

rules, not inconsistent with such general rules of the Supreme and Superior Courts of Pennsylvania; authorizing the Supreme and Superior Courts of Pennsylvania to appoint a Criminal Procedural Rules Committee, and fixing and defining its powers and duties; imposing duties on judges and other officers of every court of record; fixing penalties."

Section 3. This act shall take effect immediately.

Act effective immediately.

APPROVED—The 25th day of August, A. D. 1959.

DAVID L. LAWRENCE

No. 265

AN ACT

Amending the act of June 24, 1931 (P. L. 1206), entitled "An act concerning townships of the first class; amending, revising, consolidating and changing the law relating thereto," authorizing temporary investment of township funds.

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

The First Class Township Code.

Section 1. The act of June 24, 1931 (P. L. 1206), known as "The First Class Township Code," reenacted and amended May 27, 1949 (P. L. 1955), is amended by adding, after section 1705, a new section to read:

Act of June 24, 1931, P. L. 1206, reenacted and amended May 27, 1949, P. L. 1955, amended by adding a new section 1705.1.

Section 1705.1. Temporary Investment of Township Funds.—The board of commissioners shall have power to provide for the temporary investment of moneys, in the general township fund or in special funds, in United States treasury bills and for the disposal of such securities when the moneys may be needed, or to place such funds in savings accounts or share accounts of institutions insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation to the extent that such accounts are so insured.

Section 2. This act shall take effect immediately.

Act effective immediately.

APPROVED—The 25th day of August, A. D. 1959.

DAVID L. LAWRENCE

No. 266

AN ACT

Amending the act of May 1, 1933 (P.L. 103), entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto," providing that the zoning board of adjustment must give their decision within forty-five days.

The Second Class
Township Code.

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

Section 2007, act of May 1, 1933, P. L. 103, reenacted and amended July 10, 1947, P. L. 1481, amended July 2, 1953, P. L. 354, and the second, fourth, seventh and eighth paragraphs, amended June 1, 1956, P. L. 2021, further amended.

Section 1. Section 2007, act of May 1, 1933 (P. L. 103), known as "The Second Class Township Code," reenacted and amended July 10, 1947 (P. L. 1481), amended July 2, 1953 (P. L. 354) and the second, fourth, seventh and eighth paragraphs, amended June 1, 1956 (P. L. 2021), is amended to read:

Section 2007. Board of Adjustment.—(a) The supervisors may appoint a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of this article, may provide that said board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

(b) The board of adjustment shall consist of three members, one of whom shall be designated to serve until the first day of January following the adoption of the zoning ordinance, one until the first day of the second January thereafter, and one until the first day of the third January thereafter. Their successors shall be appointed on the expiration of their respective terms to serve three years. The members of the board shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The members of the board shall receive such compensation, not to exceed six dollars for each meeting, as shall be fixed by the board of supervisors. No compensation shall be paid for any meeting in which only questions considered in a prior meeting are acted upon. The compensation shall be paid from fees a schedule of which shall be fixed, annually, by the supervisors with the advice of the board for the filing of appeals or petitions to the board. Only one fee shall be charged for the appeal or petition relative to any one property regardless of the number of meetings required for the determination of the question or questions raised.

(c) The board of adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this article. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman or in his absence the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each

member upon each question, or if absent, or failing to vote, indicating such fact and shall keep records of its examinations, and other official actions all of which shall be immediately filed with the township secretary and shall be a public record.

(d) Appeals to the board of adjustment may be taken by any person or township official aggrieved or affected by any provision of the zoning ordinance or by any decision, including any order to stop, cease and desist issued by any administrative officer, hereinafter called the zoning officer, charged with enforcing the provisions of the zoning ordinance. Such appeal shall be taken within a reasonable time as provided by the rules of the board by filing with the zoning officer and with the board of adjustment, a notice of appeal specifying the grounds thereof. The zoning officer shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(e) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning officer certified to the board of adjustment, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would in their opinion cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the zoning officer and due cause shown.

(f) The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within [a reasonable time] *forty-five days after the hearing, or if said hearing is continued, within forty-five days after said continued hearing. If the board of adjustment does not make a decision within forty-five days after the hearing or continued hearing, it shall be deemed that such board has decided in favor of the person or township official aggrieved or affected who is seeking relief.* Upon the hearing, any party may appear in person or by agent or by attorney.

(g) The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination, including any order requiring an alleged violator to stop, cease and desist, made by the zoning officer in the enforcement of this article or of any ordinance adopted pursuant thereto.

(2) To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

(3) To authorize, upon appeal, in specific cases such variance from the terms of the ordinance as will not be contrary to public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

(h) In exercising the above mentioned powers, such board may, in conformity with the provisions of this article, reverse or affirm, wholly or partly or may modify, the order, requirement, decision or determination, including any order requiring an alleged violator to stop, cease, desist, appeal from, and may make such order, requirement, decision or determination including a stop order or orders to cease and desist as ought to be made. Notice of such decision shall forthwith be given to all parties in interest.

(i) Any person aggrieved by any decision of the board of adjustment or any taxpayer or the board of supervisors may, within thirty days after such decision of the board, appeal to the court of common pleas of the county, by petition duly verified, setting forth that such decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, and specifying the grounds upon which he relies. Upon presentation of the petition in proper form, the court shall forthwith issue a writ of certiorari directed to the board of adjustment commanding it, within twenty days after the service thereof, to certify to the court, under the certificate of its chairman, its entire record in the matter in which the appeal has been taken. The prothonotary shall serve the board of adjustment by registered mail with a copy of the writ and a copy of the appeal petition. On or before the return day of the writ the board of adjustment shall file the entire record with the writ in the office of the prothonotary.

(j) Any time during the pendency of an appeal, upon application of the appellant and upon due notice to the board of adjustment, the court or a judge thereof, may, after hearing, grant an order of supersedeas upon such terms and conditions including the filing of security as the court or the judge thereof may prescribe.

(k) If upon the hearing of the appeal, it shall appear to the court that testimony is necessary for the proper disposition of the appeal, it may take evidence or appoint a referee to take such evidence, as it may direct, and report the same to the court with his findings of fact and conclusions of law. The court may reverse or affirm, in whole, or in part, or may modify, the decision appealed as to it may appear just and proper.

(l) Costs shall not be allowed against the board, unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

APPROVED—The 25th day of August, A. D. 1959.

DAVID L. LAWRENCE

No. 267

AN ACT

Amending the act of May 4, 1927 (P. L. 519), entitled "An act concerning boroughs, and revising, amending, and consolidating the law relating to boroughs," providing that the zoning board of adjustment must give their decision within forty-five days.

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

The Borough Code.

Section 1. Section 3307, act of May 4, 1927 (P. L. 519), known as "The Borough Code," reenacted and amended July 10, 1947 (P. L. 1621), is amended to read:

Section 3307, act of May 4, 1927, P. L. 519, reenacted and amended July 10, 1947, P. L. 1621, further amended.

Section 3307. Board of Adjustment.—(a) The council may appoint a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of this article may provide that said board of adjustment may in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

(b) The board of adjustment shall consist of three members, one of whom shall be designated to serve until the first day of January following the adoption of the zoning ordinance, one until the first day of the second January thereafter, and one until the first day of the third January thereafter. Their successors shall be appointed on the expiration of their respective terms, to serve three years. The members of the board shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

(c) The board of adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this article. Meetings of the board shall be held at the call of the chairman, and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All