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PART I

BOROUGHS

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Enactment. Part I was added April 18, 2014, P.L.432, No.37, effective in 60 days.

Special Provisions in Appendix. See section 4 of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

CHAPTER 1
PRELIMINARY PROVISIONS

Sec.

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104. Constitutional construction.
105. Construction of references.
106. Application.
107. Acceptance.
107.1. Acceptance by incorporated towns.
108. (Reserved).

109. Publication of notices.
110. Terms of existing officers.

Enactment. Chapter 1 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

101. Short title of part.

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

101.1. Definitions.

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

"Abutting property" or **"abutting real estate."** In reference to any street, the term 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.

"Council." A borough council.

"Highway." A State highway of this Commonwealth.

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

(1) The most recent Federal decennial census.

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

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

"Municipality." A municipal corporation or a county.

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

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

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

102. Excluded provisions.

This part shall 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 in this part.

(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) 18 Pa.C.S. (relating to crimes and offenses).
(12) 75 Pa.C.S. (relating to vehicles).

Cross References. Section 102 is referred to in section 3501 of this title.

103. Construction of part.

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

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

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

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

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

(ii) 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.

(4) All ordinances, resolutions, regulations and rules made under any act repealed under this part 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 under this part.

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

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

104. Constitutional construction.

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

Cross References. Section 104 is referred to in section 1302.1 of this title.

105. Construction of references.

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

106. Application.

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

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

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

(1) The provisions of this part similar to 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," shall apply to boroughs incorporated under local laws in the same manner as similar provisions of the former act of May 4, 1927 (P.L.519, No.336), entitled "An act concerning boroughs, and revising, amending and consolidating the law relating to boroughs," were extended to boroughs acting under local laws.

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

107. Acceptance.

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

(1) A borough incorporated or acting under any local or special act may surrender the provisions of its special and local acts in their entirety or as they are inconsistent with this part and be governed by this part 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 part.

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

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

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

(1) Upon the presentation of a petition under subsection (a), the court shall set and provide notice of a hearing date.

An inhabitant of the borough may remonstrate against the granting of the petition at the hearing.

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

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

(1) Liabilities incurred.

(2) Rights accrued or vested.

(3) Obligations issued or contracted.

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

(5) Ordinances.

Cross References. Section 107 is referred to in section 107.1 of this title.

107.1. Acceptance by incorporated towns.

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

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

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

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

(b) Full acceptance.--An incorporated town incorporated or acting under any local or special act may elect to accept this part in its entirety and surrender all local and special acts by petition as set forth in section 107 (relating to acceptance). If an incorporated town accepts this part in its 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 indicate the name of the new borough.

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

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

(i) Liabilities incurred.

(ii) Rights accrued or vested.

(iii) Obligations issued or contracted.

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

(v) Ordinances.

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

108. (Reserved).

109. Publication of notices.

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

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

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

(b) Legal newspaper.--Unless dispensed with by special order of court, the 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 the notice refers to any of the following:

(1) Any proceeding in any court.

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

Cross References. Section 109 is referred to in section 202 of this title.

110. Terms of existing officers.

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

CHAPTER 2

CREATION AND ALTERATION

ubchapter

A. Incorporation
B. Consolidation (Reserved)
C. Creation from Cities of the Third Class
D. Consolidation or Merger and Change of Corporate Name

Enactment. Chapter 2 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

SUBCHAPTER A
INCORPORATION

ec.

00. Definitions.
01. Contiguous areas.
02. Applications.
02.1. Borough advisory committee.
202.2. Advisability of incorporation, certification of question for referendum and decree.
03. (Reserved).
04. (Reserved).
05. Borough government and requisites of charter.
06. Farmlands.
07. Corporate name.
08. (Reserved).
09. (Reserved).
10. Certificates.
211. Temporary preservation, organization and election of officers.
12. Boundaries.
13. Adjustment of indebtedness.
14. Judicial adjustment.
15. Judicial adjustment award proceedings.
16. Exceptions.
17. Compensation, expenses and costs.
18. Territory located in multiple counties.
19. Bond issues and taxation.

Cross References. Subchapter A is referred to in section 805 of this title.

200. Definitions.

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

"Committee." A borough advisory committee.

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

"Township." A township of the second class.

Special Provisions in Appendix. See section 4(3)(i) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

201. Contiguous areas.

A court of common pleas may incorporate as a borough any contiguous area from one or more townships within the court's 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.

Cross References. Section 201 is referred to in section 211 of this title.

202. Applications.

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

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

(2) If 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 following shall apply:

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

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

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

(b) (Reserved).

(c) (Reserved).

(d) (Reserved).

(e) Filing and notice.--Upon presentation to the court, a petition shall be filed with the clerk of court, and notice of the petition shall be published under section 109 (relating to publication of notices) 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) Contents of petition.--The petition under subsection (e) shall indicate 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. The following shall apply:

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

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

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

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

Special Provisions in Appendix. See section 4(3)(ii) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

202.1. Borough advisory committee.

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

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

(2) The committee shall consist of the following:

(i) Two residents of the proposed borough.

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

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

(3) Members shall serve without salary. 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.

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

(b) Duties.--The committee shall, within 60 days of its creation, advise the court in relation to the establishment of the proposed borough. The committee shall render expert advice

and findings of fact relating to the desirability of an incorporation, including 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.

(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.

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

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

(a) Process.--After receiving the findings of fact and the advice of the committee, the court shall conduct a hearing. If, after the hearing, the court deems further investigation necessary to determine the advisability of incorporation, it may issue an order to obtain the additional information. When the court has obtained all reasonably necessary information and has determined that the conditions required under this section have been met, the court shall determine the desirability of the proposed incorporation based upon the following:

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

(2) Any additional information obtained after the hearing.

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

(b) Determination.--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 may be held. 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) Expenses.--The petition and the final decree granting or denying the petition shall be recorded in the recorder of deeds office of the county at the expense of the petitioners. The petitioners shall pay all other expenses and costs in connection with the proceedings.

203. (Reserved).

204. (Reserved).

205. Borough government and requisites of charter.

(a) Time.--When 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 rights, privileges and immunities conferred under this part, except as provided under section 211 (relating to temporary preservation, organization and election of officers).

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

(1) The corporate name of the borough.

(2) The boundaries of the borough.

206. Farmlands.

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

207. Corporate name.

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

208. (Reserved).

209. (Reserved).

210. Certificates.

(a) Decree.--When a borough is created, the clerk of courts in each county affected shall, within 30 days of the creation, 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. The clerk may impose a fee of $3.50 as part of the costs of the proceeding for the services under this subsection.

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

Special Provisions in Appendix. See section 4(3)(iii) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

211. Temporary preservation, organization and election of officers.

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

(1) A newly incorporated area under section 201 (relating to contiguous areas) 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.

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

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

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

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

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

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

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

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

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

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

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

Cross References. Section 211 is referred to in sections 205, 213 of this title.

212. Boundaries.

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

213. Adjustment of indebtedness.

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

(1) After the election of a council under section 211 (relating to temporary preservation, organization and election of officers) when a borough is newly incorporated, the council and the governing body of the township from which the borough was created shall make an equitable adjustment and apportionment of all the public real and personal property owned by the township at the time of the incorporation of the borough.

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

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

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

(1) 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 immediately prior to the incorporation of the borough. The township shall be entitled to the remainder of the property and indebtedness.

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

(3) If 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.

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

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

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

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

214. Judicial adjustment.

(a) Petition.--If the governing bodies of the township 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, the supervisors of the township or the council of the borough may present a petition to the court of common pleas requesting a judicial adjustment.

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

(1) Are residents and taxpayers of the county.

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

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

Cross References. Section 214 is referred to in sections 215, 216, 217 of this title.

215. Judicial adjustment award proceedings.

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

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

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

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

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

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

216. Exceptions.

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

217. Compensation, expenses and costs.

The commissioners under section 214(b) (relating to judicial adjustment) shall receive compensation and expenses for their services as provided by the court. The costs of the proceedings,

including the compensation and expenses of the commissioners, shall be apportioned by the court between the borough and township.

218. Territory located in multiple counties.

If territory included within the limits of a newly incorporated borough is located in at least two 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.

219. Bond issues and taxation.

In any proceeding to adjust and apportion indebtedness, the township or the borough shall have power to issue and deliver to the borough or township 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 make 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.

SUBCHAPTER B
CONSOLIDATION
(Reserved)

SUBCHAPTER C
CREATION FROM CITIES OF THE THIRD CLASS

ec.

31. Procedure.
32. Filing, notice and return.
33. Borough government.
34. Effect.
35. Costs and expenses.

Cross References. Subchapter C is referred to in section 805 of this title.

231. Procedure.

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

(b) Vote.--The electors shall, at the election under subsection (a), 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.

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

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

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

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

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

(3) The name of the proposed borough.

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

Cross References. Section 231 is referred to in section 232 of this title.

232. Filing, notice and return.

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

(1) Enter an appropriate order requiring an election.

(2) 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.

(b) Notice.--Notice of the time and purpose of the election under subsection (a) 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.

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

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

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

(3) If a majority of those voting on the question submitted were in favor of the change of the city charter 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, and the record shall constitute the charter of the borough under the name provided 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.

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

Cross References. Section 232 is referred to in section 233 of this title.

233. Borough government.

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

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

234. Effect.

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

(1) Affect any of the following:

(i) Liabilities incurred.

(ii) Rights accrued or vested.

(iii) Obligations issued or contracted.

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

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

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

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

(d) Office.--All constables and election officers in office in the city at the time the borough government is organized

shall remain in office until the expiration of their respective terms of office.

235. Costs and expenses.

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

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

SUBCHAPTER D
CONSOLIDATION OR MERGER AND CHANGE OF CORPORATE NAME

ec.

41. Consolidation or merger.
42. Change of corporate name.

241. Consolidation or merger.

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

242. Change of corporate name.

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

(1) If the corporate name of a borough differs from the name of the borough in general usage or from the post office designation due to minor discrepancies in spelling, capitalization or 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.

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

(i) Council, pursuant to a resolution.

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

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

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

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

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

(1) Liabilities incurred.

(2) Rights accrued or vested.

(3) Obligations issued or contracted.

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

CHAPTER 3
ANNULMENT OF CHARTERS AND
CHANGE OF CORPORATE NAMES
(Reserved)

Enactment. Chapter 3 (Reserved) was added April 18, 2014, P.L.432, No.37, effective in 60 days.

CHAPTER 4
CHANGE OF LIMITS
(Reserved)

Enactment. Chapter 4 (Reserved) was added April 18, 2014, P.L.432, No.37, effective in 60 days.

CHAPTER 5
BOUNDARIES

ec.

01. Stream boundaries.
02. Petition and establishment of disputed boundaries.
03. Commissioners and report.
04. Exceptions and procedure.
05. Compensation, expenses and costs.
06. Boundary monuments.

Enactment. Chapter 5 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

501. Stream boundaries.

If a 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 under this section shall be construed to repeal any local or special law contrary to this section.

502. Petition and 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. If a petition is presented, the court may require the petitioners to file a bond in a sufficient amount to secure the payment of all costs of the proceeding.

Cross References. Section 502 is referred to in section 503 of this title.

503. Commissioners and report.

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

(b) Hearing.--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.

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

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

Cross References. Section 503 is referred to in sections 504, 505 of this title.

504. Exceptions and procedure.

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

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

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

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

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

Cross References. Section 504 is referred to in section 503 of this title.

505. Compensation, expenses and costs.

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

(1) The petitioners.

(2) The borough.

(3) Any interested municipal corporation.

506. Boundary monuments.

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

CHAPTER 6
WARDS

ec.

01. Creation and alteration.
02. Petition of electors.
03. Notice of ordinance.
04. (Reserved).
05. (Reserved).
06. Terms of officers.
06.1. Construction of chapter.
07. (Reserved).

Enactment. Chapter 6 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

601. Creation and alteration.

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

(1) Divide boroughs into wards.

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

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

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

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

(6) Abolish all wards.

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

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

(2) The following shall apply:

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

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

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

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

(d) Composition.--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.

Cross References. Section 601 is referred to in sections 602, 603 of this title.

602. Petition of electors.

(a) Council.--At least 5% of registered electors of the borough or, for a proposal affecting only a portion of the borough, at least 5% of the registered electors of the ward which would be affected by the proposal may petition council to initiate proceedings under section 601 (relating to creation and alteration) 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 90 days of presentment of the petition, determine whether to initiate proceedings under section 601.

(b) Court of common pleas.--If council has not approved a motion within 90 days after the presentment of a petition under subsection (a), 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).

603. Notice of ordinance.

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

(b) County board of elections.--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.

604. (Reserved).

605. (Reserved).

606. Terms of officers.

(a) Appointment.--Except as provided under subsection (b), if council divides 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 of the ward may be elected.

(b) Expiration.--Except as provided under subsection (a), officers in office at the time any changes are made under this chapter shall remain in office until the expiration of the terms for which they have been elected. If a vacancy occurs, 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 under Chapter 8 (relating to elections of officers).

606.1. Construction of chapter.

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

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

(2) Restrictions on alteration of election districts as provided under Article V of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

607. (Reserved).

CHAPTER 7
ASSOCIATIONS AND ORGANIZATIONS

ec.

01. State Association of Boroughs.
01.1. Authorization and expenses.

01.2. Compensation.
02. County and regional associations of boroughs.
03. Other associations and organizations.
04. Associations and organizations for mayors.
05. National or State lodge of police officers.

Enactment. Chapter 7 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

701. State Association of Boroughs.

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

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

701.1. Authorization and expenses.

(a) Delegates.--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 State Association of Boroughs, which shall be held in this Commonwealth in accordance with the procedure adopted by the State Association of Boroughs.

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

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

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

(i) The registration fee.

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

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

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

(i) The registration fee.

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

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

701.2. Compensation.

(a) Employees.--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 rates during their attendance at the annual meeting or a conference, educational training or committee meeting of the State Association of Boroughs.

(b) Nonemployees.--Council 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 State Association of Boroughs if sufficient documentation is presented to council to justify the reimbursement.

(c) Amount.--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 State Association of Boroughs shall be not more than four days, including time spent traveling to and from the event.

(d) Executive members.--The council may authorize a mayor or any council member employed by the borough to be compensated at the mayor's or council member's 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 the mayor or council member attends 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 State Association of Boroughs, subject to the following 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 State Association of Boroughs shall be limited to two days per year of regular employee rate compensation or lost wages or salary.

(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 State Association of Boroughs shall be limited to four days per year of regular employee rate compensation or lost wages or salary.

(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 State Association of Boroughs shall be limited to 15 days per year of regular employee rate compensation or lost wages or salary.

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

Cross References. Section 701.2 is referred to in section 701.1 of this title.

702. County and regional associations of boroughs.

(a) Organization.--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, organized for the purpose of furthering the interests of the boroughs in the county or regional association of boroughs and their inhabitants.

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

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

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

(i) The registration fee.

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

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

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

(d) Compensation.--The council may authorize borough employees to be compensated at their regular employee rate during their attendance at a meeting of the county or regional association. The 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 if sufficient documentation is presented to the council to justify the reimbursement.

(e) Other members.--A county or regional association of boroughs may admit representatives of political subdivisions other than boroughs within the county as members. Members admitted under this subsection may not participate in any matter of concern solely to boroughs.

703. Other associations and organizations.

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

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

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

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

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

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

(i) The registration fee.

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

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

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

(3) The council may authorize borough employees to be compensated at their regular employee rate during their attendance at an annual meeting or conference of an association or organization under paragraph (1). The time spent in attending the meeting or conference may not be more than four days, including the time traveling to and from the meeting or conference.

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

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

(i) Meetings of professional organizations and associations.

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

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

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

704. Associations and organizations for mayors.

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

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

(1) The registration fee.

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

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

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

705. National or State lodge of police officers.

(a) Authorization.--A council may grant a borough employee who is a duly elected representative of a State lodge of police officers or a local lodge which is 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.

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

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

CHAPTER 8
ELECTIONS OF OFFICERS

ubchapter

A. General Provisions
B. Members of Council
C. Mayor (Reserved)
D. Auditors (Reserved)
E. Controller (Reserved)
F. Assessors (Reserved)
G. Tax Collector (Reserved)

Enactment. Chapter 8 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

Cross References. Chapter 8 is referred to in section 606 of this title.

SUBCHAPTER A
GENERAL PROVISIONS

ec.

01. Eligibility.
02. Time and place.
03. Certificates.
04. Term and bonds.
05. Election after creation.
06. Officers elected.

801. Eligibility.

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

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

(2) Before being sworn into office, each elected borough officer shall present a signed affidavit to the borough secretary that states that the officer resides in the borough, or within the ward in the case of a ward office, from which elected and has resided in the borough continuously for at least one year immediately prior to the officer's election.

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

(c) Exception.--A borough with a population of less than 150 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.

Special Provisions in Appendix. See sections 4(3)(iv) and 5 of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

Cross References. Section 801 is referred to in sections 816, 901 of this title.

802. Time and place.

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

803. Certificates.

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

804. Term and bonds.

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

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

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

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

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

(2) A borough shall pay a proportionate share of the cost of a tax collector's bond within 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.

Cross References. Section 804 is referred to in section 1103 of this title.

805. Election after creation.

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

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

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

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

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

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

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

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

(2) 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 any of the following:

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

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

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

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

(i) One for a term of two years.

(ii) One for a term of four years.

(iii) One for a term of six years.

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

Cross References. Section 805 is referred to in sections 211, 233 of this title.

806. Officers elected.

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

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

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

(3) Unless the borough provides for one appointed auditor under section 1005(7) (relating to powers of council), three auditors or one controller. 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.

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

(A) be elected at the municipal election;

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

(C) serve for a term of four years.

(4) As follows:

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

(ii) In a borough with a population of less than 3,000 as determined by the latest official census, 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 under section 818 (relating to decrease in number of members of council).

(5) As follows:

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

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

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

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

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

Cross References. Section 806 is referred to in section 805 of this title.

SUBCHAPTER B
MEMBERS OF COUNCIL

ec.

11. Election.
12. Election of members of council.

13. Fixing number of members of council.
14. Increase in number of ward council members.
15. Decrease in number of ward council members.
16. Election of members of council where wards abolished.
17. Vacancies created after a primary election.
18. Decrease in number of members of council.

811. Election.

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

Cross References. Section 811 is referred to in section 805 of this title.

812. Election of members of council.

(a) General rule.--If council, by ordinance, divides any borough into wards, erects new wards out of two or more wards or parts of wards or divides 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) Election of members.--The following shall apply:

(1) If 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. If the entire number of council is to be composed of an even number, one-half of the entire number must be elected at each municipal election. If the entire number of council is to be an odd number, the ordinance shall establish two classes and 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.

(2) The apportionment under paragraph (1) shall be equal or as nearly equal as possible representation by wards in each class. Biennially, 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 succeeding the election, to fill the places of those whose terms shall expire on the first Monday of January following the election.

813. Fixing number of members of council.

If, upon the division of a borough into wards or the creation of a new ward, the number of members of council cannot be equally divided among the wards of the borough, it shall be

lawful for council to increase the number of council members to and not exceeding a number that will enable equal apportionment of the members among the several wards of the borough. If a borough is first divided into wards, the number of members of council provided for a ward may not exceed two.

814. Increase in number of ward council members.

Council may, upon petition of at least 5% 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.

815. Decrease in number of ward council members.

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

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

(b) Petitions.--A petition under subsection (a) 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 the reasons why the reduction in number is desired. The petition may 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.

(c) Notice.--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 of 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.

(d) Terms.--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 ensure that, as nearly as possible, one-half of the members of council elected at large will be elected at each municipal election. The following shall apply:

(1) At each municipal election in the borough, if 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 succeeding the election.

(2) At each municipal election in the borough, if there is one member from each ward, the electors from each of the odd-numbered wards shall, at the first municipal election, 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 succeeding municipal election, the electors of the even-numbered wards or odd-numbered wards 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.

(e) Reduction.--In a borough where, under 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.

816. Election of members of council where wards abolished.

(a) Abolishing.--If council, by ordinance, abolishes 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. If there were previously:

(1) Seven members of council, the ordinance shall provide that, at the first municipal election, the electors shall elect three or four members of council, as the case may be, the number to be elected shall 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 following 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. 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, 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 following shall apply:

(i) The newly elected members of council shall serve for terms of four years from the first Monday of January following 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 shall serve for a four-year term following the first Monday of January following the municipal election, and the remainder shall serve for a two-year term, in an amount to bring the number 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.

(ii) 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.

(iii) In any borough in which, under the ward system of electing members of council, 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 council until the first Monday of January following the second municipal election following the effective date of the ordinance.

(iv) 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, and the remainder to serve for a two-year term, in an amount 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.

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

817. Vacancies created after a primary election.

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

818. Decrease in number of members of council.

(a) Petition by electors.--The court of common pleas may, upon petition of at least 5% 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 3,000, 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.

(b) Notice.--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 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 to three, as requested in the petition.

(c) Number to be elected.--

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

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

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

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

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

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

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

(d) Election.--

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

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

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

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

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

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

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

(e) Terms.--In any borough in which, under 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 attains a population in

excess of 3,000 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 subsection (c) or (d).

Cross References. Section 818 is referred to in section 806 of this title.

SUBCHAPTER C
MAYOR
(Reserved)

SUBCHAPTER D
AUDITORS
(Reserved)

SUBCHAPTER E
CONTROLLER
(Reserved)

SUBCHAPTER F
ASSESSORS
(Reserved)

SUBCHAPTER G
TAX COLLECTOR
(Reserved)

CHAPTER 9
VACANCIES IN OFFICE

ec.
01. Filling vacancies in elective borough offices.
902. Collection of taxes where vacancy in office of tax collector not filled.
903. Right of council to declare seat of member vacant for failure to qualify.
04. (Reserved).
04.1. Removal of elected official and appointee.
05. Temporary auditor.

Enactment. Chapter 9 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

901. Filling vacancies in elective borough offices.

(a) Vacancies.--If any vacancy occurs in the office of the mayor, member of council, auditor, controller or tax collector, by death, resignation under subsection (a.1) or 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, to give bond as provided by law or ordinance or to provide the affidavit required under section 801 (relating to eligibility), or in any other manner whatsoever, the council shall fill the vacancy within 30 days by appointing, by resolution, a registered elector of the borough, or of the ward in the case of a ward office, to hold the office, if the term continues that long, until the first Monday in January after the first municipal election occurring more than 60 days after the vacancy occurs, at which election an eligible individual shall be elected to the office for the remainder of the term. Except as provided in section 801(c), no individual shall be appointed to fill a vacancy in an elected borough or ward office unless the individual 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 individual's appointment.

(a.1) Vacancy by resignation.--

(1) A vacancy shall not be created by a resignation until the date that the resignation is accepted by a majority vote of a quorum of council at a public meeting or the effective date of the tendered resignation, whichever is later. A council must accept a resignation no later than 45 days after it has been tendered in writing to council, unless it is withdrawn in writing prior to acceptance.

(2) A resignation which is not accepted as provided under paragraph (1) shall be deemed accepted after 45 days.

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

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

calendar year or as soon as practical and who shall act as chair of the vacancy board. The vacancy 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 that long, until the first Monday in January after the first municipal election occurring more than 60 days after the vacancy occurs, at which election an eligible individual shall be elected to the office for the remainder of the term.

(d) Board petition.--If the vacancy is not filled by the vacancy board within 15 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 that long, until the first Monday in January after the first municipal election occurring more than 60 days after the vacancy occurs, at which election an eligible individual shall be elected to the office for the remainder of the term.

(e) Elector petition.--If vacancies exist 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 15 registered electors of the borough.

Special Provisions in Appendix. See section 4(3)(v) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 901 is referred to in sections 903, 1005 of this title.

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

If a vacancy in the office of tax collector exists and no registered elector of the borough has, within 30 days, received the appointment to fill the vacancy, the county commissioners, the 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 for school districts, at the option of the district, through their secretaries, and for boroughs, at the option of the council, through their secretaries or borough managers. Nothing in this section shall prohibit a borough from providing for agreements or the joint collection of taxes in accordance with sections 4.2 and 4.4 of the act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law.

Special Provisions in Appendix. See section 4(3)(vi) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

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

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

Cross References. Section 903 is referred to in section 1003 of this title.

904. (Reserved).

904.1. Removal of elected official and appointee.

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

(1) By impeachment.

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

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

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

Special Provisions in Appendix. See section 4(3)(vii) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

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 individual, 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.

CHAPTER 10
POWERS AND DUTIES OF ELECTED OFFICIALS

Subchapter

A. Council
B. Mayor (Reserved)
C. Auditors
D. Controller
E. (Reserved)
F. Tax Collector

Enactment. Chapter 10 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

SUBCHAPTER A
COUNCIL

ec.

1001. Organization of council, quorum, participation by telecommunication device, voting, compensation and eligibility.
002. Oath of members of council.
1003. When the mayor may preside over council and vote, attendance of mayor at council meetings and breaking tie votes.
004. Failure of council to organize.
005. Powers of council.
006. Duties of council.
007. (Reserved).
008. (Reserved).
1009. Typewritten, printed, photocopied, microfilmed and electronically or digitally stored records valid and recording or transcribing records.
010. (Reserved).
011. (Reserved).
012. (Reserved).
013. (Reserved).
014. Hearings before council; witnesses.
015. Witness fees and mileage.
016. Examination of witnesses; penalty.

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

(a) Organization.--The council shall organize on the first Monday of January of each even-numbered year by electing one member as president and one member 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 following day. Any action taken by any council at any time between 12:01 a.m. 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

organizational 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 part or by ordinance.

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

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

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

(1) In boroughs with a population of less than 5,000, a maximum of $1,875 per year.
(2) In boroughs with a population of 5,000 or more but less than 10,000, a maximum of $2,500 per year.
(3) In boroughs with a population of 10,000 or more but less than 15,000, a maximum of $3,250 per year.
(4) In boroughs with a population of 15,000 or more but less than 25,000, a maximum of $4,125 per year.
(5) In boroughs with a population of 25,000 or more but less than 35,000, a maximum of $4,375 per year.
(6) In boroughs with a population of 35,000 or more, a maximum of $5,000 per year.

The salaries shall be payable monthly or quarterly for the duties imposed by this part. Benefits provided to members of council under section 1202(26) (relating to specific powers) 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) Eligibility for compensation.--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, if 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.

Cross References. Section 1001 is referred to in sections 1003, 1006 of this title.

1002. Oath of members of council.

Before entering upon the duties of their offices, 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 the mayor of the borough when the individual has qualified, and the oath or affirmation shall be filed with the borough secretary and preserved among the records of the borough for a period of six years.

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

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

(b) Voting at meetings.--The mayor 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 organizational meeting. If the mayor is absent from the organizational 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.

(c) Attendance.--The mayor may attend any or all regular and special meetings of council and 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.

(d) Tie votes.--

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

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

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

(iii) fill any other vacancy in its membership or in any other borough office; or

(iv) 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.

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

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

(4) If a tie or split vote occurs 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.

Cross References. Section 1003 is referred to in section 10A01 of this title.

1004. Failure of council to organize.

If the council of any borough fails to organize within ten days from the time prescribed in this chapter, 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 responsible for the failure to organize vacant and shall appoint others in their place, who shall hold office for the respective unexpired terms.

1005. Powers of council.

The council shall have power:

(1) To, by motion, ordinance or resolution, create the offices of 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 this part 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 issue certificates of indebtedness. The loans shall be repaid from the first money available from taxes in anticipation of which the loans were made.

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

(i) 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 or any political subdivision,

deposited with the borough or with any bank or trust company within this Commonwealth and of a market value of 120% 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 a depository designated under this subparagraph. If borough funds are deposited under this subparagraph, the borough treasurer shall be released and discharged from further liability on account of the deposit.

(ii) Subparagraph (i) 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 deposit 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 or 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 money in the general fund and in special funds of the borough other than the sinking funds as authorized by Chapter 13 (relating to taxation and finance); 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 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 this Commonwealth, a firm of certified public accountants registered in this Commonwealth or a competent public accountant or a competent firm of public accountants.

(i) When an ordinance has been adopted, an independent auditor shall be appointed annually, by resolution before the close of the 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 Subchapter C (relating to auditors).

(ii) When an independent auditor is appointed as provided in this paragraph, the office of elected borough auditor or controller is abolished, but the borough auditor or controller

then in office shall continue to hold office during the term for which elected, and the borough auditor or controller shall not audit, settle or adjust the accounts audited by the independent auditor but shall perform the other duties of office.

(iii) If 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 the office of appointed auditor shall be abolished as of the date set in the ordinance. 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 following the election, which auditors shall succeed the appointed auditor and shall have and possess all the powers and perform all the duties provided in this part 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 the vacancies in the manner prescribed in section 901 (relating to filling vacancies in elective borough offices).

(8) To make, authorize and ratify expenditures for lawful purposes from funds available 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.

Cross References. Section 1005 is referred to in sections 806, 1059.11, 24A04 of this title.

1006. Duties of council.

It shall be the duty of council:

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

(2) To meet at a stated time 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 24 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 the 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 under Chapter 33 (relating to ordinances), 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. If any action by the council results in a specific written contract or agreement, the contract or agreement shall be signed by the president of the 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 employees.

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

Cross References. Section 1006 is referred to in section 10A07 of this title.

1007. (Reserved).

1008. (Reserved).

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

(a) Validity.--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 and enlargements 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) Requirements.--If 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 on it 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) Previously recorded documents.--All records previously recorded or transcribed in any manner authorized by this part at the time the records were recorded or transcribed are validated.

Cross References. Section 1009 is referred to in section 1111 of this title.

1010. (Reserved).

1011. (Reserved).

1012. (Reserved).

1013. (Reserved).

1014. Hearings before council; witnesses.

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 a witness refuses 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.

Cross References. Section 1014 is referred to in section 1015 of this title.

1015. Witness fees and mileage.

No individual residing outside the borough and subpoenaed under section 1014 (relating to hearings before council; witnesses) shall be required to respond to the subpoena until mileage to and from the borough at the rate established by the 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.

1016. Examination of witnesses; penalty.

An individual called as a witness, as provided in this chapter, 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.

SUBCHAPTER B

MAYOR

(Reserved)

SUBCHAPTER C

AUDITORS

ec.

041. Auditors to meet yearly and audit accounts.
042. (Reserved).
043. (Reserved).
044. (Reserved).
045. (Reserved).
046. (Reserved).
047. (Reserved).
048. (Reserved).
049. (Reserved).
050. (Reserved).
051. (Reserved).
052. (Reserved).
053. Compensation of auditors.
054. (Reserved).
055. Subpoenas, oath and perjury.
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059.7. Findings of fact and law, judgment and appeals.
059.8. Attorney fees.
059.9. Balances due to be entered as judgments.
059.10. Penalty for failure to comply with law.
059.11. General powers and duties of independent auditor.

Cross References. Subchapter C is referred to in section 1005 of this title.

1041. Auditors to meet yearly and audit accounts.

(a) First meeting.--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 following day. Two auditors shall constitute a quorum.

(b) Audits.--The auditors:

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

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

(3) Audit and report to the 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) Cancellation.--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 of the documents.

(c) (Reserved).

(d) (Reserved).

(e) (Reserved).

(f) (Reserved).

(g) (Reserved).

1042. (Reserved).

1043. (Reserved).

1044. (Reserved).

1045. (Reserved).

1046. (Reserved).

1047. (Reserved).

1048. (Reserved).

1049. (Reserved).

1050. (Reserved).

1051. (Reserved).

1052. (Reserved).

1053. Compensation of auditors.

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

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

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

1054. (Reserved).

1055. Subpoenas, oath and perjury.

(a) Subpoenas.--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 refuses or neglects 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) Oaths.--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 commits perjury.

Cross References. Section 1055 is referred to in section 1059.11 of this title.

1056. (Reserved).

1057. (Reserved).

1058. Pay of witnesses.

Witnesses, other than officers of the borough, appearing before the auditors and individuals 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, if the costs have been incurred in establishing the balance. The costs collected from any officer shall be repaid into the borough treasury.

Cross References. Section 1058 is referred to in section 1059.11 of this title.

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

If any person in possession of documents relative to public accounts before auditors refuses to produce the same or if any officer whose accounts are to be settled and adjusted by the auditors refuses to appear or submit to examination as directed by this subchapter, 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.

Cross References. Section 1059 is referred to in section 1059.11 of this title.

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

(a) Reports.--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 all of the following:

(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.
(8) The assets in each sinking fund.

(b) Details.--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 all of 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.
(6) The date of maturity of the respective forms of funded debt of the borough.

(b.1) Filing of reports and penalties.--The reports shall be prepared no later than 90 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 90 days after the close of the fiscal year. Any secretary of the auditors refusing or willfully neglecting to file the report commits 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 commits a summary offense.

(c) Service of report.--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 indicate that the balance or shortage is deemed a surcharge under section 1059.3 (relating to surcharge by auditors) and shall apprise the officer served of the right to appeal under section 1059.4 (relating to appeals from audit). 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 under this chapter.

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

1059.2. Attorney to auditors.

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

1059.3. Surcharge by auditors.

(a) Surcharges.--

(1) 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.

(2) The following shall apply:

(i) 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.

(ii) A 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.

(iii) Subparagraph (i) 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) Illegal acts.--In any matter involving a financial transaction, any official knowingly and willfully acting contrary to law commits a misdemeanor and, upon conviction, may be sentenced to pay a fine not exceeding $100.

Cross References. Section 1059.3 is referred to in sections 1059.1, 1059.11 of this title.

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 no later than 40 days from the date of the filing of the auditor's report with the clerk of common pleas.

Cross References. Section 1059.4 is referred to in sections 1059.1, 1059.8 of this title.

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 secures a bond in the sum of $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.

1059.6. Procedure on appeals.

(a) Evidence and burden.--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) Multiple appeals.--If more than one appeal from a report of the auditors has 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.

1059.7. Findings of fact and law, judgment and 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.

1059.8. Attorney fees.

(a) Fees awarded.--Upon final determination of an appeal taken under section 1059.4 (relating to appeals from audit) 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) If, in the opinion of the court, the final determination is more favorable to the borough than that awarded by the auditors in the case of an appeal taken by the borough or a taxpayer, 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:

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

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

Cross References. Section 1059.8 is referred to in section 1059.11 of this title.

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 chapter 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 $1,000 with one or more sureties, conditioned to indemnify the borough from all costs of the proceedings undertaken by the taxpayer, subject to all rights of appeal from the report of auditors granted by this part. 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, the article purchased shall become the property of the person surcharged.

1059.10. Penalty for failure to comply with law.

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

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

1059.11. General powers and duties of independent auditor.

(a) Powers and duties.--If an independent auditor is appointed under section 1005(7) (relating to powers of council), the independent auditor shall have the same powers and duties and be subject to the same penalties as the auditors under this chapter. 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 required in this part of the auditors of the borough.

(b) Reporting.--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 chapter. 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 (relating to surcharge by auditors) 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 chapter.

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

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

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

SUBCHAPTER D
CONTROLLER

ec.

061. Oath and bond of controller.
062. Salary of controller.
063. General powers and duties of controller.
064. (Reserved).
065. Countersigned warrants.
066. Prevention of appropriation overdrafts.
067. Amount of contracts to be charged against appropriations.
068. Controller's recommendations on borough finances.
069. Books to be kept by controller.
070. Appeals from controller's report.
071. Acceptance by ordinance.

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.

1062. Salary of controller.

The 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.

1063. General powers and duties of controller.

(a) General duties and powers.--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 if provision for the settlement is made by law. If no provision or an insufficient provision has been made, the controller shall examine the accounts and report to the council the relevant facts and opinion on the accounts.

(b) 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 part. A person guilty of swearing or affirming falsely before the controller commits 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 required in this part of the auditors of the borough.

(c) Scope.--The controller shall:

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

(2) audit their respective accounts and may at any time require from any of them a statement in writing of any money 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;

(3) 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;

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

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

1064. (Reserved).

1065. Countersigned warrants.

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

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

(2) 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.

1066. Prevention of appropriation overdrafts.

The controller shall not permit any appropriation made by the council to be overdrawn. If 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 money which has been drawn on the appropriation and the particular purpose for which it is drawn.

1067. Amount of contracts to be charged against appropriations.

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

(b) Liability for excess.--If the controller certifies 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.

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

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.

1069. Books to be kept by controller.

The borough controller shall keep a regular set of books which shall be opened and keep as many accounts, under appropriate titles, as may be necessary to show separately and distinctly all the estates and property, real and personal, vested in the borough, all trusts in the care of the borough, 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.

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 provided in this part in the cases of appeals from the settlement and audit of the auditors as shown in their report.

1071. Acceptance by ordinance.

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

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

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

SUBCHAPTER E

(Reserved)

SUBCHAPTER F

TAX COLLECTOR

ec.

086. Powers and duties of tax collector.

1086. Powers and duties of tax collector.

(a) General rule.--Except as otherwise provided in subsection (b), 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.

(b) Exception.--

(1) No tax collector may 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 provides that the tax collector shall be the collector of the tax.

(2) 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.

(c) Other laws.--The tax collector shall, in addition to the powers, authority, duties and responsibilities provided for by this part, 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.

CHAPTER 10A
MAYOR

ec.

0A01. Eligibility of mayor.
0A02. Incompatible offices.
0A03. Oath of mayor.
0A04. Salary of mayor.
0A05. Salaried mayor not to receive certain fees.
0A06. General powers of mayor.
0A07. Duties of mayor.
0A08. President or vice president of council to act as mayor.

Enactment. Chapter 10A was added April 18, 2014, P.L.432, No.37, effective in 60 days.

10A01. 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 (relating to appointments and incompatible offices). 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 (relating to when the mayor may preside over council and vote, attendance of mayor at council meetings and breaking tie votes).

10A02. Incompatible offices.

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

10A03. 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.

10A04. Salary of mayor.

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

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

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

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

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

(a.1) Treatment of benefits.--Benefits provided to the mayor under section 1202(26) (relating to specific powers) 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.

10A05. Salaried mayor not to receive certain fees.

(a) General rule.--Except as provided in subsection (b), any salary paid under 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 deposited into the borough treasury.

(b) Marriage ceremony fees.--

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

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

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

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

(5) 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 part.

Cross References. Section 10A05 is referred to in section 10A07 of this title.

10A06. General powers of mayor.

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

(b) Emergencies.--

(1) 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.

(2) 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.

(3) 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 the officer's 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).

(4) If 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.

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

(i) 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.

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

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

(iv) 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.

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

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

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

10A07. Duties of mayor.

The mayor shall have the following duties:

(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) (relating to duties of council), 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 10A05(b) (relating to salaried mayor not to receive certain fees), 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 be surrendered to the mayor's successor in office.

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

(a) General rule.--If 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 if there is a vacancy in the office, by the vice president of council.

(b) Salary.--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.

(c) Veto and voting power.--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.

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

ubchapter

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Enactment. Chapter 11 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

SUBCHAPTER A
GENERAL PROVISIONS

ec.

1101. Compensation, hours and days of work and outside employment.
102. Accounts.
103. Bonds.
104. Appointments and incompatible offices.

105. Compensation of certain employees.
1105.1. Retirement benefits of employees transferred to authorities.

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

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

1102. Accounts.

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

1103. Bonds.

If an appointed officer or employee of a borough is required by law or action of council to give bond for the faithful performance of the officer's or employee's 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 (relating to term and bonds) for elected tax collectors.

1104. Appointments and incompatible offices.

(a) General rule.--Unless there is incompatibility in fact, an 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 under the statute.

(b) Prohibition.--

(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 employee of that borough.

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

(c) Multiple offices.--If 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, secretary or treasurer.

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

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

(f) Police officers and firefighters.--

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

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

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

(g) Majority vote required.--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.

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

Special Provisions in Appendix. See sections 4(3)(vii) and 5 of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

Cross References. Section 1104 is referred to in sections 10A01, 1190 of this title.

1105. Compensation of certain employees.

(a) General rule.--A borough may provide, by ordinance, to appointees and employees of not less than ten years of satisfactory service and who are not less than 60 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 50% of the compensation, including benefits received under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), if any, as fixed in the ordinance or amendment of the ordinance.

(b) Postretirement compensation.--Any arrangement to provide postretirement compensation to retired appointees and employees under this section shall be a pension plan within the meaning of that term under 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 such plan shall provide funding of the pension plan in an amount sufficient to

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

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

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

1105.1. Retirement benefits of employees transferred to authorities.

(a) Required membership.--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 under 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 council and the wastewater authority prior to September 14, 2005.

(2) An employee of a municipal authority created by a borough under 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 council and the authority to be a member of the borough retirement system within one year of July 16, 2012.

(b) Eligibility criteria.--

(1) In order to qualify for the option under subsection (a), 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 under 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) State aid calculation.--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 under section 402(e) of the Municipal Pension Plan Funding Standard and Recovery Act, and the annual allocation of general municipal pension system State aid under section 402(e) of the Municipal Pension Plan Funding Standard and Recovery Act shall be payable to the borough.

SUBCHAPTER B
TREASURER

ec.

106. Bond and duties.
107. Assistant treasurer.

1106. Bond and duties.

(a) General rule.--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) Specific duties.--The treasurer shall:

(1) Receive all money due the borough and deposit the money 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 council and any citizen of this Commonwealth.

(3) (i) Pay out all money only on direction by the 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.

(ii) Nothing in this part shall be construed to 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) Payment of all other money.--All money received by any officer or other person for the use of the borough shall be paid to the borough treasurer.

1107. Assistant treasurer.

A council may, by resolution, appoint an assistant treasurer who may not be a member of the council. Council may appoint the assistant treasurer as the assistant secretary if 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.

SUBCHAPTER C
SECRETARY

ec.

111. Duties.
112. Assistant secretary.
113. Records open to inspection.

1111. Duties.

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

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

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

(2) Preserve the records and documents of the borough, have custody of the corporate seal and 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. The copies, if certified, shall be admissible in evidence in any court of this 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. 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) Necessary documents.--The borough shall furnish the secretary with the necessary dockets, books, forms and files as are necessary for the conduct of the office, which documents shall be and remain the property of the borough.

1112. Assistant secretary.

A 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, perform the duties and may exercise the powers of the secretary. The assistant secretary may be appointed from the membership of the council but shall not be any other officer of the council. Council may appoint the assistant secretary as the assistant treasurer if the assistant secretary is not a member of council.

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.

SUBCHAPTER D
SOLICITOR

Sec.

1116. Solicitor to have control of legal matters.
1117. Duties of solicitor and outside counsel.
1118. Assistant solicitor.

1116. Solicitor to have control of legal matters.

The legal matters of the borough shall be under the control of the borough solicitor. 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 must 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.

1117. Duties of solicitor and outside counsel.

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

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

1118. Assistant solicitor.

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

SUBCHAPTER E
POLICE

ec.

121. Council's powers concerning police.
122. Police serving under cooperative agreement or contract.
123. Police badge.
123.1. Mayor's powers concerning police.
124. Suspension by mayor.
125. Compensation.
126. (Reserved).
127. School crossing guards.

1121. Council's powers concerning police.

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

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

(2) Council may 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 Subchapter J.

(3) Council shall designate the ranks in the police department and the 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.

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

(b) Powers of borough police officers.--A borough police officer shall have those powers and abilities as are granted to police officers under the laws of this Commonwealth, 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 part.

(c) Ratification.--In any case in which a borough has previously appointed police officers or established a police department by action of council but not under 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) Political participation.--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.

Special Provisions in Appendix. See section 4(3)(ix) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

1122. Police serving under cooperative agreement or contract.

(a) General rule.--If a borough enters into a cooperative agreement or contract with any municipal corporation, regional police force or other governmental entity created by two or more municipal corporations under 53 Pa.C.S. Ch. 23 Subch. A

(relating to intergovernmental cooperation) for the furnishing or receiving of police protection as authorized by section 1202(35) (relating to specific powers), 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 council.

(b) Employment status.--Police officers of the police force of a municipal corporation, regional police force or other governmental entity so appointed shall, insofar 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.

1123. Police badge.

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

1123.1. Mayor's powers concerning police.

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

(b) Direction.--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) Delegation of duties.--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) Appointment of special police.--The mayor may appoint special police during an emergency in which the safety and welfare of the borough and the public is endangered.

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

1124. Suspension by mayor.

(a) General rule.--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 Subchapter J (relating to civil service for police and fire apparatus operators), if they are in effect at the time, suspend, discharge, reduce in rank or reinstate with pay the police officers.

(b) Reinstatement.--

(1) 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.

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

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

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

1125. Compensation.

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

1126. (Reserved).

1127. School crossing guards.

(a) Appointment.--

(1) Upon request by the board of school directors of the school district in which a borough is wholly or partially located, the 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.

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

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

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

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

(b) Ordinance.--

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

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

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

(4) School crossing guards shall not:

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

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

(iii) Be considered:

(A) An employee 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.

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

(C) An employee under any plan.

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

(6) 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.

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

SUBCHAPTER F
POLICE PENSION FUND IN BOROUGHS HAVING POLICE FORCE OF LESS THAN THREE MEMBERS

ec.

131. Police pension fund.
132. Private police pension funds and optional transfers.

1131. Police pension fund.

(a) Authorization to establish.--If 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) Investment and insurance instruments as alternative.--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 to the families of police officers injured or killed in service.

(c) Administration.--

(1) All pension funds or investment or insurance instruments established under this section shall be under the direction of the 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 who receive honorable discharge by reason of age or disability and the families of police officers injured or killed in service.

(2) 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.

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

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

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

(g) Management.--

(1) 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.

(2) 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) Right to equal and proportionate share.--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) Applicable law.--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.

1132. Private police pension funds and optional transfers.

(a) General rule.--If 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 part.

(b) Assumption of liability.--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.

SUBCHAPTER G
MANAGER

ec.

141. Borough manager created by ordinance and election.
142. Powers and duties.
143. Other offices not incompatible.

1141. Borough manager created by ordinance and election.

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

(b) Subject to employment agreement.--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 (relating to powers and duties).

1142. Powers and duties.

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

(b) Employment agreement.--

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

(2) The employment agreement may 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 occurs first.

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

(4) An 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.

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

Cross References. Section 1142 is referred to in section 1141 of this title.

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 offices may be held by one person. Neither the mayor nor any member of the council shall be eligible to hold the office of borough manager.

SUBCHAPTER H

PLANNING COMMISSION

(Reserved)

SUBCHAPTER I
MINE AND QUARRY INSPECTION
AND SURFACE SUPPORT
(Reserved)

SUBCHAPTER J
CIVIL SERVICE FOR POLICE AND
FIRE APPARATUS OPERATORS

ec.

170. Definitions.
171. Appointments of police and fire apparatus operators.
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173. Offices incompatible with civil service commissioner.
174. Organization of commission.
175. Clerks, supplies and solicitor.
176. Rules and regulations.
177. Minutes and records.
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182. Application for examination.
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189. Physical and psychological medical examination.
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191. Hearings on dismissals and reductions.
192. Employees exempted.
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194. Penalty.

Cross References. Subchapter J is referred to in sections 1121, 1124, 1127 of this title; section 7132 of Title 44 (Law and Justice).

1170. Definitions.

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

"Fire apparatus operator." A 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 the work by the borough.

"Police force." 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 the work by the borough. As used in this subchapter, the term shall not include any of the following:

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

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

(3) Special school police.

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

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

1171. Appointments of police and fire apparatus operators.

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

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

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

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

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

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

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

(d) Suspension, removal and reduction in rank.--No person shall be suspended, removed or reduced in rank as a paid employee in any police force or as a paid fire apparatus

operator of a borough, except in accordance with this subchapter.

(e) Retirement.--Nothing in this subchapter shall apply to retirement, nor shall anything in this subchapter be construed to prevent a borough from adopting a compulsory retirement age for its employees or for any class of employees and from retiring all employees automatically when they reach that age.

1172. Civil service commission.

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

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

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

(d) Alternate members.--

(1) 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.

(2) If seated under section 1174 (relating to organization of commission), 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 specified in this part and as otherwise provided by law.

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

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

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

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

1173. Offices incompatible with civil service commissioner.

No commissioner shall at the same time hold an elective or appointed office under the Federal Government, this Commonwealth or any political subdivision of the Commonwealth, except that

one member of the commission may be a member of the council and one may be a member of the teaching profession.

1174. Organization of commission.

(a) General rule.--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 meet and organize on the first Monday of each even-numbered year. Each commissioner shall be notified in writing of each and every meeting.

(b) Quorum.--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.

(c) Alternate members.--

(1) 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.

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

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

Cross References. Section 1174 is referred to in section 1172 of this title.

1175. Clerks, supplies and solicitor.

The borough shall:

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

(2) 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.

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

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

1176. Rules and regulations.

(a) General rule.--The commission may prescribe, amend and enforce rules and regulations for carrying into effect this subchapter and shall be governed by the rules and regulations.

Before the effective date of the rules and regulations or amendments to them, they shall be first approved by council. If the rules and regulations or amendments have been approved, they shall not be annulled, amended or added to without the approval of council.

(b) Public distribution and inspection.--All rules and regulations and modifications shall be made available by the borough for public distribution or inspection.

Cross References. Section 1176 is referred to in section 1181 of this title.

1177. Minutes and records.

The commission shall maintain 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 (relating to hearings on dismissals and reductions), shall be open to public inspection and subject to reasonable regulation.

1178. Investigations.

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

1179. Subpoenas.

(a) General rule.--The commission may 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.

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

(c) Penalty for violation.--If any person refuses or neglects to obey a subpoena issued by the commission, the person shall, upon conviction, be sentenced to pay a fine not to exceed $100 and, in default of the payment of the fine and costs, shall be imprisoned for a term not to exceed 30 days.

(d) Petition to court.--If a person refuses or neglects to obey a 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 the person before the

commission or the court to testify and to produce any records and papers necessary, and, if the person defaults, the person shall be held in contempt of court.

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.

1181. General provisions relating to examinations.

(a) Rules and regulations.--

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

(2) 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.

(3) All examinations shall be open to all applicants who have the minimum qualifications required by the rules and regulations.

(4) Each applicant for an original position shall:

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

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

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

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

(a.1) Promotions.--

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

(2) A physical fitness or agility examination that is job related and consistent with business necessity and physical and

psychological medical examinations may, but need not, be required for a promotion.

(b) Public notice.--Public notice of the time and place of every examination, together with the information as to the kind of position 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) Posting of eligibility list.--The commission shall post in its office the eligibility list containing the names and grades of those who have passed the examination.

1182. Application for examination.

A person who desires to apply for examination must 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 and place and date of birth.

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

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

(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.

1183. Rejection of applicant and hearing.

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

(1) 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 the applicant has applied;

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

(3) 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);

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

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

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

(b) Hearing requirements.--

(1) If an 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.

(2) 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.

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

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

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

Cross References. Section 1183 is referred to in sections 1184, 1186, 1188 of this title.

1184. Eligibility list and manner of filling appointments.

(a) Ranking of candidates.--

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

(2) 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 an applicant was entitled by virtue of 51 Pa.C.S. Ch. 71 (relating to veterans' preference).

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

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

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

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

chief of police or chief of the fire department, or equivalent, shall be filled only in the following manner:

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

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

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

(4) If the objections are sustained by the commission as provided in section 1183 or the conditional appointee is determined to be unqualified in accordance with the procedures specified 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.

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

(c) Vacancies in existing positions.--

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

(2) 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) Vacancies in certain offices.--

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

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

Cross References. Section 1184 is referred to in section 1181 of this title.

1185. Age and residency of applicants.

No person shall be eligible to apply for examination unless the person is at least 18 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 fire apparatus operators to become residents of the borough after appointment to the positions.

1186. Probationary period.

(a) General rule.--An original appointment to a position in the police force or as a paid fire apparatus operator 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 (relating to rejection of applicant and hearing) or because of incapacity for duty due to the use of alcohol or drugs.

(b) Notice denying permanent appointment.--

(1) 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.

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

(c) Finality of decision.--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 (relating to hearings on dismissals and reductions).

1187. Provisional appointments.

(a) General rule.--If there are urgent reasons for the filling of a vacancy in a 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.

(b) Competitive examination required.--

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

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

1188. Promotions.

(a) General rule.--A promotion shall be based on merit to be ascertained by an examination to be prescribed by the

commission. All questions relative to a promotion shall be practical in character and fairly test the merit and fitness of persons seeking promotion.

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

(c) Certification required.--

(1) 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.

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

(3) The 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 (relating to rejection of applicant and hearing).

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

Cross References. Section 1188 is referred to in section 1181 of this title.

1189. Physical and psychological medical examination.

(a) Conditional offer of employment.--

(1) 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.

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

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

(b) Opinion to be rendered.--The physician, other qualified medical professional, psychiatrist or psychologist must 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) Interactive discussion with conditional appointee.--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, the 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) Written notice after interactive discussion.--If, at the conclusion of the interactive discussion conducted 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) Construction.--Nothing in this part shall be construed to authorize physical or psychological medical examinations prior to conditional appointment.

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

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

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

"Qualified medical professional." 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 under 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 under the act of May 22, 1951 (P.L.317, No.69), known as The Professional Nursing Law.

Cross References. Section 1189 is referred to in sections 1181, 1184 of this title.

1190. Removals.

(a) General rule.--No person employed in any police or fire force of any borough may 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 case the person shall receive an honorable discharge from service.

(2) Neglect or violation of any official duty.

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

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

(5) Intoxication while on duty.

(6) Engaging or participating in the conduct of a 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) (relating to appointments and incompatible offices).

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

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

(d) Furlough.--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, the borough shall furlough the person, including a probationer, last appointed to the respective force. The removal shall be accomplished by furloughing in numerical order commencing with the person last appointed until the reduction shall have been accomplished. In the event the police or fire force shall again be increased, the employees furloughed shall be reinstated in the order of their seniority in the service. This subsection as to reductions in force is not applicable to a chief of police.

1191. Hearings on dismissals and reductions.

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

the written charges shall not result in the dismissal of the charges filed.

(b) Conduct of hearing.--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, 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) Appeal.--All parties shall have an 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 may be for a longer period than one year. The appeal shall be taken within 30 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 schedule 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 employee shall be suspended, discharged, reduced in rank or reinstated in accordance with the order of court.

(d) Proceedings.--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 under this section shall be held in the nature of a closed executive session that shall not be open to the public. The 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 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).

Cross References. Section 1191 is referred to in sections 1177, 1186, 1190 of this title.

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 subchapter, except that which may be required for promotion. This section shall not be construed to apply to persons employed temporarily in emergency cases.

1193. Discrimination on account of political or religious affiliations.

(a) Information.--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 opinions or affiliations, and all disclosures of opinions or affiliations shall be ignored.

(b) Prohibition.--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 subchapter.

1194. Penalty.

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

SUBCHAPTER K
INDEPENDENT AUDITOR
(Reserved)

CHAPTER 12
CORPORATE POWERS

ec.

201. General powers.
201.1. Real property.

201.2. Personal property.
201.3. Exceptions.
202. Specific powers.
203. Reserved powers.

Enactment. Chapter 12 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

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 this Commonwealth.

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

(4) Purchase, exchange, acquire by gift or otherwise, hold, lease, let and convey, by sale or lease, real and personal property deemed to be in the best interest of the borough, subject to the restrictions, limitations or exceptions as set forth in this chapter.

1201.1. Real property.

(a) Sale.--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 may be sold for a consideration in excess of $1,500, except to the highest bidder after due notice by advertisement for bids or advertisement of a public auction.

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

(a.2) Award of contracts.--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 60 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 "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) Rejection of bids.--The 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 council may establish a minimum bid based on the fair market value of the real property.

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

(d) Exchange of real property.--

(1) Notwithstanding this section, council shall have the authority to exchange real property for real property of equal or greater value, without complying with this section, if 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 entities listed in section 1201.3 (relating to exceptions).

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

(3) If council chooses to exercise its power of real property exchange under 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 60 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.

Cross References. Section 1201.1 is referred to in section 2758 of this title.

1201.2. Personal property.

(a) Sale.--Except as provided in subsection (b), no borough personal property may be disposed of, by sale or otherwise, except upon approval of council by resolution. In cases when council approves a sale of the property, council shall estimate the fair market value of the entire lot to be disposed of. If council estimates the fair market value to be $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 scheduled for the opening of bids or public auction. The date of opening of bids or public auction shall be announced in the advertisement, and sale of the property advertised shall be made to the best responsible bidder.

(a.1) Electronic auction sale.--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 highest 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 highest 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.

(a.2) Rejection of bids.--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 "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) Exception for small value sales.--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 $1,000. The approval of council shall not be required for any individual sale that shall be made in conformity to the procedure.

(c) Exchange of personal property.--This section shall not be mandatory when 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.

1201.3. Exceptions.

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

(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 Subch. A (relating to intergovernmental cooperation).

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

(4) A nonprofit corporation engaged in community development or reuse only upon entering into a written agreement with the nonprofit 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 nonprofit corporation organized as a public library for its exclusive use as a library.

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

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

(9) The Federal Government or the Commonwealth.

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

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

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

Cross References. Section 1201.3 is referred to in section 1201.1 of this title.

1202. Specific powers.

The powers of the borough shall be vested in the 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) To prescribe reasonable fees for the services of the borough's officers and to enforce the payment of the fees. 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) In the operation of its utilities, parking meters, parking lots, recreational facilities and other facilities and services, to make and regulate charges for them for general borough purposes.

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

(4) 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 or remove the nuisance or dangerous structure itself and collect the cost of removal, together with a penalty of 10% of the cost, in the manner provided by law for the collection of municipal claims, or by action of assumpsit, or the borough may seek relief by bill in equity.

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

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

(7) 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) To provide for garbage and other refuse material as follows:

(i) To prohibit, individually or jointly with other municipal corporations pursuant to an agreement, 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 of the activity, 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 if, prior to any acquisition of property pursuant to this paragraph, the borough, individually or jointly, as the case may be, obtains 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 Chapter 15 (relating to eminent domain, assessment of damages and damages for injury to property) if a purchase price cannot first be agreed upon. 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 under this paragraph 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) 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 this 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 seizure, detention or killing of dogs, cats or other pets, 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 its owners.

(10) To enact ordinances prohibiting or regulating the keeping or running at large of livestock and fowls and any other animals not covered in paragraph (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 under this paragraph shall not unreasonably interfere with any agricultural operation to the extent prohibited by applicable State law.

(11) 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 paragraph shall not apply to locomotive smokestacks.

(12) 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) 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 term "vehicle" shall include any device in, upon or by which any person or property may be transported. The term shall not include 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) 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 provided under this part, as council shall establish, and notwithstanding any laws of this Commonwealth upon disorderly conduct or disturbing the peace and the penalties.

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

(16) To prohibit and regulate the smoking or carrying of lighted cigarettes, cigars, pipes or matches and the use of matches or fire-producing devices. An ordinance enacted or regulation or resolution adopted under this paragraph 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) To provide for fireworks and inflammable articles as follows:

(i) To regulate and prohibit, by ordinance, 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 adopt, by ordinance, rules and regulations not inconsistent with State regulations relating to the storage of inflammable articles.

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

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

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

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

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

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

(B) 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) With respect to marketplaces:

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

(II) purchase and own ground;

(III) erect, establish and maintain marketplaces 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 marketplaces, on terms and conditions and in a manner, as the council may prescribe;

(V) provide and enforce suitable regulations respecting marketplaces;

(VI) provide for the payment of the cost or expense of marketplaces, 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 marketplaces or any portion of the streets or sidewalks for temporary market purposes.

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

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

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

(i) establishing and maintaining uniform building lines upon any or all borough streets under 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) (i) To provide for the creation of a capital reserve fund for anticipated capital expenditures as follows:

(A) 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, replacement of or expansion of municipal buildings, equipment, machinery, motor vehicles or other capital assets of the borough and for no other purpose.

(B) Appropriate money from the general borough funds to be paid into the capital reserve fund or place in the fund any money 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 money 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.

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

(23) 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, to counterbalance potential budget deficits resulting from increases in anticipated costs for goods or services 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 may be made to the operating reserve fund if the effect of the appropriation would cause the fund to exceed 25% 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) 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 under 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 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) 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 this Commonwealth, on any building or property owned or leased by the borough.

(26) To provide for other insurance as follows:

(i) 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 firefighters 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 employees as "employe" is defined in section 601 of the Workers' Compensation Act.

(ii) To make contracts of insurance with any insurance company, association or exchange authorized to transact business in this Commonwealth insuring borough employees or any class or classes of employees, 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) To contract with an insurance company, granting annuities or pensions, for the pensioning of borough employees or any class or classes of employees, and to agree to pay part or all of the premiums or charges for carrying the contracts and to appropriate money from the borough treasury for those purposes.

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

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

(27) 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, properties, 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 consideration and upon conditions as may be agreed upon. 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) To do any of the following:

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

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

(iii) Erect watering troughs.

(iv) Maintain the public facilities.

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

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

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

(31) To provide for parking as follows:

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

(ii) to regulate the use of parking lots;

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

(iv) to establish or designate, at the discretion of the 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) 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) 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) (i) 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.

(ii) To impose fees for towing if 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.

(iii) 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.

(iv) To impose fees in the same manner as 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 council provides for a list. This paragraph 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) To purchase or contribute to the purchase of fire engines and fire apparatus, boats, rescue and lifesaving equipment and supplies for the use of the borough for fire, rescue and lifesaving services, including community ambulance service, and 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 firefighters' associations or an entity created pursuant to 53 Pa.C.S. Ch. 23 Subch. A 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 municipal

corporation within this Commonwealth. Annual appropriations may also be made to an ambulance service, or council may enter into contracts for use in providing community ambulance service.

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

(37) 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 Chapter 27 (relating to recreation places, shade trees and forests).

(38) To appropriate money for the support of any incorporated hospital that 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 that is in excess of any amount paid by the Commonwealth towards free service.

(39) To appropriate money 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. When the total cost of the purchase or erection exceeds $100,000, it will necessitate approval by the appropriate health planning agency.

(40) To appropriate money annually for the expense of community nurse services to any nonprofit associations or corporations that 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) 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) To appropriate from borough funds money for the handling, storage and distribution of surplus foods obtained through either a Federal, State or local agency. All appropriations of money made by any borough for the handling, storage and distribution of surplus foods obtained through either a Federal, State or local agency are validated.

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

(44) 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) To appropriate money 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) To issue nondebt revenue bonds pursuant to provisions of 53 Pa.C.S. Pt. VII Subpt. B to provide sufficient money 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, gas distribution systems for its own municipal purposes, municipal gas distribution systems or municipal gas works, 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) To offer rewards for the arrest and conviction of persons guilty of capital or other crimes within the borough.

(48) 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) To sell to a nonprofit 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) To sell to a nonprofit 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 nonprofit housing corporation.

(52) To make grants annually to nonprofit art corporations for the conduct of their artistic and cultural activities. For the purposes of this paragraph, the term "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 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) To appropriate annually an amount toward a neighborhood crime watch program. Notwithstanding any other provision of law, no borough or official of a borough may become subject to contractual, tort or other liability as a result of having made an appropriation under this paragraph.

(54) To appropriate funds for programs that benefit senior citizens or make grants to civic organizations that represent senior citizens, provide services to senior citizens or of which its members are senior citizens.

(55) 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) To ensure 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) 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) 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 30 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) To petition the court of common pleas for the appointment of viewers to assess the total cost of an improvement as set forth in Chapter 21A (relating to assessments and charges for public improvements). 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) To authorize:

(i) 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; and

(ii) a borough owning or operating a municipal gas distribution system on the effective date of this section to purchase, own, use, operate and control municipal gas distribution systems.

(61) 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 of real estate. 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) To manufacture, purchase or otherwise supply electricity pursuant to Chapter 24A (relating to manufacture and supply of electricity).

(63) 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) To acquire, by purchase or condemnation, or to construct underground conduits within which electrical, communication and other types of wires shall be placed and, by ordinance and subject to approval by the Pennsylvania Public Utility Commission, to 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 Pennsylvania Public Utility Commission. The powers reserved by this paragraph shall not be bartered away or surrendered by the borough.

(65) 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.

Special Provisions in Appendix. See section 4(3)(x) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 1202 is referred to in sections 1001, 10A04, 1122, 1201.3, 1315 of this title.

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.

CHAPTER 13
TAXATION AND FINANCE

ec.

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Enactment. Chapter 13 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

Cross References. Chapter 13 is referred to in sections 1005, 1059.1 of this title.

1301. Fiscal year.

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

1302. Tax levy.

(a) Authority.--The council of the borough shall have power, by ordinance, to levy and collect annually a tax not exceeding 30 mills for general borough purposes, unless the council by majority action, upon due cause shown by resolution, petitions 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 employees, not exceeding one-half mill.

(3) To defray the cost and expenses of caring for shade trees as provided in section 2720.1 (relating to maintenance by borough and tax levy) and the expense of publishing the notice referred to in section 2720.1, 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, not exceeding eight mills, 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 in adjacent municipalities 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 firehouse, or for the erection and maintenance of a firehouse or fire training school and center, not exceeding three mills. The following shall apply:

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

(ii) If an annual tax for the purposes specified in this paragraph 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 this Commonwealth for submission to the voters of the borough.

(7) For building a firehouse, fire training school and center, lockup or municipal building, not exceeding two mills, 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 24 Pa.C.S. Ch. 93 (relating to public 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 paragraph for the purpose of paying salaries, benefits or other compensation of employees of the ambulance, rescue or other emergency service.

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

(b) Amount.--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 those purposes. An action on the part of the borough authorities fixing the tax rate for any year at a mill rate shall not be required to include a statement expressing the rate of taxation in dollars and cents on each $100 of assessed valuation of taxable property.

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

(d) Proceeds.--The proceeds of all taxes for which additional millage is authorized under this section shall be kept in a separate fund and used only for the purposes provided under this section. The additional taxes authorized by referendum shall continue to be levied annually for the period

provided under this section in the question submitted in the referendum and, if 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) Tax for ambulance and rescue squads.--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 this Commonwealth.

Special Provisions in Appendix. See section 4(3)(xi) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 1302 is referred to in section 2701 of this title.

1302.1. Different and separate tax levies.

(a) General rule.--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 on the real estate, 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) Nonseverability.--Notwithstanding section 104 (relating to constitutional construction), 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.

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

"Farmland." 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.

"Nonfarmland." Any tract of land that is not farmland.

Cross References. Section 1302.1 is referred to in section 1303 of this title.

1303. Special levy to pay debts.

In addition to the levies provided for in section 1302.1 (relating to different and separate tax levies), if the council refuses or neglects to levy a sufficient tax to pay the debts due by the borough, a 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 indebtedness in one or more annual installments, as determined reasonable by the court.

1304. Special road fund tax.

(a) Authority.--Any borough shall be empowered, within its general power to levy taxes, to collect annually a tax upon all real 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 from the property owners adjoining or abutting the property by the borough under existing laws.

(b) Application.--If 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, has been assessed and collected from the owners of the real 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.

1305. Date tax duplicate to issue.

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

1306. Additions and revisions to duplicates.

(a) Inspection and reassessment.--If in any borough there is any construction of a building or buildings not otherwise exempt as a dwelling after the 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 council, direct the assessor in the county assessment office to inspect and reassess, subject to the right of appeal and adjustment provided by statute, all taxable property in the borough to which major improvements have been made after the original duplicates were prepared and to give notice of the reassessments within ten days to the authority responsible for assessments, the borough and the property owner. The real 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 real property was improved. Any improvement made during the month shall be computed as having been made on the first of the month.

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

1307. Preparation of budget.

Beginning at least 30 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.

1308. Notice of proposed budget and penalty.

(a) Notice.--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 in which the estimated budget receipts are less than $50,000 in 2012, where, in lieu of the 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 further notice as shall be prescribed by council.

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

1309. Revision and completion of budget.

After the expiration of the ten days, council shall make the revision in the budget as deemed advisable. The budget must be as comprehensive and exact as the information available will

permit. 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 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 must be made, authorized or ratified by ordinance. Other expenditures allowed by law may be made or ratified by motion in council. The expenditures, whether by ordinance or motion, must then be considered as appropriations affecting the budget. A balance of revenues over expenditures may be expended in a subsequent year for a lawful purpose.

1310. Adoption of budget.

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

1310.1. Tax ordinance.

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

Cross References. Section 1310.1 is referred to in section 3301.3 of this title.

1311. Amending budget and notice.

During the month of January next following a municipal election, the council of a 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, must intervene between the proposed amended budget and its adoption. An amended budget must be adopted by council on or before the 15th day of February.

1312. Modification of budget and 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, if it is within the current year's revenues, or the money is promptly made available through borrowing as allowed by law.

1313. Payment from borough funds.

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

1313.1. Creation of special funds and investments.

Council may set aside in a separate fund any money received out of or from the sale, lease or other disposition of any borough property or received from any source unless the money was received or acquired for a particular purpose. The fund must be controlled, invested and administered, and the income arising from the fund expended, in the manner as may be determined by action of the council under 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 of the principal may be used or expended unless upon authorization of a majority vote of the qualified electors of the borough. The ordinances previously enacted by a borough creating and establishing a separate fund as authorized by this section must be deemed and taken as valid and effectual for all purposes if the other requirements of law concerning the enactment of the separate fund have been complied with.

1314. Uniform financial report and forms.

(a) Preparation of uniform forms.--The uniform forms for the annual financial statement required to be made by the auditors or the controller must 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 under statute.

(b) Appointment of representatives.--The representatives of boroughs must 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 the borough's fiscal procedures. As far as possible, they must 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.

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

(d) Meetings.--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.

(e) Duty of secretary and cooperation.--It shall be the duty of the Secretary of Community and Economic Development, or the secretary's designee, to ensure that the forms required by this chapter are prepared in cooperation with the committee. In the event that the committee should for any reason fail to furnish the 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.

1315. Capital improvements to certain public service facilities.

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

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

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

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

(4) its gas plant, gas distribution system for its own municipal purposes, municipal gas distribution system or municipal gas works.

(b) Rates.--A borough issuing nondebt revenue bonds under the authority of this section shall adjust and, when necessary, increase the rates of rentals or charges pledged as security for the bonds in order to provide sufficient revenue. The revenue must 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.

Special Provisions in Appendix. See section 4(3)(xii) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

1316. Investment of funds.

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

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

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

(1) United States Treasury bills.

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

(3) 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 the accounts are so insured, and, for the amounts above the insured maximum, if approved collateral as provided by law shall be pledged by the depository.

(4) Obligations of:

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

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

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

(5) Shares of an investment company registered under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.), whose shares are registered under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.), if the only investments of the company are in the authorized investments for borough funds listed in paragraphs (1), (2), (3) and (4).

(6) 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 the accounts are so insured. For amounts above the insured maximum, the certificates of deposit must be collateralized by a pledge or assignment of assets of the institution, and the 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 must be limited to an amount equal to 20% of a bank's total capital and surplus. Certificates of deposit purchased from savings and loan associations or savings banks must be limited to an amount equal to 20% of an institution's assets minus liabilities.

(7) An investment authorized by 20 Pa.C.S. Ch. 73 (relating to municipalities investments) must be an authorized investment for a pension or retirement fund.

(8) Bonds of a municipal authority or parking authority created solely by the borough for the purpose of either investment or 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) Authority of council.--In making investments of borough funds, council has authority to:

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

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

(3) 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 the requirements of paragraph (2) are adhered to regarding separate accounting of individual funds and separate computation, recording and crediting of the earnings from the funds.

Cross References. Section 1316 is referred to in sections 1202, 24A04 of this title.

1317. (Reserved).

CHAPTER 14
CONTRACTS

ec.

401. Power to make contracts.
402. Regulation of contracts.

403. Evasion of advertising requirements.
404. Personal interest in contracts or purchases.
1404.1. Purchase contracts for petroleum products and fire company, etc., participation.
1405. Separate bids for plumbing, heating, ventilating and electrical work.
406. Bonds for the protection of labor and materials.
407. (Reserved).
408. (Reserved).
409. (Reserved).
410. Acceptance by contractor of Workers' Compensation Act.
411. (Reserved).

Enactment. Chapter 14 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

1401. Power to make contracts.

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

(b) Contracts and purchases.--Except as otherwise specifically provided in this title, all contracts and purchases must be made with and from the lowest qualified and responsible bidder. In awarding contracts and making purchases, council has the right to take into consideration such factors as the availability, cost and quality of service and may establish prequalification standards for contracts and purchases. A prequalification standard must be reasonably designed to assist council in determining the ability of a bidder to successfully complete a contract or purchase.

(c) Electronic submission of bids.--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).

1402. Regulation of contracts.

(a) Requirements.--All contracts or purchases in excess of the base amount of $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 and, in case of weekly newspapers, notice once a week for two successive weeks. The first advertisement shall be published not more than 45 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 must also be posted in a conspicuous place within the borough. Advertisements for contracts and purchases must contain the date, time and location for opening of bids and must state the amount of the performance bond determined under subsection (c). The amount of the contract must 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 the bidder's assigns in order to obtain the services or property, or both, and may not be construed to mean only the amount that is paid to acquire title or to receive another particular benefit of the whole bargain.

(a.1) Price quotations.--Written or telephonic price quotations from at least three qualified and responsible contractors must be requested for contracts in excess of the base amount of $10,000, subject to adjustment under subsection (a.2), and less than the amount requiring advertisement and competitive bidding, or, in lieu of price quotations, a memorandum must 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 must be made and must 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 that was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda must be retained for a period of three years. Written price quotations as used throughout this section include electronic mail.

(a.2) Adjustments to base amounts.--Adjustments to the base amounts specified under subsections (a) and (a.1) must 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 12-month period ending September 30, 2012, and for each successive 12-month period.

(2) If the Department of Labor and Industry determines that there is no positive percentage change, no adjustment to the base amounts may occur for the relevant time period provided for in this subsection.

(3) (i) If the Department of Labor and Industry determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change must be multiplied by each base amount, and the products must be added to the base amounts, respectively, and the sums must be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts must be rounded to the nearest $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 must be multiplied by the most recent preliminary adjusted amounts, and the products must be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums must be rounded to the nearest $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 must be made in the period between October 1 and November 15 of each year.

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

(7) The Department of Labor and Industry 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 January 1 after publication of the notice. The notice must 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) may not exceed 3%.

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

(1) The award of contracts must 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 meetings are not held, the same business may be transacted at a subsequent meeting if at least five days' notice shall be published in the newspaper of general circulation. At

council's request, the bids advertised for must 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 the amount as council determines, and, when requested, no bid may be considered unless so accompanied.

(2) Notwithstanding paragraph (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 must be notified and other interested parties, upon request, must be notified of the date, time and location of the opening of bids and may be present when the bids are opened.

(c) Security.--The successful bidder when advertising is required 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 that must be not less than 10% nor more than 100% of the amount of the liability under the contract within 20 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 the security within the time, the previous award is void. Deliveries, accomplishment and guarantees may be required in all cases of expenditures.

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

(1) Those for maintenance, repairs or replacements for water, electricity or public works of the borough, if 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 a borough, through its own employees, if the materials used for street improvement, maintenance or construction in excess of the amount specified or adjusted under subsection (a.1) are subject to the relevant price quotation or advertising requirements contained in this section.

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

(3.1) Those for used equipment, articles, apparatus, appliances, vehicles or parts of vehicles being purchased from a

public utility, municipal corporation, county, school district, municipal authority, council of government or Federal or State Government.

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

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

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

(iv) Those made with another political subdivision, or a county, or council of governments, consortium, cooperative or other similar entity created under 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) or the Commonwealth, the Federal Government, an agency of the Commonwealth or the Federal Government, or a municipal authority, including the sale, lease or loan of any supplies or materials by the Commonwealth or the Federal Government or their agencies. The price may 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 January 1, 1966, with any of the following:

(i) A political subdivision.

(ii) Another state.

(iii) The Commonwealth or a Commonwealth agency.

(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 nonprofit membership corporation. As used in this subparagraph, the term "nonprofit membership corporation" means an entity, the membership of which:

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

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

(viii) An electric cooperative of another state.

Nothing in this paragraph prohibits 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) Applicable law.--Council shall award contracts subject to the requirements of and may exercise any powers granted by the following acts to the extent applicable:

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

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

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

(4) The act of January 23, 1974 (P.L.9, No.4), referred to as the Public Contract Bid Withdrawal Law.

(5) The act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.

(6) The act of February 17, 1994 (P.L.73, No.7), known as the Contractor and Subcontractor Payment Act.

(7) 62 Pa.C.S. Pt. II (relating to general procurement provisions).

(f) Prohibition.--No person, consultant, firm or corporation contracting with the borough for purposes of rendering personal or professional services to the borough may share with a borough officer or employee, and no borough officer or employee may accept, a 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 the relevant information regarding the sharing of the compensation or fees must be made to the council of the borough.

(2) The council of the borough must approve the sharing of a 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.

Cross References. Section 1402 is referred to in sections 1403, 1405 of this title.

1403. Evasion of advertising requirements.

(a) Prohibition.--

(1) No member of council may evade section 1402 (relating to regulation of contracts) 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).

(2) This subsection 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 the price, when, in either case, the transactions involved should have been made as one transaction for one price.

(3) Any members of council who vote in violation of this subsection and know that the transaction upon which they vote is or should be a part of a larger transaction and is being divided in order to evade the requirements as to advertising for bids shall be jointly and severally subject to a surcharge for 10% of the full amount of the contract or purchase.

(4) If it appears 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 not apply.

(b) Penalty.--Any council member who votes to unlawfully evade the provisions of section 1402 and knows that the transaction upon which the member voted is or should be a part of a larger transaction and 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. The penalty under this subsection shall be in addition to a surcharge that may be assessed under subsection (a).

1404. Personal interest in contracts or purchases.

Elected and appointed borough officials and borough employees are restricted from an interest in borough contracts and purchases to the extent provided in 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

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

The council of each borough shall have power to permit, subject to terms and conditions as it may and, as specifically provided, shall prescribe, a 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. A company desiring to participate in purchase contracts shall file with the borough secretary a request to authorize it 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 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 the prices must be F.O.B. destination.

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

If, in the preparation for the erection, construction and alteration of a public building, the entire cost of the work exceeds the amount specified or adjusted under section 1402(a) (relating to regulation of contracts), the architect, engineer or other person preparing the specifications may, if requested by the council, prepare separate specifications for the plumbing, heating, ventilating and electrical work. The person authorized to enter into contracts for the erection, construction or alteration of the public buildings may, if the separate specifications 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.

1406. Bonds for the protection of labor and materials.

Before a contract exceeding $10,000 is awarded to a prime contractor or construction manager for the construction, erection, installation, completion, alteration, repair of or addition to a 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 100% of the contract amount, conditioned for the prompt payment of the 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. The bond requirement is in addition to any other bond requirement required by law to be given in connection with the contract.

1407. (Reserved).

1408. (Reserved).

1409. (Reserved).

1410. Acceptance by contractor of Workers' Compensation Act.

(a) Contract provision.--A contract executed by a borough or an officer of a borough, which involves the construction or doing of work involving the employment of labor, must 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 Workers' Compensation Act, and that the contractor will insure his liability under the act and will file with the borough with which the contract is made a certificate of insurance providing

evidence of the 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.

(b) Violation.--A contract executed in violation of subsection (a) is null and void.

1411. (Reserved).

CHAPTER 15
EMINENT DOMAIN, ASSESSMENT OF DAMAGES AND DAMAGES FOR INJURY TO PROPERTY

ubchapter

A. General Provisions Relating to Eminent Domain
B. Procedure for Assessment of Benefits by Viewers (Reserved)
C. Damages for Injury to Property

Enactment. Chapter 15 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

Cross References. Chapter 15 is referred to in section 1202 of this title.

SUBCHAPTER A
GENERAL PROVISIONS RELATING TO EMINENT DOMAIN

ec.

501. Exercise of eminent domain.
502. Restrictions as to certain property.
502.1. Declaration of intention.
503. Application of 26 Pa.C.S.

1501. Exercise of eminent domain.

A borough may enter upon, appropriate, injure or destroy private lands, property or material, or lands previously granted or dedicated to public use that are no longer used for the purpose for which the lands were granted, according to the proceedings set forth in 26 Pa.C.S. (relating to eminent domain), for any of the following purposes:

(1) The laying out, opening, widening, extending, vacating, grading or changing the grades or lines of streets.

(2) The construction of bridges and the piers and abutments for bridges.

(3) The construction of slopes, embankments and sewers.

(4) 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 plants and libraries.

(5) The establishing of parks, playgrounds and recreation places and the changing of watercourses.

(6) For all other purposes authorized by this part.

1502. Restrictions as to certain property.

(a) Historically significant property.--In addition to a restriction made by another provision of this part in a particular case, no borough may exercise the right of eminent domain against:

(1) land now occupied by a building that 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;

(2) the land occupied by a fort, redoubt or blockhouse erected during the Colonial or Revolutionary period or a building used as headquarters by the Commander-in-Chief of the Continental Army; or

(3) the site of a building, fort, redoubt, blockhouse, or headquarters that is preserved for its historic associations and not for private profit.

(a.1) Colonial or Revolutionary period.--For the purposes of subsection (a), the Colonial and Revolutionary period terminates on September 3, 1783.

(b) Prohibition.--No land or property used for a cemetery, burying ground or place of public worship may be taken or appropriated by virtue of a power contained in this chapter.

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 chapter through a duly enacted ordinance.

1503. Application of 26 Pa.C.S.

Eminent domain proceedings must conform to the provisions of 26 Pa.C.S. (relating to eminent domain), including, but not limited to, payment of damages and costs.

SUBCHAPTER B
PROCEDURE FOR ASSESSMENT OF BENEFITS BY VIEWERS
(Reserved)

SUBCHAPTER C
DAMAGES FOR INJURY TO PROPERTY

ec.

561. Right to damages given in certain cases.
562. (Reserved).
563. (Reserved).
564. (Reserved).
565. (Reserved).

1561. Right to damages given in certain cases.

The right to damages against a borough is given to an owner or tenant of land, 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.

1562. (Reserved).
1563. (Reserved).
1564. (Reserved).
1565. (Reserved).

CHAPTER 16
LAND SUBDIVISION
(Reserved)

Enactment. Chapter 16 (Reserved) was added April 18, 2014, P.L.432, No.37, effective in 60 days.

CHAPTER 17
STREETS

ubchapter

A. General Provisions
B. Plan of Streets
C. Laying out Streets
D. Opening, Acceptance and Vacation of Streets
E. Vacating Streets (Reserved)
F. Straightening and Relocating Streets
G. Improvement of Borough Streets
H. Improvement of Streets Outside or Partly Outside Borough Limits
I. Acquisition or Use of Abutting Lands

Enactment. Chapter 17 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

SUBCHAPTER A
GENERAL PROVISIONS

ec.

701. Definitions.
702. (Reserved).
703. (Reserved).
704. Streets connecting with street of other municipality.
705. Entry on land to maintain marks and monuments.
706. Exclusive nature of provisions.
707. Failure of council to hold hearing.
1708. Street lighting, ornamental lighting and traffic control signals and devices.

1701. Definitions.

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

"Improving a street." The term includes work upon a street or portion thereof done or proposed to be done in order to open the street if the street has not previously been opened or, if previously opened, to make the street more usable or more suitable for use by the traveling public or safer for use. The term includes, but is not limited to, grading, paving, curbing and macadamizing.

"Laying out." The term includes the plotting of:

(1) 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 chapter.

(2) An unopened street in a case where any of the lines of the street are proposed to be revised or in a case where the street was never previously laid out although the street may have been opened and used.

"Opened streets." The term includes the streets within the borough used as public passageways.

"Opening a street." The term includes 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.

"Person." The term includes a natural person, association, firm, corporation or political subdivision.

"Personal notice." The term includes 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. Where service has not been successfully made by either of the two methods first mentioned, it may be made by leaving the notice at or upon the premises.

"Portion." The term includes a portion either of the width or length of a street. 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.

"Street." The term includes a street, road, lane, court, cul-de-sac, alley, public way and public square, either for or intended for public use, and includes the cartway, sidewalk, gutter and the right-of-way area, whether or not the street or a part of the street is owned in fee by others than the borough. Streets are of two classes, opened and unopened.

"Unopened streets." The term includes the streets within the borough neither used as a public passageway nor accepted or maintained, but plotted in one of the following:

(1) a borough plan or official map adopted in accordance with the Pennsylvania Municipalities Planning Code;

(2) an ordinance laying out the street in accordance with this chapter;

(3) a subdivision or land development plan; or

(4) an individual deed.

Cross References. Section 1701 is referred to in section 21A01 of this title.

1702. (Reserved).

1703. (Reserved).

1704. Streets connecting with street of other municipality.

No action may be taken under this chapter that would result in the change of location or grade or the vacation of a 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 first files with the borough secretary its approval of the proposed action.

1705. Entry on land to maintain marks and monuments.

The 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 chapter.

1706. Exclusive nature of provisions.

No street may be dedicated, accepted, acquired, laid out, opened or vacated by a borough except under this chapter.

1707. Failure of council to hold hearing.

If, after the filing of a petition under this chapter, council fails to hold a required hearing, an aggrieved party may file a mandamus action in the court of common pleas requesting that a hearing be held.

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 Chapter 21A (relating to assessments and charges for public improvements). 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).

SUBCHAPTER B
PLAN OF STREETS

Sec.

711. (Reserved).
712. Borough street plan.

1711. (Reserved).

1712. Borough street plan.

(a) Adoption of plan.--A borough that has not maintained an accurate plan of borough streets adopted in accordance with this part prior to July 16, 2012, may only adopt a plan of streets under the Pennsylvania Municipalities Planning Code, governing the adoption of an official map.

(b) Amendments to plan.--If a borough maintains a plan of streets adopted prior to July 16, 2012, or maintains an official map containing opened and unopened streets, a street laid out in accordance with this part by ordinance or by final approval of a subdivision or land development plan must be deemed an amendment to the plan. Notwithstanding any other provision of law, a deemed amendment as provided in this section and a subsequent placement of the street on a plan may not be subject to public notice or public hearing, if the street has been laid out in accordance with the requirements of this chapter.

(c) Prohibition.--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) (relating to laying out streets and procedure) or lay out and open a street in accordance with section 1724 (relating to effect of laying out street).

SUBCHAPTER C

LAYING OUT STREETS

ec.
721. (Reserved).
721.1. Power to lay out, open, etc.
721.2. Laying out streets and procedure.
722. (Reserved).
723. (Reserved).
724. Effect of laying out street.

1721. (Reserved).

1721.1. Power to lay out, open, etc.

(a) Authority of borough.--In accordance with the provisions of this chapter, 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, a street or portion of a street within the borough limits or may vacate the street or portion of a street if deemed expedient for the public good and provide for the costs of alteration.

(b) Laying out or opening streets.--Boroughs may lay out or open:

(1) a 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 chapter;

(2) a street or portion of a street that the borough determines to acquire by eminent domain;

(3) a street to which the public has acquired rights by constant use over a period exceeding 21 years; or

(4) a street or portion of a street, laid out or constructed by a person that the borough sees fit to open or accept as provided in this chapter.

1721.2. Laying out streets and procedure.

(a) Streets deemed to be laid out.--A street identified in a plan of streets, an official map adopted in accordance with the Pennsylvania Municipalities Planning Code or a recorded subdivision or land development plan is deemed to be laid out for purposes of this part.

(b) Future street opening.--A borough has the authority, by ordinance, to lay out an area for future opening as a public street. The proposed ordinance laying out the street must 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 must be provided to the owners of a 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 must be sent to the adjacent municipality. The proposed ordinance must 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 must list the names of the owners of a property through which the proposed street has been laid out.

(c) Hearing, notice and enactment.--Within ten days after the second publication of the notice required under subsection (b), an interested party may petition council for a hearing, which council shall hold within 60 days after the date of the petition. Council shall give at least 15 days' notice of the hearing in a newspaper of general circulation and by personal notice to persons entitled to the notice under subsection (b). Council may enact the ordinance no later than 30 days following the date of the hearing or, where no timely petition has been filed, within 30 days of the second publication of the notice required by subsection (b). The enactment of the ordinance constitutes 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 30 days of the enactment of the ordinance, a party aggrieved by council's action may appeal to the court of common pleas.

(d) Filing of ordinance.--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 must 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) Landowners.--If a street has been laid out by ordinance as provided in this section, the owner or subsequent owner has no right to damages for buildings or improvements placed on streets after the date of enactment, and the buildings or improvements must be removed at the expense of the landowner after the opening of the street in accordance with this part.

(f) Laying out without opening.--The laying out of a street, without opening the street, creates no right to public use of the street and does not constitute the taking or acceptance of a property or obligate the borough to improve or maintain the street or the property on which the street has been laid out.

(g) Previously laid out streets.--Nothing in this section may affect the validity or legal effect of a street laid out in accordance with law prior to July 16, 2012.

Cross References. Section 1721.2 is referred to in sections 1712, 1724 of this title.

1722. (Reserved).

1723. (Reserved).

1724. Effect of laying out street.

(a) Street unopened after ten years.--At any time after a street or portion of the street has remained laid out but not opened for a period of ten years or longer, an owner of 50% of the front feet of the land over which the street or portion of the street was laid out may petition the council to cancel the laying out of the street. Following at least 15 days' notice in a newspaper of general circulation and at least 15 days' personal notice to the owners of the real estate abutting upon the land over which the street or portion of the street was laid out, council shall 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 of the street. A person aggrieved by the decision of the council, either granting or denying the petition, may appeal it. The ordinance providing for the cancellation of the laying out of a street must be filed with the recorder of deeds in accordance with section 1721.2(d) (relating to laying out streets and procedure).

(b) Street unopened after 21 years.--If a street has been laid out and has not been opened to or used by the public for a period of 21 years, the street may not thereafter be opened without the consent of at least 51% of the number of owners of the abutting real estate and without the consent of the owners of at least 51% of the property abutting the street, based on a front foot basis.

Cross References. Section 1724 is referred to in section 1712 of this title.

SUBCHAPTER D
OPENING, ACCEPTANCE AND VACATION OF STREETS

ec.

731. Authority to open and vacate streets and procedure.
1732. Petition for opening or vacating street and action thereon.
733. Action for damages and benefits and award.
734. Acceptance and dedication of streets.
1735. Streets not to be constructed, dedicated or opened to travel without the approval of council.
736. (Reserved).
737. (Reserved).

1731. Authority to open and vacate streets and procedure.

(a) Authority of council.--By ordinance, council has the authority to:

(1) Open a street or portion of a street previously laid out or simultaneously to lay out and open a street or portion thereof. A street or portion of a street so opened is a public street of the borough.

(2) Vacate or close a 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 a tract of land is vacated without the consent of those to whom access would be denied. Vacation of a street terminates the public right in or to the street but does not affect a private right acquired by an owner of abutting property.

(b) Notice.--The proposed ordinance opening or vacating a street or portion of a street must 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 must be provided to the owners of a property abutting the street proposed to be opened or vacated. The proposed ordinance must have appended to it or reference a map or survey sufficient to apprise the public of the proposed location, profile and dimensions of the street and must list the names of the owners of a property abutting the street.

(c) Hearing.--Within ten days after the second publication of the notice required under subsection (b), an interested party may petition council for a hearing, which council shall hold within 60 days after the date of the petition. Council shall give at least 15 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 30 days following the date of the hearing or, where no timely petition has been filed, within 30 days of the second publication of the notice required under subsection (b). Within 30 days of the enactment of the ordinance, any party aggrieved by council's action may appeal to the court of common pleas.

Cross References. Section 1731 is referred to in sections 1732, 1733, 1734, 1751 of this title.

1732. Petition for opening or vacating street and action thereon.

(a) Petitioning council.--Any person or persons constituting a majority in number and interest of the owner of the real estate abutting upon an 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 the area as a street or portion of a street.

(2) Vacate a street or portion of a street.

(b) Hearing and decision.--Council shall hold a hearing after receiving a petition filed with council in accordance with subsection (a), following at least 15 days' personal notice to the owners of abutting real estate not joining in the petition and following at least 15 days' notice thereof in a newspaper of general circulation. Following the 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. The provisions of section 1731 (relating to authority to open and vacate streets and procedure) applicable to ordinances enacted by authority of that section apply to ordinances enacted by authority of this section.

(c) Release.--A petition for the vacation of a street or portion of a street may release the borough from the damages sustained as a result of the vacation if the petition is signed by the owners of the property abutting upon the street or portion of the street. Where the release has been included in the petition, no proceedings for award of damages may be had, and no damages as a result of the vacation may, under any conditions, be awarded to an abutting property owner.

Cross References. Section 1732 is referred to in sections 1733, 1734 of this title.

1733. Action for damages and benefits and award.

(a) Authority of borough.--Upon the effective date of an ordinance enacted to open a street or portion of a street by authority of section 1731 (relating to authority to open and vacate streets and procedure) or 1732 (relating to petition for opening or vacating street and action thereon), the borough has authority to enter upon and take possession of the street or portion of the street opened by the ordinance, if no structures are upon the street. If a structure has 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 may not be opened until the owner of the structure has been given 60 days' personal notice to vacate the structure. Council may not be required to file any bond or security for the exercise of the right granted by this section.

(b) Limitation.--The parties whose ground is taken in the opening of a street or portion of the street 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 a street or portion of the street, the award of damages, if any, includes:

(1) the damages resulting from the grade at which the street or portion of the street is to be opened; and

(2) the plan attached to the report of the viewers awarding the damages must 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.

Costs and expenses that cannot be assessed upon property benefited must be paid by the borough.

(c) No agreement on damages.--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.

1734. Acceptance and dedication of streets.

(a) Accept an opened street.--A borough may, by ordinance, accept an opened street not previously dedicated to or laid out by the borough by following the procedure set forth in section 1731 (relating to authority to open and vacate streets and procedure) or 1732 (relating to petition for opening or vacating street and action thereon), 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) Prohibition.--No borough may acquire a right in or responsibility for a street privately constructed until dedication of the street has been presented to and accepted by the borough and until the dedication has been recorded in the county office for the recording of deeds.

1735. Streets not to be constructed, dedicated or opened to travel without the approval of council.

(a) Requirements.--No person may construct, dedicate or open to travel a street or a drainage facility in connection with the street for public use or travel or for the common use of occupants of buildings abutting thereon in a borough without first submitting suitable plans to the council and obtaining its approval. The plans must:

(1) be prepared in accordance with rules and regulations as may be prescribed by the council; and

(2) show the profiles of the street, the course, structure and capacity of a drainage facility, and the method of drainage of the adjacent or contiguous territory, and any other or further details that may be required under the rules or regulations adopted by the council.

(b) Pennsylvania Municipalities Planning Code.--The Pennsylvania Municipalities Planning Code shall apply to the

construction, security requirements and dedication of streets and connected drainage facilities if the streets proposed to be constructed are part of a plan required by an ordinance adopted under the Pennsylvania Municipalities Planning Code.

(c) Authority and duties of council.--

(1) Before acting upon plans not subject to review under subsection (b), council may, at its discretion, arrange for a public hearing after giving the 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. Plans, when so approved, must be:

(i) signed on behalf of the borough by the officer as the council may designate; and

(ii) must be filed where the plans are available for public inspection among the records of the borough at reasonable times.

(2) No approval of plans by council may obligate or require the borough to construct, reconstruct, maintain, repair or grade a street or drainage facilities associated therewith.

(d) No plan approved.--If the council refuses to approve any plans submitted to it, a person aggrieved by the action of council may, within 30 days after the action, appeal from the action by petition to the court of common pleas of the county, and the court shall hear the matter de novo. After hearing, the court may enter a 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. A plan approved by the action of council or by the court on appeal must be recorded by the person applying for approval in the office of the recorder of deeds in the county.

(e) Restriction.--If a street or a drainage facility in connection with the street is opened, constructed or dedicated for public use or travel, except in strict accordance with a plan approved by the council or the court on appeal as provided in this chapter, neither the council nor any other public authority may place, construct or operate a sewer, drain, water pipe or other facility or do any work in or upon the street. Neither council nor any other public authority has a responsibility with respect to the street or drainage facility, notwithstanding the use of the street or drainage facility by the public. Nothing in this chapter prevents the laying of a trunk sewer, drain or water or gas main, if required by engineering necessity for the accommodation of other territory.

(f) Failure to comply with chapter.--A person who constructs, opens or dedicates a street or drainage facility in

connection with a street, for public use or travel in a borough, without having first complied with this chapter is guilty of a misdemeanor of the third degree and is subject to a suit for the costs and damages incurred by the borough or property owners in the course of correcting the substantive violations of State law or borough ordinance resulting from or arising out of the unlawfully constructed street or facility. Nothing under this section may be construed to apply to the Department of Transportation.

1736. (Reserved).

1737. (Reserved).

SUBCHAPTER E
VACATING STREETS
(Reserved)

SUBCHAPTER F
STRAIGHTENING AND RELOCATING STREETS

ec.

1751. Authority to straighten and relocate streets and procedure.

1751. Authority to straighten and relocate streets and procedure.

Council may, by ordinance, provide for straightening or relocating any street previously opened which involves 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 the 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 (relating to authority to open and vacate streets and procedure) but may be considered as a single proceeding to be effected by enactment of a single ordinance.

SUBCHAPTER G
IMPROVEMENT OF BOROUGH STREETS

ec.

761. Proceedings with or without petition.
762. (Reserved).
763. (Reserved).

1761. Proceedings with or without petition.

Boroughs may improve streets, portions of streets or a particular width or additional widths of streets, with or

without the assistance or contribution of the Federal Government, the Commonwealth, the county or a corporation occupying the thoroughfare, and may assess and collect the whole cost of improvement, the whole cost not aided or contributed or any part of the cost from the owners of real estate abutting on the improvement in accordance with Chapter 21A (relating to assessments and charges for public improvements).

1762. (Reserved).

1763. (Reserved).

SUBCHAPTER H
IMPROVEMENT OF STREETS OUTSIDE OR PARTLY OUTSIDE BOROUGH LIMITS

ec.

1771. Improvement of streets outside or partly outside borough limits.
772. (Reserved).
773. (Reserved).
774. (Reserved).
775. (Reserved).

1771. Improvement of streets outside or partly outside borough limits.

(a) General rule.--

(1) Any borough may enter into a written agreement with an adjoining municipality for improving streets, including streets that are boundaries between the borough and the municipality, and may provide in the contract for the division of the damages, costs and expenses of the improvement.

(2) 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 Chapter 21A (relating to assessments and charges for public improvements) or may agree to pay any part of the costs, damages and expenses of the improvements out of the general funds.

(3) 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) Street dividing borough and township.--

(1) If the center line of any street constitutes the dividing line between a 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.

(2) 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.

(3) 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 real property abutting on the borough's side of the improvement in the manner provided in Chapter 21A.

(c) Street dividing borough and any other municipality.--

(1) If any street, more than one-half the width or the entire width of which is within the limits of any borough, divides the borough from any other municipality, the street may be improved by the borough.

(2) 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 150 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 Chapter 21A.

(d) Street outside limits of borough.--A borough may appropriate and expend money 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.

1772. (Reserved).

1773. (Reserved).

1774. (Reserved).

1775. (Reserved).

SUBCHAPTER I
ACQUISITION OR USE OF ABUTTING LANDS

ec.

781. (Reserved).
782. Acquisition of property for unobstructed view.

1781. (Reserved).

1782. Acquisition of property for unobstructed view.

(a) General rule.--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 accomplish the following:

(1) Assure a free and unobstructed view in all directions at the crossings.

(2) 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 the street or highway.

(b) Obstructions to be abated or removed.--After condemnation, the borough may 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) Condemnation proceedings.--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) Use of lands.--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.

CHAPTER 18
SIDEWALKS

ec.

800. Definitions.
1801. Power to lay out, establish and compel construction of sidewalks.
1802. Sidewalks on land abutting State highways and along roads outside borough.
803. Establishment of grades.
1804. Boroughs may pay all or part of cost of grading and curbing.
805. Borough may do work and collect cost.
806. Emergency repairs to sidewalks.

Enactment. Chapter 18 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

1800. Definitions.

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

"Sidewalk." The portion of a street located outside the cartway and may include paved footway, unpaved grasslot, curb and gutter.

1801. Power to lay out, establish and compel construction of sidewalks.

(a) General rule.--

(1) 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, along any State highway.

(2) The borough may also 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 the grades and under the regulations and specifications as council may prescribe.

(b) (Reserved).

Cross References. Section 1801 is referred to in section 1805 of this title.

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 the 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.

Cross References. Section 1802 is referred to in section 1805 of this title.

1803. Establishment of grades.

Any borough may establish a grade or grades for sidewalks, which may be separate and apart from the grade or grades established for the cartway or roadway.

Cross References. Section 1803 is referred to in section 1805 of this title.

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.

Cross References. Section 1804 is referred to in section 1805 of this title.

1805. Borough may do work and collect cost.

(a) General rule.--Upon the failure of any property owner to comply with any of the requirements in sections 1801 (relating to power to lay out, establish and compel the construction of sidewalks), 1802 (relating to sidewalks on land abutting State highways and along roads outside borough), 1803 (relating to establishment of grades) and 1804 (relating to boroughs may pay all or part of cost of grading and curbing), the borough may, after notice, cause the grading, paving, repairing, curbing and guttering to be done at the cost of the owner. The borough may collect the cost of the work and an additional 10% of the cost, 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.

(b) Notices.--

(1) 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, 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, service shall be by notice posted upon the premises.

(2) The notice required by this section shall specify a period of time of not less than 30 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.

1806. Emergency repairs to sidewalks.

(a) General rule.--

(1) 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 $1,000.

(2) Before repairs are made, a notice to make the repairs within 48 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.

(b) Cost.--

(1) 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 if a claim is filed. The charge may also be collected by action of assumpsit.

(2) 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 $1,000. 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.

CHAPTER 19

BRIDGES, VIADUCTS AND
UNDERGROUND PASSAGEWAYS

ec.

1901. Construction or acquisition and maintenance of bridges and viaducts.
902. Right to appropriate property and assessment of damages.
903. Boundary bridges.
904. Contracts with railroads, other companies and counties.
905. Overhead and underground passageways.

Enactment. Chapter 19 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

1901. Construction or acquisition and maintenance of bridges and viaducts.

(a) Authority.--Any borough may locate and build, or acquire by purchase, condemnation or otherwise, any bridge or viaduct and the piers, approaches and abutments for the bridge or viaduct, 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.

(b) Proceedings.--The proceedings for laying out and opening a bridge or viaduct shall be the same as provided by this part 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 part for the relocation or vacation of streets or portions of streets.

1902. Right to appropriate property and assessment of damages.

In any case where the borough does not agree 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 to erect the bridge or viaduct. The damages caused by the taking and appropriation shall be assessed according to 26 Pa.C.S. (relating to eminent domain).

1903. Boundary bridges.

If a bridge or viaduct crosses 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 for the construction and maintenance of the bridge and shall apportion the costs according to the intergovernmental agreement.

1904. Contracts with railroads, other companies and counties.

(a) General rule.--

(1) The borough may enter into a contract with the county commissioners, railroads, street railways and other companies or interested parties for the building and maintenance of bridges or viaducts and for the payment of any damages caused by the location or erection thereof.

(2) The contracts may stipulate that the county, borough, railroad company, street railway or other company or interested party 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.

(b) Payment.--

(1) When any railroad company, street railway or other company or interested party agrees to pay a certain portion of the cost of the work, it shall pay the portion into the borough treasury. The borough treasurer shall pay the amount over to the contractor, as may be provided in the contract. The amount to be paid by the county shall be paid directly to the contractor.

(2) The agreement may provide for the maintenance of the bridges and viaducts after their erection. Nothing under 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. 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.

(3) Nothing in this section shall affect the powers or duties of the Pennsylvania Public Utility Commission to the extent otherwise provided by law.

1905. Overhead and underground passageways.

If the comfort and safety of the residents of a borough and an adjoining municipality are enhanced by any overhead or underground passageway connecting with adjoining streets in either the borough or the 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 may join with other interests in the construction and maintenance of the passageway.

CHAPTER 20
SANITARY SEWERS

ubchapter

A. Laying Out, Construction and Operation of Sanitary Sewers and Construction of Sewage Treatment Works
B. Joint Sanitary Sewers
C. Power to Supply Sewerage Service Outside Borough Limits (Reserved)
D. Acquisition of Community Collection or Disposal Systems

E. Connection and Use of Sanitary Sewers
F. Monthly, Quarterly or Annual Rentals
G. Sewers on Boundary Streets (Reserved)

Enactment. Chapter 20 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

SUBCHAPTER A
LAYING OUT, CONSTRUCTION AND OPERATION OF SANITARY SEWERS AND CONSTRUCTION OF SEWAGE TREATMENT WORKS

ec.

000. Definitions.
001. Power to lay out and construct.
002. Assessments.
003. (Reserved).
004. (Reserved).
005. (Reserved).
006. (Reserved).
007. (Reserved).
008. (Reserved).
009. Extensions beyond borough limits and eminent domain.
010. Notice of certain ordinances.
011. (Reserved).
012. Unlawful to build within right-of-way of sanitary sewers.
013. Opening sanitary sewers.

2000. Definitions.

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

"Combined sewer." 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.

"Sanitary sewer" or **"sanitary sewer system."** 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 does not include a combined sewer.

"Sewer system." Either a sanitary sewer or a combined sewer and includes pump stations and force mains.

2001. Power to lay out and construct.

(a) General rule.--

(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 those 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 Chapter 21A (relating to assessments and charges for public improvements).

(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 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 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) If 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) Consent.--

(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 if written notice is given to the Department of Transportation, county commissioners or Pennsylvania Turnpike Commission, respectively, and consent is obtained before construction is commenced. Permission shall not be unreasonably withheld.

(c) Regulations.--Council may, by ordinance, make regulations respecting the use and maintenance of the sanitary sewer system and treatment works. Violations of the ordinance

may be enforced by penalties. The regulations may do all of the following:

(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.

(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.

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 Chapter 21A (relating to assessments and charges for public improvements).

2003. (Reserved).

2004. (Reserved).

2005. (Reserved).

2006. (Reserved).

2007. (Reserved).

2008. (Reserved).

2009. Extensions beyond borough limits and 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. The borough 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 if 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).

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 in all of the following manners:

(1) By publication of the proposed ordinance once a week for four weeks in one newspaper of general circulation.

(2) By serving copies of the proposed ordinance at least ten days before the enactment of the ordinance upon all land owners through whose land the sewer is to pass or on whose lands any treatment works are to be located.

2011. (Reserved).

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 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.

2013. Opening sanitary sewers.

(a) General rule.--A proceeding to open a sanitary sewer shall be void if a borough:

(1) lays out any sanitary sewer over or under private property which is located in whole or in part within the limits of the borough; and

(2) does not proceed to open the sanitary sewer and to assess the damage arising therefrom within two years from the enactment of the ordinance.

(b) Exception.--If a borough has laid out a sanitary sewer without the enactment of an ordinance prior to July 16, 2012, and has not opened the sanitary sewer, the proceedings shall not be deemed to be void. The borough shall have two years from July 16, 2012, to open the sanitary sewer or the whole proceeding shall be void.

SUBCHAPTER B
JOINT SANITARY SEWERS

ec.

021. Joint sanitary sewer systems.
022. (Reserved).
2023. Connections with sanitary sewers of adjacent municipalities.
024. Applications to court.
025. Appointment of viewers.
026. Report of viewers and appeals to court.

2021. Joint sanitary sewer systems.

(a) General rule.--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 council may assess the borough's respective portion of the costs, as may be legally assessable, upon property benefited by the facilities pursuant to Chapter 21A (relating to assessments and charges for public improvements). Any portion of the cost not assessed or assessable shall be paid by the respective municipal corporations under the agreement.

(b) Composition of joint sanitary sewer board.--

(1) 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. The board shall act as the advisory and administrative agency in the construction of the improvement and its subsequent operation and maintenance.

(2) 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.

(3) 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.

(4) 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) Powers of the joint sanitary sewer board.--

(1) The joint sanitary sewer board may adopt rules and regulations consistent with the requirements of this part 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.

(2) The joint sanitary sewer board 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 following:

(i) Consents of the municipal corporations to the proposed improvement.

(ii) The manner in which preliminary and final plans, specifications and estimates for the proposed improvement shall be prepared and adopted.

(iii) How proposals for bids shall be advertised and contracts awarded.

(iv) 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.

(v) 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.

(3) The joint sanitary sewer board may not make any improvement or spend any public money which has not first been authorized by all of the municipal corporations proceeding with the improvement.

(d) Eminent domain.--

(1) 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.

(2) 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, 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).

(3) 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) Indebtedness.--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.

2022. (Reserved).

2023. Connections with sanitary sewers of adjacent municipalities.

A borough may connect with an existing sanitary sewer, owned by an adjacent municipality, for sewerage purposes in the manner prescribed in sections 2024 (relating to applications to court), 2025 (relating to appointment of viewers) and 2026 (relating to report of viewers and appeals to court).

2024. Applications to court.

If a borough desires to connect with the existing sanitary sewer of an 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.

Cross References. Section 2024 is referred to in section 2023 of this title.

2025. Appointment of viewers.

If the court determines that the connection can be made without impairing the usefulness of the existing sanitary sewer, it shall appoint three viewers who shall:

(1) View the premises and investigate the facts of the case.

(2) Assess the proportionate part of the expense of building the original sanitary sewer upon the borough.

(3) Fix the proportion of the expense for repairs which each municipality shall thereafter bear.

(4) Determine all other questions liable to arise in connection with the sanitary sewer.

Cross References. Section 2025 is referred to in section 2023 of this title.

2026. Report of viewers and appeals to court.

The viewers shall report to the court the result of their investigation. The report shall be confirmed within 30 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.

Cross References. Section 2026 is referred to in section 2023 of this title.

SUBCHAPTER C
POWER TO SUPPLY SEWERAGE SERVICE
OUTSIDE BOROUGH LIMITS
(Reserved)

SUBCHAPTER D
ACQUISITION OF COMMUNITY COLLECTION
OR DISPOSAL SYSTEMS

ec.

040. Definitions.
041. (Reserved).

2041.1. Power to acquire community sewage collection or disposal systems.
042. (Reserved).
043. Community sewage collection or disposal systems.

2040. Definitions.

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

"Community sewage collection or disposal system." 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.

2041. (Reserved).

2041.1. Power to acquire community sewage collection or disposal systems.

(a) General rule.--A borough may, by ordinance, acquire ownership of a community sewage collection or disposal system 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) Assessment of costs and expenses.--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.

2042. (Reserved).

2043. Community sewage collection or disposal systems.

(a) General rule.--After a community sewage collection or disposal system has been acquired under this subchapter by the borough, the council shall have the power to enlarge the system if it deems it advisable. 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 part.

(b) Acquisition and ownership.--If a community sewage collection or disposal system is established or constructed within a borough by a private owner or owners and the council is thereafter empowered by ordinance to acquire the ownership of the sewage disposal system, or when the system has been enlarged by the borough, the acquisition and ownership shall be subject to the following provisions:

(1) An agreement shall be considered a valid agreement by the owners of the sewage collection or disposal system and shall be a transfer of ownership to the borough when any of the

following enter into an agreement with the borough for the acquisition of the system by the borough:

(i) The person or persons having established or constructed a community sewage collection or disposal system.

(ii) More than one-half of the number of owners of properties which are connected with, have a right to use and are using a community sewage collection or disposal system.

(2) The borough shall operate and maintain any community sewage collection or disposal system acquired and any enlargement or addition thereto for the use of the following:

(i) Persons having acquired from the borough or from the former owner or owners the right to use the system.

(ii) Other owners of property accessible to the system up to the capacity of the community sewage collection or disposal system.

(3) All persons whose property connects with the community sewage collection or disposal system acquired or constructed by the borough shall pay to the borough treasurer a monthly, quarterly, semiannual 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 this section shall constitute liens against the properties and may be collected in the same manner as other sewer charges.

(5) All money 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 community 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 collection or disposal 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 part relating to sewers, and all money at that time in the reserve fund which was received from charges for the use of that particular community sewage collection or disposal system and which is over and above the amount expended for the operation and maintenance of that particular community sewage collection or disposal system shall be used towards the payment of any sewer assessments charged against the properties under other sections of this part.

(c) Construction.--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.

SUBCHAPTER E
CONNECTION AND USE OF SANITARY SEWERS

ec.
051. Ordinances to require sanitary sewer connections.
052. (Reserved).
053. Tapping fees.
054. (Reserved).

2051. Ordinances to require sanitary sewer connections.

A 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 45 days' notice of any ordinance requiring a sanitary sewer connection. 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 enacts with reference to any sanitary sewer connections.

2052. (Reserved).

2053. Tapping fees.

The following shall apply to tapping fees:

(1) Any borough may, by ordinance, provide for charging a tapping fee if the owner of any property connects the property with a sanitary sewer system constructed or acquired by the borough if the tapping fee is calculated in accordance with 53 Pa.C.S. § 5607 (relating to purposes and powers). The tapping 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.

(2) If 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.

(3) 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.

2054. (Reserved).

SUBCHAPTER F
MONTHLY, QUARTERLY OR ANNUAL RENTALS

ec.

061. Ordinance for monthly, quarterly or annual rental.
062. Rental amount.
063. Collection of rental.
064. (Reserved).

2061. Ordinance for monthly, quarterly or annual rental.

If a borough constructs any sanitary sewer, sewer system or sewage treatment works or acquires, wholly or partially, the same at public expense, as authorized in this chapter, the 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.

2062. Rental amount.

(a) Included amounts.--The monthly, quarterly or annual rental may include:

(1) 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.

(2) 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.

(3) An amount sufficient for the amortization of debt incurred by the borough for the purpose of construction of a sanitary sewer, sewer system or sewage treatment works or for

the purpose of acquisition, enlargement or extension of a sanitary sewer or sewer system.

(b) Apportionment.--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.

2063. Collection of rental.

(a) General rule.--The monthly, quarterly or annual rental or charge or the fixed sum shall be authorized and collected as provided by general ordinances and, if 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 30 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.

(b) Collection.--The 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.

2064. (Reserved).

SUBCHAPTER G
SEWERS ON BOUNDARY STREETS
(Reserved)

CHAPTER 21
COLLECTION BY INSTALLMENT OF
STREET AND SEWER ASSESSMENTS
(Reserved)

Enactment. Chapter 21 (Reserved) was added April 18, 2014, P.L.432, No.37, effective in 60 days.

CHAPTER 21A
ASSESSMENTS AND CHARGES FOR
PUBLIC IMPROVEMENTS

ec.

1A00. Definitions.
1A01. Authority to assess.
1A02. Notice of assessments.

1A03. Assessment based on front foot basis.
1A04. Assessment of benefits conferred.
1A05. Assessment awards.
1A06. Petition for viewers.
1A07. Payment of assessments in installments.
1A08. Collection of assessments.

Enactment. Chapter 21A was added April 18, 2014, P.L.432, No.37, effective in 60 days.

Cross References. Chapter 21A is referred to in sections 1202, 1708, 1761, 1771, 2001, 2002, 2021, 2203, 2408, 2720.2, 2805.1, 3301.1 of this title.

21A00. Definitions.

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

"Personal notice." The term 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.

21A01. Authority to assess.

(a) General rule.--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 (relating to definitions), 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 benefited, accommodated or physically improved abuts upon the sanitary sewer.

(b) Payment of indebtedness.--

(1) If a borough that incurs authorized indebtedness under 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 chapter, 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 21A07 (relating to payment of assessments in installments), 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.

Cross References. Section 21A01 is referred to in section 21A07 of this title.

21A02. 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 part, then a copy of the certificate shall accompany the notice.

21A03. Assessment based on front foot basis.

(a) General rule.--If 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.

21A04. Assessment of benefits conferred.

(a) General rule.--In lieu of the front foot basis, 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 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.

21A05. 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, 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. Damages shall be calculated pursuant to 26 Pa.C.S. (relating to eminent domain).

21A06. 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. The petition may include a request for the appointment of viewers to assess benefits if at least 50% of the taxpayers whose parcels are abutting, benefited or accommodated by the public improvement in question join the petition or if 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 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 part 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 council and any proceedings shall be stayed pending the disposition of the petition by the court.

Special Provisions in Appendix. See section 4(3)(xiii) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 21A06 is referred to in section 21A08 of this title.

21A07. Payment of assessments in installments.

(a) Installments.--If an 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 method, 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 21A01(b)(2) (relating to authority to assess) and this subsection conflict, the provisions of section 21A01(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 the agreements and this chapter.

(d) Unpaid installments.--If an installment remains unpaid for 60 days after it 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 it 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 they are due, with interest and costs to the due date of the next installment.

Cross References. Section 21A07 is referred to in section 21A01 of this title.

21A08. Collection of assessments.

(a) Collection methods.--If an assessment remains unpaid at the expiration of the 30-day personal notice and an installment agreement has not been entered into pursuant to section 21A06 (relating to petition for viewers), 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.

CHAPTER 22
STORM SEWERS AND WATERCOURSES

ec.

201. Authority of boroughs.
202. Right of entry upon lands.
203. Manner of financing work.
204. Proceedings to assess damages.
205. Unlawful to build within right-of-way of storm sewers.
206. Power to acquire storm sewer systems.

Enactment. Chapter 22 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

2201. Authority of boroughs.

(a) General rule.--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 watercourse running through or within the borough and erect dykes, retaining walls and embankments along the watercourse as may be necessary to prevent the water from overflowing the banks.

(2) Confine and pave any watercourse 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 watercourse, 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.

(b) Authorization and consent.--For any purpose set forth in subsection (a), a borough may enter upon and condemn property and materials as may be necessary. No borough may confine and pave, vacate or alter any watercourse 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.

Cross References. Section 2201 is referred to in sections 2203, 2204 of this title.

2202. Right of entry upon lands.

A borough may enter upon any land lying near a watercourse and secure the material as may be necessary for the purpose of making and repairing the embankments along the watercourse when the material cannot be obtained by contract at a reasonable price. The borough shall cause no unnecessary damage to the owners of the land, 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 26 Pa.C.S. (relating to eminent domain), for any materials obtained under this section.

Cross References. Section 2202 is referred to in section 2204 of this title.

2203. Manner of financing work.

A borough may pay for the costs and expenses of any work authorized under section 2201 (relating to authority of

boroughs) wholly or in part from money 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 watercourse in accordance with Chapter 21A (relating to assessments and charges for public improvements).

Cross References. Section 2203 is referred to in section 2204 of this title.

2204. Proceedings to assess damages.

Any person aggrieved by any ordinance enacted or action taken pursuant to sections 2201 (relating to authority of boroughs), 2202 (relating to right of entry upon lands) and 2203 (relating to manner of financing work) may file a complaint with the court of common pleas to fix and determine the damages for property taken, injured or destroyed under 26 Pa.C.S. (relating to eminent domain).

2205. Unlawful to build within right-of-way of storm sewers.

It shall be unlawful for a person to erect a building or make an improvement within the right-of-way of a 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 made in the assessment of damages.

2206. Power to acquire storm sewer systems.

(a) General rule.--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) Eminent domain.--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.

CHAPTER 23

UNDERGROUND CONDUITS

(Reserved)

Enactment. Chapter 23 (Reserved) was added April 18, 2014, P.L.432, No.37, effective in 60 days.

CHAPTER 24
WATER SYSTEM

ubchapter

A. General Powers to Supply Water
A.1. Acquisition by Eminent Domain
A.2. Acquisition by Purchase After Appraisement
A.3. Power to Lease Water System
A.4. Joint Water System
A.5. Condemnation of Lands for Road Purposes and to Prevent Contamination
A.6. Commission of Water System
A.7. Water Connections
B. (Reserved)
C. (Reserved)
D. (Reserved)

Enactment. Chapter 24 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

SUBCHAPTER A
GENERAL POWERS TO SUPPLY WATER

ec.

401. Power to supply water and make regulations.
402. Contracts not to abridge powers.
403. Issue of bonds where water system acquired.
404. Refunding bonds.
405. (Reserved).
406. Contracts to supply water for municipal purposes.
407. Power to supply water beyond limits of borough.
408. Assessment for water mains.
409. Sale of water system.

2401. Power to supply water and make regulations.

(a) Supply of water.--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) Regulations.--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) Rates.--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).

Cross References. Section 2401 is referred to in section 2402 of this title.

2402. Contracts not to abridge powers.

A borough's power to construct and operate a water system as provided in section 2401 (relating to power to supply water and make regulations) 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.

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. The borough 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).

2404. Refunding bonds.

(a) General rule.--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 impose no municipal liability, 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 shall be deemed a continuation of the bonds existing or created at the time of the original acquisition of the water system.

(b) Time, interest rate and amount.--The bonds shall not be refunded for a longer period than 20 years, and the refunding lien bonds issued shall not bear interest at a rate exceeding 6%. The aggregate amount of the issued refunding lien bonds shall not exceed the amount of the bonds to be refunded. Any money 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 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.

2405. (Reserved).

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. The borough may contract for the supply of water with the water company.

2407. Power to supply water beyond limits of borough.

If a borough maintains a water system, it shall be lawful for the borough to supply water to persons and corporations outside the limits of the borough, but the supply of water 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.

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 Chapter 21A (relating to assessments and charges for public improvements), notwithstanding if the mains are located within or without the limits of the borough.

2409. Sale of water system.

(a) General rule.--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 ordinance 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 10% of the registered electors of the borough is filed with the council, the sale shall be stayed pending a referendum on the ordinance.

(b) Protest.--The following shall apply to a protest:

(1) 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 60 days from the date of the certification by the borough secretary.

(2) The referendum shall be conducted by the county board of elections in the manner provided by the act of June 3, 1937 (P.L.1333, No.320), known as 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 provide that a "yes" vote shall be to sustain the ordinance and a "no" vote shall be to reject it.

(3) 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.

SUBCHAPTER A.1
ACQUISITION BY EMINENT DOMAIN

ec.

411. Appropriation of lands and waters.
412. Agreements as to damages.
413. (Reserved).

2411. Appropriation of lands and waters.

A 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. 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 this section shall be used in a manner as to deprive the owner of the water of the free use and enjoyment of the water 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.

Cross References. Section 2411 is referred to in section 2412 of this title.

2412. Agreements as to damages.

Prior to any appropriation under section 2411 (relating to appropriation of lands and waters), 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).

2413. (Reserved).

SUBCHAPTER A.2
ACQUISITION BY PURCHASE AFTER APPRAISEMENT

ec.

421. Petition to court.
422. Appointment of appraisers.
423. Powers of appraisers.
424. Appeal from appraisement.
425. Authority to purchase and consent to sell.
426. Bond issue and limitations.
427. (Reserved).

2421. Petition to court.

If a borough desires to own and operate a water system owned by any person, firm or corporation, the borough may present its petition to the court of common pleas of the county where the water system is located, setting forth that:

(1) The borough desires to own the water system.

(2) It will be necessary to issue bonds.

(3) A value should be placed upon the water system, including all property, real and personal, used in connection with the water system.

2422. Appointment of appraisers.

(a) Valuation.--The court of common pleas shall appoint three civil engineers as appraisers to value and appraise:

(1) The water system.

(2) The property used in connection with the water system.

(3) The contracts or agreements with municipalities.

(b) Report.--The civil engineers shall file their report in the court within three months after their appointment unless the time is extended by the court.

2423. Powers of appraisers.

(a) Powers.--The appraisers shall have the following powers:

(1) To access 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.

(2) To administer oaths and to take the testimony of witnesses.

(b) Report.--The report of the appraisers shall be final unless the report is appealed.

2424. Appeal from appraisement.

(a) Filing of petition.--Within ten days after notice of the filing of any report in the court of common pleas, either party

may appeal from the appraisement by filing a petition for a hearing before the court alleging an undervaluation or overvaluation of the property.

(b) Hearing.--The court shall fix a time when the appeal may be heard, giving at least ten days' notice to the parties, and, upon hearing, the court of common pleas shall have power to affirm or modify the report as the court deems just and proper.

2425. Authority to purchase and consent to sell.

(a) Authority to purchase.--After the value is finally determined, the borough is authorized to buy the water system at the valuation fixed.

(b) Consent to sell.--The person, firm or corporation owning the water system shall, within ten days after notice, file in the court of common pleas its consent to sell and convey its water system and property to the borough at the valuation fixed. 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.

2426. Bond issue and limitations.

(a) Bond issue.--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).

(b) Limitations.--The bonds shall not exceed in amount the value fixed by the appraisers or the court of common pleas. The proceeds of the sale of the bonds shall be used exclusively for the purpose of paying for the property acquired.

2427. (Reserved).

SUBCHAPTER A.3
POWER TO LEASE WATER SYSTEM

ec.

431. Lease of water system.
432. Term of lease and rental.
433. Operation of property.
434. (Reserved).

2431. Lease of water system.

The council of a borough may enter into a contract with any individual, partnership, association or corporation for the leasing of a water system of the individual, partnership, association or corporation.

2432. Term of lease and 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.

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.

2434. (Reserved).

SUBCHAPTER A.4
JOINT WATER SYSTEM

ec.

436. Joint acquisition and construction.
437. Permits.
438. Joint commission.

2436. Joint acquisition and construction.

A borough may join with one or more municipal corporations in the construction or acquisition and maintenance of a water system.

2437. Permits.

The construction of a water system shall be commenced only after plans for the water system have 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.

2438. Joint commission.

(a) General rule.--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.

(b) Function.--The joint commission shall act generally as the advisory and administrative agency in the construction of the improvement and its subsequent operation and maintenance.

(c) Composition.--The joint commission shall be composed of one representative from each of the joining municipal corporations.

(d) Term of members.--The members of the joint commission shall serve for terms of six years each from the dates of their respective appointments and until their successors are appointed.

(e) Officers.--The joint commission shall organize by the election of a chair, secretary and treasurer. The secretary and treasurer may be the same person.

(f) Ordinance provisions.--The municipal corporations may, in the ordinances creating the joint 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.

(g) Compensation limitation and expenses.--The budget item providing for the compensation to the members for attending meetings shall not exceed $500 per year, but members 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.

SUBCHAPTER A.5
CONDEMNATION OF LANDS FOR ROAD PURPOSES AND TO PREVENT CONTAMINATION

ec.

441. Acquisition of land.
442. Filing maps and plans.
443. (Reserved).
444. (Reserved).

2441. Acquisition of land.

(a) Acquisition for construction of roads.--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 if 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, which 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.

(b) Land outside borough limits.--A condemnation of land outside the borough limits shall be in conformity with 26 Pa.C.S. § 206 (relating to extraterritorial takings).

(c) Acquisition to prevent contamination.--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.

Cross References. Section 2441 is referred to in section 2442 of this title.

2442. Filing maps and plans.

If a change is made under section 2441(a) (relating to acquisition of land), 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.

2443. (Reserved).

2444. (Reserved).

SUBCHAPTER A.6
COMMISSION OF WATER SYSTEM

ec.

451. Commission.
452. Terms of commissioners and compensation.
453. Organization of commissioners.
454. Powers of commission.
455. Issue of bonds.
456. Preparation of plans and specifications and contracts.
457. Reports by commission.
458. Care of funds.

2451. Commission.

(a) Establishment.--If a 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 council, who shall be known as commissioners of the water system.

(b) Abolishment.--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 commission, which shall terminate the terms of the commissioners then in office.

2452. Terms of commissioners and compensation.

(a) General rule.--If a borough establishes a commission of the water system, it shall be the duty of the council to appoint the commissioners of the water system.

(b) Commissions with three commissioners.--If there are three commissioners, one shall be appointed to serve for one year, one for two years and one for three years. Annually thereafter, the council shall appoint one commissioner of the water system to serve a term of three years.

(c) Commissions with five commissioners.--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. Annually thereafter, the council shall appoint

one commissioner of the water system to serve a term of five years.

(d) Vacancy.--In case of a vacancy, the council shall fill the vacancy for the unexpired term.

(e) Salary and expenses.--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.

(f) Salary limitations.--The salary of the commissioners shall not exceed the following:

(1) In service areas with fewer than 5,000 metered accounts, a maximum of $1,875 per year or $156.25 per month.

(2) In service areas with 5,000 but fewer than 10,000 metered accounts, a maximum of $2,500 per year or $208.33 per month.

(3) In service areas with 10,000 but fewer than 15,000 metered accounts, a maximum of $3,250 per year or $270.83 per month.

(4) In service areas with 15,000 but fewer than 25,000 metered accounts, a maximum of $4,125 per year or $343.75 per month.

(5) In service areas with 25,000 but fewer than 35,000 metered accounts, a maximum of $4,375 per year or $364.58 per month.

(6) In service areas with 35,000 or more metered accounts, a maximum of $5,000 per year or $416.67 per month.

2453. Organization of commissioners.

The commissioners of the water system shall meet within ten days after their first appointment and annually thereafter and organize by electing a president and secretary.

2454. Powers of commission.

After organization, the commissioners shall take charge and control of the water system of the borough. The commission shall have the following powers:

(1) 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 deems proper.

(2) To fix the salaries and wages of the officers and agents.

(3) To provide for the repair, extension, improvement and maintenance of the water system and the construction of a new water system.

(4) To collect water rents.

(5) 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).

(6) 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 this Commonwealth or the rules and regulations of the Department of Environmental Protection. No bylaws or regulations shall become effective until they have been approved by the council and enacted as ordinances of the borough.

Cross References. Section 2454 is referred to in section 2458 of this title.

2455. Issue of bonds.

The borough may, upon the request of the commissioners of the water system, issue general obligation or nondebt 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).

2456. Preparation of plans and specifications and contracts.

(a) Preparation of plans and specifications.--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.

(b) Contracts.--The commissioners shall, after plans and specifications for the extension or the construction of a water system have been submitted to and approved by the Department of Environmental Protection and a permit has been granted as may be required by law:

(1) Invite proposals for the performing of the work and the furnishing of materials.

(2) Advertise for bids as required by law.

(3) Let contracts to the lowest qualified and responsible bidder.

(4) Take adequate security for the performance of the contracts and for the payment of all labor and materials.

Special Provisions in Appendix. See section 4(3)(xiv) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

2457. Reports by commission.

The commissioners shall make a monthly report to the 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.

2458. Care of funds.

(a) Collectors.--Collectors shall be appointed by the commissioners, in accordance with section 2454 (relating to powers of commission), who shall collect all money for water rents.

(b) Deposits.--The money collected shall be deposited weekly with the borough treasurer who shall return a receipt to the commissioners.

(c) Use.--All money 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 money 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.

(d) Withdrawals.--No money shall be drawn from the fund except upon order countersigned by the president and secretary of the commission.

SUBCHAPTER A.7
WATER CONNECTIONS

ec.

461. Ordinance.
462. Notice and failure to make required connection.
463. Water main tapping fees.

2461. Ordinance.

(a) General rule.--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 150 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) Exception.--A property owner who after July 16, 2012, is subject to mandatory connection under subsection (a)(1) shall not be required to connect to the water system in accordance with subsection (a) if all of the following conditions exist:

(1) The water system or part or extension of the system that is within 150 feet of the principal building was in existence on July 16, 2012.

(2) The principal building has its own supply of water which is safe for human consumption.

(3) Prior to July 16, 2012, the property owner was not required to connect to the existing system.

(c) Backflow prevention.--A borough may 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 Pennsylvania Construction Code and regulations promulgated under that act.

(d) Penalties.--A borough may assess penalties for the violation of ordinances pertaining to water connections or backflow prevention devices.

2462. Notice and failure to make required connection.

An owner shall be given at least 45 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.

2463. Water main tapping fees.

(a) General rule.--A borough may, by ordinance, provide for charging a tapping fee calculated in accordance with 53 Pa.C.S. § 5607 (relating to purposes and powers) if 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.

(b) Refund.--If 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.

SUBCHAPTER B

(Reserved)

SUBCHAPTER C

(Reserved)

SUBCHAPTER D
(Reserved)

CHAPTER 24A
MANUFACTURE AND SUPPLY OF ELECTRICITY

ec.
4A01. Definitions.
4A02. General powers.
4A03. Specific powers.
4A04. Municipal power agencies.
4A05. Additional contracting authority.

Enactment. Chapter 24A was added April 18, 2014, P.L.432, No.37, effective in 60 days.

Cross References. Chapter 24A is referred to in section 1202 of this title.

24A01. Definitions.

The following words and phrases when used in this chapter 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 24A04 (relating to municipal power agencies).

"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.

24A02. General powers.

(a) Electric plants and projects.--A borough may, either singly or jointly, manufacture or purchase electricity for the use of its inhabitants and 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 these 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 an 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 if 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 council, into the limits of any borough that is furnishing electric current to its inhabitants. This subsection shall not apply to any person, partnership or corporation manufacturing electricity exclusively for its own use.

(e) Corporate rights.--Nothing in this chapter may conflict with the corporate rights of a 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 a 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.

Cross References. Section 24A02 is referred to in sections 24A03, 24A05 of this title.

24A03. Specific powers.

(a) Specific powers enumerated.--In addition to exercising its general powers under section 24A02 (relating to general powers), 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 of electric power, 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 the insurers as the governing body or bodies deem desirable.

(4) To contract for and to accept any gifts, grants or loans of funds, property or financial or other aid in any form, from the United States or any agency or instrumentality of the United States 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 or any agency or instrumentality of the United States, 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.

(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. A 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 24A02 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 chapter shall be exempt from all State taxes of any kind or nature.

(8) To mortgage a property acquired or owned under section 24A02 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. After the sale, the 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 electricity 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, except that, upon failure of the parties to agree on the price, the borough may proceed according to 26 Pa.C.S. (relating to eminent domain).

(b) Eminent domain.--In the erection and extension of an electric plant or project under this chapter and for all other purposes authorized by this part, 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. A borough 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.

24A04. 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 part.

(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 part 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.

(5) 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 the 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.--The following apply:

(1) 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.

(2) 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.

(3) Except where the agency agreement or bylaws prescribe otherwise, the term of office of a director shall be for one year.

(4) 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.

(5) 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 the prescription, as the board of directors determines.

(g) Representatives of member boroughs.--The following apply:

(1) 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.

(2) 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.

(3) 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. The officer shall give notice of the meeting to be held between ten and 60 days after receipt of the request.

(4) 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 the 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 amounts and from insurers as the board of directors deems desirable.

(7) To contract for and to accept any gifts, grants or loans of funds, property or financial or other aid in any form from the United States or any agency or instrumentality of the United States 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 money.

(10) To acquire, own, use, lease, operate and dispose of real property and interests in real property and to make improvements to the real property.

(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 or any agency or instrumentality of the United States, 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 the revenue bonds.

(14) To invest funds not required for immediate use, including, but not limited to, proceeds from the sale of revenue bonds. The power of a municipal power agency to invest shall be the same as that of a borough, as exercised by the council pursuant to sections 1005(6) (relating to powers of council) and 1316 (relating to investment of funds).

(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.--

(1) Except as provided under paragraph (2), in the erection and extension of an electric plant or project and for all other purposes authorized by this part, a municipal power agency 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).

(2) 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. A municipal power agency 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.

Cross References. Section 24A04 is referred to in sections 1402, 24A01, 24A05 of this title.

24A05. Additional contracting authority.

(a) Additional contracting authority.--In addition to the authority provided under section 24A02 (relating to general powers), a borough that, on October 27, 2010, owned or operated 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 are 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, take or pay for a minimum amount of electric power and energy.

(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 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).

(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.--This section is 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 title.

(m) Definition.--As used in this section, the term "nonprofit 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 24A04 (relating to municipal power agencies); or

(2) consists of Pennsylvania boroughs and political subdivisions of another state or states.

CHAPTER 25
(Reserved)

Enactment. Chapter 25 (Reserved) was added April 18, 2014, P.L.432, No.37, effective in 60 days.

CHAPTER 25A
AIRPORTS

ec.

5A01. Authority to secure lands for airports.
5A02. Authority to establish and lease airports.
5A03. Joint airports.

Enactment. Chapter 25A was added April 18, 2014, P.L.432, No.37, effective in 60 days.

25A01. Authority to secure lands for airports.

A borough is 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 chapter and for the assessment of damages for property taken, injured or destroyed shall be conducted in the manner provided by 26 Pa.C.S. (relating to eminent domain). The title acquired by the borough exercising the power of condemnation shall be a title in fee simple.

25A02. Authority to establish and lease airports.

A borough acquiring land under the provisions of this chapter 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. A 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.

25A03. Joint airports.

In accordance with the powers in this chapter, a 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.

CHAPTER 26
WHARVES AND DOCKS

ec.

601. Powers.
602. (Reserved).
603. Proceedings.
604. Assessment of damages.
605. Leases.
606. Market houses, terminal sheds, tracks and facilities.
607. Public use preserved.
608. Saving clause.

Enactment. Chapter 26 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

2601. Powers.

(a) Construction and repair.--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) Additional powers.--Boroughs have the following additional 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.

2602. (Reserved).

2603. Proceedings.

The proceedings before the viewers for the assessment of damages for property taken, injured or destroyed under this chapter and the proceedings on their report shall be as provided in 26 Pa.C.S. (relating to eminent domain). The costs of all proceedings, including the compensation of the viewers, shall be paid by the borough.

2604. Assessment of damages.

(a) General rule.--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.

(b) Partial taking.--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.

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.

2606. Market houses, terminal sheds, tracks and facilities.

(a) 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.

(b) Tracks and facilities.--Boroughs may 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 the facilities shall be granted.

2607. Public use preserved.

No structure erected and no right granted under the powers conferred under this chapter shall interfere with the public use of wharves for waterborne commerce.

2608. Saving clause.

Nothing contained in this chapter 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.

CHAPTER 27
RECREATION PLACES, SHADE TREES AND FORESTS

ubchapter

A. Parks and Playgrounds
B. Shade Trees
C. Forests

Enactment. Chapter 27 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

Cross References. Chapter 27 is referred to in section 1202 of this title.

SUBCHAPTER A
PARKS AND PLAYGROUNDS

ec.

700. Definitions.
701. General powers.
702. Power to acquire.
703. Appropriation of private property.
704. (Reserved).
705. (Reserved).
706. (Reserved).
707. (Reserved).
708. Recreation board or other authority.
709. Establishment of recreation board.
710. Organization of board and employees.
711. (Reserved).
712. (Reserved).
713. Lease for school athletics.

2700. Definitions.

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

"Recreation places." Public parks, parkways and playgrounds, playfields, swimming pools, public baths, bathing places, indoor recreation centers and gymnasiums.

2701. General powers.

(a) General rule.--A borough may provide, improve, maintain and regulate recreation places within the borough limits or in any adjacent municipal corporation if the other municipal corporation shall, by ordinance, signify its consent to the provision, improvement, maintenance or regulation.

(b) Acquisition.--A 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) Joint action.--A 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) Limitation.--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 26 Pa.C.S. (relating to eminent domain).

(e) Expenses.--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 council may annually appropriate, and cause to be raised by taxation as provided under section 1302(a)(10) (relating to tax levy), an amount necessary for the purpose of maintaining and operating recreation places or for paying its share of the amount.

Special Provisions in Appendix. See section 4(3)(xv) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 2701 is referred to in section 1302 of this title.

2702. Power to acquire.

(a) Authority.--A 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. A borough may designate and set apart any lands or buildings owned by the borough and not dedicated or devoted to other public uses.

(b) Joint acquisition.--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 the boroughs for the purpose of making, enlarging and maintaining recreation places. All the costs and expenses relative to the property acquired by two or more

boroughs jointly shall be paid by the respective boroughs in the proportions as may be agreed upon by the respective councils.

(c) Private property of other borough or city.--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 to the acquisition.

2703. Appropriation of private property.

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 taken in that manner, 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 chapter shall be as provided in 26 Pa.C.S. (relating to eminent domain).

2704. (Reserved).

2705. (Reserved).

2706. (Reserved).

2707. (Reserved).

2708. Recreation board or other authority.

(a) Recreation board or other authority.--The authority to supervise and maintain recreation places may be vested in any existing body or board, including the council, or in a recreation board, as the council shall determine. The council of the borough may equip, operate and maintain the recreation places, as authorized by this chapter, and may, for the purpose of carrying out the provisions of this chapter, employ any officers or employees as it may deem proper.

(b) (Reserved).

(c) Joint recreation board.--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.

Special Provisions in Appendix. See section 4(3)(xvi) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

2709. Establishment of recreation board.

(a) Establishment.--If the council determines that the power to equip, operate and maintain recreation places shall be exercised by a recreation board, the council 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.

(b) Composition.--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 council and shall serve terms not longer than five years. The terms of the members shall be staggered in a manner that at least one member's term expires annually.

(c) Compensation.--Members of the board shall serve without pay.

(d) Vacancies.--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.

2710. Organization of board and employees.

The members of a recreation board established under this chapter 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.

2711. (Reserved).

2712. (Reserved).

2713. Lease for school athletics.

(a) Lease.--A 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.

(b) Admission charge.--The borough maintaining a recreation place 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.

SUBCHAPTER B
SHADE TREES

ec.

720. Care, custody and control.
720.1. Maintenance by borough and tax levy.
720.2. Payment by owners and assessments.

720.3. Notice of work.
720.4. Penalties.
721. Shade tree commission.
722. Composition of commission.
723. (Reserved).
724. (Reserved).
724.1. Duties of commission.
725. (Reserved).
726. (Reserved).
727. (Reserved).
728. (Reserved).
729. (Reserved).
730. (Reserved).

2720. Care, custody and control.

(a) Council authority.--Council shall have exclusive care, custody and control of shade trees in the borough. Council may:

(1) Plant, transplant, remove, maintain and protect shade trees on the streets and highways in the borough.

(2) 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) Planting, transplanting or removal.--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 alignment and at points as may be designated by ordinance, by the owners of property abutting the street at the points designated.

(c) Limitation.--Nothing in this part 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.

(d) Assessment of costs.--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 the trees to be planted or replanted and assess the cost against the owner in accordance with section 2720.2 (relating to payment by owners and assessments).

(e) Diseased plants, shrubs and trees.--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.

2720.1. Maintenance by borough and tax levy.

(a) Cost and expenses.--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 subchapter shall be paid by the borough.

(b) Tax levy or appropriation.--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.

Cross References. Section 2720.1 is referred to in sections 1302, 2724.1 of this title.

2720.2. Payment by owners and assessments.

(a) Payment by owners.--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.

(b) Assessment and collection.--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 Chapter 21A (relating to assessments and charges for public improvements).

Cross References. Section 2720.2 is referred to in section 2720 of this title.

2720.3. Notice of work.

If 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.

Cross References. Section 2720.3 is referred to in section 2724.1 of this title.

2720.4. Penalties.

(a) Penalties for violation.--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 penalties to a shade tree commission. Any penalty assessed shall be a lien upon the real estate of the offender and may be collected as municipal claims are collected.

(b) Separate fund.--All penalties or assessments imposed under this subchapter shall be paid to the borough treasurer, to be kept in a separate fund and utilized only for the purposes authorized by this subchapter.

2721. Shade tree commission.

(a) Establishment.--Council, by ordinance, may establish a shade tree commission and delegate to the shade tree 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.

(b) Commission authority.--The shade tree 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.

(c) Park commission.--If 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 chapter for a shade tree commission.

2722. Composition of commission.

(a) General.--Except as provided in subsection (b), a shade tree commission shall be composed of three residents of the borough who shall be appointed by the council and shall serve without compensation.

(b) Council option.--The council, by ordinance, may provide that a shade tree 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) Three-member commission.--If 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) Five-member commission.--If 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.--Vacancies in the office of commissioner shall be filled by the council for the unexpired term.

2723. (Reserved).

2724. (Reserved).

2724.1. Duties of commission.

(a) Annual report.--A shade tree commission shall annually report in full to the council its transactions and expenses for the last fiscal year of the borough.

(b) Notice.--If a 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 the work is to be considered shall be given by the shade tree commission in accordance with section 2720.3 (relating to notice of work).

(c) Certification of amounts required.--The shade tree 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 subchapter. The shade tree commission shall use funds appropriated or raised by taxation in accordance with section 2720.1 (relating to maintenance by borough and tax levy) for any purpose authorized by council.

(d) Certification of assessments.--The shade tree commission shall ascertain and certify to council and the borough treasurer the amount of any assessment imposed in accordance with this subchapter for the planting, transplanting or removal of plants, shrubs and trees.

2725. (Reserved).

2726. (Reserved).

2727. (Reserved).

2728. (Reserved).

2729. (Reserved).

2730. (Reserved).

SUBCHAPTER C
FORESTS

ec.

751. Acquisition of land for forest purposes.
752. (Reserved).
753. Ordinance of acquisition.
754. Appropriations.
755. Regulations.
756. Appropriations and revenue.
757. Use of forests.
758. Ordinance of sale.
759. Pruning and thinning.

2751. Acquisition of land for forest purposes.

A borough may acquire by purchase, gift or lease tracts of land covered with forest or tree growth or suitable for the growth of trees and administer the tracts in accordance with the practices and principles of scientific forestry, for the benefit of the borough. The tracts may be of any size suitable for the purpose and may be located within or without the borough limits.

2752. (Reserved).

2753. Ordinance of acquisition.

If the council deems it expedient to acquire land for the purposes of a municipal forest, it shall enact an ordinance setting forth the facts and conditions relating to the proposed action.

2754. Appropriations.

Money necessary for the purchase of the tracts shall be appropriated in the same manner as appropriations for borough purposes. Money may be provided from the current revenue or by the proceeds of a sale of general obligation bonds in accordance with existing law.

2755. Regulations.

Upon the acquisition of a municipal forest or land suitable for a municipal forest, the council may promulgate regulations for the government and proper administration of the same as necessary to produce continuing borough revenue by the sale of forest products.

Cross References. Section 2755 is referred to in section 2757 of this title.

2756. Appropriations and revenue.

Money necessary for the administration, maintenance, protection and development of forests shall be appropriated and applied as is now done for borough purposes. The revenue and return on the revenue arising from the forests shall be paid into the borough treasury to be used for general borough purposes.

2757. Use of forests.

A municipal forest may be used by the public as general outing or recreation grounds subject to the regulations under section 2755 (relating to regulations).

2758. Ordinance of sale.

(a) Requirement.--If the council deems it expedient to sell or lease a municipal forest, a part of a municipal forest or a product from a municipal forest, it shall enact an ordinance setting forth the facts and conditions relating to the proposed action.

(b) Conditions.--In order to enact an ordinance under this section, there must be compliance with the advertising and

bidding requirements of section 1201.1 (relating to real property).

2759. Pruning and thinning.

(a) Authority.--To comply with the practices and principles of scientific forestry, the council has the following powers:

(1) To pass a resolution to prune or thin out a municipal forest or portion of a municipal forest.

(2) To sell the products of the pruning or thinning out.

(b) Personnel.--To carry out subsection (a), the borough may use its own personnel or contract with skilled personnel.

(c) Bidding and advertising.--The bidding and advertising requirements of this part do not apply to any of the following:

(1) Sales under subsection (a)(2).

(2) Contracts under subsection (b).

CHAPTER 28
CEMETERIES

ec.

800. Appropriations for burial ground maintenance.
800.1. Burial of deceased persons.
801. Management by cemetery commission.
802. Transfer from borough to company.
803. (Reserved).
804. (Reserved).
805. Transfer from company to borough.
805.1. Neglected or abandoned cemeteries.
806. (Reserved).
807. (Reserved).
808. Removing bodies to alter plots.
809. Removal of bodies to other cemeteries.
810. (Reserved).
811. (Reserved).
812. (Reserved).
813. (Reserved).
814. (Reserved).
815. (Reserved).
816. Purchase of plots for burial of deceased service members.

Enactment. Chapter 28 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

2800. Appropriations for burial ground maintenance.

A borough may appropriate annually, out of the general funds of the borough, a sum for the care, upkeep, maintenance and beautifying of:

(1) cemeteries and burial grounds lying wholly or partly within the boundary limits of the borough or in the territory immediately adjacent to the borough; and

(2) private roads in or leading to property under paragraph (1).

2800.1. Burial of deceased persons.

A borough may prohibit the burial or interment of deceased persons anywhere within borough limits.

2801. Management by cemetery commission.

If the title and management of a cemetery is vested in a borough, the council may, by ordinance, vest the care, management and operation of the cemetery in a cemetery commission of three citizens to be appointed by the council. The ordinance shall provide for the terms of the cemetery commissioners.

2802. Transfer from borough to company.

(a) Authority.--Upon petition of at least 10% of living cemetery lot owners, the council may transfer the cemetery and its management to an incorporated cemetery company.

(b) Procedure.--Upon presentation of a petition under subsection (a), the council may enact an ordinance declaring that, upon the acceptance of the ordinance by the incorporated cemetery company and filed with the borough secretary, the title and control of the cemetery shall vest in the incorporated cemetery company.

(c) Recording.--A copy of the ordinance and the acceptance by the incorporated cemetery company, certified by the borough secretary, shall be recorded in the office of the recorder of deeds of the county.

2803. (Reserved).

2804. (Reserved).

2805. Transfer from company to borough.

(a) Judicial action.--

(1) Upon the petition of an incorporated cemetery company and the owners of a majority of the taxable real estate in the borough, the court of common pleas may authorize the transfer of a cemetery to the borough where the cemetery is located or is adjacent to the borough.

(2) A copy of the court order under paragraph (1) shall be filed with the recorder of deeds.

(b) Cost.--The transfer shall be made without cost to the borough.

(c) Effect.--Upon transfer, the following apply:

(1) The borough shall exercise the powers and privileges of the incorporated company.

(2) The borough may do all of the following:

(i) Purchase up to 30 acres of land within or adjacent to the borough limits for the extension of the cemetery;

(ii) Pay for the purchase under subparagraph (i) by:

(A) sale of lots or otherwise; or

(B) any means other than taxation.

(iii) Lay out lots purchased and alter the original plot of the cemetery.

(iv) Dispose of the grounds in the same manner as the incorporated company could have done.

(d) Deeds.--

(1) A deed for a lot, made by the borough, shall have the same validity as the deed of the incorporated cemetery company.

(2) The borough may make a deed to a person that, prior to transfer under this section:

(i) purchased a lot; but

(ii) did not receive a deed.

2805.1. Neglected or abandoned cemeteries.

(a) Maintenance.--The council may, upon compliance with subsection (b), direct the removal of weeds, refuse and debris from an abandoned or neglected cemetery.

(b) Notice.--

(1) To exercise the power under subsection (a), the council must give notice to the owner directing the removal of weeds, refuse and debris from the cemetery within 30 days of service under paragraph (2).

(2) Notice must be effected by any of the following means:

(i) Personal service on the owner.

(ii) Certified mail, addressee only, return receipt requested, to the owner at the owner's last known address.

(iii) After reasonable attempts to give notice under subparagraph (i) or (ii) have failed, posting notice at or upon the property.

(c) Action.--

(1) If the removal is not completed within 30 days after the notice is effected under subsection (b)(2), the council shall provide for the removal to be done by employees of the borough or by a contractor at the expense of the borough.

(2) The costs of removal under paragraph (1) shall be assessed against the owner of the cemetery and collected under Chapter 21A (relating to assessments and charges for public improvements).

2806. (Reserved).

2807. (Reserved).

2808. Removing bodies to alter plots.

In altering the plot of a cemetery, bodies may be removed and reinterred in a suitable place but without cost to surviving relatives.

2809. Removal of bodies to other cemeteries.

(a) Authority.--

(1) This subsection applies to a privately owned cemetery, a borough-owned cemetery or a cemetery affiliated with a religious society or church or any other organization, when the cemetery:

(i) has ceased to be used for interments;

(ii) has become so neglected as to become a public nuisance;

(iii) hinders the improvement and progressive interests of the borough; or

(iv) is desired by the borough as a site for any public purpose.

(2) The court of common pleas may, upon compliance with subsection (b), direct the removal of the remains of the dead from a cemetery.

(b) Procedure.--

(1) A petition under this section must be made to the court by any of the following:

(i) The manager of the cemetery in charge of a religious society or church or an other organization. The following are required to utilize this subparagraph:

(A) Public notice of a meeting of the entity on the petition must be given two weeks before the meeting.

(B) At the meeting, a majority of the members of the entity must approve the petition.

(C) The petition must set forth that the cemetery has ceased to be used for interments.

(ii) If the cemetery is not under the charge of anyone, 50 residents of the borough. A petition under this subparagraph must set 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.

(iii) The council. A petition under this subparagraph must set forth that:

(A) the cemetery has become so neglected as to become a public nuisance;

(B) 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

(C) the land is desired for a public purpose.

(2) Notice must be given by advertisement in a newspaper of general circulation once a week for three successive weeks.

(c) Private action.--A relative of the deceased individual subject to removal or another interested party of the dead may, prior to action under subsection (d), remove the remains at private expense.

(d) Public action.--

(1) The removal shall be made by:

(i) the manager of the cemetery; or

(ii) the borough if the cemetery is:

(A) not in the charge of a manager; or

(B) owned by the borough.

(2) The removal shall be made at the expense of the removing party in a careful manner.

(3) The removal shall be made:

(i) except as set forth in subparagraph (ii), to a cemetery selected by the person that makes the removal; or

(ii) upon request of a relative of the deceased individual subject to removal or another interested party, to a designated cemetery in the vicinity.

(4) Each body removed shall be placed in a separate casket and grave, and the marker over the remains of the body shall be placed as near as possible in the same relative position as before removal.

(e) Effect.--After the removal of all dead bodies from a 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.

2810. (Reserved).

2811. (Reserved).

2812. (Reserved).

2813. (Reserved).

2814. (Reserved).

2815. (Reserved).

2816. Purchase of plots for burial of deceased service members.

(a) Authority.--A borough may purchase plots of ground in a cemetery or burial ground within its limits for the interment of deceased members of the armed forces who:

(1) die within the borough or have a legal residence within the borough at the time of death; and

(2) are entitled to be buried by the county under the provisions of existing law.

(b) Cost.--Plots purchased under this section shall be paid for out of the borough treasury.

CHAPTER 29

LICENSES AND LICENSE FEES

ec.

901. Licensing transient retail business.

902. Licensure saved.

2903. Licensing parking lots and parking garages operated for profit.

904. Persons taking orders by samples.
905. Equality of residents and nonresidents.
906. Insurance business.

Enactment. Chapter 29 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

Cross References. Chapter 29 is referred to in section 1202 of this title.

2901. Licensing transient retail business.

(a) Authority.--A borough may, by ordinance, regulate and license transient merchants engaged in any transient retail business within the borough.

(b) Licensure.--The following shall apply:

(1) An ordinance under this section may prohibit the transient retail business without a license and provide for enforcement by penalties or other appropriate means.

(2) Except as set forth in paragraph (3), an ordinance under this section may set a license fee which bears a reasonable relationship to the cost of administering the ordinance and regulating and inspecting the transient retail business.

(3) Paragraph (2) does not apply as follows:

(i) Except as set forth in paragraph (ii), the ordinance may not impose a license fee on the following transient merchants:

(A) A farmer selling the farmer's own produce.

(B) A person selling personal property if the proceeds of the sale are to be applied to a charitable or philanthropic purpose.

(C) A manufacturer or producer in the sale of any of the following:

(I) Bread. This subclause includes a bakery product.

(II) Meat. This subclause includes a meat product.

(III) Milk. This subclause includes a milk product. This subclause does not include ice cream or another frozen dessert.

(ii) The exception under this paragraph does not apply to a transient merchant that is also selling other personal property not excepted under subparagraph (i).

(c) Registration.--An ordinance under this section may require that a transient merchant exempt under subsection (b)(2) register with the borough and otherwise be subject to all other provisions of the ordinance.

(d) Definition.--As used in this section, the term "transient merchant" means a person engaged in transient retail business for the sale of personal property, whether the business is conducted from a fixed location within the borough or by an

individual engaged in peddling, soliciting or the taking of orders from house to house.

2902. Licensure saved.

(a) Commonwealth.--Nothing contained in this chapter shall be construed to relieve a person from a statutorily imposed:

(1) licensure requirement;

(2) license tax; or

(3) license fee.

(b) Boroughs.--A Commonwealth license tax or fee shall not preempt the registration, licensing or regulatory powers of a borough in accordance with this chapter unless the preemption is expressly authorized.

2903. Licensing parking lots and parking garages operated for profit.

(a) Authority.--

(1) A borough may, by ordinance, regulate the business of operating parking lots or parking garages for profit within the borough and may require the lots or garages to reserve areas exclusively for parking by handicapped individuals. Under the ordinance:

(i) License or permit fees may be charged and collected from the operators of the parking lots or parking garages.

(ii) Security is subject to the following:

(A) Except as set forth in clause (B), the borough shall require from each operator of a parking lot or parking garage a bond to be approved by the 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.

(B) Clause (A) shall not apply to parking lots or parking garages operated by a municipal authority or a parking authority.

(2) An ordinance under paragraph (1) must be consistent with 75 Pa.C.S. (relating to vehicles).

(b) Individuals with disabilities.--Nothing in this section may be construed to limit statutory and regulatory protections and prohibitions contained relating to the rights of disabled individuals.

2904. Persons taking orders by samples.

(a) Prohibition.--A borough may not impose, levy or collect a license fee or mercantile tax upon a person that takes, by sample, from a dealer or merchant an order for merchandise on behalf of an individual or company that pays a license fee or mercantile tax at the individual's or company's chief place of business.

(b) Limitation.--Nothing in this section shall authorize a person to sell by retail to a person other than a dealer or merchant without payment of a license or permit fee.

2905. Equality of residents and nonresidents.

A borough may not enact an ordinance imposing a license fee upon a manufacturer, including an agent and employee, that is a resident of this Commonwealth and solicits orders for or sells personal property manufactured in this Commonwealth if the borough could not legally impose the same license fee upon a manufacturer, including an agent and employee, that is a nonresident of this Commonwealth and solicits orders for or sells personal property manufactured outside this Commonwealth.

2906. Insurance business.

A borough may not impose a license fee upon an insurance company, including an agent, or an insurance broker authorized to transact business under the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

CHAPTER 29A
VETERANS' AFFAIRS

ubchapter

A. Pennsylvania National Guard
B. Support of Veterans' Organizations

Enactment. Chapter 29A was added April 18, 2014, P.L.432, No.37, effective in 60 days.

SUBCHAPTER A
PENNSYLVANIA NATIONAL GUARD

ec.

9A01. Eminent domain for National Guard purposes.
9A02. Land for armory purposes.
9A03. Appropriation to assist in erection of armories.
9A04. Support of Pennsylvania National Guard units.

29A01. Eminent domain for National Guard purposes.

(a) Authority.--Except as set forth in subsection (b), the 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 property as may be in its possession or control and used or held by the borough for any other purpose.

(b) Exception.--Eminent domain may not be exercised as to a street or wharf.

29A02. Land for armory purposes.

(a) Authority.--Except as set forth in subsection (b), the council may acquire, by purchase or by gift or by the right of eminent domain, land for the use of the Pennsylvania National

Guard, to be conveyed to the Commonwealth in order to assist the State Armory Board in the erection of armories.

(b) Exception.--The power under subsection (a) may not be exercised to take any of the following:

(1) Church property.

(2) A graveyard or cemetery.

(3) A dwelling house or the curtilage of property:

(i) designated in paragraph (1) or (2); and

(ii) in the actual occupancy of the owner.

29A03. Appropriation to assist in erection of armories.

The council has the following powers:

(1) To appropriate money or convey land, either independently or in conjunction with another municipality, to:

(i) assist the State Armory Board in the erection of armories for the use of the Pennsylvania National Guard; and

(ii) furnish water, sewer service, light or fuel free of cost to the Commonwealth for use in any armory of the Pennsylvania National Guard.

(2) To do all things necessary to accomplish the purpose of this section.

29A04. Support of Pennsylvania National Guard units.

(a) Appropriation.--The council may appropriate annually a sum to be used and expended exclusively for the support and maintenance, discipline and training of a unit of the Pennsylvania National Guard.

(b) Payment.--

(1) The money appropriated shall be paid by warrant drawn to the order of the commanding officer of the unit upon certification to the borough, by the Adjutant General, that the unit has satisfactorily passed the annual inspection provided by law.

(2) The commanding officer shall account, by proper vouchers to the borough each year, for the expenditure of the money appropriated. No appropriation shall be made for any subsequent year until the expenditure of the previous year is 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 accordance with law.

SUBCHAPTER B

SUPPORT OF VETERANS' ORGANIZATIONS

ec.

29A11. Appropriations to organizations and American Gold Star Mothers, Inc.

9A12. Payment of rent for meetings.
9A13. Rooms for veterans' organizations and children.
9A14. Care and erection of memorials.

29A11. Appropriations to organizations and American Gold Star Mothers, Inc.

(a) Appropriation.--

(1) The council may appropriate annually money to aid in defraying the expenses of Memorial Day, Veterans' Day or a similar day provided for by Federal or State law.

(2) The appropriation shall be divided in amounts as council deems proper to:

(i) an organization composed of veterans of a war in which the United States was engaged; and

(ii) American Gold Star Mothers, Inc.

(3) The money shall be appropriated to defray actual expenses only.

(b) Payment.--Before payment is made, the organization receiving the appropriation must submit verified accounts of its expenditures.

29A12. Payment of rent for meetings.

The council may appropriate annually a sum to an incorporated organization of American veterans of a war in which the United States was engaged, to be used in the payment of the rent for a facility in which the organization has its regular meetings.

29A13. Rooms for veterans' organizations and children.

The council may furnish without charge to an organization composed of American veterans of a war in which the United States was engaged and children of the veterans a room in a public building of the borough.

29A14. Care and erection of memorials.

(a) Authority.--The council may control and maintain a soldier's memorial which is:

(1) situated in the borough;

(2) not controlled and maintained by an individual or entity; and

(3) not placed by the Federal Government, the Commonwealth, the county or another state.

(b) Funding.--The council may receive and expend any money to be used for the maintenance of the memorials.

(c) Contributions.--The council may contribute to the erection and maintenance of a memorial in honor of those who served in a war in which the United States was engaged.

CHAPTER 30

REAL ESTATE REGISTRY

(Reserved)

Enactment. Chapter 30 (Reserved) was added April 18, 2014, P.L.432, No.37, effective in 60 days.

CHAPTER 31
HEALTH AND SANITATION

ec.

100. Definitions.
101. Administration.
102. Board.
103. Oaths, officers and security.
104. Duties of board secretary.
105. Powers and duties of health officer.
106. Powers and duties of board.
107. Entry upon premises.
108. Abatement of nuisances.
109. Expenditures.
110. Cooperation.
111. Department.
112. (Reserved).
113. (Reserved).
114. (Reserved).

Enactment. Chapter 31 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

3100. Definitions.

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

"Board." A board of health established under section 3101(a) (relating to administration).

"Board secretary." The secretary of a board.

"Department." The Department of Health of the Commonwealth.

"Health officer." An individual appointed under section 3101(a) or 3103(b)(1)(iii) (relating to oaths, officers and security).

"Professional health care provider." An individual who is licensed, certified or registered to practice or operate in the health care field under the laws of this Commonwealth. The term includes:

(1) A physician.
(2) A dentist.
(3) A podiatrist.
(4) A chiropractor.
(5) An optometrist.

(6) A psychologist.
(7) A pharmacist.
(8) A registered or practical nurse.
(9) A physical therapist.
(10) A physician's assistant.
(11) A paramedic.
(12) An administrator of any hospital, nursing or convalescent home or other health care facility.
(13) A veterinarian.

3101. Administration.

(a) Establishment.--The council may, by ordinance, appoint a board of health or a health officer to administer and enforce the health ordinances and related ordinances of the borough. A health officer must have experience or training in public health work and must, within six months of taking the oath of office, be certified for the office of health officer by the department.

(b) Expenses.--Expenses incurred by the board or a health officer shall be paid by the borough.

(c) Dissolution.--A borough may, by ordinance, dissolve a board and decide to become subject to the jurisdiction of a county department of health or joint county department of health under the act of August 24, 1951 (P.L.1304, No.315), known as the Local Health Administration Law.

Cross References. Section 3101 is referred to in section 3100 of this title.

3102. Board.

(a) Membership.--

(1) A board appointed by a council shall be composed of three or five members, subject to the following:

(i) Except as set forth in subparagraph (ii), at least one member must be a professional health care provider with not less than two years' experience in the practice of the member's respective profession.

(ii) If subparagraph (i) cannot be met, at least one member must have had experience in or be knowledgeable of public health issues.

(2) (Reserved).

(b) Terms.--

(1) Initial terms shall be staggered as follows:
(i) For a three-member board:
(A) one member shall serve a term of one year;
(B) one member shall serve a term of two years; and
(C) one member shall serve a term of three years.
(ii) For a five-member board:
(A) one member shall serve a term of one year;
(B) one member shall serve a term of two years;

(C) one member shall serve a term of three years;
(D) one member shall serve a term of four years; and
(E) one member shall serve a term of five years.
(2) Subsequent terms shall be staggered as follows:
(i) For a three-member board, a subsequent term shall be three years.
(ii) For a five-member board, a subsequent term shall be five years.

(c) Compensation.--

(1) Except as set forth in paragraph (2), the members of the board shall serve without compensation.
(2) Paragraph (1) shall not apply to a member of the board who is elected board secretary under section 3103(b)(2) (relating to oaths, officers and security).

3103. Oaths, officers and security.

(a) Oath of office.--A member of the board must take the oath prescribed for borough members of council.

(b) Officers.--

(1) The board shall annually organize by electing:
(i) a president from among the members of the board;
(ii) a board secretary who may or may not be a member of the board; and
(iii) a health officer.
(2) The board secretary and the health officer shall receive salaries fixed by the board and ratified by the council.
(3) The board secretary and health officer shall serve until a successor is elected and qualified.

(c) Security.--The council may require the board secretary and health officer to furnish a bond to the borough in a prescribed amount for the faithful discharge of their duties.

Cross References. Section 3103 is referred to in sections 3100, 3102 of this title.

3104. Duties of board secretary.

The board secretary has the following duties:
(1) To maintain, under 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) To draw requisitions for the payment of money on account of the board from appropriations made by the council to the board and present the requisitions to the president of the board for the president's approval.
(3) To render statements of the expenditures to the board at each stated meeting or as frequently as the board requires.
(4) To prepare, under the direction of the board, the annual report to the council and the estimate of appropriation needed for the ensuing year.

(5) To report to the department at statutory or regulatory intervals the cases of communicable disease reported to the board on the form provided by the department and make an annual report to the department.

(6) To perform other duties required by the board.

3105. Powers and duties of health officer.

(a) Powers.--A health officer may issue a citation for violation of a health ordinance or related law.

(b) Duties.--A health officer has the following duties:

(1) Administer and enforce the health ordinances of the borough and related law.

(2) Perform the duties as are vested in local health officers by statute or regulation.

(3) Make sanitary inspections.

(4) Execute the orders of the board.

(5) Attend all regular and special meetings of the board of health.

3106. Powers and duties of board.

(a) Powers.--A board has the following powers to:

(1) Recommend to the council rules and regulations necessary for the preservation of the public health and for carrying into effect the functions of the board.

(2) Appoint a health officer. A health officer must have experience or training in public health work and must, within six months of taking the oath of office, be certified for the office of health officer by the department.

(3) Abate and remove nuisances the board deems detrimental to the public health.

(4) Mark infected premises.

(b) Duties.--A board has the duty to enforce all of the following related to promotion of public health and prevention of the introduction and spread of infectious or contagious disease:

(1) A statute.

(2) A regulation of the department.

(3) An ordinance of the borough.

Cross References. Section 3106 is referred to in section 3107 of this title.

3107. Entry upon premises.

(a) Authority.--

(1) This subsection applies to all of the following:

(i) A member of a board.

(ii) A health officer.

(iii) An employee of a board or a health officer.

(iv) An agent of a board or a health officer.

(2) An individual subject to paragraph (1) may, upon order of the board:

(i) enter premises in the borough where an infectious or contagious disease or a nuisance detrimental to the public health is suspected; and

(ii) examine and abate the disease or nuisance.

(b) Warrant.--If entry under subsection (a)(2)(i) is prevented, the board of health or health officer may obtain an administrative search warrant from a magisterial district judge with jurisdiction over the premises upon a showing 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) Probable cause of a violation of a law specified in section 3106(b) (relating to powers and duties of board).

Cross References. Section 3107 is referred to in sections 32A04, 32A05 of this title.

3108. Abatement of nuisances.

(a) Initial order.--If the board finds a condition or premises to be a nuisance 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. The order shall:

(1) state that the conditions specified in the premises constitute the nuisance; and

(2) order an abatement of the nuisance within a specified reasonable time.

(b) Subsequent order.--

(1) Upon noncompliance of the order under subsection (a), the board shall issue a written order to the health officer directing removal or abatement of the nuisance.

(2) An order under paragraph (1) shall be executed by the health officer or an agent of the health officer.

(3) The expense of execution under paragraph (2) shall be recoverable as a municipal claim from the owner of the premises, with a 10% penalty.

(c) Legal action.--In lieu of or in addition to the procedure under subsections (a) and (b), council may seek relief from a nuisance or threatened nuisance by an action at law or in equity. Council may seek guidance of the board or the health officer in determining the nature of the relief requested.

3109. Expenditures.

(a) Estimate.--The board or the health officer shall submit to council, before commencement of the borough's fiscal year, an

estimate of the probable expenditures of the board or the health officer during the ensuing fiscal year.

(b) Appropriation.--Council shall make appropriations based on the estimate as deemed necessary.

(c) Report.--The board or the health officer shall, each January, submit a report to council on:

(1) the appropriation and the expenditures for the preceding fiscal year; and

(2) information on subjects relative to the sanitary conditions or requirements of the borough.

3110. Cooperation.

A borough may cooperate in the administration and enforcement of health laws with:

(1) the department;

(2) a county in which the borough is located; and

(3) a municipal corporation.

3111. Department.

(a) No limitation.--Nothing in this part may be construed to limit the powers and duties of the department, including the powers and duties under Article XXI of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(b) Expenses.--

(1) Expenses of the department for which the borough is liable shall be paid by the borough where the expenses have been incurred.

(2) If expenses under paragraph (1) are unpaid for a period of more than 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 an action against the borough for the collection of the expense. The reasonableness of the expenditures made by the secretary shall be submitted to the jury for its determination.

(3) Upon payment, the department shall return the money to the State Treasurer, who shall credit the amount to the appropriation made to the department.

3112. (Reserved).

3113. (Reserved).

3114. (Reserved).

CHAPTER 32

ZONING

(Reserved)

Enactment. Chapter 32 (Reserved) was added April 18, 2014, P.L.432, No.37, effective in 60 days.

CHAPTER 32A
UNIFORM CONSTRUCTION CODE, PROPERTY
MAINTENANCE CODE AND RESERVED POWERS

ec.

2A01. Primacy of Uniform Construction Code.
2A02. Changes in Uniform Construction Code.
2A03. Public nuisance.
2A04. Property maintenance code.
2A05. Reserved powers.

Enactment. Chapter 32A was added April 18, 2014, P.L.432, No.37, effective in 60 days.

Cross References. Chapter 32A is referred to in section 1202 of this title.

32A01. Primacy of Uniform Construction Code.

(a) General rule.--The following shall apply to the construction, alteration, repair and occupancy of all buildings and structures within a borough:

(1) The Pennsylvania Construction Code.

(2) The Uniform Construction Code adopted under section 301 of the Pennsylvania Construction Code.

(b) Primacy.--This section and any ordinance, rule or regulation adopted under this section shall not supersede or abrogate the Pennsylvania Construction Code or the Uniform Construction Code and shall be construed and read in pari materia with the Pennsylvania Construction Code and the Uniform Construction Code.

32A02. Changes in Uniform Construction Code.

A borough may propose and enact an ordinance to equal or exceed the minimum requirements of the Uniform Construction Code in accordance with section 503 of the Pennsylvania Construction Code. Any ordinance exceeding the provisions of the Uniform Construction Code shall be required to meet the standards under section 503(j)(2) of the Pennsylvania Construction Code.

32A03. Public nuisance.

(a) Abatement.--Except as provided under subsection (b), any building, housing or property or a part of any building, housing or property erected, altered, extended, reconstructed, removed or maintained, contrary to the provisions of an ordinance passed for the purposes specified under this chapter, may be declared, by a court of law, a public nuisance and may be abatable.

(b) Exception.--A violation of the Uniform Construction Code or any ordinance that equals or exceeds the Uniform Construction Code shall be subject to the Pennsylvania Construction Code and

the regulations adopted under the Pennsylvania Construction Code relating to enforcement for noncompliance.

32A04. Property maintenance code.

(a) Enactment.--Notwithstanding the primacy of the Uniform Construction Code, a borough may enact one of the following:

(1) A property maintenance ordinance and may incorporate a 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.

(2) A standard or nationally recognized property maintenance code or any variations or changes or parts as its property maintenance ordinance.

(a.1) Notice.--The following shall apply:

(1) An ordinance or any variations or changes or parts under subsection (a) shall not be required to be advertised after passage. Notice of the consideration of an ordinance or any variations or changes or parts under subsection (a) shall be published in a manner that will give adequate notice of its contents and a reference to the place within the borough where copies of the proposed property maintenance code may be examined or obtained.

(2) The notice required under paragraph (1) 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.

(a.2) Inspection.--At least three copies of the ordinance adopted by council:

(1) shall be made available:

(i) for public inspection and use during business hours; or

(ii) to any interested party who pays the cost of copying; or

(2) may be furnished or lent without charge.

(a.3) Adoption by reference.--A property maintenance code adopted by reference shall:

(1) not be required to be recorded in or attached to an ordinance book; and

(2) be deemed to have been legally recorded if the ordinance by which the code was adopted by reference has been recorded with an accompanying notation stating where the full text of the code has been filed.

(a.4) Fines and penalties.--An ordinance under this section may provide for reasonable property fines and penalties for violations of the ordinance.

(a.5) Procedure.--The procedure under this section relating to the adoption of an ordinance under this section may be used

in amending, supplementing or repealing any of the provisions of the ordinance.

(b) Property maintenance inspectors.--Council may appoint property maintenance inspectors who may enter, subject to constitutional standards in a similar manner as provided under section 3107 (relating to entry upon premises), and inspect any premises at reasonable hours and in a reasonable manner for the administration and enforcement of the borough's property maintenance code or ordinance under subsection (a). Any fees payable to property maintenance inspectors under the ordinance shall be paid by the property maintenance inspectors as soon as possible to the borough treasurer for the use of the borough.

(c) Legal actions.--In addition to the penalties provided by a property maintenance ordinance, a 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 under this section shall be in addition to the powers provided under the following:

(1) The act of November 26, 2008 (P.L.1672, No.135), known as the Abandoned and Blighted Property Conservatorship Act.

(2) 53 Pa.C.S. Ch. 61 (relating to neighborhood blight reclamation and revitalization).

(3) 68 Pa.C.S. Ch. 21 (relating to land banks).

Cross References. Section 32A04 is referred to in sections 32A05, 3321 of this title.

32A05. Reserved powers.

(a) Power.--If, as a result of legislative action or final order of court which is not subject to appellate review, 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 following in relation to a building and housing, parts of a building and housing or a facility and service in or about a building or housing:

(i) Construction, reconstruction, alteration, extension, repair and conversion.

(ii) Maintenance.

(iii) Occupation.

(iv) Sanitation.

(v) Ventilation, heating, egress, lighting, electrical wiring, water supply, toilet facilities, drainage, plumbing, fire prevention and fireproofing, including limitations under which only buildings of noncombustible material and fireproofed roofs are used in construction.

(vi) Erection or substantial reconstruction.

(vii) Use and inspection.

(viii) Sanitation and inspection of land attached to a building or housing.

(2) Require that the approval of plans and specifications are secured before construction, reconstruction, alteration, extension, repair or conversion of a building is started.

(3) Appoint and determine the compensation of the following:

(i) Building inspectors.

(ii) Housing inspectors.

(iii) Property maintenance inspectors.

(iv) Fire prevention inspectors.

(v) Electrical inspectors.

(vi) Plumbing inspectors.

(4) In addition to penalties provided by an ordinance, institute actions to do any of the following:

(i) Prevent or restrain the unlawful construction, reconstruction, alteration, extension, repair, conversion, maintenance, use or occupation of property located within the borough.

(ii) Restrain, correct or abate a violation.

(iii) Prevent the use or occupancy of a building, housing or structure.

(b) Codes.--The following shall apply:

(1) A code under subsection (a)(1) may be combined or separately enacted or combined with a property maintenance code.

(2) 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 as provided under section 32A04 (relating to property maintenance code).

(3) An ordinance under subsection (a)(1) may provide for reasonable fines and penalties for violations of the ordinance in compliance with Chapter 33 (relating to ordinances).

(c) Inspectors.--An inspector under subsection (a)(3) may enter, subject to constitutional standards in a similar manner as provided under section 3107 (relating to entry upon premises), and inspect a premises at 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 the inspectors as soon as possible to the borough treasurer for the use of the borough.

CHAPTER 33
ORDINANCES

ubchapter

A. General Provisions
B. Enforcement

Enactment. Chapter 33 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

Cross References. Chapter 33 is referred to in sections 1006, 32A05 of this title.

SUBCHAPTER A
GENERAL PROVISIONS

ec.

301.1. Ordinances and resolutions.
301.2. Publication.
301.3. Enactment, approval and veto.
301.4. Recording, advertising and proof.
301.5. Codification of ordinances.
301.6. Appeals from ordinances.
301.7. Replacement of ordinance books.
302. (Reserved).
303. (Reserved).
304. (Reserved).
305. (Reserved).
306. (Reserved).
307. (Reserved).
308. (Reserved).
309. (Reserved).

3301.1. Ordinances and resolutions.

(a) General rule.--Council shall enact ordinances in accordance with this part and the laws of this Commonwealth in which the powers of the borough shall be exercised as deemed beneficial to the borough and to provide for the enforcement of the powers of the borough. Council may amend, repeal or revise existing ordinances by the enactment of subsequent ordinances.

(b) Legislative acts.--Every legislative act of council must be by ordinance. Legislative acts shall include, but not be limited to:

(1) Tax ordinances.
(2) General appropriation ordinances.
(3) Capital expenditures not payable out of current funds.
(4) Legislation doing any of the following:
(i) Exercising the police power of the borough.
(ii) Regulating land use, development and subdivision.
(iii) Imposing building, plumbing, electrical, property maintenance, housing and similar standards.

(iv) Regulating the conduct of a person or entity within the borough and imposing penalties for violation of the regulated conduct.

(5) Imposing assessments on benefited property for public improvements in accordance with Chapter 21A (relating to assessments and charges for public improvements).

(c) Resolutions.--Council shall adopt resolutions in accordance with this part and the laws of this Commonwealth. Resolutions may be adopted for any purpose, including, but not limited to, the following:

(1) Ceremonial or congratulatory expressions of the good will of the council.

(2) Statements of public policy of the council.

(3) Approval of formal agreements of the borough, except for agreements arising under an established purchasing system of the borough.

(4) Approval, if required, of administrative rules, regulations and bylaws arising under State statutes or borough ordinances.

(5) The filling of borough-appointed positions and of vacancies of elected officials, except as otherwise provided.

(d) Real and personal property.--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 part.

Special Provisions in Appendix. See section 4(3)(xvii) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 3301.1 is referred to in section 3301.5 of this title.

3301.2. Publication.

(a) Requirements.--Except as provided under this part or other law, council shall publish every proposed ordinance once in one newspaper of general circulation for at least seven days and not more than 60 days prior to enactment prior to the day when council shall vote on the proposed ordinance. Publication of any proposed ordinance shall include all of the following:

(1) The full text or the title of the ordinance and a brief summary prepared by the borough solicitor setting forth all the provisions in reasonable detail.

(2) A reference to the borough office or other place where borough records are kept where copies of the proposed ordinance may be examined.

(b) 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) The following shall apply:

(i) In addition to copies of the full text of the proposed ordinance retained where borough records are kept in accordance with subsection (a), an attested copy of the full text shall be filed in the county law library or other county office designated by the county commissioners.

(ii) The county commissioners may impose a fee not greater than the actual costs of storing the proposed ordinance.

(iii) Filing with the county may be completed by the submission of an electronic copy of the ordinance through a method available, in the sole discretion of the county, to permit receipt by the office storing municipal ordinances.

(iv) Upon request by the borough, the county shall notify the borough of the method by which electronic copies may be submitted.

(v) The county may store the ordinance electronically if the public is able to access the electronically stored borough ordinances during regular business hours at the office or at a remote location.

(vi) The borough shall retain a printed copy of the email and ordinance as transmitted.

(3) The date of the filing with the county under 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.--If 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. A copy of the full text of the amended proposed ordinance shall be retained where borough records are kept.

Special Provisions in Appendix. See section 4(3)(xviii) of Act 37 of 2014 in the appendix to this title for special provisions relating to continuation of prior law.

3301.3. Enactment, approval and veto.

(a) Approval by mayor.--

(1) Every ordinance enacted by council shall be presented to the mayor for the mayor's approval. Presentation 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) The following shall apply:

(i) If the mayor approves the ordinance, the mayor shall sign it.

(ii) If the mayor does not approve the ordinance, the mayor shall return it with 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.

(iii) Council shall reconsider the ordinance either at the meeting at which the vetoed ordinance was returned or not later than ten days after the meeting 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.

(iv) A scheduled meeting, as used in this section, may be either a regular, special or reconvened meeting.

(3) If an ordinance is not 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 provided in the ordinance, shall be one of the following:

(1) The date when the mayor approves the ordinance.

(2) The date of enactment by the council over the veto of the mayor.

(3) For an 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 the succeeding scheduled meeting of council.

(c) Tax ordinance.--The following shall apply:

(1) If council presents the mayor with the annual tax ordinance under section 1310.1 (relating to tax ordinance), 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.

(2) Council shall reconsider the tax ordinance at any scheduled meeting held not 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.

(3) 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. If the veto is overridden, the ordinance shall have full force and effect as if it had received the approval of the mayor.

(4) 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.

Cross References. Section 3301.3 is referred to in section 1310.1 of this title.

3301.4. Recording, advertising and proof.

(a) Recording.--All borough ordinances shall, within 30 days after approval by the mayor, the council's override of the mayor's veto or council's next scheduled meeting after its presentation to the mayor, be recorded by the borough secretary in an ordinance book. The ordinance book shall be open to the inspection of citizens during normal business hours.

(b) Proof.--All ordinances may be proved by the certificate of the borough secretary under the corporate seal. If an ordinance is printed or published in book or pamphlet form by the authority of the borough, the ordinance shall be accepted as evidence 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.

(c) Prior ordinances.--The text of a borough ordinance or a portion of an ordinance which was attached to the ordinance book before January 1, 1966, shall be considered in force as if the ordinances or portions of ordinances had been recorded in the ordinance book if all other requirements of this part applicable to the enactment, approval, advertising and recording of the ordinances or portions of ordinances were complied with within the time limits prescribed under this part.

3301.5. Codification of ordinances.

(a) Consolidation, codification and revision.--The borough council, under section 3301.1(a) (relating to ordinances and resolutions), may:

(1) enact a consolidation, codification or revision of borough ordinances as a single ordinance of the borough; and

(2) enact a complete group ordinance, repealing or amending existing ordinances as necessary.

(b) Enactment.--For a consolidation, codification or revision under subsection (a), the following apply:

(1) The ordinance must be introduced in the council at least 30 days before its final enactment.

(2) At least 15 days before final enactment, notice of the introduction of the ordinance must be given by advertisement in a newspaper of general circulation. For enactment under subsection (a)(2), the notice must list, in lieu of a table of contents, the titles of each of the ordinances in the complete group.

(c) Subsequent notice.--When any consolidation, codification or revision under subsection (a) 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 referring to notice under subsection (b)(2) and stating final enactment.

3301.6. Appeals from ordinances.

Complaint as to the legality of any ordinance or resolution must 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.

3301.7. Replacement of ordinance books.

(a) Ordinance.--

(1) If an ordinance book is unserviceable, the council may provide by ordinance for the secretary of the borough to establish a replacement ordinance book recording all ordinances affected by the replacement.

(2) The following apply to an ordinance under this subsection:

(i) The ordinance must be recorded in the ordinance book immediately following the recorded ordinances affected by the replacement.

(ii) The ordinance must direct the secretary, upon completion of the recording, to publish once, in one newspaper of general circulation, a notice:

(A) identifying the ordinances contained in the unserviceable ordinance book; and

(B) stating that the old books and records of borough ordinances and the replacement 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.

(b) Secretary.--

(1) The secretary, in recording the ordinances, must make complete copies of the ordinances, including the date of enactment and approval and the names of the officers who signed them.

(2) After notice and corrections under subsection (a)(2)(ii), the secretary must certify each ordinance as a correct copy of the original.

(c) Effect.--Upon compliance with subsection (b), the recorded replacement ordinance shall replace the original

ordinance as the ordinances of the borough for the period covered by the new ordinance book.

3302. (Reserved).

3303. (Reserved).

3304. (Reserved).

3305. (Reserved).

3306. (Reserved).

3307. (Reserved).

3308. (Reserved).

3309. (Reserved).

SUBCHAPTER B
ENFORCEMENT

ec.

321. Fines and penalties.
322. Commitment pending trial.
323. Commitment after trial.
324. Payment of costs by borough.

3321. Fines and penalties.

(a) Prescription.--

(1) A borough ordinance shall prescribe fines and penalties for violation.

(2) A civil penalty may not exceed $600 per violation.

(3) The council may prescribe a criminal fine not to exceed $1,000 per violation and may prescribe imprisonment to the extent allowed by law for the punishment of a summary offense.

(4) An ordinance under this subsection may provide that a separate violation under paragraph (2) or (3) shall arise for:

(i) each day of violation; and

(ii) each applicable section of the ordinance.

(5) An ordinance may provide for assessment of court costs and reasonable attorney fees incurred by the borough in the enforcement proceedings.

(6) The council may delegate the initial determination of ordinance violation and the service of notice of violation to a qualified officer or agent.

(b) Enforcement at law.--Unless otherwise provided by statute, a borough ordinance shall set forth the method of its enforcement in accordance with the following:

(1) Except as provided in paragraph (2), if the penalty is not paid, the borough shall initiate a civil action for collection in accordance with the Pennsylvania Rules of Civil Procedure. A borough shall be exempt from the payment of costs in an action under this paragraph.

(2) For an ordinance regulating building, housing, property maintenance, health, fire, public safety, parking, solicitation, curfew, water or air or noise pollution, enforcement shall be by a criminal action 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). Violations of the property maintenance code or ordinance may also be enforced under section 32A04(c) (relating to property maintenance code).

(3) Except for an ordinance subject to paragraph (2), an ordinance enacted prior to July 16, 2012, shall be deemed automatically amended so that it shall be enforced under paragraph (1).

(4) If a civil claim under this subsection, exclusive of interest, costs or fees, exceeds the monetary jurisdiction of a magisterial district judge under 42 Pa.C.S. § 1515(a) (relating to jurisdiction and venue), the borough may:

(i) bring the action in a court of common pleas; or

(ii) make a waiver under 42 Pa.C.S. § 1515(a)(3).

(c) Enforcement in equity.--In addition to or in lieu of enforcement under subsection (b), a borough may enforce an ordinance in equity in a court of common pleas of the county where the borough is situate.

(d) Payment.--Money collected under subsection (b) shall be paid to the borough treasurer.

3322. Commitment pending trial.

An individual arrested for the violation of a borough ordinance may, pending trial, be committed to:

(1) the borough correctional facility; or

(2) if there is no suitable borough correctional facility, a county correctional facility.

Cross References. Section 3322 is referred to in section 3324 of this title.

3323. Commitment after trial.

A defendant sentenced to imprisonment for a violation of a borough ordinance may be committed to:

(1) the borough correctional facility for up to ten days; or

(2) a county correctional facility for up to 30 days.

Cross References. Section 3323 is referred to in section 3324 of this title.

3324. Payment of costs by borough.

If a prisoner is committed to a county correctional facility under section 3322(2) (relating to commitment pending trial) or 3323(2) (relating to commitment after trial), the expenses of maintaining the prisoner during confinement shall be paid by the borough, and the county shall not be liable for the maintenance.

CHAPTER 34
ACTIONS BY AND AGAINST BOROUGHS
(Reserved)

Enactment. Chapter 34 (Reserved) was added April 18, 2014, P.L.432, No.37, effective in 60 days.

CHAPTER 35
ACTS OF ASSEMBLY REPEALED AND SAVING CLAUSE

ec.
501. Repeals.

Enactment. Chapter 35 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

3501. Repeals.

(a) (Reserved).

(b) Inconsistent repeal.--All acts or parts of acts inconsistent with this part are repealed. This part shall furnish a complete and exclusive system for the government and regulation of boroughs, except as enumerated under section 102 (relating to excluded provisions).

(c) Law not repealed.--Nothing under this part shall be construed to repeal any of the following:

(1) A local or special law.

(2) A law relating to the Navigation Commission for the Delaware River and its Navigable Tributaries.

(3) A law, the enforcement of which is vested in the Department of Health.

(3.1) A law, the enforcement of which is vested in the Department of Environmental Protection.

(4) A law, the enforcement of which is vested in the Department of Conservation and Natural Resources.

(5) The act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

(6) The act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(7) 45 Pa.C.S. (relating to legal notices).

(8) 65 Pa.C.S. (relating to public officers).

(9) 66 Pa.C.S. Pt. I (relating to Public Utility Code).

(d) Revival.--Nothing under this part shall be construed to revive any act or part of a repealed act.

APPENDIX TO TITLE 8

BOROUGHS

Supplementary Provisions of Amendatory Statutes

2014, APRIL 18, P.L.432, NO.37

§ 4. Continuation of prior law.

The addition of 8 Pa.C.S. Pt. I is a continuation of the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code. The following apply:

(1) Except as otherwise provided in 8 Pa.C.S. Pt. I, all activities initiated under The Borough Code shall continue and remain in full force and effect and may be completed under 8 Pa.C.S. Pt. I. Orders, regulations, rules and decisions which were made under The Borough Code and which are in effect on the effective date of section 3(2) of this act shall remain in full force and effect until revoked, vacated or modified under 8 Pa.C.S. Pt. I. Contracts, obligations and collective bargaining agreements entered into under The Borough Code are not affected nor impaired by the repeal of The Borough Code.

(2) Except as set forth in paragraph (3), any difference in language between 8 Pa.C.S. Pt. I and The Borough Code is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of The Borough Code.

(3) Paragraph (2) does not apply to the addition of the following provisions of 8 Pa.C.S.:

(i) The definition of "freeholders" in section 200.

(ii) Section 202(a)(3).

(iii) Section 210(a).

(iv) Section 801.

(v) Section 901(a.1).

(vi) Section 902.

(vii) Section 904.1.

(viii) Section 1104(a) and (f)(3).

(ix) Section 1121(a)(5).

(x) Section 1202(20), (23), (35), (46) and (60).
(xi) Section 1302(a)(10).
(xii) Section 1315(a)(4).
(xiii) Section 21A06.
(xiv) Section 2456(b)(3).
(xv) Section 2701(e).
(xvi) Section 2708(b).
(xvii) Section 3301.1(b)(5).
(xviii) Section 3301.2(a)(2), (b)(2) and (c).

Explanatory Note. Act 37 added Part I of Title 8 and amended section 7132 of Title 44.

§ 5. Applicability.

The addition of 8 Pa.C.S. §§ 801(b) and 1104(f)(3) shall apply to officials elected or appointed to fill a vacancy in an elected office after the effective date of this section.