancy of all buildings and structures within a borough.

(b) Primacy.--This section and any ordinance, rule or regulation adopted pursuant to this section shall not supersede or abrogate the Pennsylvania Construction Code Act or the Uniform Construction Code and shall be construed and read in pari materia with them.

(3201-A added May 17, 2012, P.L.262, No.43)

Section 3202-A. Changes in Uniform Construction Code.

A borough may propose and enact an ordinance to equal or exceed the minimum requirements of the Uniform Construction Code in accordance with and subject to the requirements of section 503 of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act. Any ordinance exceeding the provisions of the Uniform Construction Code shall be required to meet the standards provided in section 503(j)(2) of the Pennsylvania Construction Code Act.

(3202-A added May 17, 2012, P.L.262, No.43)

Section 3203-A. Public nuisance.

Any building, housing or property, or part of any building, housing or property erected, altered, extended, reconstructed, removed or maintained, contrary to any of the provisions of any ordinance passed for any of the purposes specified in this article may be declared, by a court of law, a public nuisance, and may be abatable as such, provided, however, that a violation of the Uniform Construction Code or any ordinance that equals or exceeds the Uniform Construction Code shall be subject to the provisions of the Pennsylvania Construction Code Act and the regulations adopted thereunder by the Department of Labor and Industry relating to enforcement for noncompliance.

(3203-A added May 17, 2012, P.L.262, No.43)

Section 3204-A. Property maintenance code.

(a) Property maintenance codes.--Notwithstanding the primacy of the Uniform Construction Code, a borough may enact a property maintenance ordinance, and it may incorporate any standard or nationally recognized property maintenance code, or any variations or changes or parts of the code, published and printed in book form, without incorporating the text of the code in the ordinance, or a borough may enact any standard or nationally recognized property maintenance code or any changes or variations or parts, as its ordinance. In either event, the ordinance, or any changes or variations or parts, need not be advertised after passage, but notice of its consideration, in reasonable detail, shall be published as will give adequate notice of its contents and a reference to the place or places within the borough where copies of the proposed property maintenance code may be examined or obtained. The notice required by this subsection shall be published once in one newspaper of general circulation at least one week and not more than three weeks prior to the presentation of the proposed property maintenance code to council. No fewer than three copies of the ordinance adopted by council shall be made available for public inspection and use during business hours or be made available to any interested party at the cost of the copies, or may be furnished or lent without charge. A property maintenance code adopted by reference need not be recorded in or attached to the ordinance book, but shall be deemed to have been legally recorded if the ordinance by which the code was adopted by reference shall have been recorded, with an accompanying notation stating where the full text of the code shall have been filed. The ordinance may provide for reasonable property fines and penalties for violations of the ordinance. The procedure under this section relating to the adoption of the ordinance may likewise be utilized in amending, supplementing or repealing any of the provisions of the ordinance.

(b) Property maintenance inspectors.--Council may appoint property maintenance inspectors who shall have the right to enter upon, subject to constitutional standards in a similar manner as provided in section 3107, and inspect any premises at all reasonable hours and in a reasonable manner for the administration and enforcement of the borough's property maintenance code or ordinance incorporating a standard or nationally recognized property maintenance code. Any fees payable to property maintenance inspectors under the ordinance shall be paid by the property maintenance inspectors to the borough treasurer for the use of the borough as promptly as may be.

(c) Legal actions.--In addition to the penalties provided by the property maintenance ordinance, the borough may institute

appropriate actions or proceedings at law or in equity to prevent or restrain property maintenance violations.

(d) Construction.--The powers of a borough as provided in this section shall be in addition to, but not limited to, the powers provided in the act of November 26, 2008 (P.L.1672, No.135), known as the Abandoned and Blighted Property Conservatorship Act, and 53 Pa.C.S. Ch. 61 (relating to neighborhood blight reclamation and revitalization).

(3204-A added May 17, 2012, P.L.262, No.43)
Section 3205-A. Reserved powers.

If, as a result of legislative action or final order of court for which the time for appeal has expired and no appeal has been taken or from which there is no pending appeal, the Uniform Construction Code or any replacement code is no longer applicable in boroughs, a borough may:

(1) Enact and enforce ordinances to govern and regulate the construction, reconstruction, alteration, extension, repair, conversion, maintenance, occupation, sanitation, ventilation, heating, egress, lighting, electrical wiring, water supply, toilet facilities, drainage, plumbing, fire prevention, fireproofing, including prescribing limitations wherein only buildings of noncombustible material and fireproofed roofs are used in construction, erection or substantial reconstruction, use and inspection of all buildings and housing or parts of buildings and housing and the roofs, walls and foundations of buildings and housing, and all facilities and services in or about the buildings or housing constructed, erected, altered, designed or used, in whole or in part, for any use or occupancy, and the sanitation and inspection of land appurtenant to the buildings or housing. The codes may be combined or separately enacted or combined with the property maintenance code. A borough may adopt, amend or incorporate by reference any standard or nationally recognized code or any variations or changes or parts of the code as its ordinance in the manner provided in section 3204-A. The ordinance may provide for reasonable fines and penalties for violations of the ordinance in compliance with Article XXXIII.

(2) Require that before any work of construction, reconstruction, alteration, extension, repair or conversion of any building is begun, approval of the plans and specifications be secured.

(3) Council may appoint building inspectors, housing inspectors, property maintenance inspectors, fire prevention inspectors, electrical inspectors and plumbing inspectors, and fix their compensation. The inspectors shall have the right to enter upon, subject to constitutional standards in a similar manner as provided in section 3107, and inspect any premises at all reasonable hours and in a reasonable manner, for the administration and enforcement of the borough's adopted codes or ordinances incorporating standard or nationally recognized codes. Any fees payable to inspectors under the ordinances shall be paid by them to the borough treasurer for the use of the borough as promptly as may be.

(4) In addition to the penalties provided by ordinances, the borough may institute appropriate actions or proceedings at law or in equity to prevent or restrain the unlawful construction, reconstruction, alteration, extension, repair, conversion, maintenance, use or occupation of property located within the borough, to restrain, correct or abate

the violation and to prevent the use or occupancy of the building, housing or structure.

(3205-A added May 17, 2012, P.L.262, No.43)

ARTICLE XXXIII

ORDINANCES

(Art. hdg. amended May 17, 2012, P.L.262, No.43)

(a) General Provisions

(Subdiv. added May 17, 2012, P.L.262, No.43)

Section 3301. Prosecution of Ordinance Violators; Disposition of Fines, Penalties and Costs.--(3301 repealed May 17, 2012, P.L.262, No.43)

(a) General Provisions

(Subdiv. added May 17, 2012, P.L.262, No.43)

Section 3301.1. Ordinances; resolutions.

(a) General rule.--Borough council shall enact ordinances in accordance and not inconsistent with the provisions of this act and with the laws of this Commonwealth, in which general or specific powers of the borough shall be exercised as it shall deem beneficial to the borough and to provide for the enforcement of the same. Borough council may amend, repeal or revise existing ordinances by the enactment of subsequent ordinances.

(b) Legislative acts.--Every legislative act of council shall be by ordinance and these legislative acts shall include, but not be limited to, tax ordinances, general appropriation ordinances, capital expenditures not payable out of current funds, and all legislation exercising the police power of the borough, regulating land use, development and subdivision, imposing building, plumbing, electrical, property maintenance, housing and similar standards, and otherwise regulating the conduct of persons or entities within the borough and imposing penalties for the violation thereof.

(c) Resolutions.--Borough council shall adopt resolutions in accordance and not inconsistent with the provisions of this act and the laws of this Commonwealth. The purposes for which resolutions may be adopted shall include, but not be limited to, ceremonial or congratulatory expressions of the good will of the council, statements of public policy of the council, approval of formal agreements of the borough, other than agreements arising under an established purchasing system of the borough, the approval, when required, of administrative rules, regulations and bylaws arising under State statutes or borough ordinances and the filling of borough-appointed positions and of vacancies of elected officials unless otherwise provided.

(d) Real and personal property matters.--Borough council's approval of the acquisition, disposition and leasing of real or personal property shall be by adoption of a resolution in a manner consistent with this act.

(3301.1 added May 17, 2012, P.L.262, No.43)

Section 3301.2. Publication of proposed ordinances.

(a) Publication requirements.--Except where otherwise provided in this act or in other law, borough council shall publish every proposed ordinance once in one newspaper of general circulation no more than 60 days nor fewer than seven days prior to enactment, which the seventh day shall fall on the day prior to the day when council shall vote on the proposed

ordinance. Publication of any proposed ordinance shall include either the full text or the title and a brief summary prepared by the borough solicitor setting forth all the provisions in reasonable detail and a reference to a place within the borough where copies of the proposed ordinance may be examined.

(b) Publication of summary.--If the full text is not included in the publication of the proposed ordinance, the following shall apply:

(1) The newspaper in which the proposed ordinance is published shall, upon request, be furnished a copy of the full text.

(2) An attested copy of the full text shall be filed in the county law library or other county office designated by the county commissioners who may impose a fee no greater than that necessary to cover the actual costs of storing the proposed ordinance.

(3) The date of the filing with the county, as provided in paragraph (2), shall not affect the effective date of the ordinance and shall not be deemed a defect in the process of the enactment of the ordinance.

(c) Notice of amendments.--In the event substantial amendments are made in the proposed ordinance, before voting upon enactment, council shall within ten days readvertise in one newspaper of general circulation, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

(3301.2 added May 17, 2012, P.L.262, No.43)

Section 3301.3. Enactment, approval and veto of ordinances; effective date.

(a) Approval by mayor.--

(1) Every ordinance enacted by council shall be presented to the mayor for the mayor's approval. As a matter of law, presented to the mayor shall be deemed to mean delivery to the mayor by hand delivery or certified mail, addressee only, to the mayor at the mayor's last known address. Delivery shall be deemed complete upon depositing in the mail, postage or charges prepaid, as evidenced by a certificate of mailing.

(2) If the mayor approves the ordinance, he or she shall sign it. If the mayor does not approve the ordinance, the mayor shall return it with his or her objections which shall be entered upon the minutes, to the council at its next scheduled meeting occurring at least ten days after the meeting at which the ordinance was enacted by council. Council shall proceed to a reconsideration of the ordinance either at the meeting at which the vetoed ordinance was returned or no later than ten days thereafter at any other scheduled meeting. If, after reconsideration, a majority of all elected council members plus one votes to override the mayor's veto, the ordinance shall have full force and effect as if it had received the approval of the mayor. The vote shall be determined by yeas and nays, and the names and votes of the members shall be entered upon the minutes. A scheduled meeting, as used in this section, may be either a regular, special or reconvened meeting.

(3) If any ordinance shall not be returned by the mayor at council's next scheduled meeting occurring at least ten days after its presentation to the mayor, the ordinance shall have full force and effect as if it had been approved by the mayor.

(b) Effective date.--The effective date of an enacted ordinance, except as otherwise provided in the ordinance, shall

be the date when the mayor shall approve it or the date of enactment by the council over the veto of the mayor, or in the case of any ordinance not returned by the mayor at the next scheduled meeting of council occurring at least ten days after the meeting at which the ordinance was enacted by the council, the date of enactment shall be the date of the succeeding scheduled meeting of council.

(c) Tax ordinance.--When council shall present the mayor with the annual tax ordinance referred to in section 1310.1, the mayor shall, within ten days of receiving the tax ordinance approve or return the tax ordinance to the borough secretary with a statement setting forth the mayor's objections. Council shall proceed to a reconsideration at any scheduled meeting held no later than ten days after the mayor has returned the tax ordinance to the secretary with the mayor's objections. The mayor's objections shall be entered upon the minutes of the meeting. A veto of the tax ordinance of the borough may be overridden by a vote of a majority of all elected council members plus one. After that action, the ordinance shall have full force and effect as if it had received the approval of the mayor. If the mayor neither approves the tax ordinance nor returns it with objections, the date of enactment of the tax ordinance shall be the date of the adoption of the tax ordinance by council.

(3301.3 added May 17, 2012, P.L.262, No.43)

Section 3301.4. Recording, advertising and proof of ordinances.

All borough ordinances shall, within 30 days after (1) approval by the mayor, or (2) council's override of the mayor's veto or (3) council's next scheduled meeting after its presentation to the mayor, be recorded by the borough secretary in a book provided for that purpose, which shall be open to the inspection of citizens during normal business hours. All ordinances may be proved by the certificate of the borough secretary, under the corporate seal. When printed or published in book or pamphlet form by the authority of the borough, the ordinances shall be read and received as evidence in all courts and places without further proof. The entry of the borough ordinance in the ordinance book shall be sufficient, without the signature of the president of council, mayor or member of council. Any and all borough ordinances or portions thereof, the text of which, prior to the effective date of this act, shall have been attached to the ordinance book, shall be considered in force just as if the ordinances or portions thereof had been recorded directly upon the pages of the ordinance book, provided that all other requirements of this act applicable to the enactment, approval, advertising and recording of the ordinances or portions of ordinances were complied with within the time limits prescribed by this act.

(3301.4 added May 17, 2012, P.L.262, No.43)

Section 3301.5. Codification of ordinances.

(a) Consolidation, codification and revision.--When a borough has prepared a consolidation, codification or revision of the general body of borough ordinances, or the ordinances on a particular subject, the borough council may adopt the consolidation, codification or revision as an ordinance of the borough in accordance with section 3301.1(a), except as hereinafter provided.

(b) Enactment.--Any consolidation, codification or revision of borough ordinances to be enacted as a single ordinance shall be introduced in the borough council at least 30 days before its final enactment. At least 15 days before its final enactment, notice of the introduction of any consolidation,

codification or revision, specifying its general nature and listing its table of contents, shall be given by advertisement in a newspaper of general circulation.

(c) Notice.--When any consolidation, codification or revision has been enacted as an ordinance, it shall not be necessary to advertise the entire text, but it shall be sufficient to publish a notice stating that the consolidation, codification or revision, notice of the introduction of which had previously been given, was finally enacted.

(d) Contents of notice.--In the course of preparing a consolidation, codification or revision of ordinances, a borough may utilize the procedure set forth in subsections (a), (b) and (c) to enact a complete group or body of ordinances, repealing or amending existing ordinances as may be necessary. In such cases, the advertisement giving notice of the introduction shall list, in lieu of a table of contents, the titles only of each of the ordinances in a complete group or body of ordinances, as was finally enacted.

(3301.5 added May 17, 2012, P.L.262, No.43)

Section 3301.6. Appeals from ordinances.

Complaint as to the legality of any ordinance or resolution may be made to the court of common pleas. In cases of ordinances laying out streets over private lands, the court shall have jurisdiction to review the propriety as well as the legality of the ordinance.

(3301.6 added May 17, 2012, P.L.262, No.43)

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

(a) Lost ordinance books.--Whenever any ordinance book or books are lost, destroyed or become unserviceable, the borough council may provide by ordinance for a new ordinance book or books into which shall be recorded by the secretary all of the ordinances contained in the lost, destroyed or unserviceable ordinance book or books. The secretary, in recording the ordinances, shall make complete copies of the ordinances, including the date of enactment and approval and the names of the officers who signed the same, and, after notice given, as provided in this section, and corrections made, shall certify each ordinance as a correct copy of the original.

(b) Recording ordinances.--The ordinance providing for the recording of ordinances shall be recorded in the ordinance book, immediately following the ordinances so recorded and it shall provide that the secretary of the borough, upon the completion of the recording, shall publish once, in one newspaper of general circulation, a notice stating that ordinances of the borough contained in lost, destroyed or unserviceable ordinance book or books, and that the old books and records of borough ordinances and the new ordinance book are open to public inspection for the purpose of verification and correction for a period of 30 days from the date of the notice.

(c) Certification by secretary of borough.--The secretary of the borough, at the expiration of the notice, shall make all corrections, and shall then certify that all of the ordinances have been compared with the originals and that they are correct copies. After the ordinances are recorded, notice given, and the certificate of correction made, the ordinances so recorded shall take the place of the original record and shall be the valid and legal ordinances of the borough for the period covered by the new ordinance book.

(3301.7 added May 17, 2012, P.L.262, No.43)

Section 3302. Arrests for Violation of Ordinances.--(3302 repealed Apr. 28, 1978, P.L.202, No.53)

Section 3303. Commencement of Proceedings.--(3303 repealed Apr. 28, 1978, P.L.202, No.53)

Section 3304. Return of Warrants.--(3304 repealed Apr. 28, 1978, P.L.202, No.53)

Section 3305. Arrests on View; Complaints.--(3305 repealed Apr. 28, 1978, P.L.202, No.53)

Section 3306. Commitments Pending Hearings.--(3306 renumbered 3322 and amended May 17, 2012, P.L.262, No.43)

Section 3307. Commitments After Hearing.--(3307 renumbered 3323 and amended May 17, 2012, P.L.262, No.43)

Section 3308. Collection of Penalties.--(3308 repealed May 17, 2012, P.L.262, No.43)

Section 3309. Payment of Costs by Borough.--(3309 renumbered 3324 and amended May 17, 2012, P.L.262, No.43)

(b) Enforcement

(Subdiv. added May 17, 2012, P.L.262, No.43)

Section 3321. Fines and penalties.

An ordinance enacted by borough council pursuant to this act shall prescribe the fines and penalties which may be imposed for its violation and shall, unless otherwise specified in any other law of this Commonwealth, designate the method of its enforcement in accordance with the following:

(1) Except as provided in paragraph (2), when the penalty imposed for the violation of an ordinance enacted pursuant to the provisions of this act is not voluntarily paid to the borough, the borough shall initiate a civil enforcement proceeding before a magisterial district judge. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. An ordinance which is to be enforced through a civil enforcement proceeding may prescribe civil penalties not to exceed \$600 per violation. A borough shall be exempt from the payment of costs in any civil case brought by the borough to enforce an ordinance in accordance with this paragraph.

(2) For an ordinance regulating building, housing, property maintenance, health, fire, public safety, parking, solicitation, curfew, water, air or noise pollution, borough council shall provide that its enforcement shall be by action brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The municipal solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa.R.Crim.P. No. 454 (relating to trial in summary cases). Borough council may prescribe criminal fines not to exceed \$1,000 per violation and may prescribe imprisonment to the extent allowed by law for the punishment of summary offenses. Violations of the property maintenance code or ordinance may also be enforced pursuant to section 3204-A(c).

(3) All ordinances enacted prior to the effective date of this clause, other than those regulating building, housing, property maintenance, health, fire, public safety, parking, solicitation, curfew, water, air or noise pollution, shall be deemed automatically amended so that they shall be enforced through a civil enforcement proceeding in accordance with paragraph (1).

(4) In addition to or in lieu of enforcement of an ordinance through a civil action or as a summary offense, as provided in this section, boroughs may enforce ordinances

through an action in equity brought in the court of common pleas of the county where the borough is situate.

(5) Ordinances, whether enforced through civil proceedings or as a summary offense, may provide that a separate offense shall arise for each day or portion of a day in which a violation is found to exist or for each section of the ordinance which is found to have been violated. In the event that such claims for fines and penalties exceed the monetary jurisdiction of a magisterial district judge as set forth in 42 Pa.C.S. § 1515(a) (relating to jurisdiction and venue), exclusive of interest, costs or other fees, the borough may bring such action in the court of common pleas or may, pursuant to 42 Pa.C.S. § 1515(a), waive that portion of fines or penalties that exceed the monetary jurisdictional limits so as to bring the matter within the monetary jurisdiction of the magisterial district judge.

(6) Ordinances may provide that any person found guilty of violating an ordinance may be assessed court costs and reasonable attorney fees incurred by the borough in the enforcement proceedings.

(7) All fines, costs, penalties, and fees collected for the violation of any borough ordinance shall be paid to the borough treasurer.

(8) Borough council may delegate the initial determination of ordinance violation and the service of notice of violation to such officers or agents as the borough shall deem qualified for that purpose.

(3321 added May 17, 2012, P.L.262, No.43)

Section 3322. Commitments Pending Hearings.--Any person arrested for the violation of a borough ordinance that may be enforced as a summary offense may be committed to the borough lockup, pending a hearing or trial, but in case there is no suitable lockup in which to detain prisoners the person arrested may be committed to the county jail.

(3322 renumbered from 3306 and amended May 17, 2012, P.L.262, No.43)

Section 3323. Commitments After Hearing.--Upon judgment against any person by summary conviction, or by proceedings by summons on default of the payment of the fine or penalty imposed and the costs, the defendant may be sentenced and committed to the borough lockup for a period not exceeding ten days or to the county jail for a period not exceeding thirty days.

(3323 renumbered from 3307 and amended May 17, 2012, P.L.262, No.43)

Section 3324. Payment of Costs by Borough.--When a prisoner shall be committed to any county jail, either for the nonpayment of a fine or penalty imposed for the violation of any borough ordinance, or while awaiting a hearing upon any charge for the violation of any borough ordinance that is enforced as a summary offense, the expenses of maintaining the prisoner during the prisoner's confinement shall be paid by the borough, and the county shall not be liable for any such maintenance.

(3324 renumbered from 3309 and amended May 17, 2012, P.L.262, No.43)

ARTICLE XXXIV
ACTIONS BY AND AGAINST BOROUGHES
(Repealed)

(Art. hdg. repealed May 17, 2012, P.L.262, No.43)

(a) Municipal Claims

(Repealed)
(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 3401. Collection of Municipal Claims.--(3401 repealed May 17, 2012, P.L.262, No.43)

(b) Defenses by Taxpayers
(Repealed)
(Subdiv. hdg. repealed May 17, 2012, P.L.262, No.43)

Section 3411. Intervention by Taxpayers.--(3411 repealed Apr. 28, 1978, P.L.202, No.53)

Section 3412. Appeals by Taxpayers.--(3412 repealed Apr. 28, 1978, P.L.202, No.53)

Section 3413. Affidavit by Taxpayer; Costs.--(3413 repealed Apr. 28, 1978, P.L.202, No.53)

Section 3414. Taxpayer to Be Party to Suit.--(3414 repealed Apr. 28, 1978, P.L.202, No.53)

Section 3415. Liability in Bond Transfers.--(3415 repealed May 17, 2012, P.L.262, No.43)

ARTICLE XXXV
ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE
(Art. hdg. reenacted May 17, 2012, P.L.262, No.43)

Section 3501. Acts of Assembly Repealed; Saving Clause.--(a)
The following acts and parts of acts are hereby repealed as set forth:

(1) The act of May 4, 1927 (P.L.519, No.336), known as "The Borough Code," and its reenactments and amendments are repealed, except that section 2, act of May 23, 1961 (P.L.210, No.109), shall not be construed to be repealed.

(2) The act of April 14, 1875 (P.L.55, No.58), entitled "An act authorizing the burgess and town council of each of the several boroughs throughout this commonwealth to levy and collect a gas, kerosene oil and water tax," absolutely.

(3) The act of April 18, 1877 (P.L.55, No.55), entitled "An act to provide through the courts of this commonwealth for the erection of boroughs out of territory now included in cities of the third class that have been formed by joining together two or more boroughs," absolutely.

(4) The act of June 16, 1891 (P.L.302, No.232), entitled "A further supplement to an act approved the sixteenth of April, Anno Domini one thousand eight hundred and seventy-five, entitled 'An act authorizing the burgess and town council of each of the several boroughs throughout this Commonwealth to levy and collect a gas, kerosene oil and water tax,' amended by the act approved the eighth day of May, Anno Domini one thousand eight hundred and seventy-six, providing for a further amendment of section second, as amended by said last mentioned act, to authorize the use of the money so raised and collected for the purpose of illuminating said boroughs with electric light," absolutely.

(5) The act of May 2, 1901 (P.L.120, No.87), entitled "An act to prevent burgesses and councilmen of the several boroughs within this Commonwealth from soliciting or receiving bribes, and to punish any person who may offer to bribe the same," absolutely.

(6) The act of May 4, 1927 (P.L.673, No.337), entitled "An act relating to purchases by boroughs," absolutely.

(7) The act of April 26, 1929 (P.L.823, No.354), entitled "An act permitting boroughs to provide a method of assessment for borough taxes," absolutely.

(8) The act of April 11, 1931 (P.L.26, No.24), entitled "An act to validate certain proceedings for municipal improvements, municipal assessments, municipal claims, and municipal liens, in the several boroughs of this Commonwealth, and validating such improvements, assessments, claims, and liens; providing for the filing of claims and liens therefor; and the proceedings for the collection of such assessments and claims," absolutely.

(9) The act of June 12, 1931 (P.L.559, No.192), entitled "An act to authorize boroughs to sue out writs of scire facias on certain municipal claims, where more than five years have elapsed since said claims were filed, and to reduce such claims to judgment; and providing for the revival and collection of such judgments," absolutely.

(10) The act of March 3, 1933 (P.L.8, No.5), entitled "An act validating, ratifying and confirming acts and municipal functions done, executed and performed, municipal works and improvements instituted and completed, and affairs regulated by boroughs in accordance with general borough laws, where such boroughs were incorporated under local law, and no official record of the acceptance of the general borough law is in existence or can be found," absolutely.

(11) The act of July 12, 1935 (P.L.721, No.282), entitled "An act authorizing boroughs to construct, reconstruct, and repair sidewalks, gutters, curbs, and grass plots, in cases where material is paid by the abutters, and labor is furnished without cost to the borough," absolutely.

(12) The act of July 18, 1935 (P.L.1305, No.408), entitled "An act authorizing boroughs to repay certain surcharges heretofore made against councilmen for the purchase of any fire apparatus where there was no fraud, corruption, or dishonesty, or profit to such councilmen, and where the borough is in possession of and uses such fire apparatus," absolutely.

(b) All other acts or parts of acts of Assembly supplied by, inconsistent with or appertaining to the subject matter covered by this act are hereby repealed. It is the intention that this act shall furnish a complete and exclusive system for the government and regulation of boroughs, except as to the several matters enumerated in section 102 of article I of this act.

(c) Nothing contained in this act shall be construed to repeal:

(1) Any local or special law.

(2) Any of the provisions of the Public Utility Code.

(3) Any of the provisions of any law relating to the Navigation Commission for the Delaware River and its navigable tributaries.

(4) Any of the provisions of any law, the enforcement of which is vested in the Department of Health of the Commonwealth or of the Department of Environmental Protection.

(5) Any of the provisions of any law the enforcement of which is vested in the Department of Conservation and Natural Resources.

(6) Any of the provisions of the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act."

(7) The act of February 14, 2008 (P.L.6, No.3), known as the "Right-to-Know Law."

(8) Any provision of 45 Pa.C.S. (relating to legal notices).

(9) Any provision of 65 Pa.C.S. (relating to public officers).

(d) Nothing contained in this act shall be construed to revive any act or part of an act heretofore repealed.

(3501 amended May 17, 2012, P.L.262, No.43)