

Chapter 1

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Part 1**Elected and Appointed Officers and Officials****A. Compensation of Council Members and Mayor****§1-101. Compensation.**

The compensation of each member of the Council of the Borough of Clarks Green and of the Mayor of the Borough of Clarks Green shall be increased to \$1,800 per annum, payable in quarterly installments, effective April 1, 1996.

(Ord. 2-1996, 4/8/1996)

§1-102. Statutory Authority.

This Part is enacted pursuant to §§1001 and 1025 of the Borough Code, 53 P.S. §§46001, 46025.

(Ord. 2-1996, 4/8/1996)

B. Borough Manager**§1-111. Creation of Office.**

The office of Borough Manager is hereby created by the Borough Council of the Borough of Clarks Green (the "Council").

(Ord. 7-1991, 12/9/1991)

§1-112. Appointment; Suspension; Removal.

The Borough Manager (the "Manager") shall be appointed by a majority of all the members of the Council and shall serve subject to removal by the Council at any time by a vote of the majority of all the members of the Council; provided, that the Council shall furnish the Manager notice of such removal at least 30 days prior to the effective date of such removal. During the interim, the Council may suspend the Manager from duty but shall continue his compensation.

(Ord. 7-1991, 12/9/1991)

§1-113. Qualifications.

The Manager shall be chosen on the basis of his or her executive and administrative abilities, with special reference to actual experience in or knowledge of accepted practices in respect to the duties of the Manager as herein outlined.

(Ord. 7-1991, 12/9/1991)

§1-114. Compensation.

The compensation, hours of employment and benefits of the Manager shall be fixed, from time to time, by the Council.

(Ord. 7-1991, 12/9/1991)

§1-115. Powers and Duties.

The Manager shall be the business manager of the Borough and shall be responsible to the Council as a whole for the proper and efficient administration of the Borough. His powers and duties shall relate to the general management of all Borough business not expressly imposed or conferred by statute upon other Borough officers. Subject to recall by the Council, the Borough Manager shall:

- A. Serve as the Zoning Officer.
- B. Serve as the Permit Officer.
- C. Serve as the Street Excavation Inspector.
- D. Serve as the Code Enforcement Officer.
- E. Propose policies and procedures pertaining to the effective administration of the government of the Borough.
- F. Supervise all Borough employees.
- G. Monitor personnel functions to determine if these functions are in accordance with the objectives of the Council.
- H. Provide guidance and training to employees and officials in the accom-

plishment of the objectives of their roles.

I. Subject to the approval of the Council, hire and dismiss Borough employees.

J. Develop and implement, with Council approval, a viable public relations program.

K. Assist municipal officials and employees with special technical tasks, projects and problems.

L. Develop an agenda and supply pertinent data for each meeting of the Council.

M. Administer the provisions of all franchises, leases, permits and privileges granted by the Borough.

N. Hold such other municipal offices or head one or more of the municipal departments as the Council may, from time to time, direct.

O. Attend all meetings of the Council, its commissions and its committees, with the right to take part in any discussion.

P. Upon receipt of any complaint regarding Borough services, investigate and properly dispose of such complaint and report the results thereof to the Council.

Q. Assist in the preparation of bid specifications and in the analyses of bids for acceptability by the Council.

R. Propose and assist in the securing of financial aid in the form of grants and loans from other governmental agencies.

S. Inform the Council as to the conduct of Borough affairs, submit periodic reports on the condition of the Borough finances and such other reports as the Council requests and make such recommendations to the Council as he or she deems advisable.

T. Upon request of the Council, submit to the Council, as soon as possible after the close of the fiscal year, a complete report of the finances and/or the administrative activities of the Borough for the preceding year.

U. Assist the Council in the letting of contracts in accordance with law and supervise the performance and faithful execution of the same, except insofar as such duties are expressly imposed by statute upon some other Borough officer.

V. Prepare and submit a proposed annual budget and capital program to the Council.

(Ord. 7-1991, 12/9/1991)

§1-116. Notification of Disability or Absence.

The Manager shall promptly notify the President of the Council if he or she becomes incapacitated or is absent from duty.

(Ord. 7-1991, 12/9/1991)

§1-117. Statutory Authority.

This Part is enacted pursuant to §§1141 through 1143 of the Borough Code, 53 P.S. §§46141 through 46143 of the Commonwealth of Pennsylvania.

(Ord. 7-1991, 12/9/1991)

C. Independent Auditor**§1-121. Creation.**

There is hereby created the position of independent auditor for the Borough of Clarks Green.

(*Ord. 3-1972, 6/12/1972*)

§1-122. Qualification.

Said independent auditor shall be a certified public accountant, registered in Pennsylvania.

(*Ord. 3-1972, 6/12/1972*)

§1-123. Powers and Duties.

1. Said independent auditor shall make an independent examination of the accounting and financial records of the Borough of Clarks Green. The independent auditor shall examine, audit and settle all accounts whatsoever in which the Borough is concerned, and the audit shall consist of an examination in accordance with generally accepted auditing standards and shall include such tests of the accounting record and such other auditing procedures as he considers necessary in the circumstances. [*Ord. 3-1989*]

2. The independent auditor shall audit the accounting records of the Borough of Clarks Green and shall prepare a report on the examination which shall set forth:

A. The scope of his examination.

B. His opinion of the fairness of the presentation of the financial statement of the Borough which shall show a complete statement of the financial condition of the Borough, giving in detail the actual indebtedness, the amount of 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.

C. Such other duties as may be prescribed by the Act of 1966, February 1, 1965, No. 581, § 1196, 53 P.S. §46196, defining the duties of an independent auditor.

[*Ord. 3-1989*]

3. The independent auditor shall prepare all financial reports as may be required of Boroughs by the Commonwealth of Pennsylvania.

(*Ord. 3-1972, 6/12/1972; as amended by Ord. 3-1989, 10/9/1989, §4-3.A and .B*)

D. Tax Collector**§1-131. Compensation.**

The compensation to be paid to the Borough Tax Collector for collection of real estate taxes for the year 2010 and each year thereafter is fixed at a salary of \$6,000 per year subject to applicable withholdings and deductions. The salary shall be paid quarterly on March 31, June 30, September 30, and December 31 of each year. The Borough Real Estate Tax Collector shall also be entitled to reimbursement for all reasonable out-of-pocket expenses incurred in performance of his or her duties. All such expenses shall be subject to approval by Borough Council.

(Ord. 2-2009, 2/9/2009, §1)

§1-132. Statutory Authority.

This Part 1D is enacted pursuant to §5511.36 of the Local Tax Collection Law, 72 P.S. §5511.36a.

(Ord. 2-2009, 2/9/2009, §1)

Part 2**Boards, Commissions and Committees****§1-201. Establishment.**

Board of Health, hereinafter called the "Board," shall be established and maintained in the Borough of Clarks Green in accordance with §3101 of the Borough Code, 53 P.S. §48101.

(*Ord. 4-1956, 11/12/1956; as amended by Ord. 3-2005, 10/10/2005*)

§1-202. Membership; Terms.

The Borough Council shall appoint five members to serve on the Board of Health, of which at least one shall be a physician as required by the Borough Code. Upon establishment, one such member shall be appointed to serve for 1 year; one member shall be appointed to serve for 2 years; one member shall be appointed to serve for 3 years; one member shall be appointed to serve for 4 years; one member shall be appointed to serve for 5 years; and, thereafter, one member shall be appointed each year to serve for 5 years. If any vacancy occurs, a member shall be appointed to serve the unexpired term of the person whose removal caused that vacancy.

(*Ord. 4-1956, 11/12/1956; as amended by Ord. 3-2005, 10/10/2005*)

§1-203. Election of Officers and Employees.

Immediately after the members of the Board shall be appointed and shall qualify, they shall take and subscribe to the oath provided for Borough officers and thereafter shall meet for organization and shall elect one of their own number to act as President of the Board. The Board shall also have the power to elect a Secretary who may or may not be a member of the Board, and the Board may similarly elect a Health Officer as hereinafter provided who shall not be a member of the Board.

(*Ord. 4-1956, 11/12/1956*)

§1-204. Powers and Duties of Board.

1. The Board of Health shall meet at regular intervals as the Board may decide, which meetings shall be at least four times per year, and hold such other special meetings as the conditions of the Borough may require.

2. The Board of Health may from time to time adopt such rules and regulations as do not abridge or contradict the laws of the Commonwealth of Pennsylvania, rules and regulations of the Pennsylvania State Secretary of Health or the duly enacted ordinances of the Borough.

3. The Board of Health shall have general supervision of the sanitary conditions of the Borough, may quarantine all premises upon which cases of communicable disease exist which are required by law or by regulation of the State Department of Health to be quarantined and shall have the power to perform all of the duties set forth in the Borough Code and any supplements thereto. [*Ord. 3-2005*]

4. The Board shall submit annually to the Borough Council before the

commencement of the fiscal year a detailed estimate and budget of the probable receipts and expenditures of the Board during the ensuing year, together with a report containing such information and suggestions relative to the sanitary conditions and the requirements of the Borough as it may deem proper.

(*Ord. 4-1956*, 11/12/1956; as amended by *Ord. 3-2005*, 10/10/2005)

§1-205. Health Officer.

1. The Board may appoint a person qualified by State regulation to act as Borough Health Officer for such compensation as the Borough Council by resolution may approve.

2. It shall be the duty of the Health Officer to fulfill the duties imposed by the Acts of Assembly of the Commonwealth of Pennsylvania and, in addition thereto, to execute such lawful directions of the Board as the Board, in the exercise of its powers, may determine.

(*Ord. 4-1956*, 11/12/1956)

§1-206. Duties of Secretary.

1. The Secretary of the Board shall perform such duties as are required by the Acts of Assembly of the Commonwealth of Pennsylvania, keep accurate minutes of the official actions of the Board, draw and certify to the Treasurer of the Borough orders for the payment of moneys on account of the Board, render such statements of receipts and expenditures as the Board may direct and prepare, under the direction of the Board, the annual report to the Borough Council.

2. It shall be the duty of the Secretary of the Board to forward to the State Department of Health such forms and reports as may be required by law.

(*Ord. 4-1956*, 11/12/1956)

§1-207. Duties of Physician.

1. Every physician practicing medicine within the territorial limits of the Borough of Clarks Green who shall treat or examine any person suffering from any reportable disease which, under the laws of the Commonwealth of Pennsylvania or the rules and regulations of the State Department of Health, is required to be reported to the health authorities shall report each and every such case to the Lackawanna County Board of Health or its designated representative and, if such does not exist, then to the designated representative of the Secretary of Health of the Commonwealth of Pennsylvania. [*Ord. 4-1990*]

2. No physician practicing within the limits of the Borough shall conceal or in any way assist any other person to conceal any case of quarantinable disease or in any other way interfere with the proper performance by the Board and/or Health Officer of their legal duties.

(*Ord. 4-1956*, 11/12/1956; as amended by *Ord. 4-1990*, 7/9/1990)

§1-208. Duties of Food-Product Vendors.

All stores, shops, stands or wagons from which articles of food are vended or sold must be at all times kept clean and in a sanitary condition free from decayed,

decomposed or otherwise spoiled animal or vegetable matter and shall at all times be open to the inspection of the Health Officer or any member or authorized agent of the Board.

(*Ord. 4-1956, 11/12/1956*)

§1-209. Duties of Residents and Owners of Real Estate.

1. No owner of real estate, resident of the Borough or other person shall secrete or allow to be secreted, on premises within the Borough, any person suffering from a communicable disease, quarantinable under the rules and regulations of the State Department of Health, nor shall such person refuse to admit the Health Officer or a physician deputized by the Board of Health to such premises in making investigation of a suspected case of a contagious disease or a nuisance which might be a menace to public health, nor shall any such person maintain or permit to be maintained within this Borough any condition productive of a nuisance detrimental to the public health or which may be so declared by the Board, nor install or use any system of disposal of sewer except as complies with the ordinances of said Borough thereunto appertaining and approved by the Board, nor shall any such person place or allow to be placed any refuse or organic matter subject to decomposition on any alley or street of the Borough or upon the surface of the ground at any place so as to be offensive or so as to constitute a menace to health of other persons in the Borough.

2. Upon formal notice from the Board that a nuisance or other menace to public health exists on any premises within said Borough, the owner and/or occupant of such premises shall abate such nuisance or remove such threat to health immediately upon receipt of such notice from the Board.

(*Ord. 4-1956, 11/12/1956*)

§1-210. Violations and Penalties.

1. Any person who violates any of the provisions of this Part shall, upon conviction thereof, be sentenced to a fine of not more than \$1,000, plus costs, and, in default of payment of said fine and costs, to imprisonment for a term not to exceed 30 days. [*Ord. 3-2005*]

2. Upon any violation of this Part which also constitutes a violation of an Act of Assembly of the Commonwealth of Pennsylvania for which a penalty is provided by said statutes which is inconsistent with the penalty provided by this Part, then and in that event the penalties provided by the Act of Assembly shall take precedence to the penalty provided by this Part and shall be the only penalty imposed for such violations. [*Ord. 3-1989*]

3. In addition to penalties for violations, the Borough may enforce any order of the Board made in pursuance of its lawful powers by action in law or equity against any person or persons who have violated the terms of this Part who refuse to obey such lawful orders of the Board.

(*Ord. 4-1956, 11/12/1956; as amended by Ord. 3-1989, 10/9/1989, §14-10; and by Ord. 3-2005, 10/10/2005*)

B. Abington Area Joint Recreation Board**§1-211. Establishment; Authority and Functions.**

The Borough Council of the Borough of Clarks Green is hereby authorized to enter into joint agreements with other participating municipalities in the Abington area to establish a joint board to be known as the "Abington Area Joint Recreation Board," and defining the authority and functions of said Joint Board, the manner in which the Joint Board shall make reports, the sharing of expenses of the Joint Board and such other provisions as the Board of Supervisors shall deem appropriate and desirable to govern the establishment, functioning and termination of such Joint Board, including the right to make application for state and federal grants for planning purposes, and in general to develop and formulate a specific plan of acquisition, development and operation of regional recreation areas and facilities, and a plan of financing of the same, to be submitted to the Borough Council of Clarks Green and the governing bodies of the other participating municipalities for approval by ordinance or resolution, as appropriate, in accordance with the provisions of the General Cooperation Law.

(Ord. 2-1972, 2/14/1972)

§1-212. Agreement Approval.

The form of joint agreement attached to and made a part of this Part is hereby approved and execution thereof hereby authorized.¹

(Ord. 2-1972, 2/14/1972)

§1-213. Appropriation of Funds.

The Borough shall be entitled to appropriate from general funds such sums as are necessary to cover the initial expenses of the Joint Board in accordance with budgets approved by the participating municipalities in accordance with said joint agreement, as well as such sums as are required for projects undertaken by the Joint Board duly approved by the participating municipalities under said joint agreement and its supplements and revisions, as therein provided.

(Ord. 2-1972, 2/14/1972)

¹Editor's Note: The agreement is on file in the Office of the Borough Secretary and may be inspected during regular business hours.

C. Planning Commission**§1-221. Creation; Membership.**

There is hereby created a Borough Planning Commission to consist of seven persons to be appointed by the Borough Council of the Borough of Clarks Green and who shall be the executive body authorized and directed to carry out the duties prescribed by this Part.

(*Ord. 3-1959, 3/9/1959*; as amended by *Ord. 6-1976, 7/12/1976*; by *Ord. 3-1989, 10/9/1989, §25-1*; and by *Ord. 4-1998, 12/14/1998, §1*)

§1-222. Terms; Vacancies.

Upon enactment of this Part, one member of said Commission shall be appointed for a period of 1 year; one member shall be appointed for a period of 2 years; one member shall be appointed for a period of 3 years; one member shall be appointed for a period of 4 years; and one member shall be appointed for a period of 5 years. Upon expiration of each of said terms and thereafter upon expiration of successive terms, a member of said Commission shall be appointed for a term of 4 years. In the event that any vacancy occurs, any appointment made to fill such vacancy shall be for the unexpired portion of the term.

(*Ord. 3-1959, 3/9/1959*; as amended by *Ord. 3-1989, 10/9/1989, §25-2*)

§1-223. Rules and Regulations; Annual Report; Employees.

The Planning Commission may formulate rules and regulations not inconsistent with this Part or the laws of the Commonwealth of Pennsylvania for its own organization and procedure. It shall report annually to the Borough Council of all transactions. With the prior approval of the Borough Council, it may employ such engineers and other persons at such wages or salary as might be necessary to accomplish the purpose of its office.

(*Ord. 3-1959, 3/9/1959*)

§1-224. Preparation of Requirements.

The Planning Commission shall forthwith prepare plans showing requirements of all developments, additions, subdivisions and extensions for the Borough of Clarks Green within the limitations set by law.

(*Ord. 3-1959, 3/9/1959*)

§1-225. Powers and Duties.

The Planning Commission shall have all powers set forth for such bodies under the Municipalities Planning Code, 53 P.S. §10101 *et seq.* provided, however, that nothing herein contained shall be construed to vest in the Borough Planning Commission any powers which are inconsistent with any ordinance of the Borough of Clarks Green, whether the same be presently or in the future enacted.

(*Ord. 3-1959, 3/9/1959*; as amended by *Ord. 3-2005, 10/10/2005*)

§1-226. Consistency with Other Provisions; Approval of Council.

No plan, plot or replot of any portion of the Borough of Clarks Green shall be inconsistent with the Zoning Ordinance [Chapter 27] of said Borough, and no acceptance or disapproval of any such plan, plot or replot shall become finally effective until the action of said Planning Commission is approved by the Council of the Borough of Clarks Green.

(Ord. 3-1959, 3/9/1959)

§1-227. Incompatibility of Office.

There shall be no incompatibility of office between a member of the Borough Planning Commission, the office of the Borough Councilmen or the office of a member of the Borough Board of Adjustment or a Borough Zoning Commission.

(Ord. 3-1959, 3/9/1959)

Part 3**Attorney Fees for Collection of Delinquent Municipal Accounts****§1-301. Schedule of Attorney's Fees.**

The following schedule of attorney fees is hereby adopted in connection with the collection of delinquent accounts as part of a municipal lien imposed by the Borough of Clarks Green: the sum of \$200 plus filing fees for the filing of a municipal lien, to cover the title work, and drafting and filing of the municipal lien with the Clerk of Judicial Records of Lackawanna County. In the event that the municipal lien is contested by the owner, or the Borough, through its Solicitor, institutes procedures for the collection of the municipal lien, then the legal fee of the Solicitor to be charged to the owner shall be at the ordinary and usual hourly rate of the Solicitor.

(Ord. 4-1996, 6/10/1996; as amended by Ord. 3-2005, 10/10/2005)

§1-302. Notice Required.

1. At least 30 days prior to assessing or imposing attorney fees in connection with the collection of a delinquent account, the Borough shall, by United States certified mail, return receipt requested, postage prepaid, mail to the owner the notice hereinafter required (the "notice").

2. If within 30 days of mailing the notice in accordance with the preceding subsection, the certified mail is refused or unclaimed or the return receipt is not received, then at least 10 days prior to assessing or imposing attorney fees in connection with the collection of a delinquent account, the Borough shall, by United States first class mail, mail to the owner the notice.

3. The notice shall be mailed to the owner's last known post office address by virtue of the knowledge and information possessed by the Borough and by the Lackawanna County office responsible for assessments and revisions of taxes. It shall be the duty of the Borough to determine the owner's last post office address known to said collector and County assessment office.

(Ord. 4-1996, 6/10/1996)

§1-303. Contents of Notice.

The notice to the owner shall include the following:

A. A statement of the Borough's intent to impose or assess attorney fees within 30 days of mailing the notice pursuant to §1-302.1 above or within 10 days of the mailing of the notice pursuant to §1-302.2 above.

B. The manner in which the imposition or assessment of attorney fees may be avoided by payment of the delinquent account.

(Ord. 4-1996, 6/10/1996)

Part 4**Intergovernmental Cooperation Agreement–Municipal Utility Alliance****§1-401. Joinder to Agreement.**

The President of the Borough Council of the Borough of Clarks Green is hereby authorized and directed to execute and deliver a joinder to the amended and restated intergovernmental cooperation agreement dated as of April 7, 2009 (the “agreement”), a copy of which is attached hereto and made a part hereof, and to execute and deliver such additional instruments, and to take such further action, as may be necessary or appropriate to carry forth the agreement and the transactions to be effected under the agreement.

(Ord. 5-2009, 5/11/2009, §1)

§1-402. Authorization.

The President of the Borough Council of Clarks Green Borough is hereby authorized to deliver a written commitment to purchase the specific services through the MUA Program, and to execute a purchase and sale agreement with the utility supplier on the terms and conditions negotiated and obtained by the MUA provided that the conditions set forth in Section 12 of the agreement have been met.

(Ord. 5-2009, 5/11/2009, §1)

§1-403. Notices.

Written notices under Section 18(a) of the agreement intended for the Borough shall be sent to the following individual at the addresses indicated:

Clarks Green Borough
104 North Abington Road
Clarks Green, PA 18411
Attention: President of Borough Council

With a copy to:

Oliver, Price and Rhodes
1212 South Abington Road
P.O. Box 240
Clarks Summit PA 18411
Attention: Alfred J. Weinschenk, Esquire

(Ord. 5-2009, 5/11/2009, §1)

§1-404. Terms of Cooperation.

The conditions, duration and term, purpose and objective, scope and authority delegated, manner and extent of financing, organizational structure and manner which personal property shall be acquired, managed and disposed of are set forth in the attached agreement.

(Ord. 5-2009, 5/11/2009, §1)

JOINDER

The Borough of Clarks Green, with offices at 104 North Abington Road, Clarks Green, Pennsylvania 18411, intending to be legally bound hereby, joins in the Amended and Restated Intergovernmental Cooperation Agreement dated as of the 7th day of April, 2009 (the "**Agreement**", by and among the MUNICIPAL UTILITY ALLIANCE, a Pennsylvania non-profit corporation (the "**MUA**"), the Township of Lower Paxton, a Pennsylvania Second Class Township, ("**Lead Local Government**") and all other local governments or municipal authorities (each, an "**Agency**") signatory to the said Agreement. This Joinder shall have the same force and effect as if the undersigned had executed an original Agreement with the MUA, the Lead Local Government and all other Agencies executing a Joinder.

The execution and delivery of this Joinder is authorized (i) in the case of all Agencies, by Chapter 19 of the Commonwealth Procurement Code, 62 Pa. C.S. § 1901 *et seq.*; (ii) in the case of an Agency that is a municipal authority, by the Municipality Authorities Act, 53 Pa. C.S. § 5601 *et seq.*; and (iii) in the case of an Agency that is a local government, by the Intergovernmental Cooperation Act, 53 Pa. C.S. § 2301 *et seq.*

EXECUTED on the 11th day of May, 2009.

ATTEST:

By: Angela N. Pullo
Name: Angela N. Pullo
Title: Secretary

Borough of Clarks Green:

By: Patrick J. Conroy
Name: Patrick J. Conroy
Title: President, Borough Council

This Joinder is authorized by Ordinance No. 5 of 2009 adopted at a duly assembled public meeting held the 11th day of May, 2009, a true and correct copy of which is attached hereto.

