

No. 216

AN ACT

Authorizing political subdivisions, other than cities of the first and second classes and school districts of the first class and first class A, to appoint and pay the compensation of employes to make an assessment list of all inhabitants or residents thereof over twenty-one years of age, for taxation purposes.

Taxation.

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

Certain taxing authorities authorized to provide for an annual preparation of a list of persons, over 21 years of age, subject to occupation, per capita or other head tax.

Section 1. The taxing authorities of any political subdivision, except cities of the first and second classes and school districts of the first class and first class A, which are authorized by law to levy and collect an occupation tax, per capita tax or other head tax may, by ordinance or resolution, provide for an annual preparation of a list of residents or inhabitants of such political subdivision over twenty-one years of age, by employes to be appointed and paid by such taxing authority, to be used in the assessment and levy of its occupation, per capita or other head tax.

Copy of ordinance or resolution to be given to regular tax assessor.

A copy of such ordinance or resolution shall be given to the regular tax assessor who, under existing law, makes and furnishes the tax assessments for the political subdivision. Such tax assessor shall not thereafter furnish to such taxing district a list of the residents or inhabitants thereof during the period that the aforesaid ordinance or resolution shall remain in effect.

Time and manner of preparation of list of taxable persons.

Section 2. The list of persons prepared by the employes of the taxing district under the provisions of this act shall be made at such time and in such manner as directed by the taxing authority appointing such employes, and the same shall be in all respects considered as the official assessment list of taxables for that district.

Inconsistent acts repealed.

Section 3. All acts and parts of acts are hereby repealed in so far as they are inconsistent with the provisions of this act.

APPROVED—The 19th day of July, A. D. 1951.

JOHN S. FINE

No. 217

AN ACT

To further amend the act, approved the fourth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws 519), entitled "An act concerning boroughs, and revising, amending, and consolidating the law relating to boroughs," by further regulating the affairs of boroughs; and revising, amending and changing the law relating thereto.

"The Borough Code."

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

Section 1. *Sections 109, 404, 425, 430, 805, 811, 816, 901, 1001, 1003, 1005, 1006, 1028, 1030, subsection (b) of section 1035, and sections 1047, 1057, 1115, 1132, 1136, 1140, 1145, 1155, 1160, 1167, 1178, 1201, and clauses VI and XIX of section 1202 of the act, approved the fourth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws 519), entitled "An act concerning boroughs, and revising, amending, and consolidating the law relating to boroughs," as reenacted or as reenacted and amended by the act, approved the tenth day of July, one thousand nine hundred forty-seven (Pamphlet Laws 1621), are hereby amended or further amended, as the case may be, to read as follows:

Section 109. Publication of Notices.—Wherever, in any of the provisions of this act, notice is required to be given in one newspaper in the county, such notice shall be published in a [general] newspaper of *general circulation* published within the limits of the borough affected, or if none is published therein, then in a [general] newspaper of *general circulation* of the county or adjacent county circulating in such borough and, such notice shall also be published in the legal journal, if any, designated by the rules of court for the publication of legal notices and advertisements, when such notice refers to any proceeding in any court or the holding of elections for the increase of indebtedness or the sale of bonds, unless such publication is dispensed with by special order of the court.

Section 404. Wards.—Until changed in the manner provided by law, the township of the first class, or part thereof annexed to the borough, if not divided into wards, shall constitute a separate new ward of the enlarged borough, if such borough is at the time divided into wards. If the township, or part of the township, at the time of annexation was divided into wards, then each ward of the township, or part of the township, shall constitute a separate ward of the enlarged borough (if divided into wards) and shall be consecutively numbered or otherwise appropriately designated by the council of the borough: *Provided, That in any case where a part of a township only is annexed to a borough divided into wards, the court, in the order annexing such part of a township to such borough, may include a provision that such annexed territory shall be attached to an existing ward or wards of such borough.*

Section 425. Annexation; Ordinance; Limitation of **Subsequent Proceedings.—Any borough may, by ordinance, annex adjacent land situate in a township of the second class in the same or any adjoining county, upon petition, *and may attach such annexed territory to an*

Sections 109, 404, 425, 430, 805, 811, 816, 901, 1001, 1003, 1005, 1006, 1028, 1030, subsection (b) of section 1035, and sections 1047, 1057, 1115, 1132, 1136, 1140, 1145, 1155, 1160, 1167, 1178, 1201, and clauses VI and XIX of section 1202, act of May 4, 1927, P. L. 519, as reenacted or as reenacted and amended by act of July 10, 1947, P. L. 1621, amended or further amended, as the case may be.

* "Section" in original.

** "Subsequent" in original.

existing ward or wards. The petition shall be signed by a majority in number of all of the freeholders of the territory to be annexed. If an ordinance to make such annexation is defeated, no other proceeding for the annexation of the same territory, or any part thereof, shall be had within five years thereof.

Section 430. Petitions to Detach Territory.—The court of quarter sessions, upon petition, may change the limits of any borough by detaching territory therefrom and annexing the same to a contiguous township or borough in cases where the line between a borough and a township or another borough shall separate the lands of any person, or where the territory of any borough is divided by reason of natural or artificial causes, or where any part of a borough is so located that access to the remaining portion can be had only by passing through some other township or borough, *or where any part of a borough is so located that the convenience of the inhabitants thereof would be served by the detachment of such part.*

Section 805. Election of Borough Officers When Boroughs Created, Etc.—Whenever a borough is incorporated under the provisions of sections 201 to 211 inclusive of this act, or whenever two or more boroughs are consolidated under the provisions of sections 215 to 222 of this act, or whenever a borough is created from a city of the third class under the provisions of sections 225 to 229 of this act, the officers of the borough, provided for in section 807 of this act, shall be elected at the appropriate municipal election as provided in said sections and such officers shall take office on the first Monday of January succeeding such election.

At any such election, if the borough is not divided into wards, of the seven councilmen to be elected, three or four councilmen, as the case may be, shall be elected for terms of two years each, and three or four councilmen, as the case may be, shall be elected for terms of four years each, to coincide with the number of councilmen elected at such election in existing boroughs under the provisions of section 810 of this act.

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

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

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

Section 811. Election of Councilmen Where New Wards Created.—Whenever the court of quarter sessions shall divide any borough into wards, erect new wards out of two or more wards or parts thereof, [or] divide a ward already erected into two or more wards, *or create a new ward out of annexed territory*, and when the report, in such case, is confirmed by the court, it shall, at the same time, decree the election of an equal number of councilmen, in each of the wards, in such manner as not to interfere with the terms of those theretofore elected. Where a borough is first divided into wards, the court shall fix the number of councilmen in each ward at not more than two. In decreeing such election, when the entire number of council shall be composed of an even number, the decree shall be so made that one-half of the entire number shall thereafter be elected at each municipal election. When the entire number of council shall be an odd number, the court shall divide such council into two classes, and shall make its decrees so that one-half of the entire number of councilmen, less one, shall, as soon as possible, take their office in a year divisible by four, and the remaining number of councilmen shall take their office in an even-numbered year not divisible by four. The apportionment shall be so made by the court that there shall be equal, or as nearly equal as possible, representation by wards in each class. Biennially thereafter, at each municipal election, a sufficient number of councilmen shall be elected, for the term of four years from the first Monday of January next succeeding, to fill the places of those whose terms shall expire on the first Monday of January next following such election.

Section 816. Decrease of Number of Ward Councilmen.—Whenever the electors of any borough divided into wards are authorized, by this act, or by a decree of court, to elect two members of council from each ward, or whenever a borough at the time of the enactment of this act shall elect three councilmen from each ward, [the court of quarter sessions may, upon the petition of at least five per centum of the registered electors of such borough, and after notice to the council, decrease the number of members of the council to be elected in each of such wards, from two to one, or from three to one or two] *and the council of such borough, in either case, consists of more than nine members, at least five per centum of the registered electors of such borough shall have power to petition the court of quarter*

sessions for a decrease in the number of members of council from each ward, but in no instance shall the council consist of less than seven members. The purpose of such decrease may be to achieve any or all of the following results: a council which is less unwieldy in size; a council which is comparable in size to those in boroughs not divided into wards; a council consisting of an odd number of members instead of an even number; a reduction in borough expenditures; and, the expedition of the conduct of council meetings. Said petition shall clearly state whether it is the prayer of the petitioners that the number of members of such council to be elected in each ward shall be reduced from two to one, or from three to two or one, and shall further state the reasons why such reduction in number shall be desired. The sufficiency of the number of signers to any such petition shall be ascertained as of the date the petition is presented to court.

The court shall give notice of the filing of such petition by advertisement in the legal journal of the county, if one is published in the county, and in one newspaper of the county, and in such notice shall fix a day and time for hearing. After such hearing, the court may decrease the number of councilmen elected from each ward from two to one, or from three to two or to one.

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

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

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

Section 901. Filling Vacancies in Elective Borough Offices.—If any vacancy shall occur in the office of burgess, member of council, auditor, controller, or tax

collector, by death, resignation, removal from the borough, or from a ward in the case of a ward office, or by failure to take the required oath or to give bond as provided by law or ordinance, or in any other manner whatsoever, the borough council shall fill such vacancy by appointing, by resolution, a registered elector of the borough, *or of the ward in case of a ward office*, to hold such office for the unexpired term of the office.

The person appointed shall give bond if required by law or ordinance.

In cases where the person elected to the office shall fail to give bond, if any, required or to take the required oath, the borough council, before making the appointment, shall declare the office vacant.

If the council of any borough shall refuse, fail or neglect, or be unable, for any reason whatsoever, to fill any vacancy within thirty days after the vacancy happens, as provided in this section, then the court of quarter sessions shall, upon petition of the burgess or council or five citizens, fill the vacancy in such office by the appointment of a qualified resident of the borough for the unexpired term of the office.

Section 1001. Organization of Council; Quorum; [No] Compensation; Eligibility.—The borough council shall organize at eight o'clock post meridian on the first Monday of January of each even-numbered year, by electing a president, treasurer, and secretary, which shall constitute the organization of council. The council may at the organization meeting elect such other officers as may be provided for by law or ordinance, or as may be deemed necessary for the conduct of affairs of the borough. The president shall preside over the meetings of council and, when absent, his place shall be filled by a president pro tempore. A majority of the entire membership of council shall constitute a quorum. The councilmen may receive compensation to be fixed by ordinance at any time and from time to time as follows: In boroughs whose population is seven hundred fifty (750) or less, a maximum of five dollars (\$5) a month; in boroughs whose population is more than seven hundred fifty (750) and not more than fifteen hundred (1500), a maximum of ten dollars (\$10) a month; in boroughs whose population is more than fifteen hundred (1500) and not more than twenty-five hundred (2500), a maximum of fifteen dollars (\$15) a month; in boroughs whose population is more than twenty-five hundred (2500) and not more than five thousand (5000), a maximum of twenty dollars (\$20) a month; in boroughs whose population is more than five thousand (5000), a maximum of twenty-five dollars (\$25) a month.

The population shall be determined by the latest United States decennial census or by two and one-half ($2\frac{1}{2}$) times the number of registered voters in the borough. No compensation shall be paid in any month to a councilman who has failed to attend at least one regular meeting of council during the month. A school director shall not be eligible to the office of member of council.

Section 1003. When the Burgess May Preside Over Council and Vote; Attendance of Burgess at Council Meetings; Breaking Tie Votes.—The burgess shall preside over the organization of the council, until it is organized as provided in section 1001, and he shall be deemed a member of council at the organization meeting if his membership becomes necessary to constitute a quorum, but he shall not vote thereat unless his vote shall, for any reason whatsoever, be required to effect the organization of council, or to elect any officer who is required to be or may be elected at the organization meeting. In case of the unavoidable absence of the burgess at the organization meeting, one of the members of council, chosen by the members present at the meeting, shall preside.

The burgess shall attend all regular meetings of council unless detained by sickness or prevented by necessary absence from the borough. In all cases where, by reason of a tie or split vote, the council of any borough shall be unable to enact or pass any ordinance, resolution or motion, or to declare or fill any vacancy in its membership, or in any other borough office, *or to take any action or any matter lawfully brought before it*, it shall be the duty of the burgess of such borough to cast the deciding vote.

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

I. To *create, by motion, ordinance or resolution, and* appoint a solicitor, an engineer, a street commissioner and such other officers as it deems necessary.

II. To mitigate or remit fines and forfeitures in reasonable cases.

III. By resolution, to make temporary loans on the credit of the borough in anticipation of taxes to be collected, and to issue certificates of indebtedness therefor. All such loans shall be repaid from the first moneys available from taxes in anticipation of which the same were made.

IV. To appoint and revoke the appointment of one or more depositories for borough funds and to fix and approve security to be furnished by any such depository. Such security may be bonds with corporate or individual securities to be approved by council, or collateral

security consisting of obligations of the United States or the Commonwealth of Pennsylvania, or any political subdivision thereof, deposited with the borough or with any bank or trust company within the Commonwealth of a market value of one hundred and twenty per centum of the amount of the deposit to be secured. Any deposit of collateral shall be under proper agreement and be accompanied by proper assignment or power of attorney for the transfer of the collateral. The borough treasurer shall deposit all borough funds in any depository so designated, and when so deposited, the borough treasurer shall be released and discharged from further liability on account of such deposit. Nothing herein contained shall be construed to require a depository to furnish bond or collateral security to cover the amount of any deposit to the extent that the same is insured with the Federal Deposit Insurance Corporation.

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

VI. To make temporary investment of borough funds, whether they be general, special or sinking fund in bonds of the Federal Government, the Commonwealth of Pennsylvania, the bonds of the borough, or in any other securities authorized by law for the investment of sinking funds of municipalities, when in its judgment the interests of the borough will be enhanced thereby, and to dispose of such securities when the funds may be needed by the borough. Any such purchase or sale shall be made by the president and secretary of council •on a resolution adopted by the council.

VII. To employ a certified public accountant by a two-thirds vote of the entire number of councilmen elected, *such certified public accountant to act in addition to and not in place of the auditors or controller of the borough.*

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

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

I. To meet stately at least once a month. Council may adjourn to a particular time for general business or for special business. If no quorum is present at a regular or adjourned meeting, a majority of those who do meet may agree upon another date for like business and may continue to so agree until the meeting is held.

• "or" in original.

Special meetings may be called by the president of council or upon written request of [a] *at least one-third* of the members thereof. Members shall have at least twenty hours' notice of such special meetings. The notice shall state whether it is for general or special purposes, and, if it is for special purposes, the notice shall contain a general statement of the nature of the business to be transacted. Presence at a meeting constitutes waiver of notice. Council may adopt rules relating to the calling and holding of all meetings, which rules shall supersede the provisions of this section.

II. To make and preserve full records of its proceedings.

III. To enact, revise, repeal, and amend, such by-laws, rules, regulations, ordinances and resolutions, not inconsistent with the laws of the Commonwealth, as it shall deem beneficial to the borough and to provide for the enforcement of the same. The legislative powers of boroughs, including capital expenditures not payable out of current funds, shall be exercised by or be based on an ordinance. All other powers shall be exercised by vote of the majority of council present at a meeting, unless otherwise provided. Routine, ministerial or administrative purchases and powers may be made and exercised by officers or committees, if authority therefor was previously given, or if the action is subsequently ratified by council.

IV. Except where otherwise in this act provided, to publish, every ordinance or resolution of a legislative character once in one newspaper of general circulation in the borough.

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

VI. To keep open for public inspection, in a place provided by the borough, any plans of highways that may be made.

VII. To appoint and remove a treasurer and secretary. The treasurer and secretary shall not be members of council. *A bank or bank and trust company may be appointed as treasurer.*

VIII. To fix the compensation of the treasurer and secretary, and such other officers, appointees and employes as it may appoint, to be paid from the borough treasury by orders drawn thereon.

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

* "notice" in original.

Section 1028. Duties of Burgess.—It shall be the duty of the burgess:

I. To preserve order in the borough; to enforce the ordinances and regulations; to hear complaints; to remove nuisances; and to exact a faithful performance of the duties of the officers appointed.

[II. To demand and receive sufficient security, in the amount fixed by the council of the borough, from the treasurer.]

III. To sign such papers, contracts, obligations, and documents as may be lawfully required by council.

IV. To keep correct accounts of all fees, fines, and costs, received by him; to render to the [councils] *council* at each regular meeting an itemized statement of all such moneys so received since the last regular meeting of the council, with the dates at which and the names of the persons from whom the same was received, and to pay all such moneys into the borough treasury prior to such regular meeting, except such costs and fees as he may be authorized to retain in lieu of salary. The burgess shall be reimbursed by the borough for the costs of such dockets, books and forms, not to exceed twenty-five dollars in the aggregate for any one year, as are directly useful in the conduct of his office. Such dockets, books and forms shall be and remain the property of the borough, and shall be surrendered to his successor in office.

V. To cause to be opened all public roads or streets, lying within or partly within the borough.

Section 1030. When President of Council to Act as Burgess.—Whenever the burgess is absent or incapacitated, the duties of his office shall be discharged by the president of council. While discharging the duties of the burgess, the president of council shall be entitled to the same salary or fees as the burgess would receive, and, during the time such salary is paid to the president of council as acting burgess, the burgess shall not be paid compensation. *The president of council, when acting as burgess, shall have no power to veto any proposed ordinance or to break a tie, but shall have power to vote as councilman.*

Section 1035. Auditors to Meet Yearly, and Audit Accounts; Uniform Forms.—* * * * *

(b) The auditors shall audit, adjust, and settle the accounts of the tax collectors and all officers of the borough, and of [any] *every* person, committee, and commission receiving or expending borough funds; and shall prepare a report thereof, which shall contain an audit of the accounts of the last fiscal year, and shall also show a complete statement of the financial condition of the borough, giving in detail the actual indebtedness,

the amount of the funded debt, the amount of the floating debt thereof, the valuation of taxable property therein, the assets of the borough with the character and value thereof, and the date of maturity of the respective forms of funded debt thereof. Such report shall be prepared within sixty (60) days after the close of the fiscal year.

Section 1047. Compensation of Auditors.—Each auditor shall receive *no less than five dollars or more than ten dollars, as council may determine*, per day for each day necessarily employed in the discharge of his duties, to be paid by the borough. A day shall consist of not less than five hours in the aggregate.

Section 1057. General Powers and Duties of Controller.—The borough controller shall superintend the fiscal concerns of the borough. He shall examine, audit, and settle all accounts whatsoever in which the borough is concerned either as debtor or creditor, where provisions for the settlement thereof [is] *are* made by law; and, where no such provisions or an insufficient provision has been made, he shall examine such accounts and report to the borough council the facts relating thereto with his opinion thereon.

In the examination, audit and settlement of accounts, the controller shall have all of the powers and perform all of the duties vested in and imposed on the auditors by this act. He shall make and file an annual report of his audit, and make and publish the annual financial report in the same form and manner and at the same time as in this act required of the auditors or the secretary of the borough.

The borough controller shall have supervision and control of the accounts of all departments, bureaus, and officers of the borough, authorized to collect, receive, or disburse the public moneys, or who are charged with the management or custody thereof. He shall audit their respective accounts, and may at any time require from any of them a statement in writing of any moneys or property of the borough in their hands, or under their control, showing the amount of cash on hand and the amount deposited in banks and banking institutions together with the names of such institutions. He shall have power to examine every such account of a borough officer in any bank or banking institution to verify the accuracy of the statement of such borough department, bureau or officer, and it shall be the duty of every such bank and banking institution, its officers and agents, to furnish full information to the controller in relation to such account. No banker or banking institution, its officers or agents, shall be subject to prosecution under other laws of this Commonwealth for disclosing any such

information with respect to any such account. He shall, immediately upon the discovery of any default, irregularity, or delinquency, report the same to the borough council. He shall also audit and report upon the account of any such officer upon the death, resignation, removal, or expiration of the term, of the said officer.

Section 1115. Appointment.—[On the first Monday of January, or within thirty days thereafter, of each even-numbered year, the] *The* borough council may appoint one person as street commissioner, who shall serve [for a term of two years, or] until his successor shall qualify.

Section 1132. Service Required Before Retirement.—The ordinance establishing the police pension fund may prescribe a minimum period of [continuous] *total* service, not less than twenty years, after which members of the force may be retired from active duty. Borough policemen so retired shall be subject to service as police reserve, until unfitted for such service by reason of age or disability, when they may be finally discharged.

Section 1136. Rights of Members.—No person participating in such police pension fund and becoming entitled to receive a benefit therefrom, shall be deprived of his right to an equal and proportionate share therein, upon the basis upon which he first became entitled thereto, except for the following causes, that is to say: conviction of a crime or misdemeanor; becoming a habitual drunkard; [becoming a nonresident of the Commonwealth;] or failing to comply with some general regulation relating to the management of such fund, which may be made by ordinance, and which provides that a failure to comply therewith shall terminate the right to participate in the pension fund after such notice and hearing as it shall prescribe.

Section 1140. Borough Manager May Be Created by Ordinance; Election.—The council of any borough may, at its discretion, at any time, create by ordinance the office of borough manager and may in like manner abolish the same. While said office exists, the council shall, from time to time, and whenever there is a vacancy, elect, by a vote of a majority of all the members, one person to fill said office, who shall serve until the first Monday of January of the even-numbered year succeeding his election and until his successor [qualified] *qualifies*, subject however to removal by the council at any time by a vote of the majority of all the members.

Section 1145. Creation of Borough Planning Department; Appointment of Commissioners; Powers; No Compensation.—The council of any borough may at any

time create by ordinance a department to be known as the Department of Borough Planning, which shall be in charge of a Borough Planning Commission consisting of five persons to be appointed by council. In the first instance one member of said commission shall be appointed for one year, one member for two years, one member for three years, one member for four years, and one member for five years, and, annually thereafter, a member of said commission shall be appointed for a term of five years. An appointment to fill a vacancy shall be only for the unexpired portion of the term. All members of the said commission shall reside within the [zone of jurisdiction of said commission as hereinafter defined] *borough*. They may make and alter rules and regulations for their own organization and procedure, consistent with the ordinances of the borough and the laws of the Commonwealth. They shall serve without compensation, and make annually to the council a report of their transactions. They may employ engineers and other persons, whose salaries and wages, and other necessary expenses of the commission, where approved by council, shall be provided for through proper appropriation by council. They may contract for professional planning services, the costs and expenses of which, when approved by council, shall be provided for through proper appropriation by council.

Section 1155. Ordinance Creating.—[Boroughs] *Any borough* within the limits of the anthracite region of the Commonwealth may, by ordinance, create a bureau of mine inspection and surface support.

Section 1160. Certain Surface Supports Not to Be Removed.—It shall be unlawful for any person, partnership, association, or corporation to dig, mine, remove, or carry away the coal, rock, earth, or other minerals or materials forming the natural support of the surface beneath the public highways, streets, alleys, courts, and places of any borough in the anthracite region to such an extent and in such a manner as to thereby remove the necessary support of the surface, without having first placed or constructed an artificial permanent support sufficient to uphold and preserve the stability of the surfaces of such public highways, streets, alleys, courts, and places.

Section 1167. Offices Incompatible With Civil Service Commissioner.—No commissioner shall at the same time hold an elective or appointed office under the United States government, the Commonwealth of Pennsylvania or any political subdivision of the Commonwealth, except that one member of the commission may be a member of the council of the borough *and one may be a member of the teaching profession.*

Section 1178. Manner of Filling Appointments.—Every position or employment in the police force or as paid operators of fire apparatus, except that of chief of police or chief of the fire department, or equivalent, shall be filled only in the following manner: the council shall notify the commission of any vacancy which is to be filled and shall request the certification of a list of eligibles. The commission shall certify for each existing vacancy from the eligible list, the names of three persons thereon, *or a lesser number where three are not available*, who have received the highest average. The council shall thereupon, with sole reference to the merits and fitness of the candidates, make an appointment from the three names certified, unless they make objections to the commission as to one or more of the persons so certified for any of the reasons stated in section 1177 of this act. Should such objections be sustained by the commission, as provided in said section, the commission shall thereupon strike the name of such person from the eligible list and certify the next highest name for each name stricken off. As each subsequent vacancy occurs in the same or another position precisely the same procedure shall be followed.

In the case of a vacancy in the office of chief of police or chief of the fire department, or equivalent official, the appointive power may nominate a person to the commission. It shall thereupon become the duty of the commission to subject such person to a noncompetitive examination, and if such person shall be certified by the commission as qualified, he may then be appointed to such position, and thereafter shall be subject to all the provisions of this act.

Section 1201. General Powers.—A borough may:

I. Have succession perpetually by its corporate name.

II. Sue and be sued, and complain and defend in the courts of the Commonwealth.

III. Make and use a common seal, and alter the same at pleasure.

IV. Purchase, acquire by gift, or otherwise, hold, lease, let, and convey, *by sale or lease*, such real and personal property as shall be deemed to be to the best interest of the borough: *Provided, That no real estate owned by the borough shall be sold for a consideration in excess of five hundred dollars, except to the highest bidder after due notice by advertisement for bids in one newspaper of the county. Such advertisement shall be published not less than ten days prior to the date fixed for the opening of bids, and such date for opening *bids shall be announced in such advertisement. The **acceptance of bids shall be made only by public an-*

* "bids" omitted in original.

** "acceptance" in original.

nouncement at the meeting at which bids are received. All bids shall be accepted on the condition that payment of the purchase price in full shall be made within ten days of the acceptance of bids.

No borough personal property shall be disposed of, by sale or otherwise, except upon approval of council, by ordinance or resolution. In cases where council shall approve a sale of such property, it shall estimate the sale value of the entire lot to be disposed of. If council shall estimate the sale value to be two hundred dollars or more, the entire lot shall be advertised for sale once, in at least one newspaper of the county, not less than ten days prior to the date fixed for the opening of bids, and such date for opening bids shall be announced in such advertisement, and sale of the property so advertised shall be made to the best responsible bidder.

The provisions of this section shall not be mandatory where borough property is to be traded in or exchanged for new borough property.

Section 1202. Specific Powers.—The powers of the borough shall be vested in the corporate officers. They shall have power:

* * * * *

VI. Comfort Stations.—[To construct and maintain,] *To use land owned by the borough and to acquire or lease land or land and buildings within the borough limits, for the purposes of construction or of providing comfort and waiting stations and drinking fountains and to maintain such public facilities; to contribute to the maintenance of any such public facilities which may be located in or upon property not owned or leased by the borough. The damages accruing to abutting properties, by reason of any such improvements constructed or provided by the borough, shall be ascertained and collected in the manner provided in article fourteen of this act.*

* * * * *

XIX. Fire Apparatus and Houses.—To purchase, or contribute to the purchase of, fire-engines and fire-apparatus and supplies for the use of the borough, and to appropriate money to fire companies and for the construction, repair, and maintenance of fire company houses, *including the acquisition of land for such purposes.*

Clause XXX of section 1202, said act, as last amended by act of May 11, 1949, P. L. 1082, further amended.

Section 2. Clause XXX of said section 1202 of said act, as last amended by the act, approved the eleventh day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1082), is hereby further amended to read as follows:

Section 1202. * * * * *

XXX. Other Insurance.—To appropriate such amount as may be necessary to secure insurance or compensation for volunteer firemen of *companies duly recognized by the borough, by motion or resolution*, killed or injured while going to, returning from, or attending fires, or while performing their duties as special fire police. To make contracts of insurance with any insurance company, association or exchange, authorized to transact business in this Commonwealth, insuring borough employes, or any class, or classes thereof, under a policy or policies of insurance covering life, health or accident insurance, and to contract with any such company, granting annuities or pensions, for the pensioning of such employes, and to agree to pay part or all of the premiums or charges for carrying such contracts, and to appropriate moneys from the borough treasury for such purposes.

Section 3. Clauses XLII, LXI and LXV of said section 1202 of said act, as so reenacted and amended or added by the act, approved the tenth day of July, one thousand nine hundred forty-seven (Pamphlet Laws 1621), which, in the case of clause XLII, superseded the amendment of the thirty-first day of May, one thousand nine hundred forty-seven (Pamphlet Laws 330), are hereby amended or further amended, as the case may be, to read as follows:

Section 1202. * * * * *

XLII. Appropriations to Organizations of Veterans.—To appropriate annually a sum not exceeding five hundred dollars, *to be divided in such amounts as council deems proper*, to organizations composed of veterans of any war in which the United States was engaged to aid in defraying the expenses of Memorial Day, Armistice Day, or any similar day hereafter provided for by State or Federal Law. Such payments shall be made to defray actual expenses only. Before any payment is made the organization receiving the same shall submit verified accounts of [their] its expenditures.

LXI. Building and Plumbing Codes by Reference.—To enact and enforce suitable ordinances relating to buildings, their construction, alteration, extension, repair, maintenance and all facilities and services in or about such buildings, and for the enforcement thereof, and provide for the enforcement thereof by a reasonable fine, and by instituting appropriate actions or proceedings at law, or in equity, to effect the purposes of this provision and ordinances thereunder. At least one week and not more than three weeks prior to the presentation of the proposed building code ordinance

Clauses XLII, LXI and LXV of section 1202, said act, as reenacted and amended or added by act of July 10, 1947, P. L. 1621, which, in the case of clause XLII, superseded the amendment of May 31, 1947, P. L. 330, amended or further amended, as the case may be.

to council, an informative notice of intention to consider such proposed ordinance and a brief summary setting forth the principal provisions of the proposed ordinance in such reasonable detail as will give adequate notice of its contents, pursuant to a uniform form, which shall be prepared or approved by the Department of Internal Affairs, and a reference to the place or places within the borough where copies of the proposed building code may be examined or obtained, shall be published in the manner provided by law for the publication of ordinances.

To enact suitable ordinances relating to plumbing, in the same manner and to the same effect as herein provided for building codes. The building code and plumbing code may be combined or separately enacted.

The provisions of the ordinance need not be advertised or recorded as in other cases, but may be supplied by reference to a standard building code, approved by the Department of Internal Affairs of the Commonwealth, or to parts thereof, determined by council, or the provisions of the ordinance may be supplied by reference to a typed or printed building code, prepared under the direction of or accepted by the borough council, or the provisions may consist of a standard code approved as aforesaid, or parts thereof, and also further provisions typed or printed as aforesaid. Copies of the ordinance thus adopted by reference shall be made available to any interested party at the cost thereof, or may be furnished or loaned without charge, and a copy of such ordinance whether by reference to a standard building code or to a typed or printed code, or a combination of them, shall be attached to the ordinance book with the same force and effect as if duly recorded therein. The procedure set forth relating to the adoption of the ordinance, by reference, may likewise be adopted in amending, supplementing or repealing any of the provisions of the ordinance.

* * * * *

LXV. Regulation of Charges in the Operation of its Utilities, Parking Meters, Parking Lots or its Other Facilities and Services to the Public.—[To] *In the operation of its utilities, parking meters, parking lots, and other facilities and services, to make and regulate charges therefor for general borough purposes in relief of taxes on real estate.*

Sections 1301 and 1316, said act, as added by act of July 10, 1947, P. L. 1621, amended.

Section 4. Sections 1301 and 1316 of said act, as added by the act, approved the tenth day of July, one thousand nine hundred forty-seven (Pamphlet Laws 1621), are hereby amended to read as follows:

Section 1301. Tax Levy.—The council of the borough shall have power, by ordinance, to levy and collect annually, [any] a tax, not exceeding fifteen mills for

general borough purposes and in addition thereto such additional millage as may be sufficient to pay interest and sinking fund charges on the indebtedness of the borough. Where the borough council by majority action shall, upon due cause *shown, petition the court of quarter sessions for the right to levy additional millage, the court after such public notice as it may direct and after hearing may order a greater rate than fifteen (15) mills, but not exceeding five additional mills to be levied. The said taxes shall be levied on the dollar on the valuation assessed for county purposes, as now is or may be provided by law. All real property, offices, professions, and persons, made taxable by the laws of this Commonwealth for county rates and levies, may, in the discretion of council, be taxed after the same manner for such purposes. No action on the part of the borough authorities fixing the tax rate for any year at a mill rate need include a statement expressing the rate of taxation in dollars and cents on each one hundred dollars of assessed valuation of taxable property.

Section 1316. Regulation of Contracts.—(a) All contracts or purchases in excess of [five hundred] *seven hundred fifty* dollars, except those hereinafter mentioned, shall not be made except with and from the lowest responsible bidder after due notice in one newspaper of general circulation, published or circulating in the county in which the borough is situated, at least three times at intervals of not less than three days **where daily newspapers of general circulation are available for such publication, and in case of weekly newspapers, shall be published once a week for two successive weeks. The first advertisement shall be published not less than ten days prior to the date fixed for the opening of bids. *The amount of the contract shall in all cases, whether of straight sale price, conditional sale, bailment lease, or otherwise, be the entire amount which the borough pays to the successful bidder or his assigns in order to obtain the services or property, or both, and shall not be construed to mean only the amount which is paid to acquire title or to receive any other particular benefit or benefits of the whole bargain.*

(b) The acceptance of bids shall only be made by public announcement at the meeting at which bids are received, or at a subsequent meeting, the time and place of which shall be publicly announced when bids are received. If for any reason one or both of the above meetings shall not be held, the same business may be transacted at any subsequent meeting if at least five days notice thereof shall be published in the newspaper aforesaid.

* "shown" omitted in original.

** "which" in original.

(c) The successful bidder when advertising is required herein, shall be required to furnish a bond with suitable, reasonable requirements, guaranteeing the work to be done, with sufficient surety in the amount of fifty per centum of the amount of the liability under the contract, within twenty days after the contract has been awarded, unless council shall prescribe a shorter period of not less than ten days; and upon failure to furnish such bond, within such time, the previous award shall be void. Deliveries, accomplishment and guarantees may be required in all cases of expenditures, including the exceptions herein.

(d) The contracts or purchases made by council, involving an expenditure of over [five hundred] *seven hundred fifty* dollars, which shall not require advertising or bidding, as hereinbefore provided, are as follows:

(1) Those for maintenance, repairs or replacements for water, electric light or other public works of the borough, provided they do not constitute new additions, extensions or enlargements of existing facilities and equipment, but a bond may be required by council, as in other cases of work done;

(2) Those made for improvements, repairs and maintenance of any kind, made or provided by any borough, through its own employes: Provided, however, That this shall not apply to construction materials used in a street improvement;

(3) Those where particular types, models or pieces of new equipment, articles, apparatus, appliances, vehicles or parts thereof are desired by council, which are patented and manufactured or *copy-righted* products;

(4) Those involving any policies of insurance or surety company bonds; those made for public utility service under tariffs on file with the Pennsylvania Public Utility Commission; those made with another political subdivision, or a county, the Commonwealth of Pennsylvania, the Federal Government, any agency of the Commonwealth or the Federal Government, or any municipal authority, including the sale, leasing or loan of any supplies or materials by the Commonwealth or the Federal Government or their agencies. But the price thereof shall not be in excess of that fixed by the Commonwealth, the Federal Government, or their agencies;

(5) Those involving personal or professional services.

Section 5. Article XIII of said act, as so reenacted and amended, is hereby amended by adding, immediately following section 1316 thereof, a new section to read as follows:

Section 1316.1. Evasion of Advertising Requirements.
—No member or members of council shall evade the

Article XIII,
said act, as so
reenacted and
amended,
amended by
adding, imme-
diately following
section 1316
thereof, a new
section 1316.1.

provisions of section one thousand three hundred sixteen as to advertising for bids, by purchasing or contracting for services and personal properties piecemeal for the purpose of obtaining prices under seven hundred and fifty dollars upon transactions, which transactions should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than seven hundred and fifty dollars. This provision is intended to make unlawful the evading of advertising requirements by making a series of purchases or contracts, each for less than the advertising requirement price, or by making several simultaneous purchases or contracts, each below said price, when, in either case, the transactions involved should have been made as one transaction for one price. Any members of council who so vote in violation of this provision and who know that the transaction upon which they so vote is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids, shall be jointly and severally subject to surcharge for ten per centum of the full amount of the contract or purchase. Whenever it shall appear that a member of council may have voted in violation of this section but the purchase or contract on which he so voted was not approved by council, this section shall be inapplicable.

Section 6. Section 1666 of said act, as so reenacted and amended, is hereby further amended to read as follows:

Section 1666. Streets Not to be Opened, Etc., Without Approval of Council.—No person shall construct, open or dedicate any street, or any drainage facilities in connection therewith, for public use or travel or for the common use of occupants of buildings abutting thereon in any borough, without first submitting suitable plans thereof to the council for its approval. Such plans shall be prepared in accordance with such rules and regulations as may be prescribed by the council, and shall show the profiles of such streets, the course, structure and capacity of any drainage facilities, and the method of drainage of the adjacent or contiguous territory, and also any other or further details that may be required under the rules or regulations adopted by the council. Before acting upon any such plans, the council may, at its discretion, arrange for a public hearing after giving such notice as it may deem desirable in each case. The council is authorized to alter such plans, and to specify any changes or modifications of any kinds, which it may deem necessary with respect thereto, and may make its approval of such plans subject to any such alterations, changes or modifications.

Section 1666,
said act, as so
reenacted and
amended, further
amended.

Any plans, when so approved, shall be signed on behalf of the borough by such officer as the council may designate, and shall be filed in the office of the borough engineer, or other proper officer, where the same shall be available to public inspection. No street, or any drainage facilities in connection therewith, shall be opened, constructed or dedicated for public use or travel, except in strict accordance with plans so approved by the council, or with further plans subsequently approved by it in the same manner.

*In any case where council has heretofore required or shall hereafter require the construction or improvement of streets or parts of streets, or of any *drainage facilities in connection therewith, or the posting of a bond or other security for so doing, within any parts or subdivisions of a borough, as a condition to approval of any plan thereof, and the materials or other specifications for such construction or improvements are required by the borough to be of better quality or type or otherwise superior to and more costly than those of most of the already existing streets and drainage facilities in connection therewith of the borough, or of the particular zone of the borough, in case it has a zoning ordinance, the cost of such construction or improvement shall be allocated and paid in accordance with the provisions of section one thousand seven hundred twelve of this act, and the submission of a plan shall not be deemed a petition for the constructions or improvements so required; but if the borough shall require substantially the same quality or type and specifications of street and drainage facilities as generally exists either in the borough or, if the borough has a zoning ordinance, in the particular zone involved, the submission of a plan shall be deemed a petition therefor by a majority in the number of feet of assessable properties abutting thereon, and the cost of such constructions and improvements shall be paid in accordance with the provisions of section one thousand seven hundred twelve of this act under such circumstances: Provided, however, That council and the person or persons submitting a plan may in all cases, by agreement, provide otherwise as to such costs, and: Provided, further, That this section shall not authorize the recovery or avoidance of any such costs heretofore agreed to or paid. Whenever council requires the construction or improvement of streets or parts thereof, it shall establish or cause to be established the grades of such streets or parts, or shall approve the grades indicated upon the plan submitted before such streets or parts are improved or constructed. Council's approval of plans, whether or not such plans are subject to any such conditions as to streets, parts of streets, or*

* "draining" in original.

drainage facilities in connection therewith, shall constitute the streets as shown upon the plans so approved as streets of the borough. Any plan so approved shall, as filed and as recorded, indicate clearly all such constructions and improvements required to be made, the grades thereof, the materials and other specifications required, and the allocation of cost thereof, as provided by law or as agreed upon.

Section 7. Article XVI of said act, as so reenacted and amended, is hereby amended by adding, immediately following subdivision (f) thereof, a new subdivision (g) and sections 1671 through 1678, inclusive, to read as follows:

(g) Land Subdivision

Section 1671. Grant of Power.—For the purpose of assuring sites suitable for building purposes and human habitation and to provide for the harmonious development of boroughs, for the coordination of existing streets with proposed streets, parks or other features of the official street plan of the borough, for insuring adequate open spaces for traffic, recreation, light and air, and for proper distribution of population, thereby creating conditions favorable to the health, safety, morals and general welfare of the citizens, any borough is hereby empowered to adopt, by ordinance, land subdivision regulations. Such regulations may include definitions, design standards, plan requirements, plan processing procedures, improvement and construction requirements, and conditions of acceptance of public improvements by the borough.

Section 1672. Definition of "Subdivision."—"Subdivision" is hereby defined as the division of a single lot, tract or parcel of land, or a part thereof, into two or more lots, tracts or parcels of land, including changes in street lines or lot lines, for the purpose, whether immediate or future, of transfer of ownership or of building development: Provided, however, That divisions of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access, shall not be included within the meaning of "subdivision."

Section 1673. Public Hearing.—No such regulations shall be adopted until after a public hearing shall have been held by council in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published once a week for two successive weeks in one newspaper in the county.

Section 1674. Subdivision Control.—Where subdivision regulations have been adopted under the au-

Article XVI, said act, as so reenacted and amended, amended by adding, immediately following subdivision (f) thereof, a new subdivision (g) and sections 1671 through 1678, inclusive.

thority of this act, no subdivision of any lot, tract or parcel of land shall be effected, no street, sanitary sewer, storm sewer, water main, or other facilities in connection therewith, shall be laid out, constructed, opened or dedicated for public use and travel, or the common use of occupants of buildings abutting thereon, except in strict accordance with the provisions of such regulations and of this act.

Section 1675. Subdivisions Wherein Lots Abut Existing Improved Streets of Sufficient Width.—Such regulations may provide that plans of subdivisions wherein lots abut existing improved streets of sufficient width shall be subject to approval or rejection by the borough engineer or a committee appointed by council, as specified in the ordinance establishing such regulations. In the event such a plan is disapproved, the reasons therefor shall be set forth in writing and given or sent to the applicant. Any person aggrieved by a decision of the borough engineer or the said committee may appeal to the borough council within ten days after such decision shall have been made. Such appeal shall be considered by the council at its next regular meeting. The decision of council shall be final.

Section 1676. Subdivisions Wherein Lots Abut Existing Streets of Insufficient Width or Proposed Streets.—

(a) *Approval or Rejection of Such Plans by Council; Appeal to Court.* Such regulations may provide that plans of subdivisions wherein lots abut existing streets of insufficient width or streets proposed to be laid out through unimproved land shall be subject to approval or rejection of council. Council shall have authority to seek the advice and opinion of the borough solicitor or a committee appointed by council, as specified in the ordinance establishing such regulations. In the event such a plan is rejected by council, the reasons therefor shall be set forth in writing and given to the applicant.

(b) *General Requirements; Prerequisites to Approval of Plan.* Council shall not approve any subdivision plan unless all streets thereon shall be approved in accordance with the provisions of section 1666 of this act. In determining whether or not any such street shall be approved, council shall consider whether such street shall be of sufficient width and proper grade, whether it shall be so located as to accommodate the probable volume of traffic thereon, afford adequate light and air, facilitate fire protection, provide access of fire fighting equipment to buildings, and provide a coordinated system of streets conforming to the borough's official plan of streets. No such plan shall be approved by council unless all land whereon buildings are to be

constructed shall be of such character that it can be used for building purposes without danger to health or peril from fire, flood or other hazard.

(c) *Improvements or Guarantee Thereof Prerequisite to Approval of Plan.* Before approving any subdivision plan, council shall require, either that the necessary grading, paving, and other street improvements, including, where specified by council, curbs, sidewalks, street lights, fire hydrants, water mains, sanitary sewers and storm sewers, shall have been installed in strict accordance with the standards and specifications of the borough, or that the borough be assured, in the form of a bond or deposit of funds or securities in escrow sufficient to cover the cost to the owner of the required improvements, as estimated by the borough engineer or any other person designated by council, that the said improvements will subsequently be installed by the owner of said subdivided lot, tract or parcel of land.

(d) *Public Hearing.* Before acting on any subdivision plan, council may arrange for a public hearing thereon, after giving such notice as council may deem desirable in each case.

(e) *Modifications.* Council may alter any subdivision plan, and specify alterations, changes or modifications therein which it deems necessary, and may make its approval subject to such alterations, changes or modifications.

(f) *Appeals Where Council Refuses Approval.* In any case where council disapproves a subdivision plan, any person aggrieved thereby may, within thirty days thereafter, appeal therefrom by petition to the court of quarter sessions of the county wherein such subdivision is located, which court shall hear the matter de novo and, after hearing, enter a decree affirming, reversing or modifying the action of the council, as may appear just in the premises. The court shall designate the manner in which notices of the hearing of such appeal shall be given to all parties interested. The decision of the court shall be final.

(g) *Recording.* The action of council or of the court on appeal in approving any subdivision plan and an approved duplicate copy of such plan shall, within thirty days after the date of approval, be recorded by the owner in the office of the recorder of deeds of the county wherein such land is located.

(h) *Recorded Plan to Become Part of Official Plan.* After an approved subdivision plan shall have been officially recorded, the streets, parks and other public improvements shown thereon shall be considered to be a part of the official plan of the borough.

(i) *Offer of Dedication may be Noted on Recorded Plan.* Streets, parks and other public improvements

shown on a subdivision plan to be recorded may be offered for dedication to the borough by formal notation thereof on the plan, or the owner may note on such plan that any such improvements have not been offered for dedication to the borough.

(j) *Streets, Parks and Other Improvements Private until Dedicated or Condemned.* Every street, park or other improvement shown on a subdivision plan that is recorded as provided herein shall be deemed to be a private street, park or improvement, until such time as the same shall have been offered for dedication to the borough and accepted, by ordinance or resolution, or until it shall have been condemned for use as a public street, park or other improvement.

Section 1677. Sale of Lots; Issuance of Building Permit or Erection of Building.—In any borough where subdivision regulations shall have been adopted under the authority of this act, no lot in a subdivision may be sold, no permit to erect, alter or repair any building upon land in a subdivision may be issued, and no building may be erected in a subdivision, unless and until a plan of such subdivision shall have been approved and properly recorded, and until the improvements required by council in connection therewith shall have either been constructed or guaranteed as hereinabove provided. Where, owing to special conditions, a literal enforcement of this provision would result in unnecessary hardship, council may make such reasonable exception thereto as will not be contrary to the public interest, and may permit the sale of a lot, issuance of a permit, or erection of a building, subject to conditions necessary to assure adequate streets and other public improvements.

Section 1678. Penalty.—In any borough which shall adopt subdivision regulations under the provisions of this act, any person, copartnership, or corporation, who or which shall subdivide any lot, tract or parcel of land, lay out, construct, open or dedicate any street, sanitary sewer, storm sewer, or water main, for public use or travel, or for the common use of occupants of buildings abutting thereon, sell any lot or erect any building in a subdivision without first having complied with all the provisions hereof and the subdivisions adopted hereunder, shall be guilty of a misdemeanor, and, upon conviction thereof, such person, or the members of such copartnership, or the officers of such corporation, responsible for such violation, shall be sentenced to suffer imprisonment not exceeding two years, or to pay a fine not exceeding one thousand dollars, or both, in the discretion of the court.

* "abutting" in original.

Section 8. Sections 1735, 1786, 2105, the subdivision heading of subdivision (j) of article XXI, and sections 2170, 2171, 2408 and 3304 of said act, as added or as so reenacted and amended by said act, are hereby amended or further amended to read as follows:

3. Streets More Than One-half the Width of Which are Within the Borough:

Section 1735. Whenever any street, more than one-half the width of which is within the limits of any borough, shall divide the said borough from any other municipality or township, [located within the same county] such street may be improved by the borough within which the greater width is located, in the same manner as if the said street were entirely located within the limits of said borough.

The property abutting on the said side of said street, which is located outside the limits of the borough making such improvements, shall, for a depth of one hundred and fifty feet, plus one-half the width of said street, from its center line, be assessed for any and all municipal improvements to or on the said street, in the same manner as such property would be assessed under the laws of the Commonwealth if it were entirely located within the limits of such borough.

Section 1786. [Contract Price] *Expenditures Taken as Cost.*—The [contract price] *expenditures* for such improvements, and interest thereon to the first day when interest is payable on such bonds, shall be taken as the cost of said improvements to be assessed on the property benefited, according to existing law.

Section 2105. Assessment By Foot-front Rule.—Where a borough constructs sewers in streets of the borough and desires to assess the costs and expenses *thereof* by the foot-front rule, [they] *it* may by ordinance provide that the expenses shall be assessed [upon] *against* the property abutting thereon by the foot-front rule and may provide for equitable adjustments for corner lots or lots of irregular shape where an assessment for the full frontage would be unjust. The secretary of the borough shall cause thirty days' notice of the assessment to be given to each party assessed, either by service on the owner or his agent, or left on the assessed premises.

(j) [Assessment of Cost of Maintenance and Repair] *Annual Rentals*

Section 2170. Ordinance For Annual Rental.—Whenever any borough has constructed any sewer, [or] sewer system or *sewage treatment works*, or has acquired wholly or partially the same at public expense, as

Sections 1735, 1786, 2105, the subdivision heading of subdivision (j) of article XXI, and sections 2170, 2171, 2408 and 3304, said act, as added or as so reenacted and amended by said act, amended or further amended.

authorized in this article, the council of such borough may provide, by ordinance, for the collection of an annual rental or charge, for the use of such sewer, [or] sewer system *or sewage treatment works*, from the owner of property served by it. The council may, at its discretion, in lieu of such annual rental or charge, provide for the payment by such owner of a fixed sum.

Section 2171. *How Rental Fixed.*—Such annual rental [shall not exceed] *may include* the amount expended annually by the borough in [the] maintenance, repair, alteration, inspection, depreciation, or other expense, [in relation to] *of* such sewer, [or] sewer system *or sewage treatment works*, and may include [any] interest on money expended *or borrowed* by the borough in the construction of the sewer, [or] sewer system *or sewage treatment works*, *or in the acquisition, enlargement or extension of the sewer or sewer system*, and may also include an amount sufficient for the amortization of debt incurred by the borough for any such purposes, including the construction of sewage treatment works according to law. The said annual or fixed sum shall be apportioned equitably among the several properties served by the said sewers, sewer system *or sewage treatment works*.

Section 2408. *Assessment for Water Mains.*—Boroughs shall have power to assess the whole cost, or any part of the cost, of construction of new water mains, built in connection with the establishment or extension of a municipally owned water supply system, *whether such mains be located within or without the limits of the borough*, and serving the properties abutting thereon, against the properties abutting along the line thereof, by the front-foot rule, and to collect such assessments as other municipal claims are now by law collectible: Provided, That the assessment [shall] *may* be rebated to the owner of the property assessed, out of rates charged for water consumed in serving the property so assessed: And provided further, That the borough may issue negotiable credit memorandum to the amount of the assessment, which may be used for the payment of any water service to the extent of the said assessment.

Section 3304. *Exercise by Council of Zoning Power; Notice.*—The council shall exercise the powers granted in [section 3301 hereby] *this article* by ordinance which shall provide for effecting of its purposes and for the enforcement of the regulations and restrictions established therein by reasonable fines and by [the] instituting appropriate actions or proceedings at law or in equity. At least one week and not more than three weeks prior to the presentation of the proposed ordi-

nance an [information] *informative* notice of intention to consider such proposed ordinance and a brief summary setting forth the principal provisions of the proposed ordinance in such reasonable detail as will give [adequate] notice of its contents, [pursuant to a uniform form which shall be prepared or approved by the Department of Internal Affairs,] and a reference to the place or places within the borough where copies of the proposed ordinance may be examined shall be published in the manner provided by law for the publication of ordinances.

The provisions of the ordinance need not be advertised or recorded as in other cases, [, Provisions respecting the construction, alteration, extension, repair, care, and maintenance of building and structures] *but* may be supplied by reference to a [standard building] code [approved by the Department of Internal Affairs,] or to parts thereof determined by the council or such provisions of the ordinance may be supplied by reference to a typed or printed [building] code prepared under the direction of, or accepted by, the council, or such provisions may consist of a standard code approved as aforesaid or parts thereof and also further provisions typed or printed as aforesaid. Copies of the provisions of the ordinance thus adopted by reference shall be made available to any interested party at the cost thereof, or may be furnished or loaned without charge and a copy of such provisions of the ordinance whether by reference to a standard [building] code, or a combination of them shall be attached to the ordinance book with the same force and effect as if duly recorded therein.

The procedure set forth relating to the adoption of the ordinance may likewise be adopted in amending, supplementing or repealing any of the provisions of the ordinance.

Section 9. The provisions of this act shall become effective immediately upon final enactment. Act effective immediately.

APPROVED—The 19th day of July, A. D. 1951.

JOHN S. FINE

No. 218

AN ACT

To add section 3 to the act, approved the nineteenth day of May, one thousand eight hundred eighty-seven (Pamphlet Laws 138), entitled "An act providing for payment of costs in criminal cases by the proper county," by fixing the time for making costs payable by the county to aldermen and justices of the peace due and payable.