

PART II
SECTION-BY-SECTION COMMENTARY
BOROUGH CODE REVISION
ACT 43 OF 2012
(HB 1702, PN 3331)

(Retained sections with no amendments do not appear in this commentary.)

- Pages 21-22 Existing Section 102. Excluded Provisions. Changes primarily reflect modernization language consistent with changes recently recommended for the Third Class City Code. The Vehicle Code is added to the list of those acts which the Borough Code neither repeals nor contains any provisions relating thereto.
- Pages 22-23 Existing Section 103. Construction of Act Generally. Resolutions are now included with ordinances, regulations and rules, that if made pursuant to any act repealed by the Borough Code, continue with the same force and effect as if the act had not been repealed. For continuity purposes, Section 103(b) specifies that powers under other statutes shall not be affected by this reenactment. (This is similar to proposed section 104(b) in the Third Class City Code.) Editorial amendment.
- Page 23 Existing Section 105. Construction of References. Editorial amendment.
- Pages 23-25 Existing Section 106. Boroughs to Which Act Applies. Will provide that the act shall apply to all boroughs including those boroughs incorporated either prior to or since April 3, 1851 by special act of Assembly. (See the act of Apr. 3, 1851 (P.L. 320, No 218), entitled “An act regulating boroughs.” The Borough Code has applied to those boroughs incorporated under special law that have either accepted the provisions of the 1851 act or were incorporated since the 1851 act. Now, the Borough Code will also apply to those boroughs incorporated under special law prior to the 1851 act.) Will provide that a provision in a local or special act that has not been surrendered shall prevail if that provision is irreconcilable with a provision in this act. Language omitted in the 1927 codification that caused a confusing construction has been reinserted (relating to those boroughs that have been given the general powers of boroughs). Subdivided for clarity. Editorial amendments.
- Pages 25-26 Existing Section 107. Acceptance of Act by Boroughs [and Incorporated Towns]. Changes are structural as applied to boroughs. For incorporated towns, the changes are significantly substantive and the provisions related to towns are relocated to a separate section (new 107.1). This language had been submitted to Bloomsburg (Pennsylvania’s only incorporated town) for comment, and was not objected to. Subdivided for clarity.
- Pages 26-27 New Section 107.1. **Acceptance of Act by Incorporated Towns.** This section permits an incorporated town to adopt provisions of the Borough Code, by

ordinance, regardless of whether or not they are inconsistent with town laws. Subsection (a) would permit an incorporated town to adopt any part of the Borough Code, although subsection (c) provides that the incorporated town would not be permitted to alter or amend the statutory language of the Borough Code itself by the adoption of the ordinance. Subsection (b) maintains the requirement from section 107 that the town must go to court if it intends to adopt the entire Borough Code and become a borough. This section is either derived from section 107 or is new.

Page 28 Existing Section 109. Publication of Notices. New subsection (b) is rephrased in part to be consistent with Title 45 (relating to legal notices).

Pages 28-29 Existing Section 111. Definitions. Definitions for “municipal corporation,” “municipality” and “Pennsylvania Municipalities Planning Code” are added to this section. Editorial amendments.

Pages 30-48 Existing Article II – Creation **and Alteration** of Boroughs. In view of the merger of Article III into Article II, a slight modification of the title of the article is made.

Page 30 Existing Section 201. Areas May be Incorporated. Clarifies that boroughs may be incorporated from any contiguous area from one or more second class townships. Previously, this section stated that incorporation could be from any contiguous area “not already incorporated or a part of an incorporated municipality.” All areas within Pennsylvania, however, are incorporated whether pursuant to a municipal code or by special act. “Incorporated municipality” is being deleted since throughout this article reference is otherwise made to “township.” Additionally, pursuant to 1 Pa.C.S. § 1991, “municipality” does not include a township if the statute was enacted on or before December 31, 1974. Since the Borough Code was enacted in 1965, “municipality” does not include “township.”

The court held in *Bear Creek Twp. v. Borough of Penn Lake Park*, 340 A.2d 642 (Pa.Cmwlth. 1975) that Art. 9, § 8 of the Pennsylvania Constitution does not apply to incorporation even though incorporation necessarily involves a change in boundaries. Other case law has held that since the Pennsylvania General Assembly did not enact uniform legislation within two years following adoption of Art. 9 that all consolidation, merger or change in boundaries of municipalities must be by initiative. However, this would not apply here since *Bear Creek Twp.* holds that Art. 9, § 8 does not apply to incorporation.

Pages 30-33 Existing Section 202. Applications for Incorporation. A “freehold” is an estate for life or in fee. Statutory clarification of “freeholder residing” was added in accordance with the Commonwealth Court’s decision in *In re Incorporation of the Borough of Treasure Lake*, 999 A.2d 644 (Pa.Cmwlth. 2010) (freeholder status gives owner the right to exclude others and to exercise control; deed restrictions and restrictive covenants can prevent interest holders from establishing residency; court looked at whether there is evidence of paying real

estate taxes for a residence; whether there is sewer service; and whether there is a prohibition on permanent structures or homes). In *In re Incorporation of the Borough of Bear Creek Village*, 616 A.2d 111 (Pa.Cmwlth.1992) provides that a property held by a tenancy by the entirety counts as one “freeholder.” Also, the *Bear Creek* court held that the requirement that only freeholders may sign a petition for incorporation is not unconstitutional because all residents of the area proposed for incorporation are ultimately given the right to vote on the issue. (See also, *In re Incorporation of Borough of New Morgan*, 590 A.2d 274 (Pa.1992)).

The court in *Lesker Case*, 377 Pa. 411 (1954) defined “residence” as “a tarrying place for some specific purpose of business or pleasure.” The court in *In re Carroll Val. Borough, Inc.*, 14 Adams L.J. 113 (1972), concluded that a resident freeholder is a freeholder who lives in the municipality for any length of time, no matter how briefly.

Old sections 203 and 204 are moved into this section as subsections in order to keep procedures relating to the petition for incorporation together. “Political subdivision” in old section 203 is now “township or townships.”

Pages 33-34

New Section 202.1 **Borough Advisory Committee**. This section is from portions of section 202 plus new language derived from case law. The court in *In re Incorporation of Borough of Bear Creek Village*, 616 A.2d 111 (Pa.Cmwlth. 1992), held that the “shall” in relation to the director of the county planning commission serving as an advisor to the committee was directory, and not mandatory, and that nonparticipation of the director was not fatal to the incorporation process. The statutory language is changed to state that the director “may advise” the committee.

The committee’s advice and findings of fact regarding the desirability of the proposed incorporation now includes two additional factors, both derived from case law. The phrasing on whether the proposed borough constitutes a harmonious whole with common interests and needs is found throughout relevant case law regarding borough incorporation. More specifically, the advisory committee would need to consider whether the proposed borough represents a distinct community with features different from those of the existing township or townships. The phrasing on whether the proposed borough would provide for land use regulations to meet the legitimate needs of all categories of residents or whether the plan is exclusionary is from *In re Incorporation of the Borough of Chilton*, 646 A.2d 13 (Pa.Cmwlth. 1994). The *Chilton* court looked at the unavailability of low income housing and noted that the proposed plan was clearly exclusionary.

Pages 34-35

New Section 202.2. **Advisability of Incorporation; Certification of Question for Referendum; Decree**. This new section is derived from both case law and existing statutory language. Clarification on who the interested parties may be at a hearing on the proposed incorporation is derived from *In re Incorporation of the Borough of Treasure Lake*, 2010 WL 2598250 (Pa.Cmwlth. 2010) (notwithstanding the fact that owners of certain property interests within the

proposed borough were not eligible to sign the incorporation petition, they could still participate in the hearing).

Language is added that permits a court to look at any other applicable factors the court deems relevant in determining the desirability of the proposed incorporation. *See In re Incorporation of the Borough of Chilton*, 646 A.2d 13 (Pa.Cmwlt. 1994) (reversing the court of common pleas, which thinking that it could only look at the statutory requirements which were “met,” that it had no choice but to recommend incorporation despite the recommendation of the advisory committee that the petition to incorporate be denied).

- Page 37 Existing Section 205. When Borough Government Becomes Effective; **Requisites of Charter**. Clarifies that a new borough government would become effective when both the petition and the final decree granting the petition have been recorded. Old section 208 is moved to this section as subsection (b). Editorial amendments.
- Page 37 Existing Section 206. Exclusion of Farm [and Unsettled] Lands. This section was derived from the 1927 Borough Code, although provisions for unsettled lands were added in 1947. The phrase “unsettled lands” does not appear in any other statute, and is thought to mean any land that does not fall under some incorporated municipal government; there is no such land in Pennsylvania. It appears that the 1927 provision relating to farm land was derived from a 1915 act which in turn was derived from an 1863 act.
- Page 38 Existing Section 210. Certificates of Clerk of Court; Fees; Penalty. The Department of State and the county planning commission now also will receive a copy of the decree of court incorporating the borough, but the copy will be sent by the recorder of deeds rather than the clerk of courts. Editorial amendments.
- Pages 38-39 Existing Section 211. Existing Government Preserved Temporarily; Organization of Borough; Election of Borough Officers. Editorial amendments.
- Page 39 Existing Section 212. Marking Borough Boundaries. Notice is to be given as directed by the court. Conforming and editorial amendments.
- Pages 39-41 Existing Section 213. Agreement to Adjust Indebtedness Where Borough Created. Conforming and editorial amendments. Subdivided for clarity.
- Pages 41-42 Existing Section 214. Judicial Adjustment on Failure of Agreement. Conforming and editorial amendments.
- Page 42 Existing Section 215. Proceeding on Judicial Adjustment Award. Conforming and editorial amendments.
- Page 43 Existing Section 217. Compensation and Expenses of Commissioners; Costs. Conforming and editorial amendments.
- Page 43 Existing Section 218. Where Territory of Borough [or Annexed Territory] is Located in Two or More Counties. Conforming and editorial amendments.

- Page 43 Existing Section 219. Bond Issues; Taxation. Conforming and editorial amendments.
- Page 44 Existing Section 231. Petition for Creation of Borough from a City of the Third Class. Editorial amendments.
- Pages 44-45 Existing Section 232. Filing Petition; Notice of Election; Return. Will provide that the recorder of deeds shall certify a copy of the record constituting the charter of the borough to the Department of State, Department of Transportation, Department of Community and Economic Development and the county planning commission. These are the same departments and commission that receive a copy of the decree of court incorporating a borough from a second class township. Editorial amendments.
- Pages 45-46 Existing Section 233. When Borough Government Effective. Editorial amendments.
- Page 46 Existing Section 234. Property; Assets; Liabilities; Ordinances; Wards; Election Districts and Certain Officers. Editorial amendments.
- Page 47 New Subdivision (d). **Consolidation or Merger of Boroughs and Change of Corporate Name.** Article IX of Pennsylvania Constitution added by the 1968 amendments, and the merger and consolidation provisions of Title 53 of the Pennsylvania Consolidated Statutes, have substantially replaced/repealed former subdivision (b) and the annulment mechanism contained within sections 301-304 of Article III. Consequently, this new subdivision represents a consolidation of Article III into Article II.
- Page 47 New Section 241. **Consolidation or Merger.** Provides that a borough may merge or consolidate in accordance with 53 Pa.C.S., Ch. 7, Subch. C (relating to consolidation and merger).
- Pages 47-48 New Section 242. **Change of Corporate Name.** This section is derived from former section 305, with editorial changes, and subdivided for clarity. Subsection (c) is new and provides for notification of a change in corporate name of the borough, by the recorder of deeds, to the Department of State, Department of Transportation, Department of Community and Economic Development and the county planning commission. This notification is in conformance with sections 210 and 232 which provide for notification to these departments and the county planning commission.
- Pages 48-52 Old Article III – Annulment of Charters and Change of Corporate Names. This article is deleted since relevant portions are now in Article II, subdivision (d).
- Pages 52-66 Old Article IV – Change of Borough Limits. This article is deleted because consolidation, merger or boundary changes (changes in borough limits) are governed by the initiative and referendum procedure provided in Article IX, Section 8 of the Pennsylvania Constitution which was added by the 1968 amendments to the Constitution. This provision was held to have superseded individual municipal code procedures, i.e., nonuniform legislation, governing annexation in *Middle Paxton Township v. Borough of Dauphin*, 10 Pa. Cmwlth.

431, 308 A.2d 208 (1973), *aff'd. sub nom. Derry Tp. Sup'rs. v. Borough of Hummelstown*, 458 Pa. 396, 326 A.2d 342 (1974).

- Page 66 Existing Section 501. Stream Boundaries. Editorial amendments.
- Pages 66-67 Existing Section 502. **Petition to Court**; Establishment of Disputed Boundaries. Portions of this section that relate to altering the lines of a borough and any adjoining township, borough or city to suit the convenience of the inhabitants, or causing the lines and boundaries of boroughs to be ascertained and established, are deleted. Portions of a similar section in the First Class Township Code (§ 302) were held invalid by the court in *In re Establishment of Boundary Between Collier Township and Robinson Township*, 360 A.2d 841, 842 (Pa.Cmwlth. 1976) (holding that the portion of section 302 that relates to the alteration of township lines to suit the convenience of the inhabitants is invalid since the only valid procedures for making boundary alterations are by initiative and referendum).
- A portion of section 502 remains, however, regarding ascertaining and establishing disputed boundaries between a borough and a municipal corporation. *See Laflin Borough v. Yatesville Borough*, 404 A.2d 717, 719 (Pa.Cmwlth. 1979)(holding that “Section 502 of The Borough Code, as it relates to ascertainment and establishment of disputed boundary lines, has not been invalidated by the legislature’s failure to act within the mandate of Article IX, Section 8 of the Pennsylvania Constitution. . . . Whether a municipal boundary should be changed is a proper question for the ballot. The electorate, however, cannot be asked to find the line.”)
- Pages 67-68 Existing Section 503. [Petition to Court;] Commissioners; Report. Language is added to clarify that the court of common pleas may direct the publication of a petition and report regarding ascertaining and establishing borough boundaries. “Publication” is defined in 45 Pa.C.S. § 101 (relating to definitions) as “(1) The act of printing a notice, advertisement, or proclamation, for the purpose of disseminating information to the people at large. (2) A journal, magazine, newspaper, class newspaper or periodical.” Editorial amendments.
- Page 68 Existing Section 504. Exceptions and Procedure. Language is added to clarify that the court of common pleas shall direct the publication of a decree establishing borough lines and boundaries. Editorial amendments.
- Page 68 Existing Section 505. Compensation and Expenses of Commissioners; Costs. Now clarifies that the compensation and expenses of the commissioners shall be a reasonable amount as approved by the court. Also clarifies that a court may assess the costs and expenses against the borough or any interested municipal corporation, individually or in apportioned amounts as deemed equitable by the court. Editorial amendments.
- Pages 68-69 Existing Section 506. Boundary Monuments. Rephrased for clarity; deletes reference to annexing municipalities and change of borough limits pursuant to procedures in article IV.

Pages 69-70 Existing Section 601. Power of [Court] **Council** to Erect, Abolish and Change Wards and to Adjust, Alter and Establish Lines. Case law provides that reapportionment is a legislative function pursuant to Article IX, Section 11 of the Pennsylvania Constitution. *See Board of Commissioners, Springfield Township v. Kahn*, 320 A.2d 372 (Pa.Cmwlt.1974). *See also In Re: Municipal Reapportionment of the Township of Haverford*, 873 A.2d 821 (Pa.Cmwlt. 2005) (reapportionment of legislative districts is a legislative function as opposed to a judicial function). This suggests that the power of a court to make determinations on the composition of wards was superseded by the Constitution. The issue, however, has not been completely clarified by the courts. The Municipal Reapportionment Act, 53 Pa. C.S. 901 et seq., only permits the court to intervene when there has been inaction by the governing body. In an abundance of caution, Article VI is recommended for amendment in a manner that vests the discretion to reconfigure wards with council, and only permit a petition by electors to court if existing wards are not in compliance with either the Borough Code or constitutional requirements. This recommendation is intended to establish a procedure to minimize frustration of the governing body's power under the Constitution, but also vest power with the electorate when there is an arguable violation of law. Council's power in reconfiguring wards is to be exercised by ordinance.

A portion of this section, relating to when boundaries of wards should be adjusted, is deleted due to a conflict with the Municipal Reapportionment Act which requires reapportionment after the availability of census information. The remaining portions of the section are subdivided for clarity, with a new subsection providing that proceedings under this article should explicitly require a result consistent with federal and state constitutional standards.

Pages 71-72 Existing Section 602. [Signing Petition; Appointment of Commissioners; Report] **Petition of Electors**. Subdivided for clarity. New subsection (a) is derived from the existing language of this section although instead of adopting a resolution, now council only needs to approve by motion whether to initiate proceedings under section 601. Subsection (b) is new and provides for a petition to the court of common pleas in the event that council does not act on a petition presented pursuant to subsection (a).

Page 72 Existing Section 603. **Notice of Ordinance** [Confirmation of Report; Review]. A conforming amendment provides for notice of any ordinance enacted pursuant to section 601, rather than for notice of the filing of a report with the court. Deletes those provisions relating to exceptions to the report. The House Local Government Committee added a new subsection (b) to require that a copy of an ordinance that divides, erects or consolidates wards be forwarded to the county board of elections.

Page 72 Old Section 604. [Compensation of Commissioners.] Deleted. Because there is no court proceeding, there are no commissioners and thus no need for compensation.

- Pages 72-73 Old Section 605. [Payment of Costs; Bond.] Similar to old section 604, because there is no court proceeding, there is no payment of costs and thus no need for filing a bond.
- Page 73 Existing Section 606. Terms of Officers. Conforming and editorial amendments.
- Page 73 New Section 606.1. Pennsylvania Election Code. In order to prevent a conflict between the Election Code and the Borough Code, the House Local Government Committee added this section to provide that nothing in this article shall be construed to affect the powers and duties of the court of common pleas or the county board of elections or restrictions on alteration of election districts as provided in Article V (relating to election districts and polling places) of the Pennsylvania Election Code.
- Pages 73-74 Old Section 607. [Change of Names and Numbers.] Deleted, due to a conflict with section 903(a) and 906(f) of the Reapportionment Act which requires the numbering of districts.
- Pages 74-75 Existing Section 701. State Association of Boroughs. Much of the previous content of this section has been moved to new sections 701.1 (relating to authorization to attend and payment of expenses for attending meetings, etc.) and 701.2 (relating to compensation of officers and employes for attending meetings, etc.). The remaining portion of this section relates to the authorization to organize a state association of boroughs and dues, which is not modified from the original.
- Pages 75-76 New Section 701.1. **Authorization to Attend and Payment of Expenses for Attending Meetings, Etc.** The authorizations in this section were previously found in section 701, but now the designation of delegates or elected or appointed officials to attend meetings or conferences shall be by motion. This section also states that elected and appointed officials, in addition to delegates, may receive compensation and expenses for not only attending the annual meeting, but also conferences, educational training or committee meetings. A new provision was added by the House Local Government Committee requiring that at least one member of council shall be allowed reimbursed specified expenses (now includes lodging and meals) for attending meetings.
- Pages 76-77 New Section 701.2. **Compensation of Officers and Employes for Attending Meetings, Etc.** Like section 701.1, the authorizations in this section were previously found in section 701, with modifications. Also like section 701.1, the authorizations pertain to not just the annual meeting but a conference, educational training or committee meeting of the association. Subsection (d) sets forth time limitations on reimbursed compensation or salary, and is based upon section 602 of the Second Class Township Code, as added by Act 101 of 2006, and provides for compensation to be paid to a mayor or members of council who attend a meeting for which the mayor or council member is an officer, a member of the board of directors, a member of the executive committee, a member of a standing committee, or a trustee, of the association subject to specified limitations. Clarification was added by the House Local

Government Committee that the mayor and any council member who is self-employed may receive total or partial reimbursement for lost wages or salary, subject to the limitations provided in this section, when attending the specified meetings. Editorial amendments.

- Pages 78-79 Existing Section 702. County and Regional Associations of Boroughs. Increases the annual appropriation of a borough for a county or regional association to an amount not to exceed \$100 (previously the maximum amount was \$75). In order to provide consistency between references to meetings (“meetings” versus “annual meetings”) within this section, “annual” is deleted. Editorial amendments.
- Pages 79-80 Existing Section 703. Other Associations and Organizations. Editorial amendments. Subdivided for clarity.
- Page 80 Existing Section 704. Associations and Organizations for Mayors. Act 54 of 1998 amended the cap on dues from an amount not to exceed \$25 to an amount not to exceed \$100. The House Local Government Committee amended this section to specify that a mayor’s reimbursed expenses shall include lodging and meals. Editorial amendments.
- Page 81 Existing Section 705. National or State Lodge of Police Officers. Editorial amendments.
- Page 82 Existing Section 801. Electors Only to be Eligible; Incompatibility. A new stipulation is added that states that prior to being sworn in to office, each elected borough officer shall present a signed affidavit to the borough secretary regarding the elected officer’s residency. Clarifies that in certain boroughs with a population of less than one hundred fifty, residents (as opposed to individuals) do not need to meet the one year residency requirement. Otherwise, “individuals” who are not residents of the borough for even less than one year could be elected to hold office in the borough. Editorial amendments.
- Pages 82-83 Existing Section 804. Term; Bonds. Editorial amendments.
- Pages 83-84 Existing Section 805. Election of Borough Officers When Boroughs Created, Etc. Editorial amendments.
- Pages 84-86 Existing Section 806. Officers to be Elected. This section is extensively enlarged and reorganized by adding the substance of subdivisions (c) through (g) of this article regarding the elections and terms of the officers into this section so that the information regarding each office is not scattered throughout the article. Editorial amendments.
- Page 86 Existing Subdivision (b) – Members of Council. Changes in this subdivision are recommended to reflect the delegation of the alteration of wards to council. The recommendations continue to vest the court with the authority to increase or reduce the number of members of council in boroughs not divided into wards.
- Pages 86-87 Existing Section 811. Election of Members of Council. Subdivided for clarity. Editorial amendments.

- Pages 87-88 Existing Section 812. Election of Members of Council Where New Wards Created. Now provides that council, by ordinance, as opposed to the court of common pleas, creates new wards. Conforming and editorial amendments. Subdivided for clarity.
- Page 88 Existing Section 813. Fixing Number of Members of Council When Wards Created. Conforming and editorial amendments.
- Pages 88-89 Existing Section 814. Increase in Number of [Members of Council] **Ward Council Members**. Conforming and editorial amendments.
- Pages 89-91 Existing Section 815. Decrease of Number of Ward Council Members. Conforming and editorial amendments.
- Pages 91-95 Existing Section 816. Election of Members of Council Where Wards Abolished. Conforming and editorial amendments. Subdivided for clarity.
- Page 95 Existing Section 817. Vacancies Created After a Primary Election. Conforming and editorial amendments.
- Pages 95-97 Existing Section 818. Decrease in Number of Members of Council. Editorial amendments.
- Pages 97-98 Old Sections 821, 831, 841 and 861. Now incorporated into section 806. See commentary for that section.
- Page 98 Old Section 851. [Election of Assessors.] Section 8332(d) (relating to elected assessors abolished) of SB 918 signed into law on October 27, 2010 (Act 93 of 2010) abolished the office of elected assessors effective January 1, 2011. Therefore, this section on the election of assessors is no longer needed.
- Pages 99-101 Existing Section 901. Filling Vacancies in Elective Borough Offices. This section now provides that failure to provide the affidavit pursuant to section 801 will create a vacancy and replaces “removal” with “termination of residency.” This section will also require that any person appointed to fill a vacancy must have resided with the borough, or ward as the case may be, continuously for at least one year immediately prior to the person’s appointment. Conforming and editorial amendments. Subdivided for clarity.
- Page 101 Existing Section 902. Collection of Taxes Where Vacancy in Office of Tax Collector Not Filled. Replaces “resident” with “registered elector.” Editorial amendment.
- Pages 101-102 Existing Section 903. Right of Council to Declare Seat of Member Vacant for Failure to Qualify. Editorial amendments.
- Page 102 Old Section 904. [Right of Council to Declare Seat of Member Vacant for Failure to Attend Meetings, etc.] The Pennsylvania Supreme Court in *South Newton Tp. Electors v. South Newton Tp. Sup’r, Bouch*, 838 A.2d 643 (Pa.2003) held that section 503 of the Second Class Township Code (relating to removal of township officers for failure to perform duties), was unconstitutional as violating the Pennsylvania Constitution, Art. VI, § 7 (relating to removal of civil officers). Section 904 is similar to section 503 and is, therefore, being deleted.

Pages 103-106 Existing Section 1001. Organization of Council; Quorum; **Participation By Telecommunication Device**; Voting; Compensation; Eligibility. This section is subdivided for clarity. New subsections (b) and (c) are based on sections 1004(b) and 1005(b), respectively, in the proposed Third Class City Code regarding the need to be physically present to be counted in establishing a quorum and providing for participation of council members in meetings of council by telecommunication devices. These new subsections provide that council members that attend a meeting by telecommunication device may be counted in maintaining a quorum if a quorum was established at the convening or reconvening of the meeting by those physically present but a member physically present was subsequently disqualified from voting as a matter of law. A closed set of reasons for council members being absent but who participate via telecommunication device was added by a House Local Government Committee amendment. These closed set of reasons includes illness or disability of the council member, caring for the ill or newborn in the council member's immediate family, emergency, and family or business travel.

No council member may be counted toward the quorum or toward the majority of the vote if the council member has been disqualified from voting as a matter of law, *see McAdoo Borough v. Commonwealth, PA Labor Relations Board*, 469 A.2d 693 (Pa.Cmwlt. 1983) (holding that where borough council member has personal or pecuniary interest in outcome of the vote, neither his vote nor his presence can be counted toward either majority or quorum) (overruled on other grounds in 485 A.2d 761, (Pa. Dec. 21, 1984)).

The phrase “at any time and from time to time” in relation to members of council receiving compensation to be fixed by ordinance is deleted. *See Buckwalter v. Borough of Phoenixville*, 985 A.2d 728 (Pa.2009) (holding that state constitutional provision in Art. III, § 27 that provides that no law shall increase or decrease public officer salary after election or appointment applied to ordinances and borough ordinance that eliminated salary mid-term violated the constitution). The phrase regarding change in salary to become effective at the beginning of the next term is based upon section 606 of the Second Class Township Code.

Pages 106-107 Existing Section 1002. Oath of Members of Council. Notaries are added to the list of those that may administer the oath or affirmation of members of council. Notaries have these powers pursuant to The Notary Public Law, act of Aug. 21, 1953 (P.L. 1323, No. 373), section 16 (relating to power to administer oaths and affirmations). Now deletes general reference to an oath to support the U.S. and Pennsylvania constitutions and a loyalty oath, and instead, specifically references 53 Pa.C.S. § 1141 (relating to form of oaths of office) (added by Act 76 in 2008) that is applicable to all elected or appointed officials in municipalities. A Pennsylvania Attorney General Opinion (1975 Op.Atty.Gen. No. 75-2) advised that the Pennsylvania loyalty oath should not be required for employment or in applications for employment within the Governor's

jurisdiction. This opinion was based on the fact that several U.S. Supreme Court decisions have found some loyalty oaths, similar to Pennsylvania’s loyalty oath, unconstitutional. While the Attorney General’s opinion related only to employment or job applications within the Governor’s jurisdiction, the Borough Code, as amended, will no longer reference loyalty oaths. Editorial amendments.

- Pages 107-108 Existing Section 1003. When the Mayor May Preside Over Council and Vote; Attendance of Mayor at Council Meetings; Breaking Tie Votes. Conforming and editorial amendments.
- Page 108 Existing Section 1004. Failure of Council to Organize. Editorial amendments.
- Pages 109-112 Existing Section 1005. Powers of Council. Conforming and editorial amendments.
- Pages 112-115 Existing Section 1006. Duties of Council. Cross-references section 1001 regarding the duty of council to organize in even numbered years. Cross-references Article XXXIII which relates to enacting, repealing and amending ordinances and resolutions. It deletes reference to resolutions of a legislative character as this term is confusing. Article XXXIII clarifies that all powers of a legislative character shall be by ordinance. Publication and notice provisions of proposed ordinances are deleted as this is now provided for in Article XXXIII. It also provides that all powers shall be exercised by vote of the majority of council “eligible to vote” (previously present) at a meeting. *See McAdoo Borough v. Commonwealth, PA Labor Relations Board*, 469 A.2d 693 (Pa.Cmwlt. 1983) (holding that where borough council member has personal or pecuniary interest in outcome of the vote, neither his vote nor his presence can be counted toward either majority or quorum) (overruled on other grounds in 485 A.2d 761, (Pa. Dec. 21, 1984)). Editorial amendments.
- Pages 115-116 Old Section 1007. [Passage, Approval and Veto of Ordinances.] Deleted, as this is now provided for in Article XXXIII.
- Pages 116-118 Old Section 1008. [Recording, Advertising and Proof of Ordinances; Codification of Ordinances.] Deleted, as this is now provided for in Article XXXIII.
- Pages 119-120 Existing Section 1009. Typewritten, Printed, [Photostated] **Photocopied**, and Microfilmed **and Electronically or Digitally Stored** Records Valid; Recording or Transcribing Records. Expands those borough records deemed valid if required to be recorded or transcribed to include electronically or digitally stored records or those records retained by any process which accurately reproduces the original and forms a durable medium. Cross-references Act 250 of 1949, relating to the recording and copying of political subdivision records. Reorganized and subdivided for clarity.
- Page 120 Old Section 1010. [Appeals from Ordinances.] Moved to Article XXXIII.
- Pages 120-121 Old Section 1011. [Lost Ordinance Books to be Replaced; Recording Ordinances.] Moved to Article XXXIII.

- Page 121 Old Section 1012. [Ordinance Providing for Recording; Notice.] Moved to Article XXXIII.
- Page 121 Old Section 1013. [Certificate of Secretary.] Moved to Article XXXIII.
- Pages 121-122 Existing Section 1014. Hearings Before Council; Witnesses. This section now states that the borough solicitor report to the court of any witness's refusal to testify or produce books or papers. Previously, it was the secretary of council that notified the court of such refusal. Editorial amendments.
- Page 122 Existing Section 1015. Witness Fees and Mileage. Now, instead of ten cents per mile, mileage for subpoenaed persons residing outside the borough will be at the rate established by borough council pursuant to the Uniform Mileage Fee Law (Act 51 of 1979).
- Page 122 Existing Section 1016. Examination of Witnesses; Penalty. Editorial amendments.
- Pages 123-128 Old subdivision (b), relating to the mayor, is deleted as these sections (1021-1023 and 1025-1030) have been moved to a new Article X-A (relating to the mayor). Section 1024 (Salary of Mayor; Fixed by Ordinance) has been deleted as this section indicated (in conjunction with deleted portions of old section 1026) that it was optional to pay the mayor a salary in lieu of the mayor keeping the fees and costs collected by the mayor.
- Pages 128-145 Existing subdivision (c) (Sections 1041-1059), relating to the auditors, is extensively reorganized. Consult the disposition and derivation tables for specifics.
- Pages 128-131 Existing Section 1041. Auditors to Meet Yearly and Audit Accounts[; Uniform Forms]. Language is inserted that provides if the first Tuesday is a legal holiday, the meeting and organization of the auditors takes place the first day following. This language is patterned after language in section 1001, regarding the organization of council. New language also clarifies that two auditors constitute a quorum. Also, the audit is now conducted at the place the records of the person being audited are normally kept unless otherwise agreed to by the auditors and the person being audited. Portions of subsection (b), and subsections (c) through (g) are moved elsewhere in this subdivision.
- Pages 131-135 Old Sections 1042, 1043, 1045, 1049-1052, 1054. Moved elsewhere in this subdivision.
- Pages 131-132 Old Section 1044. [Appeals from Audit.] Moved to section 1059.4 except "officer" has been changed to "person."
- Pages 132-133 Old Section 1047. [Procedure on Appeals.] Now in section 1059.6 except that the first sentence is omitted.
- Page 133 Old Section 1048. [Framed Issues.] Deleted.
- Pages 134-135 Existing Section 1053. Compensation of Auditors. Deletes reference to the auditor's hourly rate being no less than \$5 per hour. Thus, the language that remains provides that the hourly rate is \$10 per hour.

- Pages 135-136 Existing Section 1055. [Auditors May Compel Attendance of Witnesses] **Subpoenas; Oath; Perjury.** Changes “officers” to “persons” in regards to those whose accounts may be adjusted by the auditors. Now adds that the auditors may also compel the production of all documents, including books, vouchers, and papers relative to borough accounts. Conforming and editorial amendments. Subdivided, with subsection (b) being old section 1056.
- Page 136 Old Section 1056. [Auditors may Administer Oaths; Perjury.] Now makes up subsection (b) of section 1055. Editorial amendments.
- Pages 136-137 Old Section 1057. [Persons Refusing to Testify to be Committed.] Deleted, but see section 1055 which provides for the situation of persons refusing to testify.
- Page 137 Existing Section 1058. Pay of Witnesses. Editorial amendments.
- Page 137 Existing Section 1059. Auditors to Settle Accounts Where Witnesses Do Not Appear. Editorial amendments.
- Pages 138-140 New Section 1059.1. **Completion, Filing, and Publication of Auditor’s Report and Financial Statement.** The subsections in this section are a combination of existing language from other sections and new language. Reference to the secretary of the auditors filing a copy of the report is new as is reference to the report being filed with the prothonotary as an option to being filed with the clerk of court. Specific language on fines if convicted in a summary proceeding for failure to timely file the report is omitted and in its place is “guilty of a summary offense.” Also, subsection (c) relating to notice of a balance or shortage in the report is new.
- Page 140 New Section 1059.2. **Attorney to Auditors.** From section 1052.
- Pages 140-141 New Section 1059.3. **Surcharge by Auditors.** Language in this new section is from elsewhere in this subdivision on auditors plus also from subdivision (k) (relating to the independent auditor) of Article XI. Language cross-referencing the Local Tax Collection Law is new.
- Page 141 New Section 1059.4. **Appeals from Audit.** From section 1044 although “officer” was changed to “person.”
- Page 141 New Section 1059.5. **Taxpayers Appealing to Enter Bond.** From section 1045. Editorial amendments only.
- Pages 141-142 New Section 1059.6. **Procedure on Appeals.** From section 1047. Editorial amendments and subdivided for clarity.
- Page 142 New Section 1059.7. **Findings of Fact and Law; Judgment; Appeals.** From sections 1049 and 1050. Editorial amendments only.
- Pages 142-143 New Section 1059.8. **Attorney Fees.** Subsection (a) is modified from section 915 of the Second Class Township Code. Subsection (b) is new and relates to counsel fees in appeals for persons whose accounts are settled.
- Pages 143-144 New Section 1059.9. **Balances Due to be Entered as Judgments.** From section 1051. Editorial amendments only.

- Page 144 New Section 1059.10. **Penalty for Failure to Comply with Law.** Subsection (a) is from section 1054, but now deletes the specific fine amount and term of imprisonment. Subsection (b) is new and provides that any auditor who is financially interested in a borough transaction commits a summary offense.
- Pages 144-145 New Section 1059.11. **General Powers and Duties of Independent Auditor.** Subsections (a)-(c) and (e) are from subdivision (j) of Article XI. Subsection (a) was amended by the House Local Government Committee to require that the independent auditor's annual financial report shall be made and published in the same form, time and manner as required of the borough auditors. Subsection (d), which cross-references sections relating to witnesses for the auditors, is new.
- Page 146 Existing Section 1061. Oath and Bond of Controller. Now deletes general reference to an oath to support the U.S. and Pennsylvania constitutions and a loyalty oath (see commentary to section 1002), and instead, specifically references 53 Pa.C.S. § 1141 (relating to form of oaths of office) (added by Act 76 in 2008) that is applicable to all elected or appointed officials in municipalities. Editorial amendments.
- Page 146 Existing Section 1062. Salary of Controller. Deletes reference to the salary not to be increased or decreased oftener than once in two years, and now states that any change in salary, compensation or emoluments of the office will be effective at the beginning of the next term.
- Page 146 Existing Section 1063. General Powers and Duties of Controller. Editorial amendments, except that a portion of section 1064 relating to persons guilty of swearing or affirming falsely before the controller is moved to this section.
- Page 148 Old Section 1064. [Controller May Require Attendance of Witnesses; Penalty.] Deleted (except for the portion moved to section 1063 as indicated above), since it is duplicative of section 1063.
- Pages 148-149 Existing Section 1065. Controller to Countersign Warrants. Editorial amendments.
- Page 149 Existing Section 1066. Controller to Prevent Appropriation Overdrafts. Editorial amendments.
- Pages 149-150 Existing Section 1067. Amount of Contracts to be Charged Against Appropriations. Editorial amendments.
- Page 150 Existing Section 1068. Controller's Recommendations on Borough Finances. Editorial amendment.
- Pages 150-151 Existing Section 1071. Acceptance by Ordinance. Editorial amendments.
- Page 151 Old Section 1081. [Powers of Assessors.] Deleted. The office of elected assessors was deleted, effective January 1, 2011, by Act 93 of 2010 (SB 918). Therefore, this section on the power of assessors is no longer needed. See commentary on old section 851.

- Page 152 Existing Section 1086. Powers and Duties of Tax Collector. Language is inserted that states no ordinance shall authorize the collection of income taxes in a manner other than that provided in chapter 5 of The Local Tax Enabling Act (Act 511 of 1965) to ensure that this power may not be utilized to provide for a collection of earned or personal income taxes except as provided by Act 32 of 2008 (amendment to Act 511) which established county-wide income tax collection. Editorial amendments.
- Pages 152-157 New Article X-A, relating to mayor. This new article is comprised of new sections 1001-A through 1008-A (former sections 1021-1030).
- Pages 152-153 New Section 1001-A. **Eligibility of Mayor.** From old section 1021 with editorial amendments.
- Page 153 New Section 1002-A. **Incompatible Offices.** From old section 1022 with editorial amendments.
- Page 153 New Section 1003-A. **Oath of Mayor.** From old section 1023, but now notaries are added to the list of those that may administer the oath or affirmation to the mayor. Notaries have these powers pursuant to The Notary Public Law, act of Aug. 21, 1953 (P.L. 1323, No. 373), section 16 (relating to power to administer oaths and affirmations). Now deletes general reference to an oath to support the U.S. and Pennsylvania constitutions and a loyalty oath (see commentary to section 1002), and instead, specifically references 53 Pa.C.S. § 1141 (relating to form of oaths of office) (added by Act 76 in 2008) that is applicable to all elected or appointed officials in municipalities. Editorial amendments.
- Pages 153-154 New Section 1004-A. **Salary of Mayor.** From old section 1025, but reference to salaries being payable monthly or quarterly is deleted. Also, a new subsection is added regarding a change in salary, compensation or emoluments of the office becoming effective at the beginning of the next term, based upon new language in section 1001 (which, in turn, was based on section 606 of the Second Class Township Code). Editorial amendments.
- Page 154 New Section 1005-A. **Salaried Mayor Not to Receive Certain Fees.** From old section 1026, but has been modified to include the language of H.B. 931 (PN 1000) of 2011 (Readshaw) and S.B. 938 (PN 1016) of 2011 (Pippy) which codifies the power of the mayor to collect a fee for performing marriage ceremonies (up to \$150 per ceremony) without violating the Ethics Act or being considered compensation pursuant to the Borough Code. This power is now in new subsection (b), and requires the mayor to give written notification of the intention to perform ceremonies to borough council along with providing quarterly reports to council.
- This new section is also modified from old section 1026 by removing reference to a mayor being authorized to elect to be paid by fees and costs as opposed to receiving a fixed salary. Thus, a mayor may only receive a salary.
- Pages 155-156 New Section 1006-A. **General Powers of Mayor.** From old section 1028. Deletes reference to a mayor having those powers devolved by state laws upon sheriffs in order to prevent and suppress mobs, riots and so forth as sheriffs can

only make arrests the same as other private citizens since sheriffs are not police officers. Mayors can continue to prevent and suppress mobs, riots and so forth, but this power is not referenced to the powers of sheriffs. Language is added that requires the mayor's proclamation of a state of emergency to be posted in one or more conspicuous places. Editorial amendments.

- Pages 156-157 New Section 1007-A. **Duties of Mayor.** From old section 1029. Expands “books and forms” to include dockets and files in regards to what is given to the mayor for the conduct of office. This expanded language is from section 1111 as regards what is provided by the borough to the borough secretary. Conforming and editorial amendments.
- Page 157 New Section 1008-A. **When President or Vice-President of Council to Act as Mayor.** From old section 1030.
- Page 158 Existing Section 1101. Compensation; Hours and Days of Work; Outside Employment. Editorial amendments.
- Page 158 Existing Section 1102. Accounts. Editorial amendments.
- Page 158 Existing Section 1103. Bonds. Editorial amendments.
- Pages 158-161 Existing Section 1104. Appointments; Incompatible Offices. Incorporates a provision of Act 104 of 2011, with a clarifying amendment added in Senate Appropriations Committee on April 2, 2012, that provides that a borough official employed by a borough with a population of less than 3,000 may continue to be employed by that borough after its certification of any decennial census, beginning with the 2010 census, which shows its population has increased to 3,000 or more. Now provides that no person holding the office of magisterial district judge may at the same time hold any elected or appointed borough office (previously, the prohibition was only against holding the office of borough treasurer). However, *see* 42 Pa.C.S. § 3302, prohibiting a magisterial district judge from holding any elected or appointed public office in the Commonwealth. Thus, no substantive change in law is made since other law prohibited a magisterial district judge from holding other elected or appointed office. Adds a new subsection (f) that states a police officer or firefighter may not hold an elective office in the borough that employs the police officer or firefighter and that the police officer or firefighter employed by a regional department, council of government or other cooperative venture may not hold an elective office in a municipality that participates in that venture, thus integrating operative provisions of HB 1288, PN 3913 (2010). A section is added to the end of the bill that provides the addition of 1104(f) shall apply to officials elected or appointed to fill a vacancy in an elected office after the effective date of the section. Editorial amendments. Subdivided for clarity.
- Pages 161-162 Existing Section 1105. Compensation to Aged Employes. The entire last sentence is deleted that states “[t]he true intent and purpose hereof . . . a reasonable annuity in lieu of joining a pensioning or retirement system.” Editorial amendments.

- Pages 162-164 Existing Section 1105.1. Retirement Benefits of Employees Transferred to [Wastewater] Authorities. This section retains the original transferred wastewater employee language added in 2004, but has been further subdivided to provide for retirement benefits for borough employees transferred to a water authority beginning operations on or after October 4, 2010. Editorial amendments.
- Pages 164-166 Existing Section 1106. Bond and Duties. Enumerates the duties of the borough treasurer. Now provides that the treasurer shall pay out all moneys only on direction by the borough council (previously it was only when authorized by the treasurer). Cross-references the “Electronic Transactions Act” (Act 69 of 1999) in regards to electronic signatures and transactions. Subdivided and enumerated for clarity.
- Page 166 Existing Section 1107. Assistant Treasurer. Now provides that council may appoint the assistant treasurer as the assistant secretary if the assistant treasurer is not a member of council. *See* section 1112 (relating to assistant secretary) where there is no prohibition of the assistant secretary being a member of council unless the assistant secretary is being appointed as the assistant treasurer. Editorial amendment.
- Pages 166-168 Existing Section 1111. Duties. Enumerates the duties of the borough secretary. Subdivided and enumerated for clarity.
- Page 168 Existing Section 1112. Assistant Secretary. Now provides that council may appoint the assistant secretary as the assistant treasurer provided that the assistant secretary is not a member of council. Otherwise, this section expressly permits that the assistant secretary may be appointed from the membership of council. *See* section 1107 prohibiting the assistant treasurer from being a member of council. Editorial amendment.
- Page 168 Existing Section 1113. Records Open to Inspection. Instead of borough records and documents being open to inspection “at any reasonable time,” cross-references the Right-to-Know Law, the act of Feb. 14, 2008 (P.L. 6, No. 3). Section 701(a) of the Right-to-Know Law states that public records shall be available during the regular business hours of an agency.
- Pages 168-169 Existing Section 1116. Solicitor to Have Control of Legal Matters. Language, that parallels section 1101 of the Second Class Township Code, is added that states the borough solicitor shall be licensed to practice law in the Commonwealth, serves at the pleasure of council and may be one person or a law firm, partnership, association or professional corporation. Editorial amendments.
- Pages 169-170 Existing Section 1117. Duties of Solicitor; Outside Counsel. Now provides that the allowable expense for a mayor to employ outside counsel in cases of a legal dispute between mayor and council is increased from \$2,500 to \$4,000. This increase was in H.B. 330 (2009). Reorganized and rephrased for clarity.
- Page 170 Existing Section 1118. Assistant Solicitor. Now clarifies that the assistant solicitor shall assist the solicitor in the performance of the solicitor’s duties, as

well as perform the duties and exercise the powers of the solicitor in the absence or disability of the solicitor.

- Pages 171-174 Existing Section 1121. [Appointment, Suspension, Reduction, Discharge, Powers; Mayor to Have Control] **Council’s Powers; Police**. This section is substantially reorganized and subdivided for clarity. The powers of a mayor in regards to the police chief and police force are relocated to new section 1123.1. Subsection (d) is new and provides that borough police officers may not engage in any political or election campaign while on duty or in uniform or while using borough owned property except to exercise their own right of suffrage.
- Pages 174-175 Existing Section 1122. Police Serving under Cooperative Agreement or Contract. Now provides that not only may a borough enter into a cooperative agreement or contract with any municipal corporation, but also a regional police force or other governmental entity created by two or more municipal corporations pursuant to 53 Pa.C.S., Ch. 23 Subch. A (relating to intergovernmental cooperation). Conforming and editorial amendments.
- Page 175 Existing Section 1123. Police Badge. Editorial amendment.
- Page 175 New Section 1123.1. **Mayor’s Powers; Police**. Consolidates the mayor’s powers previously found in section 1121 into a separate section. Provisions are made for the mayor’s activation of auxiliary police in addition to those provisions found in general law.
- Pages 175-176 Existing Section 1124. Suspension by Mayor. Editorial amendments.
- Page 176 Existing Section 1125. Compensation. Editorial amendments.
- Pages 176-178 Existing Section 1127. School Crossing Guards. Clarifies that a borough council may appoint school crossing guards upon the request of the board of school directors of a school district in which the borough is wholly or partially located. Conforming and editorial amendments.
- Pages 178-180 Existing Section 1131. Police Pension Fund. This section is greatly expanded by incorporating the content from other old sections within this subdivision into this section as subsections. Now clarifies that a borough may, under specified conditions, establish a police pension fund if it has a police force of fewer than three full-time members. (Section 1910 of the Second Class Township Code provides that a second class township may establish a police pension fund or pension annuity for police forces of less than three full-time police officers.) Expands the options council has in lieu of establishing a pension fund by providing for investment or insurance instruments for the purpose of payment of pensions or annuities. Previously, in old section 1137, only “annuity contracts” were permitted for the payment of pensions in lieu of a pension fund.
- Council shall appoint a chief administrative officer who would have the primary responsibility of executing the administrative affairs of the pension plan, subject to council’s direction. Act 205 (act of Dec. 18, 1984 (P.L. 1005, No. 205), known as the “Municipal Pension Plan Funding Standard and Recovery Act”) does not specifically require the appointment of a chief administrative officer,

but it does imply that a pension administrator exists. The chief administrative officer would be in charge of interfacing with council and the administrative pension plan.

Cross-references the act of May 29, 1956 (1955 P.L. 1804, No.600), referred to as the “Municipal Police Pension Law,” and the act of February 1, 1974 (P.L. 34, No. 15), known as the “Pennsylvania Municipal Retirement Law,” in regards to police pension funds not established under the provisions of this section.

- Pages 180-181 Existing Section 1132. Private Police Pension Funds; Optional Transfers. Editorial amendments.
- Pages 181-183 Old Sections 1133 through 1137. Now found in various subsections of section 1131. See the disposition table for specific information.
- Page 183 Existing Section 1141. Borough Manager May be Created by Ordinance; Election. Editorial amendments.
- Pages 183-184 Existing Section 1142. Powers and Duties[; Bond]. Language is added that any employment agreement with a borough manager executed on or after a municipal election but before the organizational meeting the following January shall be void. This precludes a lame duck governing body from entering into an employment agreement although case law does provide that a contract pertaining to a governmental function cannot bind the hands of a future governing body. *See Falls Township v. McManamon*, 537 A.2d 946, 947 (Pa.Cmwlt.1988) (employment contract between the police chief and township supervisors was unenforceable against the future supervisors who wanted to appoint a different police chief since the contract regarded a government function in ensuring public safety).
- Pages 184-187 Old Subdivision (i) – [Mine and Quarry Inspection and Surface Support.] Old sections 1163-1168. Portions of this subdivision (sections 1163-1165) are now in section 1202(58). Changes made to this subdivision are pursuant to discussions with the director of the Bureau of Mine and Reclamation, Department of Environmental Protection. Portions that are not moved to section 1202(58) are deleted because they are obsolete due to state law that supersedes them.
- Page 187-208 Existing Subdivision (j) – Civil Service for Police and Firemen. This subdivision contains changes recommended by PSAB’s labor law attorneys, who were requested by the Borough Code Revision Committee to review the civil service provisions, and also changes effected by Act 91 of 2010 (S.B. 910 of 2009 (Robbins), a Local Government Commission sponsored bill), as well as editorial changes made by the Local Government Commission.
- Pages 187-188 Existing Section 1171. Appointments of Police and [Firemen] **Fire Apparatus Operators**. Editorial amendments.
- Pages 188-189 Existing Section 1172. Civil Service Commission Created; Appointments; Vacancies; Oath; Compensation. Subsection (b) is added to permit council to

appoint alternates to the civil service commission. The language is derived in large part from Section 626 of the First Class Township Code. New subsection (c), based on existing language, deletes general reference to an oath to support the U.S. and Pennsylvania constitutions and a loyalty oath (see commentary to section 1002), and instead, specifically references 53 Pa.C.S. § 1141 (relating to form of oaths of office) (added by Act 76 in 2008) that is applicable to all elected or appointed officials in municipalities. Editorial amendments. Subdivided for clarity.

- Page 189 Existing Section 1173. Offices Incompatible with Civil Service Commissioner. Editorial amendment.
- Pages 189-190 Existing Section 1174. Organization of Commission; Quorum. Deletes reference to commissioners being given 24 hours notice of meetings (now just written notice). Now states that three (all members of the commission), rather than two, members of the commission constitute a quorum. Authorizes the chair to designate alternate members of the commission as needed to provide a quorum, and provides that alternates, once designated, continue to serve on the commission in all proceedings involving the matter for which the alternate was initially designated until a final determination is made.
- Page 190 Existing Section 1175. Clerks and Supplies, Etc.; **Solicitor**. As suggested by PSAB's labor law attorneys, language is added that would require the borough to provide the services of a solicitor to the commission. The commission would appoint the solicitor but the borough would pay for the solicitor, subject to a reasonable annual amount.
- Pages 190-191 Existing Section 1176. Rules and Regulations. As suggested by PSAB's labor law attorneys, now council must also approve any amendment to rules and regulations made by the commission.
- Page 191 Existing Section 1177. Minutes and Records. Editorial amendment.
- Page 191 Existing Section 1178. Investigations. Editorial amendment.
- Pages 191-192 Existing Section 1179. Subpoenas. Editorial amendments.
- Pages 192-194 Existing Section 1181. General Provisions Relating to Examinations. Clarifies that background investigations may be restricted to those candidates on an eligibility list or those to be certified to borough council for appointment in accordance with section 1184. Also clarifies that physical fitness or agility examinations that are job-related and consistent with business necessity and physical and psychological medical examinations may, but need not, be required for promotions. Editorial amendments.
- Pages 194-195 Existing Section 1182. Application for Examination. Editorial amendments.
- Pages 195-196 Existing Section 1183. Rejection of Applicant; Hearing. Subsection (b) is clarified as the language was ambiguous as to whether the applicant or the aggrieved person, or both, could have counsel at the hearing, and did not provide for the aggrieved person other than mentioning the person at the

beginning of the paragraph. Now both the applicant and the aggrieved person may have counsel at the applicable hearing.

This section was amended by the Senate Local Government Committee to make the law consistent between applicants (this section) and employees (section 1191) in regards to the deliberations of the civil service commission that may be held in the nature of a closed executive session. Here, the deliberations would be held after a public hearing on whether an applicant was unjustly denied being placed on the certified eligibility list or was incorrectly denied an examination. The commission's disposition of the matter, however, shall constitute official action that shall occur at a public meeting pursuant to the open meetings law.

Pages 196-198 Existing Section 1184. Eligibility List and Manner of Filling Appointments. Clarifies that background investigations may be conducted after the establishment of an eligibility list. Editorial amendments.

Pages 198-199 Existing Section 1185. Age, Applicant's Residence. Editorial amendments.

Page 199 Existing Section 1186. Probationary Period. Now states that the borough's decision to suspend or discharge a probationer shall be final and not subject to the hearing provisions in section 1191. Editorial amendments.

Pages 199-200 Existing Section 1187. Provisional Appointments. Editorial amendments.

Pages 200-201 Existing Section 1188. Promotions. Editorial amendment.

Pages 203-204 Existing Section 1190. Removals. Now specifies that suspensions shall be without pay. This language was based on notes from a discussion that occurred at the March 20, 2007 Committee meeting. In conformance with section 1191, now also specifies that the person employed has ten days to submit a written request for a hearing before the commission for certain charges.

PSAB's labor law attorneys recommended certain changes to this section such as deleting reference to the specified procedure that relates to age for reducing the number of paid employees of the police or fire force and leaving in place the procedure for furloughing the persons last appointed to the force.

This section now provides that no person employed in any police or fire force shall be suspended without pay, removed or reduced in rank except if, among other delineated reasons, the person engages or participates in conducting any political or election campaign while on duty or in uniform or while using borough property (in conformance with section 1121(d)), or engages or participates in the conduct of a political or election campaign for an incompatible office (in conformance with section 1104(f)).

Pages 204-206 Existing Section 1191. Hearings on Dismissals and Reductions. PSAB's labor law attorneys recommended some of the changes within this section. It now specifies that the failure of the commission to hold a hearing within the specified ten day period shall not result in the dismissal of the charges filed against the person. The appeal period is now thirty (formerly sixty) days.

This section was amended by the House Local Government Committee to provide that the council or person sought to be suspended, removed or reduced in rank may request, prior to the commencement of the hearing, that the hearing before the commission may be open to the public, although otherwise the proceedings are held in the nature of a closed executive session. The commission's deliberations may be held in private and shall not be open to the public, the council or to the person in question. The commission's disposition of the disciplinary action, however, shall constitute official action that shall occur at a public meeting pursuant to the open meetings law. Editorial amendments. Subdivided for clarity.

- Pages 206-207 Existing Section 1192. Employees Exempted. Editorial amendment.
- Page 207 Existing Section 1193. Discrimination on Account of Political or Religious Affiliations. Editorial amendment.
- Pages 207-208 Existing Section 1194. Penalty. Editorial amendments.
- Pages 209-214 Old Subdivision (k) – [Independent Auditor]. Relevant portions of old Sections 1196 through 1199 are now in new section 1059.11.
- Page 214 Existing Section 1201. General Powers. Now adds “exchange” to those actions that council may take in regards to real and personal property. The power of exchange already exists (current section 1201(4)(iii)), but since portions of section 1201 are bifurcated into two additional sections (1201.1 – Real Property; 1201.2 - Personal Property), the power of exchange is listed here as well. Editorial amendments.
- Pages 215-216 New Section 1201.1. **Real Property.** This section is derived from portions of section 1201. Now clarifies that real estate owned by the borough may be sold upon approval of council by resolution. Existing law states that real estate exchanges are pursuant to resolution (now in section 1201.1(d)(3)). Subsection (d)(3) now provides, however, as amended by the House Local Government Committee, that prior to council adopting a resolution to exchange real property, notice of the resolution shall be published once in a newspaper of general circulation no more than sixty days nor fewer than seven days prior to the adoption. Subsection (a), also amended by the House Local Government Committee, now clarifies that “if no compliant bids are received” then the procedures in Act 78 of 1979 shall be followed.
- Cross-references Act 78 of 1979 regarding the procedure to be used when no bids are received after advertisement.
- Page 216 New subsection (d)(1)-(4). Authorizes borough council to exchange real property, pursuant to a resolution, for real property of equal or greater value, for municipal purposes; provides a reversion clause similar to the Public School Code; and continues to provide for the application of the Flood Plain Management Act (Act 166 of 1978) in any real property exchange.
- Pages 216-218 New Section 1201.2. **Personal Property.** Portions of this new section are continued from the original language in section 1201, but now borough personal

property is disposed of by resolution only rather than by ordinance or resolution. Like the section on real property, this section relating to personal property cross-references Act 78 of 1979 regarding the procedure to be used when no bids are received after advertisement. Subsection (c) clarifies that exchange of borough personal property is by resolution. Conforming and editorial amendments.

- Pages 218-221 New Section 1201.3. **Exceptions.** Portions of this new section are continued from the original language in section 1201. Now, all the exceptions from advertising for bids apply to real or personal property. Originally, some of the exceptions to certain entities applied to real property only. Structural modifications and editorial amendments.
- Pages 221-258 Existing Section 1202. Specific Powers. Editorial amendments.
- Page 221 Existing Clause 1202(1). Fees for service of officers. Costs associated with borough police officers responding to accidents are specifically excluded by cross-referencing 53 Pa.C.S. § 1392 to reflect the enactment of Act 69 of 2007 (H.B. 131).
- Page 222 Existing Clause 1202(4). Nuisances **and dangerous structures.** This clause is a combination of both clauses (4) and (5). Conforming and editorial amendments.
- Page 222 New Clause 1202(5) (old (6)). Health and cleanliness regulations. Change in clause number only.
- Page 222 Old Clause 1202(7). [Burial of deceased persons.] This clause was consolidated with clause (61) and moved to Article 28 (Cemeteries).
- Page 223 New Clause 1202(6) (old (8)). Regulation of vaults, cesspools and drains. Change in clause number only.
- Page 223 New Clause 1202(7) (Old (9)). Manure and compost regulations. Cross-references 3 Pa.C.S. Ch. 5. (relating to nutrient management and odor management). Section 519 of Ch. 5 states that municipal ordinances that conflict with the Act are preempted.
- Pages 223-224 New Clause 1202(8) (old (10)). [Accumulations of garbage] **Garbage** and other refuse material. This clause is a consolidation of old clauses 10, 11 and 45 and old sections 2511-2513 (old subdivision (b) on refuse disposal facilities of Article XXV). Cross-references the Solid Waste Management Act (Act 97 of 1980) and the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101 of 1988).
- Page 224 Old Clause 1202(11). [Removal of garbage and other refuse material.] Now combined into new 1202(8).
- Page 224 Old Clause 1202(12). [Hogs.] Combined into new 1202(10).
- Pages 224-225 New Clause 1202(9) (old (13)). Dogs, cats and other pets. Cross-references the Dog Law (Act 225 of 1982).

- Page 225 New Clause 1202(10) (old (14)). Livestock, fowls and [certain] **all** other animals. This new clause is a combination of old clauses (12), (14) and (15). Now states that no ordinance enacted pursuant to this clause shall unreasonably interfere with any agricultural operation.
- Page 225 Old Clause 1202(15). [Pigeons.] Now part of new (10).
- Pages 225-226 New Clause 1202(11) (old (16)). Smoke regulations. Now clarifies that regulations on smoke are authorized to the extent such regulations are not otherwise prohibited by applicable state or federal law.
- Page 226 New Clause 1202(12) (old (17)). Street and sewer regulations; obstructions. Change in clause number only.
- Page 226 New Clause 1202(13) (old (18)). Riding or driving on sidewalks. The definition of vehicle incorporated into this clause is from section 102 of the Vehicle Code. Expands the prohibited or regulated activity to include parking.
- Page 226 Old Clause 1202(19). [Stands for cabs and other vehicles for hire.] Preempted by the Public Utility Code.
- Page 226 New Clause 1202(14) (old 20)). Disorderly conduct; disturbance of the peace, ordinances. Change in clause number only.
- Pages 226-227 New Clause 1202(15). **Construction code, property maintenance code, fire prevention code, and reserved powers.** This new clause authorizes the adoption and enforcement of these powers pursuant to new Article XXXII-A.
- Pages 227-228 Old Clause 1202(21). [Fire regulations; fire prevention codes by reference.] The provisions of this clause and old clause (24) have been incorporated into the new Article XXXII-A.
- Page 228 New Clause 1202(16) (old (22)). Prohibition of fire producing devices **and smoking** [in certain retail stores]. Now provides that no ordinance, regulation or resolution may regulate smoking in a manner that conflicts with the Clean Indoor Air Act (Act 27 of 2008).
- Page 229 New Clause 1202(17) (old (23)). **Fireworks and inflammable articles.** This clause now mirrors the provisions in section 1534 in the Second Class Township Code in regards to fireworks and inflammable or dangerous articles, thus removing reference to the sale of inflammable or otherwise dangerous articles.
- Pages 229-231 Old Clause 1202(24). [Building, housing, property maintenance, plumbing and other regulations.] The provisions of this clause and clause (21) have been incorporated into the new Article XXXII-A.
- Page 231 New Clause 1202(18) (old (25)). Numbering buildings. Expanded to include the numbering of lots. This is not intended to mean physically numbering each lot, but having reference numbers on maps.
- Page 231 Old Clause 1202(26). [Building lines.] Now in new 1202(21).
- Page 231 New Clause 1202(19) (old (27)). Change in clause number only.

- Pages 231-233 New Clause 1202(20). **Prohibition, licensing and regulation of business.** Incorporates old clauses (28), (29) and (31) into this new section, except that the terms “market houses” and “peddling” from old (31) have not been continued. Cross-references Article XXIX.
- Page 233 New Clause 1202(21). **Zoning and land use regulations; building lines.** Old clause (26) regarding building lines has been incorporated into this new clause, although this power is now pursuant to “applicable law.” Cross-references the Pennsylvania Municipalities Planning Code in regards to adopting regulations for zoning, subdivision and land use and development.
- Page 233 Old Clause 1202(28). [Noxious and offensive businesses.] This clause has been incorporated, with minor changes, into new clause (20) as (20)(a)(1).
- Page 233 Old Clause 1202(29). [Junk yards.] This clause has been incorporated, with minor changes, into new clause (20) as (20)(a)(2).
- Page 233 Old Clause 1202(30). [Regulating and prohibiting amusements.] Deleted. A similar clause in the proposed Third Class City Code was deleted in that rewrite.
- Pages 233-234 Old Clause 1202(31). [Markets, market houses and peddling.] This clause has been incorporated, with minor changes, into new clause (20) as (20)(a)(3). The changes primarily omit references to “market houses” and “peddling.”
- Pages 234-235 Old Clause 1202(32). [Creation of special funds; investments.] Now in new section 1313.1.
- Page 235 New Clause 1202(22) (old (33)). Creation of capital reserve fund for anticipated capital expenditures. Updated citation.
- Pages 235-236 New Clause 1202(23). **Operating reserve fund.** This new section is derived from section 1508.1 from the Second Class Township Code. It authorizes the creation and maintenance of a separate operating reserve fund for meeting emergencies involving the health, safety and welfare of borough residents.
- Pages 236-237 New Clause 1202(24) (old (34)). [Joint municipal agreements] **Intergovernmental Cooperation.** Now cross-references 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation). The substance of old clause (35) is also incorporated into this clause, with changes primarily acknowledging regional police departments.
- Page 237 Old Clause 1202(35). [Joint contracts for police and fire protection.] This clause is now part of new clause (24).
- Page 237 New Clause 1202(25) (old (36)). Insurance on property. Now includes leased buildings or properties.
- Pages 238-240 New Clause 1202(26) (old 37)). Other insurance. Subdivides this clause according to the type of insurance (workers’ compensation insurance; life and health insurance; pension contracts; and, liability insurance). Clarifies that appropriations for workers’ compensation insurance shall be made in order to provide such insurance to borough employes as “employee” is defined in Section 601 of the Workers’ Compensation Act (as well as continuing to provide such

insurance to volunteer fire fighters). Deletes reference to a class or classes of the mayor or council or their dependents from being eligible for life and health insurance. Thus, no retired mayor or retired council member or dependents of those retired individuals will be eligible for this insurance unless they have previously been employed by a borough. Any class or classes of employees, including an employee's dependents, remain eligible for this insurance. Paragraph (v) provides that nothing in this clause shall affect any contract, right, or coverage of insurance vested or existing on the effective date of this clause.

- Pages 239-240 Old Clause (38). [Contract with railways.] The powers in this clause and old clause (47) were combined into new clause (27).
- Pages 240-241 New Clause 1202(27). **Public transportation.** Old clauses (38) and (47) are combined into this new clause, which was reviewed by the Public Utility Commission, and at its suggestion, language regarding jurisdictional limits established by Title 49 of the United States Code has been added as regards certain contracts.
- Page 241 Old Clause 1202(39). [Water supply.] This clause has been relocated to section 2401(b).
- Page 241 New Clause 1202(28) (old (40)). Community buildings **and public facilities.** This new clause is a consolidation of old clauses (40), (43) and (44). Clarifies that “acquiring” land or buildings for these purposes includes not only purchase, but also gift, exchange, or eminent domain.
- Page 241 New Clause 1202(29) (old (41)). Lockup. Change in clause number only.
- Page 241 New Clause 1202(30) (old (42)). Flags. Change in clause number only.
- Pages 241-242 Old Clause 1202(43). [Comfort stations.] Consolidated into new clause (28).
- Page 242 Old Clause 1202(44). [Watering troughs.] Consolidated into new clause (28).
- Page 242 Old Clause 1202(45). [Garbage and refuse disposal facilities.] Consolidated into new clause (8).
- Pages 242-243 New Clause 1202(31) (old (46)). Parking lots. Now provides that regulations of parking lots shall be consistent with the Vehicle Code (75 Pa.C.S.) and the Pennsylvania Human Relations Act (Act 222 of 1955). Editorial amendments.
- Page 243 Old Clause 1202(47). [Inclined planes.] Now consolidated into new clause (27).
- Page 243 New Clause 1202(32) (old (48)). Historical property. Change in clause number only.
- Page 243 New Clause 1202(33) (old (49)). Provisions against hazards of war, **terrorism and disasters.** Expanded to include terrorism and manmade or natural disasters. Cross-references Title 35 of Pa.C.S., relating to health and safety.
- Page 244 Old Clause 1202(50). [Street lighting.] This power is moved to new section 1708. Reference to a taxing power for street lighting is in section 1302(a)(4).
- Pages 244-245 New Clause 1202(34) (old (51)). Towing [equipment]. Now includes reference to trailers and recreational trailers. Provides for an official rotation list for the

borough if council authorizes the same; towers must agree to tow vehicles for a charge not in excess of the negotiated price.

- Pages 245-246 New Clause 1202(35) (old (52)). Fire, rescue and life saving apparatus and **buildings** [houses]. Old clauses (52) and (66) are consolidated into this new clause.
- Pages 246-249 Old Clauses 1202(53)-(60). Deleted. These clauses relating to the national guard, veterans, and memorials were moved to a new article on Veterans' Affairs, Article XXIX-A.
- Page 249 Old Clause 1202(61). [Appropriations for burial ground maintenance.] This clause, along with old clause (7) were consolidated into Article XXVIII, relating to cemeteries.
- Page 249 New Clause 1202(36) (old (62)). Municipal music. Change in clause number only.
- Page 249 New Clause 1202(37) (old (63)). Purchase and planting of trees. Change in clause number only.
- Pages 249-250 New Clause 1202(38) (old (64)). Hospital appropriations. Editorial amendments.
- Page 250 New Clause 1202(39) (old (64.1)). Building hospitals. Removes reference to the appropriation not to exceed \$1 per resident per year. Conforming and editorial amendments.
- Page 250 New Clause 1202(40) (old 65)). Community nurse services. Now states that community nursing services may be provided for the elderly and other needy persons.
- Page 250 Old Clause 1202(66). [Community ambulance service.] This clause, along with old clause 52 were consolidated into new clause (35).
- Pages 250-251 New Clause 1202(41) (old (67)). Appropriation for civic purposes. Change in clause number only.
- Page 251 New Clause 1202(42) (old (68)). Appropriations for handling, storage and distribution of surplus foods. Change in clause number only.
- Page 251 New Clause 1202(43) (old (69)). Appropriations for industrial promotions. Change in clause number only.
- Page 251 New Clause 1202(44) (old (70)). Appropriations to tourist promotion agencies. Deletes reference to the cap not to exceed ten cents for each resident. Updated citation.
- Page 251 New Clause 1202(45) (old (71)). Appropriating money to assist [political subdivisions and municipality] **municipalities and municipal** authorities for airports. Now provides that money may be appropriated for airports of municipalities rather than for political subdivisions. The effect of this change is to exclude school districts, but still include county airports. Editorial amendments.

- Pages 251-252 New Clause 1202(46) (old (72)). Non-Debt revenue bonds. Updated citation.
- Page 252 New Clause 1202(47) (old (73)). Rewards for apprehension of certain criminals. Change in clause number only.
- Page 252 New Clause 1202(48) (old 73.1)). Appropriations for Urban Common Carrier Mass Transportation. Editorial amendment.
- Pages 252-253 Old Clause 1202(74). [General powers.] Now in new section 1203.
- Page 253 New Clause 1202(49) (old (75)). Change in clause number only.
- Page 253 New Clause 1202(50) (old (76)). Sale of real **or personal** property to non-profit medical service corporation. Now also authorizes the sale of borough-owned personal property to a non-profit medical service corporation for use at the medical service facility.
- Page 253 New Clause 1202(51) (old (77)). Sale of real **or personal** property to non-profit housing corporation. Now also authorizes the sale of borough-owned personal property to a non-profit housing corporation for use at the housing corporation.
- Pages 253-254 New Clause 1202(52) (old (78)). Grants to nonprofit art corporations. Deletes reference to the not to exceed amount equal to one mill of the real estate tax.
- Page 254 New Clause 1202(53) (old (79)). Appropriations for neighborhood crime watch programs. Editorial amendment.
- Page 254 New Clause 1202(54) (old (80)). Appropriations to Senior Citizens Organizations. Change in clause number only.
- Page 254 New Clause 1202(55) (old (81)). Appropriations to watershed associations. Now provides that the appropriation may not be used to undertake litigation against any municipality (previously municipal corporation). This change in language would now include a county.
- Pages 254-255 New Clause 1202(56) (old (82)). Emergency services. Change in clause number only.
- Page 255 New Clause 1202(57). **Appropriations to conservation district.** From section 1317.
- Pages 255-256 New Clause 1202(58). **Mines and quarries.** From portions of former sections 1163 through 1164. Amendments are made to reflect that boroughs do not regulate mine or quarry inspections. Now clarifies that the engineer is the borough engineer; “employees” is changed to “person authorized by council.” The borough engineer may now only enter and survey the mines as opposed to also inspecting and examining mines (now within the jurisdiction of the Bureau of Mine and Reclamation, Department of Environmental Protection). Editorial amendments.
- Page 256 New Clause 1202(59). **Assessment of benefits.** From section 1525, and adds that council may petition the court for the appointment of viewers. Cross-references Article XXI-A.

- Page 256 New Clause 1202(60). **Authority to purchase natural gas wells.** From section 2481.
- Pages 256-257 New Clause 1202(61). **Real estate registry.** From sections 3001 – 3006. Provides, by ordinance, for the establishment and maintenance of a real estate registry. Cross-references the Uniform Municipal Deed Registration Act (Act 110 of 2008).
- Page 257 New Clause 1202(62). **Authority to manufacture and supply electricity.** Cross-references Article XXIV-A, relating to manufacture and supply of electricity.
- Page 257 New Clause 1202(63). **Authority to provide telecommunication and cable television services.** Authorizes the provision of telecommunication and cable television services to the extent that provision of telecommunication services is not inconsistent with Act 183 of 2004, and to the extent that cable television services are provided in a manner consistent with federal law. Old section 2471, relating to manufacture and purchase of electricity, stated in its last sentence the following: “Nothing in this act shall be construed so as to disallow any borough from operating a cable television system.” A compiler’s note, however, stated “Section 4 of Act 183 of 2004, which amended 66 Pa.C.S. Ch. 30 (relating to alternative form of regulation of telecommunications services), provided that section 2471 is repealed insofar as it is inconsistent with Act 183.”
- Page 257 New Clause 1202(64). **Underground conduits.** The power to construct or to acquire underground conduits by purchase or condemnation is from old Article XXIII, sections 2301 – 2304. Now specifies that the borough’s power to regulate the manner and terms and conditions of the use of underground conduits shall be subject to approval by the Public Utility Commission (PUC). Council retains the power to define reasonable districts in the borough for the placement of conduits without the approval of the PUC. *See Duquesne Light Co. v. Borough of Monroeville*, 298 A.2d 252 (Pa. 1972), rehearing denied Jan. 12, 1973 (holding that [old] section 2301 of the Borough Code and the Public Utility Code must be read together, and that while a borough has the power to define reasonable underground wiring districts, implementation of such districts is only achieved through the action of the Public Utility Commission).
- Pages 257-258 New Clause 1202(65). **Actions for municipal claims.** Provides for actions in assumpsit (against the person, i.e. an *in personam* action, as opposed to against the property, i.e. an *in rem* action) for unpaid municipal claims regardless of whether a lien was filed against the property for the unpaid claim. An action in assumpsit must be filed within six years after the completion of the improvement or within six years after the water, sewer or other municipal service, or the cost of abating a nuisance first became payable.
- Page 258 New Section 1203. **Reserved Powers.** From previous section 1202(74). This general power has been moved to its own section, although it has been renamed to avoid conflict with section 1201 (relating to general powers).

- Pages 259-262 Existing Section 1302. Tax Levy. Editorial amendments.
- Pages 262-263 Existing Section 1302.1. Different and Separate Tax Levies. Editorial amendments.
- Pages 263-264 Existing Section 1303. Special Levy to Pay Debts. Editorial amendments.
- Page 264 Existing Section 1304. Special Road Fund Tax. Editorial amendments.
- Pages 264-265 Existing Section 1305. Date Tax Duplicate to Issue. Editorial amendment.
- Page 265 Existing Section 1306. Additions and Revisions to Duplicates. Changes reference from assessors in a borough to the county assessment office.
- Page 266 Existing Section 1307. Preparation of Budget. Deletes reference to a uniform form for the budget. Editorial amendments.
- Page 266 Existing Section 1308. Notice of Proposed Budget; Penalty. A borough's proposed budget need not be published in a newspaper if its estimated budget receipts are now less than \$50,000 (previously \$5,000) in the year this amendment to The Borough Code is enacted. Subdivided for clarity. Editorial amendments.
- Page 267 Existing Section 1310. Adoption of Budget[; Tax Ordinance]. In order to clarify the budget process, deletes the latter portion of the section relating to council's duty to adopt an ordinance levying the taxes for the fiscal year. This deleted portion is relocated to new section 1310.1. The remaining material in this existing section now pertains only to adoption of the budget by motion. Editorial amendments.
- Page 268 New Section 1310.1. **Tax Ordinance.** This new section is comprised of material relocated from section 1310 relating to council's duty in adopting an ordinance levying the taxes for the fiscal year.
- Page 268 Existing Section 1311. Amending Budget; Notice. Editorial amendment.
- Page 269 New Section 1313.1. **Creation of Special Funds; Investments.** This new section is from old clause 1202(32) with one substantive change – "other than taxation" is deleted from the following: "or received from any source . . . unless such money was received or acquired for a particular purpose." This will permit council to set aside funds from general taxation in a separate special fund.
- Pages 270-271 Existing Section 1314. Uniform Financial Report; Forms. Changes reference to the Secretary of the Department of Community and Economic Development's agent to the Secretary's designee. Authorizes any additional members appointed pursuant to statute to the committee that make the uniform forms. Editorial amendments.
- Page 271 Existing Section 1315. Capital Improvements to Certain Public Service Facilities. Editorial amendments.
- Pages 272-274 Existing Section 1316. Investment of Funds. This section was forwarded to the Department of Banking for its review, and pursuant to its recommendation, (c)(iii) and (c)(vi) were amended to delete reference to the Federal Savings and

- Loan Insurance Corporation, the Pennsylvania Deposit Insurance Corporation, and the Pennsylvania Savings Association Insurance Corporation. New clause (viii) is from clause 1201(5). Clause (viii) provides for another type of authorized investment for a borough in certain bonds of a municipal authority or parking authority. Updated citation.
- Page 274 Old Section 1317. Conservation District. This power to make appropriations to a conservation district has been moved to new clause 1202(57).
- Page 275 Existing Section 1401. Power to Make Contracts. Language is added that permits boroughs to establish reasonable prequalification standards for contracts and purchases. This change is in accordance with case law in order to determine who responsible bidders are in advance and to refuse to receive bids from those who do not meet the prequalification standards. *See Corcoran v. City of Philadelphia*, 70 A.2d 623 (Pa. 1950). *See also Flaherty v. Allegheny Contracting Industries, Inc.*, 293 A.3d 639 (Pa.Cmwlth. 1972). New subsection (c) cross-references the “Local Government Unit Electronic Bidding Act” in regards to a borough permitting the electronic submission and receiving of bids for competitively bid purchases and contracts.
- Pages 275-284 Existing Section 1402. Regulation of Contracts. Now provides that contracts or purchases in excess of the base amount of \$18,500 (changed from \$10,000 by Act 92 of 2011 must be to the lowest qualified and responsible bidder. Section 1402(a.1) per Act 92 increases the threshold from \$4,000 to \$10,000 in relation to the requirement that telephonic or written quotations be obtained for small contracts. Section 1402 (a.2), includes provisions for increasing the above base amounts in future years. Language relating to additional factors that council may take into consideration in awarding contracts is moved to section 1401(b). Now provides that written price quotations may include electronic mail. Editorial amendments.
- Page 279 Existing subsection (b)(1). Now provides, in addition to other types of security already provided for, that advertised bids may be accompanied by an irrevocable letter of credit drawn upon a bank authorized to do business in the Commonwealth. Editorial amendment.
- Page 281 Existing subsection (d)(3). Now includes computer software as those things that are excepted from the advertising, bidding or price quotations as otherwise provided for in this section. Computer software is like professional services in that it is very subjective.
- Page 281 Existing Section (d)(3.1). Now includes used materials purchased not only from a public utility, but also from any municipal corporation, county, school district, municipal authority, council of government or federal or state government. Purchase of such personal property from these entities is exempt from competitive bidding and written and telephonic quotation requirements.
- Pages 281-282 Existing subsection (d)(4). Now, rather than those contracts made for public utility service under tariffs on file with the Public Utility Commission being excepted from the advertising and bidding or price quotations limitations, those

contracts made for utility service for borough purposes, including, but not limited to natural gas or telecommunication services, are excepted from the requirements and do not need to be under tariffs on file. This language is similar to that found in section 3102(h)(3) in the Second Class Township Code and in section 1802(h)(4) of the County Code, although the County Code provides that if there is no advertising and bidding for such contracts, then written or telephonic price quotations are required. Also excepted from the advertising and bidding requirements are those contracts made for electricity with those entities listed in clause 6(i)-(vii)(a) (Act 87 of 2010). Also, those contracts that are excepted and are made with another political subdivision or county are expanded to include a council of government, consortium, cooperative or other similar entity created pursuant to intergovernmental cooperation.

- Pages 282-283 Existing subsection (e). Lists various laws, including the Steel Products Procurement Act (see current language of this subsection), with which all applicable contracts of a borough should comply. See a similar provision in proposed new section 1901.7 (relating to compliance with other laws) in S.B. 874 (PN 890) of 2011 (Eichelberger) amending the Third Class City Code.
- Pages 284-285 Existing Section 1403. Evasion of Advertising Requirements. Editorial amendments.
- Pages 285-286 Existing Section 1404. [Penalty for] Personal Interest in Contracts or Purchases. Deletes specific provisions and penalties relating to elected or appointed borough officials' interest in purchases or contracts, and now, instead, cross-references 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure) as regards the interests of elected and appointed borough officials and borough employees in borough purchases or contracts.
- Page 286 Existing Section 1404.1. Purchase Contracts for Petroleum Products; Fire Company, Etc., Participation. Editorial amendments.
- Page 287 Existing Section 1405. Separate Bids for Plumbing, Heating, Ventilating and Electrical Work. Editorial amendments.
- Pages 287-289 Existing Section 1406. Bonds for the Protection of Labor and [Materialmen] **Materials**. Previously, a payment bond was required in a sum not less than fifty percent and not more than one hundred percent of the contract price for a public work or improvement if the contract price was in excess of \$1,500. Now, if the contract price exceeds \$10,000, a payment bond is required for one hundred percent of the contract price. Cross-references the Public Works Contractors' Bond Law of 1967 (Act 385). This bond requirement is in addition to any other bond requirement that is or may be required by law to be given in connection with the contract.
- Pages 289-290 Old Section 1407. [Minimum Wage Specifications in Contracts.] Federal and state minimum wage laws still apply.
- Pages 290-291 Existing Section 1410. Acceptance by Contractor of [Workmen's] **Workers'** Compensation Act. Now provides that the contract shall include a provision that the contractor will file with the borough a certificate of insurance providing

evidence of workers' compensation insurance. Provides for the basis on which a certificate of exemption from insurance may be issued. These changes were reviewed by and comments received from the Bureau of Workers' Compensation. A subsequent change was made by providing for the filing with the borough of applications relating to certain employes to be excepted from the provisions of the Workers' Compensation Act on religious grounds if the Department of Labor and Industry has accepted such applications.

- Pages 291-292 Old Section 1411. [Architects and Engineers Employed Prohibited From Bidding on Public Works; Penalty.] This section is incorporated into section 1404 by the inclusion of "employees" in that section as to those who are restricted from entering into borough contracts and purchases if the employe has an interest in the same pursuant to 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).
- Page 292 Existing Section 1501. Exercise of Eminent Domain. Adds to the non-exclusive list of those purposes for which a borough may exercise eminent domain.
- Page 293 Existing Section 1502. Restrictions as to Certain Property. New subsection (b) replaces old section 2502, which restricts the use of eminent domain for land or property used as a cemetery, burying-ground or place of public worship.
- Page 293 New Section 1502.1. **Declaration of Intention.** Relocated language from section 2503 requires a borough to enact an ordinance to declare its intention to acquire private property or land by eminent domain.
- Pages 293-294 Existing Section 1503. Application of [the Act of June 22, 1964 (P.L. 84)] **Title 26 Pa.C.S.** Updated citation and editorial amendment.
- Page 294 Old Section 1525. [Assessment of Benefits.] This power relates to the viewers assessing benefits to a property owner and has, therefore, been moved to new section 1202(59).
- Page 294 Old Section 1547. [Assessments to Bear Interest.] The Eminent Domain Code only addresses delay damages payable to a condemnee (property owner) by the condemnor (municipality). It does not address interest due on assessments, payable by the property owner to the borough. Therefore, this power should remain, but has been moved to section 2107-A(b) or section 2108-A(a) in the new Article XXI-A (relating to assessments and charges for public improvements).
- Page 294 Existing Section 1561. Right to Damage Given in Certain Cases. The Eminent Domain Code does not specifically address damages for vacation of bridges and piers, abutments and approaches; it only addresses damages for streets and the vacating of streets. Therefore, this section remains here to address what the Eminent Domain Code does not address.
- Pages 294-295 Old Section 1562. [Juries of View to Assess Damages and Benefits.] Damages are addressed in the Eminent Domain Code and assessments for benefits are

- addressed in section 1202(59) (relating to assessment of benefits) and Article XXI-A (relating to assessments and charges for public improvements).
- Page 295 Old Section 1563. [Appeals from Viewers' Reports.] Addressed by the Eminent Domain Code.
- Page 295 Old Section 1565. [Damages for Vacations.] Addressed by the Eminent Domain Code.
- Pages 295-324 Revised Article XVII. Streets. The redraft of this article attempts to harmonize the procedures and timing for the opening, laying out and vacating of streets. In 1968 when the Municipalities Planning Code (MPC) was enacted, language in the Borough Code governing the laying out of streets was repealed assuming that municipalities would adopt official maps and plans that would incorporate procedures for the laying out of streets. However, many municipalities, including boroughs, have not adopted such maps, and so there exists a gap in the law governing the laying out of streets. There is also a need for a procedure for recording and notification of property owners that applies to these boroughs and is consistent with the MPC. The new language in this article would provide for a uniform process for advertising, holding hearings and enacting an ordinance for the laying out, opening, and vacating of streets. Incorporating a procedure back in to the Borough Code would provide for those boroughs which do not have such procedures. Procedures relating to streets have been attempted to coordinate with the provisions of the MPC.
- Pages 295-297 Existing Section 1701. Definitions. Deletes the cross-reference to section 111 defining "street," and instead, although the definition of "street" remains in section 111, incorporates that definition here in this section as well. The definitions of "unopened streets" and "laying out" have been modified to reflect proposed changes in the article and the existence of alternative procedures in the Municipalities Planning Code. Editorial amendments.
- Pages 297-298 Old Section 1702. [Right of Borough to Take Over Streets.] Relocated to new 1721.1(b).
- Page 298 Old Section 1703. [Dedication of Streets Privately Constructed]. Relocated to new 1734(b).
- Page 298 Existing Section 1704. Streets Connecting With Street of Other Municipality [or Township]. Editorial amendments.
- Pages 298-299 Existing Section 1705. Entry on Land to Maintain Marks and Monuments. Editorial amendment.
- Page 299 New Section 1707. **Failure of Council to Hold Hearing.** This new proposed section would permit interested parties to seek a court to compel a borough to conduct any hearing required by the article.
- Page 299 New Section 1708. **Street Lighting, Ornamental Lighting and Traffic Control Signals and Devices.** This new section contains the substance of former 1202(50) (street lighting) and also contains language borrowed from

section 2327 (relating to traffic lights and signals) of the Second Class Township Code.

Pages 299-300 New Section 1712. **Borough Street Plan.** Subsection (a). Now provides that a borough may only adopt a plan of streets pursuant to the Municipalities Planning Code (Act 247 of 1968) if it has not maintained an accurate plan of streets adopted in accordance with this act prior to the effective date of this new section.

Subsection (b). Provides for the deemed amendment of an already existing plan of streets or an official map when any street is laid out in accordance with this act by ordinance or by final approval of a subdivision or land development plan. This language is very similar to that found within section 403 of the MPC involving deemed amendments to official maps by virtue of approved land development plans.

Subsection (c). Provides that maintenance of a plan of streets or an official map is not required for a borough to lay out or open streets in accordance with this article. This is intended to reconcile the original intent of Article IV of the MPC with those boroughs which may still have street plans enacted outside of the MPC, or those desiring to enact new street plans.

Pages 300-301 New Section 1721.1. **Power to Lay Out, Open, Etc.** Subsection (a). This general power language has been taken from section 2915 of the Third Class City Code.

Subsection (b). This subsection is from old section 1702 and enumerates the ways in which a borough may lay out and/or open streets.

Pages 301-303 New Section 1721.2. **Laying Out Streets; Procedure.** Subsection (a). This subsection is intended to acknowledge that streets described on official maps, existing street plans, and approved subdivision plans shall be deemed to be laid out for purposes of the Borough Code.

Subsection (b). Provides that the laying out of any area for future opening as a public street shall be by ordinance, and provides for newspaper advertisement and personal notice.

Subsection (c). Provides for the following: the right of any interested party to petition council for a hearing; notice of the hearing; enactment dates and effect; and rights of appeal to the court of common pleas. The intent of this amendment is to harmonize the notice and enactment requirements of the revived laying out procedure with the amendment provisions for opening or vacation of streets.

Subsection (d). This subsection has been added to require the recording of the laid out street.

Subsection (e). Provides that an owner has no right to damages for placing buildings or improvements on a laid out street, if laid out by ordinance, and that such buildings or improvements must be removed at the owner's expense if the street is opened.

- Subsection (f). Portions of this subsection are from old section 1723. Provides for streets that are laid out, but not opened.
- Subsection (g). Continuation language regarding the validity or legal effect of streets laid out in accordance with prior law.
- Page 303 Old Section 1723. [Effect of Laying Out Street Without Opening Thereof.] Relocated to section 1721.2(f).
- Pages 303-304 Existing Section 1724. Effect of [Failure to Open Street After its] Laying Out **Street**. Now provides that the ordinance canceling the laying out of a street shall be filed with the recorder of deeds. Subdivided for clarity. Editorial amendments.
- Pages 304-306 Existing Section 1731. Authority to Open **and Vacate** Streets; Procedure. Now the procedures for the opening and vacation of a public street without petition are consolidated into a single section and made consistent.
- Pages 306-307 Existing Section 1732. Petition for Opening **or Vacating** Street; Action Thereon. The procedures for the opening and vacation of a public street by petition are consolidated into a single section and made consistent.
- Pages 307-308 Existing Section 1733. [Procedure for Opening Street;] Action for Damages and Benefits; Award Thereof. New subsection (c) is a consolidation of language from elsewhere in this section and from old section 1743. Subdivided for clarity. Editorial amendments.
- Pages 308-309 Existing Section 1734. Acceptance **and Dedication** of Streets. New subsection (b) relating to dedication of streets is from old section 1703. Subdivided for clarity; editorial amendments.
- Pages 309-313 Existing Section 1735. Streets Not to Be Constructed, or Dedicated or Opened to Travel Without the Approval of Council. New subsection (b) provides that the construction and dedication of streets that are part of a subdivision should be accomplished pursuant to the Municipalities Planning Code (MPC). Revised subsection (c) is restricted to review, modification and approval of street plans in those situations where the MPC does not apply. The last portion of this section, which only dealt with approval of street plans in accordance with a subdivision, is now part of the MPC and is no longer necessary here. It had been added here in 1951 by an act that also gave boroughs the power of subdivision. New subdivision (d) is added from old section 1736; new subdivisions (e) and (f) are added from old section 1737. Language borrowed from the Second Class Township Code is incorporated into subsection (f) that would open up violators to civil actions for the costs associated with bringing a street “up to code” when it has been unlawfully opened. Subdivided for clarity. Editorial amendments.
- Page 313 Old Section 1736. [Appeal From Refusal of Council.] Now comprises subsection (d) of section 1735.
- Pages 313-314 Old Section 1737. [Streets Opened Without Approval; Penalty.] Now comprises subsections (e) and (f) of section 1735.

- Pages 314-317 Old Subdivision (e) (relating to vacating streets), sections 1741 through 1744, has been incorporated into earlier sections 1731 through 1733.
- Page 317 Existing Section 1751. Authority to Straighten and Relocate Streets; Procedure. Editorial amendments.
- Pages 317-319 Existing Section 1761. Proceedings With or Without Petition. Much of this section has been deleted and now, instead, cross-references new Article XXI-A (relating to assessments and charges for public improvements).
- Page 319 Old Section 1762. [Notice of Assessments.] Deleted. Relocated to new Article XXI-A.
- Page 319 Old Section 1763. [Collection of Assessments.] Deleted. Relocated to new Article XXI-A.
- Pages 319-321 Existing Section 1771. **Improvement of Streets Outside or Partly Outside Borough Limits** [Agreements to Improve Boundary Streets]. Old sections 1772 through 1775 have been incorporated into this section as subsections. New subsection (a) is comprised of the language from section 1771. Now cross-references new Article XXI-A rather than old sections 1761 through 1763.
- Subsection (b). Comprised of old section 1772. Like subsection (a), now cross-references new Article XXI-A rather than old sections 1761 through 1763.
- Subsection (c). Comprised of old sections 1773 and 1774. Now provides that property abutting on the side of a street located outside the limits of the borough making improvements may (previously shall) be assessed for improvements for a depth of one hundred and fifty feet plus one-half the width of the street from its center line. Cross-references new Article XXI-A.
- Subsection (d). Comprised of old section 1775. Previously, a borough could appropriate and expend money for improvements of streets outside the limits of the borough for the purpose of connecting with state highways. Now, not only may the street connect with a state highway, but also an interstate highway or county road.
- Page 323 Old Section 1781. [Use of Abutting Lands for Embankments, Slopes, Fills, and Culverts.] A comparable section from the Second Class Township Code was also repealed. This section had authorized a borough to use as much abutting land along a street to be improved as necessary for the construction of embankments and so forth.
- Pages 323-324 Existing Section 1782. Acquisition of Property for Unobstructed View. Editorial amendments. Subdivided for clarity.
- Page 325 Existing Section 1801. Power to Lay Out[, Ordain] and Establish Sidewalks and to Compel the Construction Thereof. Now, removes the term “ordain” and clarifies that council may, by ordinance, lay out sidewalks. Editorial amendments.
- Page 325 Existing Section 1802. Sidewalks on Land Abutting State Highways and Along Roads Outside Borough. Similar to section 1801, removes the term “ordain” and

- clarifies that these sidewalks may be laid out by ordinance. Editorial amendment.
- Page 326 Existing Section 1805. Borough May Do Work; Collection of Cost. Now provides that the notice given to a property owner to comply with the required work must specify a period of not less than thirty days for the owner to complete the work. If the work is not done within the specified time, the owner is deemed to have failed to comply.
- Pages 327-328 Existing Section 1806. Emergency Repairs to Sidewalks. Clarifies that emergency repairs made to sidewalks must be those sidewalks located within the borough. Increases the threshold from \$500 to \$1,000 for when a borough is authorized to make emergency repairs if the dangerous condition can be repaired for not more than the threshold amount. The \$500 threshold was increased from \$100 by Act 171 of 1988. The inflation calculator on the U.S. Department of Labor’s (Bureau of Labor Statistics) website shows that goods and services that cost \$500 in 1988 would cost just over \$922 in 2010. Editorial amendments.
- Page 328 Existing Section 1901. Construction or Acquisition and Maintenance of Bridges and Viaducts. Editorial amendments.
- Pages 328-329 Existing Section 1902. Right to Appropriate Property; Assessment of Damages. Editorial amendments.
- Page 329 Existing Section 1903. Boundary Bridges. Cross-references 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).
- Pages 329-330 Existing Section 1904. Contracts With Railroads and Other Companies and With Counties. Now clarifies that the powers or duties of the Public Utility Commission shall not be affected. 66 Pa.C.S. Ch. 27 provides that the PUC has primary jurisdiction over the construction of railroad highway crossings subject to any agreements made and paid by the parties involved. Given that this recodification would be a later enactment, this language is added to preserve the PUC’s primacy on this issue.
- Page 330 Existing Section 1905. Overhead and Underground Passageways. Editorial amendments.
- Pages 330-353 Existing Article XX – Sanitary Sewers. The Department of Environmental Protection, Facilities Permits Section, has provided comments to this article.
- Pages 331-333 Existing Section 2001. Power to Lay Out [, Ordain] and Construct. Subsection (a), comprised of both current and new language, now deletes reference to “ordain” and instead, expressly states that upon the enactment of an ordinance, boroughs have the authority to lay out and construct sanitary sewers. Included in this revised section is a reference to a borough’s authority to determine the location and manner of constructing sanitary sewer systems as well as a reference to branches of sewers (all from old section 2004). Language relating to the assessment of sanitary sewers has been moved to the new Article XXI-A. Language from old section 2071 moved to this section clarifies that a borough’s

authority to lay and construct sanitary sewers includes any boundary street. Moves language from old section 2031 to this section on providing sewerage service outside the borough limits.

- Page 332 New Subsection (b). Provides that a borough shall, if required by other law, obtain the consent and permit of the listed entities, for the laying out and construction of a sanitary sewer and treatment works. Relocated language from old section 2010 provides for notice to various entities if the construction is beyond the borough limits and is entirely within the limits of a state or county highway or the turnpike.
- Pages 332-333 New Subsection (c). Relocated language from old sections 2008 and 2054 authorizes council to make regulations by ordinance for the use and maintenance of the sanitary sewer system and treatment works.
- Page 333 Subsection (d). The language in this subsection is largely revised existing language although the section is now subdivided. Clarifies that storm water shall not be permitted to enter into a sanitary sewer, and that a sanitary sewer or sanitary sewer systems does not include a combined sewer. The definition of “combined sewer” now includes the receiving and collecting of sump pump discharge and draining from foundation drains. A new definition of “sewer system” as opposed to “sanitary sewer system” is added.
- Pages 333-334 Existing Section 2002. [Assessment According to Benefits.] **Assessments.** Now cross-references new Article XXI-A in regards to assessments when such assessments are based according to benefits conferred or by the front foot basis. The former contents of this section are now integrated into sections 2104-A (relating to assessment of benefits conferred) and 2105-A (relating to assessment awards).
- Page 334 Old Section 2003. [Assessment by Foot-front Rule.] This section was integrated into section 2103-A (relating to assessment based on front foot basis).
- Page 334 Old Section 2004. [Places and Manner of Construction.] This section was incorporated into section 2001.
- Pages 334-335 Old Section 2005. [Permit from Sanitary Water Board.] To the extent that a permit is required, the power of the Department of Environmental Protection to require the same is referred to in section 2001.
- Page 335 Old Section 2006. [Assessments of Cost.] This section was integrated into section 2105-A (relating to assessment awards).
- Page 335 Old Section 2007. [Collections of Assessments.] This section was integrated into section 2107-A (relating to payment of assessments in installments).
- Pages 335-336 Old Section 2008. [Regulations of Borough.] This section was integrated into section 2001(c).
- Page 336 Existing Section 2009. Extensions Beyond Borough Limits; Eminent Domain. Old Section 2032 has been incorporated into this section since both 2032 and 2009 relate to either service or disposal outside the limits of the borough. Cross-

references the Eminent Domain Code in 26 Pa.C.S. Changes reference from “lands, property and materials” to “land.”

- Pages 336-337 Existing Section 2010. Notice of Certain Ordinances. The latter portion of this section is now in section 2001(b)(ii) regarding notice to the Pennsylvania Department of Transportation (PennDOT), and now also to county commissioners or the Pennsylvania Turnpike Commission, respectively, for the construction of a sanitary sewer in or under the state or county highway or turnpike when the construction is beyond the limits of the borough but entirely within the limits of a state or county highway, or the turnpike. PennDOT had recommended that the notice requirement as it pertains to PennDOT remain intact so that it has knowledge of the ordinance.
- Page 337 Old Section 2011. [Security for Damages; Assessments.] These procedural safeguards are provided in the Eminent Domain Code (26 Pa.C.S.) § 303 (relating to security required); § 307 (relating to possession, right of entry and payment of compensation); Ch. 5 (relating to procedure for determining damages); and Ch. 7 (relating to just compensation and measure of damages), and are, therefore, not needed here.
- Page 337 Existing Section 2012. Unlawful to Build Within Right-of-Way of **Sanitary** Sewers. Clarifies that “sewers” are “sanitary” sewers. Deletes reference to it being unlawful to build or make improvements within the right-of-way of sanitary sewers “ordained to be laid out” leaving those sanitary sewers that are “laid out.” Editorial amendments.
- Pages 337-338 Existing Section 2013. Opening **Sanitary** Sewers. The existing language of this section now comprises new subsection (a). New subsection (b) references those situations where a borough has laid out a sanitary sewer without the enactment of an ordinance prior to the effective date of this new subsection without opening the same.
- Pages 338-342 Existing Section 2021. [Building Joint Sewers] **Joint Sanitary Sewer Systems**. Cross-references 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation). Subsection (a) is rephrased for clarity. Editorial amendments.
- Page 342 Old Section 2022. [Approval of Sanitary Water Board.] The Department of Environmental Protection did not comment on the deletion of this section. Section 2001(b) does require, however, that if required by other law, a borough needs to obtain the consent and permit of DEP for the laying out and construction of a sanitary sewer and treatment works.
- Page 342 Existing Section 2023. Connections with **Sanitary** Sewers of Adjacent Municipalities. Editorial amendments.
- Page 342 Existing Section 2024. Applications to Court. Editorial amendments.
- Pages 342-343 Existing Section 2025. Appointment of Viewers. The appointment of viewers in this instance is different from viewers being appointed in an eminent domain case since here a borough would simply connect to another sewer system. Editorial amendments.

- Page 343 Existing Section 2026. Report of Viewers; Appeals to Court. Editorial amendments.
- Pages 343-344 Old Section 2031. [Power to Supply Service.] This section has been incorporated into section 2001(a)(iii).
- Page 344 Old Section 2032. [Power to Extend Lines and Condemn Property.] This section has been incorporated into section 2009.
- Page 344 Old Section 2041. [Power to Acquire Sewer Systems.] This section has been incorporated into section 2041.1(a).
- Pages 344-345 New Section 2041.1. **Power to Acquire Community Collection or Disposal Systems.** This section is a composite of old sections 2041 and 2042.
- Pages 345-348 Existing Section 2043. Community Sewage Collection or Disposal Systems. New subsection (d) now references the Pennsylvania Sewage Facilities Act (Act 537). Editorial amendments.
- Page 348 Existing Section 2051. Ordinances to Require **Sanitary** Sewer Connections. Now incorporates provisions from old section 2052 on the uniformity requirement of sewer connections and notice requirements.
- Page 348 Old Section 2052. [Notice of Ordinances; Failure to Comply With Ordinance.] This section was incorporated into section 2051.
- Pages 349-350 Existing Section 2053. Tapping Fees. Cross-references 53 Pa.C.S. § 5607 (relating to purposes and powers) in the Municipality Authorities Act in regards to the calculation of tapping fees and the refunding of such fees. Section 5607(a)(24)(C)(IV) relates to the reimbursement part of a tapping fee.
- Page 350 Old Section 2054. [Regulations and Restrictions in use of Sanitary Sewers.] This section has been incorporated into section 2001(c).
- Pages 350-351 Existing Section 2061. Ordinance for Monthly, Quarterly or Annual Rental. Editorial amendments.
- Page 351 Existing Section 2062. How Rental Fixed. Editorial amendments.
- Pages 351-352 Existing Section 2063. Collection of Rental. Now provides that if the sewer rental, charge or fixed sum is not paid after thirty days' notice, it may be collected by an action of assumpsit or by a lien filed in the nature of a municipal lien.
- Page 352 Old Section 2064. Lien. Liens for unpaid sewer rentals, charges or fixed sums are now addressed in section 2063.
- Page 352 Old Section 2071. [Power to Lay and Construct.] This section was incorporated into section 2001(a).
- Page 353 Old Section 2072. [Assessment of Benefits.] The assessment of benefits for properties located outside the borough limits is provided for in section 2101-A(c) of Article XXI-A.

- Pages 353-355 Old Article XXI (relating to Collection by Instalment of Street and Sewer Assessments). The contents of this article (old sections 2101 through 2105) are now found in new Article XXI-A (relating to Assessments and Charges for Public Improvements).
- Pages 355-361 New Article XXI-A (sections 2101-A through 2108-A) was patterned after a new article drafted for the Third Class City Code and modified for applicability to boroughs.
- Pages 355-357 New Section 2101-A. **Authority to Assess.** New subsection (a) authorizes boroughs to pay the costs, in whole or in part, of public improvements by any of these methods: from general borough funds, from a special borough fund created for that purpose, or by assessment of costs against the benefited properties either on the front foot or benefit conferred method of assessment. Incorporates a provision from section 2001 regarding the assessment of the costs and expenses of sanitary sewers regardless of the property line location or regardless of whether the property physically improved abuts on the sanitary sewer.
- Page 356 New subsection (b). Paragraph (1) provides that payments made on an assessment for a public improvement funded by authorized indebtedness pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) must be applied to pay the debt service. Paragraph (2) is derived from old section 2101 (which was applicable to streets) and provides for assessments that are to be paid in installments when a bond is issued for funding the improvements.
- Pages 356-357 New subsection (c). Derived from old section 2072, relating to assessment of benefits for sanitary sewers, although now property benefited, improved or accommodated and located outside the limits of the borough and no more than 150 feet from the sewer main “may” (previously “shall”) be assessed under certain conditions. The Public Utility Code does not discuss PUC control of assessments beyond a municipal corporation’s boundaries. 66 Pa.C.S. § 1301 (relating to rates to be just and reasonable) states, among other things, that the PUC shall regulate and control the rates that a municipal corporation may charge for providing public utility service beyond its corporate limits.
- Page 357 New subsection (d). Derived from section 2408 (relating to assessment for water mains). This subsection authorizes the assessment of the cost, in whole or in part, of water mains located outside the limits of the borough against properties abutting the boundary line. Provides for rebates or negotiable credit memorandums of assessments. See the comment in subsection (c) of this section regarding the power of the PUC to regulate and control rates for public utility service beyond the municipal corporation’s limits.
- Page 357 New Section 2102-A. **Notice of Assessments.** Provides for personal notice of assessments to property owners. The thirty day notice period is derived from old section 1762 (notice of assessments for improvement of borough streets). The definition of “personal notice” was derived from section 1701 (relating to

definitions in the article on streets). The definition here has been modified to include “after a reasonable attempt.” Reference to a certificate being filed with council is derived from old section 2728.

- Pages 357-358 New Section 2103-A. **Assessment Based on Front Foot Basis.** Consolidates references to assessment on the front foot basis from throughout the code to this section. Subsection (b) regards the issuance of a certificate of assessment which is from section 2006 (relating to assessments of cost for sanitary sewers), although now the certificate would apply to any assessment on the front foot basis. A certificate of assessment is prima facie evidence of the correctness and validity of the assessment. Subsection (c) is derived from section 2003 and old section 1761.
- Pages 358-359 New Section 2104-A. **Assessment of Benefits Conferred.** Consolidates references to assessment by the benefits conferred method to this section. Phrasing is borrowed from sections 2508(2) and 2612(2) from the Second Class Township Code. Subsection (b) relates to certificates of assessment, which like certificates of assessment for assessments based on the front foot basis, is prima facie evidence of the correctness and validity of the assessment.
- Page 359 New Section 2105-A. **Assessment Awards.** Provides for the situation where property is both benefited and damaged by public improvements. This section, although new, is loosely based on former sections 1761 and 2002.
- Pages 359-360 New Section 2106-A. **Petition For Viewers.** The language in this section is adapted from the Second Class Township Code, sections 2509 and 2613, relating to procedure for assessment for sanitary sewers and water supply, respectively. The petition for viewers here in this section is by taxpayers of the borough whose property is being assessed for benefits for a public improvement, in contrast with the power of council to petition for viewers pursuant to section 1202(59).
- Pages 360-361 New Section 2107-A. **Payment of Assessments in Installments.** Based on old section 2101, although that section applied to sanitary sewers or street improvements only. Now, installment payments are applicable to the assessment for any public improvement. Subsections (a) and (b) are derived from old section 2101. Subsection (c), relating to written installment agreements with property owners, is new. Previously, no provision for individual written installment agreements was provided for, although old section 2101 required the enactment of an ordinance to authorize installment payments. Subsection (d), relating to unpaid installments and liens, is derived from old section 2104. Subsection (e), relating to payments in full, is derived from old section 2105.
- Page 361 New Section 2108-A. **Collection of Assessments.** Consolidates old sections 1763 and 2007, relating to collection of assessments, into this section. Subsection (b) is partially based on old section 2103.
- Pages 361-362 Existing Section 2201. Authority of Boroughs. The House Local Government Committee added a new paragraph (5) that authorizes a borough, after obtaining any required permit, to “acquire, operate and maintain areas for the infiltration,

- detention or retention of storm water and for other methods of storm water management.” Editorial amendments.
- Pages 362-363 Existing Section 2202. Right of Entry Upon Lands. Now, clarifies that not only must fences be repaired, but also structures or damage to land, and clarifies that compensation shall be given the owner for any materials obtained.
- Page 363 Existing Section 2203. Manner of Financing Work. Editorial amendments.
- Pages 363-364 Existing Section 2204. Proceedings to Assess Damages. Now, persons aggrieved by not only enacted ordinances, but also actions taken, pursuant to the preceding sections in this article, may file a complaint with the court of common pleas to determine damages. Editorial amendments.
- Page 364 New Section 2205. **Unlawful to Build Within Right-of-Way of Storm Sewers.** A similar section is found in the article on Sanitary Sewers (section 2012).
- Page 364 New Section 2206. **Power to Acquire Storm Sewer Systems.** This section is modified from old sections 2041 and 2042 in the article on sanitary sewers.
- Pages 364-365 Old Article XXIII – Underground Conduits. This power (old sections 2301 through 2304) is relocated to section 1202(64).
- Pages 365-422 Existing Article XXIV – [Public Service] **Water System.** This article now only includes subdivision (a) and its former sub-subdivisions (1) – (8) that are renumbered as subdivisions (a) and (a.1) – (a.7). This article no longer includes subdivisions (b) – (d). The Department of Environmental Protection suggested eliminating the term “waterworks” as it is an old term. We have, therefore, substituted “water system” in place of waterworks throughout this article.
- Pages 365-366 Existing Section 2401. Power to Supply Water **and Make Regulations.**
- Page 365 Existing subsection (a). Current language is now designated as subsection (a). Editorial amendments.
- Page 366 New subsection (b). From section 1202(39).
- Page 366 New subsection (c). From section 2434, relating to rates, and now cross-references the Public Utility Code, and is expanded to include rates within the borough limits. The language regarding the collection of water rents is from section 2604 of the Second Class Township Code.
- Page 366 Existing Section 2402. Contracts Not to Abridge Powers. Rephrased for clarity.
- Pages 366-367 Existing Section 2403. Issue of Bonds Where [Waterworks] **Water System** Acquired. Updated citation and editorial amendments.
- Pages 367-368 Existing Section 2404. Refunding Bonds. The term “utility bonds” is not used in the Local Government Unit Debt Act, which is cross-referenced in this section. Rephrased and subdivided for clarity; editorial amendments.
- Page 368 Old Section 2405. [Rates in Particular Boroughs.] This section, which had been added in 1947, is deleted because it is too vague.

- Page 368 Existing Section 2406. Contracts to Supply Water for Municipal Purposes. Editorial amendments.
- Pages 368-369 Existing Section 2407. Power to Supply Water Beyond Limits of Borough. Cross-references the Public Utility Code. Editorial amendments.
- Page 369 Existing Section 2408. Assessment for Water Mains. Deletes the specific language relating to assessments, and instead, cross-references new Article XXI-A. Editorial amendment.
- Pages 369-370 Existing Section 2409. Sale of [Waterworks] **Water System**. Subdivided for clarity. Editorial amendments.
- Pages 370-371 Existing Section 2411. Appropriation of Lands and Waters. Now states that the powers exercised in this section are subject to any required approvals or permits from the Department of Environmental Protection or other state or federal entity. Cross-references 26 Pa.C.S. § 206 (relating to extraterritorial takings).
- Page 371 Existing Section 2412. Agreements as to Damages; Bonds. The latter portion of this section and old section 2413 are deleted since these procedures are addressed by the Eminent Domain Code. Editorial amendments.
- Pages 371-372 Old Section 2413. [Appointment of Viewers; Proceedings.] Deleted, see comment to section 2412.
- Page 372 Existing Section 2421. Petition to Court Expressing Desire to Acquire [Waterworks] **a Water System**. Editorial amendments.
- Page 372 Existing Section 2422. Appointment of Engineers as Appraisers to Make Valuation. Editorial amendments.
- Pages 372-373 Existing Section 2423. Powers of Appraisers. Editorial amendment.
- Page 373 Existing Section 2424. Appeal from Appraisal. Editorial amendments.
- Pages 373-374 Existing Section 2425. Effect of Failure of Owner of Works to Accept Price Fixed. Editorial amendments.
- Page 374 Existing Section 2426. [Issue of Bonds] **Bond Issue and Limitations**. Updated citation. The contents of old section 2427 are added onto the end of section 2426. Editorial amendments.
- Page 374 Old Section 2427. [Limit of Bond Issue.] The contents of this section are added onto the end of section 2426.
- Page 374 Existing Section 2431. Lease of [Waterworks] **a Water System**. Editorial amendments.
- Pages 374-375 Existing Section 2432. Term of lease; Rental. Editorial amendments.
- Page 375 Existing Section 2433. Operation of Property. Rephrased for clarity.
- Page 375 Old Section 2434. [Rates.] The contents of this deleted section are now in section 2401(c).

- Page 375 Existing Section 2436. Joint Acquisitions and Constructions. Editorial amendments.
- Pages 375-376 Existing Section 2437. Permit of [Sanitary Water Board] **the Department of Environmental Protection**. Deletes reference to plans needing to be filed with the Department of Health; expands those with which plans must be filed to include other state or federal entity. Editorial amendments.
- Pages 376-377 Existing Section 2438. Joint Commission of [Waterworks] **a Water System**. The different municipal codes have varying requirements for a joint commission of waterworks, *e.g.*, section 2608 of the Second Class Township Code and sections 2710-2712 of the First Class Township Code. The \$500 figure in section 2438 in regards to the budget item for providing compensation to the members for attending meetings was added in 1966. The Borough Code Revision Committee decided to leave this dollar amount unchanged, although the Second Class Township Code in section 2608 (relating to joint water board) has \$250 for compensation for board members attending meetings. Editorial amendments.
- Pages 377-378 Existing Section 2441. [Overflowing Roads] **Prevention of Contamination of Water Supply**; Acquisition of Lands to Reconstruct Roads. Cross-references section 206 (relating to extraterritorial takings) of the Eminent Domain Code. Subdivided for clarity. New subsection (b) is derived from old section 2443. Editorial amendments.
- Page 378 Existing Section 2442. Filing Maps and Plans. Editorial amendments.
- Page 378 Old Section 2443. [Condemnation of lands to Prevent Contamination.] The contents of this section have been moved to section 2441(b).
- Page 378 Old Section 2444. [Condemnation Proceedings.] This section has been deleted because damages from condemnation proceedings are provided for in the Eminent Domain Code.
- Page 379 Existing Section 2451. Commission May Be Established. Editorial amendments.
- Pages 379-380 Existing Section 2452. Terms of Commissioners; Compensation. The dollar figures in subsection (b) were added by Act 97 of 1996. Editorial amendments.
- Pages 380-381 Existing Section 2453. Organization of Commissioners. Editorial amendment.
- Page 381 Existing Section 2454. Powers of Commission. Cross-references the Public Utility Code. Editorial amendments.
- Pages 381-382 Existing Section 2455. Issue of Bonds. Updated citation. Editorial amendments.
- Page 382 Existing Section 2456. Plans and Specifications for the Improvements; Contracts. Clarifies that security shall include payment for all labor and materials, not just for performance of contracts. Also clarifies that bids for constructing or extending a water system shall be advertised as required by law. Editorial amendments.

- Pages 382-383 Existing Section 2457. Reports by Commission. Now states that the monthly and annual reports are deemed to be public records. Editorial amendment.
- Page 383 Existing Section 2458. Care of Funds. Editorial amendments.
- Pages 383-385 Existing Section 2461. Ordinances to Require Water Connections. Borough council may require an owner of property to connect with and use a water system of the borough or municipal authority or a joint water board if the property owner's principal building is located within 150 feet of a water system or any part or extension of the system, or if the principal building has no safe water supply, with exceptions. Previously, in order to require connection to a water supply, the owner's property needed to abut a street with a water main. This portion of the revised section is patterned after section 2603 of the Second Class Township Code (relating to connection to water system). New subsection (c), recommended by the Department of Environmental Protection, states that a borough may require a property owner to install and maintain a backflow prevention device based on the degree of potential hazard of the connected property. The standards for the installation and maintenance for the backflow prevention device shall be in accordance with the Pennsylvania Construction Code Act (Act 45 of 1999) and its regulations (UCC). The language in regards to standards was recommended by the Department of Labor and Industry. Subsection (d) clarifies that penalties relate to not only violations pertaining to water connections but also backflow prevention devices. Subdivided for clarity. Editorial amendments.
- Page 385 Existing Section 2462. Notice of Ordinance; Failure to Comply With Ordinance. Editorial amendments.
- Pages 385-386 Existing Section 2463. Water Main Tapping Fees. Cross-references the Municipality Authorities Act, 53 Pa.C.S. § 5607 (relating to purposes and powers) in regards to calculating a tapping fee. Editorial amendments.
- Pages 386-404 Old Subdivision (b) (relating to manufacture and supply of electricity), which included Sections 2471 through 2479, is now deleted. This power and authorization is now provided for in new Article XXIV-A (relating to manufacture and supply of electricity).
- Page 404 Old Subdivision (c) (relating to operation of gas wells; gas works), Section 2481 is deleted. This is now found in section 1202(60).
- Pages 404-405 Old Subdivision (d) (relating to airports), Sections 2491 through 2493, is now deleted. This is now provided for in new Article XXV-A (relating to airports).
- Pages 405-425 New Article XXIV-A – **Manufacture and Supply of Electricity**. This new article is from old subdivision (b) (relating to manufacture and supply of electricity) of Article XXIV.
- Page 406 New Section 2401-A. **Definitions**. The definitions in this section were previously found in old sections 2471.1 and 2471.2.
- Pages 406-408 New Section 2402-A. **General Powers**. From old sections 2471 and 2471.1. Since section 2803 of 66 Pa.C.S. provides that restructuring of electrical rates

only applies to municipal corporations supplying electricity outside of their territorial limits, new subsection (e) provides that nothing in this article shall conflict with the corporate rights of any corporation supplying electricity in an adjacent territory to the borough, or with the rights of other municipalities.

- Pages 408-410 New Section 2403-A. **Specific Powers.** From old sections 2471.1 and 2472 – 2474.
- Pages 410-418 New Section 2404-A. **Municipal Power Agencies.** From old section 2471.2, but now specifies that municipal power agencies shall be formed pursuant to ordinance rather than by resolution. Specifies that regular and special meetings shall be subject to the law relating to open meetings. Conforming amendments.
- Pages 418-422 New Section 2405-A. **Additional Contracting Authority for Electric Power and Energy.** This section is from old section 2471.3 (from SB 168, Act 87 of 2010). Cross-references are updated since the old subdivision (b) of Article XXIV has been moved to this new Article XXIV-A. Reference to the effective date of the section has been changed to the actual effective date of Act 87 of 2010.
- Page 423 Old Sections 2501 through 2505 (subdivision (a) relating to eminent domain; general provisions) have been relocated to Article XV (relating to eminent domain).
- Pages 423-425 Old Sections 2511 through 2514 (subdivision (b) relating to refuse disposal facilities). The general substance of these sections has been relocated to section 1202(8).
- Page 425 New Section 2501-A. **Authority to Secure Lands for Airports.** From section 2491.
- Pages 425-426 New Section 2502-A. **Authority to Establish Airports and Lease the Same.** From section 2492.
- Page 426 New Section 2503-A. **Joint Airports.** From section 2493.
- Pages 426-427 Existing Section 2601. Power With Regard to Wharves and Docks. Now incorporates the substance of old section 2602 into this section. Subdivided for clarity.
- Page 427 Old Section 2602. [Purchase and Condemnation of Real Estate.] Now incorporated into section 2601.
- Pages 427-428 Existing Section 2604. How Damages Assessed. Editorial amendments.
- Page 428 Existing Section 2605. Leases. Editorial amendment.
- Page 428 Existing Section 2606. Market-Houses and Terminal Sheds. Editorial amendments.
- Page 428 Existing Section 2608. Saving Clause. Editorial amendments.

- Page 429 Existing Section 2701. Power to Maintain, **Improve and Acquire** [and Improve]. The previous contents of this section now comprise subsection (a). Old section 2702 now comprises subsection (b). New subsection (c) is derived from sections 2711 and portions of 2701 and 2702. In new subsection (d), the governing body of a neighboring municipal corporation need only pass a resolution, rather than enact an ordinance, in order to consent to private property within its borders to be taken by eminent domain. In the Eminent Domain Code, specifically 26 Pa.C.S. § 206, extraterritorial takings require approval by resolution, not ordinance. Thus, this reference works a substantive change in the law. New subsection (e) is derived from section 2712, with conforming and editorial modifications.
- Pages 430-431 Existing Section 2703. Appropriations for Public Purposes. Now references the law governing eminent domain as regards private property taken for recreation places and public use. This addition is from old section 2704.
- Page 431 Old Section 2704. [Proceedings.] The contents of this section have been relocated to section 2703.
- Page 431 Old Section 2705. [Validation of Prior Acquisitions.] This section has been deleted as no longer necessary since it validated acquisitions prior to June 1, 1911.
- Pages 431-432 Existing Section 2708. Creation of Recreation Board. New subsection (b) provides that council may not delegate the power to maintain accounts or expend funds from the borough treasury to any existing or newly created body or board. This would prevent too much autonomy in the recreation board's ability to control and expend funds. The existing language in what is now subsection (a) authorizes council to vest the authority to supervise and maintain recreation places in any existing body or board, including a recreation board. New subsection (c) authorizes the creation and joining of a joint recreation board.
- Pages 432-433 Existing Section 2709. Composition of Board. Now clarifies that if council creates a recreation board, it shall be by ordinance, and that the delegation of powers and duties to the board shall also be by ordinance. Now deletes council's power to appoint persons to serve as members of a school district recreation board established by the school district in the borough.
- Page 433 Existing Section 2710. Organization of Board; Employees. Now provides that the recreation board's ability to create employment positions and hire employees to fill the positions is subject to council's approval. This change ties into the restrictions on expenditures in section 2708.
- Page 433 Old Section 2711. [Joint Ownership and Maintenance.] Relocated to section 2701(c).
- Pages 433-434 Old Section 2712. [Maintenance and Tax Levy.] Relocated to section 2701(e).
- Page 434 Existing Section 2713. Lease for School Athletics. Editorial amendments.

- Pages 434-443 Existing Subdivision (b) – Shade Trees. The general power as to shade trees, including powers vested in a shade tree commission under existing law, is first discussed as explicitly delegated to council. Then the power to establish a shade tree commission and vest it with such power as council deems appropriate is codified.
- Pages 434-435 New Section 2720. **Care, Custody, and Control of Shade Trees.** Subsection (a) language came from section 2724 (powers of commission). These powers are, however, now first given to council who may in turn delegate the powers to the shade tree commission in section 2724.1. Subsection (b) is from old sections 2741 and 2742, but now cross-references new section 2720.2 which establishes Article XXI-A as the vehicle for collection of costs. Subsection (c) is from old section 2743. Similarly, the collection remedy is through assessment.
- Pages 435-436 New Section 2720.1. **Maintenance by Borough; Tax Levy.** This section is derived from old section 2729. A significant change is that the power of the commission to draw upon shade tree revenue is removed. In new section 2724.1, the commission may utilize shade tree revenue to the extent authorized by council.
- Page 436 New Section 2720.2. **Payment by Owners; Assessments.** This section is a consolidation of old sections 2727 and 2728, although the procedures discussed in old section 2728 have been incorporated into Article XXI-A.
- Page 436 New Section 2720.3. **Notice of Work.** This section is derived from old section 2726. Again, this duty is first imposed on council, and then may be subsequently transferred to the commission.
- Pages 436-437 New Section 2720.4. **Penalties.** This section is derived from old section 2730. Again, this power is granted to council and may be delegated to the commission. The power of the commission to unilaterally draw on funds raised by penalties is removed. As discussed, new section 2724.1 provides that the commission may only use funds in a manner approved by council.
- Page 437 Existing Section 2721. Shade Tree Commission. Deletes reference to council exercising the rights and performing the duties and obligations imposed on the shade tree commission if council has not elected by ordinance a shade tree commission since this right of council is provided for in section 2720. Relocates old sections 2723 (with the exception that the commission no longer has the power to employ personnel since council now has this power) and 2724 into section 2721.
- Page 438 Old Section 2723. [Powers May Be Vested in Park Commission.] Relocated to section 2721(b).
- Pages 438-439 Old Section 2724. [Powers of Commission.] Relocated to sections 2720 and 2721.
- Page 439 New Section 2724.1. **Duties of Commission.** From sections 2725, 2726 and portions of 2727 and 2729. Notably, council must now authorize the purpose for which the commission uses its funds.

- Pages 440-443 Old Sections 2725 through 2730 and 2741 through 2743 are relocated to elsewhere in this article.
- Pages 443-445 Existing Subdivision (c) – Forests. The Department of Conservation and Natural Resources (DCNR) was contacted to request a legal review of provisions of this subdivision that required coordination with the Department of Forests and Waters (now DCNR). The Department maintains a position that coordination with the Department is no longer needed; thus, any reference to state agencies in this subdivision has been removed.
- Page 443 Old Section 2752. [Approval of Department of Forests and Waters.] See above explanation under Existing Subdivision (c) – Forests.
- Page 444 Existing Section 2754. Appropriations of Money. Editorial amendment.
- Page 444 Existing Section 2755. Rules and Regulations. Deletes reference to the Department of Forests and Waters which previously needed to be notified upon the acquisition of any municipal forest. See above explanation under Existing Subdivision (c) – Forests. Also, now a borough may (previously “shall”) make rules relating to the acquired forest. The required publication of such rules is deleted. Editorial amendments.
- Page 444 Existing Section 2756. Appropriations and Revenues. Editorial amendments.
- Page 445 Existing Section 2757. Use of Forests. Deletes reference to the Department of Forests and Waters in regards to rules for municipal forests. See above explanation under Existing Subdivision (c) – Forests.
- Page 445 Existing Section 2759. Pruning or Thinning Out; Sale of Products Thereof. Editorial amendments.
- Page 446 New Section 2800. **Appropriations for Burial Ground Maintenance.** From old section 1202(61) although the limitation of \$3,000 in the appropriation is deleted.
- Page 446 New Section 2800.1. **Burial of Deceased Persons.** From old section 1202(7).
- Page 446 Existing Section 2801. Management by Commission[; Transfer from Borough to Company]. A portion of this section relating to council, upon petition, transferring a cemetery and the management of it to an incorporated cemetery company is relocated to section 2802(a). Editorial amendments.
- Pages 446-447 Existing Section 2802. **Transfer from Borough to Company** [Vesting Title]. A portion of section 2801 relating to upon petition, council transferring a cemetery and the management of it to an incorporated cemetery company is relocated to subsection (a). Presumably, council could not, on its own initiative transfer the cemetery to an incorporated cemetery company since the language states that such council may exercise its discretion upon petition. New subsection (b) is from the existing language of this section. New subsection (c) is from old section 2803.
- Page 447 Old Section 2803. [Recording of Ordinance and Acceptance.] This section is relocated to section 2802(c).

- Pages 447-448 Old Section 2804. [Orders of Court as to Neglected Cemeteries.] This section is deleted since new section 2805.1 authorizes borough council to clean up neglected or abandoned cemeteries without relying on a court order.
- Pages 448-449 Existing Section 2805. Transfer from Company to Borough. The existing language of this section now comprises subsection (a) of this section. New language in subsection (a) provides for the filing of a copy of the court order authorizing the transfer to be filed with the recorder of deeds. New subsection (b) is derived from old section 2806, although “beyond” was changed to “adjacent to” in order to be consistent with section 2800 (which was from section 1202(61)). New subsection (c) is derived from old section 2807. Editorial amendments.
- Pages 449-450 New Section 2805.1. **Neglected or Abandoned Cemeteries.** This section replaces old section 2804, relating to orders of court as to neglected cemeteries. Now, borough council may proceed on its own (pursuant to its police powers) in cleaning up cemeteries without relying on a court order. The language is based on section 1536(b) from the Second Class Township Code although that language simply stated that the debris needed to be removed within thirty days. It has been clarified that the thirty days begins with the serving of personal notice. The forms of personal notice set forth in this new section has been used in the proposed rewrite of the Third Class City Code.
- Page 450 Existing Section 2808. Removing Bodes to Alter Plots. Editorial amendment.
- Pages 450-453 Existing Section 2809. Removal of Bodies to Other Cemeteries. This section is reorganized and rephrased for clarity. Substantively, any cemetery affiliated with any religious society or church has been expanded to include “or with any other organization.” Also, “borough owned cemetery” is now included with those cemeteries to which this section applies.
- Page 451 New subsection (a). Clarifies that removal of the remains of the dead is directed by the court upon petition and notice.
- Pages 451-452 New subsection (b). Clarifies who may petition the court. Portions of this section are derived from 2810.
- Page 452 New subsection (c). Clarifies notice provisions by stating that notice is to be given by advertisement once a week for three successive weeks.
- Page 452 New subsection (d). Clarifies removal provisions; from old section 2811.
- Page 453 New subsection (e). From old section 2813.
- Page 453 New subsection (f). From old section 2814.
- Page 453 New subsection (g). From old section 2815.
- Pages 453-454 Old Sections 2810 through 2815. These sections have been relocated to section 2809 as new subsections.
- Page 454 Existing Section 2816. Purchase of Plots for Burial of Deceased Service Persons. Editorial amendments.

- Pages 455-456 Existing Section 2901. Licensing Transient Retail Business. “Supervising” and “investigating” are deleted since supervising seems inappropriate in this context and regulating and inspecting would cover anything being investigated. Subdivided for clarity. Editorial amendments.
- Pages 456-457 Existing Section 2902. Commonwealth Licenses Saved. Reference is now made to “license tax or fee.” Previously it was only “license tax.” Language is added that no Commonwealth license tax or fee shall preempt the registration, license or regulatory powers of a borough unless the preemption is expressly authorized. This additional language was also added to the Third Class City Code rewrite (SB 1266 – 2010) in proposed new section 2654 (former section 2622).
- Page 457 Existing Section 2903. Licensing Parking Lots **and Parking Garages** Operated for Profit. Expands a borough’s power to regulate the business of parking garages for profit. Cross-references 75 Pa.C.S. (Vehicle Code). Now states that this section shall not limit the protections and prohibitions in any law or regulation relating to the rights of the disabled. Similar new language is also added to the Third Class City Code rewrite (SB 1266 – 2010). Editorial amendments.
- Pages 457-458 Existing Section 2904. Persons Taking Orders **by Samples**. Clarifying language is added similar to that in the Third Class City Code rewrite (SB 1266 – 2010), new section 2653 (previous section 2612). Editorial amendment.
- Page 458 Existing Section 2905. Equality of Residents and Non-Residents. Language clarifies that a borough imposes a license fee, not a license tax. Deletes reference to “exact” as fees are imposed.
- Pages 458-461 New Article XXIX-A – Veterans’ Affairs. This new article is divided into two subdivisions. Subdivision (a) relates to the Pennsylvania National Guard, and subdivision (b) relates to support of veterans’ organizations. These sections are relocated from section 1202(53) – (60).
- Pages 458-459 New Section 2901-A. **Eminent Domain for National Guard Purposes.** From old section 1202(53). Editorial amendments.
- Page 459 New Section 2902-A. **Lands for Armory Purposes.** From old section 1202(54). Editorial amendments.
- Page 459 New Section 2903-A. **Appropriation of Money, Et Cetera, to Assist in Erection of Armories.** From old section 1202(55). Editorial amendments.
- Pages 459-460 New Section 2904-A. **Support of Pennsylvania National Guard Units.** From old section 1202(56), but deletes the annual caps of \$750 or \$1500. Editorial amendments.
- Page 460 New Section 2911-A. **Appropriations to Organizations of Veterans and American Gold Star Mothers.** From old section 1202(57), but deletes the annual cap of \$500. Editorial amendments.

- Pages 460-461 New Section 2912-A. **Payment of Rent for Veterans’ Organizations.** From old section 1202(58), but deletes the annual cap of \$500 and also deletes the requirement that this appropriation needs to be by two-thirds vote of council. Now it is by majority vote of council. Editorial amendments.
- Page 461 New Section 2913-A. **Rooms for Veterans’ and Children of Veterans’ Organizations.** From old section 1202(59). Deletes specific reference to the furnishing of service, free of charge, of municipally owned utilities. It is thought that since the room would be in a public building that there would not be a separate charge for utilities. Editorial amendments.
- Page 461 New Section 2914-A. **Care and Erection of Memorials.** From old section 1202(60). Editorial amendments.
- Pages 461-463 Old Article XXX – [Real Estate Registry.] (Old sections 3001 through 3006). The authorization for this general power has been moved to section 1202(61).
- Pages 464-465 Existing Section 3101. Establishment of Board of Health; Health Officers. Now specifies that council appoints a board of health, or a health officer or officers in lieu of a board of health, by ordinance. Now clarifies that an appointed health officer shall either be certified, or within six months of taking the oath of office become certified, for the office of health officer by the State Department of Health. This change is based on a modification made to section 2305 in the Third Class City Code’s rewrite (SB 1266 – 2010). Previously, health officers could not perform their duties until they were certified to do so by the State Department of Health.
- Page 464 New subsection (b). Provides for the payment of expenses incurred by the board of health and its officers or employees. From old section 3112.
- Page 465 New subsection (c). Provides for the dissolution of the board of health, by ordinance, if the borough chooses to become subject to the county or joint-county department of health in accordance with the Local Health Administration Law (Act 315 of 1951) which has substantially similar language in Section 15 of the law.
- Pages 465-466 Existing Section 3102. Members of Board of Health. Now provides for the option of a three member board of health, in addition to the five member board already authorized by this section. It provides that a board member be a defined professional health care provider, which includes a physician, rather than only a physician, expanding the potential pool of possible board members. The definition is derived, in large part, from the “Peer Review Protection Act” (Act 193 of 1974). Also provides that if no professional health care provider is identified to serve on the board that council may appoint any individual who has experience in or is knowledgeable of public health issues.
- Page 466 Existing Section 3103. Oaths of Members, Secretary and Health Officer; Organization; Bonds. Deletes reference to a loyalty oath, leaving language in place that references the members of the board shall take and subscribe the oath prescribed for borough council members. Reference to a loyalty oath is omitted (see commentary to section 1002) since the only oath council members are now

- required to take is the oath prescribed in 53 Pa.C.S. § 1141 (relating to form of oaths of office). Editorial amendments.
- Pages 466-467 Existing Section 3104. Duties of Secretary. Now references the Municipal Records Act (53 Pa.C.S. Ch. 13, Subch. F). The structural changes to this section of based on similar structural changes made in the Third Class City Code rewrite (SB 1266 – 2010). Editorial amendments.
- Pages 467-468 Existing Section 3105. Powers and Duties of Health Officer. Now clarifies that a health officer has the power and authority to issue citations for the violation of applicable laws and ordinances. Based on a similar change in the Third Class City Code rewrite (SB 1266 – 2010). Editorial amendments.
- Pages 468-469 Existing Section 3106. Powers of Board of Health. Now generally provides that the board of health may recommend rules and regulations for preserving the public health and for carrying into effect the board’s powers and functions, rather than providing specific examples. New subsection (b) clarifies that the board of health has the power to appoint a health officer or officers. This power is implied in section 3101 but was not expressly stated in this article.
- Page 469 Existing Section 3107. Entry Upon Premises. Now specifies that the power to enter upon any premises in the borough where there is a suspected instance of any infectious or contagious disease or nuisance detrimental to the public health shall be at a reasonable time and in a reasonable manner.
- Page 469 New subsection (b). Provides for administrative search warrants where the property owner, agent, or tenant refuses entry onto the premises.
- Page 469 New subsection (c). Sets forth an administrative search warrant procedure to protect council and the rights of property owners. This subsection was drafted in accordance with both federal and state case law. *See Camara v. Municipal Court of City and County of San Francisco*, 387 U.S. 523 (1967) and *Commonwealth v. Tobin*, 828 A.2d 415 (Pa.Cmwlt.2003).
- Pages 470-471 Existing Section 3108. Inspections; Abatement of Nuisances. Now deletes specific examples, but leaves the general power, of what the board of health may inspect in regards to what may constitute a nuisance or a menace to public health. Now specifies that any abatement of a nuisance or menace to health shall be within a reasonable time. Now borough council in lieu of, or in addition to, seeking abatement by either the owner or the health officer, may seek relief by an action at law or in equity, although council may seek the guidance of the board of health or health officer in determining the nature of the relief. This gives the option of involving the board or the health officer in fashioning the injunctive relief.
- Page 471 Existing Section 3109. Estimates of Expenditures; Report. Editorial amendments.
- Page 471 Existing Section 3110. Cooperation With Other Units. Editorial amendment.
- Pages 471-472 Existing Section 3111. Power of [Secretary] **Department** of Health **to Administer Health Laws; Expenses**. The Pennsylvania Department of Health

reviewed the proposed language in this article and indicated that they preferred replacing repetitive language in this section with a cross-reference to the Administrative Code of 1929. Thus, a portion of this section is deleted and a cross-reference to Article XXI of the Administrative Code is added.

- Page 472 New subsection (b). Provides for the expenses of the Secretary of Health (relocated from old section 3112) and for the disposition of collected funds (relocated from old section 3114).
- Page 472 New subsection (c). Provides for the instance where expenses, pursuant to subsection (b), remain unpaid for a certain period (relocated from old section 3113).
- Page 473 Old Section 3112. [Expenses of Board or Secretary of Health.] Expenses of local boards have been relocated to section 3101(b). Expenses of the Secretary of Health have been relocated to section 3111(b).
- Page 473 Old Section 3113. [Failure to Pay Expenses Incurred by State Secretary.] Relocated to section 3111(c).
- Page 473 Old Section 3114. [Disposition of Collected Funds.] Relocated to section 3111(b).
- Page 474 New Section 3201-A. **Primacy of Uniform Construction Code.** Establishes that the Pennsylvania Construction Code Act (Act 45 of 1999) and the Uniform Construction Code adopted pursuant to Act 45 applies to the construction, alteration, repair and occupancy of all buildings and structures within the borough. This new article does not supersede or abrogate Act 45 or the Uniform Construction Code and should be read in pari materia with them. The Department of Labor and Industry reviewed a draft of this new article prior to amendment in committee.
- Page 474 New Section 3202-A. **Changes in Uniform Construction Code.** References section 503 of the Pennsylvania Construction Code Act which permits the borough to enact an ordinance that equals or exceeds the minimum requirements of the Uniform Construction Code. Now specifies that any ordinance exceeding the provisions of the UCC shall be required to meet the standards provided in section 503(j)(2) of the Pennsylvania Construction Code Act.
- Pages 474-475 New Section 3203-A. **Public Nuisance.** Authorizes a court of law to declare any building, housing or property that is erected, altered, and so forth, contrary to an ordinance enacted pursuant to this article, to be a public nuisance and abatable as such. This section specifies, however, that a violation of the UCC or any ordinance that equals or exceeds the UCC shall be subject to the provisions of the Pennsylvania Construction Code Act and its regulations in regards to enforcement for noncompliance.
- Pages 475-477 New Section 3204-A. **Property Maintenance Code.** Authorizes a borough to enact a property maintenance ordinance notwithstanding the primacy of the Uniform Construction Code. Authorizes a borough to enact or incorporate any standard or nationally recognized property maintenance code, or variations or

parts thereof, as its ordinance. In regards to such ordinance, addresses advertising, availability for public inspection, recordation, property fines and penalties or imprisonment. Authorizes council to institute appropriate actions or proceedings at law or in equity to prevent or restrain property maintenance violations.

Page 476 New subsection (b). Provides authority for council to appoint property maintenance inspectors who shall have the right to enter upon, subject to constitutional standards, and inspect premises at reasonable hours and in a reasonable manner.

Page 476 New subsection (c). Authorizes council to institute appropriate actions or proceedings at law or in equity to prevent or restrain property maintenance violations in addition to the penalties provided in the property maintenance ordinance. This provides additional options to a borough in addition to its power to enforce a property maintenance ordinance as a summary offense in section 3321(2).

Pages 476-477 New subsection (d). Cross-references the additional powers in the Abandoned and Blighted Property Conservatorship Act (Act 135 of 2008) and the Neighborhood Blight Reclamation and Revitalization Act (53 Pa.C.S. Ch. 61).

Pages 477-478 New Section 3205-A. **Reserved Powers.** Provides that if through legislative action or final order of court for which the time for appeal has expired and no appeal has been taken or from which there is no pending appeal, the Uniform Construction Code or any replacement code is no longer applicable to boroughs, that boroughs reserve certain powers to enact and enforce ordinances governing and regulating the construction, alteration, maintenance, occupation, sanitation, fire prevention, and so forth, and the use and inspection, of all buildings and housing, including the roofs, walls and foundations. These codes may be combined or separately enacted or combined with the property maintenance code. Provides for the incorporation of any standard or nationally recognized code, or variations or parts thereof, as its ordinance. Cross-references section 3204-A in regards to advertising, availability for public inspection and recordation and cross-references Article XXXIII in regards to fines and penalties for violations of the ordinance.

Provides that boroughs may require that prior to constructing or repairing any building, the approval of plans and specifications be secured. Authorizes council to appoint building inspectors, housing inspectors, property maintenance inspectors, fire prevention inspectors, electrical inspectors and plumbing inspectors and fix their compensation. These inspectors shall have the right to enter upon, subject to constitutional standards, and inspect premises at reasonable hours and in a reasonable manner. Authorizes council to institute appropriate actions or proceedings at law or in equity to prevent or restrain the unlawful construction, alteration, repair, maintenance or occupation, and so forth, of property located within the borough.

- Pages 478-490 Existing Article XXXIII – [Enforcement of] Ordinances. This article is now comprised of a new subdivision (a), relating to general provisions, and subdivision (b), relating to enforcement. Thus, generally any provision relating to ordinances throughout the Borough Code has been consolidated into this article.
- Page 479 Old Section 3301. [Prosecution of Ordinance Violators; Disposition of Fines; Penalties and Costs.] This section is deleted since new subdivision (b), relating to enforcement, now addresses the enforcement of ordinances, although such enforcement is now bifurcated (some civilly enforced and others enforced as summary ordinances).
- Page 489 Old Section 3306. [Commitments Pending Hearings.] Relocated to new section 3322.
- Page 489 Old Section 3307. [Commitments After Hearing.] Relocated to new section 3323.
- Page 489 Old Section 3308. [Collection of Penalties.] The cap on fine or penalty amounts is now found in new section 3321(1) and (2).
- Pages 489-490 Old Section 3309. [Payment of Costs by Borough.] Relocated to new section 3324.
- Pages 479-480 New Section 3301.1. **Ordinances; Resolutions.** Subsection (a) regards ordinances and is partially from old section 1006(3) of this Code and from section 1018.1(a)(1) of the Third Class City Code rewrite (SB 1266 – 2010).
- Pages 479-480 New subsection (b). This subsection regards legislative acts are to be provided by ordinance, and is derived from section 1018.1(a)(2) of the Third Class City Code rewrite with the exception of the phrase relating to capital expenditures which is from old section 1006(3) of the Borough Code.
- Page 480 New subsection (c). This subsection regards resolutions and is derived from section 1018.1(b)(1) and (2) of the Third Class City Code rewrite with the exception of the phrase relating to the filling of borough appointed positions and vacancies of elected officials by resolution which is derived from sections 1107 and 1112 of the Borough Code regarding the appointment of the assistant treasurer and assistant secretary, respectively.
- Page 480 New subsection (d). Now specifies that council’s approval of the acquisition, disposition and leasing of real or personal property shall be by adoption of a resolution.
- Pages 480-481 New Section 3301.2. **Publication of Proposed Ordinances.** New subsections (a)-(c) are derived from old section 1006(4) which is now deleted. Subsection (a) now states, however, that except as provided in other law, proposed ordinances must be published in newspapers. This would allow for any law that is enacted at a later date which would permit electronic advertising in lieu of publication in newspapers. Removed from the language transferred to this section from section 1006 is reference to “resolution of a legislative character” as discussed in the commentary to section 1006. Also removed from the

previous language is the requirement that a borough supply a copy of the full text of a proposed ordinance to the newspaper if the full text is not published. The revised language now states that if the full text is not included in the publication of the proposed ordinance, a copy of the full text of the proposed ordinance is provided to the newspaper upon the newspaper’s request, rather than automatically provided to the newspaper. Clause (3) is new and adapted from section 1601 of the Second Class Township Code and section 1018.10(b) of the Third Class City Code rewrite (SB 1266 – 2010). Clause (3) provides that the date of the filing of the full text of the proposed ordinance with the county shall not be deemed a defect in the process of enactment of the ordinance, nor shall it affect the effective date of the ordinance. Conforming and editorial amendments.

Pages 481-483 Section 3301.3. **Enactment, Approval and Veto of Ordinances; Effective Date.** This language is relocated from old section 1007 although references to resolutions of a legislative character are omitted in conformance with other sections. Compare the language regarding tax ordinances in subsection (c) that provides “the mayor shall within ten days of receiving the tax ordinance approve or return the tax ordinance” with the language in subsection (a) for other ordinances which states “the mayor shall return it with his or her objections . . . at the next scheduled meeting occurring at least ten days after the meeting at which the ordinance was enacted by council.” This remains unchanged from the original language in old section 1007.

Subsection (c) also now provides that a veto of the tax ordinance may be overridden by a vote of a majority of all elected council members plus one (previously it was two-thirds of all the members of council). The effect is the same but easier to calculate. A new provision is added to provide for the situation where the mayor neither approves the tax ordinance nor returns it with objections by providing the date of enactment in such situations to be the date of the adoption of the tax ordinance by council. Since the mayor has up to ten days to veto an ordinance, the new provision would have a retroactive effect if the mayor did nothing, and would allow an effective date in the same year as when council adopted it if council adopted the tax ordinance late in the calendar year.

Pages 483-484 New Section 3301.4. **Recording, Advertising and Proof of Ordinances.** This language is relocated from old section 1008(a), although, like previous sections, references to resolutions of a legislative character are omitted.

Pages 484-485 New Section 3301.5. **Codification of Ordinances.** Relocated from old section 1008(b).

Page 485 New Section 3301.6. **Appeals from Ordinances.** Relocated from old section 1010.

Pages 485-486 New Section 3301.7. **Lost Ordinance Books to be Replaced; Recording Ordinances.** Subsections (a) – (c) are relocated from old sections 1011 – 1013, respectively.

- Pages 486-489 New Section 3321. **Fines and Penalties.** This new section is based on section 1601(c.1) of the Second Class Township Code, and, therefore, enforcement of ordinances is now bifurcated with violations for certain ordinances to be enforced civilly (clause (1)) and others to be enforced as summary offenses (clause (2)). (Previously, any violation or failure to comply with any provision of any borough ordinance constituted a summary offense. *See* old section 3301 of the Borough Code). Civil penalties may not exceed \$600 per violation and criminal fines may not exceed \$1,000 per violation and may prescribe imprisonment to the extent allowed by law for punishment for summary offenses. (Previously, old section 3308 provided a cap of \$1,000 for violation of certain listed ordinances, or \$600 for all other violations of borough ordinances, but all of which were summary in nature.) Provisions are now also made for violations of the property maintenance code or ordinance to also be enforced pursuant to section 3204-A(c) which provides that the borough may institute actions for proceedings at law or in equity to prevent or restrain property maintenance violations.
- Clause (3), relating to existing ordinances, provides that all ordinances enacted prior to the effective date of the clause, and except those that remain enforceable as summary offenses, are automatically amended so that they are enforced through civil proceedings. Clause (4) provides the option of enforcement in equity; clause (5) provides that a separate offense arises each day or portion of each day that a violation exists or for each section of an ordinance that has been violated; clause (6) provides for the assessment of courts costs and reasonable attorney fees; clause (7) provides for the payment of fines, costs, penalties and fees to be paid to the borough treasurer; and clause (8) provides for the delegation of enforcement to qualified officers or agents.
- Page 489 New Section 3322. **Commitments Pending Hearings.** From old section 3306, but now clarifies that persons who have violated only those ordinances that may be enforced as a summary offense may be committed to the borough lockup.
- Page 489 New Section 3323. **Commitments After Hearing.** From old section 3307. Deletes reference to “workhouse.”
- Pages 489-490 New Section 3324. **Payment of Costs by Borough.** From old section 3309. Deletes reference to “workhouse.” Similar to new section 3322, clarifies that the expense of maintaining a prisoner in a county jail is paid by the borough in instances of persons who violated any borough ordinance enforceable as a summary offense. Editorial amendments.
- Page 490 Old Section 3401. [Collection of Municipal Claims.] This section is deleted since “reasonable attorney fees” are provided for in Section 3 of the Municipal Claims and Tax Lien Law, act of May 16, 1923 (P.L. 207, No. 153), (53 P.S. § 7103) for the collection of delinquent accounts, including municipal claims.
- Pages 490-491 Old Section 3415. [Liability in Bond Transfers.] A similar section is being deleted in the Third Class City Code rewrite (SB 1266 – 2010). This language does not appear in other municipal codes.

Pages 491-495 Existing Section 3501. Acts of Assembly Repealed; Saving Clause. New clauses (7) – (9) are added to subsection (c) by the House Local Government Committee to add to those laws that shall not be construed to be repealed by the act (“Right-to-Know Law,” 45 Pa.C.S. (relating to legal notices), and 65 Pa.C.S. (relating to public officers). Updated citations and names of departments; subdivided for clarity. The Water and Power Resources Board is deleted as it is now part of the Department of Environmental Protection which is listed in the previous clause. Several freestanding acts that relate to boroughs (*see* Ch. 92 in Title 53 of Purdon’s) are being repealed inasmuch as the contents of the acts are either provided for in this act or in other law. If a law is only repealed to the extent it is inconsistent with another law, it invites the question in the future of whether a particular section or portion of an act is actually repealed and the courts ultimately decide the matter if parties are in disagreement. Thus, to the extent applicable, some laws are being repealed outright.