

This Notice is for reference purposes, as per the Open Public Meetings Act Requirements, N.J.S.A. 10:4-8 and N.J.S.A. 10:4-18.

**AGENDA
COUNCIL MEETING
315 WESTFIELD AVE., CLARK, NJ 07066
March 19, 2018
7:30 pm**

ROLL CALL:

Councilwoman Albanese _____ **Councilman Mazarella** _____
Councilman Barr _____ **Councilman O'Connor** _____
Councilman Hund _____ **Councilman Toal** _____
Council President Smith _____

PLEDGE OF ALLEGIANCE TO THE FLAG: MOMENT OF SILENCE

This meeting is in compliance with the Open Public Meetings Act (Chapter 231, P.L.1975) as adequate notice of this meeting has been provided by mailing the Annual Schedule of meetings to the Star Ledger, Union County Local Source, and TAP into Clark, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the proper filing of said Notice. Formal action may be taken at this meeting.

Regular Order of Business suspended to Recognize the 4th Grade Girls Basketball Team

Regular Order of Business resumes following a brief recess

COMMUNICATIONS FROM THE MAYOR AND REPORTS OF TOWNSHIP OFFICERS:

Mayor:

Township Officers: Reports given this evening will be available in the Clerk’s office and on the township website www.ourclark.com

REPORT OF COUNCIL COMMITTEES:

ORDINANCES, APPROPRIATIONS AND CLAIMS:

PUBLIC HEARING ON PROPOSED ORDINANCES:

(No objections have been received in connection with the proposed Ordinances)

1. **AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 294 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED “SMOKING”** Introduced Feb 20th
2. **18-06 AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 294 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED “SMOKING”**
Revised and Introduce March 5, 2018
3. **18-07 BOND ORDINANCE TO AUTHORIZE THE UNDERTAKING OF THE 2018 CAPITAL ROAD IMPROVEMENT PROGRAM IN, BY AND FOR THE TOWNSHIP OF CLARK, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$1,000,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS**

4. **18-08 AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 195-134 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED "COH COMMERCIAL OFFICE, MULTISTORY DISTRICT"**

Notice of Public Hearing was delivered by certified mail to the Union County Planning Board, Municipal Clerks of the surrounding towns, and property owners within 200' of the COH zone.

INTRODUCTION OF PROPOSED ORDINANCES:

The Public Hearing on each of these ordinances will be held on April 16, 2018

5. **18-09 AN ORDINANCE TO AMEND AND SUPPLEMENT VARIOUS SECTIONS OF CHAPTER 195 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED "LAND USE AND DEVELOPMENT" (The Planning Board has reviewed this ordinance and recommends Governing Body action.)**
6. **18-10 AN ORDINANCE TO AMEND AND SUPPLEMENT VARIOUS SECTIONS OF CHAPTER 3, ARTICLE VIII, ENTITLED DEPARTMENTS**
7. **18-11 AN ORDINANCE TO AMEND AND SUPPLEMENT VARIOUS SECTIONS OF CHAPTER 161 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED "FIRE PREVENTION"**
8. **18-12 AN ORDINANCE SUPPLEMENTING ORDINANCE 18-01 ENTITLED "AN ORDINANCE TO FIX MINIMUM AND MAXIMUM SALARIES"**
9. **18-13 AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 347, ENTITLED VEHICLES AND TRAFFIC, ARTICLE V TRAFFIC REGULATIONS OF THE CODE OF THE TOWNSHIP OF CLARK**

PAYMENT OF CLAIMS:

Councilman O'Connor, Chairman of Finance Committee will give a report on Current and Capital expenditures received and encumbered through March 15, 2018 in the amount of \$186,166.15

CITIZEN HEARING ON THE AGENDA:

Each person addressing the Council shall first give his/her name and address to the Clerk. All remarks shall be addressed to the Council as a body and shall not exceed 10 minutes in duration.

The Public may speak on any agenda item that does not have its own public hearing

RESOLUTIONS:

10. Authorizing the Township of Clark to enter into a New Jersey Interoperable Communications System (NJICS) User Agreement with the County of Union
11. Renewing the Professional Services contract with CGP&H as the Administrative Agent for the Township's Affordable Housing Program
12. Council as the Pool Utility - Award of Contract to Aquatic Service Inc. for Pool Maintenance in the amount of \$29,594.25 for 2018 and \$30,334.10 for 2019

CONSENT AGENDA RESOLUTIONS:

13. Endorsing the submission of the recycling tonnage grant application and designating Jennifer Kobliska to ensure that the application is properly filed
14. Authorizing the Tax Collector to refund overpayment of 2018 taxes in the amount of \$991.74
15. Authorizing the Chief Financial Officer to apply sewer account balance adjustments as credit in the amount of \$23,924.20 and additional charges in the amount of \$280.00

NEW BUSINESS ON THE CALENDAR:

PUBLIC COMMENTS:

Each person addressing the Council shall first give his/her name and address to the Clerk. All remarks shall be addressed to the Council as a body and shall not exceed 10 minutes in duration.

MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:

ADJOURNMENT:

PH 1

Public Hearing must be held as advertised
Revised ordinance was introduced 03/05/18

TOWNSHIP OF CLARK

Introduced: February 20, 2018 Public Hearing: March 19, 2018

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 294
OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED "SMOKING"**

BE IT ORDAINED by the Governing Body of the Township of Clark that Chapter 294, of the Code of the Township of Clark is hereby amended in the following particulars:

SECTION 1: The following section is hereby added and the remaining sections shall be re-numbered as appropriate:

Section 294-1 Definitions.

ELECTRONIC SMOKING DEVICE – as set forth in N.J.S.A. 26:3D-57 means an electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, or pipe.

SMOKING – as set forth in N.J.S.A. 26:3D-57 means the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

SECTION 2: Section 294-2 is amended as follows:

Section 294-2 Prohibitions.

The burning of a lighted cigar, cigarette, pipe, electronic smoking device or any other matter or substance which contains tobacco is hereby prohibited in all school buildings, administration buildings, accessory buildings and other properties, improved or unimproved, owned or under the jurisdiction of the Board of Education of the Township of Clark and existing within the Township of Clark.

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TOWNSHIP OF CLARK
Ordinance No. 18-06
Adopted _____

Introduced: March 5, 2018 Public Hearing: March 19, 2018

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 294
OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED "SMOKING"**

BE IT ORDAINED by the Governing Body of the Township of Clark that Chapter 294, of the Code of the Township of Clark is hereby amended and/or supplemented in the following particulars:

SECTION 1: Section 294-1 entitled "Prohibition" is amended to provide as follows:

The burning of a lighted cigar, cigarette, pipe, electronic smoking device or any other matter or substance which contains tobacco is hereby prohibited in all school buildings, administration buildings, accessory buildings and other properties, improved or unimproved, owned or under the jurisdiction of the Board of Education of the Township of Clark and existing within the Township of Clark.

SECTION 2: Section 294-6 entitled "Prohibited Areas" is amended to provide as follows:

The smoking of cigars, cigarettes, pipes, electronic smoking devices, and other materials is not permitted in the areas designated herein as areas A through E, except in designated smoking areas.

SECTION 3: Section 294-7 entitled "Definitions" is deleted in its entirety and replaced as follows:

ELECTRONIC SMOKING DEVICE – as set forth in N.J.S.A. 26:3D-57, including any electronic device that can be used to deliver nicotine or other substances inhaled from the device, including but not limited to, an electronic cigarette, cigar, cigarillo, or pipe, are also prohibited under the terms of this ordinance.

SMOKING – as set forth in N.J.S.A. 26:3D-57 means the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked. Smoking includes the inhaling or exhaling of smoke or vapor from electronic cigarettes, vaping devices, personal vaporizers, or any electronic nicotine delivery system, or any device which simulates tobacco smoking.

PH 3

TOWNSHIP OF CLARK

Ordinance No. 18-07

Adopted _____

Introduced: February 20, 2018 Public Hearing: March 19, 2018

BOND ORDINANCE TO AUTHORIZE THE UNDERTAKING OF THE 2018 CAPITAL ROAD IMPROVEMENT PROGRAM IN, BY AND FOR THE TOWNSHIP OF CLARK, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$1,000,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.

BE IT ORDAINED by the Township Council of the Township of Clark, in the County of Union, New Jersey, as follows:

Section 1. The Township of Clark, in the County of Union, New Jersey (the "Township"), is hereby authorized to undertake the 2018 Capital Road Improvement Program (including roadway reconstruction and resurfacing and the undertaking of the following, where necessary: repair of the storm drainage system, reconstruction of curbs, sidewalks and driveway aprons and the making of landscaping improvements) at the following locations in the Township:

- Alice Lane
- Peter Circle
- Acorn Drive
- Shadow Lane
- Gertrude Street
- Fan Street

Depending upon the contract price and other exigent circumstances, and upon approval by the Township Council, there may be additions to or deletions from the aforesaid list. It is hereby determined and stated that said roads being improved are of "Class B" or equivalent construction

as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").

Section 2. The sum of \$1,000,000 is hereby appropriated to the payment of the cost of making the improvements described in Section 1 hereof (hereinafter referred to as "purpose"). Said appropriation shall be met from the proceeds of the sale of the bonds authorized and the down payment appropriated by this ordinance. Said improvements shall be made as general improvements and no part of the cost thereof shall be assessed against property specially benefitted.

Section 3. It is hereby determined and stated that (1) said purpose is not a current expense of said Township, and (2) it is necessary to finance said purpose by the issuance of obligations of said Township pursuant to the Local Bond Law, and (3) the estimated cost of said purpose is \$1,000,000, and (4) \$50,000 of said sum is to be provided by the down payment hereinafter appropriated to finance said purpose, and (5) the estimated maximum amount of bonds or notes necessary to be issued for said purpose is \$950,000, and (6) the cost of such purpose, as hereinbefore stated, includes the aggregate amount of \$140,000, which is estimated to be necessary to finance the cost of such purpose, including architect's fees, accounting, engineering and inspection costs, legal expenses and other expenses, including interest on such obligations to the extent permitted by Section 20 of the Local Bond Law.

Section 4. It is hereby determined and stated that moneys exceeding \$50,000, appropriated for down payments on capital improvements or for the capital improvement fund in budgets heretofore adopted for the Township, are now available to finance said purpose. The sum of \$50,000 is hereby appropriated from such moneys to the payment of the cost of said purpose.

Section 5. To finance said purpose, bonds of the Township of an aggregate principal amount not exceeding \$950,000 are hereby authorized to be issued pursuant to the Local Bond Law. Said bonds shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law. All matters with respect to said bonds not determined by this ordinance shall be determined by resolutions to be hereafter adopted.

Section 6. To finance said purpose, bond anticipation notes of the Township of an aggregate principal amount not exceeding \$950,000 are hereby authorized to be issued pursuant to the Local Bond Law in anticipation of the issuance of said bonds. In the event that bonds are issued pursuant to this ordinance, the aggregate amount of notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the bonds so issued. If the aggregate amount of outstanding bonds and notes issued pursuant to this ordinance shall at any time exceed the sum first mentioned in this section, the moneys raised by the issuance of said bonds shall, to not less than the amount of such excess, be applied to the payment of such notes then outstanding.

Section 7. Each bond anticipation note issued pursuant to this ordinance shall be dated on or about the date of its issuance, shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within limitations prescribed by the Local Bond Law. Each of said bond anticipation notes shall be signed by the Mayor and by a financial officer and shall be under the seal of the Township and attested by the Township Clerk or Deputy Township Clerk. Said officers are hereby authorized to execute said notes in such form as they may adopt in conformity with law. The power to determine any matters with respect to said notes not determined by this ordinance, and also the power to sell said notes, is

hereby delegated to the Director of Revenue and Finance who is hereby authorized to sell said notes either at one time or from time to time in the manner provided by law.

Section 8. It is hereby determined and declared that the period of usefulness of said purpose, according to its reasonable life, is a period of ten years computed from the date of said bonds.

Section 9. It is hereby determined and stated that the Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the office of the Township Clerk of the Township, and that such statement so filed shows that the gross debt of the Township, as defined in Section 43 of the Local Bond Law, is increased by this ordinance by \$950,000 and that the issuance of the bonds and notes authorized by this ordinance will be within all debt limitations prescribed by the Local Bond Law.

Section 10. Any funds received from private parties, the County of Union, the State of New Jersey or any of their agencies or any funds received from the United States of America or any of its agencies in aid of said purpose, shall be applied to the payment of the cost of said purpose, or, if bond anticipation notes have been issued, to the payment of the bond anticipation notes, and the amount of bonds authorized for said purpose shall be reduced accordingly.

Section 11. The Township intends to issue bonds or notes to finance the cost of the improvements described in Section 1 of this bond ordinance. If the Township incurs such costs prior to the issuance of such bonds or notes, the Township hereby states its reasonable expectation to reimburse itself for such expenditures with the proceeds of such bonds or notes in the maximum principal amount of bonds or notes authorized by this bond ordinance.

Section 12. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and interest on the obligations authorized by this ordinance. Said obligations shall be direct, unlimited and general obligations of the Township, and the Township

shall levy ad valorem taxes upon all the taxable real property within the Township for the payment of the principal of and interest on such bonds and notes, without limitation as to rate or amount.

Section 13. The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Township Clerk and is available for public inspection.

Section 14. This ordinance shall take effect twenty days after the first publication thereof after final passage.

Effective Date: April 12, 2018

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
 Township Clerk

WILLIAM F. SMITH
 Council President

SALVATORE BONACCORSO
 Mayor

Ord18/2-20BondOrd1M-2018CapitalRoadImprv

	Motion to	Second	Motion to	Second				
	Introduce		Adopt		Aye	Nay	Abstain	Absent
Albanese								
Barr	✓							
Hund								
Mazzarella								
O'Connor		✓						
Toal								
Smith								
TOTAL								

PH 4

TOWNSHIP OF CLARK

Ordinance No. 18-08

Adopted _____

Introduced: March 5, 2018 Public Hearing: March 19, 2018

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 195-134 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED "COH COMMERCIAL OFFICE, MULTISTORY DISTRICT"

WHEREAS, The Planning Board of the Township of Clark has recommended that the Governing Body consider enacting revisions to the Land Use and Development Code and specifically the COH Commercial Office, Multistory District, Chapter 195-134; and

WHEREAS, the Planning Board at its regularly scheduled meeting on March 1, 2018 held public discussion and received advise from the Township Planner and Township Engineer regarding the changes proposed and reviewed a Report entitled "Planning Report on the COH Commercial Office, Multi Story District Land Use Ordinance Revisions," prepared by Kevin O'Brien, P.P., AICP, Shamrock Enterprises, Ltd., dated February 27, 2018; and

WHEREAS, the Planning Board in recognition of modern trends in land use, specifically mixed-use projects, and desiring to provide for the efficient use of land and limit impervious cover and sprawl, where possible, recommends the following changes to the COH district to permit shared parking for compatible uses and encourage appropriate mix of uses on properties that are already within the commercial district but may be underutilized with the current land use restrictions; and

WHEREAS, the Planning Board per NJSA 40:55D- 26 et seq., determined the proposed changes to be consistent with the Township's Master Plan and the Purposes of Zoning for the reasons specified in the February 27, 2018 Planning Report.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, and State of New Jersey that the following Land Use and Development Code changes are accepted as recommended to the Governing Body for action and are determined to be consistent with the Master Plan:

1. The following shall be inserted to the existing Chapter 195-134 of the Code of the Township of Clark:
 - A. The purpose of the COH - commercial office, multi-story district is to encourage business, administrative and professional offices, banks, business schools, funeral homes, hotels and theaters. Well-planned, large-scale commercial developments that are designed in a comprehensive manner that will contribute to the economic welfare of the Township are

also encouraged. Such large-scale development shall provide an attractive and harmonious development within Clark and integrate the needs of pedestrians, employees and vehicles in site design.

- B. Nothing in this section shall be construed to prohibit the construction of two (2) or more principal uses on one piece of property, or composite of lots under single ownership, where such development would form an integrated unit with shared access and parking.
2. The existing Section A shall be renamed Section C.
 3. The existing Section B shall be renamed Section D.
 4. The existing Section C shall be renamed Section E.
 5. Section E (3)a shall be amended to read “Height: 52 feet, except that, for lots greater than three acres in area an additional 13 feet, shall be permitted for each additional acre of lot, up to a maximum of 78 feet.”
 6. Section E (3)d shall be amended to permit a Floor Area Ratio of 0.8
 7. Section F (5) shall be added as follows:
- F. Parking. Notwithstanding the parking requirements set forth in §195-142, if there is more than one principal use on a lot or lots under single ownership, a shared parking arrangement shall be permitted if the uses are complimentary. A shared parking arrangement shall mean that parking spaces can serve both uses on the property provided they have opposite, or complimentary, peak parking demands as determined by nationally recognized standards and/or actual parking data and experience for the proposed uses.

In the event that an applicant requests approval for parking to be shared between two uses, the ordinance requirements for parking may be reduced where it can be demonstrated to the satisfaction of the Board that the reductions are supported by analyses consistent with nationally recognized standards and/or actual parking data and experience for the proposed uses showing that the peak parking demand of the two or more uses do not coincide and the accumulated parking demand at any one time of the two or more uses does not exceed the total capacity of the facility. The applicant shall also be required to provide a legal instrument assuring the continued existence and availability of the shared parking spaces in connection with the uses they serve.

- a. Parking shall be permitted within the setbacks.

TOWNSHIP OF CLARK PLANNING BOARD

RESOLUTION

**RECOMMENDATION AND CONSISTENCY REVIEW OF AN
ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 195-134 OF
THE CODE OF THE TOWNSHIP OF CLARK ENTITLED "COH
COMMERCIAL OFFICE, MULTISTORY DISTRICT"**

WHEREAS, The Planning Board of the Township of Clark respectfully requests that the governing body consider enacting revisions to the Land Use and Development Code and specifically the COH Commercial Office, Multistory District, chapter 195-134; and

WHEREAS, the Planning Board at its regularly scheduled meeting on March 1, 2018 held public discussion and received advise from the Township Planner and Township Engineer regarding the changes proposed and reviewed a Report entitled "Planning Report on the COH Commercial Office, Multi Story District Land Use Ordinance Revisions," prepared by Kevin O'Brien, P.P., AICP, Shamrock Enterprises, Ltd., dated February 27, 2018; and

WHEREAS, the Planning Board in recognition of modern trends in land use, specifically mixed use projects, and desiring to provide for the efficient use of land and limit impervious cover and sprawl, where possible, recommends the following changes to the COH district to permit shared parking for compatible uses and encourage appropriate mix of uses on properties that are already within the commercial district but may be underutilized with the current land use restrictions; and

WHEREAS, the Planning Board per NJSA 40:55D- 26 et seq., determines the proposed changes to be consistent with the Township's Master Plan and the Purposes of Zoning for the reasons specified in the February 27, 2018 Planning Report; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Clark, County of Union, and State of New Jersey that the following Land Use and Development Code changes are recommended to the governing body for action and are determined to be consistent with the Master Plan:

1. The following shall be inserted to the existing Chapter 195-134 of the Code of the Township of Clark:
 - A. The purpose of the COH - commercial office, multi-story district is to encourage business, administrative and professional offices, banks, business schools, funeral homes, hotels and theaters. Well-planned, large-scale commercial developments that are designed in a comprehensive manner that will contribute to the economic welfare of the

Township are also encouraged. Such large scale development shall provide an attractive and harmonious development within Clark and integrate the needs of pedestrians, employees and vehicles in site design.

B. Nothing in this section shall be construed to prohibit the construction of two (2) or more principal uses on one piece of property, or composite of lots under single ownership, where such development would form an integrated unit with shared access and parking.

2. The existing Section A shall be renamed Section C.

3. The existing Section B shall be renamed Section D.

4. The existing Section C shall be renamed Section E.

5. Section E (3)a shall be amended to read "Height: 52 feet, except that, for lots greater than three acres in area an additional 13 feet, shall be permitted for each additional acre of lot, up to a maximum of 78 feet."

6. Section E (3)d shall be amended to permit a Floor Area Ratio of 0.8

7. Section F (5) shall be added as follows:

F. Parking. Notwithstanding the parking requirements set forth in §195-142, if there is more than one principal use on a lot or lots under single ownership, a shared parking arrangement shall be permitted if the uses are complimentary. A shared parking arrangement shall mean that parking spaces can serve both uses on the property provided they have opposite, or complimentary, peak parking demands as determined by nationally recognized standards and/or actual parking data and experience for the proposed uses.

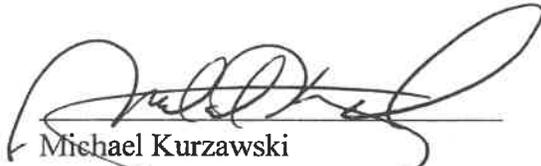
In the event that an applicant requests approval for parking to be shared between two uses, the ordinance requirements for parking may be reduced where it can be demonstrated to the satisfaction of the Board that the reductions are supported by analyses consistent with nationally recognized standards and/or actual parking data and experience for the proposed uses showing that the peak parking demand of the two or more uses do not coincide and the accumulated parking demand at any one time of the two or more uses does not exceed the total capacity of the facility. The applicant shall also be required to provide a legal instrument assuring the continued existence and availability of the shared parking spaces in connection with the uses they serve.

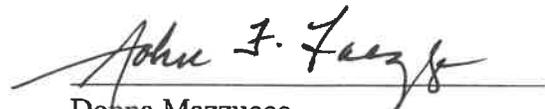
a. Parking shall be permitted within the setbacks.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board Secretary provide a signed copy of this Resolution to the Municipal Clerk for transmission to the governing body.

CERTIFICATION

I here by certify that the above Resolution is a true copy of the Resolution adopted by the Planning Board of the Township of Clark on March 1, 2018.


Michael Kurzawski
Planning Board Chair


Donna Mazzucco
Planning Board Secretary
JOHN F. LAZZA
SECRETARY, PRO TEM

Meeting Date: March 1, 2018

MOTION: KEVIN KOCH

SECONDED: MICHAEL ALTMAN

VOTE: 9 (Ayes) 0 NAYS 0 RECUSED
 1 (Absent) 0 ABSTAINED

TOWNSHIP OF CLARK
Ordinance No. 18-09
Adopted _____

INTRO 5

Introduced: March 19, 2018 Public Hearing: April 16, 2018

**AN ORDINANCE TO AMEND AND SUPPLEMENT VARIOUS SECTIONS OF
CHAPTER 195 OF THE CODE OF THE TOWNSHIP OF CLARK
ENTITLED "LAND USE AND DEVELOPMENT"**

BE IT ORDAINED by the Governing Body of the Township of Clark that various Sections of Chapter 195 of the Code of the Township of Clark entitled "Land Use and Development" are hereby amended and supplemented, as follows:

SECTION 1: Section 195-54 entitled "Definitions" is supplemented so as to include the following definitions:

Certificate of Occupancy: A Certificate issued by the Construction Code Official upon the completion of the construction, erection, or alteration of a building upon its use or occupancy, or upon any change in the use or occupancy of a building or other structure or lot or area of land, or part thereof, certifying that all applicable requirements have been complied with.

Maintenance Guarantee: Any security that may be required and accepted by the Township Council to ensure that necessary improvements will function as required for a period not to exceed two (2) years from the date of final acceptance of the improvement. The Maintenance Guarantee takes effect upon the Township Council's acceptance of the completed improvements and the release of the Performance Guarantee. (See Section 195-65- Guarantees Required).

Performance Guarantee: Any security which may be accepted in lieu of a requirement that certain improvements be made before the Board approves a final plat or site plan, including performance bonds, escrow agreements and other similar collateral or surety agreements. The guarantee shall be approved by the Township Engineer as to the amount and the Township Attorney as to the form. The guarantee can be provided in the form of a bond, a bank letter of credit, or cash. In each case, a minimum cash deposit of 10% shall be required.

Safety and Stabilization Guarantee: A form of Performance Guarantee in favor of the Township which may be furnished either as a separate guarantee or as a line item of the developer's Performance Guarantee. This Guarantee shall be available to the Township solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition. (See Section 195-65 – Guarantees Required).

Temporary Certificate of Occupancy Guarantee: A form of Performance Guarantee in favor of the Township posted in cash, good funds or pursuant to a Performance Bond issued by an insurance company, approved by the Township and authorized to conduct business within the State of New Jersey, which may be furnished to secure the completion of improvements that are required by a Site Plan or Subdivision approval, a developer's agreement, an ordinance, or a regulation requiring dedication to a public entity, and that have not yet been installed. The amount of the guarantee shall be determined by the Township Engineer. The posting of this guarantee is necessary for the Construction Code Official to issue a temporary permit to authorize a land use activity with conditions and for a limited period of time. (See Section 195-65 – Guarantees Required).

Temporary Certificate of Occupancy (TCO): A document issued by the Construction Official or other duly authorized representative of the Township, allowing the occupancy or use of a building or site, and certifying that the structure, facility or use will be constructed and will be used in compliance with all the applicable Township approvals, codes, ordinances, and agreements. It is a form of permit with specific conditions, with limits imposed, backed by a required guarantee (See Temporary Certificate of Occupancy Guarantee) and a specific time duration to be established by the Construction Official or other duly authorized representative.

Since the purpose of the Certificate of Occupancy is to ensure that construction has been performed in complete conformance with the Uniform Construction Code and Site Plan or Subdivision approval requirements, a Temporary Certificate of Occupancy (TCO) may be issued if the parts of the building or site to be covered by the Certificate may be occupied without endangering the health and safety of the occupants or users, in the sole opinion of the Construction Official or other duly authorized representative. As adopted herein, this requirement is interpreted to mean that utilities, including but not limited to, water, sewer, gas, and electric must be installed and in service.

Temporary Certificates of Occupancy shall be issued for time periods not to exceed six (6) months in duration. Temporary Certificates of Occupancy may be extended only after documenting a diligent pursuit of the completion of the remaining work, in the sole opinion of the Construction Official or other duly authorized representative. In no case shall a Temporary Certificate of Occupancy exceed one year. Should a TCO be in place for one year, the Township reserves the right to utilize any guarantees to complete the work as may be required.

SECTION 2: Section 195-64 entitled "Final Approval" is supplemented as follows:

Add at the end of Section A(2) the phrase "in accordance with Section 195-51. Fees Established."

Add to Section B entitled "Requirements" after the word "Requirements", the phrase "In accordance with Section 195-65. Guarantees Required."

Add to Section B, Line 2, after the word "...following" the words, "required, dedicated..."

Delete in Section B(1) the words "street grading" and add the word "streets."

Delete in Section B(5) the words "water mains" and add the word "sidewalks."

Delete in Section B(6) the word "culverts" and add the words "street lighting."

Delete in Section B(7) the words "storm sewers" and add the words "street trees."

Delete in Section B(8) the words "sanitary sewers" and add the sentence, "Surveyor's monuments as shown on a Final Map and as required by the Map Filing Law."

Delete in Section B(9) the sentence "Drainage structures and stormwater detention facilities" and add the words "Water mains."

Add Section 10, "Sanitary Sewers."

Add Section 11, "Drainage structure."

Add Section 12, "Public improvements of Open Space."

Add Section 13, "Any grading necessitated by the preceding improvements."

SECTION 3:

Article XII entitled "Performance Guarantees", delete the first paragraph in Section 195-65 entitled "Guarantees Required" and insert the following:

Before the filing of final subdivision plats or the recording of minor subdivision deeds or as a condition of final site plan approval or as a condition to the issuance of certain zoning permits and temporary land use permits, the Township may require, for the purpose of assuring the installation and maintenance of certain on-tract improvements, the furnishing of performance guarantees and the provision for maintenance guarantees in accordance with standards contained herein.

A. Performance Guarantees. The Developer shall furnish a Performance Guarantee in favor of the Township of Clark in an amount not to exceed 120% of the cost of the installation of only those improvements required by an approval or developer's agreement, ordinance, or regulation which are proposed to be dedicated to the Township, and that have not yet been installed, which cost shall be determined by the Township Engineer. In accordance with Section 195-64(B), guarantees are required for the streets, pavements, gutters, curbs, sidewalks, street lighting, street trees, surveyor's monuments, water mains, sanitary sewers, drainage structures, public

improvements of open space, and any grading necessitated by the improvements.

The Township Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the developer.

B. Temporary Certificate of Occupancy Guarantee. In the event that the developer shall seek a Temporary Certificate of Occupancy (TCO) for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "Temporary Certificate of Occupancy Guarantee" in favor of the Township of Clark in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the Temporary Certificate of Occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent Certificate of Occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee. Upon posting of a "Temporary Certificate of Occupancy Guarantee," all sums remaining under an underlying performance guarantee, required for final approval, which relate to the development, unit, lot, building, or phase of development for which the Temporary Certificate of Occupancy is sought, shall be released. The scope and amount of the "Temporary Certificate of Occupancy Guarantee" shall be determined by the Zoning Officer, Township Engineer, or Construction Code Official. The Temporary Certificate of Occupancy Guarantee shall be released by the Zoning Officer, Township Engineer, or Construction Code Official upon the issuance of a permanent Certificate of Occupancy with regard to the particular development, unit, lot, building, or phase as to which the Temporary Certificate of Occupancy relates.

C. Safety and Stabilization Guarantee.

A developer shall furnish to the Township a "Safety and Stabilization Guarantee," in favor of the Township of Clark. At the developer's option, a "Safety and Stabilization Guarantee" may be furnished either as a separate guarantee or as a line item of the Performance Guarantee. A "Safety and Stabilization Guarantee" shall be available to the Township solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:

(1) Site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least sixty (60) consecutive days following such commencement for reasons other than force majeure; and

(2) Work has not recommenced within thirty (30) days following a written notice from the Township to the developer of the Township's intent to claim payment under the guarantee. The Township shall not provide notice of its

intent to claim payment under a "Safety and Stabilization Guarantee" until a period of at least sixty (60) days has elapsed during which all work on the development has ceased for reasons other than force majeure. The Township shall provide written notice to a developer by certified mail or other form of delivery providing evidence of receipt.

The amount of a "Safety and Stabilization Guarantee" for a development with bonded improvements in an amount not exceeding \$100,000.00 shall be \$5,000.00. The amount of a "safety and stabilization guarantee" for a development with bonded improvements exceeding \$100,000.00 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows:

\$5,000.00 for the first \$100,000.00 of bonded improvement costs, plus two and a half (2½%) per cent of the bonded improvement costs in excess of \$100,000.00, up to \$1,000,000.00, plus one (1%) per cent of the bonded improvement costs in excess of \$1,000,000.00.

The Township shall release a separate "Safety and Stabilization Guarantee" to a developer upon the developer's furnishing of a Performance Guarantee which includes a line item for safety and stabilization in the amount required under this paragraph.

The Township shall release a "Safety and Stabilization Guarantee" upon the Township Engineer's determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.

D. Maintenance Guarantee. At the completion of certain required improvements and prior to the release of any Performance Guarantees required pursuant to this subsection, the developer shall post with the Township a Maintenance Guarantee in an amount not to exceed 15% of the cost of the installation of the improvements which are being released.

In addition to certain required on-tract improvements, the developer shall also post with the Township, upon the inspection and issuance of final approval of the following private site improvements by the Township Engineer, a Maintenance Guarantee in an amount not to exceed 15% of the cost of the installation of the following private site improvements: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, which cost shall be determined by the Township Engineer.

The term of the Maintenance Guarantee shall be for a period not to exceed two (2) years and shall automatically expire at the end of the established term.

In the event that other governmental agencies or public utilities will own the utilities to be installed or the improvements are covered by a Performance or Maintenance Guarantee to another governmental agency, no Performance or

Maintenance Guarantee shall be required by the Township for such utilities or improvements.

The time allowed for installation of the bonded improvements for which the Performance Guarantee has been provided may be extended by the governing body by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be adjusted to an amount not to exceed 120% of the cost of the installation, which cost shall be determined by the Township Engineer as of the time of the passage of the resolution.

If the required bonded improvements are not completed or corrected in accordance with the Performance Guarantee, the developer and surety, if any, shall be liable thereon to the Township for the reasonable cost of the improvements not completed or corrected and the township may complete such improvements.

Delete Section 195-66 entitled, "Amounts" in its entirety.

Delete Section 195-67 entitled "Partial Release" in its entirety.

Add the following: Section 195-66 Partial Release:

Upon substantial completion, as determined by the Township Engineer, of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the developer may request, in writing, by certified mail addressed in care of the Township Clerk, that the Township Engineer prepare, in accordance with the itemized cost estimate prepared by the Township Engineer, a list of all uncompleted or unsatisfactory completed bonded improvements. The request shall indicate which bonded improvements have been completed and which bonded improvements remain uncompleted in the judgment of the developer. Thereupon the Township Engineer shall inspect all bonded improvements covered by the developer's request and shall file a detailed list and report, in writing, with the Township Council not later than forty-five (45) days after receipt of the developer's request.

The list prepared by the Township Engineer shall state, in detail, with respect to each bonded improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed bonded improvement determined to be unsatisfactory. The report prepared by the Township Engineer shall identify each bonded improvement determined to be complete and satisfactory, together with a recommendation as to the amount of reduction to be made in the Performance Guarantee relating to the completed and satisfactory bonded improvement, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the Performance Guarantee as required.

The Township Council, by resolution, shall either approve the bonded improvements determined to be complete and satisfactory by the Township Engineer, or reject any or all of these bonded improvements and shall approve

and authorize the amount of reduction to be made in the Performance Guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the Performance Guarantee. This resolution shall be adopted not later than forty-five (45) days after receipt of the list and report prepared by the Township Engineer. Upon adoption of the resolution by the governing body, the developer shall be released from all liability pursuant to its Performance Guarantee with respect to those approved bonded improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that of the amount of the total Performance Guarantee and "Safety and Stabilization Guarantee" posted may be retained to ensure completion and acceptability of all improvements. The "Safety and Stabilization Guarantee" shall be reduced by the same percentage as the Performance Guarantee is being reduced at the time of each Performance Guarantee reduction.

For the purpose of releasing the developer from liability pursuant to its Performance Guarantee, the amount of the Performance Guarantee attributable to each approved bonded improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the Performance Guarantee, including any contingency factor applied to the cost of installation. If the sum of the approved bonded improvements would exceed 70% of the total amount of the Performance Guarantee, then the Township may retain 30% of the amount of the total Performance Guarantee and "Safety and Stabilization Guarantee" to ensure completion and acceptability of bonded improvements, as provided above, except that any amount of the Performance Guarantee attributable to bonded improvements for which a "Temporary Certificate of Occupancy Guarantee" has been posted, shall be released from the Performance Guarantee even if such release would reduce the amount held by the Township below 30%.

In the event that the developer has made a cash deposit with the Township as part of the Performance Guarantee, then any partial reduction granted in the Performance Guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the Performance Guarantee," the Township may retain cash equal to the amount of the remaining "Safety and Stabilization Guarantee."

If any portion of the required bonded improvements is rejected, the approving authority may require the developer to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this section, shall be followed.

In the event that final approval is by phases, stages or sections of development as permitted by law, the provisions of this section shall be applied for each phase, stage or section.

To the extent that any of the improvements have been dedicated to the Township on the subdivision plat or site plan, the Township Council shall be

deemed, upon the release of any Performance Guarantee required herein, to accept dedication for public use of streets or roads and any other improvements made thereon according to site plans and subdivision plats approved by the Township Council, provided that such improvements have been inspected and have received final approval by the Township Engineer.

Article XIV, delete Section 195-81 entitled "Inspection and Completion of Improvements" in its entirety and add the following: The installation of improvements as approved in the final site plan, other than buildings, shall be subject to inspection by the Township Engineer. Approval shall be revoked if there is a significant deviation from the site plan as approved. Performance and maintenance bonds, as specified in Section 195-65, Guarantees Required, may be required and shall be released subject to approval by the Township Engineer and the Township Council. All improvements shall be completed in a timely manner so as not to leave the site in an unfinished or unsightly condition, as determined by the Township Engineer. (See Section 195-61A. Safety and Stabilization Guarantee).

Article XV, Section 195-82 entitled "Improvement Standards", In line 2 after the word "...guarantees" add "as specified in Section 195-65."

Delete Section 195-83 entitled "Inspection; Costs" in its entirety and add the following:

A. All improvements, except electric, gas and waterlines, shall be installed under the supervision and inspection of the Division of Engineering. The inspection costs are to be borne by the developer, and the developer shall reimburse the Township for reasonable inspection fees paid to the Township Engineer for the foregoing inspection of improvements; which fees shall not exceed the sum of the amounts set forth in subparagraphs (1) and (2) of this section. The Township may require the developer to post the inspection fees in escrow in an amount:

(1) Not to exceed, except for extraordinary circumstances, the greater of \$500.00 or five (5%) per cent of the cost of bonded improvements of only those improvements required by an approval or a developer's agreement, an ordinance, or a regulation for improvements to be dedicated to a public entity, and that have not yet been installed, which cost shall be determined by the Township Engineer; and

(2) Not to exceed five (5%) per cent of the cost of private site improvements that are not subject to a Performance Guarantee for required dedicated improvements, which cost shall be determined by the Township Engineer pursuant to Section 15 of P.L.1991, c.256 (C.40:55D-1 53.4).

B. Fees Paid in Installments.

(1) For those developments for which the inspection fees total less than \$10,000.00, fees may, at the option of the developer, be paid in two installments. The initial amount deposited in escrow by a developer shall be

fifty (50%) per cent of the inspection fees. When the balance on deposit drops to ten (10%) per cent of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspections, the developer shall deposit the remaining fifty (50%) per cent of the inspection fees.

(2) For those developments for which the inspection fees total \$10,000.00 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited in escrow by a developer shall be twenty-five (25%) per cent of the inspection fees. When the balance on deposit drops to ten (10%) per cent of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall make additional deposits of twenty-five (25%) per cent of the inspection fees.

If the Township determines that the amount in escrow for the payment of inspection fees, as calculated herein, is insufficient to cover the cost of additional required inspections, the Township may require the developer to deposit additional funds in escrow provided that the Township delivers to the developer a written inspection escrow deposit request, signed by the Township Engineer, which: informs the developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections, and estimates the cost of performing those inspections. (See Sections 195-27 and 195-28).

Delete Section 195-84(A) entitled "Completion of Required Improvements; Performance Guarantee; Maintenance Bond", in its entirety and add the following:

A. No final plat shall be approved by the Planning Board for filing until the completion of all required improvements specified in Section 195-64B have been certified to the Planning Board by the Township Engineer. In addition, no final plat shall be approved by the Planning Board unless the subdivider or owner shall have filed with the Township Clerk a performance guarantee sufficient in amount to cover the cost of all required improvements or uncompleted portions thereof, specified in Section 195-65 as estimated by the Township Engineer, and assuring the installation of such uncompleted improvements on or before an agreed date, not to exceed three years from the date of execution of the performance guarantees. Such performance guarantee may be in the form of an irrevocable performance bond, which shall be issued by a bonding or surety company and approved by the Township Council and by the Township Attorney as to form, sufficiency and execution; or a certified check in the sum specified by the Township Engineer, which check shall be deposited to the trust account for the Township or a bank account with the bank book in Township custody. Such money or other surety shall be returned to the depositor after full compliance. The Township may require up to 10% of the performance guarantee to be deposited in cash.

Section 195-84(B), line 2, delete the word “owner” and insert the word “developer;” line 6, delete the phrase beginning with the words “...and accepted” and ending with the word “...guarantee;” and insert the following: “accepted and secured by a maintenance guarantee.”

Section 195-84(C), line 2, delete the word “obligor” and insert the word “developer;” line 8, after the words “...such improvements” insert the words “(See Section 195-65A).”

Section 195-84(D), line 1, delete the word “subdivider” and insert the word “developer;” line 2, add after the word “bond”, the words “as specified in Section 195-65D”; line 3, delete the word “subdivider” and insert the word “developer.”

SECTION 4: **Inconsistent Ordinances:** Any ordinances of the Township of Clark which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5: **Effective Date:** This Ordinance shall take effect upon adoption and publication, according to law.

Effective Date: May 9, 2018

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
 Township Clerk

WILLIAM F. SMITH
 Council President

SALVATORE BONACCORSO
 Mayor

Ord18/3-19AmendCh195LandUseGuarantees

	Motion to	Second	Motion to	Second				
	Introduce		Adopt		Aye	Nay	Abstain	Absent
Albanese								
Barr								
Hund								
Mazzarella								
O'Connor								
Toal								
Smith								
TOTAL								

TOWNSHIP OF CLARK PLANNING BOARD

RESOLUTION

RECOMMENDATION AND CONSISTENCY REVIEW OF AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 195 OF THE CODE OF THE TOWNSHIP OF CLARK IN COMPLIANCE WITH STATE LAW CHANGES TO PERFORMANCE GUARANTEES AND INSPECTION FEES FOR DEVELOPMENT

WHEREAS, The Planning Board of the Township of Clark respectfully requests that the governing body consider enacting revisions to the Land Use and Development Code and specifically the performance guarantee and inspection fee provisions in compliance with recent statutory updates to the Municipal Land Use Law adopted by the State legislature as PL 2017 c. 312; and

WHEREAS, the Planning Board at its regularly scheduled meeting on March 1, 2018 held public discussion and received advise from the Township Engineer and Board Attorney regarding the changes proposed; and

WHEREAS, the Planning Board in acknowledgement of the revised statutory requirements recognizes the importance of keeping the Township Code up to date to ensure that the Township may take advantage of the new methods contained in the statute for protecting the Township should a developer fail to complete a project as approved; and

WHEREAS, the Planning Board per N.J.S.A. 40:55D- 26 et seq. determines the proposed changes to be consistent with the Township's Master Plan. The provisions are procedural and intended to protect the public from developers who may not complete projects after they have begun. Although the Master Plan does not specifically address these procedural requirements it does include the goal of protecting the tax base and these changes would further that goal by updating the mechanisms by which the Township collects performance and maintenance guarantees and is reimbursed for engineering inspections by the developer, thus ensuring that tax payer funds will not be required for such items; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Clark, County of Union, and State of New Jersey that the following Land Use and Development Code changes are recommended to the governing body for action and are determined to be consistent with the Master Plan: Chapter 195: Land use and Development, Part 2 Subdivision and Site Plan Review, Article VIII general provisions,

- A. Chapter 195: Land use and Development, Part 2 Subdivision and Site Plan Review, Article XI Major Subdivisions

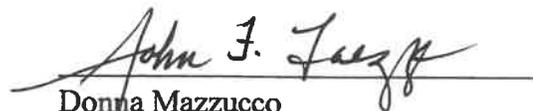
- B. Chapter 195: Land use and Development, Part 2 Subdivision and Site Plan Review, Article XII Performance Guarantees
- C. Chapter 195: Land use and Development, Part 2 Subdivision and Site Plan Review, Article XIV Site Plans
- D. Chapter 195: Land use and Development, Part 2 Subdivision and Site Plan Review, Article XV Improvements

BE IT FURTHER RESOLVED that the Board Secretary provide an official copy of this resolution together with attached documents to the Township Clerk for transmittal to the governing body.

BE AND THE SAME IS HEREBY RESOLVED

I here by certify that the above Resolution is a true copy of the Resolution adopted by the Planning Board of the Township of Clark on March 1, 2018


 Michael Kurzawski
 Planning Board Chair


 Donna Mazzucco
 Planning Board Secretary
 JOHN F. LAEZZA
 SECRETARY, PRO TEM

Meeting Date: March 1, 2018
 Motion: Kevin Koch
 SECONDED: Michael Altman
 VOTE : (9) Ayes (0) Nays (0) Recused
 (2) Absent (0) Abstained

TOWNSHIP OF CLARK
Ordinance No. 18-10
Adopted _____

INTRO 6

Introduced: March 19, 2018 Public Hearing: April 16, 2018

**AN ORDINANCE TO AMEND AND SUPPLEMENT VARIOUS
SECTIONS OF CHAPTER 3, ARTICLE VIII, ENTITLED DEPARTMENTS**

BE IT ORDAINED by the Governing Body of the Township of Clark that Chapter 3, Article VIII, Section 3-30 being the same is hereby amended and supplemented as follows:

SECTION 1: Sub-Section B, entitled Organization is hereby amended and supplemented to read as follows:

The Clark Fire Department shall consist of the following Officers in order of the chain of command/rank:

1. Director/Fire Chief/Fire Official
2. Command Staff/Line Officers
3. Duties and responsibilities of the Command Staff and Line Officers and for their appointment, pursuant to the terms of Chapter 161, entitled Fire Prevention.
4. The Command Staff shall include Deputy Chiefs, Battalion Chiefs, Captains and Lieutenants in such number as may be determined by the Director of the Department.
5. Duties, responsibilities, and appointment procedures are defined in Chapter 161, Fire Prevention and as needed in accord with the Clark Fire Department Standard Operating Guidelines as approved by the Director/Chief of the Department with approval of the Administration.
6. It shall be the duty of every Command Staff and Line Officer to perform all acts and things required by general law, the Ordinances of the Township, Standard Operating Guidelines governing the Department and orders issued by the Director/Chief and the Administration.

SECTION 2: Sub-Section I, entitled General Provisions (2) is supplemented so as to recite the following:

Any Rule or Regulation shall be issued by the Director/Fire Chief/Fire Official of the Department and posted. The Standard Operating Guidelines, together with any other Rule or Regulation of the Fire Department heretofore adopted are continued.

SECTION 3: Inconsistent Ordinances: Any ordinances of the Township of Clark which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4: Effective Date: This Ordinance shall take effect upon adoption and publication, according to law.

Effective Date: May 9, 2018

ATTEST:

APPROVED:

EDITH L. MERKEL
 Township Clerk

WILLIAM F. SMITH
 Council President

SALVATORE BONACCORSO
 Mayor

Ord18/3-19AmendCh3-30FireDepartment

	Motion to	Second	Motion to	Second				
	Introduce		Adopt		Aye	Nay	Abstain	Absent
Albanese								
Barr								
Hund								
Mazzarella								
O'Connor								
Toal								
Smith								
TOTAL								

TOWNSHIP OF CLARK
Ordinance No. 18-11
Adopted _____

INTRO
7

Introduced: March 19, 2018 Public Hearing: April 16, 2018

**AN ORDINANCE TO AMEND AND SUPPLEMENT VARIOUS SECTIONS OF
CHAPTER 161 OF THE CODE OF THE TOWNSHIP OF CLARK
ENTITLED "FIRE PREVENTION"**

BE IT ORDAINED by the Governing Body of the Township of Clark that the following sections of Chapter 161 of the Code of the Township of Clark entitled "Fire Prevention" are hereby amended and supplemented, as follows:

SECTION 1: Sub-Sections F.; H.; H (1) and (2); I; and K are deleted and replaced as follows:

F. Qualifications. As a condition of appointment and continuance in office, the Director shall be certified with the State of New Jersey Department of Community Affairs, Division of Fire Safety, as a Fire Official/Fire Marshal/Fire Code Official. The Fire Official/Fire Marshal/Fire Code Official must have successfully completed Fire Fighter 1 and 2, Incident Management Level 1 and Level 2, and must have served as an active member of the Clark Fire Department and served a term of Deputy Chief or Battalion Chief of the Department. It is important that the individual be a resident of the Township of Clark.

H. Clark Volunteer Fire Department Command Staff/Line Officers appointment; command authority; responsibilities.

(1) Appointment. The Director/Fire Chief/Fire Official/Fire Marshal/Fire Code Official shall appoint the Clark Volunteer Fire Department Command Staff and Line Officers. Once having been so appointed, shall serve without term so long as they shall continue to discharge the duties of the office efficiently and diligently and shall maintain the qualifications for the position as the same are established presently and may be hereafter established from time to time.

(2) Command authority; responsibilities. The Command Staff and Line Officers shall have authority within the Clark Volunteer Fire Department at the discretion of the Director/Fire Chief.

I. Qualifications. As a condition of appointment and continuance in office, the Command Staff and Line Officers must have successfully completed Fire Fighter 1 and 2, Incident Management Level 1 and Level 2, and must have served as an active member of the Clark Fire Department and served a term of Deputy Chief, Battalion Chief, Captain or Lieutenant.

K. In the event a Command Staff or Line Officer appointed position becomes vacant for any reason, the Fire Chief shall appoint a replacement from the current ranks of the Clark Volunteer Fire Department.

SECTION 2: All other sections and sub-sections of 161-40 that are specifically repealed hereunder shall remain in full force and effect.

SECTION 3: **Inconsistent Ordinances:** Any ordinances of the Township of Clark which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4: **Effective Date:** This Ordinance shall take effect upon adoption and publication, according to law.

Effective Date: May 9, 2018

ATTEST:

APPROVED:

EDITH L. MERKEL
 Township Clerk

WILLIAM F. SMITH
 Council President

SALVATORE BONACCORSO
 Mayor

Ord18/3-19AmendCh161FirePrevention

	Motion to	Second	Motion to	Second				
	Introduce		Adopt		Aye	Nay	Abstain	Absent
Albanese								
Barr								
Hund								
Mazzarella								
O'Connor								
Toal								
Smith								
TOTAL								

TOWNSHIP OF CLARK
Resolution 18-57
March 19, 2018

**RESOLUTION AUTHORIZING THE TOWNSHIP OF CLARK TO ENTER INTO A
NEW JERSEY INTEROPERABLE COMMUNICATIONS SYSTEM (NJICS) USER
AGREEMENT WITH THE COUNTY OF UNION**

WHEREAS the Union County Board of Chosen Freeholders has authorized the County Manager to enter into an agreement with the State of New Jersey, Office of Information Technology to provide Emergency Telecommunications Services for the County of Union as per the FCC's Narrow Banding Mandate, effective January 1, 2013; and

WHEREAS it hereby further authorizes the County Manager to execute any and all agreements with municipalities and/or private nonprofit agencies with a necessity for emergency telecommunication services, upon approval of the Office of County Counsel; and

WHEREAS the Township of Clark is one of those designated agencies that qualifies for radio interoperability services; and

WHEREAS the Township of Clark is desirous of said radio interoperability services for the Emergency Squad, Office of Emergency Management, Police Department, Fire Department and Department of Public Works.

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey that it hereby approves the submission of a NJICS User agreement to the Union County Office of Emergency Services and authorizes the Mayor or Business Administrator to execute same.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res18/3-19NJICSUserAgreementwithUC

	Motion	Second	Aye	Nay	Abstain	Absent
Albanese						
Barr						
Hund						
Mazzarella						
O'Connor						
Toal						
Smith						
TOTAL						

//

TOWNSHIP OF CLARK
Resolution 18-58
March 19, 2018

WHEREAS Chapter 66, Section 14B of the Code of the Township of Clark requires the designation by resolution of one or more Administrative Agents to administer newly constructed affordable housing and rehabilitation units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and the Uniform Housing Affordability Controls (UHAC) set forth in N.J.A.C. 5:80-26.1 et seq.; and

WHEREAS Community Grants, Planning & Housing (CGP&H), 101 Interchange Plaza, Suite 301, Cranbury, New Jersey 08512-3716 was awarded a Professional Services Contract in 2017 to perform such services for the Township of Clark as hereinabove described as required by the Code and approved by the Court; and

WHEREAS the renewal agreement submitted by CGP&H meets the needs the Township.

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, New Jersey that it hereby awards a Professional Services contract to CGP&H as the Administrative Agent responsible for the administration of affordable units; and

BE IT FURTHER RESOLVED that the Business Administrator is hereby authorized and directed to enter into a contract with CGP&H for a one-year period beginning March 6, 2018 in an amount not to exceed \$31,850.00.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res18/3-19RenewCGP&H-AdministrativeAgent

	Motion	Second	Aye	Nay	Abstain	Absent
Albanese						
Barr						
Hund						
Mazzarella						
O'Connor						
Toal						
Smith						
TOTAL						

TOWNSHIP OF CLARK
Resolution 18-59
March 19, 2018

12

WHEREAS the Governing Body of the Township of Clark advertised on February 22, 2018 and received one (1) bid for Specifications and Obligations for the Pool Maintenance for the 2018 and 2019 Seasons on March 7, 2018 at 10:00 am; and

WHEREAS Aquatic Service, Inc., 170 Burlington Ave., Spotswood, NJ 08884 was the sole bidder in the amount of \$29,594.25 for 2018 and \$30,334.10 for 2019; and

WHEREAS the Business Administrator has reviewed all the documents required by the bid specifications and recommends award of contract to Aquatic Service, Inc. in the amount of \$29,594.25 for 2018 and \$30,334.10 for 2019; and

WHEREAS the Chief Financial Officer has ascertained funds will be available subject to the adoption of the 2018 and 2019 Municipal Budgets.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark that it does hereby award a contract to Aquatic Service, Inc. in the amount of \$29,594.25 for 2018 and \$30,334.10 for 2019 subject to review of the bid by the Township Attorney who will draw up the contract.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res18/3-19AwardPoolMaint2018-2019

	Motion	Second	Aye	Nay	Abstain	Absent
Albanese						
Barr						
Hund						
Mazzarella						
O'Connor						
Toal						
Smith						
TOTAL						

TOWNSHIP OF CLARK
Resolution 18-60
March 19, 2018

CA 13

WHEREAS the Mandatory Source Separation and Recycling Act, P.L.1987, c.102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS The New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS a resolution authorizing this municipality to apply for the 2017 Recycling Tonnage Grant will memorialize the commitment of this municipality to recycling and to indicate the assent of the Clark Township Council to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark that they hereby endorse the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designate Recycling Coordinator, Jennifer Kobliska to ensure that the application is properly filed; and

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res18/3-19RecyclingTonnage

	Motion	Second	Aye	Nay	Abstain	Absent
Albanese						
Barr						
Hund						
Mazzarella						
O'Connor						
Toal						
Smith						
TOTAL						

CA 14

TOWNSHIP OF CLARK
 Resolution 18-61
 March 19, 2018

WHEREAS in accordance with a request from the Tax Collector for authorization to refund overpayment of 2018 taxes; the Mayor has recommended to Council that such authorization be granted.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark, that the Chief Financial Officer is hereby authorized and directed to make refund(s) in accordance with the following schedule:

CLARK TOWNSHIP						
TAX REFUNDS- 2018						
BLOCK	LOT	QUAL.	NAME	#	ADDRESS	REFUND
23	9		Mpletsakis, Lonnis	17	Hilltop Avenue	\$ 147.28
189	16		Richard & Susie Fernandes	9	Crestwood Lane	\$ 844.46
Total Refunds						\$ 991.74

ATTEST:

APPROVED:

 EDITH L. MERKEL, RMC
 Township Clerk

 WILLIAM F. SMITH
 Council President

Res18/3-19TaxRefund(s)

	Motion	Second	Aye	Nay	Abstain	Absent
Albanese						
Barr						
Hund						
Mazzarella						
O'Connor						
Toal						
Smith						
TOTAL						

TOWNSHIP OF CLARK
Resolution 18-62
March 19, 2018

CA 15

WHEREAS the Treasurer/CFO has certified that sewer utility account(s) require balance adjustments; and

WHEREAS the Business Administrator has reviewed and approved the sewer fee adjustment(s).

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Clark, County of Union, State of New Jersey, that the Treasurer/CFO be authorized to apply the sewer account balance adjustments according to the attached schedule.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res18/3-19SewerAdj

	Motion	Second	Aye	Nay	Abstain	Absent
Albanese						
Barr						
Hund						
Mazzarella						
O'Connor						
Toal						
Smith						
TOTAL						

SEWER BILLING ADJUSTMENT 2018

CLARK TOWNSHIP										
REF	#	Account #	Name	#	Address	Reason	Original	Revised	Credit	Additional
18	1	61-0	Casimiro, Jose & Ana	280	Laurel Lane	sprinkler	\$ 2,630.00	\$ 1,260.00	\$ 1,370.00	
18	2	2855-0	Depazza, Jeffrey	4	Cornell Drive	Re-cap senior	\$ 140.00	\$ 280.00		\$ 140.00
18	3	2263-1	Clark Ins. Center-Sakura	1129	Raritan Road	water issue	\$ 1,380.00	\$ 280.00	\$ 1,100.00	
18	4	2246-0	Balger Home Improv.	1	Janie Lane	new owner	\$ 390.00	\$ 280.00	\$ 110.00	
18	5	010-0	Township of Clark-pool		Raritan Road	leak	\$ 7,429.20	\$ 280.00	\$ 7,149.20	
18	6	3084-0	MKSK LLC	33	Westfield Avenue	actual usage	\$ 4,980.00	\$ 1,162.50	\$ 4,420.00	
18	7	3082-0	27-29 Westfield Ave. LLC	27-29	Westfield Avenue	new owner	\$ 2,980.00	\$ 280.00	\$ 2,700.00	
18	8	1233-0	Guszkowski,Edward	361	Madison Hill Rd	Well	\$ 500.00	\$ 335.00	\$ 165.00	
18	9	2850-0	Ehling, John	16	Bradley	meter issue	\$ 830.00	\$ 280.00	\$ 550.00	
18	10	591-0	Nudo, Jonathan	57	Armstrong Drive	duplicate readings	\$ 1,480.00	\$ 280.00	\$ 1,200.00	
18	11	127-0	Cantone, Catherine	49	Limoli Lane	leak	\$ 3,030.00	\$ 280.00	\$ 2,750.00	
18	12	5023-0	Clair Miller	20	Sunset Drive	scd disallowed	\$ 140.00	\$ 280.00	\$ -	\$ 140.00
18	13	1180-0	Vaidman, Yuli & Anna	73	White Place	water co error	\$ 1,030.00	\$ 280.00	\$ 750.00	
18	14	541-0	Mpletsalis, Ioannis	121	Hillcrest	demo-vacant lot	\$ 280.00	\$ -	\$ 280.00	
18	15	519-0	Carneiro, Antonio	71	Hilltop	demo-vacant lot	\$ 280.00	\$ -	\$ 280.00	
18	16	5229-0	Renda, Vincent	2	Acken	meter issue	\$ 680.00	\$ 330.00	\$ 350.00	
18	17	3016-0	LaFerrara, Louis	10	Harrison	water issue	\$ 1,030.00	\$ 280.00	\$ 750.00	
					Totals		\$ 29,209.20	\$ 6,167.50	\$ 23,924.20	\$ 280.00