

Chapter 1

Administration and Government

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Part 1
Elected Officers**§1-101. Salary of Mayor.**

The salary of the Mayor of the Borough of Shillington is hereby fixed at the sum of \$2,000 per year effective January 1, 1990.

(*Ord. 833, 1/4/1990, §1*)

§1-102. Salaries of Members of Council.

The salaries of the members of the Borough Council of the Borough of Shillington are hereby fixed as follows:

President	\$2,000 per year
all other members	\$1,500 per year

effective January 1, 1990.

(*Ord. 833, 1/4/1990, §2*)

§1-103. Tax Collector's Commission.

The compensation of the Tax Collector to be elected at the municipal election to be held on November 2, 1965, and who shall take office on the first Monday of January, 1966, and of each Tax Collector elected or appointed thereafter is fixed at:

A. .55% of all taxes collected by him during the rebate and flat periods.

B. 1% of all taxes collected by him commencing at the end of the flat-rate period and beginning of the penalty period, viz., July first.

(*Ord. 442, 3/11/1965, §1; as amended by Ord. 866, 2/11/1993; and by Ord. 918, 1/9/1997, §1*)

§1-104. Tax Certification.

The Borough of Shillington, Berks County, Pennsylvania, hereby appoints the duly elected and/or appointed tax collector of the Borough as the municipal officer authorized to provide tax certifications, upon request by the public, and the Borough hereby authorizes such Tax Collector to assess, collect and retain, as compensation for providing such additional service, a fee of not more than \$20 for each tax certification that such Tax Collector provides.

(*Ord. 904, 10/12/1995, §1; as amended by Ord. 1049, 2/9/2006, §1*)

Part 2**Appointed Officers****§1-201. Office of Borough Manager Created.**

The office of Borough Manager be and the same is hereby created, subject to the right of the Borough by ordinance at any time to abolish said office.

(*Ord. 300, 9/23/1954, §1*)

§1-202. Appointment and Removal of Manager.

The Borough Council shall, from time to time, and whenever there is a vacancy in the office of Borough Manager, elect, by vote of a majority of all the members of the Council, one person to fill the office of Borough Manager, subject to removal at any time by a vote of the majority of all members of the Council.

(*Ord. 300, 9/23/1954, §2; as amended by Ord. 518, 7/17/1970, §1*)

§1-203. Manager's Bond.

Before entering upon his duties, the Borough Manager shall give bond to the Borough, at the expense of the Borough, with a bonding company as surety, in the amount required by the Borough Council.

(*Ord. 300, 9/23/1954, §3; as amended by Ord. 518, 7/17/1970, §1*)

§1-204. Manager's Salary.

The salary of the Borough Manager shall be determined by the Borough Council from time to time.

(*Ord. 300, 9/23/1954, §4; as amended by Ord. 518, 7/17/1970, §1*)

§1-205. General Powers and Duties of Manager.

The Borough Manager shall carry on the business of the Borough under the direction of the Council, and his or her powers and duties shall relate to the general management of all Borough business, not expressly by statute imposed or conferred upon other Borough officers; and, with approval of the Borough Council, the Mayor may delegate to the Borough Manager any of his non-legislative and non-judicial powers and duties.

(*Ord. 300, 9/23/1954, §5; as amended by Ord. 518, 7/17/1970, §1*)

§1-206. Qualifications of Manager.

The Borough Manager shall be a man or woman with such technical and executive ability, and with such training and experience as to enable him or her to perform the duties imposed upon the office in a successful and business-like manner.

(*Ord. 300, 9/23/1954, §6*)

§1-207. Specific Powers and Duties of Manager.

Subject to recall at any time by resolution of Council, the powers and duties of the Borough Manager shall include the following:

A. The Borough Manager shall attend all meetings of the Council and recommend such measures as he or she shall deem expedient.

B. He or she shall make a bimonthly report to the Council and at such other times as Council may direct upon the affairs of the Borough, and keep the Council fully advised of the Borough's financial condition and its financial needs.

C. He or she shall prepare and submit to the Council before the end of any fiscal year a tentative budget for the next fiscal year.

D. The Borough Manager shall attend to the letting of contracts in due form of law and supervise the performance and faithful execution of the same, except insofar as such duties are expressly imposed upon some other Borough officer by statute.

E. The Borough Manager shall have full power to purchase all supplies and equipment for the use of his or her own and various departments and offices of the Borough, in accordance with council manic approval. He or she shall keep an account of all purchases made by him or her and shall from time to time, and as directed by Council, make a full written report thereof.

F. He or she shall see that all monies owing the Borough are promptly paid and that proper proceedings are taken for the security and collection of all Borough claims.

G. The Borough Manager shall annually present to the Council, not more than 30 days after the close of each fiscal year, a correct and detailed statement and report of the preceding year's work of his or her office, with a detailed statement of all monies received and expended.

H. The Borough Manager shall perform such other duties as may be from time to time by ordinance conferred upon him or her.

I. The Borough Manager shall cooperate with the Borough Council at all times and in all matters that the best interests of the Borough and the general public may be maintained.

(Ord. 300, 9/23/1954, §7; as amended by Ord. 518, 7/17/1970, §2)

§1-208. Rights Reserved.

The Borough reserves the right at any time by ordinance to amend or otherwise modify or repeal this Part in any particular.

(Ord. 300, 9/23/1954, §8)

Part 3**Boards and Commissions****§1-301. Borough Planning Commission Established.**

A Borough Planning Commission, composed of five members, appointed in the manner provided by law, is hereby created and established in and for the Borough of Shillington. The said Borough Planning Commission shall exercise all the powers and may perform all the duties vested by law in planning agencies for boroughs. Provided: the persons constituting the Borough Planning Commission now functioning in the Borough shall constitute the Planning Commission hereby created and established, and nothing in this Part shall affect the tenure of any member of the said present Planning Commission, but all vacancies hereafter occurring in the said Planning Commission, regardless of the cause thereof, shall be filled in accordance with the provisions of the law governing planning agencies in boroughs at the time of the occurrence of such vacancy.

(Ord. 537, 7/17/1970, §1)

Part 4**Police Department****§1-401. Police Department Established; Chief of Police.**

1. A Police Department is hereby established in and for the Borough of Shillington.

2. The Chief of Police shall be the chief executive of the Police Department. He shall, under the direction of the Mayor, be in charge of the police force and have supervision over its members, in the exercise of their powers, duties and authority.

(*Ord. 538, 7/17/1970, §1*)

§1-402. Subordinate Classifications in Police Department.

Subordinate to the Chief of Police, in the Police Department, the following classifications are hereby established: sergeant and patrolman, or those of such classifications to which the Council shall at any specific time have appointed one or more police officers. The priority of authority among such subordinate classifications shall be in the order above listed. The number of persons to serve in each of such subordinate classifications, on a full-time and/or part-time basis, and the compensation of each, shall be as determined by the Borough Council from time to time.

(*Ord. 538, 7/17/1970, §2*)

§1-403. Regular Policemen May Accept Appointments in Certain Other Municipalities; Policemen of Those Municipalities Appointed Policemen of this Borough.

All regular policemen of this Borough are hereby authorized to accept appointments as regular policemen of the Borough of Wyomissing, the Borough of Kenhorst, the Borough of West Reading, the Township of Cumru and the Borough of Mohnton, and all regular policemen of the Borough of Wyomissing, the Borough of Kenhorst, the Borough of West Reading, the Township of Cumru and the Borough of Mohnton, are hereby appointed policemen and employees of the Borough of Shillington at a compensation of \$1 per year.

(*Ord. 538, 7/17/1970, §3; as amended by Ord. 577, 1/3/1972, §1*)

§1-404. Appointment of Special Policemen by Mayor.

Nothing in this Part shall affect the authority of the Mayor to appoint special policemen during emergencies.

(*Ord. 538, 7/17/1970, §4*)

Part 5**Police Pensions****§1-501. Establishment of Plan.**

Previous ordinances or resolutions relating to the Borough of Shillington Police Pension Plan with an effective date prior to the adoption date of the amendment and restatement effective date and the attached amendment and restatement of the plan¹ is enacted; and further, be it ordained and enacted by the Borough of Shillington that the previous ordinance or resolutions relating to the plan's trust fund with an effective date prior to the adoption date of the amendment and restatement of the trust are hereby repealed and the attached amendment and restatement of the trust is enacted. Michael D. Mountz is appointed as the chief administrative officer of the plan. Michael D. Mountz, as the agent of the employer, is authorized and directed to execute the attached amendment and restatement of the plan and the attached amendment and restatement of the trust. The Shillington Borough Council is hereby confirmed as the trustee of the trust.

(Ord. 990, 2/14/2002)

§1-502. Amendments to Plan.

1. Amending §§3.6, 4.1 and 4.2 of the Plan by providing changes mandated by Act 30 of 2002. [*Ord. 1010*]

2. Amending the Plan to comply with Revenue Ruling 2001-62, Revenue Ruling 2002-27, and the final regulations issued under Internal Revenue Code, §401(a)(9). [*Ord. 1011*]

3. Amending the Plan to comply with Treasury Regulation, §1.415-6(b)(II), and the final regulations issued under Internal Revenue Code, §401(a) (9). [*Ord. 1075*]

4. Amending the Plan to comply with the Pension Funding Equity Act of 2004, Pension Protection Act of 2006, and the final regulations issued under Internal Revenue Code, §415. [*Ord. 1092*]

(Ord. 1010, 10/9/2003; as amended by Ord. 1011, 10/9/2003; by Ord. 1075, 11/8/2007; and by Ord. 1092, 1/8/2009)

¹Editor's Note: The "attached amendment and restatement" of the plan and trust are on file in the Borough office.

Part 6**Fiscal Affairs****§1-601. Fiscal Calendar for Collection of Real Estate and Per Capita Taxes.**

Effective with the 1970 tax duplicate the Borough of Shillington will bill its real estate and per capita taxes as per the following schedule in accordance with a series of laws enacted in 1967 designed to achieve uniformity in the fiscal schedules of the various classes of local government:

- A. Real estate and per capita taxes - Invoice date - March 1.
- B. 2% discount - March and April.
- C. Flat rate - May and June.
- D. 5% penalty added July 1.
- E. ½% added to penalty each month starting January 1 of the following year.

(*Ord. 503*, 1/5/1970, §1; as amended by *Ord. 536*, 7/17/1970, §2; and by *Ord. 637*, 11/11/1976, §1)

Part 7**Nonuniformed Employee Retirement Plan****§1-701. Nonuniformed Employee Retirement Plan.**

1. Now therefore, be it ordained and enacted by the Borough of Shillington that the previous ordinances or resolutions relating to the Borough of Shillington Nonuniformed Pension Plan with an effective date prior to the adoption date of the amendment and restatement of the plan are hereby repealed with respect to benefits accruing on or after the amendment and restatement effective date and the attached amendment and restatement of the plan² is enacted; and further, be it ordained and enacted by the Borough of Shillington that the previous ordinances or resolutions relating to the Borough of Shillington Nonuniformed Pension Fund with an effective date prior to the adoption date of the amendment and restatement of the trust are hereby repealed and the attached amendment and restatement of the trust is enacted. Michael D. Mountz is appointed as the Chief Administrative Officer of the plan. Michael D. Mountz as the agent of the employer is authorized and directed to execute the attached amendment and restatement of the Plan and the attached amendment and restatement of the Trust. The Shillington Borough Council is hereby confirmed as the Trustee of the Trust.

(*Ord. 991, 2/14/2002*)

§1-702. Amendments to Plan.

1. Now therefore, be it ordained and enacted by the Borough of Shillington that the attached amendment of the Borough of Shillington Nonuniformed Pension Plan³ is enacted. Michael D. Mountz as the agent of the employer is authorized and directed to execute the attached amendment of the Plan. [*Ord. 1012*]

2. Amending the Plan to comply with Internal Revenue Code, §401(a)(31)(B)(i), and the final regulations issued under Internal Revenue Code, §401(a)(9). [*Ord. 1074*]

2. Amending the plan to comply with the Pension Funding Equity Act of 2004, Pension Protection Act of 2006, and the final regulations issued under the Internal Revenue Code, §415. [*Ord. 1093*]

(*Ord. 1012, 10/9/2003; as amended by Ord. 1074, 11/8/2007; and by Ord. 1093, 1/8/2009*)

²Editor's Note: The "attached amendment and restatement" of the plan and trust are on file in the Borough office.

³Editor's Note: The "attached amendment of the Borough of Shillington Non-uniformed Pension Plan" is on file in the Borough office.

Part 8**Right to Know****§1-801. Definitions.**

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

Borough - the Borough of Shillington.

Council - the Council of the Borough of Shillington.

Public record - any account, voucher or contract dealing with the receipt or disbursement of funds by the Borough of Shillington or its acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order or decision by the Borough of Shillington fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of persons: Provided, that the term "public records" shall not mean any report, communication or other paper, the publication of which would disclose the institution progress or result of an investigation undertaken by the Borough of Shillington in the performance of its official duties; it shall not include any record, document, material, exhibit, pleading, report, memorandum or other paper, access to or the publication of which is prohibited, restricted or forbidden by statute, law or order or decree of court, or which would operate to the prejudice or impairment of a person's reputation or personal security, or which would result in the loss by the Borough of Shillington of federal funds, exception therefrom however the record of any conviction for any criminal act.

Record - any document maintained by the Borough of Shillington, in any form, whether public or not.

Requester - a person who is a resident of the Commonwealth of Pennsylvania and requests a record pursuant to this Act.

Secretary - the Secretary or acting Secretary of the Borough of Shillington.

(Res. 6-2007, 8/9/2007, §1)

§1-802. Procedure for Access to Public Records of the Borough.

1. *General Rule.* Unless otherwise provided by law, a public record of the Borough of Shillington shall be accessible for inspection and duplication by a requester in accordance with this Part. A public record shall be provided to a requester in the medium requested if the public record exists in that medium; otherwise, it shall be provided in the medium in which it exists. Public records shall be available for access during the regular business hours of the Borough. Nothing in this Act shall provide for access to a record, which is not a public record.

2. *Requests.* The Borough will not fulfill verbal requests for access to records and anonymous requests for access to records. In the event that the requester wishes to pursue the relief and remedies provided for in the Right to Know Law, the requester must initiate such relief with a written request. All requests for records must be in writing.

3. *Written Requests.* A written request for access to records may be received in person, by mail, by facsimile or by electronic means. A written request shall be addressed to the Secretary of the Borough of Shillington, P.O. 247, Shillington, Pennsylvania 19607. Written requests should identify or describe the records sought with sufficient specificity to enable the Borough to ascertain which records are being requested and shall include the name and address to which the Borough should address its response. A written request need not include any explanation of the requester's reason for requesting or intended use of the records.

4. *Creation of a Public Record.* When responding to a request for access, the Borough shall not be required to create a public record which does not currently exist or to compile, maintain, format or organize a public record in a manner in which it does not currently compile, maintain, format or organize the public record.

5. *Conversion of an Electronic Record to Paper.* If a public record is only maintained electronically or in other non-paper media, the Borough shall, upon request, duplicate the public record on paper when responding to a request for access in accordance with this Part.

(Res. 6-2007, 8/9/2007, §2)

§1-803. Access to Public Records.

The Borough may not deny a requester access to a public record due to the intended use of the public record by the requester.

(Res. 6-2007, 8/9/2007, §3)

§1-804. Redaction.

If the Borough determines that a public record contains information, which is subject to access as well as information, which is not subject to access, the Borough's response shall grant access to the information, which is subject to access, and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record and cannot be separated, the Borough shall redact from the public record the information which is not subject to access and the response shall grant access to the information which is subject to access. The Borough may not deny access to the public record if the information which is not subject to access is able to be redacted. Information, which the Borough redacts in accordance with this subsection, shall be deemed a denial under §1-805.

(Res. 6-2007, 8/9/2007, §3.2)

§1-805. The Borough's Response to Written Requests for Access.

1. *General Rule.* Upon receipt of a written request for access to a record, the Borough shall make a good faith effort to determine if the record requested is a public record and to respond as promptly as possible under the circumstances existing at the time of the request, but shall not exceed 5 business days from the date the written request is received by the Borough. If the Borough fails to send the response within 5 business days of receipt of the written request for access, the written request for access shall be deemed denied.

2. *Exception.* Upon receipt of a written request for access, if the Borough determines that one of the following applies:

A. The request for access requires redaction of a public record in accordance with §1-804.

B. The request for access requires the retrieval of a record stored in a remote location.

C. A timely response to the request for access cannot be accompanied due to bona fide and specified staffing limitations.

D. A legal review is necessary to determine whether the record is a public record subject to access under this Act.

E. The requester has not complied with the Borough's policies regarding access to public records.

F. The requester refuses to pay applicable fees.

(1) The Borough shall send written notice to the requester within 5 business days of its receipt of the request notifying the requester that the request for access is being reviewed, the reason for the review and a reasonable date that a response is expected to be provided. If the date that a response is expected to be provided is in excess of 30 days following the 5 business days allowed in subsection .1, the request for access shall be deemed denied.

(2) If the Borough's response grants a request for access, it shall upon request, provide the requester with a certified copy of the public record if the requester pays the applicable fees pursuant to §1-810.

3. *Denial.* If the Borough's response is a denial of a written request for access, whether in whole or in part, a written response shall be issued and include:

A. A description of the record requested.

B. The specific reason(s) for the denial, including a citation of supporting legal authority. If the denial is the result of a determination that the record requested is not a public record, the specific reasons for the Borough's determination that the record is not a public record shall be included.

C. The typed or printed name, title, business address, business telephone number and signature of the public official or public employee on whose authority the denial is issued.

D. Date of the response.

E. The procedure to appeal the denial of access under this Act.

(Res. 6-2007, 8/9/2007, §3.3)

§1-806. Final Determination.

1. *Filing of Exceptions.* If a written request for access is denied or deemed denied, the requester may file exceptions with the Borough Council of the Borough of Shillington within 15 business days of the mailing date of the response or within 15 days of a deemed denial. The exceptions shall state grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by the Borough for delaying or denying the request.

2. *Determination.* Unless the requester agrees otherwise, the Borough Council of the Borough of Shillington or its designee shall make a final determination regarding the exceptions within 30 days of the mailing date of the exceptions. Prior to issuing the final determination regarding the exceptions, the Borough Council of the Borough of Shillington or its designee may conduct a hearing. The determination shall be the final order of the Borough. If the Borough Council or its designee determines that the request for access was correctly denied, then the Borough shall provide a written explanation to the requester of the reason for the denial.

(Res. 6-2007, 8/9/2007, §3.4)

§1-807. Judicial Appeal.

1. Within 30 days of a denial by the Borough under §1-805.3 or of the mailing date of a final determination of the Borough affirming the denial of access, a requester may file a petition for review or other document as might be required by rule of court with the Court of Common Pleas of Berks County.

2. *Notice.* The Borough shall be served notice of any court or other actions commenced, and shall have an opportunity to respond in accordance with applicable court rules.

(Res. 6-2007, 8/9/2007, §4)

§1-808. Fees.

1. *Postage.* The Borough may impose a fee for postage, which may not exceed the actual prevailing cost of mailing.

2. *Duplication.* The Borough may impose fees for duplication of public records by photocopying, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile or other electronic means and other means of duplication which fees shall be the lesser of \$0.50 per sheet or the prevailing fee for comparable duplication services provided by local business entities in the Berks County area.

3. *Certification.* The Borough may impose a fee of \$10 for official certification of copies if the certification is at the behest of the requester and for the purpose of legally verifying the public record.

4. *Conversion to Paper.* If a public record is only maintained electronically or in other non-paper media, the Borough may impose fees, which shall be limited to \$0.50 per paper page or the fee for duplication in the native media as provided by subsection .2 unless the requester specifically requests for the public record to be duplicated in the more expensive medium.

5. *Waiver of Fees.* The Borough may waive the fees for duplication of a public record including, but not limited to, when:

A. The register duplicates the public record.

B. It deems it is in the public interest to do so.

6. *Other Fees / Limitations.* A reasonable fee equal to the actual cost shall be imposed if the Borough, out of necessity, incurs costs not otherwise described in this Part for complying with the request. However, the Borough recognizes it may not

impose a fee for its review of a record to determine whether the record is a public record subject to access.

7. *Prepayment.* Prior to granting a request for access in accordance with this Act, a requester shall prepay an estimate of the fees authorized under this Section if the fees required to fulfill the request are expected to exceed \$100. In no event will any public records or reports be released until requester first pays the Borough all fees due and payable.

(*Res. 6-2007, 8/9/2007, §5*)

§1-809. Miscellaneous.

1. The Borough may adopt amendments to this Part which are necessary to implement the provisions and purposes of the public right to know law.

2. *Posting.* A copy of this Part shall be conspicuously posted at the Borough office.

(*Res. 6-2007, 8/9/2007, §6*)

§1-810. Effective Date.

This Part shall take effect upon enactment.

(*Res. 6-2007, 8/9/2007, §7*)

RECORD REQUEST FORM

DATE _____

NAME _____

ADDRESS _____

TELEPHONE NUMBER _____

DESCRIPTION OF RECORDS _____

(If more space is required, continue on the back of this form)

INSTRUCTIONS: PICK-UP FAX MAIL DISK E-MAIL

SIGNATURE (When request is fulfilled)

For Office Use Only:

Copies _____ Postage _____ Disk _____ FAX _____

TOTAL COST _____

DATE REQUEST FULFILLED _____

INITIALS OF STAFF MEMBER _____

DATE INFORMATION:

Picked Up _____ Faxed _____ Mailed _____

