

**CODE  
OF THE  
BOROUGH OF  
NORTHUMBERLAND**

**COUNTY OF  
NORTHUMBERLAND**

**COMMONWEALTH OF  
PENNSYLVANIA**

**2023**



## **CODE OF THE BOROUGH OF NORTHUMBERLAND**

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<sup>1</sup> Editor's Note: Pursuant to 1.1.06B the following changes were made. A complete description of each change is on file in the office of the Borough of North'd.

Penalty provisions amended: 21-3, 22-2, 40-2, 42-3A, 42-5, 45-9, 45-18, 45-21, 45-25, 50-8 and 50-17.

Sections added or amended: 11-1, 34-13, 45-10, 50-13, 50-19, 53-23A, and B and 58-1.

Chapters or Articles adopted: Ch. 9; Ch. 34, Articles I and III; and Ch. 58, Articles II through VI.

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## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 1 – GENERAL PROVISIONS

[HISTORY: Adopted by the Council of the Borough of Northumberland:  
Article I, 2-6-73 as Ordinance No. 273A. Amendment noted where applicable.]

Be it enacted and ordained by the Borough Council of the Borough of Northumberland, County of Northumberland, Commonwealth of Pennsylvania, and it is enacted and ordained as follows:

## ARTICLE I – ADOPTION OF CODE

[Adopted 2-6-73 as Ord. No. 273A]

### **1.1.01 Adoption of Code. (1-1)**

The codification of a complete body of ordinances for the Borough of Northumberland, County Northumberland, Commonwealth of Pennsylvania, revised, codified and consolidated into titles, chapters and sections by the Borough of Northumberland and consisting of Chapters 1 through 61, together with an Index is hereby approved, adopted, ordained and enacted as the "Code of the Borough of Northumberland," hereinafter known and referred to as the "Code," pursuant to 1008(b) of the Borough Code.

### **1.1.02 When effective. (1-2)**

All provisions of the Code shall be in full force and effect on and after February 6, 1973.

### **1.1.03 Repeal of ordinances not contained in Code. (1-3)**

All ordinances or parts of ordinances of a general and permanent nature, adopted by the Borough of Northumberland and in force on the date of the adoption of this ordinance, and not contained in the Code, are hereby repealed as of the effective date of this ordinance, except as hereinafter provided.

### **1.1.04 Ordinances saved from repeal; matters not affected by repeal. (1-4)**

The adoption of this Code and the repeal of ordinances provided for in 1.1.03 (1-3) of this ordinance shall not affect the following ordinances, rights and obligations which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to September 5, 1972.
- B. Any right or liability established, accrued or incurred under any legislative provision of the borough prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the borough or any penalty, punishment or forfeiture, which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending, or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision of the borough.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the borough.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocation, straightening, establishing, grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place.
- G. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the borough, or other instruments or evidence of the borough's indebtedness.

## **Chapter 1 – General Provisions**

- H. Any ordinance authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.
- I. Any ordinance annexing land to the borough.
- J. Any ordinance designating the boundaries of water districts.
- K. The levy or imposition of special assessments or charges, or of annual real property taxes.
- L. The dedication of property.
- M. A Zoning ordinance adopted 12-1-59 as Ord. No. 192 and any amendments thereto, and a Zoning Ordinance adopted 3-12-71.

### **1.1.05 Inclusion of new legislation prior to adoption of Code. (1-5)**

All ordinances of a general and permanent nature, adopted subsequent to the date given in 1.1.04A and/or prior to the date of adoption of this ordinance, are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such legislation shall be temporarily placed in the Code until printed supplement are included.

### **1.1.06 Changes in previously adopted ordinance. (1-6)**

- A. In compiling and preparing the ordinances of the borough for adoption and revision as part of the Code certain grammatical changes and other minor changes were made in one (1) or more of said ordinances. It is the intention the Borough Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. Certain changes of a substantive nature were made to various ordinances found within the Code. These changes were made to bring the provisions into conformity with the desired policies of the Borough Council, and it is the intent of the Borough Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such. Such changes are cited within the historical statements by the term "amended upon adoption of Code."<sup>1</sup>

### **1.1.07 Copy of code on File. (1-7)**

A copy of the Code in a post-bound volume has been filed in the office of the Borough Secretary and shall remain there for use and examination by the public until final action is taken on this ordinance; and if this ordinance shall be adopted, such copy shall be certified to by the Borough Secretary, as provided by law, and such certified copy shall remain on file in the office of the Borough Secretary, available to persons desiring to examine the same during all times while the said Code is in effect.

### **1.1.08 Amendments to Code. (1-8)**

Any and all additions, deletions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Borough Council to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes. Code shall be understood and intended to include such changes. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing the said Code, as amendments and supplements thereto.

### **1.1.09 Codebook to be kept up-to-date. (1-9)**

It shall be the duty of the Borough Secretary, or someone authorized and directed by the Borough Secretary, to keep up-to-date the certified copy of the book containing the Code required to be filed in the office of the Borough Secretary for the use of the public. All changes in said Code and all ordinances adopted by the Borough Council subsequent to the effective date of this codification which the Borough Council shall adopt

## **Chapter 1 – General Provisions**

specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

### **1.1.10 Sale of Code book; supplements provided. (1-10)**

Copies of the book containing the Code may be purchased from the Borough Secretary upon the payment of a fee to be set by resolution of the Borough Council, which may also arrange, by resolution, for procedures for the periodic supplementation thereof.

### **1.1.11 Publication; filing. (1-11)**

The Borough Secretary, pursuant to law, shall cause to be published in the manner required a notice of the adoption of this ordinance adopting the Code in a newspaper of general circulation in the borough. Sufficient copies of the Code shall be maintained in the office of the Borough Secretary for inspection by the public at all times during regular office hours. The enactment and the publication of notice of adoption of this ordinance adopting the Code, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provision of the Code for all purposes.

### **1.1.12 Severability of the Code provisions. (1-12)**

Each section of the Code, and every part of each section, is an independent section, or part of a section, and the holding of any section, or a part thereof, to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or parts thereof.

### **1.1.13 Severability of ordinance provisions. (1-13)**

Each section of this ordinance is an independent section and the holding of any section, or part thereof, to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

### **1.1.14 Altering or tampering with Code; penalties for violation. (1-14)**

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]

## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 2 – BOROUGH MANAGER

[History: Adopted by the Council of the Borough of Northumberland 4-7-98 as Ord. No. 455;  
Amended 9-19-2000 by Ord. No. 2000-3]

## ARTICLE I – OFFICE OF MANAGER

### **2.1.01    *Creation of the office. (2-1)***

The office of Borough Manager is hereby created by the Borough of Northumberland.

### **2.1.02    *Appointment and removal. (2-2)***

The Manager shall be appointed for an indefinite term by a majority of all members of Council. The Manager shall serve at the pleasure of the Council and he may be removed at any time by a majority vote of all its members. At least thirty days before such removal is to become effective, the Council shall furnish the Manager with a written statement setting forth its intention to remove him.

### **2.1.03    *Qualifications. (2-3)***

The Manager shall be chosen solely on the basis of executive and administrative abilities, with special reference to the duties of the office as herein outlined. The Manager need not be a resident of the Borough.

### **2.1.04    *Bond. (2-4)***

Before entering upon his duties the Manager shall give a bond to the Borough with a bonding company as surety, to be approved by the Council, in an amount to be determined from time to time by Council, conditioned upon the faithful performance of his duties, the premium for said bond to be paid by the Borough.

### **2.1.05    *Manager's compensation. (2-5)***

[Amended 9-19-00 by Ord. No. 2000-3]

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

Council and the Borough Manager may agree that the compensation of the Borough Manager shall be in a matter other than, or in addition to, cash salary, including, but not limited to, deferred compensation, deferred medical benefits for himself and his family, and the right to collect a percentage fee from grants awarded to, or for the benefit of, the Borough of Northumberland.

### **2.1.06    *Powers and duties. (2-6)***

[Amended 9-19-00 by Ord. No. 2000-3]

The Manager shall be the Chief Administrative Officer of the Borough and shall be responsible to the Council as a whole for the proper and efficient administration of the affairs of the Borough placed in his charge. The powers and duties of administration of all Borough business shall be vested in the Manager, unless expressly imposed or conferred by statute or ordinance upon other Borough Officers.

Subject to recall by ordinance of Council, the powers and duties of the Borough Manager may include the following:

- A. To supervise and to be responsible for the activities of all municipal departments. Nothing in this provision is intended, however, to apply to the office of Borough Solicitor, or to supervision of the police department, in the absence of a delegation of authority from the Mayor.

## **Chapter 2 - Borough Manager**

- B. To recommend wages and salary for all personnel under his supervision to Council annually. Prior to presentation of these recommendations to Council, the Manager shall conduct performance reviews with each employee under his supervision.
  - C. To prepare and submit to Council before the close of each fiscal year, a budget for the next fiscal year and an explanatory budget message. In preparing the budget, the Manager shall obtain from the head of each department, agency or board, or any qualified officer thereof, estimates of revenues and expenditures and such other supporting data as is required. The Manager shall review such estimates and may revise them before submitting the budget to the Council.
  - D. To be responsible for the administration of the budget after its adoption by the Council.
  - E. To develop, in conjunction with the preparation of the yearly budget, long-range fiscal plans to be presented annually to the Council for its review and adoption.
  - F. To hold such other municipal office and to head such municipal departments as the Council may from time to time direct, in accordance with law.
  - G. To attend all meetings of Council and of committees as required, and to take part in the discussions. The Manager shall receive notice of special meetings of Council and Committees.
  - H. To prepare the agenda for each meeting of Council and Planning Commission and supply facts pertinent thereto.
  - I. To keep Council informed on a monthly basis as to the conduct of Borough affairs; to submit periodic reports on the condition of the Borough finances and such other reports as the Council request; and to make such recommendations to the Council as he deems advisable.
  - J. To submit to Council, as soon as possible after the close of the fiscal year, a complete report on the finances of the Borough for the preceding year.
  - K. To see that the provisions of all franchises, leases, permits and privileges granted by the Borough are observed.
  - L. To employ, by and with the approval of Council, experts and consultants to perform work and to advise in connection with any of the functions of the Borough.
  - M. To supervise the performance and faithful execution of all contracts entered into by the Council except insofar as such duties are expressly imposed by statute upon some other Borough Officer.
  - N. To see that all money owned the Borough is promptly paid and that proper proceedings are taken for the security and collection of all the Borough's claims.
  - O. To serve as purchasing Officer of the Borough and to purchase in accordance with the provisions of the Borough code, all supplies and equipment for the agencies, boards, departments, and other offices of the Borough. The Manager shall keep an account of all purchases and shall, from time to time as directed by Council, make a full written report thereof. He shall also issue rules and regulations subject to the approval of Council, governing the procurement of all municipal supplies and equipment.
  - P. To investigate and dispose of, or to designate an officer to investigate and dispose of, all complaints regarding Borough services, and to report to the Council thereon. Complaints regarding Borough services shall be referred to the Office of the Manager. Responses to and/or resolutions of all written complaints shall be given in a reasonable time.
  - Q. To ensure that all ordinances and regulations of the Borough are enforced in cooperation with the Mayor.
  - R. To perform such other duties as may be from time to time conferred upon him by Council.
- The Borough reserves the right at any time by ordinance to amend or otherwise modify or repeal this ordinance in any particular.

## **Chapter 2 - Borough Manager**

### **2.1.07 Procedural limitations on Council. (2-7)**

Other than for the purpose of inquiry, the Council or any of its members or any of Council's board or committees or its members should deal with the administrative actions solely through the Borough Manager and neither the Council nor any of its members, nor any of Council's boards or committees or its members should give orders - publicly or privately - to any subordinate of the Manager.

### **2.1.08 Disability or absence of the Manager. (2-8)**

If the Manager becomes ill or needs to be absent from the Borough, he shall designate one qualified member of his staff to perform the duties of the Manager during his absence or disability. The person so designated shall not perform these duties for a period longer than two weeks without approval of the Council.

### **2.1.09 Gender. (2-9)**

Wherever in this ordinance a masculine pronoun is used, it includes the feminine.

### **2.1.10 Repeal of ordinance. (2-10)**

The Borough reserves the right at any time by ordinance to amend or otherwise modify or repeal this ordinance in any particular. All ordinances or resolutions, or parts of ordinances or resolutions, insofar as they are inconsistent herewith, are hereby repealed.

### **2.1.11 Authorization for Contract. (2-11)**

[Added 9-19-00 by Ord. No. 2000-3]

The Northumberland Borough Council is authorized to enter into a contract or other written agreement with the Borough Manager which sets forth the terms, conditions, and limits of his responsibilities. This written agreement may include all, some, or none of the responsibilities described in Section 2.1.6 of the Code. The written agreement shall be a public document and shall be available for public inspection.

## **Chapter 2 - Borough Manager**

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**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 3 – RESERVED**



### **Chapter 3 - Reserved**

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**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 4 – RESERVED**

## Chapter 4 - Reserved

Intentionally blank.

## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 5 – FIRE DEPARTMENT

[History: Adopted by the Council of the Borough of Northumberland  
2-7-39 as Ord. No. 126. Amendments noted where applicable.]

## ARTICLE 1 – GENERAL PROVISIONS

General References: Personnel - see Ch. 8

### **5.1.01 Composition. (5-1)**

The Northumberland Fire Company No. 1 and Northumberland Hook and Ladder shall together form and constitute the Fire Department of the Borough of Northumberland, Pennsylvania. [Amended 4-6-82 by Ord. No. 370; 8-7-84 by Ord. No. 388]

- A. The Northumberland Fire Department including, but not limited to, the Northumberland Fire Company #1, the Northumberland Hook and Ladder Company and the Northumberland Fire Police, shall at no time discriminate against any member, or proposed member of an organization, on the basis of age, race, color, national origin, religion, sexual gender and/or disability. [Added 6-29-10 by Ord. No. 2010-5]
- B. Each company recognized by the borough shall, in evidence of that fact, be furnished with a certificate from the Council, signed by the President and Secretary of the Council and sealed with the Borough Seal and approved by the Mayor.

### **5.1.02 Emergency Services Board. (5-2)**

[Amended 10-4-05 by Ord. 2005-5]

- A. The Fire Department so organized shall be under the direction of a Board known hereafter as the "Emergency Services Board." [Amended 12-4-73 by Ord. No. 277; 4-6-82 by Ord. No. 370; 10-4-05 by Ord. 2005-5; 6-29-10 by Ord. No. 2010-5; 1-3-2017 by Ord. No. 2017-2]
- B. The Board shall consist of the following eleven (11) persons:
  - 1. Two (2) members elected from and by the general membership of the Northumberland Fire Company No. 1;
  - 2. Two (2) members elected from and by the general membership of the Northumberland Hook and Ladder Company; and
  - 3. Five (5) at-large residents of the Borough of Northumberland, appointed by the Borough Council.
  - 4. The Fire Chief and the Deputy Fire Chief shall automatically be appointed to the Emergency Service Board.

[Added 4-2-68 by Ord. No. 246, amended 12-4-73 by Ord. No. 277; 4-6-82 by Ord. No. 370; 8-7-84 by Ord. No. 388; 10-4-05 by Ord. 2005-5; 1-3-2017 by Ord. No. 2017-2]

- C. Members of the Emergency Services Board shall not be members of the Northumberland Borough Council. [Amended 1-3-2017 by Ord. 2017-2]  
The Borough Council shall appoint a sitting council member as a liaison between the Board and the Council. The appointed Council Member shall have no voting privileges on the Board. [Added 6-29-10 by Ord. No. 2010-5]
- D. The Board shall have the duty of interpreting the rules and regulations pertaining to the Fire Department and of formulating policies for the harmonious operation and the financial security of the Department.

## Chapter 5 - Fire Department

[Amended 4-6-82 by Ord. No. 370; Amended 7-25-2005 by Ord. 2005-5; Amended 1-3-2017 by Ord. No. 2017-2.]

- E. The officers of the Emergency Services Board shall consist of a Chairperson, a Secretary, and a Treasurer to be elected amongst the eleven members at the first meeting of each calendar year. [Added 3-5-02 by Ord. No. 2002-4; Amended 7-25-2005 by Ord. 2005-5; Amended 1-3-2017 by Ord. 2017-2.]
- F. Each member shall be appointed for a term of five years. At the beginning of the expansion of the Board in 2017, the following tenures shall exist for the new membership:
  - 1-year seat, at-large, appointment – January 2017. (thereafter, January 1, 2018 – December 31, 2023, and thereafter, 5-year terms)
  - 2-year seat, at-large, appointment – January 2017. (thereafter, January 1, 2019 – December 31, 2024, and thereafter, 5-year terms)
  - 2-year seat, Northumberland No. 1 Company seat, appointment – December 31, 2007. (thereafter, January 1, 2008 – December 31, 2012, and thereafter, 5-year terms)
    - 1. 3-year seat, Northumberland Hook and Ladder Company seat, appointment – December 31, 2008. (thereafter, January 1, 2009 – December 31, 2013, and thereafter, 5-year terms)
    - 2. 4-year seat, at-large, appointment – December 31, 2009. (thereafter, January 1, 2010 – December 31, 2014, and thereafter, 5-year terms)
    - 3. 5-year seat, at-large, appointment – December 31, 2010. (thereafter, January 1, 2011 – December 31, 2015, and thereafter, 5-year terms)

Members can succeed themselves after a successful reappointment vote by either one of the respective Companies, or by Council.

Copies of the Board procedures, qualifications and policies shall be made available to the public in the Borough Office. [Added 3-5-02 by Ord. No. 2002-4; Amended 7-25-2005 by Ord. 2005-5]

- G. Monthly meetings of the Board shall be duly advertised and open to the public. Minutes from these meetings shall be available to the public in the Borough Office, and will be published back to each respective fire company. [Added 3-5-02 by Ord. No. 2002-4; Amended 6-29-10 by Ord. No. 2010-5]
- H. The Board shall submit to the Borough Finance Committee by August 1 of each year, a budget plan for the Fire Department for the following year. A member of the Board shall be present at each Borough Finance Committee meeting to discuss Board budget policies and goals. It is the responsibility of the Board to assist Council in the dispersing of approved Board funds, per the budget plan submitted by the Board, and approved by Council. [Added 10-4-05 by Ord. 2005-5]
- I. The Board and/or each company may seek out all appropriate means to fund the fire department, including but not limited to, any or all outside revenues. [Amended 6-29-10 by Ord. No. 2010-5]
- J. The Board shall meet on a monthly basis at a time and place that is duly advertised. [Added 3-5-02 by Ord. No. 2002-4]
- K. The Board shall maintain a set of Standard Operating Guidelines (SOGs) that will be used as a framework and guide for executing emergency response in the Borough and on mutual aid to another municipality. These SOGs will focus on health and safety of emergency responders. Initially the fire chiefs will be responsible for promulgating these SOGs and will be charged with auditing them annually. All department members are encouraged to contribute to the SOG process. Members not following SOGs may be subject to disciplinary action. The Board will assure that the SOGs are appropriate and consistent throughout the department. [Added 6-29-10 by Ord. No. 2010-5]

## Chapter 5 - Fire Department

### 5.1.03 Fire Chief and Deputy Fire Chief. (5-3)

[Amended 4-6-82 by Ord. No. 370; 3-5-02 by Ord. No. 2002-4; 10-4-05 by Ord. No. 2005-5; 6-29-10 by Ord. No. 2010-5]

- A. The Board shall appoint a Fire Chief and a Deputy Fire Chief, who shall oversee day-to-day operations of the Fire Department. [Amended 6-29-10 by Ord. No. 2010-5]
- B. In times of emergency, the Fire Chief shall have the sole and absolute control and command over all persons and equipment related to all-hazard emergency response operations in preparation for and while responding to incidents. The Fire Chief shall delegate this command to subordinates and coordinate with all responding agencies in an appropriate manner with current incident management practices and the National Incident Management System (NIMS). [Amended 10-4-05 by Ord. 2005-5]
- C. In times of non-emergency, the Fire Chief will work closely with each company Captain to help maintain Department equipment, and personnel. [Amended 10-4-05 by Ord. 2005-5]
- D. The Fire Chief and a Deputy Fire Chief are appointed and serve at the pleasure of the Board, for a period of two-years, following a majority vote by the Board. Each is appointed at the first meeting of each odd-numbered year, and serves until the following first meeting of the next odd-numbered year. At the formation of the Board, a Fire Chief and a Deputy Fire Chief shall be appointed to serve until the next odd numbered year.

The Fire Chief and the Deputy Chief may succeed themselves with a majority approval vote by the Board.

Four out of five members of the Board must be present with a majority vote for a Fire Chief and Deputy Fire Chief. In the event of a tie the issue will be tabled for the upcoming meeting. [Amended 6-29-10 by Ord. No. 2010-5]

- E. The Fire Chief and Deputy Fire Chief shall not hold the chief driver's position, Captain or any other line officer in their respective fire companies. [Amended 10-4-05 by Ord. 2005-5]
- F. Any person appointed as Fire Chief or Deputy Fire Chief shall have the following qualifications:
  - 1. shall be at least twenty-one (21) years of age. [Amended 6-29-10 by Ord. No. 2010-5]
  - 2. shall have been an active member of the Northumberland Fire Department for the two (2) years immediately preceding their nomination. [Amended 6-29-10 by Ord. No. 2010-5]
  - 3. shall retain their primary residence in either the Borough of Northumberland or the Township of Point. [Amended 6-29-10 by Ord. No. 2010-5]
  - 4. shall have completed, at a minimum, all of the following training requirements:
    - a) Arson Investigation
    - b) Incident Command Class
    - c) Fundamentals and/or essentials of fire-fighting course
    - d) Hazardous Materials Operations Level Training [Added 6-29-10 by Ord. No. 2010-5]

The Board shall establish minimum qualifications for all Fire Department office holders and personnel. [Amended 6-29-10 by Ord. No. 2010-5]

- G. Upon appointing a Fire Chief, the Board will hereby appoint a Deputy Fire Chief, who will be the most qualified candidate from either company as determined by the Board. [Amended 6-29-10 by Ord. No. 2010-5]

Seniority shall not be determinative of who is the most qualified candidate. A candidate may request a hearing before the Board to reconsider the selection of the most qualified candidate. The Board's determination following the reconsideration hearing shall be final and binding.

## Chapter 5 - Fire Department

H. The Fire Chief and Deputy Fire Chief may be relieved of their duties by a majority vote by the Board, using discipline criteria as stated in the Standard Operating Guidelines. In the event of a tie the issue will be tabled for the upcoming meeting. The Fire Chief or Deputy Chief who has been relieved of their duties may request a hearing before the Board to reconsider the decision. The Board's determination following the reconsideration hearing shall be final and binding. [Amended 6-29-10 by Ord. No. 2010-5]

### **5.1.04 Chain of Command and Discipline<sup>1</sup>. (5-4)**

[Amended 3-5-02 by Ord. No. 2002-4; 10-4-05 by Ord. 2005-5]

The Deputy Fire Chief shall, in the absence of the Chief, perform all his duties and have the same powers according to rank. In the absence of the Chief and Deputy, the fireman in command of the company first on the ground with its apparatus shall take command of the Department and have the same authority as the Chief or his Deputy would have, until the arrival of the Chief or Deputy, or senior ranking officer, as addressed in the National Incident Management System and in accordance with the Northumberland County's chain of command.

Problems amongst members of the Board shall be dealt with within the Board, except those of a possible criminal, interdepartmental, or dismissal nature, which shall be addressed by Borough Council. [Added 3-5-02 by Ord. No. 2002-4]

### **5.1.05 Out-of-town alarms; parades. (5-5)**

[Amended 4-6-82 by Ord. No. 370; 10-4-05 by Ord. 2005-5]

- A. No company shall take its apparatus beyond the borough's limits without the permission of the Fire chief or the Deputy Fire Chief in the absence of the Fire Chief on a non-emergency basis.
- B. Apparatus dispatched to an out of town mutual aid call will respond pursuant to the Multicounty Mutual Aid Agreement. [Amended 6-29-10 by Ord. No. 2010-5]

### **5.1.06 Communications<sup>2</sup>. (5-6)**

[Added 4-6-82 by Ord. No. 370]

- A. All fire apparatus radio communications numbers shall be assigned by the County of Northumberland. [Amended 3-5-02 by Ord. No. 2002-4]
- B. All fire apparatus shall be dispatched by the communication center designated by the County of Northumberland. [Amended 3-5-02 by Ord. No. 2002-4]

### **5.1.07 Apparatus. (5-7)**

Each company shall take care of its own apparatus and shall choose out of its members such officers as may be necessary for the control of same, as prescribed by the constitution and bylaws of said company or the rules and regulations promulgated by Borough Council.

### **5.1.08 Fire Police. (5-8)**

[Amended 3-5-02 by Ord. No. 2002-4; 6-29-10 by Ord. No. 2010-5]

Any active member, in good standing, of the Northumberland Fire Department who wishes to become a member of the Fire Police should contact the Captain of the Fire Police. After completion of background

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<sup>1</sup> Editor's Note: Former ~5-4, Secretary of Fire Board, was repealed 4-6-82 by Ord. No. 370.

<sup>2</sup> Editor's Note: Former ~5-6, Chain of Command, was renumbered as ~5-4 pursuant to Ord. No. 370, adopted 4-6-82.

## **Chapter 5 - Fire Department**

investigation, final appointment to the Fire Police is to be confirmed by Borough Council. Once appointed as a member of the Fire Police, the appointment remains in effect until resignation or removal. After confirmation, Fire Police members shall have, while on duty, all the powers of a police officer, and shall be respected accordingly. The time of their duty shall commence at the time or when an alarm is sounded or upon the call of the Mayor, President of Borough Council, or Police and shall not cease until their commanding officer shall so order. The Borough Council shall furnish each fireman appointed as a Fire Police a certificate of his/her appointment and a badge emblematic of his/her authority.

In January of each even year, all members of the Northumberland Fire Police will be sworn in by the Northumberland Borough Mayor. All vacancies created by resignation or removal shall be filled by active member(s), in good standing, of the Northumberland Fire Department after completion of background investigation, and final appointment to the Fire Police by Borough Council.

Copies of Fire Police procedures, qualifications and policies shall be made available to the public in the Borough Office. [Amended 6-29-10 by Ord. No. 2010-5]

### **5.1.09 Fire Police duties. (5-9)**

[Amended 3-5-02 by Ord. No. 2002-4]

It shall be the duty of the Fire Police to take charge of all property at a fire and use all means in their power to protect the same from fire and theft; also; establish fire limits within which no one shall be allowed except by permission of said Fire Police. Nothing in this section shall be construed as to prevent the regular town police and firemen from having access to these fire lines.

The squad will go to out-of-town events with the permission of the Mayor, or Borough Council, or of the Fire Chief.

### **5.1.10 Fire Police officers and discipline. (5-10)**

[Amended 3-5-02 by Ord. No. 2002-4]

The officers of the Fire Police shall consist of a Captain, Lieutenant, and Sergeant who shall be elected by the Fire Police and shall hold office for two (2) years, a term which that expires in January of each even year of the odd year following your appointment. The Captain and Lieutenant shall have Red Lights and Siren. All other members of the Fire Police shall run with Blue Lights.

Problems amongst members of the Fire Police shall be dealt with within the Fire Police, except those of a possible criminal, interdepartmental or dismissal nature, which shall be addressed by Borough Council.

### **5.1.11 Donation from Council. (5-11)**

[Repealed 6-29-10 by Ord. No. 2010-5]

### **5.1.12 Rules and regulations. (5-12)**

To further better regulations and operations of the Department, the Borough Council shall from time to time promulgate and cause to be printed and distributed to the companies comprising the Department, rules and regulations governing the conduct of the said Department, which said rules and regulations shall have the same force and effect as if set out in full and in detail in this chapter.

All fire department personnel are required to obtain, any and all Federally required NIMS "National Incident Management System" training certifications. [Added 6-29-10 by Ord. No. 2010-5]

### **5.1.13 Violations. (5-13)**

If any of the companies comprising the Fire Department shall at any time hereafter violate any of the conditions of this chapter or the rules and regulations provided hereunder, such companies so violating the



## **Chapter 5 - Fire Department**

same shall, at the option of the Borough Council, lose their certificate of recognition and all rights under this chapter.

### **5.1.14 Junior Firefighters Program. (5-14)**

[Amended 6-29-10 by Ord. No. 2010-5]

The Emergency Services Board shall maintain a policy on Junior firefighters. This policy shall be managed within the Standard Operating Guidelines of the Northumberland Fire Department.

### **6.1.01 Authority. (6-1)**

[Amended November-1,-2005 as Ord. No. 2005-6.]

The Emergency Management Agency, "EMA", is established pursuant to the provisions of the Emergency Management Services Code.

### **6.1.02 General Duties and Responsibilities. (6-2)**

The EMA shall have the responsibility to provide for emergency management and disaster response and recovery within the Borough and outside the Borough as required by the terms and conditions of this Ordinance.

### **6.1.03 Borough Coordinator of Emergency Management. (6-3)**

- A. In accordance with Title 35 of the Pennsylvania Code, a Borough Coordinator is appointed by the Governor upon the recommendation of the Mayor and Borough Council.
- B. The Coordinator shall be professionally competent and capable of planning, effecting coordination among operating agencies of government and controlling coordinated operations.
- C. The duties and responsibilities of the Borough Coordinator are outlined in Chapter 75 of Title 35 of the Pennsylvania Code.
- D. Title 35 of the Pennsylvania Code Section 7502 establishes that the training of the Borough Emergency Coordinator is the responsibility of the County Emergency Management Office. The Borough Coordinator can attend classes through the Pennsylvania Emergency Management Agency.
- E. When responding to an emergency, the Borough EMA Coordinator may siren and, to the extent permitted by state law, run red lights.
- F. The Borough EMA Coordinator shall live within the Borough of Northumberland or Point Township.
- G. The Borough Council shall review the Borough EMA Coordinator every 4 years and determine whether the Coordinator should continue in his position or to recommend to the Governor a new appointee.
- H. The Borough Council shall have the power to replace the Coordinator and recommend to the Governor a new appointee at any time.

### **6.1.04 Assistants to the Borough Coordinator. (6-4)**

- A. The Borough Coordinator may have two assistants to assist the Borough Coordinator in the administration of their functions, powers and duties.
- B. The assistants must be approved by the Borough Council per the recommendation of the Borough EMA Coordinator.
- C. The terms of the assistants shall be 4 years, with approval needed every 4 years by the Borough Council for each assistant.
- D. Should an assistant resign, another assistant should be approved to fill the remainder of the term.
- E. An assistant should be a resident of the Borough or Point Township.

**Chapter 5 - Fire Department**

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 6 – RESERVED**

## **Chapter 6 – Reserved**

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**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 7 – RESERVED**

## **Chapter 7 - Reserved**

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## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 8 – PERSONNEL

[History: Adopted by the Council of the Borough of Northumberland 3-2-77 as Ord. No. 270. Amended 2-1-77 as Ord. No. 326, 1-89 as Ord. No. 0-1-89, 12-3-91 as Ord. No. 431, 1-18-00 as Ord. No. 464 <sup>1</sup>.]

## ARTICLE I - MUNICIPAL RETIREMENT SYSTEM

General References: Police Pension Fund - See Ch. 12.

### **8.1.01 Election to change benefits. (8-1)**

Northumberland Borough, being a member municipality of the Pennsylvania Municipal Retirement System, hereby elects to change its Members benefits in that System as authorized by the Pennsylvania Municipal Retirement Law, as amended, and does hereby agree to be bound by all the requirements and provisions of said Article and the Law, as the case may be, and to assume all obligations, financial and otherwise, placed upon member municipalities by said Amendment, as the case may be. All references hereafter shall be based on benefits negotiated between the board and the municipality under the provision of 8.1.4.

### **8.1.02 Membership. (8-2)**

Membership in the Pennsylvania Municipal Retirement System shall be mandatory for all permanent, municipal employees of the Borough. Membership for elected officials and employees hired on a temporary or seasonal basis is prohibited, as is membership for individuals paid only on a fee basis.

### **8.1.03 Credit for prior service. (8-3)**

Credit for prior service for original members is granted for each year or partial year thereof that the Borough from original date of hire employs the member. Benefits provided to members in the agreement dated January 18, 2000, shall accrue based on all credited service granted and earned in accordance with this section.

### **8.1.04 Municipal obligation. (8-4)**

Payment for any obligation established by the adoption of this ordinance and the agreement between the System and Northumberland Borough shall be made by the Borough in accordance with the Pennsylvania Retirement Law and Act 205 of 1984, the Municipal Pension Plan Funding Standard and Recovery Act.

### **8.1.05 Authorization of agreement. (8-5)**

As part of this ordinance, the Borough agrees that the System shall provide the benefits set forth in the agreement between the Board and Northumberland Borough, dated January 18, 2000. The passage and adoption of this ordinance by Northumberland Borough is an official obligation resulting from the administration of said benefit package. Northumberland Borough hereby assumes all liability for any unfundedness created or which may be created due to the acceptance of the benefit structure outlined in the above-reference agreement.

### **8.1.06 Repeal of previous ordinance. (8-6)**

Northumberland Borough intends Ordinance No. 464 to be the complete authorization of the Borough plan and therefore specifically repeals all previous Agreements and Ordinances.

<sup>1</sup> Editor's Note: This ordinance supersedes former Ch. 8, Municipal Employees' Retirement System, adopted 3-7-72 as Ord. No. 270, 2-1-77 as Ord. No. 326, 1-89 as Ord. No. 0-1-89, 12-3-91 as Ord. No. 431.

## **Chapter 8 - Personnel**

### **8.1.07 Filing with Retirement Board; effective date. (8-7)**

A duly certified copy of this ordinance and the referenced agreement shall be filed with the Pennsylvania Municipal Retirement System of the Commonwealth of Pennsylvania. Membership for the municipal employees of Northumberland Borough in the Pennsylvania Municipal Retirement System shall be effective the first day of April 1972; with the revised plan structure reflected in the agreement dated January 18, 2000, effective the first day of January 2000.



## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 9 – PLANNING COMMISSION

[History: Adopted by the Council of the Borough of Northumberland upon adoption of Code; see Ch. 1, General Provisions. Amendments noted where applicable.]

## ARTICLE I – COMMISSION

General Reference: Zoning - see Ch. 61.

### **9.1.01 Commission created; name. (9-1)**

Pursuant to the provisions of the Act of July 31, 1968, No. 247 (53 PS 10101, et seq., Supp.), and in order to carry out the said provisions, there is here created in the Borough of Northumberland a Planning Commission, which shall be thereafter called "The Planning Commission of the Borough of Northumberland, PA."

### **9.1.02 Power and duties. (9-2)**

The said Planning Commission shall have all the powers and duties conferred upon it by the Act of July 31, 1968, No. 247, and any amendments thereof.

### **9.1.03 Membership of Commission; compensation. (9-3)**

The Planning Commission shall consist of five (5) members, who shall be appointed by the Borough Council and shall serve without commission, except that they shall be reimbursed for expenses incurred in carrying out their Commission duties.

### **9.1.04 Terms of office. (9-4)**

The terms of the members of the Planning Commission shall be as follows:

- A. two (2) members shall have a one (1) year term;
- B. one (1) member shall have a two (2) year term;
- C. one (1) member shall have a three (3) year term; and
- D. one (1) member shall have a four (4) year term.

The terms of office of the members shall commence on the date of the adoption of this chapter, and annually thereafter when the term of any member expires, a new member shall be appointed by the Council of the Borough of Northumberland for a term of four (4) years, and members may succeed themselves.

### **9.1.05 Filling of vacancies. (9-5)**

In case a vacancy is created by resignation, disability, death, removal of residence from the borough or in any other way, said vacancy shall be filled by the Borough Council for the unexpired portion of the term of the member being replaced.

### **9.1.06 Residency requirements. (9-6)**

All members of the Planning Commission shall be residents of the Borough of Northumberland, PA.

### **9.1.07 Records; annual report. (9-7)**

The Planning Commission shall keep a full record of its business and shall annually make a written report by March 1 of each year of its activities to the governing body.

## **Chapter 9 – Planning Commission**

### **9.1.08 Preparation and maintenance of comprehensive plan. (9-8)**

The Planning Commission shall prepare and maintain a comprehensive plan for the development of the Borough of Northumberland.

### **9.1.09 Duties relative to zoning. (9-9)**

The Planning Commission shall perform all the duties set forth in the above Act of Assembly, including, but not limited to, the preparation of the text and map or maps of any and all zoning ordinances.<sup>1</sup>

### **9.1.10 Compliance with statutory provision. (9-10)**

The Planning Commission shall comply with all the obligations and duties imposed by the above Act of Assembly.

### **9.1.11 Provisions adopted. (9-11)**

All matters saved by the Act of July 31, 1968, No. 247, are herewith adopted.

#### **9.1.12 Purpose; enactment. (9-12)**

Enacted, ordained and passed by the Council of the Borough of Northumberland, County of Northumberland and Commonwealth of Pennsylvania, to carry out the purposed of the Act of July 31, 1968, No. 247.

<sup>1</sup> Editor's Note: A Zoning Ordinance, adopted 12-1-59 as Ord. No. 192, amended 3-13-71 as Ord. No., amended 5-7-91 is on file in the office of the Borough Secretary.

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 10 – RESERVED**

## **Chapter 10 - Reserved**

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**CODE OF THE BOROUGH OF NORTHUMBERLAND**

**CHAPTER 11 – POLICE DEPARTMENT**

[History: Adopted by the Council of the Borough of Northumberland 1-3-61 as Ord. No. 197. Section 11-1 amended upon adoption of Code; see Ch. 1, General Provisions. Other amendments noted where applicable.]

**ARTICLE I – ESTABLISHMENT**

General References: Personnel - see Ch. 8

**11.1.01 Establishment, membership; appointment. (11-1)**

A Police Department for the Borough of Northumberland is hereby established, consisting of a Chief and the regular policemen. The Council shall appoint all regular policemen.

**11.1.02 Special policemen. (11-2)**

The Mayor shall appoint special policemen during an emergency when the safety and welfare of the borough shall require their services.

**11.1.03 Probation. (11-3)**

All policemen hired in the future shall be considered temporary employees of the borough for the first year of their employment.

**11.1.04 Acting Department constituted as permanent Department. (11-4)**

The present acting Police Department of the borough is hereby constituted as the Police Department.

## **Chapter 11 - Police Department**

**Intentionally blank.**

## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 12 – POLICE PENSION FUND

[History: Adopted by the Council of the Borough of Northumberland 8-7-79 as Ord. No. 351. Amended 5-30-89 as Ord. No. 0-1-89, 12-2-81 as Ord. No. 431, and 1-18-00 as Ord. No. 465.]

## ARTICLE I – PENSION FUND

General Reference: Personnel - see Ch. 8

### **12.1.01 Election to change benefits. (12-1)**

The Borough of Northumberland, being a member municipality of the Pennsylvania Municipal Retirement System, hereby elects to change the police benefits in that System as authorized by the Pennsylvania Municipal Retirement Law, Act 15 of 1974, as amended, and does hereby agree to be bound by all the requirements and provisions of said Law, and to assume all obligation, financial and otherwise, placed upon member municipalities. All references hereafter shall be based on benefits negotiated between the Board and the municipality under the provisions of Article IV of the Pennsylvania Municipal Retirement Law.

### **12.1.02 Membership. (12-2)**

Membership in the Pennsylvania Municipal Retirement System shall be mandatory for all full-time police officers of the Borough. Membership for elected officials and employees hired on a temporary or seasonal basis is prohibited, as is membership for individuals paid only on a fee basis.

### **12.1.03 Credit for prior year service. (12-3)**

Credit for prior year service for original members is granted for each year or partial year thereof that the member was employed by the Borough from original date of hire or the expiration of the member's probationary period if one so existed. Benefits provided to members in the agreement dated January 18, 2000, shall accrue based on all credited service granted and earned in accordance with this section.

### **12.1.04 Municipal obligation. (12-4)**

Payment for any obligation established by the adoption of this ordinance and the agreement between the System and Northumberland Borough shall be made by the Borough in accordance with the Pennsylvania Municipal Retirement Law and Act 205 of 1984, the Municipal Pension Plan Funding standard and Recovery Act.

### **12.1.05 Authorization of agreement. (12-5)**

As part of this ordinance, the borough agrees that the System shall provide the benefits set forth in the agreement between the Board and Northumberland Borough, dated January 18, 2000. The passage and adoption of this ordinance by Northumberland Borough is an official acceptance of said agreement and the financial obligations resulting from the administration of said benefits package. Northumberland Borough hereby assumes all liability for any unfundedness created or which may be created due to the acceptance of the benefit structure outlined in the above-referenced agreement.

### **12.1.06 Repeal of previous ordinance. (12-6)**

Northumberland Borough intends this ordinance to be the complete authorization of the Borough's police pension plan and therefore specifically repeals any and all previous agreements and ordinances.

## **Chapter 12 - Police Pension Fund**

### **12.1.07 Effective date. (12-7)**

A duly certified copy of this ordinance and the referenced agreement shall be filed with the Pennsylvania Municipal Retirement System of the Commonwealth of Pennsylvania. Membership for the police pension plan of Northumberland Borough in the Pennsylvania Municipal Retirement System shall be effective the seventh day of December 1976, with the revised plan structure reflected in the agreement dated January 18, 2000, effective the first day of January, 2000.



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## **CHAPTER 13 – RESERVED**

## **Chapter 13 - Reserved**

**Intentionally blank.**

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 14 – RESERVED**

## **Chapter 14 - Reserved**

**Intentionally blank.**

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 15 – RESERVED**

## **Chapter 15 - Reserved**

**Intentionally blank.**

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

**CHAPTER 16 – SHADE TREE**

[History: Adopted by the Council of the Borough of Northumberland 7-2-68 as Ord. No. 251.  
Amendments noted where applicable.]

**ARTICLE I – ESTABLISHMENT**

**16.1.01 Commission established. (16-1)**

A Shade Tree Commission for the Borough of Northumberland is established, which Commission shall have three (3) members,

- A. one (1) to be elected for a term of three (3) years,
- B. one (1) for a term of four (4) years and
- C. one (1) for a term of five (5) years.

On the expiration of the term of any Commissioner, a successor shall be appointed to serve a term of five (5) years.

**16.1.02 Duties and powers. (16-2)**

The Commission shall have exclusive custody and control of the shade trees in the borough and is authorized to plant, remove, maintain and protect shade trees on the streets and highways in the borough and is further granted all other powers as set forth in the Act of the Commonwealth of Pennsylvania, Act No. 581 of February 1, 1966, PL 1965.

## **Chapter 16 - Shade Tree**

**Intentionally blank.**



## **CODE OF THE BOROUGH OF NORTHUMBERLAND**

# **CHAPTER 17 – PARKS**

[History: Adopted by the Council of the Borough of Northumberland 5-4-2010 by Ord. 2010-3.]

## **ARTICLE I – PINEKNOTTER PARK BASEBALL FIELD**

### **17.1.01 Permit required; fee. (17.1)**

Any group wishing to reserve the use of a baseball field in Pineknotted Park ("Baseball Field") shall first obtain a permit for reserved use. A group shall complete an application for a permit for reserved use of a Baseball Field and return the application to the Borough Secretary. The application shall be accompanied by payment of an application fee of twenty dollars (\$20), which fee shall be paid to the Borough Secretary simultaneously with submission of the application for the permit for reserved use of Baseball Field.

### **17.1.02 Issuance of a permit. (17.2)**

Upon receipt of a completed application for a permit for use of a Baseball Field and the application fee required by Section 1 above, the Manager as defined in Section 4 shall issue a permit for use of a Baseball Field within six (6) days. The permit shall be valid, unless revoked by the Borough, through December 31 of the year issued.

### **17.1.03 Reserved Use. (17.3)**

Each group that obtains a permit may request reserved use of a baseball field. Reserved use shall entitle the group to exclusive use of a Baseball Field during the designated reserved time.

### **17.1.04 Manager. (17.4)**

Borough Council may appoint a manager of the Baseball Fields (the "Manager"). The Manager shall have authority over the use of the Baseball Fields. The Manager shall be in charge of designating reserved use time for groups. The Manager shall have the authority to prohibit or revoke a group's use of the Baseball Fields.

### **17.1.05 Schedule for Reserved Use. (17.5)**

Each group desiring reserved use of a baseball field shall submit a request to the Manager. The request shall designate the dates, time, field and intended use. The Manager shall set the schedule for the reserved use of the Baseball Field in a manner equitable to all groups that have submitted requests between January 1<sup>st</sup> and March 31<sup>st</sup> of each year. All requests received after March 31<sup>st</sup> shall be handled based upon remaining availability on a first come, first served basis.

### **17.1.06 Non-reserved Use. (17.6)**

Any group or individual may utilize the Baseball Fields on a first come, first served basis during times the Baseball Fields have not been reserved for use by a group with a valid permit. A permit is not required for use of the Baseball Fields during non-reserved times. The Borough and/or the Manager may require a group or individual to vacate a Baseball Field that has been reserved for another group. Any individual that refuses to vacate a Baseball Field, after being directed to by a Borough representative or the Manager, shall be considered a trespasser and subject to the penalties for trespassing.

### **17.1.07 Rules and Regulations. (17.7)**

All use of the Baseball Fields must be done in accordance with all Federal, State and local laws, ordinances, resolutions, regulations and any rules issued by the Manager. Failure to comply with any of the above shall

## **Chapter 17 - Parks**

subject an individual and/or group to removal from the Baseball Fields and/or the revocation of their permit. A group is responsible for all individuals it allows to utilize a Baseball Field during their designated reserved use time.

### **17.1.08 Use of Lights (17.8)**

All individuals and groups desiring to utilize the lights located on the Baseball Fields must obtain tokens from the Borough. The lights will be controlled by a token operated machine. The Borough may change, by resolution, from time to time, the rate to be charged for a token.

### **17.1.09 Disputes. (17-9)**

All disputes concerning the use of the Baseball Fields shall first be brought to the Manager for resolution. If the matter is not resolved by the Manager, the dispute shall be submitted in writing to Borough Council. Borough Council will not consider any matters not submitted in this manner.

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 18 – WATER AUTHORITY**

## **Chapter 18 - Reserved**

**Intentionally blank.**

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 19 – RESERVED**

## **Chapter 19 - Reserved**

**Intentionally blank.**

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## **CHAPTER 20 – RESERVED**

## **Chapter 20 - Reserved**

**Intentionally blank.**



## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 21 – ALCOHOLIC BEVERAGES

[History: Adopted by the Council of Northumberland 8-7-62 as Ord. No. 214, approved 8-10-62. Section 21-3 amended upon adoption of Code; see Ch. 1, General Provisions. Sections 21.1.1 and 12.1.2 repealed 9-4-01 by Ord. No. 2001-6. New provision, Section 21.1.1, adopted 9-4-01 by Ord. No. 2001-6.  
Other amendments noted where applicable.]

## ARTICLE I – POSSESSION AND CONSUMPTION

General References: Peace and good order - see Ch. 40.

### **21.1.01 Public Places (21-1)**

[Adopted 9-4-01 by Ord. No. 2001-6.]

It shall be a summary offense to possess, use, or to facilitate the possession and consumption by another of any wine, beer, whiskey, or other alcoholic beverages in or on any public property of the Borough of Northumberland including but not limited to the public parks, pool, fields, or Borough Offices. Provided however: The Borough Council may by resolution, and consistent with the Liquor Code and PLCB regulations, permit the sale or use of alcohol at special events on Borough Property.

### **21.1.02 Violation and penalties. (21-2)**

[Amended 12-18-2001 by Ordinance 2001-13]

Any person who shall be convicted of a violation of any of the provisions of this chapter before a District Magistrate having jurisdiction shall be sentenced to pay a fine as set by resolution, together with costs of prosecution, or to imprisonment in the county jail for a term as set by resolution, or both. [Originally Section 21-3; renumbered 9-4-01 with adoption of Ord. No. 2001-6.]

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of the Borough Code are determined by council resolution.]

## **Chapter 21 - Alcoholic Beverages**

**Intentionally blank.**

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

**CHAPTER 22 – AMUSEMENTS**

[History: Adopted by the Council of the Borough of Northumberland 8-7-67 as Ord. No. 215. Section 22.1.2 amended upon adoption of Code; see Ch. 1, General Provisions.

Other amendments noted where applicable. Repealed 9-4-2001 by Ordinance No. 2001-7]

## Chapter 22 - Amusements

**Intentionally blank.**

## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 23 – BUILDING CONSTRUCTION

[History: Adopted by the Council of the Borough of Northumberland 3-10-77 as Ord. No. 328. Amended 12-5-95 by Ord. No. 439, 12-18-97 by Ord. No. 453, 9-30-99 by Ord. No. 462, 4-15-03 by Ord. No. 2003-2, Amended 11-1-2005 by Ord. No. 2005-7, Amended 1-17-2006 by Ord. No. 2006-4]

## ARTICLE I – ADOPTION

General References:     Housing - Property Maintenance Code - see Ch. 30.  
                                     Property Maintenance - see Ch. 42.  
                                     Zoning - see Ch. 61.

### **23.1.01    Adoption of standards by reference. (23-1)**

[Amended 4-15-03 by Ord. 2003-2; 11-1-05 by Ord. 2005-7.]

That a certain document, on file in the office of the Secretary of the Borough of Northumberland being marked as the latest edition of the current nationally applicable Building Code (presently the International Building Code) is hereby adopted as the "Northumberland Borough Building Code" for the Borough of Northumberland of the Commonwealth of Pennsylvania, for the control of buildings and structures as herein provided; and each and all regulations, provisions, penalties, conditions and terms of said nationally applicable building code are hereby referred to, adopted and made a part thereof as if fully set out in this Ordinance, subject to any Amendments, additions or deletions thereto incorporated herein.

#### A. Habitual Violation

[Added 11-1-05 by Ord. 2005-7.]

The Borough may adopt policies and procedures regarding habitual violation of the Property Maintenance Code. Such policies and procedures may include, but not be limited to, provisions for the Borough to abate violations, bill the habitual violator for the abatement costs incurred by the Borough, and enter municipal liens against the property where the violation occurs.

### **23.1.02    Amendments, additions and deletions. (23-2)**

[Amended 4-15-03 by Ord. 2003-2; Amended 11-1-2005 by Ord. 2005-7.]

That Ordinance of the Borough of Northumberland adopting The BOCA National Building Code and all other ordinances or parts of ordinances in conflict therewith are hereby repealed.

The following sections of the International Property Maintenance Code, current edition, are hereby amended and revised in the following respects for purposes of incorporation by reference herein:

Section 302.1 Delete in its entirety, and replace with the following: "All owner(s) of all premises and property in the Borough of Northumberland are responsible to keep, and shall keep, the exterior property and premises maintained in a clean, safe and sanitary condition."

Upon failure of the owner(s) of a property to keep the exterior property and premises maintained in a clean, safe and sanitary condition and after service of notice of violation(s) they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction.

Section 307.1 Delete in its entirety and replace with the following: "All owner(s) of all properties and premises in the Borough of Northumberland shall keep the exterior property and premises and the interior of all structures free from accumulation of rubbish or garbage."

## **Chapter 23 - Building Construction**

Upon failure of the owner(s) to remove the rubbish and garbage from the exterior and interior property and after service of a notice of violation(s), they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction.

Section 307.3 Delete in its entirety and replace with the following: "All owner(s) of all properties in the Borough of Northumberland shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers."

### **23.1.03 Inconsistent ordinances repealed. (23-3)**

That Ordinance of the Borough of Northumberland adopting an earlier edition of The BOCA National Building Code and all other ordinances or parts of ordinances in conflict therewith are hereby repealed.

### **23.1.04 Saving clause. (23-4)**

[Amended 4-15-03 by Ord. 2003-2.]

That nothing in this Ordinance in the applicable national building code in effect, currently The International Building Code, latest edition, hereby adopted shall be construed to affect any suit or proceeding impending in any Court, or any rights acquired, or liabilities incurred, or any cause or causes of action acquire or existing, under any act or Ordinance hereby repealed as cited in this Ordinance; nor shall any just or legal right or remedy of any character by lost, impaired or affected by this Ordinance.

### **23.1.05 Date of effect. (23-5)**

That the Borough Secretary shall certify to the adoption of this Ordinance and cause the same to be published as required by law; and this Ordinance shall take full force and effect and be in force from and after its approval as required by law.

### **23.1.06 Contractor Licensing and Proof of Insurance. (23-6)**

[Amended 1-17-2006 by Ord. 2006-4.]

- A. All business entities or individuals performing services as building contractors, remodelers, excavators or erectors, shall have a valid license issued by the Code Office which will have proof of insurance as a requirement. The insurance policy maintained by the applicant for the license shall provide for a minimum of \$300,000.00 payable for each claim or occurrence under the policy.
- B. The license shall be effective until January 1st of the year following the year of issuance of the license, and it shall be renewed on an annual basis each January. The license shall become null and void if the insurance policy expires during the one-year term.
- C. The cost of license shall be an annual fee set by resolution.
- D. The license must be presented at the time of requesting a building permit. Further, the Code Office reserves the right to request a visual inspection of the license at the time of an inspection of the building site. Individuals performing services at their own home shall be exempted from the licensing requirement. If a proposed project has estimated costs of less than \$100,000.00 then the license, along with a minimum insurance policy of \$300,000.00, shall be sufficient to meet the insurance requirements for a building permit. Any project with a cost in excess of \$100,000.00 shall require a review of the insurance requirements on a case-by-case basis by the Code Officer to determine the required amount of insurance beyond the minimum insurance policy amount of \$300,000.00.
- E. The falsification of a license or the failure to have a valid license shall result in the imposition of a fine which shall be set by resolution and not exceed the maximum limit required by law. Violations shall be considered ongoing from the date of notification of a violation, and a violator will be fined for each day that the violation remains unresolved after notification thereof. A stop-work order will be issued to each

## **Chapter 23 - Building Construction**

contractor and/or owner with respect to any ongoing project until such time as the required license is obtained.

**Repealer. All ordinances and resolutions or parts of ordinances or resolutions, insofar as they are inconsistent herewith, be and the same are hereby repealed.**

**Severability.** If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, it shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intention of the Council Members of the Borough of Northumberland, that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included.

## **Chapter 23 - Building Construction**

**Intentionally blank.**



## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 24 – ANIMALS

[History: Adopted by the Council of the Borough of Northumberland 10-3-78 as Ord. No. 344,  
Amended 9-3-2013 by Ordinance 2013-3, Amendments noted where applicable.]

## ARTICLE I – INTENT AND PURPOSE

General References: Noise - see Ch. 37.

### **24.1.01 Intent and Purpose**

Borough Council of the Borough of Northumberland (the "Borough") expressly recognizes and finds that the Borough is a highly and densely populated Borough, being substantially developed primarily with residential homes, that the unregulated keeping of Animals within the Borough creates a hazard or potential hazard or threat or potential threat to the health, safety and welfare of the residents of the Borough, because such Animals:

- A. are or may be poisonous and/or dangerous to humans;
- B. are or may be diseased which could adversely affect the health of a human or other animals;
- C. are or may be affected with a contagious or infectious disease whereby the health of humans or other animals may be affected;
- D. are or may be or may become vicious by the Animal's nature and/or disease or sick and/or attack and/or threaten to attack humans or other animals;
- E. are or may be or may become vicious to humans and/or other Animals, and attack or threaten to attack humans or other Animals;
- F. are or may be a threat to the peace and quiet of the neighborhood in which the Animals are maintained by emitting noises or causing noises that disturb persons in the neighborhood;
- G. discharge droppings or feces or urine in open areas that carry or can spread or cause or carry disease and/or sickness to humans or other Animals.

### **24.1.02 Declaration of Policies**

The Borough Council hereby declares the following policies regarding the regulation of animals in the Borough:

- A. Clean, safe, sanitary and quiet neighborhoods are absolutely essential for persons in the Borough, so that the Borough may protect the health, safety and welfare of the people in the Borough and attract new residents.
- B. Clean, safe, sanitary and quiet neighborhoods are absolutely essential if persons (inclusive of children of persons) in the Borough are to have adequate use of their property, both real and personal, without fear of, or threat of disease from, or attack by animals.
- C. Clean, safe, sanitary and quiet neighborhoods are absolutely essential if persons (including children of persons) in the Borough are to have use of and access to public areas, such as sidewalks, public walkways, streets, cartways, alleys, playgrounds, parks and recreational areas, now and in the future, without fear of, or threat of disease from, or attack by animals.

## Chapter 24 - Animals

- D. The objective of the regulations on Animals is to prevent Animals from contracting disease, to prevent the spread of disease of any kind which Animals may contract, protect the public and persons (including children of persons) from Animals that may be diseased, and protect the safety of residents, including children and non-residents from Animals that may be diseased, and protect the safety of residents and non-residents within the Borough from attack, or the threat of attack, from Animals, and protect public property and the property of persons and owners of property, both real and personal.
- E. The prevention and elimination of disease and/or the spread of disease carried by Animals or the potential for disease or sickness due to Animal feces, urine or droppings, and/or the threat to the safety of residents and non-residents within the Borough by attack or threat of attack by animals and/or the threat of injuries and/or sickness and/or death or injury and/or sickness and/or death from animals or diseased animals or poisonous animals and/or the noises emitted by an Animal, are directly related to the health, welfare and safety of the persons in the Borough and the peace and quiet of neighborhoods in the Borough.
- F. The achievement of these policies and objectives herein set forth requires a comprehensive program of Animal management and control in the Borough.

## ARTICLE II – PROHIBITING ANIMALS RUNNING AT LARGE AND RESTRICTIONS ON OUTDOOR FEEDING

### 24.2.01 Definitions

As used in Chapter 24, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context:

**Animal** any dog, cat, fowl, household pet or other domestic animal.

**Borough** The Borough of Northumberland, Northumberland county, Pennsylvania.

**Domestic Animal** any animal normally or ordinarily domesticated or raised in the area and climate as livestock or for work or breeding purposes, or normally or ordinarily kept as a household pet.

**Fowl** any wild or domestic animal such as, but not by limitation, animals of the chicken, turkey, goose, ducks, pigeons, mallard, quail species.

**Household Pet** any dog, cat, small non-venomous reptiles kept in cages/tanks smaller than 100 gallons, turtles and frogs, common pet birds kept in cages (such as Finches, Parrots, Caiques, Canary, Cockatiels, Cockatoo, Conures, Macaws, Parrotlet, Parakeets, Pionus and Rosella), common pet rodents (such as mice, gerbils, hamsters, chinchilla, ferrets and sugar gliders), rabbits and fish normally and ordinarily kept in or permitted to be at large in the dwelling of its owner.

**Large Animal** any wild or domestic animal of the bovine, equine or sheep family.

**Owner** - when applied to the proprietorship of an Animal, includes every person having a right of property in such Animal, and every person who keeps or harbors such Animal or has it in his/her care, and every person who permits such Animal to remain on or about such premises occupied by him/her, including providing food or water for such Animal.

**Person** any person, firm, partnership, association, or corporation.

**Running At Large** being upon any public highway, street, alley, cartway, park or any other public land, or upon property of another person other than the owner, and not being accompanied by and under the control of the owner or any other person having custody of said Animal.

## **Chapter 24 - Animals**

If the Animal is on public ground, it must be on a leash not longer than six (6) feet in length or it shall be considered running at large.

**Wild Animal** any animal, including bird, fowl, or reptile not normally or ordinarily domesticated; not normally or ordinarily raised in this area and climate as livestock or for work or breeding purposes; or not capable of being kept as a household pet.

### **24.2.02 Enforcement**

The Northumberland Borough Police Department, Code Enforcement Officer, State Health Officer, State/County Dog Warden and any other individual designated by the Borough through a Resolution of Borough Council shall have the power to enforce this Chapter of the Code of Ordinances Borough of Northumberland and of the Dog Laws, 3 P.S. 459-101 et seq.

### **24.2.03 Unlawful to Allow Animals to Run at Large**

It shall be unlawful for the owner of any Animal or Animals to allow or permit such Animal or Animals to run at large in the Borough of Northumberland.

### **24.2.04 Seizing of Animals**

Any police officer may seize any Animal found running at large in the Borough. Such Animals are to be impounded in a licensed kennel, or appropriate facility for keeping the particular type of Animal. The location of where the Animal is being held shall be available at the Borough building.

### **24.2.05 Licensed Animals**

The Chief of Police or the Officer in Charge or Code Enforcement Officer shall notify the owner of a licensed Animal by registered or certified mail, with return receipt, that the Animal is impounded and will be disposed of in five (5) days if not claimed. Five (5) days after the return receipt has been received, and the Animal has not been claimed, the Animal may be sold or destroyed, as in the instance of a dog in accordance with the Dog Law, 3 P.S. §§ 459-302. If the certified mail is returned as unaccepted and the Animal has not been claimed within Fifteen (15) days of being impounded, the Animal may be sold or destroyed, as in the instance of a dog in accordance with the Dog Law, 3 P.S. § 459-302.

### **24.2.06 Unlicensed Animals**

Unlicensed Animals that are seized shall be held in such kennel, or appropriate facility for keeping that particular type of animal for forty-eight (48) hours and if not claimed may be destroyed and as in the instance of a dog, in accordance with the Dog Law, 3 P.S. §§ 459-303. In order to claim an unlicensed Animal, an individual must pay all boarding expenses incurred and either the fee to license the Animal or all expenses to neuter/spay the Animal. An unlicensed Animal will not be released until the license is paid for or the Animal is delivered to a licensed veterinarian to neuter or spay the Animal.

### **24.2.07 Dangerous Dogs**

- A. A dog determined to be dangerous under § 502-A of the Dog Law, 3 P.S. 459-502A, shall be restrained or otherwise kept in accordance with Article VI-A of the Dog Law, 3 P.S. 459-501-A, et seq.
- B. Dogs may be killed only in accordance with the requirements of § 501 of the Dog Law, 3 P.S. §§ 459-501, and otherwise, said dog(s) must be detained and delivered to the police or a State dog warden. While detained, said dog must be treated in a humane manner.

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### **24.2.08 Outdoor Feeding of Animals**

- A. No person shall leave food or anything intended to be food for cats or dogs unattended outside of their home. Food shall be considered to be left unattended if it is outside the home and in a location or container accessible by an Animal and the person is not present.
- B. No person shall feed an unlicensed cat or dog outdoors, which constitutes any area outside of his or her home, place of business, Borough or other public property.
- C. A person may apply for a permit from the Borough to feed an unlicensed cat or dog outdoors upon the following conditions:
  - 1. The permit is only good for one (1) day or dates approved by the Borough;
  - 2. Food is not left unattended;
  - 3. All food is removed at the end of the day and not left outdoors during night-time hours; and
- D. The restrictions in this section shall not apply to a veterinarian, kennel or other approved entity that is boarding an unlicensed Animal that has either been seized or is part of the Cat Neutering/Spaying Program, as long as the Animal is being fed in an enclosure or cage.

### **24.2.09 Penalties**

With respect to any person convicted of a violation of this.

- A. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof on an action brought before a magisterial district judge or other tribunal with jurisdiction, in the manner provided for the enforcement of summary offenses under the Pa. Rules of Criminal Procedure, shall be sentenced to pay a fine of no less than \$100 but not more than \$1,000 plus court costs to the Borough and for the expenses, including but not limited to food and medical expenses, related to handling the Animal, and in default of payment of said fine costs and expenses to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part, which shall be found to have been violated shall constitute a separate offense.

## **ARTICLE III – ANIMAL NOISE CONTROL**

### **24.3.01 Intent and Purpose**

The Borough Council of the Borough of Northumberland, finding that excessive levels of sound are detrimental to the physical, mental and social well-being of the people as well as to their comfort, living conditions, general welfare and safety and being therefore a public health and welfare hazard, hereby declares it to be necessary to provide for the greater control and more effective regulation of excessive sound and the sources of excessive sound within the Borough.

### **24.3.02 Noise Disturbance**

It shall be illegal within the Borough for any person or persons to allow any Animal (as defined in Part 4) on their property outside of a residential or business dwelling which makes any noise continuously and/or incessantly for a period of ten (10) minutes or makes such noise intermittently for one-half (1/2) hour or more to the disturbance of any person any time of the day or night regardless of whether the Animal is physically situated in or upon private property, said noise being a nuisance; provided, that at the time the Animal is making such noise no person is trespassing or threatening to trespass upon private property in or upon which the Animal is situated nor is there any other legitimate cause which justifiably provoked the Animal.

## **Chapter 24 - Animals**

### **24.3.03 Penalties**

With respect to any person convicted of a violation of this.

- A. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof on an action brought before a magisterial district judge or other tribunal with jurisdiction, in the manner provided for the enforcement of summary offenses under the Pa. Rules of Criminal Procedure, shall be sentenced to pay a fine of no less than \$100 but not more than \$1,000 plus court costs to the Borough and for the expenses, including but not limited to food and medical expenses, related to handling the Animal, and in default of payment of said fine costs and expenses to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

## **ARTICLE IV - CONTROL OF ANIMAL DEFECATION**

### **24.4.01 Animal Defecation on Public and Private Property Restricted**

No person, having possession, custody or control of any Animal, shall knowingly or negligently permit any Animal defecate or urinate, upon any gutter, street, driveway, alley, curb, cartway or sidewalk in the Borough of Northumberland, or upon the floors or stairways of any building or place frequented by the public or used in common by the tenants, or upon the outside walls, walkways, driveways, alleys, curbs or sidewalks of any building abutting on a public street or park, or upon the playground areas, pavilion, picnic or gathering areas of any public parks or public area, or upon any private property other than the property of the owner of such Animal. Allowing an Animal to defecate on the area of ground between a sidewalk and curb or in areas within three (3) feet of the curb where no sidewalk exists, shall not be a violation of this section as long as feces are disposed of in accordance with Section 24.4.02.

### **24.4.02 Disposal of Animal Feces**

Any person having possession, custody or control of any Animal(s), which permits a nuisance, i.e. defecation or urination, in any area other than the private property of the owner of such Animal, as prohibited in section 1 or who allows Animal feces to accumulate on their own property in a manner that creates a potential health hazard shall be required to immediately remove any feces from such surface and either:

1. Carry same away for disposal in a toilet; or
2. Place same in a non-leaking full enclosed container for disposal at the owner's residence.

Animal feces, and/or defecation, and/or waste that is not properly stored shall be deemed a threat to the public health in the Borough of Northumberland. In order to prevent a threat of disease and/or the spread of disease, it shall be unlawful to store and maintain Animal feces and/or defecation, and/or waste except in a solid enclosed plastic bag that is stored in a rigid container (a hard plastic or metal garbage can) with a top that is secured at all times to prevent accidental spilling and/or access by Animals and/or a person or persons, including children.

### **24.4.03 Animals Accompanying Blind or Handicapped Persons Exempt**

The provisions of section 1 and 2 of this Part shall not apply to a guide dog or any other certified guide Animal accompanying any blind persons, or to a dog or other certified animal used to assist any other physically handicapped person.

### **24.4.04 Penalties**

With respect to any person convicted of a violation of this.

## Chapter 24 - Animals

- A. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof on an action brought before a magisterial district judge or other tribunal with jurisdiction, in the manner provided for the enforcement of summary offenses under the Pa. Rules of Criminal Procedure, shall be sentenced to pay a fine of no less than \$100 but not more than \$1000 plus court costs to the Borough and for the expenses, including but not limited to food and medical expenses, related to handling the Animal, and in default of payment of said fine costs and expenses to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

## ARTICLE V - REGULATING KEEPING OF CERTAIN ANIMALS AND THE ABANDONMENT OF ANIMALS

In this chapter, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine.

### 24.5.01 *Certain Animals Prohibited*

It shall be unlawful for any person to keep or maintain non-household pets, such as pigs, hogs or swine, horses, cattle, sheep, goats, chickens, turkeys at any place within the Borough, or to maintain coops, pens, kennels, stables or other accommodations for any such animals.

### 24.5.03 *Household Pets*

It shall be unlawful for any person to keep any household pet, except as provided in this section:

- A. If any such pet shall be kept in a dwelling owned or occupied by its owner, such owner shall be required to follow such procedures and practices, as to the number of such pets to be kept there, and as to sanitation, to insure that no public nuisance shall be created or maintained and no threat to the health of persons living elsewhere that in such dwelling shall be created.
- B. If any such pet shall be kept in an enclosure outside such dwelling, the provisions of section 3 of this Part, shall be applicable to the keeping of such household pets.

### 24.5.04 *Abandonment of Animals*

It shall be unlawful for any person to leave an Animal in the Borough with the intention of abandoning it. A person shall be considered to have abandoned an Animal if they have done any of the following:

- A. Released an Animal onto the Streets or Properties of the Borough or another person; or
- B. Left an Animal unattended in a Public Place or the property of another person for more than fifteen (15) minutes; or
- C. Failed to pick up an Animal from a veterinarian or kennel when notified Animal was to be picked up.

### 24.5.05 *Penalties*

With respect to any person convicted of a violation of this.

- A. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof on an action brought before a magisterial district judge or other tribunal with jurisdiction, in the manner provided for the enforcement of summary offenses under the Pa. Rules of Criminal Procedure, shall be sentenced to pay a fine of no less than \$100 but not more than \$1000 plus court costs to the Borough

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## **Chapter 24 - Animals**

and for the expenses, including but not limited to food and medical expenses, related to handling the Animal, and in default of payment of said fine costs and expenses to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

## **ARTICLE VI - CAT LICENSES**

### ***24.6.01 License for cats-Required; delinquent fee***

It shall be the duty of every person owning, keeping or harboring in the Borough any cat over 120 days old to procure a license therefore from the Borough or its designated agents, as authorized by a Resolution. The receipt issued for the license shall constitute a certificate of registry and evidence of licensure for the keeping of such cat within the Borough. The Borough may delegate authority, by resolution, to enforce any section of this chapter requiring licensure to a third-party entity. A late registration fee will be assessed for any license not purchased within 60 days of the required date of licensure. No refund will be made for licenses for animals deceased or otherwise removed from the Borough during a period of licensure.

### ***24.6.02 License exception for nonresidents***

Any other section of this chapter notwithstanding, the licensing provisions of this chapter shall not apply to any nonresident owner or keeper of a cat while such nonresident is temporarily in (less than two (2) weeks) or passing through the Borough, provided such cat shall remain effectively physically restrained.

### ***24.6.03 License fee***

Every owner or keeper shall for each cat owned or kept license such Animal with a tag license for a three-year period or a lifetime license if done by RFID or Tattoo registration. For the issuance of each cat license required by this chapter, the owner or keeper shall pay to the Borough such license fee as is provided for in a resolution.

### ***24.6.04 Licensing period***

The tag license required pursuant to this chapter shall be sold and due in the same month that such license was purchased in the previous three-year licensing period. The license tag or tattoo license method) issued upon registration shall indicate the year when the license expires. The RFID or the tattoo registration shall be for the life of the Animal.

### ***24.6.05 Immunization required***

Before issuance of any license or tag for a cat, the owner or keeper thereof shall file with the Borough a certificate from a licensed veterinarian showing that, the cat is properly immunized against rabies in accordance with Compendium of Animal Rabies Prevention and Control issued annually by the National Association of State Public Health Veterinarians (NASPHV).

### ***24.6.06 Records of cat registration***

The Borough shall keep a record giving the name and address of the owner or keeper of each licensed cat and the number of the certificate of registry, together with a general description of the cat.

### ***24.6.07 Issuance of cat license tags; replacement licenses***

At the time of the issuance of a cat license required by this chapter, the Borough shall deliver therewith a license tag showing the registration number and expiration date of the license or allow for a veterinarian administered tattoo or RFID chip with registration number and expiration date of the license recorded by the

## **Chapter 24 - Animals**

veterinarian on the license receipt. The veterinarian shall maintain record of, and provide copy to the Borough, all licensing information including registration number and expiration date within one-week of issuance of said license. A replacement license tag shall be furnished by the Borough to any such owner or keeper upon application satisfactory to the Borough and payment of the fee as is provided for in a resolution. Any change in the form of license tag or tags used shall first be approved by the Borough as suitable for cats. Any fees associated with a veterinarian issued license incurred by the Borough shall be incorporated into the cost of the license and reimbursed to the Borough by the veterinarian.

### **24.6.08 Wearing of license or identification tag required for cats; removal of collar or license tag; exception for electronic identification chips.**

- A. No owner or keeper of any cat shall allow or permit such cat to be outside the residence of the owner or keeper, at any time, without having attached to a collar about the neck of such animal or to a secure body harness the license tag provided for in section 24.6.07 or the identification tag provided for in a resolution. Cats licensed with the tattoo or RFID style license are exempt.
- B. No person shall remove, or cause to be removed, the collar, harness or the license tag from any licensed cat without the consent of the owner or keeper thereof.
- C. Sections (a) and (b) shall not apply to any cat that has had an electronic identification chip inserted/implanted.

### **24.6.09 Penalties**

With respect to any person convicted of a violation of this.

- A. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof on an action brought before a magisterial district judge or other tribunal with jurisdiction, in the manner provided for the enforcement of summary offenses under the Pa. Rules of Criminal Procedure, shall be sentenced to pay a fine of no less than \$100 but not more than \$1000 plus court costs to the Borough and for the expenses, including but not limited to food and medical expenses, related to handling the Animal, and in default of payment of said fine costs and expenses to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

## **ARTICLE VII - CAT TRAP, NEUTER/SPAY AND RELEASE (TNR PROGRAM) PROGRAM**

### **24.7.01 Purpose**

The Borough has established a voluntary program for the neutering and spaying of unlicensed cats and euthanization of diseased cats located in the Borough for the purpose of reducing the number of feral and/or diseased cats in the Borough.

### **24.7.02 Funding for the Program**

The Borough shall act as the custodian for the funding for the Program. The Borough shall not be obligated to utilize any Borough funds for the Program. The Borough shall hold all funds provided for the Program in a separate segregated account solely for the Program. All funds in such account shall only be used for purposes related to the Program.



## **Chapter 24 - Animals**

### **24.7.03 Services of the Program**

- A. The Program, to the extent funds are available, will pay the costs for neutering/spaying and related boarding expenses of an eligible cat at any licensed veterinarian that has agreed to accept the Borough set rate for neutering/spaying and licensing of an eligible cat. The Borough shall set the applicable rates from time to time by resolution.
- B. The Program, to the extent funds are available, will pay the costs for euthanization of a diseased cat and related boarding expenses of an eligible cat at any licensed veterinarian that has agreed to accept the Borough's set rate for euthanization of an eligible cat. The Borough shall set the applicable rates from time to time by resolution.
- C. The Program does not pay for licensing fees.

### **24.7.04 Eligible Cats**

A cat shall be considered eligible for the Program if all of the following apply:

- A. The request for funding for the cat is made by a Borough resident;
- B. No one has claimed the cat under 24.2.06.

### **24.7.05 Request for Program Funding**

- A. A Borough resident may request funding for a service covered by the Program for an eligible cat, as defined in 24.7.04. Funding will be provided based on availability. The funding will be paid directly to the veterinarian performing the service upon receipt of an invoice that states the service provided, the approval certificate number issued by the Borough and the name of the resident that requested the funding. At the time of approving a request, the Borough, upon request, will issue an approval certificate with a unique number that shall be provided to a participating veterinarian (See Section 24.7.06) as proof of authorization of Program funding. The approval certificate shall be good for thirty (30) days from the date of issuance. Requests will be considered in order of receipt.
- B. If there is no Program funding available, the Resident presenting the eligible cat for services shall be required to pay of two (2) days of boarding plus the costs of neutering/spaying the eligible cat. If the eligible cat is claimed by an individual, the Resident that presented the eligible cat for the Program shall be reimbursed by the individual claiming the eligible cat for the boarding and neutering/spaying expenses paid by the Resident. The Resident shall be refunded any expenses that the Resident paid but were not used for the eligible cat.

### **24.7.06 Provision of Services Under the Program – Participating Veterinarian**

Any licensed veterinarian shall be permitted to provide services through the Program as long as the veterinarian agrees to accept the approved rates for services. A veterinarian shall have the discretion when treating unlicensed cats to determine if the unlicensed cat is diseased and for humane purposes should be euthanized instead of being neutered/spayed.

### **24.7.07 Responsibility for Cats Receiving Services Under the Program**

The individual requesting Program funding for the eligible cat shall be responsible for the cat during the time the cat is enrolled in the program and under the care of the participating veterinarian. The Borough shall not be responsible for the cat, nor will the Borough take possession of the cat. The resident shall be considered to have abandoned a cat under 24.5.04 if they fail to pick up the cat following the services provided by a veterinarian.

## **Chapter 24 - Animals**

### **24.7.08 Procedure for submitting a cat to TNR Program**

The following procedure shall be utilized for submitting a cat(s) to the TNR Program:

- A. Resident shall request a voucher from the Borough office that certifies eligibility to participate in the TNR Program.
- B. A resident must provide a current valid driver's license/state identification card or utility bill that demonstrates a residence in the Borough to obtain a voucher.
- C. The Borough Secretary, upon proof of residency, shall certify a TNR Program voucher that lists the resident's name, telephone number, address, whether or not there is TNR Programs Funding available and number of cats funding is approved for under the voucher.
- D. Resident shall provide the certified voucher to a participating veterinarian to enter a cat(s) into TNR Program.
- E. The veterinarian shall maintain voucher as proof of eligibility and proof for payment under TNR Program.
- F. The veterinarian shall check cat(s) for license tag or microchip.
- G. The veterinarian enters cat(s) into TNR Program as either licensed or unlicensed cat(s).
- H. The cat(s) are handled in accordance with the provisions of this ordinance and as outlined in the following flow chart. A copy of the flow chart shall be provided to all participating veterinarians and residents upon request.

[See Flow Chart attached as Exhibit A]

## **ARTICLE VIII - DANGEROUS ANIMALS**

### **24.8.01**

- A. A dangerous Animal is any Animal that is found to be dangerous in accordance with any applicable Pennsylvania Law and/or Federal Law and/or governmental regulation and/or Pennsylvania Court(s) and/or Federal Court(s) decision(s) and/or is found to be dangerous due to disease, viciousness, poisonous nature, and/or prior threat and/or injury including death to a person(s) and/or public, by the Council of the Borough of Northumberland, after a duly advertised public hearing in which the residents of the Borough of Northumberland and/or public and/or any knowledgeable person about the particular Animal have provided information, and/or were allowed the opportunity to provide information as to propensities of the particular Animal, or the Animal(s) is obviously vicious and/or threatening to humans and/or sick and/or diseased creating an immediate and eminent threat to the health and welfare of the public, in the discretion of any Northumberland Borough Police Officer, or Chief of Police or Officer In Charge.
- B. Any dangerous Animal, as determined herein, shall be restrained, at all times, from the public by failsafe safeguards.
- C. Any dangerous Animal, as determined herein, running at large, may be killed or immobilized upon sight by any Northumberland Borough Police Officer or Chief Of Police or Officer In Charge, if the Police Officer or the Chief Of Police or Officer In Charge determines an immediate and/or imminent threat of injury and/or death to any person, including the Police Officer or Chief Of Police or Officer In Charge or property of any person. Any dangerous Animal so immobilized must be detained for no more than twenty-four (24) hours in an appropriate and secure facility during which time the Northumberland Borough Police Department shall seek appropriate veterinary help and an appropriate place to permanently deliver the dangerous Animal. In the event no appropriate place to permanently deliver the

## **Chapter 24 - Animals**

dangerous Animal is located, then the Northumberland Borough Police Department may cause the dangerous Animal to be destroyed.

### **24.8.02 Violation of State Law**

Any violation of this Part 4 that would also violate any state law shall be prosecuted under that state law and not under this Part.

### **24.8.03 Penalties**

With respect to any person convicted of a violation of this.

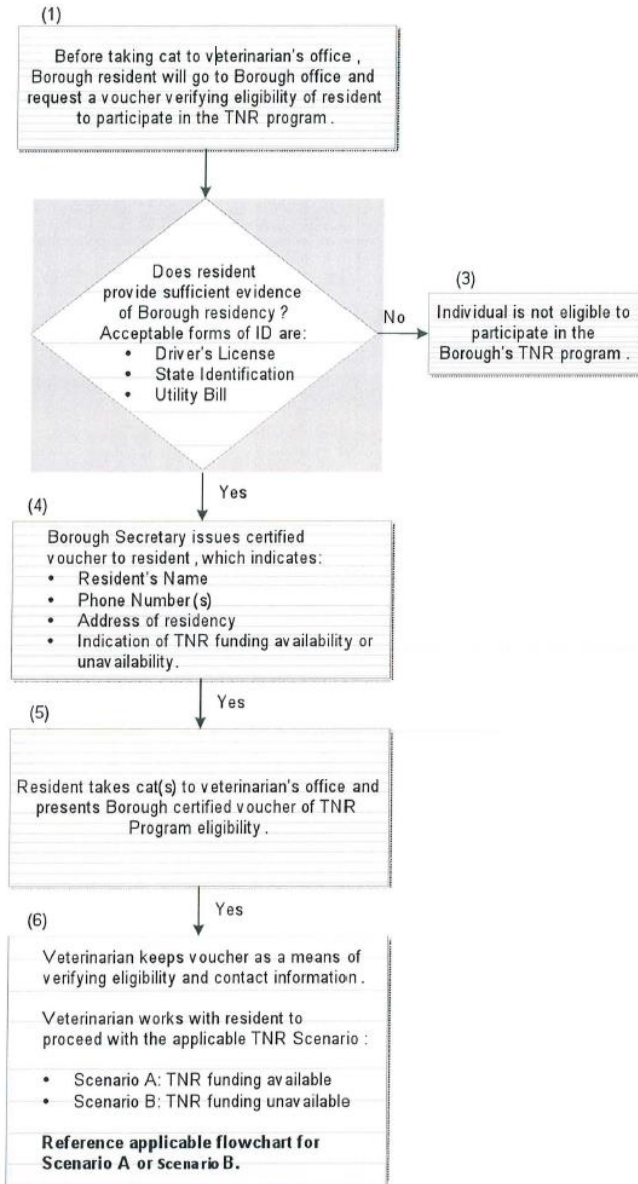
- A. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof on an action brought before a magisterial district judge or other tribunal with jurisdiction, in the manner provided for the enforcement of summary offenses under the Pa. Rules of Criminal Procedure, shall be sentenced to pay a fine of no less than \$100 but not more than \$1000 plus court costs to the Borough and for the expenses, including but not limited to food and medical expenses, related to handling the Animal, and in default of payment of said fine costs and expenses to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

### **24.9.01 Designation of Use of Fines**

Borough Council may from time to time designate by Resolution a portion of the fines received for violations of Chapter 24 to be utilized for the TNR Program created under 24.7.01 et. seq. The initial percentage of the fines received for violations of Chapter 24 to be used for the TNR Program shall be zero percent (0%) of the total amount of fines received.

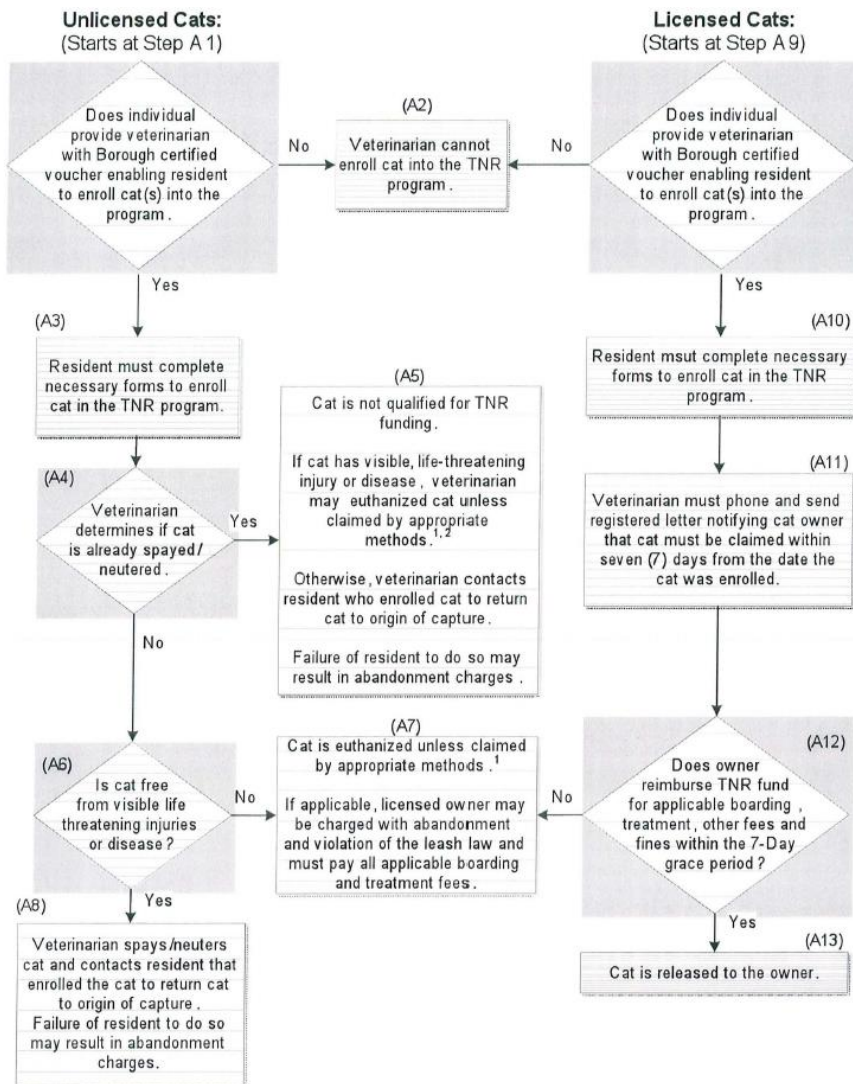
## Chapter 24 - Animals

### APPENDIX A – TNR PROGRAM ENROLLMENT



## Chapter 24 - Animals

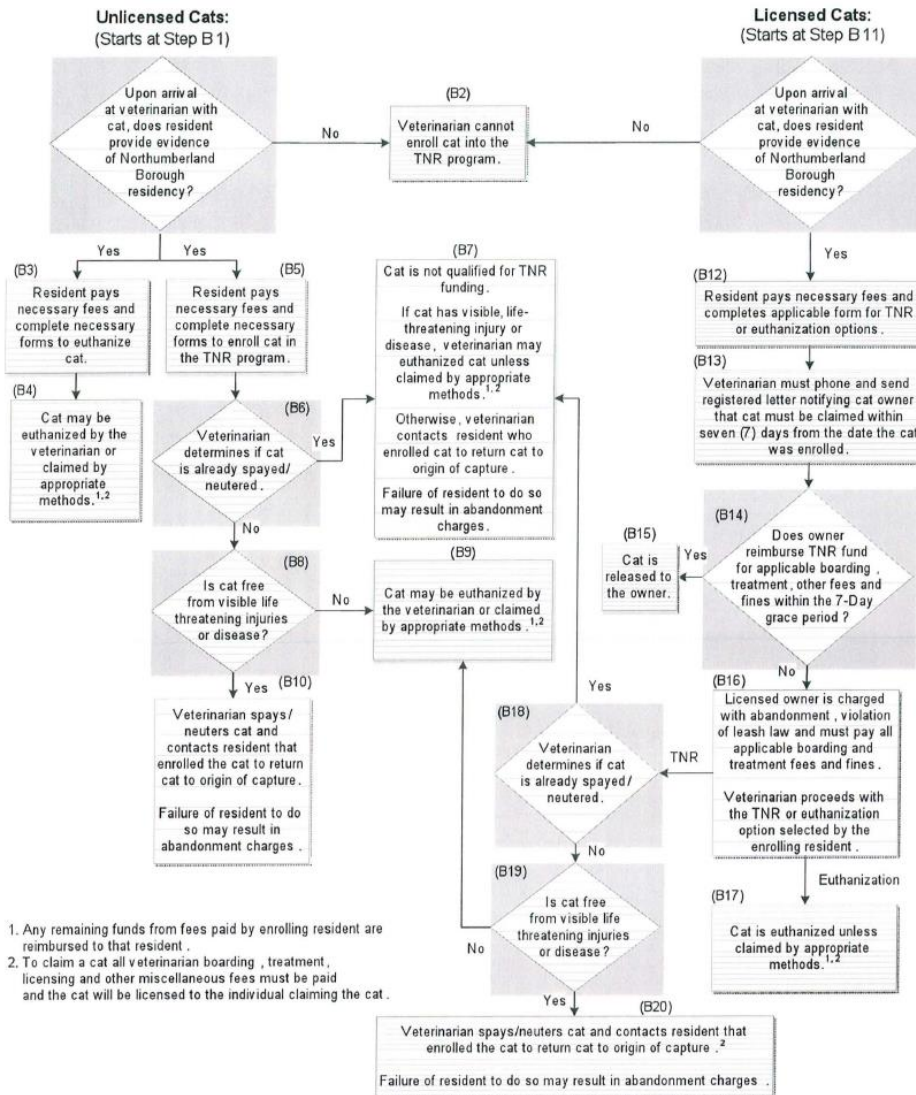
### SCENARIO A – TNR FUNDING AVAILABLE



1. To claim a cat all veterinarian boarding, treatment, licensing and other miscellaneous fees must be paid and the cat will be licensed to the individual claiming the cat.

## Chapter 24 - Animals

### SCENARIO B – NO TNR FUNDING AVAILABLE



## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 25 – ELECTRICAL STANDARDS

[History: Adopted by the Council of the Borough of Northumberland 3-10-77 as Ord. No. 330.  
Amendments noted where applicable.]

## ARTICLE I – STANDARDS

### **25.1.01 Adoption of standards by reference. (25-1)**

[Revised 4-15-03 by Ord. No. 2003-2.]

The International Code Council (ICC) Electrical Code, latest edition, as published by Building Officials Code Administrators International and any subsequent amendments, revisions or recodifications thereof or thereto are hereby adopted as the Electrical Code of the Borough of Northumberland, Pennsylvania, and each and all of the provisions of said code and any subsequent amendments, revisions or recodifications thereof, except such provisions as are by this chapter deleted, modified or amended, are hereby referred to, adopted and made a party hereof as if fully set out by this chapter.

- A. Sections 602.3 and 602.4 of the Electrical Code shall include the dates "September 1<sup>st</sup> to May 15<sup>th</sup>" in the first sentence of each of said paragraphs. [Added 4-15-03 by Ord. No. 2003-2.]

### **25.1.02 Electrical Official. (25-2)**

- A. The office of Electrical Official is hereby created, and the executive official in charge shall be known as the "Electrical Official."
- B. It shall be the duty of the Electrical Official to enforce the provisions of said Electrical Code and to make the inspections and tests required thereunder.
- C. The Electrical Official shall, after proper identification, have the right to enter any premises for the purpose of inspecting any electrical wiring at such times as may be reasonably necessary to protect the public health and safety.
- D. The Electrical Official shall be appointed by the council of the Borough of Northumberland.

### **25.1.03 Permit for electrical work. (25-3)**

- A. No electrical work, except for minor household repairs involving the changing of switches or fuses or the repairs of electrical fixtures, shall be undertaken prior to the issuance of a permit therefore by the Electrical Official.
- B. Application for permit shall be made on suitable forms provided by the Borough of Northumberland. The application shall not be issued until the fees prescribed have been paid, nor shall an amendment to a permit necessitating an additional fee because of the additional work involved be approved until the additional fee shall have been paid.

### **25.1.04 Requirements for issuance of permit. (25-4)**

No permit shall be issued until plans and specifications showing the proposed work in necessary detail have been submitted to the Electrical Official and he has determined from examination of such plans and specifications that they give assurance that the work will conform to the provisions of said Electrical Code. If a permit is denied, the applicant may submit revised plans and specifications without payment of an additional fee. If, in the course of the work, it is found necessary to make any change from the plans and specifications

## **Chapter 25 – Electrical Standards**

on which a permit has been issued, amended plans and specifications shall be submitted and a supplementary permit, subject to the same conditions applicable to the original application for permit, shall be issued to cover the change.

### **25.1.05 Rules and regulations. (25-5)**

The Electrical Official shall make such rules and regulations in furtherance of the purposes of said Electrical Code and not inconsistent with the specific provisions thereof for the installation, repair and alteration of electrical wiring and other matters regulated by this code.

### **25.1.06 Violations and penalties. (25-6)**

[As passed 12-18-2001 as part of Ord. No.2001-13, all fees for this and subsequent parts of the borough code are determined by council resolution.]

### **25.1.07 Appeals. (25-7)**

- A. General. Any person who is aggrieved with the ruling or decision of the enforcing officer in any matter relative to the interpretation or enforcement of any of the provisions of this code may take an appeal to the Board of Appeals.
- B. Board of Appeals. The Board of Appeals shall consist of at least three (3) members appointed by the Council of the Borough of Northumberland.
- C. Time of appeal. The appeal must be filed in the Borough Office, in writing, within ten (10) days of the date of the rendition of the decision or interpretation of the enforcing officer, except that, where circumstances exist which in the opinion of the enforcing officer are hazardous or dangerous to human life or the public welfare, the enforcing officer may in his notice or order to the violator limit the time for such appeal to a shorter period.
- D. Hearing. The Board of Appeals shall meet upon notice of the Chairman within fifteen (15) days of the filing of an appeal. The meeting shall be public and the appellant, his representatives, the enforcing officer and other person whose interests may be affected by the matter on appeal shall be given an opportunity to be heard.

### **25.1.08 Definitions. (25-8)**

For purposes of this chapter, the following terms have the meanings indicated:

***PERSON includes an individual, firm, partnership, corporation and any other entity.***



## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 26 – FAIR HOUSING

[History: Adopted by Council of the Borough of Northumberland 12-29-82 as Ord. No 380. Amendments noted where applicable.]

## ARTICLE I – ESTABLISHMENT

### **26.1.01 Title. (26-1)**

This chapter shall be known as the "Fair Housing Ordinance of Northumberland Borough."

### **26.1.02 Restrictions. (26-2)**

No person, firm, corporation, partnership or other entity which receives or expects to receive pecuniary gain from the advertising, rental or sale of real property within Northumberland shall:

- A. Influence or attempt to influence any other person who purports or represents himself to be a prospective purchaser, occupant or tenant of real property to refrain from purchasing or renting property by referring to race, sex, color, religion or national origin of occupants or prospective occupants of other real property in the neighborhood.
- B. Influence or attempt to influence by any words, acts or failure to act any person who purports or represents himself to be a prospective seller, purchaser, occupant, landlord or tenant of real property, in connection with the sale or rental of real property, so as to promote or tend to promote the continuance or maintenance of racially segregated housing or so as to retard, obstruct or discourage tenancy of racially segregated housing or so to retard, obstruct or discourage racially integrated housing on or in any street, block or neighborhood.
- C. Discriminate against any person who purports or represents himself to be a prospective seller, purchaser, occupant, landlord or tenant of real property by any influence, suggestion, act or failure to act or accord any differential treatment among such persons, in connection with the sale or rental of real property or in the furnishing of information, services or facilities relative thereto, because of race, sex, color, religion or national origin of any person.

### **26.1.03 Creation of Committee. (26-3)**

- A. There is hereby created a Northumberland Equal Housing Opportunity Committee consisting of the following:
  1. One (1) member of the governing body of Northumberland. The governing body will select the representative to the Committee.
  2. One (1) member of the Northumberland Planning Commission. The Planning Commission will select the representative to the Committee.
  3. One (1) resident of Northumberland not employed or serving in any office, elected or appointed, of the borough. The Kiwanis Club will select this representative.
- B. All members of the committee shall serve for the balance of the calendar year and shall be appointed thereafter for one-year terms on a calendar-year basis.

### **26.1.04 Powers and duties of Committee. (26-4)**

The Northumberland Equal Housing Opportunity Committee shall:

## **Chapter 26 - Fair Housing**

- A. Provide a means of communication and exchange of information between real estate brokers and salesman doing business in Northumberland, officials of the borough and community organizations.
- B. Confer and cooperate with real estate brokers, salesman, public officials and such associations designed to eliminate any unfair, discriminatory or differential practices in connection with the advertising, sale or leasing of real estate.
- C. If deemed necessary, periodically make studies, prepare and disseminate educational materials and make recommendations to the local realtors, the governing body and other groups to the methods of eliminating discriminating practices in connection with the advertising, sale or leasing of real estate in the borough.
- D. Receive, investigate and seek to adjust all complaints of discriminatory practices in connection with the advertising, sale or leasing of real estate, and make recommendations to and assist the Northumberland County District Attorney in connection with any such violation.
- E. Furnish the governing body with an annual report of the Committee's activities, due no later than the thirty-first (31<sup>st</sup>) day of January of each year.

### **26.1.05 Violation and penalties. (26-5)**

Persons who violate the provisions of this chapter shall be guilty of a misdemeanor of the third degree and be subject to penalties as provided for under the Pennsylvania Crime Code.

### **26.1.06 Severability**

If any provision, sentence, clauses or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such constitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or section parts of this Ordinance. It is hereby declared as the intent of the governing body that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof, not been included.

## Chapter 26 - Fair Housing

### ***Addendum: Fair Housing Enforcement Administrative Plan***

The Northumberland Borough Council, pursuant to enforcement of Ordinance No. 380 prohibiting discrimination on the basis of race, color, religion, ancestry, national origin, sex or place of birth in regard to housing accommodations within the borough, has prepared this enforcement administrative plan in order to actively promote fair housing and equal housing opportunity within the borough.

Actions to enforce the ordinance will include setting up a Fair Housing Board, ensuring publicity and information distribution, establishment of a working relationship with the state and federal agencies responsible for promoting Pennsylvania and United States fair housing laws and regulations and establishing an internal mechanism for enforcement of the ordinance.

**Fair Housing Board.** The borough hereby establishes a Fair Housing Board as a mechanism of the municipality for dealing with the administration of the Fair Housing Ordinance. The Fair Housing Board shall be comprised of three (3) members, including the Chairman of the Borough Council and two (2) full-time residents of Northumberland. The Board shall meet when circumstances deem it necessary to deal with citizen grievances under Ordinance No. 380. Any person aggrieved under the contents of Ordinance No. 380 may request and shall be granted a hearing before the Fair Housing Board. The person desiring a hearing shall file with the Northumberland Borough Council a petition requesting a hearing. A hearing thereon shall be held within thirty (30) days from presentation of the request at a time and place set by the Board. Written notice thereof shall be given to the petitioner.

**Publicity and Information Distribution.** In the interest of promoting fair housing and equal opportunity with the borough limits, Northumberland Borough Council shall, in writing, inform all real estate agents in Northumberland Borough and all recipients of housing assistance from Northumberland Borough of the existence of Fair Housing Ordinance No. 380 and the procedures for filing a grievance under same.

**Relationship to State and Federal Housing Agencies.** The Northumberland Borough Council and the Fair Housing Board will make every effort to aid in processing any grievances under Fair Housing Ordinance No. 380 which may be received by any state and federal housing agency.

## **Chapter 26 - Fair Housing**

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## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 27 – FIRE PREVENTION

[HISTORY: Adopted by the Council of the Borough of Northumberland March 10, 1977 as Ord. No. 332;  
Amended September 30, 1999 by Ord. No. 462.]

## ARTICLE I – ADOPTION OF CODE

General References: Fire Departments - see Ch. 5

### **27.1.01 Adoption of standards by reference. (27-1)**

"The BOCA National Fire Prevention Code/1999 as published by Building Officials and Code Administrators International, Inc. is hereby adopted as the Fire Prevention Code of the Borough of Northumberland, Pennsylvania; for the control of building and structures as herein provided; and each and all regulations, provisions, penalties, conditions and terms of said Code, save and except such portions as are hereinafter deleted, modified or amended, are hereby referred to, adopted and made a part thereof as if fully set out in this Ordinance.

### **27.1.02 Amendment, additions and deletions. (27-2)**

The Borough Code of the Borough of Northumberland, Chapter 27, is amended to replace as references to the BOCA National Fire Prevention Code, Fifth Edition 1975 to the **BOCA National Fire Prevention Code**, latest edition.

### **27.1.03 Inconsistent ordinances repealed. (27-3)**

That Ordinance of the Borough of Northumberland adopting an earlier edition of The BOCA National Fire Prevention Code and all other ordinances or parts of ordinances in conflict therewith is hereby repealed.

### **27.1.04 Saving Clause. (27-4)**

That nothing in this Ordinance or in The BOCA National Fire Prevention Code, latest edition, hereby adopted shall be construed to affect any suit or proceeding impending in any Court, or any rights acquired, or liability incurred, or any cause or causes of action acquire or existing, under any act or Ordinance hereby repealed as cited in this Ordinance; nor shall any just or legal right of remedy of any character be lost, impaired or affected by this Ordinance.

### **27.1.05 Date of effect. (27-5)**

That the Borough Secretary shall certify to the adoption of this Ordinance and cause the same to be published as required by law; and this Ordinance shall take full force and effect and be in force from and after its approval as required by law.

## **Chapter 27 – Fire Prevention**

**Intentionally Blank.**

## **CODE OF THE BOROUGH OF NORTHUMBERLAND**

# **CHAPTER 28 – FLOOD HAZARD AREAS**

[History: Adopted by the Council of the Borough of Northumberland 2-1-1977 as Ord. No 325.  
Amended 6-5-2001 by Ord. No. 2001-5; Amended 6-24-2008 by Ord. No. 2008-3;  
Amended 9-06-2016 by Ord. No. 2016-2; Amendments noted where applicable.]

## **ARTICLE I – STATUTORY AUTHORIZATION**

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Council of the Borough of Northumberland does hereby order as follows.

## **ARTICLE II – GENERAL PROVISIONS**

### **28.2.01 Intent**

The intent of this Ordinance is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with federal and state floodplain management requirements.

### **28.2.02 Applicability**

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken any construction or development anywhere within the Borough of Northumberland unless a Permit has been obtained from the Floodplain Administrator.

### **28.2.03 Abrogation and Greater Restrictions**

This ordinance supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.

### **28.2.04 Severability**

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

### **28.2.05 Warning and Disclaimer of Liability**

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur.

## **Chapter 28– Flood Hazard Areas**

Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified floodplain areas, or land uses permitted within such areas, will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the Borough or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

## **ARTICLE III – ADMINISTRATION**

### **28.3.01 Designation of the Floodplain Administrator**

The Code Officer is hereby appointed to administer and enforce this ordinance and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Borough Secretary.

### **28.3.02 Permits Required**

A Permit shall be required before any construction or development is undertaken within any area of the Borough of Northumberland.

### **28.3.03 Duties and Responsibilities of the Floodplain Administrator**

- A. The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the proposed cost of improvements or repairs and the pre-improvement market value of the structure, so that a substantial improvement/substantial damage determination can be made, in accordance with FEMA's Substantial Improvement/Substantial Damage Desk Reference.
- D. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any cumulative substantial damage concerns can be addressed before the permit is issued.
- E. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.



## **Chapter 28– Flood Hazard Areas**

- F. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.
- G. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Council for whatever action it considers necessary.
- H. The Floodplain Administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this ordinance including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- I. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program as requested.
- J. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the floodplain administrator/manager.
- K. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.

### **28.3.04 Application Procedures and Requirements**

- A. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Borough of Northumberland. Such application shall contain the following:
  - 1. Name and address of applicant.
  - 2. Name and address of owner of land on which proposed construction is to occur.
  - 3. Name and address of contractor.
  - 4. Site location including address.
  - 5. Listing of other permits required.
  - 6. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
  - 7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
  - 1. all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
  - 2. all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
  - 3. adequate drainage is provided so as to reduce exposure to flood hazards;
  - 4. structures will be anchored to prevent floatation, collapse, or lateral movement;
  - 5. building materials are flood-resistant;
  - 6. appropriate practices that minimize flood damage have been used; and
  - 7. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.

## Chapter 28– Flood Hazard Areas

- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
1. A completed Permit Application Form.
  2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
    - a) north arrow, scale, and date;
    - b) topographic contour lines, if available;
    - c) the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
    - d) the location of all existing streets, drives, and other access ways; and
    - e) the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
  3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
    - a) the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
    - b) the elevation of the base flood;
    - c) supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.
  4. The following data and documentation:
    - a) detailed information concerning any proposed floodproofing measures and corresponding elevations.
    - b) if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood .
    - c) documentation, certified by a registered professional engineer or architect, to show that the effect of any proposed development within a Floodway Area (See section 4.02 A) will not increase the base flood elevation at any point.
    - d) documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (See Section 4.02 B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point within the community.
    - e) a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.  
Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
    - f) detailed information needed to determine compliance with Section 5.03 F., Storage, and Section 5.04, Development Which May Endanger Human Life, including:

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- 1) the amount, location and purpose of any materials or substances referred to in Sections 5.03 F. and 5.04 which are intended to be used, produced, stored or otherwise maintained on site.
  - 1) a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 5.04 during a base flood.
  - g) the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
  - h) where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
- D. Applications for Permits shall be accompanied by a fee, payable to the municipality in accordance with the current fee schedule in place for the Borough.

### **28.3.05 Review by County Conservation District**

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Floodplain Administrator to the County Conservation District for review and comment prior to the issuance of a Permit. The recommendations of the Conservation District shall be considered by the Floodplain Administrator for possible incorporation into the proposed plan.

### **28.3.06 Review of Application by Others**

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

### **28.3.07 Changes**

After the issuance of a Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.

### **28.3.08 Placards**

In addition to the Permit, the Floodplain Administrator shall issue a placard, or similar document, which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit, the date of its issuance, and be signed by the Floodplain Administrator.

### **28.3.09 Start of Construction**

Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of development permit does not refer to the zoning approval.

The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the

## **Chapter 28– Flood Hazard Areas**

installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original permit is compliant with the ordinance & FIRM/FIS in effect at the time the extension is granted.

### **28.3.10 Enforcement**

#### **A. Notices**

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. be in writing;
2. include a statement of the reasons for its issuance;
3. allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
4. be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
5. contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this Ordinance.

#### **B. Penalties**

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of an offense and upon conviction shall pay a fine to Borough of Northumberland, of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00) plus costs of prosecution. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed ten (10) days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with this Ordinance shall not excuse the violation or noncompliance or permit it to continue. All such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Council to be a public nuisance and abatable as such.

### **28.3.11 Appeals**

- A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Ordinance, may appeal to the Zoning Hearing Board. Such

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appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.

- B. Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the Municipal Planning Code and any other local ordinance.
- C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

## **ARTICLE IV – IDENTIFICATION OF FLOODPLAIN AREAS**

### **28.4.01 Identification**

The identified floodplain area shall be:

- A. any areas of Borough of Northumberland, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated September 16, 2016 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Borough of Northumberland and declared to be a part of this ordinance.

### **28.4.02 Description of Floodplain Areas**

The identified floodplain area shall consist of the following specific areas:

- A. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
  - 1. Within any flood way area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  - 2. Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- B. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
  - 1. The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a flood way has been delineated.
  - 2. AE Area without flood way shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
    - a) No permit shall be granted within any AE Zone without floodway, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis

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performed in accordance with standard engineering practice that the proposed development together with all other existing and anticipated development, would not result in an increase in flood levels of more than one foot within the entire community during the occurrence of the base flood discharge.

- b) No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- C. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.  
  
In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality. In the absence of any of the above data or documentation, the community may require elevation of the lowest floor to be at least three feet above the highest adjacent grade.
- D. The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

### **28.4.03 Changes in Identification of Area**

The Identified Floodplain Area may be revised or modified by the Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See 5.01 (B) for situations where FEMA notification is required.

### **28.4.04 Boundary Disputes**

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Borough of Northumberland and any party aggrieved by this decision or determination may appeal to the Council. The burden of proof shall be on the appellant.

### **28.4.05 Jurisdictional Boundary Changes**

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 4460.3.

## **ARTICLE V – TECHNICAL PROVISIONS**

## **Chapter 28– Flood Hazard Areas**

### **28.5.01 General**

#### **A. Alteration or Relocation of Watercourse**

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.
2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
3. In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

#### **B. When Borough of Northumberland proposes to permit the following encroachments:**

- A. any development that causes a rise in the base flood elevations within the floodway; or
- B. any development occurring in Zones AI-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or
- C. alteration or relocation of a stream (including but not limited to installing culverts and bridges)

the applicant shall (as per 44 CFR Part 65.12):

1. apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
2. Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and / or revised floodway reflecting the post-project condition.
3. Upon completion of the proposed encroachments, a (Borough of Northumberland or applicant) shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.

#### **C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.**

### **28.5.02 Elevation and Floodproofing Requirements**

#### **A. Residential Structures**

1. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation.
2. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation determined in accordance with Section 4.02.C of this ordinance.
3. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
4. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest edition

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thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 P A Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

### B. Non-residential Structures

1. In AE, AI-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation, or be designed and constructed so that the space enclosed below the Regulatory Flood Elevation:
  - a) is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
  - b) has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
2. In A Zones, where no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the Regulatory Flood Elevation determined in accordance with Section 4.02.C of this ordinance.
3. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
4. Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards. There should be a statement submitted with the permit application and a statement submitted with the as-built Floodproofing Certificate prior to the issuance of the Certificate of Occupancy.
5. Any non-residential structure that will be floodproofed must submit the following to the Floodplain Administrator along with the non-residential Floodproofing Certificate and prior to the issuance of the Certificate of Occupancy:
  - a) An Inspection and Maintenance Plan detailing the annual maintenance of floodproofed components ensuring that all components will operate properly under flood conditions. Components that must be inspected include at a minimum:
    - 1) Mechanical equipment such as sump pumps and generators,
    - 2) Flood shields and closures,
    - 3) Walls and wall penetrations, and
    - 4) Levees and berms (as applicable)
  - b) Flood Emergency Operation Plan detailing the procedures to be followed during a flooding event, and must include information pertaining to how all components will operate properly under all conditions, including power failures. The design professional must produce the plan. An adequate plan must include the following:
    - 1) An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.



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- 2) A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the building should have a planned and safe means of ingress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.
- 3) A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.
- 4) An evacuation plan for all personnel or occupants; those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.
- 5) A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.
- 6) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest revision thereof as adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 P A Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

### C. Space below the lowest floor

1. Basements are prohibited.
2. Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
3. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - a) a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space installed on two (2) separate walls
  - b) the bottom of all openings shall be no higher than one (1) foot above grade.
  - c) openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

### D. Historic Structures

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this ordinance, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure.

Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer.

Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

### E. Accessory structures

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Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

1. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
2. floor area shall not exceed 200 square feet.
3. The structure will have a low damage potential.
4. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
5. power lines, wiring, and outlets will be elevated to the Regulatory Flood Elevation.
6. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
7. sanitary facilities are prohibited.
8. the structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - a) a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
  - b) the bottom of all openings shall be no higher than one (1) foot above grade. c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
9. For accessory structures that are 200 square feet or larger in area (footprint) and that are below the base flood elevation, a variance is required as set forth in Article VIII. . If a variance is granted, a signed Declaration of Land Restriction (Nonconversion Agreement) shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.
10. Prohibit the storage of Hazardous Materials in accessory structures.

### 28.5.03 Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

#### A. Fill

1. If fill is used, it shall:
  - a) extend laterally at least fifteen (15) feet beyond the building line from all points;
  - b) consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
  - c) be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
  - d) be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
  - e) be used to the extent to which it does not adversely affect adjacent properties.

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### B. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

### C. Water and Sanitary Sewer Facilities and Systems

2. All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
3. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
4. No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
5. The design and construction provisions of the UCC and FEMA #348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.

### D. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

### E. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

### F. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 5.04, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.

### G. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

### H. Anchoring

6. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
7. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

### I. Floors, Walls and Ceilings

8. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.

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9. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
10. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
11. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.

### J. Paints and Adhesives

12. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.
13. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
14. All wooden components (doors, trim, cabinets, etc.) used at or below the Regulatory Flood Elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

### K. Electrical Components

15. Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
16. Separate electrical circuits shall serve lower levels and shall be dropped from above.

### L. Equipment

17. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation and shall be anchored to resist floatation, collapse, and lateral movement
18. Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.

### M. Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

### N. Uniform Construction Code Coordination

The Standards and Specifications contained in 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this ordinance, to the extent that they are more restrictive and supplement the requirements of this ordinance.

International Building Code (IBC) 2009 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania:

Secs. 801 , 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2009 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania:

Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

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### 28.5.04 Development Which May Endanger Human Life

- A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:
1. will be used for the production or storage of any of the following dangerous materials or substances; or,
  2. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
  3. will involve the production, storage, or use of any amount of radioactive substances; shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:
    - Acetone
    - Ammonia
    - Benzene
    - Calcium carbide
    - Carbon disulfide
    - Celluloid
    - Chlorine
    - Hydrochloric acid
    - Hydrocyanic acid
    - Magnesium
    - Nitric acid and oxides of nitrogen
    - Petroleum products (gasoline, fuel oil, etc.)
    - Phosphorus
    - Potassium
    - Sodium
    - Sulphur and sulphur products
    - Pesticides (including insecticides, fungicides, and rodenticides)
    - Radioactive substances, insofar as such substances are not otherwise regulated.
- B. Within any Floodway Area, any structure of the kind described in Subsection A. , above, shall be prohibited. Where permitted within any Identified Floodplain Area, any new or substantially improved residential structure of the kind described in Section 5.04 (A), above, shall be elevated to remain completely dry up to at least one and one half (1 1/2) feet above base flood elevation and built in accordance with Sections 5.01, 5.02 and 5.03.
- C. Where permitted within any Identified Floodplain Area, any new or substantially improved non-residential structure of the kind described in Section 5.04 (A) above, shall be built in accordance with Sections 5.01, 5.02 and 5.03 including:
1. elevated, or designed and constructed to remain completely dry up to at least one and one half (1 1/2 ) feet above base flood elevation, and
  2. designed to prevent pollution from the structure or activity during the course of a base flood.

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Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

### **28.5.05 Special Requirements for Subdivisions and Development**

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR). Submittal requirements and processing fees shall be the responsibility of the applicant.

### **28.5.06 Special Requirements for Manufactured Homes**

- A. Within any Floodway Area/District, manufactured homes shall be prohibited.
- B. Within any Identified Floodplain Area manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- C. Where permitted within any Identified Floodplain Area, all manufactured homes, and any improvements thereto, shall be:
  - 1. placed on a permanent foundation;
  - 2. elevated so that the lowest floor of the manufactured home is at least one and one half (1 1/2) feet above base flood elevation;
  - 3. and anchored to resist flotation, collapse, or lateral movement.
- D. Equipment requirement:
  - 1. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation and shall be anchored to resist flotation, collapse, and lateral improvement.
  - 2. Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.
- E. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 PA Code Chapter 401-405 shall apply.
- F. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the latest revision thereto as adopted by the Commonwealth of Pennsylvania, and 34 P A Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

### **28.5.07 Special Requirements for Recreational Vehicles**

- A. Recreational vehicles in Zones A, A1-30, AH and AE must either:
  - 1. be on the site for fewer than 180 consecutive days, and
  - 2. be fully licensed and ready for highway use,or

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3. meet the permit requirements for manufactured homes in Section 5.06.

### **ARTICLE VI ACTIVITIES REQUIRING SPECIAL PERMITS**

#### **28.6.01 General**

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any Identified Floodplain Area unless a Special Permit has been issued by the Borough of Northumberland:

- A. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
  1. Hospitals
  2. Nursing homes
  3. Jails or prisons
- B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

#### **28.6.02 Application Requirements for Special Permits**

Applicants for Special Permits shall provide five copies of the following items:

- A. A written request including a completed Permit Application Form.
- B. A small scale map showing the vicinity in which the proposed site is located.
- C. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
  1. north arrow, scale and date;
  2. topography based upon the North American Vertical Datum (NA VD) of 1988, showing existing and proposed contours at intervals of two (2) feet;
  3. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
  4. the location of all existing streets, drives, other access ways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
  5. the location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;
  6. the location of the floodplain boundary line, information and spot elevations concerning the base flood elevation, and information concerning the flow of water including direction and velocities;
  7. the location of all proposed buildings, structures, utilities, and any other improvements; and
  8. any other information which the municipality considers necessary for adequate review of the application.
- D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

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1. sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
2. for any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
3. complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood;
4. detailed information concerning any proposed floodproofing measures, including the Flood Emergency Operation Plan and the Inspection and Maintenance Plan;
5. cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
6. profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
7. plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

1. certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
2. certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the base flood;
3. a statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood, including a statement concerning the effects such pollution may have on human life;
4. a statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on base flood elevation and flows;
5. a statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects such materials and debris may have on base flood elevation and flows;
6. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development;"
7. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control;
8. any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and
9. an evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.

### 28.6.03 Application Review Procedures

Upon receipt of an application for a Special Permit by the Borough of Northumberland the following procedures shall apply in addition to those of Article III:



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- A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Borough of Northumberland Planning Commission and Borough of Northumberland engineer for review and comment.
- B. If an application is received that is incomplete, the Borough of Northumberland shall notify the applicant in writing, stating in what respect the application is deficient.
- C. If the Borough of Northumberland decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- D. If the Borough of Northumberland approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within five (5) working days after the date of approval.
- E. Before issuing the Special Permit, the Borough of Northumberland shall allow the Department of Community and Economic Development thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the Borough of Northumberland.
- F. If the Borough of Northumberland does not receive any communication from the Department of Community and Economic Development during the thirty (30) day review period, it may issue a Special Permit to the applicant.
- G. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify the Borough of Northumberland and the applicant, in writing, of the reasons for the disapproval, and the Borough of Northumberland shall not issue the Special Permit.

### **28.6.04 Special Technical Requirements**

- A. In addition to the requirements of Article V of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Article V of this Ordinance or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
- B. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
  - 1. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
    - a) the structure will survive inundation by waters of the base flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE
    - b) the lowest floor (including basement) will be elevated to at least one and one half (1 1/2) feet above base flood elevation.
    - c) the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood.
  - 2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Borough of Northumberland and the Department of Community and Economic Development.

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### **ARTICLE VI – EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS**

#### **28.7.01 Existing Structures**

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 7.02 shall apply.

#### **28.7.02 Improvements**

The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:

- A. No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
- B. No expansion or enlargement of an existing structure shall be allowed within AE Area/District without flood way that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
- C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
- D. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC or most recent revision thereof as adopted by the Commonwealth of Pennsylvania.
- E. Within any Floodway Area/District (See Section 4.02 A), no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office
- F. Within any AE Area/District without Floodway (See Section 4.02 B), no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- G. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of "cumulative substantial damage" shall be undertaken only in full compliance with the provisions of this ordinance.

### **ARTICLE VIII – VARIANCES**

#### **28.8.01 General**

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the Borough of Northumberland Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.

#### **28.8.02 Variance Procedures and Conditions**

Requests for variances shall be considered by the Borough of Northumberland Zoning Hearing Board in accordance with the procedures contained in Section 3.11 and the following:

- A. No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the BFE.

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- B. No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
  - C. No variances shall be granted for a proposed accessory structure that exceeds 200 square feet in size. A signed Non-Conversion Agreement is required as a condition of receiving the variance.
  - D. Except for a possible modification of the Regulatory Flood Elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (Article VI) or to Development Which May Endanger Human Life (Section 5.04).
  - E. If granted, a variance shall involve only the least modification necessary to provide relief.
  - F. In granting any variance, the Borough of Northumberland Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.
  - G. Whenever a variance is granted, the Borough of Northumberland Zoning Hearing Board shall notify the applicant in writing that:
    - 1. The granting of the variance may result in increased premium rates for flood insurance.
    - 2. Such variances may increase the risks to life and property.
  - H. In reviewing any request for a variance, the Borough of Northumberland Zoning Hearing Board shall consider, at a minimum, the following:
    - 1. That there is good and sufficient cause.
    - 2. That failure to grant the variance would result in exceptional hardship to the applicant.
    - 3. That the granting of the variance will
      - a) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
      - b) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
  - I. A complete record of all variance requests and related actions shall be maintained by the Borough of Northumberland Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.
- Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent (1%) annual chance flood.

## ARTICLE – IX DEFINITIONS

### 28.9.01 General

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its' most reasonable application.

### 28.9.02 Specific Definitions

**Accessory use or structure** a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**Base flood** a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent (1%) annual chance flood).

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**Base flood discharge** the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

**Base flood elevation (BFE)** the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

**Basement** any area of the building having its floor below ground level on all sides.

**Building** a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

**Cumulative substantial damage** flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

**Declaration of Land Restriction (Non-Conversion Agreement)** a form signed by the property owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

**Development** any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

**Existing manufactured home park or subdivision** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Expansion to an existing manufactured home park or subdivision** the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood** a temporary inundation of normally dry land areas.

**Flood Insurance Rate Map (FIRM)** the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)** the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

**Floodplain area** a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

**Floodproofing** any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway** the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

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**Highest Adjacent Grade** the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structures** any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
  - i. By an approved state program as determined by the Secretary of the Interior  
or
  - ii. Directly by the Secretary of the Interior in states without approved programs.

**Identified Floodplain Area** this term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the community. See Sections 4.01 and 4.02 for the specifics on what areas the community has included in the Identified Floodplain Area.

**Lowest floor** the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this ordinance.

**Manufactured home** a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

**Manufactured home park or subdivision** a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**New construction** structures for which the start of construction commenced on or after September 16, 2016 and includes any subsequent improvements to such structures. Any construction started after February 2, 1977 and before September 16, 2016 is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

**New manufactured home park or subdivision** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**Person** an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

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**Post-FIRM Structure** is a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map (FIRM) dated February 2, 1977, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

**Pre-FIRM Structure** is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map (FIRM) dated February 2, 1977, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

**Recreational vehicle** a vehicle which is:

- a. built on a single chassis;
- b. not more than 400 square feet, measured at the largest horizontal projections;
- c. designed to be self-propelled or permanently towable by a light-duty truck,
- d. not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Flood Elevation** the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet. The freeboard safety factor also applies to utilities and ductwork.

**Special permit** a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks/ subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

**Special flood hazard area (SFHA)** means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.

**Start of construction** includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**Subdivision** the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

## Chapter 28– Flood Hazard Areas

**Substantial damage** damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.

**Substantial improvement** any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" or "cumulative substantial damage" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

**Uniform Construction Code (UCC)** The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBE.

**Variance** a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 29 – FOOD ESTABLISHMENTS**

[HISTORY: Adopted by the Council of the Borough of Northumberland 6-7-77 as Ord. No. 335.<sup>1</sup> Amendments noted where applicable.]

### **ARTICLE I – RULES AND REGULATIONS**

#### **29.1.01 Adoption of rules and regulations by regulations by reference. (29-1)**

The Rules and Regulations set forth in Chapter 151 of Title 25 of the Pennsylvania Code, adopted by the Department of Environmental Resources on September 8, 1971, are hereby referred to, adopted and made a part of this chapter as if fully set forth herein, as regulations for the sanitary treatment and serving of food and drink in the various food establishments of the Borough of Northumberland.

#### **29.1.02 Enforcement officer; grant of authority. (29-2)**

It shall be the duty and responsibility of the Health Officer of the Borough of Northumberland to enforce the provisions of this chapter and of the Act of May 23, 1945, P.L. 926, as amended (35 P.S. ~ 655.1 et seq.), and he is hereby granted all the power and authority contained therein.

#### **29.1.03 Inspections. (29-3)**

The Health Officer shall make or cause to be made inspections to determine the conditions of all public eating or drinking places in order to safeguard the safety, health and welfare of the public under the provisions of this chapter. The Health Officer is authorized to enter any structure or premises at any reasonable time for the purpose of performing his duties under this chapter. The owner, occupant or operator of every public eating or drinking place or the person in charge thereof shall give the Health Officer free access thereto and to all parts thereof for the purpose of such inspection and examination.

#### **29.1.04 Right of entry. (29-4)**

- A. It shall be unlawful for any person to refuse entrance to or to impede an inspector or officer authorized under this chapter in the performance of his duties, and every such inspector or officer shall have the right to enter, examine and inspect all premises, grounds and structures and every part thereof at all reasonable times upon display of proper identification.
- B. If any owner, occupant or other person in charge of a structure subject to the provisions of this chapter refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to every part of the structure or premises where inspection authorized by this chapter is sought, the Health Officer may commence an action against such owner, occupant or other person in charge for violation of this chapter and may seek, in a court of competent jurisdiction, an order that such owner, occupant or other person in charge cease and desist with such interference.

#### **29.1.05 Revocation or suspension of license. (29-5)**

Any person, partnership, association or corporation conducting or operating in the Borough of Northumberland a public eating or drinking place who, after investigation made by the Health Officer, has failed or refused after a reasonable interval to correct conditions found to constitute a violation of this chapter shall have his, her or its license to operate such public eating or drinking place revoked or suspended by the Health Officer. Revocation or suspension of license shall be terminated when the violation for which it was imposed has been found, upon inspection by the Health Officer, to have been corrected.



## **Chapter 29 – Food Establishments**

### **29.1.06 Contents of notice. (29-6)**

Notice of a violation of this chapter or of revocation or suspension of license shall be in writing, state the reason or reasons why it is being given, state the time within which conditions must be corrected and cite the provisions of the law pursuant to which it is being given.

### **29.1.07 Service of notice. (29-7)**

Service of said notice of violation or suspension may be served in any of the following ways:

- A. By delivery personally to the owner or operator.
- B. By delivery personally to any agent, servant or employee of the owner or operator in the public eating or drinking place.
- C. By certified mail addressed to the owner or operator at his, her or its last known residential or business address or at the address of the public eating or drinking place.

### **29.1.08 Posting of placard; penalty for removal. (29-8)**

When a license has been suspended, the premises of the eating or drinking place shall be posted with a placard or placards by the Health Officer. The placard shall state the name of the licensor, cite the law pursuant to which the suspension is ordered, state that the license is suspended until such time as the Health Officer shall certify that the violations for which the suspension was imposed have been corrected, contain the date the placard was posted, contain the signature of the Health Officer and state the penalty for defacing or removing the placard.

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution.]

### **29.1.09 Administrative liability. (29-9)**

Except as may otherwise be provided by the statute or local law or ordinance, an officer, agent or employee of the Borough of Northumberland charged with the enforcement of this chapter shall not render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. A person who institutes or assists in the prosecution of a criminal proceeding under this chapter shall not be liable to damages hereunder unbelieveing that the person accused or prosecuted was guilty of any unlawful act or omission. Any suit brought against any officer, agent or employee of the Borough of Northumberland as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the legal representative of the Borough of Northumberland until the final determination of the proceedings therein.

### **29.1.10 Violations and penalties. (29-10)**

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution.]

<sup>1</sup> Editor's Note: this ordinance repealed former Ch. 27, Food Establishments, adopted 9-5-72 as Ord. No. 272.

## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 30 – HOUSING: PROPERTY MAINTENANCE

[HISTORY: Adopted by the Council of the Borough of Northumberland March 10, 1977 as Ord. No 331; Amended December 16, 1997 by Ord. No. 452; Amended April 15, 2003 by Ord. No. 2003-2; Amended May 4, 2004 by Ord. No. 2004-1; Amended March 3, 2020 by Ord. No. 2020-2.]

## ARTICLE I – ESTABLISHMENT

### **30.1.01 Adoption of the International Property Maintenance Code. (30-1)**

The International Property Maintenance Code, latest edition, as published by the Building Officials Code Administrators International, and any subsequent amendments, revisions or recodifications thereof or thereto, are hereby adopted as the Property Maintenance Code of the Borough of Northumberland, Pennsylvania, and each and all of the provisions of said code and any subsequent amendments, revisions or recodifications thereof, except such provisions as are by this chapter deleted, modified or amended, are hereby referred to, adopted and made a part hereof as if fully set out by this chapter.

### **30.1.02 Additions, insertions and changes. (30-2)**

The sections of "The International Property Maintenance Code" latest edition, set forth below are revised as follows:

- **Section PM-101.1.**

The words "...Property Maintenance Code of [NAME OF JURISDICTION]..." are delete and the following is substituted therefore:

"Northumberland Borough Property Maintenance Code"

- **Section PM-106.4. Violation Penalties.**

Any officer or employee of the Borough designated for the purpose of enforcing this Ordinance ("Enforcement Officer"), is hereby authorized to give notice, by personal service or by mail, to the owner or occupant, as the case may be, of any premises found to be in violation of this Chapter and/or the Northumberland Borough Property Maintenance Code, directing and requiring such owner or occupant to remediate the violation within an established reasonable period of time, given the violation and circumstances. Should any person, firm or corporation neglect, fail or refuse to comply with such notice within the period of time stated therein, the Borough Enforcement Officer shall be empowered to issue a quality of life ticket to said individual assessing a fine of \$25.00 due to be paid to the Borough within ten (10) days. Each day a violation remains unremedied following the expiration of the period of time stated in the notice shall constitute a separate and independent violation for which a quality of life ticket may be issued. Northumberland Borough Council may designate any Enforcement Officer charged with enforcement of this provision by resolution. Any person, firm or corporation fail to pay any quality of life ticket or appeal said ticket in the manner set forth in Section 30.1.06, upon conviction thereon, shall be sentenced to pay a fine of not less than \$50.00 nor more than \$300.00 for each violation, plus costs of prosecution, with each day's violation constituting a separate offense, and notice to the offender of subsequent violations shall not be necessary in order to constitute an offense. Borough

## Chapter 30 – Housing: Property Maintenance

Council may amend the fines and penalties established herein by resolution. [Amended by Ord. No. 2020-2]

- **Section PM-111.2. Membership of the board.**

The board of appeals shall consist of three (3) members. Appointed by Borough Council as follows: one (1) for three (3) years, one (1) for two (2) years, one (1) for one (1) year. Thereafter, each new member shall serve for three (3) years or until a successor has been appointed."

- **Section PM-111.5.** The word "five" is deleted, and the word "three" is substituted therefore.

- **Section PM-111.6.** The word "three" is deleted, and the word "two" is substituted therefore.

- **Section PM-304.15.** The words "During the period from [DATE] to [DATE]..." are deleted and the following is substituted therefore.

"During the period from June 1 to October 15..."

- **Section PM-602.2.1.** The words "...during the period from [DATE] to [DATE]..." are deleted and the following is substituted therefore:

"...during the period from September 1 to May 15..."

- **Section PM-602.3.** The words "...during the period from [DATE] to [DATE]..." are deleted and the following is substituted therefore:

"...during the period from September 1 to May 15..."

### **30.1.03 Inconsistent ordinances repealed. (30.3)**

Those ordinances of the Borough of Northumberland adopting an earlier edition of The International Property Maintenance Code and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

### **30.1.04 Saving clause. (30-4)**

Nothing in this Ordinance or in The International Property Maintenance Code, latest edition, hereby adopted shall be construed to affect any suit or proceeding impending in any Court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or Ordinance hereby repealed as cited in this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

### **30.1.05 Date of effect. (30-5)**

That the Borough Secretary shall certify to the adoption of this Ordinance and cause the same to be published as required by law; and this Ordinance shall take full force from and after its approval as required by law.

### **30.1.06 Appeal from Quality of Life Ticket**

Any person, firm or corporation to which the Borough Enforcement Officer issues a quality of life ticket for violation of this Chapter may appeal the ticket and finding of violation by submitting a written request to appeal to the Borough Manager within ten (10) days of the date of violation ticket, stating their reasons for appeal, and accompanied by the fine amount. The Board of appeals shall meet within fifteen (15) days of the filing of an appeal to consider the merits of the appeal. The meeting shall be public and the appellants, his representatives, the enforcing officer and any other person whose interests may be affected by the matter shall be heard. Within thirty (30) days of the submission of the appeal, Northumberland Borough, through a determination made by the Board of Appeals appointed by Borough Council pursuant to Chapter 30 of the Code of the Borough of Northumberland, may decide to uphold the appeal, deny the appeal, or may modify the violation ticket and/or any associated costs, fines, or penalty amounts as deemed appropriate, and shall issue written notice of its decision along with any refunds applicable. **Failure to timely appeal the violation**

## Chapter 30 – Housing: Property Maintenance

***ticket will be deemed an admission of liability for the violation and shall render the violation ticket final.*** An appeal from the violation ticket and/or notice of violation issued under this Chapter shall act as an automatic stay of the violation appealed. Any person, firm or corporation aggrieved by the final decision of the Board of Appeals following a timely appeal may obtain judicial review by filing with the Court of Common Pleas of Northumberland County, within 30 days from the date of the Board of Appeal's determination, a petition praying that the decision be set aside in whole or in part. The stay provided in this section shall remain in effect during the pendency of the appeal before the Board of Appeals and during the pendency of any subsequent appeals from the Board of Appeal's decision to the courts of this commonwealth. [Amended by Ord. No. 2020-2]

## ARTICLE II – NEIGHBORHOOD BLIGHT PROTECTIONS AND ENFORCEMENT

[Adopted 9-3-2013 as Ord. No. 2013-2]

### 30.2.01 Purpose

The Borough Council finds it to be in the best interests of the residents of the Borough of Northumberland, Northumberland County, Pennsylvania to provide for certain protections and safeguards in order to address deteriorated properties, public nuisances and properties in serious violation of State law or municipal codes. Such protections and safeguards include denial of permits, and actions at law and in equity in order to address deteriorated properties which have an impact upon crime, the quality of life of our residents and require expenditures of public funds in order to abate and correct nuisances, violations and delinquent municipal services accounts.

### 30.2.02 Definitions

For the purpose of this chapter, the following terms shall have the meanings indicated:

**Board** shall mean a Zoning Hearing Board or other body granted jurisdiction to render decisions in accordance with the Pennsylvania Municipalities Planning Code, the State Borough Code, the Code of the Borough of Northumberland or a board authorized to act in a similar manner by law.

**Borough** The Borough of Northumberland, Northumberland County, Pennsylvania.

**Building** A residential, commercial or industrial building or structure and the land appurtenant to it.

**Borough Property Code(S)** A building, housing, property maintenance, fire, health or other public safety ordinance enacted or adopted by the Borough, including those ordinances, regulations and resolutions which establish and assess fees for municipal services and privileges such as sewer, water, refuse collection and parking/parking arrangements. For purposes of this Part 30.2, the term does not include a subdivision and land development ordinance or a zoning ordinance enacted by the Borough.

**Municipal Permit(s)** Privileges related to real property granted by a municipality such as the Borough, including, but not limited to, building permits, parking permits, occupancy permits, and special exceptions or variances from zoning ordinances. The term includes approvals pursuant to land use ordinances other than decisions on the substantive validity of a zoning ordinance or map or the acceptance of a curative amendment.

**Municipal Service(s)** services provided at a cost by the Borough or other municipal entity, including water service, sanitary sewer service, refuse collection and parking allotments/facilities, which benefit individual properties and also serve to benefit the overall welfare, safety and health of all residents of the Borough.

## Chapter 30 – Housing: Property Maintenance

**Owner** A holder of title to residential, commercial or industrial real estate who possesses and controls the real estate. The term includes, but is not limited to, heirs, assigns, beneficiaries and lessees, provided this ownership interest is a matter of public record

**Public Nuisance** Property which, because of its physical condition or use, is regarded as a public nuisance at common law or has been declared by the appropriate Borough official a public nuisance in accordance with the Code of the Borough of Northumberland, as amended.

**Serious Violation** A violation of a State Law or Borough Property Code (as the terms are defined herein) or other applicable code that poses an imminent threat to the health and safety of the dwelling occupant, occupants in surrounding structures or passersby. Property found to be a Public Nuisance is also considered to be a Serious Violation.

**State Law** A statute of the Commonwealth or a regulation of an agency charged with the administration and enforcement of Commonwealth law.

**Substantial Step** An affirmative action as determined by a Borough official or officer of the court on the part of the property owner or managing agent to remedy a Serious Violation of State Law or Borough Property Code including, but not limited to, physical improvements or repairs to the property.

**Tax Delinquent Property** Tax delinquent real property as defined under the Real Estate Tax Sale Law (P.L.1368, No.542), the Municipal Claim and Tax Lien Law (P.L. 207, No.153) or the Second Class City Treasurers' Sale and Collection Act (P.L.876, No.171) located in any municipality in this Commonwealth.

### 30.2.03 Legal Action to be Taken Against Owners

In addition to any other remedy available at law, including those remedies available under the Neighborhood Blight Reclamation and Revitalization Act (Act 90 of 2010), remedies available in equity or other remedies as provided for in the Code of the Borough of Northumberland, the Borough may institute the following actions against the Owner of any property that is in Serious Violation of a Borough Property Code or for failure to correct a condition which causes the property to be regarded as a Public Nuisance:

- A. An In Personam action may be initiated for a continuing violation for which the Owner takes no Substantial Step to correct within the six months following receipt of an order by the Borough to correct the violation, unless the order is subject to a pending appeal before an administrative agency or court. Notwithstanding any law limiting the form of action for the recovery of penalties by a municipality for the violation of a Borough Property Code, the Borough may recover, in a single action under this section, an amount equal to the penalties imposed against the Owner and any costs of remediation lawfully incurred by, or on behalf of, the Borough to remedy any code violation.
- B. A proceeding in equity.
- C. A lien may be placed against the assets of an Owner of real property that is in Serious Violation of Borough Property Code or is regarded as a Public Nuisance after a judgment, decree or order is entered by a court of competent jurisdiction against the Owner of the property for an adjudication under either an In Personam action or a proceeding in equity as set forth above. In the case of an Owner that is an association or trust, this does not authorize a lien to be placed upon the individual assets of the general partner, trustee, limited partner, shareholder, member or beneficiary of the association or trust except as otherwise allowed by law.

### 30.2.04 Out-of-State Owners, Service of Process upon Associations and Trusts

- A. A person who lives or has a principal place of residence outside this Commonwealth, who owns property in this Commonwealth against which Borough Property Code or other applicable code violations have been cited and the person is charged under 18 Pa. C.S. (relating to crimes and offenses), and who has been properly notified of the violations may be extradited to this Commonwealth to face criminal

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prosecution to the full extent allowed and in the manner authorized by 42 Pa. C.S. CH. 91 (relating to detainers and extradition).

- B. Where, after reasonable efforts, service of process for a notice or citation for any Borough Property Code or other applicable code violations for any real property owned by an association or trust cannot be accomplished by handing a copy of the notice or citation to an executive office, partner, or trustee of the association or trust or to the manager, trustee or clerk in charge of the property, the delivery of the notice or citation may occur by registered, certified or United States express mail, accompanied by a delivery confirmation:
1. to the registered office of the association or trust.
  2. where the association or trust does not have registered office, to the mailing address used for real estate tax collection purposes, if accompanied by the posting of a conspicuous notice on the property and by handing a copy of the notice or citation to the person in charge of the property at that time.

### 30.2.05 Permit Denials

- A. The Borough or a Board may deny issuing to an applicant a Municipal Permit if the applicant owns real property in any municipality in this Commonwealth for which there exists on the real property:
1. Tax and/or Municipal Services delinquencies on account of the actions of the Owner; or
  2. A Serious Violation and the Owner has taken no Substantial Step to correct the Serious Violation within six months following notification of the violation and for which fines, penalties or a judgment to abate or correct were imposed by a magisterial district judge or municipal court or a judgment at law or in equity was imposed by a court of common pleas. No denial shall be permitted if a judgment is subject to a stay or supersedes by order of court, or if the Municipal Permit is necessary to correct a violation of State Law or Borough Property Code.
- B. The Municipal Permit denial as above described shall not apply to an applicant's delinquency on taxes and/or Municipal Services charges that are under appeal or otherwise contested through a court or administrative process.
- C. In issuing a denial of a Municipal Permit, the Borough or the Board shall indicate the street address, the municipality and county in which the property is located and the court and docket number for each parcel cited as a basis for the denial. The denial shall also state that the applicant may request a letter of compliance from the appropriate state agency, municipality or school district in the form specified by such entity.
- D. All Municipal Permits denied in accordance with this section may be withheld by the Borough until an applicant obtains a letter of compliance from the appropriate State agency, municipality or school district indicating the following:
1. the property in question has no tax or Municipal Services delinquencies;
  2. the property in question is now in compliance with State Law, Borough Property Code or other applicable codes; or
  3. the Owner of the property has presented and the appropriate entity has accepted a plan to begin remediation of a Serious Violation of State Law, Borough Property Code or other applicable codes.
- E. If a letter of compliance or a letter of non-compliance, as the case may be, is not issued within 45 days of the request, the property shall be deemed to be in compliance for the purposes of this section. The appropriate State agency, municipality or school district shall specify the form in which the request for a

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compliance letter shall be made. Such letters shall be verified by the appropriate municipal officials before issuing to the applicant a Municipal Permit.

- F. Boards, including the Borough Zoning Hearing Board, may deny approval of Municipal Permits - which includes special exception approval and variance relief — if warranted as set forth above to the extent that approval of such a Municipal Permit is within the jurisdiction of the Board.
- G. The Borough may appear to present evidence that the applicant is subject to denial by a Board in accordance with this section.
- H. A Municipal Permit may only be denied to an applicant other than an Owner if the applicant is acting under the direction or with the permission of the Owner and that Owner owns real property that is subject to denial as set forth herein above.

### **30.2.06 *Inherited Property Relief***

Where property is inherited by will or intestacy, the devisee or heir shall be given the opportunity to make payments on reasonable terms to correct code violations or to enter into a remediation agreement with the Borough to avoid subjecting the devisee's or heir's other properties to asset attachment or denial of Municipal Permits and approvals on other properties owned by the devisee or heir. Such opportunity shall be given at the Borough's discretion and subject to the revocation upon the devisee or heir's failure to proceed with a payment plan, or to progress forward and complete a remediation plan.

## Chapter 30 – Housing: Property Maintenance

# CHAPTER 31 – RESIDENTIAL RENTAL UNIT REGULATION

[Adopted 8-7-07 as Ord. No. 2007-2; Amended 3-7-2023]

## ARTICLE 1 –RESIDENTIAL RENTAL UNIT REGULATIONS

### **31.1.01 Purpose and Scope. (31-1)**

It is the purpose of this chapter and the policy of the Borough of Northumberland, in order to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of owners and occupants relating to the rental of residential rental units in the Borough and to encourage owners and occupants to maintain and improve the quality of rental housing within the community. It is also the policy of the Borough that owners, managers and occupants share responsibilities to obey the various codes adopted to protect and promote public health, safety and welfare. As a means to those ends, this chapter provides for a system of inspections, issuance and renewal of rental occupancy licenses and sets penalties for violations. This chapter shall be liberally construed and applied to promote its purposes and policies.

### **31.1.02 Definitions and Word Usage. (31-2)**

As used in this chapter, the following terms shall have the meanings indicated:

#### **Borough**

The Borough of Northumberland, Northumberland County, Pennsylvania.

#### **Code**

Any code or ordinance adopted, enacted and/or in effect in and for the Borough concerning fitness for habitation or the construction, maintenance, operation, occupancy, use or appearance of any premises or residential rental unit. Included within, but not limited by, this definition are the following which are in effect as of the date of the enactment of this chapter: the Uniform Construction Code (hereinafter "UCC") the International Property Maintenance Code, International Plumbing Code, International Fire Prevention Code, International Electrical Code, Zoning Ordinance, the International Building Code and any duly enacted amendment or supplement to any of the above and any new enactment falling within this definition.

#### **Code Enforcement Officer**

The duly appointed Code Enforcement Officer(s) having charge of the Office of Code Enforcement of the Borough of Northumberland and any assistants or agents.

#### **Common Area**

Any area within a structure shared by occupants of separate residential rental units that the occupants of such separate units have the right in common to use or share, including, but not limited to, kitchens, bathrooms, attics, basements, social rooms, hallways, yards, porches, walkways, sidewalks, greenspace, and entrance ways.



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### **Disorderly Conduct**

Shall be defined under this chapter as:

Engaging in fighting, threatening or other violent or tumultuous behavior.

Making unreasonable noise.

Using obscene language or obscene gestures.

Creating a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

Any activities declared illegal under the Pennsylvania Crimes Code (18 Pa.C.S.A. § 101 et seq.) or Liquor Code (47 P.S. § 1-101 et seq.), or the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-101 et seq.).

Any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a residential rental unit that disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premises such that a report is made to the police. It is not necessary that such conduct, action, incident, or behavior constitute a criminal offense, nor that criminal charges be filed against any person in order for a person to have perpetrated, caused or permitted the commission of disorderly conduct, as defined herein; provided, however, that no disorderly conduct shall be deemed to have occurred unless the police investigate and make a determination that such did occur, and keep written records, including a disorderly conduct report, of such occurrence.

### **Disorderly Conduct Report**

A written report of disorderly conduct to be completed by the police.

### **Guest**

A person on the premises with the actual or implied consent of an occupant on a temporary basis.

### **Landlord**

One or more persons, jointly or severally, in whom is vested all or part of the legal title to the premises or all or part of the beneficial ownership and a right to the present use and enjoyment of the premises, including a mortgage holder in possession of the residential rental unit (same as "owner").

### **Landlord-Tenant Act**

The Landlord and Tenant Act of 1951, 68 P.S. § 250.101 et seq.

### **Local Point of Contact**

An individual appointed by an owner to communicate with the Borough or its agents on behalf of the owner where the owner does not reside within forty-five miles of the Borough. A local point of contact must live within twenty miles of the Borough and have the ability to coordinate responses to issues that may arise at a rental property.

### **Occupant**

Any individual living or sleeping in a building, or having possession of a space within a building.

## **Chapter 30 – Housing: Property Maintenance**

### **Owner**

Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or the Borough as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person.

### **Owner-Occupied Rental Unit**

A multi-unit rental unit in which the owner resides in a unit on a regular, permanent basis.

### **Person(s)**

Any individual, partnership, company, association, society, trust, corporation or other group or entity, whether an owner or lessee of residences or commercial or institutional establishments.

### **Police**

The Police Department of the Borough of Northumberland, authorized member or officer thereof or any other law enforcement agency having jurisdiction within the Borough of Northumberland.

### **Premises**

The area occupied by a rental unit, business or other enterprise. When more than one rental unit, business or enterprise occupies a single building on the ground floor, each business area shall be considered a separate premises. Rental units, businesses or other enterprises which occupy other floors shall be considered separate premises.

### **Rental Agreement**

A written agreement between owner/landlord and occupant/tenant supplemented by the addendum required under § 31.1.03 4.(e), embodying the terms and conditions concerning the use and occupancy of a specified residential rental unit or premises.

### **Rental Occupancy License**

The license issued to the owner of residential rental units under this chapter, which is required for the lawful rental and occupancy of residential rental units.

### **Renter**

Occupant or tenant who is listed on the rental agreement.

### **Residential Rental Unit**

Any residential structure within the Borough of Northumberland which is occupied by someone other than the owner of the real estate as determined by the most current deed and for which the owner of the said parcel of real estate received any value, including but not limited to money or the exchange of services. Each apartment or unit within a building is a separate structure requiring inspection and a license.

### **Structure**

## **Chapter 30 – Housing: Property Maintenance**

Anything constructed or erected on the ground or attached to the ground, including but not limited to buildings, sheds, mobile homes and other similar items.

### **Tenant**

An individual who resides in a rental unit, with whom a legal relationship with the owner/landlord is established by a rental agreement and/or a lease or by the laws of the Commonwealth of Pennsylvania (same as "occupant").

### **31.1.03 Duties of Owners and Managers of Residential Rental Units. (31-3)**

- A. General. It shall be the duty of every owner to keep and maintain all rental units in compliance with all applicable state laws and regulations and local ordinances and to keep such property in good and safe condition. The owner shall be responsible for all property maintenance, including lawn mowing and ice and snow removal, and for making any and all repairs in and around the premises. As provided for in this chapter, every owner shall be responsible for regulating the proper and lawful use and maintenance of every rental unit which he or she owns. This section shall not be construed as diminishing or relieving, in any way, the responsibility of occupants or guests for their conduct or activity; nor shall it be construed as an assignment, transfer or projection over or onto any owner of any responsibility or liability which occupants or their guests may have as a result of their conduct or activity under any private cause of action, civil or criminal enforcement proceeding, or criminal law; nor shall this section be construed so as to require an owner to indemnify or defend occupants or their guests when any such action or proceeding is brought against the occupant based on the occupant's conduct or activity. Nothing herein is intended to impose any additional civil/criminal liability upon owners other than that which is imposed by existing law. This chapter is not intended, nor shall its effects be, to limit any other enforcement remedies which may be available to the Borough of Northumberland against an owner, occupant or guest thereof.
- B. Designation of local point of contact or licensed broker.
  1. Every owner who is not a full-time resident of the Borough of Northumberland and/or who does not live within 45 miles of the Borough and/or who is not employed within 45 miles of the Borough shall designate a local point of contact who shall reside within 20 miles from the Borough.
  2. If the owner is a corporation or limited liability company, a licensed broker shall be required if an officer of the corporation does not reside within the above-referenced area. The officer shall have authority to act on behalf of the corporation.
  3. If the owner is a partnership, a licensed broker or local point of contact shall be required if a partner does not reside within the above-referenced area. Said partner shall have authority to act on behalf of the partnership.
  4. If the owner utilizes a licensed broker to manager the rental property, the licensed broker shall be the agent of the owner for receiving of notices and demands, as well as for performing the obligations of the owner under this chapter and under rental agreements with occupants. The identity, address and telephone number(s) of a person who is designated as manager hereunder shall be provided by the owner or manager to the Borough and such information shall be kept current and updated as it changes. Designation of a manager shall not prohibit other authorized agents by the owner. This section shall not relieve the owner of liability for performing the obligations under this chapter.

## Chapter 30 – Housing: Property Maintenance

5. It shall be presumed, for the purposes of this chapter, any communication with a properly identified manager shall serve as a communication with the owner.

### C. Disclosure and records.

1. Before an occupant initially enters into or renews a rental agreement for a rental unit, the owner or manager shall furnish the occupant with the most recent inspection report relating to the property.
2. The owner or manager shall disclose to the occupant, in writing, on or before the commencement of the tenancy, a copy of the rental registration agreement.
3. Provision of summary of ordinance to occupant. Following the effective date of this chapter, a summary hereof in substantially the form set forth in Appendix A, shall be provided to the tenant at or before the commencement of the landlord-tenant relationship. If a summary has been provided at or before the commencement of the landlord-tenant relationship, a summary does not have to be provided upon renewal. Where a rental agreement has been entered into prior to the effective date of this chapter, the owner shall provide the occupants with a copy of the summary within 45 days after enactment of this chapter.
4. The owner shall maintain the rental agreement, current license and current inspection report issued by the Code Enforcement Office of the Borough of Northumberland.
5. Changes in ownership or occupancy. It shall be the duty of each owner of a residential rental unit to notify the Borough in writing of any change in ownership of the premises or of the number of residential rental units on the premises. It shall also be the duty of the owner to notify the Code Enforcement Officer, in writing, of the changing of a rental unit from owner-occupied to non-owner-occupied, which thereby transforms the dwelling into a residential rental unit for purposes of this chapter.

### D. Maintenance of premises.

1. The owner shall maintain the premises in compliance with the applicable codes of the Borough and, except as permitted below, shall regularly perform or contract all routine maintenance, including lawn mowing and ice and snow removal, and shall promptly make any and all repairs necessary to fulfill this obligation.
2. The owner and tenant may agree that the tenant or occupants are to perform specified repairs, maintenance tasks, alterations or remodeling. In such case, however, such agreement between the owner and tenant must be in writing. Such an agreement may be entered into between the owner and tenant only if:
  - a) The agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the owner or tenant and occupants.
  - b) The agreement does not diminish or affect the obligation of the owner to other occupants in the premises.
3. In no case shall the existence of any agreement between the owner and tenant relieve an owner of any responsibility under this chapter or other ordinances or codes for maintenance of the premises.

### E. Rental agreement.

1. Terms and conditions. The owner and tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other applicable ordinances,

## Chapter 30 – Housing: Property Maintenance

regulations and laws, including rent, term of the agreement and other provisions governing the rights and obligations of the parties.

2. Prohibited provisions. Except as otherwise provided by this chapter, no rental agreement may provide that a tenant, occupant or owner agrees to waive or to forgo rights or remedies under this chapter. A provision prohibited by this subsection included in a rental agreement is unenforceable.
  3. The owner shall secure a written acknowledgment from tenant that the tenant has received the disclosures and information required by this chapter.
  4. The rental agreement must be signed prior to occupancy and shall contain but not be limited to the following:
    - a) The address of the residential rental unit.
    - b) The residential rental unit license number.
    - c) The name, address and phone number of the property owner.
    - d) The name, address and phone number of the property manager (where applicable).
    - e) The name of the tenant.
    - f) Lease period (start and end date).
    - g) Schedule and due date of payment.
    - h) A list of available utilities and maintenance responsibilities at the property shall be identified and indicated as either a responsibility of the tenant or provided by the owner as part of the rental agreement. This list shall include but not be limited to the following:
      1. Natural gas or propane (where applicable).
      2. Furnace oil (where applicable).
      3. Electricity.
      4. Municipal water service.
      5. Municipal sewer service.
      6. Recycling.
      7. Trash containers.
      8. Trash collection.
      9. Lawn and landscaping maintenance.
      10. Snow removal from public sidewalks.
    - i) The location of available parking provisions (where applicable).
    - j) A statement that the tenant acknowledges noncompliance with this chapter on the part of the occupants or the owner may be cause for the Borough of Northumberland to direct eviction of the occupants by the owner.
  5. The owner, shall furnish to the Borough of Northumberland a copy of the completed and executed rental registration agreement, in a form provided by the Borough, which form of agreement shall include, in part, acknowledgment that the tenant has received the disclosures and information required by this chapter.
- F. Registration. Every owner of a residential rental unit must register the unit with the Borough and obtain a license in accordance with the following schedule:

## **Chapter 30 – Housing: Property Maintenance**

1. All owners of residential rental units must register the units with the Borough beginning with the calendar year.
  2. Any individual, entity or firm which converts any structure to a residential rental unit or units shall register the residential rental unit or units with the Borough and obtain a rental occupancy license prior to entering into a lease or rental agreement with a tenant. This section shall not be construed as alleviating any obligations under the Zoning Ordinance.
  3. It shall be the responsibility of the grantee and the grantee's agent in the purchase of the said real estate, including the grantee's attorney or title company, to notify the Borough within 72 hours of any purchase or transfer of a rental unit.
  4. The owner of a residential rental unit must update the registration information on record with the Borough within 10 days of any changes of the information required to be reported by this chapter.
  5. In the event of a change of tenant during the registration period, the owner shall notify the Borough and have the new tenant sign a rental registration agreement. Such agreement shall then be provided to the Borough within 10 days. If the rental unit is in compliance as of its most recent inspection, no new inspection is required at the time of change of tenant. The owner shall provide the most recent inspection report for the rental unit to the new tenant.
- G. Landlord-Tenant Act. The owner shall comply with all provisions of the Landlord-Tenant Act.
- H. Common areas. Where an owner of a residential rental unit does not regulate the use of common areas and the behavior of occupants and guests in the common areas, the owner shall be directly responsible for the behavior of occupants and guests in the common areas as if the owner were an occupant. The failure of the owner to regulate behavior of occupants and guests in the common areas that results in the following shall be a violation of this chapter:
1. Engaging in fighting, threatening or other violent or tumultuous behavior;
  2. Making unreasonable noise;
  3. Creating a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor;
  4. Any activities declared illegal under the Pennsylvania Crimes Code (18 Pa.C.S.A. § 101 et seq.), or Liquor Code (47 P.S. § 1-101 et seq.), or the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-101 et seq.).
- I. Disorderly conduct. The Code Enforcement Officer shall provide disorderly conduct reports to the owner by regular mail to the address provided at the most recent registration of the residential rental unit. Such reports shall be mailed within 10 days of receipt of the report by the Code Enforcement Officer from the police.

### **31.1.04 Authority and Responsibility of the Borough (31-4)**

The Borough can make repairs. In case the owner of a premises shall neglect, fail or refuse to comply with any notice from the Borough or its Code Enforcement Officer to correct a violation relating to maintenance and repair of the premises under any code in effect in the Borough within the period of time stated in such notice, the Borough may cause the violation to be corrected. There shall be imposed upon the owner a charge of the actual costs involved, plus 10% of said costs for each time the Borough shall cause a violation to be corrected, and the owner of the premises shall be billed after same has been completed. Any such bill which remains unpaid and

## Chapter 30 – Housing: Property Maintenance

outstanding after the time specified therein for payment shall be grounds for the imposition of a municipal lien upon the premises as provided by law. Such a lien may be reduced to judgment and enforced and collected as provided by law, together with interest at the legal rate and court and other costs. The remedies provided by this subsection are not exclusive, and the Borough and its Code Enforcement Officer may invoke such other remedies available under this chapter or the applicable codes, ordinances or statutes, including, where appropriate, condemnation proceedings or declaration of premises as unfit for habitation; or suspension, revocation or nonrenewal of the license issued hereunder.

- A. Inspections. Failure by the property owner to schedule an inspection during the license term shall be a violation of this chapter. The inspections shall be completed as follows:
1. The Borough shall inspect all units once a year and record the inspection on a written inspection report. The inspection report shall be signed and dated by the owner of the residential rental unit or his or her manager. Inspections may be made by the Code Officer anytime within the said year.
  2. A copy of the report shall be provided to the owner, and the owner shall provide a copy to any tenant named on the lease at the time of the inspection.
  3. Findings of violations.
    - a) The owner of any parcel of real estate containing a residential rental unit which has been found to be in noncompliance with this chapter shall be subject to a notice of violation with a time frame for corrective actions.
    - b) Any residential rental unit which has been found to be in noncompliance with this chapter shall be subject to reinspection by the Code Enforcement Officer.
    - c) Vacant properties with an open violation shall not be occupied unless and until the violation has been corrected and the unit is approved as meeting the criteria of this chapter and any other applicable codes of the Borough of Northumberland.
  4. The Code Enforcement Officer may reinspect any property, subject to a notice of violation upon expiration of the corrective action deadline or upon notice from the owner that the violations have been rectified.
  5. If a rental unit has remained in full compliance for a period of two years, then the property's routine inspection interval may be extended to three years. This extension will automatically be revoked upon discovery of violations by inspection or complaint.
  6. The owner of any property containing or upon which is erected a residential rental unit shall pay a fee for each and every reinspection to cover the cost of a reinspection each time a reinspection is required under the terms of this chapter or each time a reinspection is requested by the Code Enforcement Officer to determine compliance with this chapter or any other applicable ordinances of the Borough. The fee set forth herein shall be set, increased or decreased by a resolution of authority having jurisdiction
  7. Search warrant. Upon a showing of probable cause that a violation of this chapter or any other ordinance of the Borough has occurred, or is ongoing, the Code Enforcement Officer may apply to the issuing authority having jurisdiction for a search warrant to enter and inspect the premises. In the event the residential rental unit is unoccupied, the requested search warrant shall be directed to the owner or manager of the unit. In the event the residential rental unit is occupied, the requested search warrant shall be directed to the occupant of the unit.

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### **31.1.05 Duties of Occupant. (31-5)**

Each occupant of a residential rental unit shall have the following duties:

- A. General. The occupant shall comply with all obligations imposed upon occupants by this chapter, all applicable codes and ordinances of the Borough and all applicable provisions of state law.
- B. Health and safety regulations.
  - 1. Occupants shall keep that part of the structure which they occupy or control in a sanitary condition.
  - 2. Occupants shall deposit in containers and dispose of all rubbish, garbage and other waste and recyclable materials in accordance with applicable ordinances, laws and regulations.
- C. Residential use. The occupant shall, unless otherwise permitted by applicable law or ordinance, occupy or use his or her rental unit for no other purpose than as a residence.
- D. Compliance with rental agreement. The occupant shall comply with all lawful provisions of the rental agreement entered into between the owner and the occupant.
- E. Damage to premises. The occupant shall not intentionally cause, nor permit or tolerate others to cause, damage to the premises. Conduct which results in damages in excess of \$500 shall be considered a violation of this chapter. Nothing in this chapter shall be construed as requiring the Borough to enforce the rights of a property owners.
- F. Inspection of premises. The occupant shall permit inspections of any premises by the Code Enforcement Officer at reasonable times, and upon 48 hours' notice from the owner. Refusal to allow entry of the residential rental unit by the Code Enforcement Officer of the Borough shall be a violation of this chapter.
- G. Peaceful enjoyment. The occupant shall conduct himself or herself and require other persons, including, but not limited to, guests on the premises and within his or her rental unit with his or her consent, to conduct themselves in a manner that will not disturb the peaceful enjoyment of the premises by others, and that will not disturb the peaceful enjoyment of adjacent or nearby dwellings by the persons occupying same.
- H. Reporting of violation or eviction. All tenants who have been evicted due to violations of § 141-6, Duties of occupant, or otherwise found guilty of violations of § 141-6, if asked, shall answer truthfully and shall advise their new landlord if they have been evicted from a residence for violating the terms and conditions of this chapter.

### **31.1.06 Licenses and Inspection. (31-6)**

- A. License requirement.
  - 1. As a prerequisite to entering into a rental agreement or permitting the occupancy of any rental unit [except as provided in Subsection A(3) below], the owner of every such rental unit shall be required to apply for and obtain a rental occupancy license for each rental unit. An inspection must also be done on each rental unit as prescribed in this chapter.
  - 2. A rental occupancy license shall be required for all residential rental units.
  - 3. The following categories of rental properties shall not require licenses, and shall not, therefore, be subject to the permitting provisions of this chapter:



## **Chapter 30 – Housing: Property Maintenance**

- a) Owner-occupied dwelling units, provided that not more than two unrelated individuals, in addition to the immediate members of the owner's family, occupy the dwelling unit at any given time.
  - b) Hotels and motels.
  - c) Hospitals and nursing homes.
  - d) Bed-and-breakfast units as defined in the Borough Ordinance.
  - e) Federally subsidized housing maintained by the Northumberland Borough Housing Corporation.
4. The application for the rental occupancy license shall be in a form as determined by the Borough.
5. In the event a rental occupancy license is denied by the Borough, the owner shall have the right to appeal to the Property Maintenance Appeals Board of the Borough within 30 days of mailing of the notice of denial of the application. The hearing before the Property Maintenance Appeals Board shall be governed by the Local Agency Law.
- B. Annual license term, fee and occupancy limit.
- 1. Each rental occupancy license shall have an annual term running from January 1 of a particular year through December 31 of that year.
  - 2. Upon application for a rental occupancy license and prior to issuance or renewal thereof, each owner/applicant shall pay to the Borough an annual license fee, in an amount to be established, from time to time, by resolution of the Borough Council of the Borough of Northumberland.
    - a) Rental units remaining in full compliance for a period of two years as stated in § 31.1.04 5.B. are subject to only the annual license fee on noninspection years.
    - b) Fees received January 1 to March 31 will be set at face value. From April 1 to May 30, a late fee of \$10 will be assessed. From June 1 to July 31, a late fee of \$25 will be assessed. After July 31, nonregistration will be deemed a violation of this chapter, at which time a citation will be filed, including the cost of the license and late fees.
  - 3. The rental occupancy license shall indicate thereon the maximum number of occupants in each rental unit.
  - 4. No rental occupancy license shall be issued if the owner has any unpaid fines and costs arising from enforcement of this chapter or any other ordinance of the Borough or if the owner is delinquent in payment of any other fees to the Borough pertaining to the rental unit.

### **31.1.07 Enforcement; Disciplinary Actions. (31-7)**

- A. General. The Code Enforcement Officer may initiate disciplinary action against an owner resulting in a formal warning, nonrenewal, suspension or revocation of the owner's license and/or fines for violating any provision of this chapter that imposes a duty upon the owner and/or for failing to regulate the breach by occupants as provided for herein.
- B. Grounds for imposing discipline. Any of the following may subject an owner or occupant to discipline as provided for in this chapter:
  - 1. Operating a rental unit without a rental agreement and/or a rental occupancy license.

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2. Failure to maintain a property in accordance with this chapter and other codes and ordinances of the Borough of Northumberland.
  3. Failure to abate a violation of Borough codes and ordinances that apply to the premises within the time directed by the Code Enforcement Officer.
  4. Refusal to permit the inspection of the premises by the Code Enforcement Officer as required by this chapter.
  5. Failure to take steps to remedy and prevent violations of this chapter by occupants of residential rental units as required by this chapter.
  6. Failure to regulate the conduct of tenants, occupants and guests as required by this chapter.
  7. Failure to evict occupants after having been directed to do so by the Code Enforcement Officer as provided for in this chapter.
- C. Criteria for applying discipline.
1. The Code Enforcement Officer, when recommending or applying discipline, and the Property Maintenance Appeals Board, when applying discipline, shall consider the following:
    - a) The effect of the violation on the health, safety and welfare the occupants of the residential rental unit and other residents of the premises.
    - b) The effect of the violation on the neighborhood.
    - c) Whether the owner has prior violations of this chapter and other ordinances of the Borough or has received notices of violations as provided for in this chapter.
    - d) Whether the owner has previously been subject to disciplinary proceedings under this chapter.
    - e) The effect of disciplinary action on the occupants.
    - f) The action taken by the owner to remedy the violation and to prevent future violations, including any written plan submitted by the owner.
    - g) The policies and lease language employed by the owner to manage the rental unit to enable the owner to comply with the provisions of this chapter.
  2. In addition to applying discipline as set forth above, the Code Enforcement Officer may recommend, and the Property Maintenance Appeals Board may impose upon the existing or subsequent licenses, reasonable conditions related to fulfilling the purposes of this chapter.
- D. Abatement of violations. Upon receiving notice of any code violations from the Code Enforcement Officer, or receiving any disorderly conduct report, the owner shall promptly take action, or cause the necessary action to be taken, to abate any offending condition and eliminate the violation within the time specified in the notice, and in the event of a disorderly conduct report, to correct the situation which resulted in the disorderly conduct report.
1. Each day during which any owner, landlord or tenant of a residential rental unit violates any provision of this chapter shall constitute a separate offense.
  2. First occurrence of an offending condition, failure to correct the offending condition or recurrence of the offending condition shall be subject to the following:

## Chapter 30 – Housing: Property Maintenance

- a) First offense. The owner will receive a notice of violation, which will serve as a formal warning.
- b) Second offense within one year. The owner will receive a follow-up notice of violation and shall be subject to fines as set forth in this chapter.
- c) Third and subsequent offenses within one year of the previous occurrence. The owner shall be subject to additional fines as set forth in this chapter, and the owner shall be subject to nonrenewal, suspension or revocation of the rental unit license.

Exception: If a landlord can demonstrate that the third offense was under a lease agreement with a new tenant, it will be treated under the provisions of a second offense, except for violations of the disorderly conduct regulations outlined in § 31.1.07 B.6., Failure to regulate the conduct of tenants, occupants, and guests as required by this chapter. Fines may still be doubled under this exception.

- d) A violation of § 31.1.05 H., Reporting of violation or eviction, shall render a defendant subject to fines as set forth in this chapter on the first offense.

### 3. Definition of options.

- a) Notice of Violation/Formal Warning: formal written notification of at least one violation of this chapter.
- b) Nonrenewal: the denial of the privilege to apply for license renewal after expiration of the license term. The Borough will permit the owner to maintain occupants in the premises until the end of the license term but will not accept applications for renewal of the license until a time set by the Code Enforcement Officer or by the Property Maintenance Appeals Board.
- c) Suspension: the immediate loss of the privilege to rent a residential rental unit for a period of time set by the Code Enforcement Officer or the Property Maintenance Appeals Board. The owner, after the expiration of the suspension period, may apply for license renewal without the need to show cause why the owner's privilege to apply for a license should be reinstated. Within five days of suspension, the owner shall take steps to evict the occupants.
- d) Revocation: the immediate loss of the privilege to rent a residential rental unit for a period of time set by the Code Enforcement Officer or the Property Maintenance Appeals Board and the loss of the privilege to apply for renewal of the license at the expiration of the time period. Within five days of the loss of the privilege to rent, the owner shall take steps to evict the occupants.
- e) Penalties. Any owner, landlord or tenant of a residential unit which violates any provision of this chapter shall upon conviction thereof be sentenced to pay a fine of not less than \$100 and not to exceed \$300 and costs of prosecution or, in default of payment of such fines and costs, to undergo imprisonment for not more than 30 days. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

### 4. Fines as imposed through this chapter shall be collected as allowable by law.

### 5. In addition to the fines set forth herein, the Borough of Northumberland shall be entitled to reasonable attorney's fees incurred in enforcing this chapter. The said fees shall be added to any penalties set forth above.

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6. In the event that a second violation of disruptive conduct occurs within a twelve-month period, involving the same occupant or occupants, the Code Enforcement Officer may direct the owner to evict the occupant or occupants who have violated this chapter of the Borough Code and to not permit the occupant to occupy the premises during any subsequent period.
- E. Notice of violation. A notice of violation shall, at a minimum, set forth the following:
1. Street address of the property.
  2. Date of the inspection.
  3. Name of the inspector.
  4. List of violations.
  5. Time frame/deadline for corrective action.
  6. Potential or actual penalties.
  7. Right of the owner to appeal the Code Enforcement Officer's findings.
  8. Transfer of ownership clause.
- F. Appeals.
1. Any owner shall have the right to appeal the decision of the Code Enforcement Officer by submitting in writing to the Borough, within 20 days from the date printed on the notice, a detailed statement of the appeal, including the grounds therefor and the reason(s) alleged as to why the determination of the Code Enforcement Officer is incorrect or should be overturned, and a statement of relief requested by the appellant. Such notice of appeal shall be required to be submitted on a form to be prescribed therefor by the Borough Council, and signed by the appellant. There is hereby imposed a fee for filing of such appeals, the amount of which shall be determined and established, from time to time, by resolution of the Borough Council.
  2. Upon receipt of such an appeal in proper form, accompanied with the requisite filing fee, the Property Maintenance Appeals Board shall schedule a hearing on the appeal within 30 days.
  3. The appellant, the Code Enforcement Officer and the owners of properties within a radius of 300 feet from the premises for which the license is at issue shall receive written notice of the hearing on the appeal.
  4. The Property Maintenance Appeals Board shall hold a hearing on the appeal, which shall be conducted in accordance with the Local Agency Law, 2 Pa.C.S.A. § 551 et seq. A decision on the appeal shall be rendered either immediately following the appeal hearing or within 30 days thereafter. The decision shall be reduced to writing within 45 days of the date of the appeal hearing. Appeals from any decision of the Property Maintenance Appeals Board shall be to the Court of Common Pleas of Northumberland County, Pennsylvania.
  5. The Property Maintenance Appeals Board of the Borough of Northumberland shall hereafter be known as the Rental Registration and Property Maintenance Hearing Board and may also be referred to as the "Board of Appeals."
- G. Delivery of notification.
1. All notices shall be sent to the owner and local point of contact, if applicable, by certified mail or have receipt otherwise verified. In the event that the notice is returned by the postal authorities marked "unclaimed" or "refused," then the Code Enforcement Officer shall attempt delivery by personal service on the owner or

## Chapter 30 – Housing: Property Maintenance

manager, if applicable. The Code Enforcement Officer shall also post the notice at a conspicuous place on the premises. The Code Enforcement Officer's time for personal service and posting shall be charged to owner.

2. If personal service cannot be accomplished after a reasonable attempt to do so, the notice may be sent to the owner or manager at the address stated on the most current license application for the premises in question, by regular first-class mail, postage prepaid. If such notice is not returned by the postal authorities within five days of its deposit in the United States Mail, then it shall be deemed to have been delivered to and received by the addressee on the fifth day following its deposit in the United States Mail, and all time periods set forth above shall thereupon be calculated from said fifth day.
- H. Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee or mortgagee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee or mortgagee acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

### **31.1.08 Miscellaneous Provisions. (31-8)**

- A. Owners severally responsible. If any rental unit is owned by more than one person, in any form of joint tenancy, as a partnership or otherwise, each person shall be jointly and severally responsible for the duties imposed under the terms of this chapter and shall be severally subject to prosecution for the violation of this chapter.
- B. Nonexclusive remedies. The penalty provisions of this chapter and the license nonrenewal, suspension and revocation procedures provided in this chapter shall be independent, nonmutually exclusive separate remedies, all of which shall be available to the Borough as may be deemed appropriate for carrying out the purposes of this chapter. The remedies and procedures provided in this chapter for violation hereof are not intended to supplant or replace to any degree the remedies and procedures available to the Borough in the case of a violation of any other code or ordinance of the Borough, whether or not such other code or ordinance is referenced in this chapter and whether or not an ongoing violation of such other code or ordinance is cited as the underlying grounds for a finding of a violation of this chapter.
- C. Confidentiality. All registration and contact information shall be maintained in a confidential manner by the Code Enforcement Officer and shall only be utilized for the purpose of enforcement of this chapter by the Code Enforcement Officer and Property Maintenance Appeals Board.
- D. Severability. If any section or provision of this chapter is adjudged by a court of competent jurisdiction to be unlawful, void, or unenforceable, all the remaining sections and provisions of this chapter shall remain in full force and effect.

**Chapter 30 – Housing: Property Maintenance**

**BOROUGH OF NORTHUMBERLAND**

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(property owner)

STATES AS FOLLOWS:

1. That I am the owner of certain property located at:  
  
\_\_\_\_\_Northumberland, PA.
2. That I have owned the property since\_\_\_\_\_
3. That I am aware the Borough of Northumberland Ordinance set forth regulations establishing Residential Rental Property Registration and Inspection Requirements thereof, Ordinance No. 2023-A
4. That the above referenced property located in Northumberland, PA is not currently being used as a Residential Rental Property and will not be used as a Residential Rental Property in the immediate future.

**Definition of Residential Rental Unit:**

RESIDENTIAL RENTAL UNIT - any residential structure within the Borough which is occupied by someone other than the owner of the real estate as determined by the most current deed and for which the owner of the said parcel of real estate received any value, including but not limited to money, or the exchange of services. Each apartment within a building is a separate structure requiring inspection and a license.

5. That the premises are occupied by:

\_\_\_\_\_  
who is my/our\_\_\_\_\_

6. That I will comply with the requirements set forth in Ordinance No. 2023-A before entry of an oral or written lease for tenancy of the above-said premises.
7. That a failure to comply is in violation of Ordinance No. 2023-A and I make this Affidavit for the purpose of securing a temporary exemption from the provisions of this Rental Registration Ordinance.
8. OWNER:

\_\_\_\_\_  
\_\_\_\_\_  
(Street Address, City, State, Zip)

## Chapter 30 – Housing: Property Maintenance

## PROPERTY MAINTANANCE APPEALS BOARD

BOROUGH OF NORTHUMBERLAND, NORTHUMBERLAND COUNTY, PA

**APPEAL FROM DECISION OF CODE ENFORCEMENT OFFICER**

The undersigned appeals from the decision of the Code Enforcement Officer of the Borough of Northumberland to the Property Maintenance Appeals Board as set forth more fully below:

## BACKGROUND

- 1). Name and address of the appellant(s):
- 2). Address of the property in question:
- 3). Date of the Code Enforcement Officer's decision:
- 4). What was the Code Enforcement Officer's decision(s) which you are appealing?
- 5). Please set forth in detail why you feel the Code Enforcement Officer of the Borough of Northumberland was wrong in his/her decision.  
(Additional pages may be inserted.)

## Chapter 30 – Housing: Property Maintenance

### ATTACHMENTS

- 6). Attach all documents relating to the decision of the Code Enforcement Officer to this application.
- 7). Attach any relevant documentation in support of your appeal.
- 8). Attach a check in the amount of \$500.00 to your application. (This fee is required to cover the costs of advertising and postage). After all the bills are paid for your appeal from the decision of the Code Enforcement Officer, you will be refunded any remaining monies in excess of \$25.00. Indicate below to whom the remaining monies should be refunded to:

Name:

Address:

I request a hearing before the Property Maintenance Appeals Board and certify that the facts set forth in the above application are true. I understand that if this application is not complete or if the information requested is not provided this appeal can be rejected by the Property Maintenance Appeals Board as an incomplete application.

APPLICANT

DATE

APPLICANT

DO NOT WRITE IN THIS SPACE. FOR OFFICE USE ONLY

Date Appeal filing with the Rental Registration &  
Property Maintenance Hearing Board: \_\_\_\_\_

Date Hearing Advertised on Premise: \_\_\_\_\_

Date Hearing Advertised in Newspaper: \_\_\_\_\_

Fee Paid \$ \_\_\_\_\_

Date Paid \_\_\_\_\_



**Chapter 30 – Housing: Property Maintenance**  
**Borough of Northumberland**

**Residential Rental Occupancy License Application**

**Property Owner:** \_\_\_\_\_

**Physical Address:** \_\_\_\_\_

Note: If this address is not within 45 miles of the Borough of Northumberland the owner must identify a designee / local point of contact. If the owner is a corporation or partnership, that designee may be a manager or partner of said organization.

**Telephone:** \_\_\_\_\_

Note: This telephone number shall be used for emergency contact and for repair requests where a designee /local point of contact is not identified separately.

Additional Telephone &/or FAX: \_\_\_\_\_

**Email:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

**Name & Address  
of Employer:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Note: Employer information is only required for those owners who do not reside within 45 miles of the Borough of Northumberland but are employed within that area.

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**SIGNATURE**

**Chapter 30 – Housing: Property Maintenance**  
**Registration of Designee or Local Point of Contact**

**Designee/Local Point of Contact Name:**

\_\_\_\_\_

**Physical Address:** \_\_\_\_\_

\_\_\_\_\_

Note: If this address is not within 45 miles of the Borough of Northumberland the owner must identify a designee / local point of contact. If the owner is a corporation or partnership, that designee may be a manager or partner of said organization.

**Telephone:** \_\_\_\_\_

Note: This telephone number shall be used for emergency contact and for repair requests where a designee /local point of contact is not identified separately.

Additional Telephone &/or FAX: \_\_\_\_\_

**Email:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

\_\_\_\_\_

**Name & Address  
of Employer:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Note: Employer information is only required for those owners who do not reside within 45 miles of the Borough of Northumberland but are employed within that area.

## Chapter 30 – Housing: Property Maintenance

### Residential Rental Property Details

(Please complete application below for each rental unit you are licensing.)

**Residential rental unit(s) physical address:**

\_\_\_\_\_

**Property is managed by:**    ☐ **Owner**                      ☐ **Designee/Local Contact**

(Complete a Registration of Designee or Local Point of Contact form if not managed by owner. If owner has more than one designee/local contact, please include name of person for this unit on the physical address line.)

**Property Type:**    ☐ Single Unit            ☐ Multiple Unit            if Multiple # of Units \_\_\_\_\_

**Rental Unit # 1**            **Postal Designation:** \_\_\_\_\_

Currently:    ☐ Occupied            ☐ Vacant            ☐ Under Renovations

If Occupied is the Rental Agreement Attached:            Yes / No

**Rental Unit # 2**            **Postal Designation:** \_\_\_\_\_

Currently:    ☐ Occupied            ☐ Vacant            ☐ Under Renovations

If Occupied is the Rental Agreement Attached:            Yes / No

**Rental Unit # 3**            **Postal Designation:** \_\_\_\_\_

Currently:    ☐ Occupied            ☐ Vacant            ☐ Under Renovations

If Occupied is the Rental Agreement Attached:            Yes / No

**Rental Unit # 4**            **Postal Designation:** \_\_\_\_\_

Currently:    ☐ Occupied            ☐ Vacant            ☐ Under Renovations

If Occupied is the Rental Agreement Attached:            Yes / No

**Rental Unit # 5**            **Postal Designation:** \_\_\_\_\_

Currently:    ☐ Occupied            ☐ Vacant            ☐ Under Renovations

If Occupied is the Rental Agreement Attached:            Yes / No

**Rental Unit # 6**            **Postal Designation:** \_\_\_\_\_

Currently:    ☐ Occupied            ☐ Vacant            ☐ Under Renovations

If Occupied is the Rental Agreement Attached:            Yes / No

Please attach additional sheets if needed.

## CODE OF THE BOROUGH OF NORTHUMBERLAND

### Borough of Northumberland

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#### Appendix A

##### Summary of the Residential Rental Registration Ordinance

In an effort to protect and promote the public health, safety, and welfare of its citizens, to establish rights and obligations of owners and occupants relating to the rental of residential rental units in the Borough of Northumberland, and to encourage owners and occupants to maintain and improve the quality of rental housing within the community. The Borough of Northumberland has instituted a program to regulate and monitor property conditions in such housing. The following pages are a summary of the Residential Rental Registration Ordinance as it applies primarily to the tenants and occupants of residential rental properties. The full ordinance is available for inspection during normal business hours at the Borough office or on line at <http://norrypa.us/>. This program establishes accountability for the conduct of tenants and their guests.

This program outlines standards for information to be contained in your rental agreement to insure clarification of who is responsible for specific provisions such as trash removal, lawn care, utility bills and other similar items. Please review your rental agreement to make sure you understand what your landlord is providing to you and what you are responsible for. Your landlord is most often accountable in the event of violations in these matters. If you neglect to maintain those aspects of the agreement that are your responsibility then your landlord may take action against you, up to and including charging you for fines they've incurred and evicting you from the property.

All residential rental properties are required to have a Rental Occupancy License before the landlord may enter into a rental agreement. The Borough of Northumberland will perform periodic inspections and investigate reasonable complaints under this program. You may be requested to allow entry, with reasonable notice, so that the Code Enforcement Officer may perform those inspections.

In addition to other forms of recourse to landlords, you may be found in violation of this program for damages to your premises in excess of \$500.00.

This program regulates Disorderly Conduct by tenants and their guests. If Borough Police determines that an occupant's or an unauthorized guest's behavior constitutes disorderly conduct on multiple occasions then the landlord may be directed to evict the tenant from the property. Failure to abide by the requirements of this program may be cause for penalties and for a landlord to have his/her Rental Occupancy License withdrawn. If you are evicted from a property due to a disorderly conduct finding, you will be legally required to reveal that when asked by a new/potential landlord.

#### § 31.1.05 Occupants Duties

1. **General.** The occupant shall comply with all obligations imposed upon occupants by this Ordinance, all applicable codes and ordinances of the Borough of Northumberland and all applicable provisions of State Law.
2. **Health and Safety Regulations.**
  - A. Occupants shall keep that part of the structure which they occupy or control in a sanitary condition.
  - B. Occupants shall deposit in containers and dispose of all rubbish, garbage and other waste and recyclable materials in accordance with all applicable ordinances, laws and regulations.

## Chapter 31 – Rental Property Regulations

3. **Residential Use.** The occupant shall, unless otherwise permitted by applicable law or ordinance, occupy or use his or her rental unit for no other purpose than as a residence or any other use permitted under the Code of the Borough of Northumberland if properly permitted and approved by the property owner.
4. **Compliance with Rental Agreement.** The occupant shall comply with all lawful provisions of the rental agreement entered into between owner and occupant. Failure to comply may result in the eviction of the occupant by the owner.
5. **Damage to premises.** The occupant shall not intentionally cause, nor permit or tolerate others to cause, damage to the premises. Conduct which results in damages in excess of Five Hundred (\$500.00) Dollars shall be considered a violation of this ordinance.
6. **Inspection of Premises.** The occupant shall permit inspections of any premises by the Code Enforcement Officer at reasonable times and upon 48 hours' notice from the owner. Refusal to allow entry of the residential rental unit by the Code Enforcement Officer of the Borough to inspect the said unit shall be a violation of this ordinance.
7. **Conduct of Tenants, Occupants and Guests.**
  - A. **Peaceful Enjoyment.** The occupant shall conduct himself or herself and require other persons including, but not limited to, guests on the premises and within his or her rental unit with his or her consent, to conduct themselves in a manner that will not disturb the peaceful enjoyment of the premises by others, and that will not disturb the peaceful enjoyment of adjacent or nearby dwelling by the persons occupying same.
  - B. **Reporting of Violation or Eviction.** All tenants who have been evicted due to violations of § 31.1.05 Occupant Duties or otherwise found guilty of violations of § 31.1.05, if asked shall advise their new landlord that they have been evicted from a residence for violating the terms and conditions of this ordinance.
8. **Disorderly Conduct Defined:**

Disorderly Conduct shall be defined under this ordinance as:

  - A. Engaging in fighting, threatening or other violate or tumultuous behavior.
  - B. Making unreasonable noise.
  - C. Using obscene language or obscene gestures.
  - D. Creating a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.
  - E. Any activities declared illegal under the Pennsylvania crimes code (18 Pa.C.S.A. §101 et seq.) or Liquor Code (47 P.S. §1-101 et seq.), or the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §780-101 et seq.).

Any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a residential rental unit that disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premise such that a report is made to the Police. Provided, however, that no disorderly conduct shall be deemed to have occurred unless the Police investigate and make a determination that such did occur, and keep written records, including a Disorderly Conduct Report, of such occurrence.

### Penalties

## **Chapter 31 – Rental Property Regulations**

1. **Penalties.** Any owner, landlord or tenant of a residential unit which violates any provision of this chapter shall upon conviction thereof be sentenced to pay a fine of not less than \$100.00 and not to exceed \$300.00 for each and every offense.

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 32 – INSURANCE — FIRE DAMAGE**

[History: Adopted by the Council of the Borough of Northumberland 7-2-96 as Ord. No. 441]

### **ARTICLE I – ESTABLISHMENT**

#### **32.1.01 Ordinance enacted per act of Legislature. (32-1)**

This ordinance is enacted pursuant to the Act of May 17, 1921, P. L. 682, No. 284, ~ 508, as amended (40 P. S. ~ 638), hereinafter referred to as "The Act".

#### **32.1.02 Designated Officer. (32-2)**

The Code Officer, or such other person as may be approved by Borough Council, is appointed as the Designated Officer who shall be authorized to carry out certain responsibilities set forth in this Ordinance.

#### **32.1.03 Fire Insurer shall not Pay Name Insured without Certificate. (32-3)**

No insurance company, association or exchange (Insurer) doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Borough where the amount recoverable for the fire loss to the structure under all policies exceeds seven thousand five hundred dollars (\$7,500.00) unless the insurer is furnished by the Borough Tax Collector with a municipal certificate pursuant to Section 3 of this Ordinance, and unless there is compliance with Section 5 of this Ordinance.

#### **32.1.04 Tax collector shall issue certificate to insurer. (32-4)**

The Borough Tax Collector shall, upon the written request of the named insured specifying the tax description of the property, the name and address of the insurer and the date agreed upon by the insurer and named insured as the date of the receipt of a loss report of the claim, furnish the insurer either of the following certificate within fourteen (14) working days of the said request:

- A. A certificate or, at the discretion of the borough, a verbal notification which shall be confirmed in writing by the insurer to the effect that, as of the date specified in the said request there are no delinquent taxes, assessments, penalties or user charges against the property and that, as of the date of the certificate or verbal Northumberland Code – Chapter 32 – Insurance – Fire Damage notification, the borough has not certified any amount as total cost incurred by the borough for the removal, repair, or securing of a building or other structure on the property; or
- B. A certificate and bill showing the amount of delinquent taxes, assessments, penalties and user charges against the property as of the date specified in the said request that have not been paid as of the date of the certificate and also showing, as the date of the certificate, the amount of the total costs, if any, certified to the Borough Tax Collector that have been incurred by the borough for the removal, repair, or securing of a building or other structure on the property. For the purposes of this Ordinance the borough shall certify to the Borough Tax Collector the total amount, if any, of such costs. A tax assessment, penalty or user charge becomes delinquent at the time and on the date of lien could otherwise have been filed against the property by the borough under applicable law.

## **Chapter 32 – Insurance — Fire Damage**

### **32.1.05 Procedure if taxes, etc. are due. (32-5)**

Upon receipt of a certificate and bill pursuant to 32.1.4B above the insurer shall return the bill to the Borough Tax Collector an amount from the insurance proceeds necessary to pay the taxes, assessment, penalties, charges and costs as shown on the bill. The borough shall receive the amount and apply or credit it to payment of the item shown in the bill.

### **32.1.06 Procedure if loss is 60% or more of aggregate limits of liability. (32-6)**

Upon receipt of a certificate pursuant to 32.1.4A above the insurer shall pay the claim of the named insured in accordance with the policy terms; provided, however, that if the loss agreed to between the named insured and the insurer equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building or other structure, the following procedure shall be followed:

- A. The insurer shall transfer from the insurance proceeds to the Designated Officer in the aggregate two thousand dollars (\$2,000.00) for each fifteen thousand dollars (\$15,000.00) and for each fraction of that amount of a claim (this subsection to be applied such that if the claim is fifteen thousand dollars (\$15,000.00) or less, the amount transferred to the Borough shall be two thousand dollars (\$2,000.00), or if at the time of a loss report the named insured has submitted a contractors signed estimate of the cost of removing, repairing, or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insurer shall transfer from the insurance proceeds to the Designated Officer the amount specified in the estimate.
- B. The transfer of the proceeds shall be on a pro-rata basis by all companies, associations or exchanges insuring the building or other structure.
- C. After the aforesaid transfer, the named insured may submit an estimate of the cost of removing, repairing, or securing of the building or other structure, in which event the Designated Officer shall return the amount of the funds transferred to the borough in excess of the estimate to the named insured of the borough has not commenced to remove, repair or secure the building or other structure.
- D. Upon receipt of the proceeds under this Section, the Designated Officer shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing, or securing the building or other structure which are incurred by the borough. Such cost shall include, without limitation, any engineering, legal or administrative costs incurred by the borough in connection with such removal, repair, or securing of the building or other structure or any proceedings related thereto;
- E. It is the obligation of the insurer when transferring the proceeds to provide the borough with the name and address of the named insured. Upon receipt of the transferred funds and the name and address of the named insured, the Designated Officer shall contact the named insured, certify that the proceeds have been received by the borough and notify the named insured that the procedures under this ordinance shall be followed;
- F. When repairs, removal, or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the borough and the required proof of such completion received by the Designated Officer, the fund shall be returned to the named insured if the borough has not incurred any costs for repairs, removal, or securing, but if the borough has incurred costs for repairs, removal, or securing of the building or other structure, the excess funds to the named insured; and
- G. To the extent that interest is earned on proceeds held by the borough pursuant to this Section and no proceeds are to be returned to the named insured, such interests shall belong to the borough, but to the extent that proceeds are returned to the named insured at the time that the proceeds are returned.
- H. Nothing in this ordinance shall be construed to limit the ability of the borough to recover any deficiency. Furthermore, nothing in the ordinance shall be construed to prohibit the borough and the named



## **Chapter 32 – Insurance — Fire Damage**

insured from entering into an agreement that permits the transfer of funds to the named insured of some other reasonable disposition of the damaged property has been negotiated.

- I. Borough Council may from time to time by resolution adopt the procedures and regulations to implement The Act and this Ordinance and may from time to time by resolution fix reasonable fees to be charges for municipal activities or services provided pursuant to The Act and this Ordinance, including but not limited to issuance of certificates and bills, performance of inspections, and opening separate fund account.

### **32.1.07 Violation and penalties. (32-7)**

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]

### **32.1.08 Effect of partial invalidity. (32-8)**

If any section, subsection, paragraph, provision or cause of this ordinance shall be judged to be invalid, void or unenforceable, such adjudication shall not affect the remaining sections, subsection, paragraphs provisions and clauses of this ordinance which shall remain in full force and effect.

### **32.1.09 Inconsistent ordinance repealed. (32-9)**

All ordinances or parts of ordinances inconsistent herewith are and the same are hereby repealed.

### **32.1.10 Effective date of ordinance. (32-10)**

This ordinance shall become effective at the earliest date allowed by law.

## **Chapter 32 – Insurance — Fire Damage**

**Intentionally blank.**

CODE OF THE BOROUGH OF NORTHUMBERLAND

## CHAPTER 33 – TELECOMMUNICATIONS

[Adopted 6-5-01 as Ordinance No. 2001-4; Amended 2-6-02 as Ordinance No. 2002-3.]

### ARTICLE I – ESTABLISHMENT

#### **33.1.01 Purpose. (33.14)**

To authorize the Borough to regulate the sale and furnishing of cable television service consistent with federal and state law.

#### **33.1.02 Definitions. (33.2)**

**Basic Broadcast Service** - That service tier which shall include at least the retransmission of local broadcast television signals and public, educational and governmental ("PEG") access channels.

**Broadcast** - Over-the-air transmission by a radio or television station.

**Cable Act** - Cable Communications Policy Act of 1984, Public Law No. 98-549, 98 Stat. 2779 (1984), 47 U.S.C. 521 et. seq., amending the Communications Act of 1934, as further amended by the 1992 Cable Consumer Protection and Competition Act, Public Law No. 102-385 and the Telecommunications Act of 1996, Public Law No. 104- 104, §, 110 Stat. (1996).

**Cable Communications System or Cable System** - A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of this Act, except that such facility shall be considered a cable system (other than for purposes of section 621(c) to the extent such facility is used the transmission of video programming directly to subscribers; or (D) any facilities of any electric Utility used solely for operating its electric utility systems. In addition, a cable communications system or cable system means a fully addressable system providing telecommunications services, which include, but which are not limited to, retransmitting radio and broadcast television signals, distributing video programming, transposing voice, video or digital electronic signals through TOWN to other locations, telephony services, internet access or use, process control, and other technologies to or from Subscribers or other cable system users, and/or producing, receiving, amplifying, storing, processing or distributing audio, video, digital or other forms of electronic, light or other similar types of signals to or from Subscribers.

**Cable Programming Services** - Any video programming provided over a cable system; regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than 1) radio and broadcast television video programming carried on the Basic Broadcast Service tier; 2) programming on any PEG channel; 3) video programming offered on a pay-per-channel or pay-per-program basis including interactive services; or 4) a combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service: (i) consists of commonly-identified video programming, and (ii) is not bundled with any regulated tier of service.

**Cable Service** - The one-way or two-way transmission to or from Subscribers of video programming or other Cable Communications System Services (including music), and Subscriber interaction, if any, which is

## Chapter 33 – Telecommunications

required for the selection of such video programming or other programming service, and the installation and rental of equipment necessary for the receipt to transmission thereof.

**Community Programming** - Programming produced locally or otherwise for distribution on any Public, Education or Government Access Channel.

**Competing Distributors** - Cable System Operators or other telecommunications service providers whose actual or proposed service areas overlap.

**Drop** - The coaxial or fiber-optic or other cable that connects a home or building to the Subscriber network.

**FCC** - Federal Communications Commission.

**Franchising Authority** - The Borough of Northumberland, PA.

**Franchisee** - A corporation which enters into a nonexclusive franchise to provide cable programming services and operate a cable communications system within the Borough of Northumberland.

**Franchise Fee** - The charge paid by the Franchisee to the Borough for the right to occupy the public rights-of-way.

**Reserved**

**Outlet** - An interior receptacle that connects a television set to the Cable Communications System.

**Open Video System** - Channel capacity available for hire for a fee.

**Programming** - Any video, audio, text or data coded signal carried over the Cable Communications System

**Franchise** - The right to occupy the Public Rights-of-Way within the corporate limits of the Borough of Northumberland.

**Standard Service Package** - A combination of cable service tiers, consisting of the Basic Broadcast tier and Cable Programming Service tiers, as provided by the Franchise as of the Effective Date and including any individual broadcast channels or cable networks added to these tiers as a result of the reconstruction of the Cable Communications System.

**Subscriber** - A person or entity who contracts with the Franchise for, and lawfully receives, the video audio, text, and cable services distributed by the Cable Communications System.

**Subscriber Network** - The Trunk and feeder signal distribution network over which video, audio, text, digital and data signals are transmitted to or from Subscriber.

**Subsidiary Corporation Or Affiliated Corporation** - Any corporations, other than Franchisee, in an unbroken horizontal or vertical chain of corporations connected to Franchisee, if, at the time of the execution of the franchise agreement, each of the corporations other than the last corporation in the unbroken chain or any parent or subsidiary corporation or affiliated corporation owns stock comprising fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

**Total Local Gross Revenues** - All cash, credits, property of any kind or nature, or other consideration whatsoever in any form arising from or attributable to the sale or exchange of cable communications services or in any way derived from the operation of the cable communications system in the municipality, whether received by franchisee or any subsidiary or affiliated corporation.

**User** - A person or entity who contracts with the Franchisee for and lawfully distributes or receives video signals and cable communications system services distributed by the Franchisee

### 33.1.03 Franchise. (33.3)

Consistent with all applicable Federal and State Laws, the Borough of Northumberland may grant a non-exclusive franchise to the operator of a cable communications system to provide cable programming services

## Chapter 33 – Telecommunications

within the Borough of Northumberland. The annual franchise fee shall be **set by resolution or separate ordinance of counsel after public discussion**. The Borough Council or its representative may negotiate the amount of the fee and the term of the franchise agreement. [Amended 2-6-02 by Ordinance 2002-3.]

### **33.1.04 Effective Date. (33.4)**

This Ordinance shall be effective June 5, 2001.

## **Chapter 33 – Telecommunications**

**Intentionally blank.**

## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 34 – LICENSED OCCUPATIONS

[HISTORY: Adopted by the Council of the Borough of Northumberland: Article II, 5-3-26 as Ord. No. 60; Article I and III upon adoption of Code, and ~ 34-13 amended upon adoption of Code; see Ch. 1 General Provisions. Other amendments noted where applicable.]

## ARTICLE I – PEDDLING, CANVASSING, TRANSIENT MERCHANTS

General References: Amusements - see Ch. 22

Peace and good order - see Ch. 40.

Zoning - see Ch. 61.

### **34.1.01 License required. (34-1)**

It shall be unlawful for any peddler, canvasser or transient merchant, as defined in 34.1.2 of this Article, to engage in any such business within the Borough of Northumberland without first obtaining a license therefor in compliance with the provisions of this Article.

### **34.1.02 Definitions. (34-2)**

When used in this Article, the following terms shall have the following meanings:

#### ***Canvasser***

Any person, whether a resident of the Borough of Northumberland or not, who goes from house to house, from place to place or from street to street, soliciting or attempting to take orders from individuals for sale of goods, wares or merchandise, including magazines, books periodicals or personal property of any nature whatsoever, for future delivery, or for service to be performed at that time or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders.

#### ***Peddler***

Any person, whether a resident of the Borough of Northumberland or not, who goes from house to house, from place to place or from street to street, conveying or transporting goods, wares or merchandise, or offering or exposing the same for sale or making sales or delivering articles, goods, wares or merchandise to purchasers.

#### ***Transient Merchant***

Any person, whether a resident of the Borough of Northumberland or not, who temporarily and for a short time hires, rents or obtains a definite place of business, whether a storeroom or a market stand, at or near the highways or streets of the borough, for sale of goods, wares, merchandise or to offer or expose the same for the sale or for future delivery and sale. [Temporarily and short time shall be construed as three (3) months or less.]

### **34.1.03 Exemptions. (34-3)**

The terms of this Article shall not be held to include the acts of persons selling personal property at wholesale to dealers in such articles, nor newsboys, nor the acts of merchants or their employees in delivering goods in the regular course of business; nor shall the terms of this Article be held to include or apply to any farmer or truck gardener who shall vend, sell or dispose of, or offer to vend, sell or dispose of, the products of the farm or garden occupied and cultivated by him; nor shall it apply to any manufacturer or producer selling bread

## **Chapter 34 – Licensed Occupations**

and bakery products, meat and meat products, or milk and milk products; nor shall it apply to the sale of the Holy Bible or any religious or holy object, medal, crucifix or cross used in the worship of God; nor shall this Article apply to a veteran of the armed forces of the United States who shall have participated in any war of the United States, who has first previously been authorized by the proper authorities of Northumberland County, Pennsylvania, as a vendor or peddler; provided, however, that the peddlers or vendors of Bibles and other religious articles and said veterans of the armed forces must first register and make application for a license as required in 34.1.4 of this Article, without fee. Nothing contained in this Article shall be held to prohibit any sale required by statute or by order of any court nor to prevent any person from conducting a bona fide auction sale pursuant to law.

### **34.1.04 Application. (34-4)**

- A. Applicants for a license under this Article must file with the Borough Secretary a sworn application in writing on a form to be furnished by the borough, which will give the following information:
  - 1. Name and physical description of applicant.
  - 2. Complete, permanent home and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
  - 3. A brief description of the nature of the business and the goods to be sold.
  - 4. If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.
  - 5. The source of supply of the goods or property proposed to be sold, or for which orders are to be taken for the sale thereof, and the proposed method of delivery.
  - 6. A recent photograph of the applicant, which picture shall be approximately two by two (2 x 2) inches, showing the head and shoulders of the applicant in a clear and distinguishable manner.
  - 7. Submit his or her fingerprints upon a noncriminal file card.
  - 8. A statement as to whether or not the applicant has been convicted of any crime, felony, misdemeanor or any violation of any municipal ordinance other than traffic violations, and the nature of the offense and punishment or penalty assessed therefor.
- B. This application shall be accompanied by an initial fee as set by council resolution to cover the expense of investigation, which fee shall be payable to the Borough of Northumberland.
- C. The application, containing information as to all matters inquired of, shall be turned over by the Borough Secretary to the Police Department of the borough for investigation of the applicant.

### **34.1.05 Investigation and issuance of license. (34-5)**

- A. Upon receipt by the Police Department of each application, it shall be referred to the Chief of Police, who shall immediately institute such investigation of the applicant's business and moral character as he deems necessary for the protection of the public safety.
- B. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval and return the application to the Borough Secretary, who shall, upon payment of the prescribed license fee, deliver to the applicant his or her license within seventy-two (72) hours after the application has been filed by the applicant with the Secretary, except as provided in 34.1.6.
- C. Such license shall contain the signature of the issuing officer and shall show the name, address and photograph of the licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the expiration date, as well as the license number and other identifying description of any vehicle used in such licensed business. Each peddler, canvasser or transient merchant must secure an individual license. No license shall be used at any time by any person other than the one to whom it is issued. The Borough Secretary shall keep a permanent record of all



## **Chapter 34 – Licensed Occupations**

licenses issued and applications rejected, and shall also issue a monthly report to the Borough Council of said applicants and moneys received.

### **34.1.06 Review of certain applications after investigation. (34-6)**

- A. After investigation of an applicant and approval by the Chief of Police of the application as set forth in ~ 34-5 hereof, but before the issuance of a license, the Borough secretary and the Chief of Police shall determine; in the case of an applicant purporting to be engaged in interstate commerce or claiming a statutory exemption:
1. Whether or not the applicant is of good personal and moral character, and
  2. Whether the product to be sold by said peddler or canvasser is a nationally known and advertised brand of household article or articles, and
  3. Whether applicant has proved that he is the lawfully appointed representative of said nationally advertised brand of household goods and wares, and
  4. Whether the applicant serves a regular route or clientele of not less than fifty (50) customers in the Borough of Northumberland.
- B. The Chief of Police and the Borough Secretary shall, upon such proof, certify said application to the Borough Council at the next regular meeting of said Council for determination as to whether the applicant must pay the fees as set forth in 34.1.8 hereof and file a bond as set forth in 34.1.9 hereof.
- C. If Council at said regular meeting, by a majority vote, approves a resolution to that effect, and the Mayor approves said resolution, then the Secretary may issue said applicant a license without paying the fees as set forth in 34.1.8-of this Article or filing a bond as set forth in 34.1.9.

### **34.1.07 Religious and charitable organizations: exemption. (34-7)**

- A. The provisions of 34.1.4, 34.1.8 and 34.1.9 shall not apply to any person, organization, society, corporation, or other entity which is purely religious, political, charitable, or otherwise not for profit in character and which executes the sworn application furnished by the Borough Office: [Amended 9-4-01 by Ord. 2001-9.]
1. Name and purpose of the cause for which permit is sought.
  2. Name and address of the officers and directors of the organization.
  3. Period during which solicitation is to be conducted.
  4. Whether or not any commission, fees or wages are to be expended in connection with such solicitation, and the amount thereof.
- B. This ordinance does not require the issuance of a permit to any person, organization, society, corporation or other entity who is entitled by the United States Constitution to engage in canvassing without a permit. [Added 9-4-01 by Ord. 2001-9.]

### **34.1.08 Fees. (34-8)**

- A. Fees hereunder shall be set by resolution of council. [As passed 12/18/2001 as part of Ordinance 2001-13, all fees for this and subsequent parts of the borough code are determined by council resolution.]
- B. None of the license fees provided for under this section shall be so applied as to occasion an undue burden neither upon interstate commerce nor upon the manufactures within this commonwealth and their agents who are within Section 2905 of the Borough Code.
- C. Every applicant for a license as a transient merchant as defined in this Article, whether a resident of the borough or not, who hires, leases or occupies a room, apartment, store, shop, building or other structure

## **Chapter 34 – Licensed Occupations**

for the exhibition and sale of goods, wares or merchandise, shall, before commencing such business, comply with this Article, and in addition to the initial fee provided for in ~ 34-4 hereof, shall pay for such license a set fee as determined by council resolution; and said license fee or fees shall be paid monthly in advance to the Borough Secretary.

### **34.1.09 Bond. (34-9)**

Every applicant, whether a resident of the borough or not, who does not have real or personal assets, or both, to the clear value of at least one thousand dollars (\$1,000.00), within the Borough of Northumberland, or who represents a corporation whose principal place of business is located outside the County of Northumberland, shall file with the Borough Secretary a surety bond payable to the Borough of Northumberland in the amount of two hundred fifty dollars (\$250.00) if the license is issued for less than six (6) months, and five hundred dollars (\$500.00) if the license is issued for more than six (6) months, with surety acceptable to and approved by the Borough Secretary, conditioned that the said applicant shall comply fully with all the provisions of the ordinances of the Borough of Northumberland, Northumberland County, and the statutes of the State of Pennsylvania regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants or itinerant vendors, as the case may be, and guaranteeing to any citizen of the Borough of Northumberland that all moneys paid as down payment will be accounted for and applied according to representations of the licensee, and further guaranteeing to any citizen of the Borough of Northumberland doing business with a solicitor that the property or object purchased will be delivered according to the representations of the solicitor. Action on such bond may be brought by the person or persons aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying pursuant to order of the court the face amount of the bond to the clerk of court in which suit is commenced, be relieved without costs of all further liability.

### **34.1.10 Loud noises and speaking devices. (34.10)**

No licensee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound or amplifying device upon any of the streets, alleys, parks or other public places of the Borough of Northumberland or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

### **34.1.11 Use of streets; time restrictions. (34.11)**

- A. No licensee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets or sidewalks.
- B. No licensee shall be permitted to solicit before 9:00 a.m. or after 12:00 noon neither on Saturdays nor before 9:00 a.m. or after 4:00 p.m., weekdays, Eastern Standard Time. [Amended 9-4-01 by Ord. 2001-9.]
- C. A Farmers Market is permitted from 7:00 a.m. to Noon on Saturdays at such places as the council may designate by resolution. [Added 9-4-01 by Ord. 2001-9.]

### **34.1.12 Exhibition of license. (34.12)**

Licensees are required to exhibit their certificate of license at the request of any citizen.

## **Chapter 34 – Licensed Occupations**

### **ARTICLE II – MOBILE FOOD FACILITIES**

[Amended 2022-12 by Ord. 2022-B] [Adopted 5-3-26 as Ord. No. 60]

#### **34.2.01 License required. (34-13)**

No person shall operate a mobile food facility (MFF) having a commissary/service area located within the Borough of Northumberland without first obtaining a license to operate a public eating and drinking place from the Pa Department of Agriculture or a Local Health Department. The license shall be posted in the food facility in a conspicuous place so as to be seen by customers, vendors, employees, and patrons of the subject facility. License application shall be made in accordance with the Mobile Food Facility Operation Guide published by the PA Department of Agriculture, and the licensing processes as outlined in Article II and the associated fees shall apply.

#### **34.2.02 Operation of mobile food facilities. (34.14)**

The owner/operator shall comply with statutes and regulations of the Commonwealth of Pennsylvania with regard to cooking, utensils, refrigeration, appliances, materials and food storage and other matters, and a license issued by the Department of Agriculture shall be prominently displayed on the MFF for view by patrons.

#### **34.2.03 Mobile food facility design.**

MFFs shall be designed to be attractive and shall not display any words or images that are obscene or pornographic.

#### **34.2.04 Trash.**

MFFs shall have a trash receptacle with a tight-fitting lid, and the owner/operator shall be responsible for the disposal of trash generated by its business. Owner/operators are responsible for proper disposal of the trash whenever the container becomes full or, at a minimum, at the conclusion of the day's operation, but not in receptacles provided for by the Borough of Northumberland.

#### **34.2.05 Signage.**

Only signs identifying the owner/operator's name, business name and contact/social media information and a listing of the items available for sale are permitted on an MFF.

#### **34.2.06 Fire extinguisher required.**

All MFFs equipped with a heat source shall be equipped with a serviceable fire extinguisher.

#### **34.2.07 Operation locations/limitations.**

While operating in the Borough of Northumberland, the following provisions regarding operating locations shall be followed.

- A. An MFF may operate on private property only with the permission of the owner of said property.
- B. When operating on a public street, the MFF shall be placed in such a way as the customer service area is positioned away from vehicle traffic.
- C. An MFF shall remove its portable facility each day and return to its permanent commissary or service area when having ceased food service operations.
- D. When operating in a Residential or Neighborhood Business Zoning District, the MFF shall be prohibited from running generators or creating noise in violation of the Borough's Noise Ordinance.

## **Chapter 34 – Licensed Occupations**

### **ARTICLE III – PENALTIES**

#### **34.3.01 Violations and penalties. (34-15)**

- A. [As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of the borough code are determined by council resolution.]
- B. The Council may require a deposit in advance of a public gathering to offset costs associated with crowd control, traffic control, and other expenses of a large public gathering. Provided, however: nothing herein shall be deemed to limit the right of the public to peaceably assemble for purposes protected by the First Amendment of the U.S. Constitution.

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

**CHAPTER 35 – SIGNS**

[Adopted on 11-1-2010 by Ord. No. 2010-6]

**ARTICLE I – ESTABLISHMENT**

**35.1.01 Definitions**

The following terms shall have the meanings indicated:

***Yard Sale***

shall mean any public sale of goods on residential property including, but not limited to, the residential properties, garage, home, lawn or yard;

***Special Event***

shall mean any private or public occurrence that is advertised on any sign, flyer, poster or bulletin

***Borough***

shall refer to the Borough of Northumberland

**35.1.02 Yard Sale or Special Event**

Any individual, group, or corporation conducting a yard sale or special event within the Borough or outside the Borough limits or any individual, group, or Corporation posting advertisements within the Borough limits for a yard sale or special event to be held inside or outside the Borough limits shall remove from within the Borough right-of-way all signs, flyers, posters, and bulletins no later than 48 hours after the yard sale or special event. Should the yard sale or special event for any reason not be held all signs, flyers, posters, and bulletins advertising the yard sale or special event must be removed no later than the scheduled last day for the yard sale or special event.

**35.1.03 Violation**

Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, shall be subject to penalty as adopted by Resolution.

**35.1.04 Enforcement**

Any police officer is hereby authorized to act on behalf of the Borough.

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## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 36 – SPECIAL EVENTS

[HISTORY: Adopted by the Council of the Borough of Northumberland as Ord. No. 2022-C.  
Amendments noted where applicable.]

General References:

## ARTICLE I – ESTABLISHMENT

### **36.1.01. Title; purpose.**

This chapter shall be known and may be cited as the "Special Events Ordinance of the Borough of Northumberland." The purpose of the permit system is not to exclude communication of a particular content but to coordinate multiple uses of limited space; to assure preservation of the street, park and public facilities; to prevent uses that are dangerous, unlawful, or impermissible; to assume financial responsibility for operating costs; and to assure financial accountability for damage caused by the event.

### **36.1.02. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

BOROUGH — The Borough of Northumberland, a municipality.

BOROUGH MANAGER — The Borough Manager of the Borough of Northumberland, Northumberland, Pennsylvania, or designee.

CHIEF OF POLICE — The Chief of Police of the Borough of Northumberland, or designee.

COUNCIL — The Mayor and Borough Council of the Borough of Northumberland.

DEMONSTRATION — Any public display or expression of group feelings toward a person or cause, or a show of force.

SPECIAL EVENT — Any parade, march, ceremony, show, exhibition, block party, carnival, pageant, or procession of any kind or any similar display in or upon any street, park or other public place in the Borough; any gathering in or upon which the streets are occupied for the purpose of a march, procession or demonstration. Gatherings on sidewalks that do not block the sidewalk are not special events.

PERMIT REVIEW COMMITTEE —Borough Manager (Chair), Police Chief, Streets Supervisor, Community Development Chair, Borough Council President.

PERSON — Any individual or group of individuals, firm, partnership, association, corporation, company or organization of any kind.

PROCESSION — A group of individuals moving along in an orderly or disorderly way in a manner other than for normal pedestrian or vehicular traffic.

PUBLIC GATHERING — Any assembly of people for the purpose of public amusement, entertainment, business purpose, community festival or event, or similar gathering in or upon any street, park, or other public park in the Borough. Gatherings on sidewalks that do not block sidewalks are not public gatherings.

SPECIAL EVENT PERMIT — A permit as required by this chapter.

STREET — A public right-of-way or portion thereof intended for general public use to provide means or travel for vehicles and pedestrians. The word "street" shall include the words "street," "avenue," "road," "highway,"

## **Chapter 36 – Reserved**

"thoroughfare," "way," "drive," "lane," "court," "cul-de-sac," and "alley" but shall not include "driveway" or "sidewalk."

STREET SUPERVISOR – Borough employee who is in charge of maintenance of borough property and streets.

## **ARTICLE II – PERMITS**

### **36.2.01. Permit required.**

No parade or public gathering shall be conducted by any person upon any street, park, or other public place in the Borough without first obtaining a special event permit from the Borough through the Borough Manager, or designee. The Borough Manager shall inform the Borough Council concerning the granting and issuance of any special event permit. The granting of a special event permit shall not constitute an endorsement of the applicant by the Borough, but only an acceptance that the applicant has met all requirements set forth in this Chapter.

### **36.2.02. Exceptions.**

Exceptions. This chapter shall not apply to:

- A. Funeral processions.
- B. Wedding processions.
- C. Parades or events sponsored by the Borough.
- D. Borough scout troops.
- E. School events.

### **36.2.03. Permit application.**

A. The Borough Council delegates to the Borough Manager and the Permit Review Committee members the ability to promulgate reasonable rules and regulations for parades and public gatherings consistent with this chapter and to establish a special event permit application form and require such documents as may be deemed necessary.

B. Filing period. An application for a special event permit shall be filed with the Borough Manager, or designee, not fewer than 30 days in advance of the proposed event date. Where good cause is shown, the Borough Manager, or designee, shall have the authority to consider any application hereunder which is filed fewer than 30 days in advance of the proposed parade or public gathering date.

C. Application contents. The following information shall be included on said application:

- (1) Name, address and telephone number of the person seeking to conduct such parade or public gathering and requesting the special event permit.
- (2) If the parade or public gathering is proposed to be conducted for, on behalf of or by any organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of such organization.



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- (3) The name, address and telephone number of the person or persons who will be in charge of and who will be responsible for its conduct.
- (4) A concise statement of the purpose of the parade or public gathering.
- (5) The date when the parade or public gathering is to be conducted and the hours when such parade or public gathering will start and terminate.
- (6) The route to be traveled, the starting point and the termination point, including a map depicting the course of the parade or the location of the parade or public gathering.
- (7) A statement as to whether the parade or public gathering will occupy all or only a portion of the width of the streets or public land proposed to be traveled.
- (8) The location, by streets, of any assembly (formation and disbanding) areas for such parade or public gathering, including time at which units of the parade or public gathering will begin to assemble. If the assembly area is on private property, the name, address and telephone number of the property owner and/or a letter of permission for the assembly or gathering.
- (9) The approximate size and length of the parade or the geographic area of the public gathering, including the approximate number of persons and vehicles involved in the parade or public gathering, including number and types of animals (if any).
- (10) Any additional information which the Borough Manager shall find reasonably necessary in order to make a determination as to whether a special event permit application is in compliance with the requirements of this chapter and the rules and regulations adopted pursuant hereto and a special event permit can be issued.

### **36.2.04. Limitations on permit.**

No permit issued hereunder shall authorize or excuse any breach of the law or any trespass upon the rights of others or render the Borough liable for any damage committed or caused.

### **36.2.05. Permit fee.**

The cost of a special event permit shall be established by resolution from time to time. In addition to any special event permit fee, a person sponsoring a parade or public gathering will be informed prior to the issuance of a special event permit that if the cost of any services provided by the Northumberland Borough Police Department, Fire Department, Street Department, or special fire police for the event exceed \$100, the person will be responsible for those costs exceeding \$100. Direct costs incurred by the Borough to control traffic as a result of a parade or public gathering shall be borne by the applicant. All costs related to other services provided by the Borough for the event, including, but not limited to, code enforcement, sanitation, and auxiliary police, shall be borne by the applicant. Costs shall be limited to direct out-of-pocket expenses incurred by the Borough, such as, but not limited to, wages paid to Borough employees. No special event permit shall be issued until all costs for any prior special event permits issued to the applicant have been paid in full.

### **36.2.06. Insurance.**

- A. Each person filing an application for a special event permit shall provide the Borough with a certificate of insurance evidencing that said person maintains insurance which will protect that person and the Borough from claims for damages for personal injury, including accidental death, as well as claims for property damages which may arise from the conduct of the parade. Excluded from any claim for damages will be

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damages related to persons objecting to the content of the proposed or actual message of the applicant. The amounts of such insurance shall be as follows: public liability insurance in an amount of not less than \$1,000,000 for injuries, including accidental death, to any one person, and property damage insurance in an amount of not less than \$1,000,000. The certificate of insurance shall name the Borough as an additional insured and shall be provided by an insurance company authorized to do business in the Commonwealth of Pennsylvania and acceptable to the Borough.

- B. If the parade or public gathering has Borough Council approval (General Reference – Borough Code Book Chapter 21 – Alcoholic Beverages) for the sale, service, or consumption of alcohol, proof of liquor liability insurance coverage in an amount of not less than \$1,000,000 per occurrence must also be provided, with such policy naming the Borough as an additional insured, with said policy being provided by an insurance company authorized to do business in the Commonwealth of Pennsylvania and acceptable to the Borough.
- C. If a public gathering is to be located at a public place other than within a street, or is a block party involving the closure of one block of a street maintained by the Borough, and the public gathering involves fewer than 300 participants or spectators and does not involve the sale, service, or consumption of alcohol, the Borough Manager is authorized to waive the insurance requirements set forth herein, in his discretion. However, in the event the insurance requirements are waived, the applicant shall provide, prior to special event permit issuance, an indemnification agreement in a form acceptable to, and established by, the Borough Manager.
- D. The special event permit will not be issued prior to receipt of the required certificate of insurance or, if permitted, indemnification agreement.
- E. If the parade or public gathering will include the sale, service, or consumption of alcohol, the Borough may require the applicant to provide private security for the event in an amount as determined to be necessary by the Chief of Police.

### **36.2.07. Conditions.**

The Borough Manager, or designee, shall have the authority to designate an alternate date, time, duration, or course for any parade or public gathering for which a special event permit is requested. This authority shall be exercised to accommodate competing demands on the use of public streets, parks, and public places. In addition, the Borough Manager may adopt any reasonable conditions to better protect the public and ensure compliance with this chapter. Any time, place, and manner limitations must not be based on the content of the message, must be narrowly tailored to serve a significant governmental interest, and must leave open ample alternatives for communication.

- A. The Chief of Police, or a designee thereof, shall have the authority to determine the necessary personnel, supplies, and equipment for any parade or public gathering. Acceptance of the special event by the applicant shall constitute acceptance of all permit conditions. NOTE: The Borough is not required to close streets for security (i.e., protection of the applicant or the participants or spectators of the parade or public gathering related to their actual or proposed message) purposes and is not required to provide police for security purposes at parades or public gatherings.

### **36.2.08. Denial or revocation of permit.**

- A. A permit shall be denied if:

- (1) The application for permit (including any required attachments and submissions) is not fully completed and executed.

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- (2) The applicant has not tendered the required insurance certificate or, if permitted, indemnification agreement.
  - (3) The application for permit contains a material falsehood or misrepresentation.
  - (4) The applicant is legally incompetent to contract or to sue and be sued.
  - (5) The applicant or the person on whose behalf the application for permit was made has on prior occasions damaged Borough property and has not paid in full for such damage or has other outstanding and unpaid debts to the Borough.
  - (6) A fully executed prior application for permit for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy at the proposed location of the parade, or part thereof.
  - (7) The use or activity intended by the applicant would conflict with previously planned programs organized and conducted by the Borough and previously scheduled for the same time and place.
  - (8) The proposed use or activity is prohibited by or inconsistent with the classifications and uses of any street, park or other public place in the Borough, or part thereof.
  - (9) The use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, or other users of any street, park or other public place in the Borough, of Borough employees or of the public.
    - (10) The applicant has not complied or cannot comply with applicable requirements, ordinances or regulations of the Borough concerning the sale or offering for sale of any goods or services.
  - (11) The use or activity intended by the applicant is prohibited by law, or by this chapter and ordinances of the Borough.
- B. If a permit is denied, then the denial shall clearly explain the reason for the denial and what, if anything, must be done to correct the reason for the denial.
- C. The Chief of Police, or designee, shall have the authority to withdraw permission to conduct the event if he feels that, due to severe adverse weather and/or traffic conditions, the event would be unsafe.
- D. The Borough Manager or Chief of Police, or their designees, may at any time revoke any permit if there shall have been committed any breach of the terms and conditions under which the same was issued or a violation of the terms of this chapter, upon giving notice to the person to whom the permit was issued of such revocation. From the time of such notice of revocation, any act done under color of such permit shall subject the person doing or allowing it to be done to the same penalty as if he or she had done such act without such permit, unless such revocation is disapproved as hereinafter provided. If a permit is revoked, then the revocation shall clearly explain the reason for the revocation and what, if anything, must be done to correct the reason for the revocation.

### **36.2.09. Appeals.**

Any person aggrieved shall have the right to appeal the denial or revocation of a special event permit to the Borough Manager, or designee. The appeal shall be taken by sending a letter to the Borough Manager requesting that the Borough Manager hear an appeal of the decision to deny a special event permit. The letter must be sent by certified mail or hand-delivered to the Borough Office and must be received by the Borough Manager within 10 days from the date on which the applicant received notice of the denial of the application

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for a special event permit. The Borough Manager must render a decision on said appeal, in writing, within 10 days of receipt of the appeal. If the applicant is not satisfied with the Borough Manager's decision, then he or she may appeal to the Court of Common Pleas of Northumberland County within 30 days of the Borough Manager's written decision.

### **36.2.10. Standards for permit issuance.**

The Borough Manager, provided the other requirements of this chapter are met, shall issue a special event permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, it is determined that:

- A. The conduct of the parade or public gathering will not so substantially interrupt the safe and orderly movement of traffic within the Borough on and contiguous to the proposed route, or at the proposed location, so as to create a real and present danger to the health, safety and welfare of the residents of the Borough.
- B. The conduct of the parade or public gathering will not create a real and present danger to the health, safety and welfare of the citizens of the Borough by preventing firefighting equipment, ambulances, rescue vehicles and/or police vehicles from being able to reach any property in the Borough.
- C. The conduct of such parade or public gathering will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the Borough other than that to be occupied by the proposed line of march and areas contiguous thereto.
- D. The conduct of a parade or public gathering shall not require the diversion of so great a number of personnel as to impair normal police services within the Borough.
- E. The concentration of persons, animals and vehicles at assembly points of the parade or public gathering will not unduly interfere with proper fire and police protection or ambulance services to areas contiguous to such assembly areas.
- F. The conduct of such parade or public gathering will not interfere with the movement of emergency services en route to an emergency.
- G. The conduct of the parade or public gathering is not reasonably likely to cause injury to person or property, to provoke disorderly conduct or to create a disturbance. This excludes content of message.
- H. The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route, or the public gathering will not unduly interfere with the movement of the public or emergency services.
- I. The parade or public gathering is not designed to be held primarily for private profit.

## **ARTICLE III – VIOLATIONS AND PENALTIES**

## **Chapter 36 – Reserved**

### **36.3.01. Violations and penalties.**

As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of the borough code are determined by council resolution.

**SECTION II: REPEALER.** All provisions of previous Ordinances of the Borough of Northumberland and the Code of the Borough of Northumberland which are contrary to this Ordinance are expressly repealed.

**SECTION III: SAVINGS CLAUSE.** In all other respects, the Code of the Borough of Northumberland shall remain as previously enacted and ordained.

**SECTION IV: SEVERABILITY.** The provisions of this Ordinance are severable and if any of its sections, clauses, or sentences shall be held illegal, invalid, or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses or sentences.

**SECTION V: EFFECTIVE DATE.** This Ordinance shall take effect immediately.

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## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 37 – NOISE

[HISTORY: Adopted by the Council of the Borough of Northumberland 10-6-81 as Ord. No. 363.  
Amendments noted where applicable.]

General References: Dogs - see Ch. 23A

## ARTICLE I – ESTABLISHMENT

### **37.1.01 Legislative findings and determination; purpose. (37-1)**

- A. The making and creation of loud, unnecessary or unusual noises within the limits of the Borough of Northumberland is a condition which has existed for some time, and the extent and volume of such noises are increasing.
- B. The making, creation or maintenance of loud, unnecessary noises or unusual noises which are prolonged and unnatural in their time, place and use, affect and are a detriment to the health, comfort, convenience, safety and welfare of the residents of the Borough of Northumberland.
- C. It is declared as a matter of legislative determination and public policy that it is necessary in the public interest for the enactment of the provisions and prohibitions hereinafter contained, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the health, comfort, convenience, safety and welfare of the residents of the Borough of Northumberland.

### **37.1.02 Making loud and unreasonable sounds. (37-2)**

It shall be unlawful for any person to make or continue, or to cause to be made or continued, any loud and unreasonable sound of such character, intensity, volume, carrying power or duration as to disturb the comfort, repose, health or safety of any individual unless the sound is made in an activity conducted for a community or public purpose or for the protection or preservation of the health, safety or life of some person.

### **37.1.03 Enumeration of unreasonable noise. (37-3)**

The following acts, among others, are declared to be unreasonable noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive, namely:

- A. Horns, signaling devices, etc.: the creation by means of any horn or signaling device of any unreasonably loud or harsh sound; the sounding of a horn or signaling device for an unnecessary and unreasonable period of time; the sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the borough except as a danger warning.
- B. Radios, phonographs, etc.: the using, operating or permitting to be placed, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound or at any time with louder volume than is necessary for convenient hearing for the person or persons by or for whom such machine or device is operated. The operating of any such set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from said set, instrument, phonograph, machine or device, if not located in a building, structure or vehicle, or fifty (50) feet from the building, structure or vehicle in which it is located, shall be prima facie evidence of a violation of this chapter.  
[Amended 9-4-01 by Ord. No. 2001-10.]

## Chapter 37 – Noise

- C. Yelling, shouting, etc.: yelling, shouting, hooting, whistling or singing outdoors between the hours of 10:00 p.m. and 7:00 a.m. [Amended 9-4-01 by Ord. No. 2001-10.]
- D. Squealing tires: causing the tires of any automobile or other vehicle to make a squealing noise or other harsh or loud sound, except in the event of an emergency.
- E. Exhaust noises: the discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- F. Defect in vehicle or load: the use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such a manner as to create a loud grating, grinding or rattling noise.
- G. Construction or repairing of buildings: the erection (including excavating), demolition, alteration or repair of any building or structure other than between the hours of 7:00 a.m. and 10:00 p.m., except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues. [Amended 9-4-01 by Ord. No. 2001-10]
- H. Schools, courts, churches and hospitals: the creation of any loud noise on any street adjacent to any school, institution of learning, hospital, church or court while the same are in use, which annoys persons therein, provided that conspicuous signs are displayed along such streets indicating that the same is a court, school, church or hospital street.
- I. Pile drivers and hammers: the operation between the hours of 6:00 a.m. and 10:00 p.m. of any pile driver, steam shovel, pneumatic hammer, pneumatic drill, derrick, steam or electric hoist or other similar appliance, the use of which is attended by loud or unusual noise shall be permitted. The operation of any such device at any other time shall not be permitted, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector or the Commissioner of Streets, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues. [Amended 2-18-03 by Ord. No. 2003-1]

### **37.1.04 Violations and penalties. (37-4)**

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of the borough code are determined by council resolution.]



**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 38 – RESERVED**

## **Chapter 38 – Reserved**

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**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 39 – RESERVED**

## **Chapter 39 – Reserved**

**Intentionally blank.**

## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 40 – PEACE AND GOOD ORDER

[HISTORY: Adopted by the Council of the Borough of Northumberland 3-4-69 as Ord. No. 254. Section 40•2 amended upon adoption of Code; see Ch. 1, General Provisions. Other amendments noted where applicable.]

General References: Property maintenance -- see Ch. 42.  
Streets and sidewalks -- see Ch. 50.

## ARTICLE I – ESTABLISHMENT

### **40.1.01 Offenses against public peace. (40-1)**

[Amended 8-2-77 by Ord. No. 337]

It shall be unlawful for any person or persons, organizations or corporations to engage in, commit or be guilty of disorderly conduct, fights, affrays, drunkenness, public indecencies; using loud or profane language; operating motor vehicles or motorcycles without mufflers or with defective mufflers; operating motor vehicles in such a manner as to cause the tires to squeal; breaking bottles on the streets or sidewalks; throwing beer or soft drink bottles or cans on streets and sidewalks; littering street and sidewalk areas with paper; placing or disposing of accumulated garbage, cans or bottles in public trash cans within the limits of the Borough of Northumberland, to the disturbance of the public peace and against the order and welfare of the inhabitants of the Borough of Northumberland.

### **40.1.02 Offenses involving children. (40-2)**

[Added 8-2-77 by Ord. No. 337]

- A. It shall be unlawful for any minor under the age of seventeen (17) years to be in or upon the streets, walkways, roads, alleys, parks or playgrounds, public buildings, vacant lots or other unsupervised places within the Borough of Northumberland between the hours of 11:00 p.m. and 6:00 a.m. of the following day; provided, however, that the provisions of this subsection do not apply to a minor accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or to a minor who is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor.
- B. It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of seventeen (17) years to knowingly permit such minor to be in or upon the public streets, walkways, roads, alleys, parks or playgrounds, public buildings, vacant lots or other unsupervised places within the Borough of Northumberland between 11:00 p.m. and 6:00 a.m. of the following day; provided, however, that the provisions of this subsection do not apply when the parent, guardian or other adult person having the care and custody of the minor is accompanying said minor or when the minor is upon an emergency errand or legitimate business directed by the parent, guardian or other adult person having the care and custody of the minor.

### **40.1.03 Skateboards, Roller Blades, Scooters, Bicycles (40-3).**

[Added 7-15-03 by Ord. 2003-4]

It shall be unlawful for any individual to use a skateboard, roller skates, roller blades, scooters and bicycles on the sidewalks, parking lots or curbs in the King Street Park and downtown business district of the Borough of

## Chapter 40 – Peace and Good Order

Northumberland. The downtown business district shall be defined to include Front Street from King to Duke Street and Queen Street from Water to Second Street.

### **40.1.04 Penalties for offenses against public peace. (40-4)**

[Added 8-2-77 by Ord. No. 337]

[As passed 12/18/2003 as part of Ordinance 2001-13, all penalties for this and subsequent parts of the borough code are determined by council resolution.]

### **40.1.05 Penalties for offenses involving children. (40-5)**

[Added 8-2-77 by Ord. No. 337]

[As passed 12/18/2003 as part of Ordinance 2001-13, all penalties for this and subsequent parts of the borough code are determined by council resolution.]

### **40.1.06 Penalties for offenses with the use of a skateboard, roller skates, roller blades, scooters and bicycles are as follows: (40-6)**

[Added 7-15-03 by Ord. 2003-4]

- A. A first offense shall result in the confiscation of the skateboards, roller skates, roller blades, scooters and bicycles for a period of thirty (30) days.
- B. A second and any subsequent offense shall result in the imposition of fine to be set forth in the Borough Code Section regarding fines and penalties.  
[As passed 12/18/2003 as part of Ordinance 2001-13, all penalties and fines for this and subsequent parts of the borough code are determined by council resolution.]
- C. In the event a minor is involved with any of the offenses enumerated above, the parent(s) or guardian(s) shall be served with written notice of the infraction and person who shall be responsible for the payment of same.
- D. No skateboards, roller skates, roller blades, scooters and bicycles shall be returned to a minor without a parent or guardian present.

## ARTICLE II – PROHIBITION OF THE SALE, POSSESSION, OR DELIVERY OF SYNTHETIC CANNABIS AND OTHER SYNTHETIC DRUGS

[Adopted 5-3-2011 as Ordinance 2011-2]

### **40.2.00 Definitions**

The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

**Synthetic Cannabis** includes the brand names K2 and Spice. It is a herbal and chemical product which mimics the effects of Cannabis including but not limited to synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073, JWH-200, HU-210, CP-47, 497, CP 55 and 212-2.

**Methylenedioxypyrovalerone (MDPV)** is a psychoactive drug with stimulant properties which acts as a norepinephrine-dopamine reuptake inhibitor (NDRI). Reportedly, it has been sold since around 2004 as a

## Chapter 40 – Peace and Good Order

research chemical. It is also known as MDPK, Magic, Super Coke and PV. In 2010 it was reportedly sold as a legal drug alternative and marketed in the United States as "bath salts" (under such names as Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Vanella Sky, Bonzai Grow, Blue Silk, Serenity Now, Lovey Dovey, Euphoria, Aura, Red Dove and White Dove).

**Deliver Or Delivery** Actual, constructive or attempted transfer of possession of synthetic cannabis and synthetic drugs, with or without consideration, whether or not there is an agency relationship.

**Knowledge** Knows, acts knowingly or with knowledge:

- A. The nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that such fact exists.
- B. The results of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
- C. Knowledge may be inferred from the surrounding circumstances.

**Manufacture** The production, preparation, propagation, compounding, conversion or processing of synthetic cannabis or synthetic drugs, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or synthetic drugs or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabis or synthetic drugs as an incident to lawful research, teaching or chemical analysis and not for sale.

**Person** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.

**Possession** Possession may be either actual or constructive.

- A. Actual possession means exercising physical dominion.
- B. Constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis, synthetic drug or drug paraphernalia.

**Produce Or Production** Planting, cultivating, tending or harvesting.

### 40.2.01 Distribute

It is unlawful for any persons or corporation knowing, or under circumstances where one reasonably should know to sell, lend, rent, lease, give, exchange, or otherwise distribute to any persons or corporation any product containing the following chemicals: JWH- 018, JWH-073, JWH-200, CP-47, 497, Cannabicyclohexanol, CP 55, 490, HU-210 or Methylenedioxypyrovalerone and marketed as, Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Red Dove and White Dove, spice, K-2, Blaze and Red X Dawn, but not limited to incense, potpourri, plant fertilizers, insect repellent or bath salts.

### 40.2.02 Display for Sale or Possess with Intent to Distribute

It is unlawful for any person or corporation, knowing, or under any circumstances where one reasonably should know, to display for sale or possess with intent to distribute any product containing the following chemicals: JWH-018, JWH-073, JWH-200, CP-47, 497, Canabicyclohexanol, or Methylenedioxypyrovalerone and marketed as, Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Red Dove and White Dove, spice, K-2, Blaze and Red X Dawn, but not limited to, incense, potpourri, plant fertilizers, insect repellent or bath salts.

## **Chapter 40 – Peace and Good Order**

### **40.2.03 Introduce into the Human Body**

It is unlawful for any person to use, or to possess with intent to use, ingest, inhale, or otherwise introduce into the human body any product containing the following chemicals: JWH-018, JWH-073, JWH-200, CP-47, Cannabicyclohexanol, or Methylenedioxypropyvalerone and marketed as, Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Red Dove and White Dove, spice, K-2, Blaze and Red X Dawn, but not limited to, incense, potpourri, plant fertilizers, insect repellent or bath salts.

### **40.2.04 Penalties**

- A. Violation: No person shall possess any substance containing synthetic cannabis or synthetic drugs.
- B. Penalty: As passed 12/18/2003 as part of Ordinance 2001-13, all penalties for violations of this ordinance are determined by council resolution.
- C. Administrative Fee: In addition, any person who violates any provision of this section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee to the law enforcement agency for testing of the substance(s) collected.
- D. Forfeiture: Any items which may be seized or forfeited pursuant to statutes or guidelines for the Commonwealth of Pennsylvania, may be forfeited in the same manner as described therein for a violation of this section.

### **40.2.05 Severability**

If any provision, paragraph, word, section or article is invalidated by any court or competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

### **40.2.06**

All other Ordinances and parts of other Ordinances inconsistent of conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.



## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 41 – PLUMBING STANDARDS

[HISTORY: Adopted by the Council of the Borough of Northumberland 3-10-77 as Ord. No. 329.  
Amendments noted where applicable.]

## ARTICLE I – ESTABLISHMENT

### **41.1.01 Adoption of standards by reference. (41-1)**

The International Plumbing Code, latest edition, is hereby adopted as the Plumbing Code of the Borough of Northumberland, Pennsylvania, for the control of the installation, repair and alteration of plumbing as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said code, save and except such portions as are hereinafter deleted, modified or amended, are hereby referred to, adopted and made a part hereof, as is fully set out in this chapter. [Amended 4-15-03 by Ord. No. 2003-2.]

### **41.1.02 Plumbing Official. (41-2)**

- A. The administrative authority of this Plumbing Code shall be the Plumbing Official.
- B. It shall be the duty of the Plumbing Official to enforce the provisions of said Plumbing Code and to make the inspections and tests required thereunder.
- C. The Plumbing Official shall, after proper identification, have the right to enter any premises for the purpose of inspecting any plumbing system at such times as may be reasonably necessary to protect the public health.
- D. The Plumbing Official shall be appointed by the Council of the Borough of Northumberland.
- E. The Plumbing Official shall make such rules and regulations in furtherance of the purposes of this Plumbing Code and not inconsistent with the specific provisions thereof as may be deemed necessary to properly protect the water supply system and to carry out the purposes of this Plumbing Code, including rules and regulations for the installation, repair or alteration of air-conditioning systems, water-treatment equipment, and water-operated devices.

### **41.1.03 Amendments, additions and deletions. (41-3)**

The following changes shall be made in the BOCA Basic Plumbing Code, Third Edition, 1975:

- A. Section P-112.1 of said BOCA Code is amended by deleting the word "may" in the first line thereof and substituting therefore the word "shall".
- B. Section P-117.0 is deleted and the following substituted therefore:

Section P-117.0 VIOLATIONS:

P-117.1 General: Written notice of any violation of this code shall be given any violator thereof, and upon his failure to remove the violation within a reasonable time, but not more than seven (7) days, prosecution for violation of this code may be commenced against him.

P-117.2 Penalties:

[As passed 12-18-2001 as part of Ord. No.2001-13, all fees for this and subsequent parts of the borough code are determined by council resolution.]

Each day that a violation continues after the time specified by the Plumbing Official for corrections of said violation in the notice given pursuant to this code shall be deemed a separate offense.

## **Chapter 41 – Plumbing Standards**

### **C. SECTION P-118.0 APPEALS**

P-118.1. General: Any person who is aggrieved with the ruling or decision of the enforcing officer in any matter relative to the interpretation or enforcement of any of the provisions of this code may take an appeal to the Board of Appeals.

P-119.2. Board of Appeals: The Board of Appeals shall consist of at least three (3) members appointed by the Council of the Borough of Northumberland.

P-118.3. Time of appeal: The appeal must be filed in the Borough Office, in writing, within ten (10) days of the date of the rendition of the decision or interpretation of the enforcing officer, except that, where circumstances exist which in the opinion of the enforcing officer are hazardous or dangerous to human life or the public welfare, the enforcing officer may in his notice or order to the violator limit the time for such appeal to a shorter period.

P-118.4. Hearing: The Board of Appeals shall meet upon notice of the Chairman within fifteen (15) days of the filing of an appeal. The meeting shall be public, and the appellant, his representative, the enforcing officer and any other person whose interest may be affected by the matter on appeal shall be given an opportunity to be heard.

The words "one hundred fifty (150)" shall be inserted in the third line of Section P-308.2 of said Code in place of the word [number].

The words "three (3) feet six (6) inches" shall be inserted in the third line of Section P-313.3 of said Code in place of the words "[number] feet [number] inches".

## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 42 – PROPERTY MAINTENANCE

[HISTORY: Adopted by the Council of the Borough of Northumberland: Article I, 9-3-57 as Ord. No. 180; Article II, 5-2-67 as Ord. No. 238; Article III, 10-6-81 as Ord. No. 364. Section 42-3A and 42-5 amended upon adoption of Code; see Ch. 1, General Provisions. Other amendments noted where applicable.]

General References: Peace and good order - see Ch. 90.  
Streets and sidewalks - see Ch. 50.

## ARTICLE I – UNLAWFUL GROWTH OF GRASS AND WEEDS

[Adopted September 3, 1957 as Ord. No. 180; Amended October 29, 1986 as Ord. No. 392; Amended March 3, 2020 by Ord. No. 2020-2; Amended December 2022 by Ord. No. 2022-A]

### **42.1.01 Duty to cut grass and weeds. (42-1)**

[Amended 2022-12- by Ord. No. 2022-A]

It shall be the duty of any person, firm or corporation owning, occupying or leasing any property within Northumberland Borough to ensure that no grass, weeds or vegetation whatsoever, aside from edible plants or those planted for ornamental purposes, grows or remains upon such premises, or upon the grass plot along the street or sidewalk abutting such premises, at a height in excess of six (6) inches, or throws off any unpleasant or noxious odor or conceals any filthy deposit. It shall further be unlawful for any person, firm or corporation to place or cause to be placed grass, weed, brush or other vegetation clippings on the roadway. The owner of any premises, as to vacant premises or premises occupied by the owner, and the occupant of any premises in the case of premises occupied by other than the owner thereof, shall be responsible for the removal, trimming and cutting of all grass, weeds or other vegetation growing or remaining upon such premises in violation of this provision.

### **42.1.02 Nuisance. (42-2)**

The growth of grass or weeds above the height of six inches within the Borough is declared to be a nuisance.

### **42.1.03 Violations and penalties. (42-3)**

Any officer or employee of the Borough designated for the purpose of enforcing this Ordinance ("Enforcement Officer"), is hereby authorized to give notice, by personal service or by mail, to the owner or occupant, as the case may be, of any premises whereon grass, weeds or other vegetation is growing or remaining in violation of the provisions of Section 42.1.01 of the Code of the Borough of Northumberland, directing and requiring such owner or occupant to remove, trim or cut such grass, weeds or vegetation so as to conform to the requirements of this chapter within five (5) days after issuance of such notice. Should any person, firm or corporation neglect, fail or refuse to comply with such notice within the period of time stated therein, the Borough Enforcement Officer shall be empowered to issue a quality of life ticket to said individual assessing a fine of \$25.00 due to be paid to the Borough within ten (10) days. Each day a violation remains unremedied following the expiration of the period of time stated in the notice shall constitute a separate and independent violation for which a quality of life ticket may be issued. Northumberland Borough Council may designate any Enforcement Officer charged with enforcement of this provision by resolution. Should any person, firm or corporation fail to pay any quality of life ticket or appeal said ticket in the manner set forth in Section 42.1.07, upon conviction thereon, shall be sentenced to pay a fine of not less than \$50.00 nor more than \$300.00 for each violation, plus costs of prosecution, with each day's violation constituting a separate offense, and notice to the offender of subsequent violations shall not be necessary in order to constitute an

## Chapter 42 – Property Maintenance

offense. Borough Council may amend the fines and penalties established herein by resolution. [Amended by Ord. No. 2020-2]

### **42.1.04 Borough may cut and bill owner. (42-4)**

Should the owner of real estate within the Borough fail to comply with this Article within five (5) days after being notified to do so, the Borough may cut and mow the grass and weeds and bill the owner for the costs hereof. Such action by the Borough shall not preclude it from pursuing other remedies available to it under the Article or otherwise.

### **42.1.05 Lien. (42-5)**

The Borough's cost of cutting and mowing grass and weeds and the amount of all fines and penalties may be entered by the Borough against the property upon which the grass and weeds were growing in violation of this Article.

### **42.1.06 Proceeding to force compliance. (42-6)**

In addition to any other remedies available to the Borough under this Article or otherwise, the Borough may institute proceedings in the courts to require owners of real estate within the Borough to comply with the provisions of this Article.

### **42.1.07 Appeal from Quality of Life Ticket**

Any person, firm or corporation to which the Borough Enforcement Officer issues a quality of life ticket for violation of this Chapter may appeal the ticket and finding of violation by submitting a written request to appeal to the Borough Manager within ten (10) days of the date of violation ticket, stating their reasons for appeal, and accompanied by the fine amount. The Board of appeals shall meet within fifteen (15) days of the filing of an appeal to consider the merits of the appeal. The meeting shall be public and the appellants, his representatives, the enforcing officer and any other person whose interests may be affected by the matter shall be heard. Within thirty (30) days of the submission of the appeal, Northumberland Borough, through a determination made by the Board of Appeals appointed by Borough Council pursuant to Chapter 30 of the Code of the Borough of Northumberland, may decide to uphold the appeal, deny the appeal, or may modify the violation ticket and/or any associated costs, fines, or penalty amounts as deemed appropriate, and shall issue written notice of its decision along with any refunds applicable. ***Failure to timely appeal the violation ticket will be deemed an admission of liability for the violation and shall render the violation ticket final.*** An appeal from the violation ticket and/or notice of violation issued under this Chapter shall act as an automatic stay of the violation appealed. Any person, firm or corporation aggrieved by the final decision of the Board of Appeals following a timely appeal may obtain judicial review by filing with the Court of Common Pleas of Northumberland County, within 30 days from the date of the Board of Appeal's determination, a petition praying that the decision be set aside in whole or in part. The stay provided in this section shall remain in effect during the pendency of the appeal before the Board of Appeals and during the pendency of any subsequent appeals from the Board of Appeal's decision to the courts of this commonwealth. [Amended by Ord. No. 2020-2]

## ARTICLE II – ABANDONED MATERIALS AND STRUCTURES

## **Chapter 42 – Property Maintenance**

[Adopted 5-2-67 as Ord. No. 238; Amended 9-6-05 by Ord. No. 2005-1]

### **42.2.01 Declaration of nuisance. (42-7)**

[Amended 9-6-05 by Ord. No. 2005-1]

It is declared as a nuisance to accumulate garbage, junk and rubbish and to store abandoned or junked automobiles in the Borough of Northumberland, except on public dumping grounds; and it is directed that all dangerous structures on public or private grounds shall be prohibited in the Borough of Northumberland, Pennsylvania.

All porches, carports, sheds and yards, open and visible to the public eye or adjacent to sidewalks utilized by the public shall remain free of discarded or broken household furnishings, dumpsters, appliances, junk, etc. and similar items, excluding the type designed for use in such structures. Such structures and areas shall be kept in a sanitary and orderly manner, free of litter, rubbish and garbage not stored in approved covered containers as required by law. All such discarded items and their containers shall be removed from such structures or areas within 24 hours.

For purposes of this Section, an abandoned or junked automobile shall be deemed to include any automobile, trailer or other titled vehicle whose state of disrepair is such that it poses a risk of harm to children or other members of the public, or poses a risk of attracting and/or serving as shelter for snakes, vermin, insects or other wild animals.

For purposes of this Article, the term "RUBBISH" shall have the same meaning as that term is defined in Article III, Section 42-11 of this Code, as amended from time to time. [Added 9-5-06 by Ord. No. 2006-8]

### **42.2.02 Notice to remove; penalties. (42-8)**

[Amended 2-6-73 by Ord. No. 273A3]

Upon complaint, the owner or occupier shall first be given a ten-day written notice to remove said garbage, junk, rubbish or abandoned or junked automobiles or to remove any dangerous structure from private or public grounds. Upon his or her conviction before a district Magistrate having jurisdiction of a failure to remove said items from his or her premises, he or she shall be sentenced to pay a fine, together with costs of prosecution, or to imprisonment in the county jail, or both.

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]

### **42.2.03 Removal by the borough; costs. (42-9)**

After written notice has been given to the owners or occupiers of the real estate, requesting the removal of garbage, junk and rubbish or abandoned or junked automobiles, or removal of any dangerous structures, and if, after the expiration of ten (10) day from date of the notice, the notice has not been complied with, the Borough of Northumberland, by its duly elected officers or employees, may cause to be removed said items and shall be entitled to collect the costs of said removal, plus a penalty of ten (10%), from the owners or occupiers of the real estate, in the manner provided by law for the collection of municipal claims or by action of assumpsit.

### **42.2.04 Additional remedy. (42-10)**

The borough may also institute in the Superior Court a proceeding to prohibit any of said nuisances and to cause to be removed said objectionable items from private or public property.

## **ARTICLE III – FIRES AND AIR POLLUTION**

## **Chapter 42 – Property Maintenance**

[Adopted 10-6-81 as Ord. No. 364; Amended 6-7-2011 by Ord. No. 2011-3]

### **42.3.01 Definitions. (42-11)**

As used in this Article, the following terms shall have the meanings indicated:

#### **Furnace**

Any enclosed device specifically designed for the burning of any material for the production of heat.

#### **Garbage**

All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

#### **Incinerator**

Any device specifically designed for the destruction of refuse, sewage, sludge or any other combustible material by burning.

#### **Open Fire**

Any fire in which any material is burned outside a building.

#### **Person**

Any individual, partnership, association, syndicate, company, firm, trust, corporation, department, bureau, agency or other entity recognized by law as the subject of rights and duties.

#### **Refuse**

Garbage, rubbish and trade waste.

#### **Rubbish**

Solids not considered to be highly flammable or explosive, including, but not limited to rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, metal cans or barrels (including, but not limited to, barrels and other receptacles, the primary purpose for which is the open burning of rubbish), glass crockery, masonry and other similar materials. [Amended 9-5-06 by Ord. No. 2006-8]

#### **Salvage Operation**

Any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

#### **Space Heater**

Same as "furnace."

#### **Stove**

Any enclosed device specifically designed for the burning of any material for the production of heat or for cooking purposes, and any outdoor "patio stove" or chimenea designed primarily for the production of heat or for cooking purposes in connection with recreational use. [Amended 9-5-06 by Ord. No. 2006-8]

#### **Trade Waste**

All solid or liquid material or rubbish resulting from construction, building operations or the prosecution of any business, trade or industry, including but not limited to plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials.

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### **42.3.02 Prohibited acts; exceptions. (42-12)**

[Amended 9-5-06 by Ord. 2006-8]

- A. No person shall do any of the following:
1. Ignite or feed an open fire for the destruction of refuse, or in the conduct of a salvage operation in any public or private place in the Borough of Northumberland.
  2. Cause, suffer, allow or permit the maintenance of any open fire for the destruction of refuse or in the conduct of a salvage operation on any property under his control in the Borough of Northumberland.
  3. Attempt to burn, or cause, suffer, allow or permit any attempt to burn or any burning of any refuse with the exception of stove wood, and the minimum amount of dry paper necessary to serve as kindling therefore, in any stove, space heater or furnace.
- B. Exceptions.
1. Open fires may be set in the performance of any official duty of any public officer if the fire is necessary for the prevention of a fire hazard which cannot be abated by other means or the protection of public health.
  2. Open fires may be set with the approval of the authorized enforcement agent of this Article, provided that:
    - a) Rubbish only is burned.
    - b) There is no practical available alternative method for the disposal of the material to be burned.
    - c) No hazardous or other objectionable condition will be created by such burning.

### **42.3.03 Violations and penalties. (42-13)**

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]

## **ARTICLE IV – WOOD-FIRED BOILER**

[Adopted 7-7-2011 as Ord. No. 2011-3]

### **42.4.01 Applicability**

Except as otherwise provided, this ordinance applies to the installation and use of all outdoor wood-fired boilers within the Borough of Northumberland.

- A. This ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- B. This ordinance does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- C. This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

### **42.4.02 Purpose and Scope**

Whereas the Borough Council of the Borough of Northumberland has determined that air pollution from outdoor wood-fired boilers may be detrimental to the health, comfort, living conditions, welfare, and safety of

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the citizens of the Borough of Northumberland it is hereby declared to be the policy of the Borough of Northumberland to safeguard the citizens of the Borough of Northumberland from such air pollution.

### 42.4.03 Definitions

The following words, terms, and phrases, when used in this ordinance, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

**APCA** Air Pollution Control Act

**Clean wood** Natural wood that has no paint, stains, or other types of coatings, and natural wood that has not been treated with, including but not limited to, copper chromium arsenate, creosote, or pentachlorophenol.

**EPA** United States Environmental Protection Agency

**Council** Borough Council of the Borough of Northumberland.

**Borough** Borough of Northumberland.

**Outdoor wood-fired boiler** Also known as outdoor wood-fired furnaces, outdoor wood- burning appliances, or outdoor hydronic heaters, water stoves, etc. A fuel-burning device:

1. Designed to burn clean wood or other approved solid fuels;
2. That the manufacturer specifies for outdoor installation or for installation in structures not normally intended for habitation by humans or domestic animals, including structures such as garages and sheds; and
3. Which heats building space and/or water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

**Phase 2 outdoor wood-fired boiler** an outdoor wood-fired boiler that has been certified or qualified by the EPA as meeting a particulate matter emission limit of 0.32 pounds per million British Thermal Units output and is labeled accordingly. Phase 2 outdoor wood-fired boiler models will be identified with a white hang tag.

**Person** Any individual, public or private corporation for profit or not for profit, association, partnership, firm, trust, estate, department, board, bureau or agency of the Commonwealth or the Federal Government, political subdivision, municipality, district, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

**Responsible official** Person designated by the municipality to be responsible for the administration and enforcement of this ordinance.

**Stack** Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a furnace, especially that part of a structure extending above a roof.

### 42.4.04 Regulations

- A. On or after May 1, 2011, no person shall install an outdoor wood-fired boiler in the Borough;
- B. On or after May 1, 2011, only outdoor wood-fired boiler previously installed may be used or operated in the Borough and must be used and operated in accordance with the following provisions:
  1. Particulate Standard Requirements for New Outdoor Wood-Fired Boilers  
No person shall use or operate an outdoor wood-fired boiler that is not a Phase 2 Outdoor Wood-fired Boiler.
  2. Setback Requirements for New Outdoor Wood-fired Boilers  
No person shall use or operate an outdoor wood-fired boiler unless it is installed at least 150 feet from the nearest property line.



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### **3. Stack Height Requirements for Existing Outdoor Wood-fired boilers**

No person shall use or operate an outdoor wood-fired boiler that was installed before May 1, 2011 unless it has a permanently attached stack with a minimum stack height of 10 feet above the ground that also extends at least two feet above the highest peak of any residence located less than 500 feet from the outdoor wood-fired boiler. However, if the existing outdoor wood-fired boiler is a Phase 2 outdoor wood-fired boiler, it may be located closer than 500 feet, but no less than 150 feet from any residence.

### **4. Reconstruction of Existing Outdoor Wood-fired boilers**

If an outdoor wood-fired boiler that was installed prior to May 1, 2011 becomes more than fifty percent (50%) tore down, physically deteriorated, decayed or inoperable, it shall not be rebuilt or restored and must be disconnected from all structures. If the condition of the outdoor wood-fired boiler violates any other ordinance of the Borough, the Borough may order its removal from the property in accordance with the applicable ordinance.

### **5. Fuel Requirements for Outdoor Wood-fired Boilers**

No person that uses or operates an outdoor wood-fired boiler shall use a fuel other than the following:

- Clean wood
- Wood pellets made from clean wood
- Home heating oil, natural gas, propane or other fuel that complies with all applicable sulfur limits and is used as a starter or supplemental fuel for dual-fired outdoor wood-fired boilers

### **6. Prohibited Fuels for Outdoor Wood-fired Boilers**

No person shall burn any of the following items in an outdoor wood-fired boiler:

- Any material not listed in 42.4.04.B.5
- Treated or painted wood
- Furniture
- Garbage
- Tires
- Lawn clippings or yard waste
- Material containing plastic
- Material containing rubber
- Waste petroleum products
- Paints and paint thinners
- Chemicals
- Any hazardous waste
- Coal
- Glossy colored paper
- Construction and demolition debris
- Plywood
- Particleboard
- Salt-water driftwood
- Manure

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- Animal carcasses
- Asphalt products
- Any material that causes a noxious odor or a condition that creates a nuisance

### 7. Prohibition of Operation for Outdoor Wood-fired Boilers

8. No person shall use or operate an outdoor wood-fired boiler between the dates of May 1 and September 30. VI.8. Regulatory Requirements for Outdoor Wood-fired Boilers. No person shall use or operate an outdoor wood-fired boiler unless it complies with all existing state and local regulations. The following is a list of some, but not all, regulations of this Commonwealth that could apply include:

- 25 Pa. Code Section 121.7 – Prohibition of Air Pollution
- 25 Pa. Code Section 123.1 – Fugitive Emissions
- 25 Pa. Code Section 123.31 – Odor Emissions
- 25 Pa. Code Section 123.41 – Visible Emissions
- Section 8 of the APCA, 35 P.S. Section 4008 – Unlawful Conduct
- Section 13 of the APCA, 35 P.S. Section 4013 – Public Nuisances

### 9. Permits for Outdoor Wood-fired Boilers

No person shall use or operate an outdoor wood-fired boiler unless a permit is obtained from the Responsible Official. Any person who desires to use or operate an outdoor wood-fired boiler must submit an application for a permit to use or operate an outdoor wood-fired boiler with the Responsible Official within ninety (90) days of the enactment of this ordinance. The application shall include the specifications for the wood-fired boiler, a sketch of the proposed location of the wood-fired boiler and the date of installation. The sketch shall accurately depict the distances between the wood-fired boiler and any building and property line. The person desiring a permit to use or operate on outdoor wood-fired boiler must also submit a non-refundable permit application fee to the Responsible Official. The Council may from time to time set or amend, by Resolution, the permit application fee. The Responsible Official, upon receipt of an application for the use and operation of an outdoor wood-fired boiler (including specifications and sketch) and the appropriate permit application fee, shall review the permit to determine if the proposed wood-fired boiler is in compliance with this ordinance. If the application and proposed wood-fired boiler are in compliance with this ordinance, the Responsible Official shall issue the permit for the use and operation of a wood-fired boiler in accordance with the information provided in the application and the provisions of this ordinance. No permit shall be issued for a wood-fired boiler that was not installed on or before June 7, 2011. The Borough reserves the right to temporarily suspend a permit if weather conditions make the operation of the wood-fired boiler dangerous or a nuisance. The failure to obtain a permit or the failure to comply with the conditions of a permit, shall be considered violations of this ordinance. Any violation of the ordinance or permit conditions shall void the permit. Failure to obtain a permit or to comply with the conditions of a permit, shall be subject to the penalties listed in 42.4.05, 42.4.06, 42.4.07, 42.4.08 of this ordinance.

#### 42.4.05 Enforcement Orders

- A. The Borough and the Responsible Official shall have the power and duty to enforce the provisions of this ordinance.
- B. The Borough may issue such orders as are necessary to aid in the enforcement of the provisions of this ordinance. These orders shall include, but shall not be limited to: orders requiring persons to cease

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unlawful use of outdoor wood-fired boilers, which is in violation of any provision of production of information. Such an order may be issued if the Borough finds that any person in violation of any provision of this ordinance.

- C. The Borough may, in its order, require compliance with this ordinance.
- D. An order issued under this section shall take effect upon notice, unless the order specifies otherwise. An appeal to the Council of the Borough's order shall not act as a supersedes, provided, however, that, upon application and for cause shown, the Council may issue such a supersedes under rules established by the Council.
- E. The authority of the Borough to issue an order under this section is in addition to any remedy or penalty that may be imposed pursuant to this ordinance. The failure to comply with any such order is hereby declared to be a public nuisance.

### **42.4.06 Responsibility of Owners and Operators**

- A. Whenever the Responsible Official finds that illegal operation of an outdoor wood- fired boiler is occurring in the Borough, in contravention of the requirements of Section VI above, the Responsible Official may order the owner or operator to take corrective action in a manner satisfactory to the Borough, or the Responsible Official may order the owner or operator to allow access to the land by the Responsible Official or a third party to take such action.
- B. For purposes of collecting or recovering the costs involved in taking corrective action or pursuing a cost recovery action pursuant to an order or recovering the cost of litigation, oversight, monitoring, sampling, testing, and investigation related to a corrective action, the Borough may collect the amount in the same manner as civil penalties are assessed and collected following the process for assessment and collection of a civil penalty contained in 42.4.08 of this ordinance.

### **42.4.07 Criminal Penalties**

Any person who violates any provision of this ordinance or any order of the Borough issued pursuant to this ordinance commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than one hundred dollars (\$100.00) nor more than two thousand five hundred dollars (\$2,500.00) for each separate offense and, in default of the payment of such fine, may be sentenced to imprisonment for ninety (90) days for each separate offense. Employees of the Borough authorized to conduct inspections or investigations are hereby declared to be law enforcement officers authorized to issue or file citations for summary violations under this ordinance, and the code officer and/or solicitor are hereby authorized to prosecute these offenses. For purposes of this section, a summary offense may be prosecuted before any district justice in this Borough. There is no accelerated rehabilitative disposition authorized for a summary offense.

### **42.4.08 Civil Penalties**

- A. In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this ordinance or any order issued pursuant to this ordinance, the Borough may assess a civil penalty for the violation. The penalty may be assessed whether or not the violation was willful. The civil penalty so assessed shall not exceed twenty-five thousand dollars (\$25,000.00) per day for each violation. In determining the amount of the penalty, the Borough shall consider the willfulness of the violation; damage to air, soil, water, or other natural resources of the Borough or their uses; financial benefit to the person in consequence of the violation; deterrence of future violations; cost to the Borough; the size of the source or facility; the compliance history of the source; the severity and duration of the violation; degree of cooperation in resolving the violation; the speed with which compliance is ultimately achieved; whether the violation was voluntarily reported; other factors unique to the owners or operators of the source or facility; and other relevant factors.

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B. When the Borough proposes to assess a civil penalty, it shall inform the person of the proposed amount of the penalty. The person charged with the penalty shall then have thirty (30) days to pay the proposed penalty in full; or if the person wishes to contest the amount of the penalty or the fact of the violation to the extent not already established, the person shall forward the proposed amount of the penalty to the Council within the thirty (30) day period for placement in an escrow account with the State Treasurer or any Commonwealth bank, or post an appeal bond to the Council within thirty (30) days in the amount of the proposed penalty, provided that such bond is executed by a surety licensed to do business in the Commonwealth and is satisfactory to the Borough. If, through administrative or final judicial review of the proposed penalty, it is determined that no violation occurred or that the amount of the penalty shall be reduced, the Council shall, within thirty (30) days, remit the appropriate amount to the person with any interest accumulated by the escrow deposit. Failure to forward the money or the appeal bond at the time of the appeal shall result in a waiver of all legal rights to contest the violation or the amount of the civil penalty unless the appellant alleges financial inability to prepay the penalty or to post the appeal bond. The Council shall conduct a hearing to consider the appellant's alleged inability to pay within thirty (30) days of the date of the appeal. The Council may waive the requirement to prepay the civil penalty or to post an appeal bond if the appellant demonstrates and the Council finds that the appellant is financially unable to pay. The Council shall issue an order within thirty (30) days of the date of the hearing to consider the appellant's alleged inability to pay. The amount assessed after administrative hearing or after waiver of administrative hearing shall be payable to the Borough and shall be collectible in any manner provided by law for the collection of debts, including the collection of interest on the penalty amount computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) from the date of assessment of the penalty. If any person liable to pay any such penalty neglects or refuses to pay the same after demand, the amount, together with interest and any costs that may accrue, shall constitute a debt of such person, as may be appropriate, to the Borough. The debt shall constitute a lien on all property owned by said person when a notice of lien incorporating a description of the property of the person subject to the action is duly filed with the prothonotary of the court of common pleas where the property is located. The prothonotary shall promptly enter upon the civil judgment or order docket, at no cost to the Borough, the name and address of the person, as may be appropriate, and the amount of the lien as set forth in the notice of lien. Upon entry by the prothonotary, the lien shall attach to the revenues and all real and personal property of the person, whether or not the person is solvent. The notice of lien, filed pursuant to this Section, which affects the property of the person shall create a lien with priority over all subsequent claims or liens which are filed against the person, but it shall not affect any valid lien, right, or interest in the property filed in accordance with established procedure prior to the filing of a notice of lien under this section.

### **42.4.09 Unlawful Conduct**

It shall be unlawful to fail to comply with or to cause or assist in the violation of any of the provisions of this ordinance or to fail to comply with any order or other requirement of the Borough; or to cause a public nuisance; or to hinder, obstruct, prevent, or interfere with the Borough or its personnel in their performance of any duty hereunder, including denying the Responsible Official access to the source or facility.

### **42.4.10 Public Nuisances**

A violation of this ordinance or of any order issued by the Borough under this ordinance shall constitute a public nuisance. The Borough shall have the authority to order any person causing a public nuisance to abate the public nuisance. In addition, when abating a public nuisance, the Borough may recover the expenses of abatement following the process for assessment and collection of a civil penalty contained in 42.4.08. Whenever the nuisance is maintained or continued contrary to this ordinance or any order issued pursuant to

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this ordinance, the nuisance may be abatable in the manner provided by this ordinance. Any person who causes the public nuisance shall be liable for the cost of abatement.

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 43 – STORM WATER MANAGEMENT**

[History: Adopted by the Council of the Borough of Northumberland  
on April 16, 2002 as Ordinance Number 2002-5.]

### **ARTICLE I- GENERAL PROVISIONS**

#### **43.1.01 Statement of Findings (43-1)**

The governing body of the Municipality finds that:

- A. Inadequate management of accelerated stormwater runoff resulting from development throughout a watershed increases flood flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of existing streams and storm sewers, greatly increases the cost of public facilities to convey and manage stormwater, undermines floodplain management and flood reduction efforts in upstream and downstream communities, reduces groundwater recharge, and threatens public health and safety.
- B. A comprehensive program of stormwater management, including reasonable regulation of development and activities causing accelerated erosion, is fundamental to the public health, safety, welfare, and the protection of the people of the Municipality and all the people of the Commonwealth, their resources, and the environment.

#### **43.1.02 Purpose (43-2)**

The purpose of this Ordinance is to promote health, safety, and welfare within the Municipality by minimizing the damages described in Section 101.A of this Ordinance through provisions designed to:

- A. Manage accelerated runoff and erosion and sedimentation problems at their source by regulating activities that cause these problems.
- B. Utilize and preserve the existing natural drainage systems.
- C. Encourage recharge of groundwater where appropriate and prevent degradation of groundwater quality.
- D. Maintain existing flows and quality of streams and watercourses in the municipality and the Commonwealth.
- E. Preserve and restore the flood-carrying capacity of streams.
- F. Provide proper maintenance of all permanent stormwater management facilities that are constructed in the Municipality.
- G. Provide performance standards and design criteria for watershed-wide stormwater management and planning.

#### **43.1.03 Statutory Authority (43-3)**

The Municipality is empowered to regulate land use activities that affect runoff by the authority of the Act of July 31, 1968, P.L. 805, No. 247, The Pennsylvania Municipalities Planning Code, as amended by Act 170 of December 21, 1988 and Act 131 of December 14, 1992, [and the applicable Municipal Code].

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### **43.1.04 Applicability (43-4)**

This Ordinance shall apply to those areas of the Municipality that are located within the Municipality.

This Ordinance shall only apply to permanent stormwater management facilities constructed as part of any of the Regulated Activities listed in this Section. Stormwater management and erosion and sedimentation control during construction activities are specifically not regulated by this Ordinance, but shall continue to be regulated under existing laws and ordinances.

Local stormwater management design criteria (e.g. inlet spacing, inlet type, collection system design and details, outlet structure design, etc.) shall continue to be regulated by the applicable Municipal Ordinances or at the municipal engineer's discretion.

The following activities are defined as "Regulated Activities" and shall be regulated by this Ordinance:

- A. Land development.
- B. Subdivision.
- C. Construction of new or additional impervious or semi-pervious surfaces (driveways, parking lots, etc.).
- D. Construction of new buildings or additions to existing buildings.
- E. Diversion or piping of any natural or man-made stream channel.
- F. Installation of stormwater management facilities or appurtenances thereto.

### **43.1.05. Repealer (43-5)**

Any ordinance or ordinance provision of the Municipality inconsistent with any of the provisions of this Ordinance is hereby repealed to the extent of the inconsistency only.

### **43.1.06 Severability (43-6)**

Should any section or provision of this Ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

### **43.1.07 Compatibility with Other Ordinance Requirements (43-7)**

Approvals issued pursuant to this Ordinance do not relieve the Applicant of the responsibility to comply with or to secure required permits or approvals for activities regulated by any other applicable code, rule, statutes, or ordinance.

### **43.1.08 Landowner Responsibility (43-8)**

The granting of an exemption, permit, or approval by the municipality, does not relieve the applicant from assuring that stormwater runoff from the development site will not cause injury to other persons or property.

## **ARTICLE II – DEFINITIONS**

### **43.2.01 Definitions (43-9)**

For the purposes of this chapter, certain terms and words used herein shall be interpreted as follows:

- A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.

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- B. The word "includes" or "including" shall not limit the term to the specific example but is intended to extend its meaning to all other instances of like kind and character.
- C. The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity.
- D. The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.
- E. The words "used or occupied" include the words "intended, designed, maintained, or arranged to be used, occupied or maintained".

**Accelerated Erosion** - The removal of the surface of the land through the combined action of man's activity and the natural processes of a rate greater than would occur because of the natural process alone.

**Agricultural Activities** - The work of producing crops and raising livestock including tillage, plowing, disking, harrowing, pasturing and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

**Alteration** - As applied to land, a change in topography as a result of the moving of soil and rock from one location or position to another; also the changing of surface conditions by causing the surface to be more or less impervious; land disturbance.

**Applicant** - A landowner or developer who has filed an application for approval to engage in any Regulated Activities as defined in Section 104 of this Ordinance.

**BMP (Best Management Practice)** - Stormwater structures, facilities and techniques to maintain or improve the water quality of surface runoff.

**Channel Erosion** - The widening, deepening, and headward cutting of small channels and waterways, due to erosion caused by moderate to large floods.

**Cistern** - An underground reservoir or tank for storing rainwater.

**Conservation District** - The Northumberland County Conservation District.

**Culvert** - A structure with appurtenant works which carries a stream under or through an embankment or fill.

**Dam** - An artificial barrier, together with its appurtenant works, constructed for the purpose of impounding or storing water or another fluid or semifluid, or a refuse bank, fill or structure for highway, railroad or other purposes which does or may impound water or another fluid or semifluid.

**Design Storm** - The magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence (e.g. a 5-year storm) and duration (e.g. 24-hours), used in the design and evaluation of stormwater management systems.

**Designee** - The agent of the Municipality involved with the administration, review or enforcement of any provisions of this ordinance by contract or memorandum of understanding.

**Detention Basin** - An impoundment structure designed to manage stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate.

**Developer** - A person, partnership, association, corporation, or other entity, or any responsible person therein or agent thereof, that undertakes any Regulated Activity of this Ordinance.

**Development Site** - The specific tract of land for which a Regulated Activity is proposed.

**Downslope Property Line** - That portion of the property line of the lot, tract, or parcels of land being developed located such that all overland or pipe flow from the site would be directed towards it.

**Drainage Conveyance Facility** - A Stormwater Management Facility designed to transmit stormwater runoff and shall include streams, channels, swales, pipes, conduits, culverts, storm sewers, etc.



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**Drainage Easement** - A right granted by a landowner to a grantee, allowing the use of private land for stormwater management purposes.

**Drainage Permit** - A permit issued by the municipality after the drainage plan has been approved. Said permit is issued prior to or with the final municipal approval.

**Drainage Plan** - The documentation of the stormwater management system, if any, to be used for a given development site, the contents of which are established in Section 403.

**Earth Disturbance** - Any activity including, but not limited to, construction, mining, timber harvesting and grubbing which alters, disturbs, and exposes the existing land surface.

**Emergency Spillway** - A depression in the embankment of a pond or basin which is used to pass peak discharges greater than the maximum design storm controlled by the Principal Spillway.

**Erosion** - The movement of soil particles by the action of water, wind, ice, or other natural forces.

**Erosion and Sediment Pollution Control Plan** - A plan, which is designed to minimize, accelerated erosion and sedimentation pursuant to 25 Pa. Code, Chapter 102.

**Existing Conditions** - The initial condition of a project site prior to the proposed construction. If the initial condition of the site is undeveloped land, the land use shall be considered as "meadow" unless the natural land cover is proven to generate lower curve numbers or Rational "C" value, such as forested lands. The lower curve number shall then be utilized.

**Flood** - A general but temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers, and other waters of this Commonwealth.

**Floodplain** - Any land area susceptible to inundation by water from any natural source or delineated by applicable Department of Housing and Urban Development, Federal Insurance Administration Flood Hazard Boundary - Mapped as being a special flood hazard area. Also included are areas that comprise Group 13 Soils, as listed in Appendix A of the Pennsylvania Department of Environmental Protection (PADEP) Technical Manual for Sewage Enforcement Officers (as amended or replaced from time to time by PADEP).

**Floodway** - The channel of the watercourse and those portions of the adjoining floodplains that are reasonably required to carry and discharge the 100-year frequency flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year frequency floodway, it is assumed - absent evidence to the contrary - that the floodway extends from the stream to 50 feet from the top of the bank of the stream.

**Forest Management/Timber Operations** - Planning and activities necessary for the management of forest land. These include timber inventory and preparation of forest management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, site preparation and reforestation.

**Freeboard** - A vertical distance between the elevation of the design high water and the top of a dam, levee, tank, basin, or diversion ridge. The space is required as a safety margin in a pond or basin.

**Grade** - A slope, usually of a road, channel or natural ground specified in percent and shown on plans as specified herein. (To) Grade - to finish the surface of a roadbed, top of embankment or bottom of excavation.

**Grassed Waterway** - A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from cropland.

**Groundwater Recharge** - Replenishment of existing natural underground water supplies.

**Impervious Surface** - A surface that prevents the infiltration of water into the ground.

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**Impoundment** - A retention or detention basin designed to retain stormwater runoff and release it at a controlled rate.

**Infiltration Structures** - A structure designed to direct runoff into the ground (e.g. french drains, seepage pits, seepage trench).

**Inlet** - A surface connection to a closed drain. A structure at the diversion end of a conduit. The upstream end of any structure through which water may flow.

**Land Development** - (i) the improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving (a) a group of two or more buildings, or (b) the division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups, or other features; (ii) any subdivision of land; (iii) development in accordance with Section 503(1.1) of the PA Municipalities Planning Code.

**Land/Earth Disturbance** - Any activity involving removing, grading, tilling, digging, or filling of ground or stripping of vegetation or any other activity that causes an alteration to the natural condition of the land.

**Main Stem (Main Channel)** - Any stream segment or other runoff conveyance facility used as a reach in the stream.

**Manning Equation or (Manning formula)** - An empirical formula for calculation of velocity of flow (e.g. feet per second) and flow rate (e.g. cubic feet per second) in open channels based upon channel shape, roughness, depth of flow and slope. "Open channels" may include closed conduits so long as the flow is not under pressure.

**Municipality** - Borough of Northumberland, Northumberland County, Pennsylvania.

**Non-point Source Pollution** - Pollution that enters a water body from diffuse origins in the watershed and does not result from discernible, confined, or discrete conveyances or origin.

**NRCS** - Natural Resource Conservation Service (previously SCS).

**Open Channel** - A drainage element in which stormwater flows with an open surface. Open channels include, but shall not be limited to, natural and man-made drainageways, swales, streams, ditches, canals, and pipes flowing partly full (for computational purposes).

**Outfall** - Point where water flows from a conduit, stream, or drain into a lake, stream or river.

**Outlet** - Points of water disposal from a pipe, swale, stream, river, lake, tidewater or artificial drain.

**Parking Lot Storage** - The use of impervious parking areas for temporary impoundment of stormwater with controlled release rates during rainstorms.

**Peak Discharge** - The maximum rate of stormwater runoff from a specific storm event whether real or synthetic.

**Penn State Runoff Model** - A computer-based hydrologic modeling technique.

**Pipe** - A culvert, closed conduit, or similar structure (including appurtenances) that conveys stormwater.

**Planning Commission** - The planning commission of Northumberland Borough.

**PMF - Probable Maximum Flood** - The flood that may be expected from the most severe combination of critical meteorological and hydrologic conditions that are reasonably possible in any area. The PMF is derived from the probable maximum precipitation (PMP) as determined on the basis of data obtained from the National Oceanographic and Atmospheric Administration (NOAA).

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**Point of Interest (POI)** – A downstream point within a watershed that is used for comparing existing condition versus after development condition discharges. A point of interest may be, but is not limited to, a property line, stormwater conveyance obstruction, drainageway junction, pond, lake, stream or river.

**Principal Spillway** – A pipe, weir or other appurtenant works designed to control the required detention storm.

**Rational Formula** - A rainfall-runoff relation used to estimate peak flow.

**Regulated Activities** - Actions or proposed actions that have an impact on stormwater runoff and that are specified in Section 104 of this Ordinance.

**Retention Basin** - An impoundment in which stormwater is stored and not released during the storm event. Stored water may be released from the basin at some time after the end of the storm.

**Return Period** - The average interval, in years, within which a storm event of a given magnitude can be expected to recur. For example, the 25-year return period rainfall would be expected to recur on the average once every twenty-five (25) years.

**Riser** - A vertical pipe extending from the bottom of a pond that is used to control the discharge rate from the pond for a specified list of one or more design storms.

**Rooftop Detention** - Temporary ponding and gradual release of stormwater falling directly onto flat roof surfaces by incorporating controlled-flow roof drains into building designs.

**Runoff** - Any part of precipitation that flows over the land surface.

**Sediment Basin** - A barrier, dam, retention or detention basin designed to retain rock, sand, gravel, silt, or other material transported by water.

**Sediment Pollution** - The placement, discharge or introduction of sediment into the waters of the Commonwealth.

**Sedimentation** - The process by which mineral or organic matter is accumulated or deposited by the movement of water.

**Seepage Pit/Seepage Trench** - An area of excavated earth filled with loose stone or similar coarse material, into which surface water is directed for infiltration into the ground.

**Sheet Flow** - Runoff that flows over the ground surface as a relatively thin, and even layer of water, that is not concentrated in a rill, gully or channel.

**Soil-Cover Complex Method** - A method of runoff computation developed by the NRCS that is based on relating soil type and land use/cover to a runoff parameter called Curve Number (CN).

**Soil Group, Hydrologic** - A classification of soils by the NRCS, formerly the Soil Conservation Service, into four runoff categories. The groups range from A soils, which are very permeable and produce little runoff, to D soils, which are not very permeable and produce much more runoff.

**Storage Indication Method** - A reservoir routing procedure based on solution of the continuity equation (inflow minus outflow equals the change in storage) with outflow defined as a function of storage volume and depth.

**Storm Frequency** - The number of times that a given storm "event" occurs or is exceeded on the average in a stated period of years. See "Return Period".

**Storm Sewer** - A system of pipes and/or open channels that convey intercepted runoff and stormwater from other sources, but excludes domestic sewage and industrial wastes.

**Stormwater** – Runoff from a land surface that occurs when the rainfall rate exceeds the infiltration rate.

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**Stormwater Management Facility** - Any structure, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff. Typical stormwater management facilities include, but are not limited to, detention and retention basins, open channels, storm sewers, pipes, and infiltration structures.

**Stormwater Management Site Plan** - The plan prepared by the Developer or his representative indicating how stormwater runoff will be managed at the particular site of interest in accordance with this Ordinance.

**Stream Enclosure** - A bridge, culvert or other structure which encloses a regulated water of this Commonwealth and has an upstream to downstream length greater than 100-feet.

**Subdivision** - The division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership, or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwellings, shall be exempt.

**Swale** - A low lying stretch of land which gathers or carries surface water runoff.

**Timber Operations** - See Forest Management.

**Time of Concentration (Tc)** - The time for surface runoff to travel from the hydraulically most distant point of the watershed to a point of interest within the watershed. This time is the combined total of overland flow time and flow time in pipes or channels, if any.

**Watercourse** - A stream of water; river; brook; creek; or a channel or ditch for water, whether natural or manmade.

**Waters of the Commonwealth** - Any and all rivers, streams, creeks, rivulets, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.

**Wetland** - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens, and similar areas.

## ARTICLE III – STORMWATER MANAGEMENT

### 43.3.01 Stormwater Management Exemption Criteria (43-10)

Any Regulated Activity that meets the following exemption criteria is exempt from the provisions of this Ordinance requiring submission of a Stormwater Management Plan for Municipal review. Exemption shall not relieve the applicant from implementing such measures as are necessary to protect health, safety, and property. This exemption shall not relieve the applicant from meeting the requirements for water quality and groundwater recharge special requirements for high quality (HQ) and exceptional value (EV) watersheds, and of Sections 303E, 304 and 305 respectively.

- A. Impervious Area Exemption - Impervious cover shall include, but not be limited to, any roof, parking or driveway areas and any new streets and sidewalks. Any areas designed to initially be gravel or crushed stone shall be assumed to be impervious for the purposes of comparison to the waiver criteria. These criteria shall apply to the total development even if development is to take place in phases. The date of the Municipal Ordinance adoption shall be the starting point from which to consider tracts as "parent tracts" in which future subdivisions and respective impervious area computations shall be cumulatively

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considered. The date of the Municipal Ordinance adoption shall be the starting point from which to consider tracts as "parent tracts" in which future subdivisions and respective impervious area computations shall be cumulatively considered.

Impervious Area Exemption	
Total Parcel size	Exemption (sq. ft.)
<.25 acre	1,000
0.25 - <0.5 acre	2,500
0.5 – 1 acre	5,000
> 1 -2 acres	10,000
> 2 – 5 acres	15,000
> 5 acres	20,000

- B. Use of land for gardening for home consumption.
  - C. Agriculture when operated in accordance with a conservation plan or erosion and sedimentation control plan found adequate by the Conservation District. The agricultural activities such as growing crops, rotating crops, tilling of soil, grazing animals and other such activities are specifically exempt from complying with the requirements of this Ordinance. Installation of new or expansion of existing farmsteads and production areas having impervious surfaces shall be subject to the provisions of this ordinance.
  - D. Forest Management operations which are following the Department of Environmental Protections' management practices contained in its publication "Soil Erosion and Sedimentation Control Guidelines for Forestry" and are operating under an erosion and sedimentation control plan.
- No exemption shall be provided for Regulated Activities as defined in 43.1.4E and 43.1.4F of this Ordinance.

### 43.3.02 General Requirements (43-11)

- A. All regulated activities in the Municipality which do not fall under the exemption criteria shown in Section 301 shall submit a drainage plan consistent with this ordinance to the municipality for review. These criteria shall apply to the total proposed development even if development is to take place in stages. Impervious cover shall include, but not be limited to, any roof, parking or driveway areas and any new streets and sidewalks. Any areas designed to initially be gravel or crushed stone shall be assumed to be impervious for the purposes of comparison to the waiver criteria.
- B. Stormwater drainage systems shall be provided in order to permit unimpeded flow along natural watercourses, except as modified by stormwater management facilities or open channels consistent with this Ordinance.
- C. The existing points of concentrated drainage that discharge onto adjacent property shall not be altered without permission of the adjacent property owner(s) and shall be subject to any applicable discharge criteria specified in this Ordinance.
- D. Areas of existing diffused drainage discharge shall be subject to any applicable discharge criteria in the general direction of existing discharge, whether proposed to be concentrated or maintained as diffused drainage areas, except as otherwise provided by this ordinance. If diffused flow is proposed to be concentrated and discharged onto adjacent property, the Developer must document that adequate

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downstream conveyance facilities exist to safely transport the concentrated discharge, or otherwise prove that no erosion, sedimentation, flooding or other harm will result from the concentrated discharge.

- E. Where a development site is traversed by watercourses, drainage easements shall be provided conforming to the line of such watercourses. The terms of the easement shall prohibit excavation, the placing of fill or structures, and any alterations that may adversely affect the flow of stormwater within any portion of the easement. Also, maintenance, including mowing of vegetation within the easement shall be required, except as approved by the appropriate governing authority.
- F. When it can be shown that, due to topographic conditions, natural drainageways on the site cannot adequately provide for drainage, open channels may be constructed conforming substantially to the line and grade of such natural drainageways. Work within natural drainageways shall be subject to approval by PADEP through the Joint Permit Application process, or, where deemed appropriate by PADEP, through the General Permit process.
- G. Any stormwater management facilities regulated by this Ordinance that would be located in or adjacent to waters of the Commonwealth or wetlands shall be subject to approval by PA DEP through the Joint Permit Application process, or, where deemed appropriate by PA DEP, the General Permit process. When there is a question whether wetlands may be involved, it is the responsibility of the Developer or his agent to show that the land in question cannot be classified as wetlands, otherwise approval to work in the area must be obtained from PA DEP.
- H. Any stormwater management facilities regulated by this Ordinance that would be located on or drain toward State highway rights-of-way are subject to regulation under 67 PA Code §441 and require a Highway Occupancy Permit from Pennsylvania Department of Transportation (PENNDOT).
- I. Roof drains must not be connected to streets, sanitary or storm sewers or roadside ditches. Roof drains shall be discharged to vegetated areas to promote overload flow and infiltration/percolation of stormwater where it is advantageous to do so. When it is more advantageous to connect directly to streets or storm sewers, then it shall be allowed on a case-by-case basis by the municipality.
- J. "Downstream Hydraulic Capacity Analysis" - Any downstream capacity hydraulic analysis conducted in accordance with this Ordinance shall use the following criteria for determining adequacy for accepting increased peak flow rates:
  - 1. Natural stream channels with undeveloped flood plains must be able to convey the increased runoff associated with a 2-year return period event within their lowest natural stream bank at velocities consistent with protection of the channels from erosion. Computations for the channels ability to withstand the erosive forces shall be based upon accepted procedures for determining channel stability equivalent to the U.S.D.A. Natural Resource Conservation Service (formerly the Soil Conservation Service) "Technical Release No. 25, Design of Open Channels" or an appropriate procedure cited in the Federal Interagency document "Stream Corridor Restoration, Principles, Processes, and Practices". The downstream flood depth elevation shall not be increased for the 2, 5, 10, 25, 50 or 100-year frequency storms. Proposed condition discharge flow elevations shall be compared to the existing condition discharge flow elevation using accepted engineering computation procedures.
  - 2. Man-made channels or swales must be able to convey their design storm frequency without an increase in channel bed or bank erosion. As a minimum they shall have capacity for the increased 25-year return period runoff without increasing any hazard to persons or property. Stability and capacity computations for man-made channels or swales shall be from sources equivalent to either those contained in the above paragraph, the DEP "Erosion and Sediment Pollution Control

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Program Manual" or the Federal Highway Administration "Circular No. 15, Design of Stable Channels With Flexible Linings".

3. Culverts, bridges, storm sewers or any other facilities which must pass or convey flows from the tributary area must be designed in accordance with DEP, Chapter 105 regulations (if applicable) and, at a minimum, pass the increased 25-year return period runoff.

### **43.3.03 Stormwater Management Requirements (43-12)**

The following general standards shall be applied to all development within the Borough of Northumberland to control stormwater runoff.

- A. All site development in the municipality that does not meet the exemption criteria shall submit a drainage plan consistent with the provisions of this ordinance to the municipality for review and approval. This requirement shall apply to the total proposed development even if the development is to take place in stages. Impervious cover shall include, but not be limited to, any roof, parking or driveway area and any new street or sidewalk. Any area initially designated to be gravel or crushed stone shall be assumed to be impervious.
- B. To the maximum extent practical, techniques described in Appendix E of this Ordinance for the minimization of generating stormwater runoff, avoiding detrimental effects of stormwater runoff and the protection of environment (Low Impact Development Techniques) should be used.
- C. Runoff from the site shall not be concentrated or increased runoff discharged onto adjacent property without the written consent of the adjacent landowners in the form of a drainage easement.
- D. All developments which create impervious surface or change the existing topography shall provide capacity for and treatment of the "Water Quality Volume" and "Groundwater Recharge Volume", as described under sections 304, 305.
- E. Special requirements for areas falling within defined Exceptional Value and High Quality Sub-watersheds: The temperature and quality of water and streams that have been declared as exceptional value and high quality are to be maintained as defined in Chapter 93, Water Quality Standards, Title 25 of Pennsylvania Department of Environmental Protection Rules and Regulations. Temperature sensitive BMPs and stormwater conveyance systems are to be used and designed with storage pool areas, outflow channels and should be shaded with trees. This will require modification of berms for permanent ponds and the relaxation of restrictions on planting vegetation within the facilities, provided that capacity for volumes and rate control are maintained. At a minimum, the southern half of pond shorelines shall be planted with shade or canopy trees within ten (10) feet of the pond shoreline. In conjunction with this requirement, the maximum slope allowed on the berm area to be planted is 10 to 1. This will lessen the destabilization of berm soils due to root growth. A long-term maintenance schedule and management plan for the thermal control BMPs is to be established and recorded for all development sites in HQ/EV watersheds.

### **43.3.04 Water Quality Requirements (43-13)**

Developed areas will provide adequate storage and treatment facilities necessary to capture and treat stormwater runoff. The Recharge Volume computed under Section 305 may be a component of the Water Quality Volume. If the Recharge Volume is less than the Water Quality Volume, the remaining Water Quality Volume may be captured and treated by methods other than recharge/infiltration BMPs.

The Water Quality Volume (WQv) is the storage capacity needed to treat stormwater runoff produced by "P" inches of rainfall (90% Rule) from the developed areas of the site (For "P" Values, see Appendix D). The following calculation formula is used to determine the storage volume, WQv, in acre-feet of storage:

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$$WQv = [(P)(Rv)(A)]/12$$

WQv = Water Quality Volume

P = Rainfall Amount (90% of events producing this rainfall (Appendix D))

A = Area in acres

Rv =  $0.05 + 0.009(I)$  where "I" is the percent impervious surface ratio (i.e. if a 10-acre site will have 5 acres of impervious surface, then I=50)

WQv shall be designed as part of a stormwater management facility, which incorporates water quality BMPs as a primary benefit of using that facility, in accordance with design specifications contained in "Pennsylvania Handbook of Best Management Practices for Developing Areas". The following factors SHOULD be considered when evaluating the suitability of BMPs used to control water quality at a given development site:

- Peak discharge and required volume control.
- Stream bank erosion
- Efficiency of the BMPs to mitigate water quality problems
- The volume of runoff that will be effectively treated.
- The nature of the pollutant being removed.
- Maintenance requirements.
- Creation/protection of aquatic and wildlife habitat.
- Recreational value.
- Enhancement of aesthetic and property value.

### 43.3.05 Ground Water Recharge Requirements. (43-14)

- A. The ability to retain and maximize the ground water recharge capacity of the area being developed is encouraged. Design of the infiltration/recharge stormwater management facilities shall give consideration to providing ground water recharge to compensate for the reduction in the percolation that occurs when the ground surface is paved and roofed over. These measures are encouraged, particularly in hydrologic soil groups A and B and should be utilized wherever feasible. Soils used for the construction of basins shall have low-erodibility factors ("K" factors).
- B. Infiltration BMPs shall meet the following minimum requirements:
  - 1. Infiltration BMPs intended to receive runoff from developed areas shall be selected based on suitability of soils and site conditions and shall be constructed on soils that have the following characteristics:
    - a) A minimum depth of 48 inches between the bottom of the facility and the seasonal high-water table and/or bedrock (limiting zones)
    - b) An infiltration and/or percolation rate sufficient to accept the additional stormwater load and drain completely as determined by field tests conducted by the Owner's qualified professional, where the professional will be either an Engineer, Geologist, Surveyor, Landscape Architect or Soil Scientist.
    - c) Infiltration BMPs receiving only roof runoff may be placed in soils having a minimum depth of 24 inches between the bottom of the facility and the limiting zone.
    - d) Infiltration BMPs shall be located a minimum of 10 feet away from the foundation wall of any building.
- C. The size of the recharge facility shall be based upon the following equation:
$$Rev = [(S)(Rv)(A)(43,560)]/12$$

Where:

Rev = Recharge Volume (cubic feet)



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S = Soil specific recharge factor (inches)  
Rv = Volumetric runoff coefficient  
A = Site area contributing to the recharge facility (acres)  
 $Rv = 0.05 + 0.009 (I)$

Where:

I = percent impervious area

And:

S shall be obtained based upon hydrologic soil group based upon the table below:

Hydrologic Soil Group	Soil Specific Recharge Factor (S)
-----------------------	-----------------------------------

A	0.38
B	0.25
C	0.13
D	0.06

If more than one hydrologic soil group (HSG) is present at a site, a composite recharge volume shall be computed based upon the proportion of total site area within each HSG.

- D. The recharge volume provided at the site shall be directed to the most permeable HSG available.
- E. The recharge facility shall be capable of completely infiltrating the impounded water within 48 hours.
- F. A detailed soils evaluation of the project site shall be performed to determine the suitability of recharge facilities. The evaluation shall be performed by a qualified professional, and at a minimum, address soil permeability, depth to bedrock, depth to seasonal high-water table, susceptibility to sinkhole formation, and subgrade stability. The general process for designing the infiltration BMP shall be:
  - 1. Analyze hydrologic soil groups as well as natural and man-made features within watershed to determine general areas of suitability for infiltration practices.
  - 2. Provide field test to determine appropriate percolation rate and/or hydraulic Conductivity.
  - 3. Determine seasonal high-water table for infiltration site.
  - 4. Design infiltration structure for required storm volume based on field determined capacity at the level of the proposed infiltration surface.
- G. Extreme caution shall be exercised where infiltration is proposed in geologically susceptible areas such as strip mine or limestone areas. Extreme caution shall also be exercised where salt or chloride would be a pollutant since soils do little to filter this pollutant and it may contaminate the groundwater. It is also extremely important that the design professional evaluate the possibility of groundwater contamination from the proposed infiltration/recharge facility and recommend a hydrogeologic justification study be performed if necessary. Whenever a basin will be located in an area underlain by limestone, a geological evaluation of the proposed location shall be conducted to determine susceptibility to sinkhole formations. The design of all facilities over limestone formations shall include measures to prevent ground water contamination and, where necessary, sinkhole formation. The municipality may require the installation of an impermeable liner in detention basins. A detailed hydrogeologic investigation may be required by the municipality.
- H. The municipality may require the developer to provide safeguards against groundwater contamination for uses, which may cause groundwater contamination, should there be a mishap or spill. It shall be the developer's responsibility to verify if the site is underlain by limestone. The following note shall be

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attached to all drainage plans and signed and sealed by the developer's licensed or certified Engineer/Surveyor/Landscape Architect/Geologist/Soil Scientist:

- I. I, \_\_\_\_\_ certify that the proposed detention basin (circle one) is/is not underlain by limestone.
- J. Where pervious pavement is permitted for parking lots, recreational facilities, non-dedicated streets, or other areas, pavement construction specifications shall be noted on the plan.
- K. Recharge/infiltration facilities may be used in conjunction with other innovative or traditional BMPs, stormwater control facilities, and nonstructural stormwater management alternatives.
- L. In selecting the appropriate BMPs or combinations thereof, the land developer SHALL consider the following:
  - 1. Permeability and infiltration rate of the site soils.
  - 2. Slope and depth to bedrock.
  - 3. Seasonal high-water table.
  - 4. Proximity to building foundations and well heads.
  - 5. Erodibility of soils.
  - 6. Land availability and topography.
  - 7. Stormwater pollutant contamination.

The land developer shall submit original and innovative designs to the Municipal Engineer for review and approval. Such designs may achieve the water quality objectives through a combination of BMP (Best Management Practices).

### **43.3.06 Stormwater Rate and Volume Controls (43-15)**

If it is shown, by applications of water quality and ground water recharge requirements pursuant to sections 304 and, 305, that the post-development hydrographs are equal to the pre-development hydrographs to assure the rate and volume of runoff leaving the site is unchanged for 2-, 5-, 10-, 25-, 50-, and 100-year frequency storms, then the requirements of this section will be considered met. Otherwise, the developer shall control the rate and volume for the balance of uncontrolled runoff subsequent to the credits obtained by satisfying sections 304, 305. If an extended detention or a permanent pool type facility is selected for the treatment of water quality volume, the outlet shall be designed such that the one year 24-hour post-development runoff volume is released over a 24-hour period. This will also help channel protection. The release of water begins at the start of the storm (i.e., the invert of the water quality orifice is at the invert of the facility). The design of the facility shall consider and minimize the chances of clogging and sedimentation potential. Orifices smaller than 3 inches diameter are not recommended. However, if the Design Engineer can provide proof that the smaller orifices are protected from clogging by use of trash racks, etc., smaller orifices may be permitted. The developer may, subject to approval of the municipal engineer, use the stormwater credits, described below, in computing post-development hydrograph:

**Natural Area Conservation** - Conservation of natural areas such as forest, wetlands, or other sensitive areas in a protected easement thereby retaining their pre-development hydrologic and water quality characteristics. Using this credit, a designer may subtract conservation areas from total site area when computing the required water quality volume. Additionally, the post-development curve number (CN) for these areas may be assumed to be forest in good condition.

**Disconnection of Rooftop Runoff** - Credit is given when rooftop runoff is disconnected and then directed over a pervious area where it may either infiltrate into the soil or filter over it. Credit is typically obtained by

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grading the site to promote overland flow or by providing bioretention on single-family residential lots. If a rooftop area is adequately disconnected, the impervious area may be deducted from the total impervious cover. Additionally, the post-development CNs for disconnected rooftop areas may be assumed to be forest in good condition.

**Disconnection of Non-Rooftop Runoff** - Credit is given for practices that disconnect surface impervious cover by directing it to pervious areas where it is either infiltrated or filtered through the soil. As with rooftop runoff, the impervious area may be deducted from the total impervious cover thereby reducing the required water quality volume.

**Stream Buffer Credit** - Credit is given when a stream buffer effectively treats stormwater runoff. Effective treatment constitutes capturing runoff from pervious and impervious areas adjacent to the buffer and treating the runoff through overland flow across a grass or forested area. Areas treated in this manner may contribute to meeting requirements for groundwater recharge.

**Grass Channel (Open Section Roads)** - Credit may be given when open grass channels are used to reduce the volume of runoff and pollutants during smaller storms. Use of grass channels will automatically meet the minimum groundwater recharge requirement. If designed according to appropriate criteria, these channels may meet water quality criteria for certain types of residential development.

**Environmentally Sensitive** - Rural Development Credit is given when a group of environmental site design techniques are applied to low density or rural residential development. This credit eliminates the need for structural practices to treat both the required recharge volume Rev and water quality volume. The designer must still address the channel protection volume, the overbank protection and overbank /extreme flood event requirements for all roadway and connected impervious surfaces.

### 43.3.07 Design Criteria for Stormwater Management Facilities (43-16)

#### A. General Criteria

1. Applicants may select runoff control techniques, or a combination of techniques, which are most suitable to control stormwater runoff from the development site. All controls shall be subject to approval of the municipal engineer. The municipal engineer may request specific information on design and/or operating features of the proposed stormwater controls in order to determine their suitability and adequacy in terms of the standards of this Section.
2. The applicant should consider the effect of the proposed stormwater management techniques on any special soil conditions or geological hazards which may exist on the development site. In the event such conditions are identified on the site, the municipal engineer may require in-depth studies by a licensed Geotechnical Engineer. Not all stormwater control methods may be advisable or allowable at a particular development site.
3. In developing stormwater management plans for a particular site; stormwater controls shall be selected according to the following order of preference:
  - a) Infiltration of runoff on-site
  - b) Flow attenuation by use of open vegetated swales and natural depressions
  - c) Stormwater detention/retention structures
4. Infiltration practices shall be used to the extent practicable to reduce volume increases and promote groundwater recharge. A combination of successive practices may be used to achieve the applicable minimum control requirements. Justification shall be provided by the applicant for rejecting each of the preferred practices based on actual site conditions.

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5. Open detention/retention facilities shall not be permitted within residential areas as part of an in-fill project.
  - a) The applicant may request a waiver from this requirement. All such requests for waiver shall be submitted in writing.
  - b) It shall be the responsibility of the applicant for a waiver of this part to show that the modification will not create a safety risk and that the modification is consistent with the Best Management Practices and current engineering design standards.
- B. Any stormwater management facility (i.e. detention basin) designed to store runoff and requiring a berm or earthen embankment required or regulated by this ordinance shall be designed to provide an emergency spillway to handle flow up to and including the 100-year post-development conditions. The height of embankment must be set as to provide a minimum 1.0 foot of freeboard above the maximum pool elevation computed when the facility functions for the 100-year post-development inflow. Should any stormwater management facility require a dam safety permit under PADEP Chapter 105, the facility shall be designed in accordance with Chapter 105 and meet the regulations of Chapter 105 concerning dam safety which may be required to pass storms larger than 100-year event.
- C. Any facilities that constitute water obstructions (e.g., culverts, bridges, outfalls, or stream enclosures), and any work involving wetlands as directed in PADEP Chapter 105 regulations (as amended or replaced from time to time by PADEP), shall be designed in accordance with Chapter 105 and will require a permit from PADEP. Any other drainage conveyance facility that doesn't fall under Chapter 105 regulations must be able to convey, without damage to the drainage structure or roadway, runoff from the 25-year design storm. Roadway crossings located within designated floodplain areas must be able to convey runoff from a 100-year design storm. Any facility that constitutes a dam as defined in PADEP Chapter 105 regulations may require a permit under dam safety regulations. Any facility located within a PENNDOT right of way must meet PENNDOT minimum design standards and permit submission requirements.
- D. Any drainage conveyance facility and/or channel that doesn't fall under Chapter 105 Regulations, must be able to convey, without damage to the drainage structure or roadway, runoff from the 10-year design storm. Conveyance facilities to or exiting from stormwater management facilities (i.e. detention basins) shall be designed to convey the design flow to or from that structure. Roadway crossings located within designated floodplain areas must be able to convey runoff from a 100-year design storm. Any facility located within a PENNDOT right-of-way must meet the requirements of 67 PA Code § 441.
- E. Storm sewers must be able to convey post-development runoff from a 10-year design storm without surcharging inlets, where appropriate higher frequency design storms may be required.
- F. Adequate erosion protection shall be provided along all open channels, and at all points of discharge.
- G. The design of all stormwater management facilities shall incorporate sound engineering principles and practices. The Municipality shall reserve the right to disapprove any design that would result in the occurrence or continuation of an adverse hydrologic or hydraulic condition within the watershed.
- H. "No Harm" Option - For any proposed development site the developer has the option of using a less restrictive runoff control (including no detention) if the developer can prove that "no harm" would be caused by discharging at a higher runoff rate than that specified by the Plan. The "no harm" Option is used when a developer can prove that the post-development hydrographs can match pre-development hydrographs, or if it can be proved that the post-development conditions will not cause increases in peaks at all downstream points of interest.
- I. Downstream. Proof of "no harm" would have to be shown based upon the following "Downstream Impact Evaluation" which shall include a "downstream hydraulic capacity analysis" consistent with

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Section 307.H to determine if adequate hydraulic capacity exists. The land developer shall submit to the municipality this evaluation of the impacts due to increased downstream stormwater flows in the watershed.

1. The "Downstream Impact Evaluation" shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications due to the proposed development upon a dam, highway, structure, natural point of restricted stream flow or any stream channel section, established with the concurrence of the municipality.
2. The evaluation shall continue downstream until the increase in flow diminishes due to additional flow from tributaries and/or stream attenuation.
3. Developer-proposed runoff controls which would generate increased peak flow rates at storm drainage problem areas would, by definition, be precluded from successful attempts to prove "no-harm", except in conjunction with proposed capacity improvements for the problem areas consistent with Section 307.H.
4. A financial distress shall not constitute grounds for granting a no-harm exemption.
5. Downstream capacity improvements may be proposed, as necessary to implement the "no harm" option. Proposed downstream improvements by the Developer would have to be approved by the Municipality and be concurred on by the property owner where improvements would occur.
6. Any "no harm" justifications shall be submitted by the developer as part of the Drainage Plan submission per Article IV.

### **43.3.08 Calculation Methodology (43-17)**

- A. Stormwater runoff from all development sites shall be calculated using either the rational method or a soil-cover-complex methodology.
- B. Any stormwater runoff calculations involving stormwater detention or retention shall use generally accepted calculation technique that is based on the NRCS soil cover complex method. Table VIII-1 summarizes acceptable computation methods. It is assumed that all methods will be selected by the design professional based on the individual limitations and suitability of each method for a particular site.
- C. The Municipal Engineer may approve the use of the Rational Method to estimate peak discharges where detention or retention is not required, from drainage areas that contain less than 200 acres.
- D. All calculations consistent with this Ordinance using the soil cover complex method shall use the appropriate design rainfall depths for the various return period storms presented in Table A-1 in Appendix A of this Ordinance. The duration of rainfall shall be 24 hours. The NRCS Type II 'S' curve shown in Figure A-1, Appendix A of this Ordinance shall be used for the rainfall distribution.
- E. For the purposes of predevelopment flow rate determination, undeveloped land shall be considered as "meadow" good condition, unless the natural ground cover generates a lower curve number or Rational 'C' value (i.e. forest).
- F. All calculations using the Rational Method shall use rainfall intensities consistent with appropriate times of concentration for overland flow and return periods from the Design Storm Curves from PA Department of Transportation Design Rainfall Curves (1986) (Appendix A, Figure A-2). Times of concentration for overland flow shall be calculated using the methodology presented in Chapter 3 of Urban Hydrology for Small Watersheds, NRCS, TR-55 (as amended or replaced from time to time by NRCS). Times of concentration for channel and pipe flow shall be computed using Manning's equation. For undeveloped existing condition watershed analysis, the time of concentration may be computed using the NRCS Lag procedure.

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- G. Runoff Curve Numbers (CN) for both existing and proposed conditions to be used in the soil cover complex method shall be obtained from Table A-2 in Appendix A of this Ordinance.
- H. Runoff coefficient (c) for both existing and proposed conditions for use in the Rational Method shall be obtained from Table A-3 in Appendix A of this Ordinance.
- I. Where uniform flow is anticipated, the Manning equation shall be used for hydraulic computations, and to determine the capacity of open channels, pipes, and storm sewers. Values for Manning's roughness coefficient (n) shall be consistent with Table A-4 in Appendix A of the Ordinance.
- J. Outlet structures for stormwater management facilities shall be designed to meet the performance standards of this Ordinance using any generally accepted hydraulic analysis technique or method.
- K. The design of any stormwater detention facilities intended to meet the performance standards of this Ordinance shall be verified by routing the design storm hydrograph through these facilities using the Storage-Indication Method. For drainage areas greater than 20 acres in size, the design storm hydrograph shall be computed using a calculation method that produces a full hydrograph. The Municipality may approve the use of any generally accepted full hydrograph approximation technique, which shall use a total runoff volume that is consistent with the volume from a method that produces a full hydrograph.
- L. The Municipality has the authority to require that computed existing runoff rates be reconciled with field observations and conditions. If the designer can substantiate through actual physical calibration that more appropriate runoff and time-of-concentration values should be utilized at a particular site, then appropriate variations may be made upon review and recommendations of the Municipal Engineer. Calibration shall require detailed gauge and rainfall data for the particular site in question.

TABLE VIII-1 ACCEPTABLE COMPUTATION METHODOLOGIES FOR STORMWATER MANAGEMENT PLANS		
METHOD	METHOD DEVELOPED BY	APPLICABILITY
TR-20 or commercial package based on TR-20	USDA – NRCS	When use of full model is desirable or necessary
Tr-55 OR Commercial	USDA – NRCS	Applicable for plans within models limitations
HEC - 1	U.S. Army Corps of Engineers	When full model is desirable or necessary
PSRM	Penn State University	When full model is desirable or necessary
VT/PSUHM	Virginia Tech	When full model is desirable or necessary
Rational Method or commercial package based on Rational Method	Emil Kuiching (1889)	For sites less than 200 acres
Other Methods	Various	As approved by the Municipal Engineer

### 43.3.09 Erosion and Sedimentation Requirements (43-18)

- A. Whenever the vegetation and topography are to be disturbed, such activity must be in conformance with Chapter 102, Title 25, Rules and Regulations, Part I, Commonwealth of Pennsylvania, Department of Environmental Protection, Subpart C, protection of Natural Resources, Article II, Water Resources,

## **Chapter 43 – Storm Water Management**

Chapter 102, "Erosion Control," and in accordance with the Northumberland County Conservation District and the standards and specifications of the appropriate municipal government.

- B. Additional erosion and sedimentation control design standards and criteria that must be or are recommended to be applied where infiltration BMPs are proposed and include the following:
1. Areas proposed for infiltration BMPs shall be protected from sedimentation and compaction during the construction phase, so as to maintain their maximum infiltration capacity.
  2. Infiltration BMPs shall not be constructed nor receive runoff until the entire contributory drainage area to the infiltration BMP has received final stabilization.

## **ARTICLE IV-DRAINAGE PLAN REQUIREMENTS**

### **43.4.01 General Requirements (43-19)**

For any of the activities regulated by this Ordinance, the final approval of subdivision and/or land development plans, the issuance of any building or occupancy permit, or the commencement of any land disturbance activity may not proceed until the Property Owner or Developer or his/her agent has received written approval of a Drainage Plan from the Municipality.

The Property Owner is encouraged to schedule and conduct a pre-application meeting with the Codes Enforcement Officer and/or Municipal Engineer.

The following items shall be included in the Drainage Plan:

- A. General
1. General description of project.
  2. General description of permanent stormwater management techniques, including construction specifications for the materials to be used for stormwater management facilities.
  3. Complete hydrologic, hydraulic, and structural computations for all stormwater management facilities.
- B. Plan Drawing(s) of the project area shall be submitted on sheets consistent with the Borough of Northumberland Land Development Ordinance and shall be prepared in a form that meets the requirements for recording the offices of the Recorder of Deeds of Northumberland County. The contents of the map(s) shall include, but not be limited to:
1. The location of the project relative to highways, municipalities or other identifiable landmarks.
  2. Existing contours at intervals adequate to define the site topography and drainage pattern but not less than two feet. In areas of steep slopes (greater than 15 percent), five-foot contour intervals may be used.
  3. Existing streams, lakes, ponds, or other bodies of water within the project area.
  4. Other physical features including flood hazard boundaries, sinkholes, streams, existing drainage courses, areas of natural vegetation to be preserved, and the total extent of the upstream area draining through the site.
  5. The locations of all existing and proposed utilities, sanitary sewers, and water lines within the site and within 50 feet of the site's property lines.
  6. An overlay showing soil names and boundaries.
  7. Proposed changes to the land surface and vegetative cover, including the type and amount of impervious area that would be added.

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8. Proposed structures, roads, paved areas, and buildings.
9. Final contours at intervals adequate to define the site grading but not less than two feet. In areas of steep slopes (greater than 15 percent), five-foot contour intervals may be used.
10. The name of the development, the name and address of the owner of the property, and the name of the individual or firm preparing the plan.
11. The date of submission.
12. A graphic and written scale of one (1) inch equals no more than fifty (50) feet; for tracts of twenty (20) acres or more, the scale shall be one (1) inch equals no more than one hundred (100) feet.
13. A North arrow.
14. The total tract boundary and size with distances marked to the nearest foot and bearings to the nearest degree.
15. Existing and proposed land use(s).
16. A key map showing all existing man-made features beyond the property boundary that would be affected by the project.
17. Horizontal and vertical profiles of all open channels, including hydraulic capacity.
18. Typical cross-sections for existing and proposed channels for each channel reach.
19. Overland drainage paths for time of concentration and travel time computations.
20. A fifteen-foot wide access easement around all stormwater management facilities that would provide ingress to and egress from a public right-of-way.
21. A note on the plan indicating the location and responsibility for maintenance of stormwater management facilities that would be located off-site. All off-site facilities shall meet the performance standards and design criteria specified in this Ordinance.
22. A construction detail of any improvements made to sinkholes and the location of all notes to be posted, as specified in this Ordinance.
23. A statement, signed by the landowner, acknowledging the stormwater management system to be a permanent fixture that can be altered or removed only after approval of a revised plan by the municipality.
24. The following signature block for the developer's Professional Engineer or Professional Land Surveyor:

I, \_\_\_\_\_, on this date \_\_\_\_\_, hereby certify that the Stormwater Management Plan meets all design standards and criteria of the Northumberland Borough Stormwater Management Ordinance."
25. The location of all erosion and sedimentation control facilities.

### C. Supplemental Information

1. A written description of the following information shall be submitted.
  - a) The overall stormwater management concept for the project.
  - b) Stormwater runoff computations as specified in this Ordinance.
  - c) Stormwater management techniques to be applied both during and after development.
  - d) Expected project time schedule.
  - e) Hydrologic and Hydraulic summary that compares "pre" and "post" development.



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2. A soil erosion and sedimentation control plan, where applicable, including all reviews and approvals, as required by PADEP.
3. A geologic assessment of the effects of runoff on sinkholes as specified in this Ordinance.
4. The effect of the project (in terms of runoff volumes and peak flows) on adjacent properties and on any existing municipal stormwater collection system that may receive runoff from the project site.
5. A Highway Occupancy Permit from the PENNDOT District Office when utilization of a PENNDOT storm drainage system is proposed.

### **D. Stormwater Management Facilities**

1. All stormwater management facilities must be located on a plan and described in detail.
2. When groundwater recharge methods such as seepage pits, beds or trenches are used, the locations of existing and proposed septic tank infiltration areas and wells must be shown.
3. All calculations, assumptions, and criteria used in the design of the stormwater management facilities must be shown within 200-feet of the infiltration system.

#### **43.4.02 Drainage Plan Contents (43-20)**

The Drainage Plan shall consist of all applicable calculations, maps, and plans. A note on the maps shall refer to the associated computations and erosion and sedimentation control plan by title and date. The cover sheet of the computations and erosion and sedimentation control plan shall refer to the associated maps by title and date. All Drainage Plan materials shall be submitted to the municipality in a format that is clear, concise, legible, neat, and well organized; otherwise, the Drainage Plan shall be disapproved and returned to the Applicant.

#### **43.4.03 Plan Submission (43-21)**

For all activities regulated by this Ordinance, the steps below shall be followed for submission. For any activities that require a PADEP Joint Permit Application and regulated under Chapter 105 (Dam Safety and Waterway Management) or Chapter 106 (Floodplain Management) of PADEP's Rules and Regulations, require a PENNDOT Highway Occupancy Permit, or require any other permit under applicable state or federal regulations, the permit(s) shall be part of the plan.

- A. The Drainage Plan shall be submitted by the Developer as part of the Preliminary Plan submission for the Regulated Activity.
- B. Four (4) copies of the Drainage Plan shall be submitted.
- C. Distribution of the Drainage Plan will be as follows:
  1. Two (2) copies to the Municipality accompanied by the requisite Municipal Review Fee, as specified in this Ordinance. [As passed 12/18/2001 as part of Ordinance 2001-13, all fees for this and subsequent parts of the Borough Code are determined by council resolution.]
  2. One (1) copy to the Municipal Engineer.
  3. One (1) copy to the County Planning Commission/Department.

#### **43.4.04 Drainage Plan Review (43-22)**

- A. The Municipal Engineer shall review the Drainage Plan for consistency with this Ordinance. The Municipality shall require receipt of a complete plan, as specified in this Ordinance.

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- B. The Municipal Engineer shall review the Drainage Plan for any submission or land development against the municipal subdivision and land development ordinance provisions not superseded by this Ordinance.
- C. For activities regulated by this Ordinance, the Municipal Engineer shall notify the Municipality in writing, within 30 calendar days, whether the Drainage Plan is consistent with this Ordinance. Should the Drainage Plan be determined to be consistent with this Ordinance, the Municipal Engineer will forward an approval letter to the Developer with a copy to the Municipal Secretary.
- D. Should the Drainage Plan be determined to be inconsistent with this Ordinance, the Municipal Engineer will forward a disapproval letter to the Developer with a copy to the Municipal Secretary citing the reason(s) for the disapproval. Any disapproved Drainage Plans may be revised by the Developer and resubmitted consistent with this Ordinance.
- E. For Regulated Activities specified in Sections 104.A through 104.D of this Ordinance, the Municipal Engineer shall notify the Municipal Building Permit Officer in writing, within a time frame consistent with the Municipal Building Code and/or Municipal Subdivision Ordinance, whether the Drainage Plan is consistent with this Ordinance and forward a copy of the approval/disapproval letter to the Developer. Any disapproved drainage plan may be revised by the Developer and resubmitted consistent with this Ordinance.
- F. For Regulated Activities requiring a PADEP Joint Permit Application, the Municipal Engineer shall notify PADEP whether the Drainage Plan is consistent with this Ordinance and forward a copy of the review letter to the Municipality and the Developer. PADEP may consider the Municipal Engineer's review comments in determining whether to issue a permit.
- G. The Municipality shall not approve any subdivision or land development for Regulated Activities specified in Sections 104.A and 104.B of this Ordinance if the Drainage Plan has been found to be inconsistent with this Ordinance, as determined by the Municipal Engineer. All required permits from PADEP must be obtained prior to approval.
- H. The Municipal Building Permit Office shall not issue a building permit for any Regulated Activity specified in Section 104 of this Ordinance if the Drainage Plan has been found to be inconsistent with this Ordinance, as determined by the Municipal Engineer, or without considering the comments of the Municipal Engineer. All required permits from PADEP must be obtained prior to issuance of a building permit.
- I. The Developer shall be responsible for completing an "As-Built Survey" of all stormwater management facilities included in the approved Drainage Plan. The As-Built Survey and an explanation of any discrepancies with the design plans shall be submitted to the Municipal Engineer for final approval. In no case shall the Municipality approve the As-Built Survey until the Municipality receives a copy of an approved Highway Occupancy Permit from the PENNDOT District Office, and any applicable permits from PADEP.
- J. The Municipality's approval of a Drainage Plan shall be valid for a period not to exceed 5 years. This 5-year time period shall commence on the date that the Municipality signs the approved Drainage Plan. If stormwater management facilities included in the approved Drainage plan have not been constructed, or if an As-Built Survey of these facilities has not been approved within this 5-year time period, then the Municipality may consider the Drainage plan disapproved and may revoke any and all permits. Drainage Plans that are considered disapproved by the Municipality shall be resubmitted in accordance with Section 407 of this Ordinance.

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### **43.4.05 Modification of Plans (43-23)**

A modification to a submitted Drainage Plan for a development site that involves a change in stormwater management facilities or techniques, or that involves the relocation or re-design of stormwater management facilities, or that is necessary because soil or other conditions are not as stated on the Drainage Plan as determined by the Municipal Engineer, shall require a resubmission of the modified Drainage Plan consistent with Section 404 of this Ordinance and be subject to review as specified in Section 405 of this Ordinance.

A modification to an already approved or disapproved Drainage Plan shall be submitted to the Municipality, accompanied by the applicable review fee, as indicated in the Borough's Current Schedule of Fees Resolution. A modification to a Drainage Plan for which the Municipality has not taken a formal action shall also be submitted to the Municipality, accompanied by the applicable Municipality Review Fee, as indicated in the Borough's Current Schedule of Fees Resolution.

### **43.4.06 Resubmission of Disapproved Drainage Plans (43-24)**

A disapproved Drainage Plan may be resubmitted, with the revisions addressing the Municipal Engineer's concerns documented in writing, to the Municipal Engineer in accordance with Section 404 of this Ordinance and be subject to review as specified in Section 405 of this Ordinance. The applicable Municipality Review Fee, as indicated in the Borough's Current Schedule of Fees Resolution, must accompany a resubmission of a disapproved Drainage Plan.

## **ARTICLE V – INSPECTIONS**

### **43.5.01 Schedule of Inspections (43-25)**

- A. The Municipal Engineer or the municipal assignee shall inspect all critical phases of the installation of the permanent stormwater management facilities. The critical phases for inspection shall be determined by the reviewing engineer at the time the stormwater plan is reviewed. They shall be listed in the Municipal Engineer's approval letter.
- B. During any stage of the work, if the Municipal Engineer determines that the permanent stormwater management facilities are not being installed in accordance with this Ordinance, the Municipality shall suspend or revoke, at the Engineer's direction, any existing permits until a revised Drainage Plan is submitted and approved, as specified in this Ordinance.

## **ARTICLE VI-FEES AND EXPENSES**

### **43.6.01 General (43-26)**

The fees required by this Ordinance are shown in the Borough's Current Schedule of Fees Resolution. The Municipal Review fee shall be established by the Municipality to defray review costs incurred by the Municipality and the Municipal Engineer. The Applicant shall pay all fees.

### **43.6.02 Municipality Drainage Plan Review Fee (43-27)**

The Municipality shall establish a Review Fee Schedule by resolution of the municipal governing body based on the Municipality's costs for reviewing Drainage Plans. The Municipality shall periodically update the Review Fee Schedule to ensure that review costs are adequately reimbursed.

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### **43.6.03 Expenses Covered by Fees (43-28)**

The fees required by this Ordinance shall, at a minimum, cover:

- A. Administrative/clerical Costs.
- B. The review of the Drainage Plan by the Municipality and the Municipal Engineer. This includes all subsequent reviews required until the plan is conformance.
- C. The site inspections including, but not limited to, pre-construction meetings, inspections during construction of stormwater facilities and appurtenances, and final inspection upon completion of the stormwater facilities and drainage improvements.
- D. Any additional work required to enforce any permit provisions regulated by this Ordinance, correct violations, and assure proper completion of stipulated remedial actions.

## **ARTICLE VII-MAINTENANCE RESPONSIBILITIES**

### **43.7.01 Performance Guarantee (43-29)**

The applicant shall provide a financial guarantee to the Municipality for the timely installation and proper construction of all stormwater management controls as required by this Ordinance equal to the full construction cost of the required controls.

### **43.7.02 Maintenance Responsibilities (43-30)**

- A. The Drainage Plan for the development site shall contain an operation and maintenance plan prepared by the developer and approved by the municipal engineer. The operation and maintenance plan shall outline required routine maintenance actions and schedules necessary to ensure proper operation of the facility(ies).
- B. The Drainage Plan for the development site shall establish responsibilities for the continuing operating and maintenance of all proposed stormwater control facilities, consistent with the following principals:
  - 1. If a development consists of structures or lots which are to be separately owned and in which streets, sewers and other public improvements are to be dedicated to the municipality, stormwater control facilities may also be dedicated to and maintained by the municipality. The acceptance of maintenance responsibility for stormwater ponds infiltration areas and water quality BMPs will be at the discretion of the Borough officials.
  - 2. If a development site is to be maintained in a single ownership or if sewers and other public improvements are to be privately owned and maintained, then the ownership and maintenance of stormwater control facilities shall be the responsibility of the owner or private management entity.
- C. The governing body, upon recommendation of the municipal engineer, shall make the final determination on the continuing maintenance responsibilities prior to final approval of the Drainage Plan. The governing body reserves the right to accept or reject the ownership and operating responsibility for any or all of the stormwater management controls.

### **43.7.03 Maintenance Agreement for Privately Owned Stormwater Facilities (43-31)**

- A. Prior to final approval of the site's stormwater management plan, the property owner shall sign and record a maintenance agreement covering all stormwater control facilities that are to be privately owned. Said agreement, designated as Appendix C, is attached and made part hereto.

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- B. Other items may be included in the agreement where determined necessary to guarantee the satisfactory maintenance of all facilities. The maintenance agreement shall be subject to the review and approval of the municipal solicitor and governing body.

### **43.7.04 Municipal Stormwater Maintenance Fund (43-32)**

- A. If stormwater facilities are accepted by the municipality for dedication, persons installing stormwater storage facilities shall be required to pay a specified amount to the Municipal Stormwater Maintenance Fund to help defray costs of periodic inspections and maintenance expenses. The amount of the deposit shall be determined as follows:
  - 1. If the storage facility is to be owned and maintained by the municipality, the deposit shall cover the estimated costs for maintenance and inspections for ten (10) years. The municipal engineer, using independent engineering judgment, will establish the estimated costs utilizing information submitted by the applicant.
  - 2. The amount of the deposit to the fund shall be converted to present worth of the annual series values. The municipal engineer shall determine the present worth equivalents, which shall be subject to the approval of the municipal governing body.
- B. If a storage facility is proposed that also serves as a recreation facility (e.g. ballfield, lake, etc.), the municipality may reduce or waive the amount of the maintenance fund deposit based upon the value of the land for public recreation purpose. This decision shall be made by the municipality after consultation with the Municipal Engineer and other appropriate municipal staff.
- C. If at some future time a storage facility (whether publicly or privately owned) is eliminated due to the installation of storm sewers or other storage facility, the unused portion of the maintenance fund deposit will be applied to the cost of abandoning the facility and connecting to the storm sewer system or other facility. Any amount of the deposit remaining after the costs of abandonment are paid will be returned to the depositor.

### **43.7.05 Post-Construction Maintenance Inspections (43-33)**

- A. Basins should be inspected by the land owner/developer or responsible entity (including the municipal engineer for dedicated facilities) on the following basis:
  - 1. Annually for the first 5 years.
  - 2. Once every 3 years thereafter,
  - 3. During or immediately after the cessation of a 2.9-inches per 24-hour or greater storm event.
- B. The entity conducting the inspection should be required to submit a written report to the municipality regarding the condition of the facility and recommending necessary repairs, if needed.

## **ARTICLE VIII – ENFORCEMENT AND PENALTIES**

### **43.8.01 Right-of-Entry (43-34)**

Upon presentation of proper credentials, duly authorized representatives of the municipality may enter at reasonable times upon any property within the municipality to inspect the condition of the stormwater structures and facilities in regard to any aspect regulated by this Ordinance.

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### **43.8.02 Notification (43-35)**

In the event that a person fails to comply with the requirements of this Ordinance, or fails to conform to the requirements of any permit issued hereunder, the municipality shall provide written notification of the violation. Such notification shall set forth the nature of the violation(s) and establish a time limit for correction of these violation(s). Failure to comply within the time specified shall subject such person to the penalty provision of this Ordinance. All such penalties shall be deemed cumulative and shall not prevent the municipality from pursuing any and all other remedies. It shall be the responsibility of the owner of the real property on which any Regulated Activity is proposed to occur, is occurring, or has occurred, to comply with the terms and conditions of this Ordinance.

### **43.8.03 Enforcement (43-36)**

The municipal governing body is hereby authorized and directed to enforce all of the provisions of this ordinance. All inspections regarding compliance with the drainage plan shall be the responsibility of the municipal engineer or other qualified persons designated by the municipality.

- A. A set of design plans approved by the municipality shall be on file at the site throughout the duration of the construction activity. Periodic inspections may be made by the municipality or designee during construction.
- B. Adherence to Approved Plan  
It shall be unlawful for any person, firm or corporation to undertake any regulated activity under Section 104 on any property except as provided for in the approved drainage plan and pursuant to the requirements of this ordinance. It shall be unlawful to alter or remove any control structure required by the drainage plan pursuant to this ordinance or to allow the property to remain in a condition, which does not conform to the approved drainage plan.
- C. At the completion of the project, and as a prerequisite for the release of the performance guarantee, the owner or his representatives shall:
  - 1. Provide a certification of completion from an engineer or other person qualified by law verifying that all permanent facilities have been constructed according to the plans and specifications and approved revisions thereto.
  - 2. Provide a set of as built drawings.
- D. After receipt of the certification by the municipality, a final inspection shall be conducted by the governing body or its designee to certify compliance with this ordinance.
- E. Prior to revocation or suspension of a permit, the governing body will schedule a hearing to discuss the non-compliance if there is no immediate danger to life, public health or property.
- F. Suspension and revocation of Permits
  - 1. Any permit issued under this ordinance may be suspended or revoked by the governing body for:
    - a) Non-compliance with or failure to implement any provision of the permit.
    - b) A violation of any provision of this ordinance or any other applicable law, ordinance, rule or regulation relating to the project.
    - c) The creation of any condition or the commission of any act during construction or development which constitutes or creates a hazard or nuisance, pollution or which endangers the life or property of others.
  - 2. A suspended permit shall be reinstated by the governing body when:

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- a) The municipal engineer or his designee has inspected and approved the corrections to the stormwater management and erosion and sediment pollution control measure(s), or the elimination of the hazard or nuisance, and/or;
- b) The governing body is satisfied that the violation of the ordinance, law, or rule and regulation has been corrected.
- c) A permit, which has been revoked by the governing body, cannot be reinstated. The applicant may apply for a new permit under the procedures outlined in this Ordinance.

### **G. Occupancy Permit**

An occupancy permit shall not be issued unless the certification of compliance has been secured. An occupancy permit shall be required for each lot owner and/or developer for all subdivisions and land development in the municipality.

#### **43.8.04 Public Nuisance (43-37)**

- A. The violation of any provision of this ordinance is hereby deemed a Public Nuisance.
- B. Each day that a violation continues shall constitute a separate violation.

#### **43.8.05 Penalties (43-38)**

- A. Anyone violating the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine and/or punishment as indicated in the Borough's Current Schedule of Fees Resolution, for each violation, recoverable with costs. Each day that the violation continues shall be a separate offense.
- B. In addition, the municipality, through its solicitor, may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this Ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

#### **43.8.06 Appeals (43-39)**

- A. Any person aggrieved by any action of the Municipality or its designee, relevant to the provisions of this ordinance may appeal to the Municipal Zoning Hearing Board within thirty (30) days of that action.
- B. Any person aggrieved by any decision of the Zoning Hearing Board, relevant to the provisions of this ordinance, may appeal to the County Court of Common Pleas in the county where the activity has taken place within thirty (30) days of the Zoning Hearing Board's decision.

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### APPENDIX A – STORMWATER MANAGEMENT DESIGN CRITERIA

**Table A-1**      *Design Storm Rainfall Amount (Inches)*

DESIGN STORM RAINFALL AMOUNT (INCHES)	
Return Period	Precipitation Amount 24-Hour Storm
1	2.4
2	2.9
5	3.8
10	4.6
25	5.0
50	5.7
100	6.3

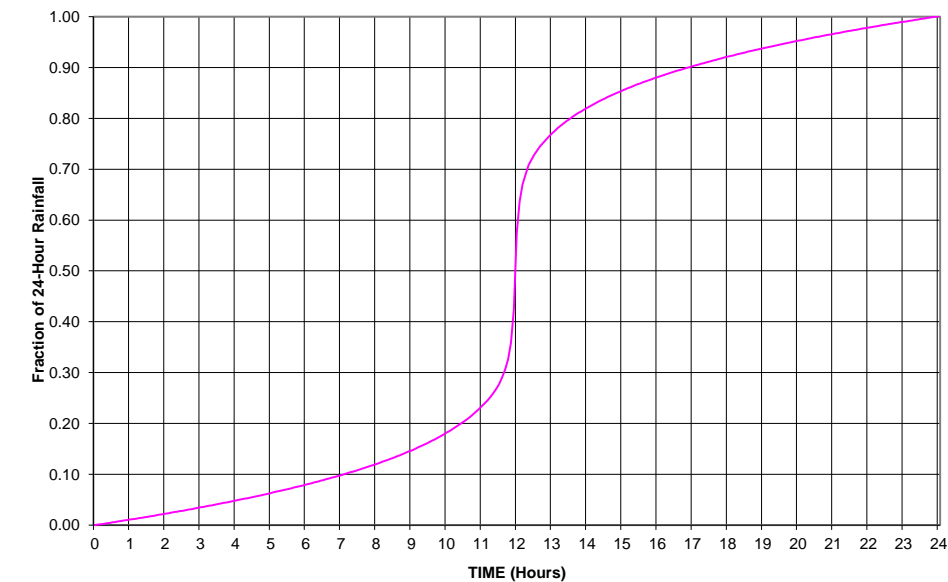
Source:  
Commonwealth of Pennsylvania Department  
of Environmental Protection  
Office of Water Management  
“Erosion and Sediment Pollution Control  
Program Manual” March 2000.



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Figure A-1 Natural Resource Conservation Service Precipitation Distribution

SCS 24-HOUR TYPE II RAINFALL DISTRIBUTION



HOURS	MIN	FRACT.	HOURS	MIN	FRACT.	HOURS	MIN	FRACT.
1	00	0.0107	9	40	0.1659	15	00	0.852
2	00	0.0222	10	00	0.1781	15	20	0.8616
3	00	0.0345	10	20	0.1918	15	40	0.8705
4	00	0.0479	10	40	0.2077	16	00	0.8788
5	00	0.0626	11	00	0.2266	16	20	0.8866
6	00	0.079	11	20	0.2506	16	40	0.894
6	20	0.0849	11	40	0.2843	17	00	0.9009
6	40	0.091	12	00	0.3773	17	20	0.9075
7	00	0.0975	12	20	0.6925	17	40	0.9138
7	20	0.1043	12	40	0.7361	18	00	0.9199
7	40	0.1114	13	00	0.7639	19	00	0.9365
8	00	0.119	13	20	0.785	20	00	0.9515
8	20	0.127	13	40	0.8023	21	00	0.9651
8	40	0.1356	14	00	0.817	22	00	0.9776
9	00	0.1449	14	20	0.8299	23	00	0.9892
9	20	0.1549	14	40	0.8415	24	00	1

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**Table A-2      Runoff Curve Numbers (from NRCS (SCS) TR-55)**

RUNOFF CURVE NUMBERS (FROM NRCS (SCS) TR-55)				
LAND USE DESCRIPTION	HYDROLOGIC SOIL GROUP			
Meadow ***	30	58	71	77
Low Density Residential (> 1 Acre)	46	65	77	82
Medium Density Residential (1/2 - 1 Acre)	58	73	82	86
High Density Residential (1/8 - 1/2 Acre)*	77	85	90	92
Mobile Home Park	77	85	90	92
Commercial	89	92	94	95
Industrial	81	88	91	93
Mixed Urban	81	88	91	93
Transportation**	98	98	98	98
Campgrounds	77	85	90	92
Fairgrounds	77	85	90	92
Private Parks***	39	61	74	80
Public Parks	39	61	74	80
Cemetery***	39	61	74	80
Cropland	65	75	82	86
Pasture	49	67	79	84
Permanent Hay	55	69	78	83
Orchards, Groves, Vineyards, Nurseries, Scrub brush	43	65	76	82
Other Agricultural Land & Open Space***	35	56	70	77
Mixed Forest Land***	36	60	73	77
Lakes/Ponds	98	98	98	98
Rivers/Streams	98	98	98	98
Wetlands	98	98	98	98
Strip Mines, Quarries, & Gravel Pits	66	68	72	77
Gravel Driveways & Parking Areas	84	91	92	93

\*Includes Multi-Family Housing unless justified lower density can be provided.

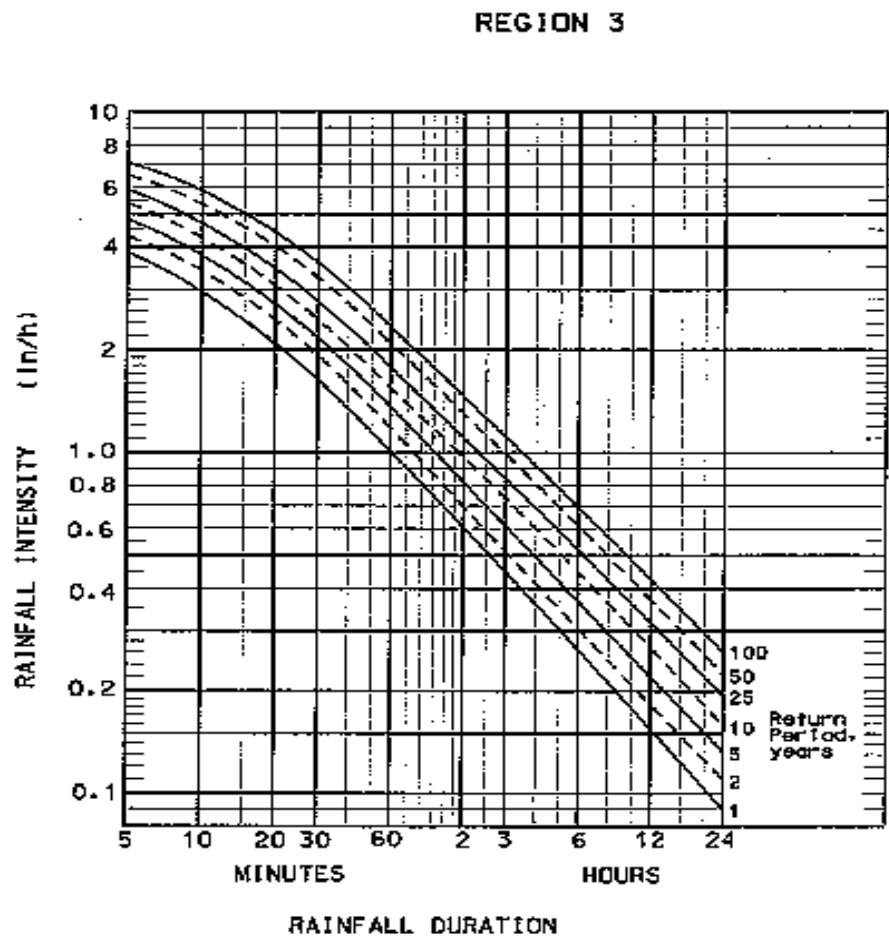
\*\*Transportation includes paved area only.

\*\*\*Caution – CN values under 40 may produce erroneous modeling results.

Note: Existing site conditions of bare earth or fallow shall be considered as meadow when choosing a CN value.

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Figure A-2 PENNDOT Storm Intensity – Duration – Frequency Curve Region 3



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**Table A-3**      **Runoff Coefficients Rational Method “C” Values**

LAND USE DESCRIPTION		HYDROLOGIC SOIL GROUP			
		A	B	C	D
<b>Meadow</b>		0.04 (a) 0.07 (b)	0.17 0.23	0.26 0.33	0.31 0.38
<b>Low Density Residential</b>	(> 1 Acre)	0.11 0.16	0.23 0.30	0.33 0.40	0.37 0.45
Medium density residential	(1/2 – 1 Acre)	0.19 0.25	0.30 0.38	0.38 0.46	0.42 0.51
High Density Residential	(< ½ Acre)*	0.41 0.50	0.50 0.60	0.57 0.67	0.59 0.69
Mobile Home Park		0.41 0.50	0.50 0.60	0.57 0.67	0.59 0.69
Commercial		0.60 0.71	0.64 0.75	0.67 0.78	0.69 0.80
Industrial		0.47 0.57	0.56 0.66	0.60 0.70	0.62 0.73
Mixed Urban and Transportation**		0.90 0.95	0.90 0.95	0.90 0.95	0.90 0.95
Campgrounds and Fairgrounds		0.41 0.50	0.50 0.60	0.57 0.67	0.59 0.69
Private Parks , Public Parks and Cemetery		0.07 0.11	0.18 0.24	0.27 0.34	0.32 0.39
Cropland		0.20 0.26	0.27 0.34	0.33 0.40	0.36 0.43
Pasture		0.14 0.19	0.23 0.29	0.30 0.36	0.34 0.41
Permanent Hay		0.11 0.16	0.23 0.29	0.30 0.37	0.34 0.42
Orchards, Groves Vineyards, Nurseries		0.08 0.12	0.20 0.26	0.28 0.35	0.33 0.40
Scrub Brush, Other Agricultural Land & Open Space		0.06 0.09	0.15 0.20	0.24 0.30	0.29 0.36
Mixed Forest Land		0.06 0.09	0.17 0.23	0.26 0.32	0.29 0.36
Lakes/Ponds Rivers / Streams / Wetlands		0.95 0.98	0.95 0.98	0.95 0.98	0.95 0.98
Strip Mines, Quarries, & Gravel Pits		0.22 0.29	0.24 0.30	0.27 0.34	0.31 0.38
Gravel Driveways & Parking Areas		0.52 0.62	0.62 0.73	0.62 0.73	0.62 0.73

\*Includes Multi-Family Housing unless justified lower density can be provided.

\*\*Transportation includes paved area only.

Note: Existing site conditions of bare earth or fallow shall be considered as meadow when choosing a Rational “C” value.

(a) Runoff Co-efficient for storm recurrence intervals less than 25 years.

(b) Runoff Co-efficient for storm recurrence intervals up to 25 years or more.

## Chapter 43 – Storm Water Management

**TABLE A-4** Recommended “n” Values to be used with Manning’s Equation

Surface	Min.	Design	Max.
Asphalt Lining		0.015	
Brick in cement mortar, brick sewers	0.012	0.015	0.017
Concrete-lined channel	0.012	0.015	0.018
Cement-rubble surface	0.017		0.030
Neat cement surface	0.010	0.012	0.013
Plastic-lined channel	0.012		0.014
Shotcrete	0.016		0.017
Asbestos Cement Pipe		0.009	
Concrete Pipe	0.012	0.015	0.016
Vitrified Clay Pipe	0.010	0.013	0.017
Common-clay drainage tile	0.011	0.012	0.017
Semi-circular metal flumes, smooth	0.011		0.015
Corrugated	0.023	0.025	0.030
Channels and ditches			
Earth, straight and uniform	0.017	0.023	0.025
Rock cuts, smooth and uniform	0.025	0.030	0.035
jagged and irregular	0.035	0.040	
Dredged earth channels	0.025	0.028	0.033
Earth bottom, rubble sides	0.028	0.030	0.035
Natural Streams			
1. Clean, straight bank, full stage no rifts or deep pools	0.025		0.033
2. Same as 1, but some weeds and stones	0.030		0.040
3. Winding, some pools and shoals, clean	0.033		0.045
4. Same as 3, lower stages, more ineffective slope and sections	0.040		0.055
5. Same as 3, same weeds and stone	0.035		0.050
6. Same as 4, stony sections	0.045		0.060
7. Sluggish river reaches, rather weedy or with very deep pools	0.050		0.080
8. Very weedy reaches	0.075		0.150

## Chapter 43 – Storm Water Management

### APPENDIX B – DRAINAGE PLAN APPLICATION

#### DRAINAGE PLAN APPLICATION

Application is hereby made for review of the stormwater management and erosion and Sedimentation control plan and related data as submitted herewith in accordance with The Borough of Northumberland stormwater management and earth disturbance Ordinance.

Check type of Plan submittal: ☐ Final plan ☐ Preliminary plan ☐ Sketch plan

Date of Submission \_\_\_\_\_ Submission No. \_\_\_\_\_

Name of Subdivision or Development \_\_\_\_\_

Name of Applicant \_\_\_\_\_ Telephone No. \_\_\_\_\_

\_\_\_\_\_  
(If corporation, list the corporation's name and the names of two officers of the corporation)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip code

Applicants interest in subdivision or development \_\_\_\_\_

If other than property owner give owners name and address

Owner \_\_\_\_\_ Telephone No. \_\_\_\_\_

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip code

Name of Engineer or Surveyor \_\_\_\_\_ Telephone no. \_\_\_\_\_

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip code

## Chapter 43 – Storm Water Management

Type of Subdivision or Development proposed:

- ☐ Single-family lots ☐ Townhouses ☐ Commercial (multi-lot)  
☐ Two family lots ☐ Garden apartments ☐ Commercial (one-lot)  
☐ Multi-family ☐ Mobile-home park ☐ Industrial (multi-lot)  
☐ Cluster type lots ☐ Campground ☐ Industrial (one-lot)  
☐ Planned residential ☐ Other development \_\_\_\_\_

Lineal feet of new road proposed? I.f. \_\_\_\_\_

Area of proposed and existing impervious area on entire tract:

Existing (to remain) \_\_\_\_\_ s.f. \_\_\_\_\_ % of property

Proposed \_\_\_\_\_ s.f. \_\_\_\_\_ % of property

Stormwater:

Does the peak rate of runoff from proposed conditions exceed that flow which occurred for predevelopment conditions for the designated design storm?

\_\_\_\_\_  
\_\_\_\_\_

Design storm utilized (on-site conveyance systems) (24 hr.) (Check one)

- ☐ No. Of subarea \_\_\_\_\_  
☐ Watershed name \_\_\_\_\_  
☐ Other (Explain) \_\_\_\_\_

Type of proposed runoff control \_\_\_\_\_

Does the proposed stormwater control criteria meet the requirement/guidelines of the stormwater ordinances? \_\_\_\_\_

If not, what variances/waivers are requested? \_\_\_\_\_

\_\_\_\_\_

Reasons \_\_\_\_\_

\_\_\_\_\_

## Chapter 43 – Storm Water Management

Does the plan meet the requirements of Article III of the stormwater ordinance? \_\_\_\_\_

If not, what variances/waivers are requested \_\_\_\_\_

Reasons why \_\_\_\_\_

Was TR-55, June 1986 utilized in determining the time of concentration? \_\_\_\_\_

What hydrologic method was used in the stormwater computations? \_\_\_\_\_

Is a hydraulic routing through the stormwater control structure submitted? \_\_\_\_\_

Is a construction schedule or staging attached? \_\_\_\_\_

Is a recommended maintenance program attached? \_\_\_\_\_

### Erosion and sediment pollution control (E&S)

Has the Stormwater Management and E&S Plan, supporting documentation and narrative been submitted to the Northumberland County Conservation District? \_\_\_\_\_

Total area of earth disturbance \_\_\_\_\_ s.f.

### Wetlands

Have the wetlands been delineated by someone trained in wetland delineation? \_\_\_\_\_

Have the wetland lines been verified by a state or federal permitting authority? \_\_\_\_\_

Have the wetland lines been surveyed? \_\_\_\_\_

Total acreage of wetland within the property \_\_\_\_\_

Total acreage of wetland disturbed \_\_\_\_\_

Is supporting documentation attached? \_\_\_\_\_

### Filing

The applicant understands and accepts responsibility for all fees as indicated in the Borough's Current Schedule of Fees Resolution \_\_\_\_\_

Has the proposed schedule of construction inspection to be performed by the applicant's engineer been submitted? \_\_\_\_\_

Name of individual whom will be making the inspections \_\_\_\_\_

General comments about stormwater management at development \_\_\_\_\_



**Chapter 43 – Storm Water Management**

**CERTIFICATE OF OWNERSHIP  
AND ACKNOWLEDGMENT OF APPLICATION  
County Of Northumberland,  
Commonwealth Of Pennsylvania**

On this the day of , 20 before me, the undersigned officer, personally appeared . . Who being duly sworn, according to law, deposes and says that, owners of the property described in this application and that the application was made with PRIOR knowledge and/or direction and does hereby agree with the said application and to the submission of the same.

\_\_\_\_\_  
Property Owner(s)

My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public or Officer

THE UNDERSIGNED HEREBY CERTIFIES THAT TO THE BEST OF HIS KNOWLEDGE AND BELIEF THE INFORMATION AND STATEMENTS GIVEN ABOVE ARE TRUE AND CORRECT.

SIGNATURE OF APPLICANT \_\_\_\_\_

.....  
(Information Below This Line To Be Completed By The Municipality)

Borough official submission receipt \_\_\_\_\_

Date complete application received \_\_\_\_\_ Plan Number \_\_\_\_\_

Fees \_\_\_\_\_ Date fees paid \_\_\_\_\_ Received by \_\_\_\_\_

Official submission receipt date \_\_\_\_\_ Received by \_\_\_\_\_

## Chapter 43 – Storm Water Management

### APPENDIX C – STANDARD BEST MANAGEMENT PRACTICES MAINTENANCE AND MONITORING AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by and between \_\_\_\_\_ (hereinafter the "Landowner"), and Borough of Northumberland, Northumberland County, Pennsylvania, (hereinafter "Municipality");

#### WITNESSETH

WHEREAS, the Landowner is the owner of certain real property as recorded by deed in the land records of Northumberland County, Pennsylvania, Deed Book \_\_\_\_\_ at Page \_\_\_\_\_, (hereinafter "Property").

WHEREAS, the Landowner is proceeding to build and develop the Property; and

WHEREAS, the Subdivision/Land Management Plan (hereinafter "Plan") for the property identified herein, which is expressly made a part hereof, as approved or to be approved by the Municipality, provides for management of stormwater within the confines of the Property through the use of Best Management Practices (BMPs); and

WHEREAS, the Municipality and the Landowner, his successors and assigns agree that the health, safety, and welfare of the residents of the Municipality require that on-site stormwater Best Management Practices be constructed and maintained on the Property; and

WHEREAS, for the purposes of this agreement, the following definitions shall apply:

**BMP** - Best Management Practice.

**Infiltration Trench** - A BMP surface structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer,

**Seepage Pit** - An underground BMP structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer,

**Rain Garden** - A BMP overlain with appropriate mulch and suitable vegetation designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or underground aquifer, and

**Stormwater Structures and Facilities** shall include, but not be limited to, detention and retention basins, and BMPs.

WHEREAS, the Municipality requires, through the implementation of the \_\_\_\_\_ Subdivision and Land Development Plan, that stormwater management BMPs as required by said Plan and the Municipal Ordinance be constructed and adequately maintained by the Landowner, his successors and assigns. The Plan shall include, but not be limited to, the BMP site location, plan view and cross sectional drawings as appropriate, design calculations, material specifications, and any maintenance requirements imposed by the Municipality or its Designated Representatives, and

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The onsite BMP facility shall be constructed by the Landowner in accordance with the plans and specifications identified in the Plan.

## Chapter 43 – Storm Water Management

2. The Landowner shall maintain the BMP(s) as shown on the Plan in good working order acceptable to the Municipality and in accordance with the specific maintenance requirements noted on the Plan which is attached hereto as Appendix A and made part hereof.
3. The Landowner hereby grants permission to the Municipality, its authorized agents and employees, to enter upon the property, at reasonable times and upon presentation of proper identification, to inspect the BMP(s) whenever it deems necessary. Whenever possible, the Municipality shall notify the Landowner prior to entering the property.
4. In the event the Landowner fails to maintain the BMP(s) as shown on the Plan in good working order acceptable to the Municipality, the Municipality may enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s). This provision shall not be construed to allow the Municipality to erect any permanent structure on the land of the Landowner. It is expressly understood and agreed that the Municipality is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the Municipality.
5. In the event the Municipality, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner shall reimburse the Municipality for all expenses incurred within 10 days of receipt of invoice from the Municipality.
6. The intent and purpose of this Agreement is to insure the proper maintenance of the onsite BMP(s) by the Landowner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or be caused by nonpoint source pollution runoff.
7. The Landowner, its executors, administrators, assigns, and other successors in interests, shall indemnify the Municipality's employees and designated representatives against all damages, accidents, casualties, occurrences or claims which might arise or be asserted against said employees and representatives from the construction, presence, existence, or maintenance of the BMP(s) by the Landowner or Municipality. In the event that a claim is asserted against the Municipality, its designated representatives or employees, the Municipality shall promptly notify the Landowner and the Landowner shall defend, at his own expense, any suit based on the claim. If any judgment or claims against the Municipality's employees or designated representatives shall be allowed, the Landowner shall pay all costs and expenses regarding said judgment or claim.
8. The Municipality shall inspect the BMP(s) at a minimum of once every three years to ensure their continued functioning.

This Agreement shall be recorded among the land records of Northumberland County, Pennsylvania and shall constitute a covenant running with the Property and/or equitable servitude, and shall be binding on the Landowner, his administrators, executors, assigns, heirs and any other successors in interests, in perpetuity.

ATTEST: \_\_\_\_\_

WITNESS the following signatures and seals:

(SEAL)

(SEAL)

For the Municipality: \_\_\_\_\_ For the Landowner: \_\_\_\_\_

ATTEST:

Northumberland Borough, County of Northumberland, Pennsylvania

**Chapter 43 – Storm Water Management**

I, \_\_\_\_\_, a Notary Public in and for the County and State  
aforesaid, whose commission expires on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, do hereby certify that  
\_\_\_\_\_ whose name(s) is/are signed to the foregoing Agreement bearing  
date of the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, has acknowledged the same before me in my said County  
and State.

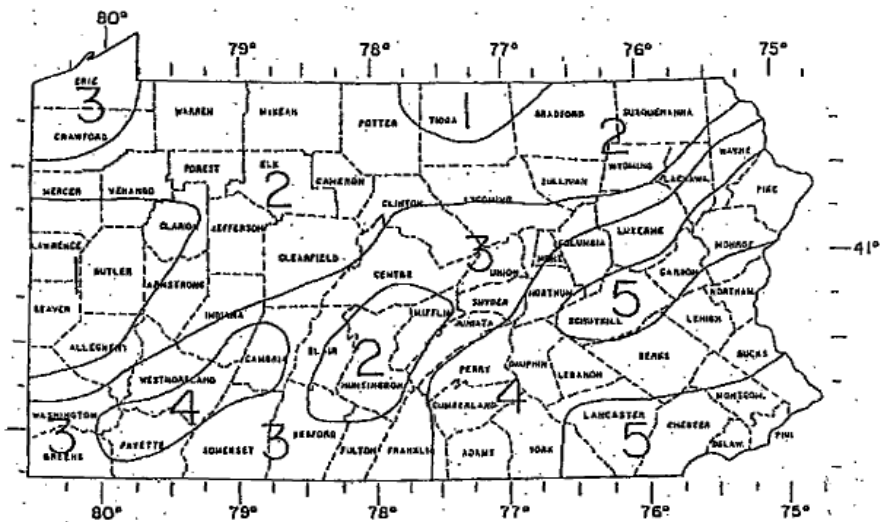
GIVEN UNDER MY HAND THIS \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ . \_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC  
(SEAL)

**APPENDIX D – Hydrologic Regions with Uniform Rainfall**

Chapter 43 – Storm Water Management

Hydrologic Regions with Uniform Rainfall (PENNDOT Field Manual, May 1986)



"P" Values for Water Quality Requirements  
24-Hour Storm Values Representing 90 % of Annual Rainfall

Rainfall Region	Inches
1	1.13
2	1.48
3	1.60
4	1.95
5	2.04

## Chapter 43 – Storm Water Management

### APPENDIX E – LOW IMPACT DEVELOPMENT PRACTICES

#### ***Alternative Approach for Managing Stormwater Runoff***

Natural hydrologic conditions may be altered radically by poorly planned development practices. Deleterious activities include introducing unneeded impervious surfaces, destroying existing drainage swales, constructing unnecessary storm sewers, and changing local topography. A traditional drainage approach of development has been to remove runoff from a site as quickly as possible and capture in a detention basin in accordance with the local regulations. This approach leads ultimately to the expenditure of additional resources for detaining and managing concentrated runoff at some downstream location.

The recommended alternative approach is to promote practices that will minimize post-development runoff rates and volumes, which will minimize needs for artificial conveyance and storage facilities. To simulate pre-development hydrologic conditions, forced infiltration is often necessary to offset the loss of infiltration by creation of impervious surfaces. The ability of the ground to infiltrate depends upon the soil types and its conditions.

Preserving natural hydrologic conditions requires careful alternative site design considerations. Site design practices include preserving natural drainage features, minimizing impervious surface area, reducing the hydraulic connectivity of impervious surfaces, and protecting natural depression storage. A well-designed site will contain a mix of all those features. The following describes various techniques to achieve for the alternative approach:

***Preserving Natural Drainage Features.*** Protecting natural drainage features, particularly vegetated drainage swales and channels, is desirable because of their ability to infiltrate and attenuate flows and to filter pollutants. However, this objective is often not accomplished in modern developments. In fact, commonly held drainage philosophy encourages just the opposite pattern. Streets and adjacent storm sewers typically are located in the natural headwater valleys and swales, thereby replacing natural drainage functions with a completely impervious system. Runoff and pollutants generated from impervious surfaces flow directly into storm sewers with no opportunity for attenuation, infiltration, or filtration. Developments designed to fit site topography also minimize the amount of grading on site.

***Protecting Natural Depressional Storage Areas.*** Depressional storage areas have no surface outlet or drain very slowly following a storm event. They can be commonly seen as ponded areas in farm fields during the wet season or after large runoff events. Traditional development practices eliminate these depressions by filling or draining, thereby obliterating their ability to reduce surface runoff volumes and trap pollutants. The volume and release-rate characteristics of depressions should be protected in the design of the development site. The depressions can be protected by simply avoiding the depression or by incorporating its storage as additional capacity in required detention facilities.

***Avoiding Introduction of Impervious Areas.*** A careful site planning should consider reducing impervious coverage to the maximum extent possible. Building footprints, sidewalks, driveways and other features producing impervious surfaces should be evaluated to minimize impacts on runoff.

***Reducing the Hydraulic Connectivity of Impervious Surfaces.*** Impervious surfaces are significantly less of a problem if they are not directly connected to an impervious conveyance system (such as storm sewer). Two basic ways to reduce hydraulic connectivity are routing of roof runoff over lawns and reducing the use of storm sewers. Site grading should promote increasing travel time of stormwater runoff, and should help reduce concentration of runoff to a single point in the development.

***Routing Roof Runoff Over Lawns.*** Roof runoff can be easily routed over lawns in most site designs. The practice discourages direct connections of downspouts to storm sewers or parking lots. The practice also discourages sloping driveways and parking lots to the street. By routing roof drains and crowning the driveway to run off to the lawn, the lawn is essentially used as a filter strip.

## Chapter 43 – Storm Water Management

**Reducing the Use of Storm Sewers.** By reducing use of storm sewers for draining streets, parking lots, and back yard, the potential for accelerating runoff from the development can be greatly reduced. The practice requires greater use of swales and may not be practical for some development sites, especially if there are concerns for areas that do not drain in a “reasonable” time. The practice requires educating local citizens and public works officials, who expect runoff to disappear shortly after a rainfall event.

**Reducing Street Widths.** Street widths can be reduced by either eliminating on street parking or by reducing roadway widths, Municipal planners and traffic designers should encourage narrower neighborhood streets which ultimately could lower maintenance,

**Limiting Sidewalks to One Side of the Street.** A sidewalk on one side of the street may suffice a low-traffic neighborhood. The lost sidewalk could be replaced with bicycle/recreational trails that follow back-of-lot lines. Where appropriate, backyard trails should be constructed using pervious materials.

**Using Permeable Paving Materials.** These materials include permeable interlocking concrete paving blocks or porous bituminous concrete. Such materials should be considered as alternatives to conventional pavement surfaces, especially for low use surfaces such as driveways, overflow parking lots, and emergency access roads.

**Reducing Building Setbacks.** Reducing building setbacks reduces driveway and entry walks and is most readily accomplished along low-traffic streets where traffic noise is not a problem.

**Constructing Cluster Developments.** Cluster developments can also reduce the amount of impervious area for a given number of lots. The biggest savings is in street length, which also will reduce costs of the development. Cluster development clusters the construction activity onto less-sensitive areas without substantially affecting the gross density of development.

In summary, a careful consideration of the existing topography and implementation of combination of the above mentioned techniques may avoid construction of costly stormwater control measures. Other benefits include reduced potential of downstream flooding, water quality degradation of receiving streams/water bodies and enhancement of aesthetics and reduction of development costs. Beneficial results include more stable baseflows in receiving streams, improved groundwater recharge, reduced flood flows, reduced pollutant loads, and reduced costs for conveyance and storage,

*Note: This information has been developed from various sections presented in “Pennsylvania Handbook of BMPs for Developing Areas” prepared by CH2M HILL under a contract with PACD.*

## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 44 – SANITARY SEWERS

[History: Adopted 12-04-01 by the Council of the Northumberland Borough as Ord. No. 2001-11.]

## ARTICLE I – DEFINITIONS

### 44.1.00 Definitions.

Unless the context specifically indicates otherwise, the meaning of the terms used in this Chapter shall be as follows:

**Authority** - The Northumberland Sewer Authority.

**Authority's Sewer System** - The system of Sanitary Sewer pipes, lines, mains, facilities and appurtenances of every kind and nature, as of any particular time, operated or caused to be operated by the Authority for the collection, transportation, pumping, treating and/or disposing of Sanitary Sewage and acceptable Industrial Wastes in the rendering of sewage service in the Borough, extending to the clean-out if one has been installed, and if not then to the curb line, or if there be no curb line, to the property line of Improved Properties.

**Building** - A structure built, erected, framed of component structural parts, designed for the housing, shelter, enclosure, or support of persons, animals, or property of any kind.

**Building Sewer** - That portion of the Sewer System extending from the end of the inside plumbing system of a Building to the Lateral.

**Borough** - The Borough of Northumberland

**Holding Tank** - A watertight receptacle which receives and retains Sewage and is designed and constructed to facilitate ultimate disposal of the Sewage at another site, including but not limited to the following:

- A. **Chemical Toilet** - A toilet using chemicals that discharge to a holding tank.
- B. **Retention Tank** - A holding tank where Sewage is conveyed to it by a water-carrying system.
- C. **Vault Pit Privy** - A holding tank designed to receive Sewage where water under pressure is not available.

**Improved Property** - Any property upon which there is erected any Building(s) intended for continuous or periodic habitation, occupancy or use by human beings and animals from which Sanitary Sewage or industrial waste is, shall be, or may be discharged, which Building(s) consist(s) of or contain(s) a Dwelling Unit, Commercial Establishment, Institutional Establishment or Industrial Establishment, or other such place in which such Sewage and wastes are produced.

**Lateral** - That portion of the Sewer System extending from the clean-out if one has been installed, and if not then the curb line, or if there be no curb line, from the property line to the Authority's Sewer System.

**May** - The term "may" is permissive.

**Owner** - Any Person vested with ownership, legal or equitable, sole or partial, of any Improved Property located in the Borough.

**Person** - Any individual, firm, company, association, society, corporation, or any other group or entity.

**Sanitary Sewage** - Domestic waste, normal wastewater, and substances that contain any of the waste products or excrementitious or other discharge from the bodies of human beings or animals, that are carried from dwellings, Buildings, Commercial and Institutional and Industrial Establishments and any other such places in which such wastes and substances are produced, together with the water carrying the same.



## Chapter 44 – Sanitary Sewers

**Sanitary Sewer** - A sewer which is part of the Sewer System and which carries Sanitary Sewage and acceptable Industrial Wastes and into which storm, surface and ground waters are not permitted or intentionally admitted.

**Sewage** - Any substance that contains any of the waste products or excrementitious or other discharge from the bodies of human beings or animals and any noxious or deleterious substance being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation. Any combination of water-carried wastes from Buildings, Commercial Establishments, Institutional Establishments, Industrial Establishments or other places in which wastes are produced, together with such ground, surface, storm or other water as may be present.

**Sewer System** - The entire system of Sanitary Sewer pipes, lines, mains, facilities and appurtenances of every kind and nature, as of any particular time, operated or caused to be operated by the Authority for the collection, transportation, pumping, treating and/or disposing of Sanitary Sewage and acceptable Industrial Wastes in the rendering of sewage service in the Borough, including the Authority's Sewer System and all pipes, lines, facilities and appurtenances extending from the Authority's Sewer System to the end of the inside plumbing system of any Building on an Improved Property, whether or not interconnected.

**Shall** - The term "shall" is mandatory.

**Tapping Fee** - A fee charged to the Owner of Improved Property to connect to the Sewer System, authorized by the Municipality Authorities Act, charged and payable at the time the application for a sewer tap-on permit is submitted to the Authority, and based upon some or all of the following components: capacity, distribution or collection, special purpose, reimbursement.

**User Charge** - An amount charged to the Owner of Improved Property for each Dwelling Unit or each nonresidential unit in a Building containing multiple units, charged and payable at the time the application for a sewer tap-on permit is submitted to the Authority or at the time that the Building is subdivided to produce additional units.

## ARTICLE II – CONNECTION TO SEWER SYSTEM

### 44.2.01 Connection Required; Notice To Connect; Authority May Connect.

The Owner of any Improved Property in the Borough abutting on any street, alley or right-of-way in which any Sanitary Sewer of the Authority's Sewer System is located, and the Owner of any Improved Property whose Building is located within one hundred fifty (150) feet of any Sanitary Sewer of the Authority's Sewer System shall, at said Owner's expense, install suitable sanitary sewer facilities and connect such facilities directly with such Sanitary Sewer in accordance with the provisions of this Chapter and the Rules and Regulations of the Authority within sixty (60) days after the date of official notice to do so, given in the manner provided by law. In the event any such Owner shall refuse or neglect to so connect within said sixty (60) day period, said Owner shall be deemed to be in violation of this Chapter and the Rules and Regulations of the Authority, and the Authority or its agents may enter upon such property and construct such connection. The Authority shall send an itemized bill of the costs of the construction to the Owner, which bill shall be payable within thirty (30) days. If the Owner does not pay said bill within the thirty (30) day period, the Authority shall file a municipal lien against the Improved Property and shall collect said costs in any manner allowed by law. Should the Authority determine that the connection of a Building to a Sanitary Sewer of the Authority's Sewer System would result in an overload of the Authority's sewage treatment facilities, the Authority may excuse the Owner of the Improved Property from making such connection until the overload problem is corrected.

## **Chapter 44 – Sanitary Sewers**

### **44.2.02 Separate Connection Required.**

Each Improved Property and each Building, whether constructed as a detached unit or as one of a pair or a row, shall be connected separately and independently with the Authority's Sewer System through a Building Sewer unless special permission shall have been granted in writing by the Authority upon a finding of special circumstances and for good sanitary reasons or other good causes.

### **44.2.03 Permit Required for Connection, Disconnection, Repair/Replacement.**

No Improved Property shall be connected to or disconnected from the Authority's Sewer System and no Sanitary Sewer, Building Sewer, Lateral or any other sewer pipe, main or facility shall be repaired or replaced until the Owner of said property shall have first obtained a permit from the Authority. The application for such permit shall be submitted to the Authority in the form prescribed by the Authority and shall be accompanied by the appropriate Tapping Fee, User Charge and permit fees and a description and diagram of the site, the character and use of each building located or to be located thereon, and the Building Sewer, Lateral and any other sewer pipe, main or facility.

### **44.2.04 Compliance with Rules and Regulations.**

All connections to and disconnections from the Authority's Sewer System and all repairs or replacements of any Sanitary Sewer, Building Sewer, Lateral or any other sewer pipe, main or facility shall be made in compliance with this Chapter and the Rules and Regulations, resolutions and specifications of the Authority.

## **ARTICLE III – CERTAIN DISCHARGES INTO SEWER SYSTEM PROHIBITED.**

### **44.3.01 Discharges From Rain Spouts, Cellar Drains, Etc., Into Sewer System Prohibited. (3-1)**

No Person shall discharge, cause to be discharged, or allow to be discharged into the Sewer System any storm water, surface water, groundwater, roof runoff or sub-surface drainage, building foundation drainage, cellar or basement drainage from rain spouts, drain tile systems, yard drains, foundation drains, cellar drains or sump pumps or other similar facilities.

### **44.3.02 Other Prohibited Discharges into Sewer System. (3-2)**

No Person shall discharge, cause to be discharged, or allow to be discharged into the Sewer System anything that is prohibited by state and federal clean streams laws, or any of the following: Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, fur, plastics, wood, paunch manure, butchers offal, hair or any other solids or viscous substances capable of causing obstruction to the flow in Sanitary Sewers or the interference with the proper operation of the Sewer System; Any inert insoluble solids such as asphalt, clay, slag and mill scale, or sludges and slurries; Any waters or waste containing any quantities of formaldehyde, carbide waste and phenols; Any waters or waste containing radioactive isotopes; Any noxious or malodorous substances not mentioned in the foregoing list that will pass through the Sewage System and exceed the state, federal and/or interstate requirements for the receiving stream.

## **ARTICLE IV – HOLDING TANKS**

## **Chapter 44 – Sanitary Sewers**

### **44.4.01 Holding Tank Permit Required. (4-1)**

No collection and disposal of Sewage from any Improved Property utilizing a Holding Tank shall be done unless and until a permit is granted by the Authority, and then only under the direction and control of the Authority.

### **44.4.02 Permit Requirements. (4-2)**

The Owner of an Improved Property intending to utilize a Holding Tank shall do the following:

A. Written Contract. (4-2.1)

Said Owner shall present to the Authority a written contract for the pumping of Sewage from the Holding Tank and the hauling of said Sewage to a disposal site approved by the Pennsylvania Department of Environmental Protection (PADEP). Said contract shall be between the Owner and a pumper-hauler approved by PADEP.

B. PADEP Approval. (4-2.2)

Said Owner shall present to the Authority a writing from a PADEP approved disposal site granting the pumper-hauler permission to dispose of the Sewage from the Owner's Holding Tank at said disposal site.

C. Notice: Inspection. (4-2.3)

Said Owner shall inform the Authority at least forty-eight (48) hours in advance of the date and time for the installation of the Holding Tank so that an employee or agent of the Authority may inspect its installation.

D. Warning Devices. (4-2.4.)

Said Owner shall, at the time of the installation of the Holding Tank, install on said Tank visible and audible devices that will give warning when the contents have reached seventy-five percent (75%) of the capacity of said Tank.

### **44.4.03 Maintenance. (4-3)**

The Owner of an Improved Property permitted to utilize a Holding Tank shall maintain the Holding Tank as follows:

A. Maintain Per All Laws, Rules And Regulations. (4-3.1)

The Holding Tank shall be maintained in conformance with all ordinances, resolutions, rules and regulations of the Borough, all applicable state and federal laws, and all applicable Rules and Regulations, resolutions and specifications of the Authority, laws and rules and regulations of state and federal governments, and any departments, agencies or other arms thereof.

B. Maintain So Contents Do Not Escape. (4-3.2)

The Holding Tank shall be maintained so that the contents thereof do not escape, seep or overflow.

C. Contents To Be Pumped Out To Prevent Overflow. (4-3.3)

The Holding Tank shall be maintained by having the contents thereof pumped out as frequently as is necessary to prevent the contents from escaping, seeping or overflowing.

D. Only Approved Persons May Pump, Haul And Dispose Of Contents. (4-3.4)

The Holding Tank shall be maintained by permitting only those Persons approved by and acting under the supervision and direction of the Authority to pump, haul and dispose of the contents of the Tank.

E. Provide Written Evidence To Authority Of Pumping And Disposal. (4-3.5)

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The Holding Tank shall be maintained by presenting to the Authority within five days after the contents of the Holding Tank have been pumped and disposed of, the receipts and other suitable evidence in writing from the pumper-hauler and the disposal site indicating the quantity of Sewage pumped and disposed of and the date or dates.

### **44.4.04 Holding Tank without Permit A Nuisance. (4-4)**

The utilization of a Holding Tank in violation of any of the provisions of these Rules and Regulations shall constitute a nuisance and the Authority may abate the same in any manner allowed by law.

## **ARTICLE V – PRIVYS, CESSPOOLS PROHIBITED.**

### **44.5.01 Privys, Cesspools Prohibited**

It is hereby declared to be unlawful and a nuisance for any Person, whether principal or agent, to construct, maintain or use, or being the Owner of the property to permit to be used or remain in use, any privy, privy vault, cesspool, septic tank or similar receptacle intended or used for the disposal of Sewage and human excrement on any property in the Borough abutting on any street, alley or right-of-way in which any Sanitary Sewer of the Authority's Sewer System is located, or on any property in the Borough where the Building located thereon is within one hundred fifty (150) feet of any Sanitary Sewer of the Authority's Sewer System. The property Owner shall abate said nuisance upon notice from the Authority to do so. If the Owner fails to abate said nuisance within forty-five days after notice from the Authority, the Authority shall abate the same; connect the property to the Sewer System; and collect from the Owner the cost thereof, including the established tapping fees and user charges.

## **ARTICLE VI – AUTHORITY**

### **44.6.01 Authority to Act as Agent of Borough.**

The Authority is hereby authorized to act as the agent of the Borough in the enforcement of this Chapter and to pursue all remedies and penalties available under this Chapter and all state and federal laws

## **ARTICLE VII – VIOLATIONS AND PENALTIES.**

### **44.7.01 Fines and Penalties Per Resolution. (7-1)**

The fines and penalties for violation of this Chapter shall be established by a resolution adopted by Borough Council.

### **44.7.02 Violators Liable for Expense, Loss or Damage Suffered by the Borough and the Authority. (7-2)**

Any Person who violates any of the provisions of this Chapter and the Rules and Regulations, resolutions and specifications of the Authority, in addition to being liable for a fine and penalty, shall be liable to the Borough and the Authority for any expense, loss or damage suffered by the Borough and the Authority by reason of such violation.

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## **CODE OF THE BOROUGH OF NORTHUMBERLAND**

# **CHAPTER 45 – SEWER USE**

[History: Adopted by the Council of the Borough of Northumberland: Article I, 4-16-74 as Ord. No. 281; Article II, 4-16-74 as Ord. No. 280; Article III, 6-7-26 as Ord. No. 61; Article IV, 5-5-53 as Ord. No. 156; Article V, 6-7-83 as Ord. No. 385, Sections 45-9, 45-10, 45-18, 45-21 and 45-25, amended 6-3-97 as Ord. No. 451.]

## **ARTICLE I – GENERAL PROVISIONS**

### **45.1.01 Purpose and Policy**

The objectives of this Sewer Use Ordinance are:

- A. To prevent the introduction of pollutants into the Northumberland Sewer Authority (Authority) wastewater collection and treatment system which will interfere with its operation, contaminate the biosolids generated at the wastewater treatment plant, or will otherwise be incompatible with the system;
- B. To prevent the introduction of pollutants into the Authority's wastewater collection and treatment system which will be inadequately treated and thus will pass-through the system into the receiving waters or the atmosphere;
- C. To protect the environment, the general public, as well as, Borough, and Authority personnel against the hazards associated with discharges of toxic or otherwise incompatible pollutants into the sewer system;
- D. To improve the opportunity to recycle and reclaim industrial wastewaters and biosolids from the wastewater treatment system;
- E. To provide for equitable distribution of the cost for the development and implementation of the Authority's Industrial Pretreatment Program, and other improvements to the wastewater collection and treatment system;
- F. To help assure Authority compliance with its National Pollutant Discharge Elimination System (NPDES) permit, biosolids use and disposal requirements, the Clean Water Act, the General Pretreatment Regulations, and any other state or federal laws with which the Authority must comply.

This Sewer Use Ordinance will be implemented by the Authority through issuance of permits to those Industrial/Commercial Users deemed a Significant Industrial User, through monitoring, reporting, and enforcement of the Ordinance with these Significant Industrial Users; and through enforcement of general requirements for all other Users. This Sewer Use Ordinance also assumes that the capacity of the sewer system allocated to existing customers will not be pre-empted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This Sewer Use Ordinance shall apply to persons located both within and outside the Borough's political jurisdiction, who are Users or Significant Industrial Users of the collection system serviced by the Authority. Except as otherwise provided herein, the provisions of this Sewer Use Ordinance shall be administered, and enforced by the Authority.

Nothing contained in this Sewer Use Ordinance shall be construed as preventing any special agreement or arrangement between the Borough, the Authority, and any Significant Industrial Users within the Borough, allowing a waste of unusual strength or character to be accepted by the Authority through special agreements in writing, executed prior to such acceptance, containing safeguards, limitations, and conditions acceptable to the Authority. Any such agreement or arrangement shall not allow a discharge that exceeds Categorical Standards.

## Chapter 45 – Sewer Use

### 45.1.02 Definitions

Unless the context specifically indicates otherwise, the following terms and phrases as used in this Sewer Use Ordinance shall have the meanings hereinafter designated:

**Act or "the Act"** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

**Approval Authority** The United States Environmental Protection Agency (EPA).

**Authority** The Northumberland Sewer Authority which owns and operates the wastewater collection and treatment system for which this sewer use ordinance governs.

#### **Authorized Representative of a Significant Industrial User**

- A. If the User is a corporation a responsible corporate officer is: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- B. If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- C. If the User is a local, state, or federal governmental agency: a director or highest appointed official designated to oversee the operation and performance activities of the facility, or their designee.
- D. A duly-authorized representative of the individual designated in (1) through (3) above if: (i) the authorization is made in writing by the individual described in (1) or (2); (ii) the authorization specifies either an individual or a position having overall responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and (iii) the written authorization is submitted to the Borough.

**Biochemical Oxygen Demand (BOD)** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 degrees Celsius, expressed in terms of weight and concentration, [milligrams per liter (mg/l)].

**Building Sewer** A sewer conveying wastewater from the premises of a User to the sewer system.

**Borough** The Borough of Northumberland.

**Categorical Pretreatment Standard or Categorical Standards** Any regulation containing pollutant discharge limitations promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act and which appear in 40 CFR Chapter I, Subchapter N, or 40 CFR Parts 401-471.

**Compatible Pollutant** A pollutant for which the Authority's Wastewater Treatment Plant was specifically designed to treat and remove such as Biochemical Oxygen Demand (BOD<sub>5</sub>), Total Suspended Solids (TSS), Ammonia Nitrogen (NH<sub>3</sub>-N), Total Phosphorus (P), and to a lesser degree Oil and Grease.

**Contributing Municipality** A municipal body which owns and/or operates central collection sewers which discharge into the Authority's wastewater collection and treatment system.

**Control Authority** The term "Control Authority" shall refer to Wastewater Treatment Plant Superintendent, since the Authority has an approved pretreatment program under the provisions of 40 CFR 403.11.

**Cooling Water** The water discharged from any use, such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

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**Direct Discharge** The discharge of treated or untreated wastewater directly to the waters of the Commonwealth of Pennsylvania.

**Environmental Protection Agency (EPA)** The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

**Equivalent Dwelling Unit (EDU)** Any source of wastewater into the Authority sewer system which has the following typical wastewater characteristics:

Flow	150 gpd
Ammonia - Nitrogen	25 mg/l as N
BOD	250 mg/l
Phosphate	10 mg/l as P
Suspended Solids	250 mg/l
TKN	40 mg/l as N

**Existing Source** Any User of the Authority's wastewater collection and treatment system which commenced operation prior to the publication by the EPA of proposed Categorical Pretreatment Standards, which will be applicable to that User after final EPA promulgation of such standards in accordance with Section 307 of the Act.

**Grab Sample** A sample which is taken from a wastestream on a one-time basis over a period of time not to exceed fifteen minutes, with no regard to the flow in the wastestream.

**Holding Tank Waste** Any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

**Indirect Discharge** The discharge or the introduction of pollutants into the collection system, including holding tank waste discharged into the system as outlined in 40 CFR 403.31(g) and Sections 307(b), (c), and (d) of the Act.

**Industrial User** Any non-domestic source of indirect discharge to the Authority's sewer system.

**Interference** A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the wastewater collection and treatment system treatment processes, operations, or its biosolids processes, use or disposal; and therefore is a cause of a violation of any requirement of the Authority's treatment plant NPDES permit, including an increase or duration of the violation. The term includes prevention of biosolids use, biosolids processes, or disposal by the receiving treatment facility in accordance with Section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria, including those contained in any State biosolids management plan prepared pursuant to Title IV of SWDA applicable to the method of disposal or use employed by the receiving treatment facility.

**National Categorical Pretreatment Standard** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347), and which applies to a specific category of Industrial Users.

**National Pollution Discharge Elimination System or NPDES Permit** A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

### New Source

A. Any User of the Authority's wastewater collection and treatment system which commenced operation after the publication by the EPA of proposed Categorical Pretreatment Standards, which will be



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applicable to that User after final EPA promulgation of such standards in accordance with Section 307 of the Act, provided that:

1. The building, structure, facility, or installation from which the discharge originates is constructed at a site at which no other source is located; or
  2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site.
- B. Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of this Section (a) above but otherwise alters, replaces, or adds to existing process or production equipment.
- C. Construction of a New Source as defined under this section has commenced if the owner or operator has:
1. any placement, assembly, or installation of facilities or equipment; or
  2. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or
  3. entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable period of time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this section.

**Pass-Through** A discharge which exits the Authority's treatment plant into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Authority's NPDES permit (including an increase in the magnitude or duration of a violation).

**Person** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, any other legal entity, or any of their legal representatives, agents or assigns. The masculine gender shall include the feminine. The singular shall include the plural where indicated by the context.

**pH** A measure of the acidity or alkalinity of a solution expressed in standard units.

**Pollutant** Any dredged spoil, solid waste, incinerator residue, sewage, garbage, biosolids, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

**Pretreatment or Treatment.** The reduction of the amount of pollutants, the elimination of pollutants, the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to, or in lieu of, discharging or otherwise introducing such pollutants into the Authority's wastewater collection and treatment system. The reduction or alteration can be obtained by physical, chemical, or biological processes, or by process changes, or by other means, except as prohibited by 40 CFR Section 403.6(d).

**Pretreatment Requirements** Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard, imposed on a User by the Authority.

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**Pretreatment Standards** Pretreatment standards shall mean any prohibited discharge standards, categorical pretreatment standards, or local limits.

**Significant Industrial User** Any Industrial/Commercial User of the Authority's wastewater collection system who:

- A. is subject to Categorical Pretreatment Standards;
- B. discharges an average of 25,000 gallons per day process wastewater to the Authority's collection and treatment system;
- C. contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the Authority treatment plant;
- D. is designated as such by the Authority on the basis that the User has a reasonable potential for adversely affecting the operation of the treatment plant, the quality of the biosolids generated at the Authority's WWTP, or for violating any pretreatment standard or requirement.

**Significant Noncompliance** An Industrial User is in significant noncompliance if his violations meet one or more of the following criteria:

Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

Technical Review Criteria (TRC) violations, defined as those violations in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily average maximum limit or the average limit times the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Authority determines has caused, alone or in combination with other discharges, an interference, pass through, or upset at the treatment plant (including endangering the health of Borough personnel or the general public);

Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the Authority exercising its emergency authority under 40 CFR 403 paragraph (f)(1)(vi)(B) to halt or prevent such a discharge;

Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule date, or a compliance schedule milestone contained in a local control mechanism or enforcement action for starting construction, completing construction, or attaining final compliance;

Failure to accurately report incidents of noncompliance; or

Any other violation or group of violations that the Authority determines will adversely affect the overall implementation of its industrial pretreatment program.

**Slug Discharge or Slug Load** Any intentional or accidental discharge at a flow rate or concentration which could cause a violation of any Pretreatment Standard set forth in accordance with section 2.1 of this Sewer Use Ordinance, or in Section 403.5 of the General Pretreatment Regulations.

**Slug Control Plan** All Significant Industrial Users are required to submit to the Authority a Slug Control Plan which meets the criteria set forth in Section 2.7 of this Sewer Use Ordinance.

**Standard Industrial Classification (SIC)** A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget 1972.

**State** Commonwealth of Pennsylvania.

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**Stormwater** Any flow occurring during or following any form of natural precipitation and resulting exclusively therefrom.

**Superintendent** The person designated by the Authority to supervise the operation of the treatment system and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative.

**Total Suspended Solids or Suspended Solids** The total suspended matter that floats on the surface or is suspended in water, wastewater, or other liquids, and which is removable by laboratory filtering.

**Toxic Pollutant** Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the Clean Water Act, or other acts promulgated by the federal or state governments.

**User** Any person who contributes, causes, or permits the contribution of wastewater into the Authority collection and treatment system, including those person(s) who distribute drinking water in the Borough's service area.

**Wastewater** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated which is contributed into or permitted to enter the collection system.

**Wastewater Contribution Permit** A permit issued by the Authority to an industrial/commercial user in accordance with Section 4.4 of this Sewer Use Ordinance.

**Waters of the State** All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

### 45.1.03 Abbreviations

The following abbreviations shall have the designated meanings:

BOD Biochemical Oxygen Demand  
CFR Code of Federal Regulations  
COD Chemical Oxygen Demand  
CWA Clean Water Act  
EPA U.S. Environmental Protection Agency  
mg/l Milligrams per liter  
O&M Operation & Maintenance  
NPDES National Pollutant Discharge Elimination System  
Borough Borough of Northumberland  
SIC Standard Industrial Classification  
SWDA Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.  
USC United States Code  
TKN Total Kjeldahl Nitrogen  
TSS Total Suspended Solids

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### ARTICLE II – REGULATIONS

#### 45.2.01 General

The User shall not contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater that will interfere with the operations or performance of the System and/or Facility. These general prohibitions apply to all Users whether or not the Users are subject to National Categorical Pretreatment Standards or Requirements. The following substances, among others, are prohibited and shall not be discharged into the System and/or Facility:

- A. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be sufficient either alone or by interaction with other substances to cause fire or explosion, or be injurious in any other way to the System and/or Facility. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the System (or at any point in the System) be more than five percent (5%), nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. In addition, waste streams with a closed-up flashpoint of less than 140 degrees Fahrenheit or 60 degree C are prohibited. Prohibited explosive/flammable materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, hydrides, sulfides.
- B. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the System and/or Facility such as, but not limited to grease, garbage with particles greater than one-half-inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, petroleum oil, no-biodegradable cutting oil or mineral oil origin, mud, glass, grindings, or polishing wastes.
- C. Any wastewater having a pH less than 5.0, or greater than 10.0, or waste water having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the System and/or Facility.
- D. Any toxic pollutants, either singly or interaction with other pollutants, sufficient to injure or interfere with any wastewater treatment process or that constitute a hazard to humans or animals, or create a toxic effect in the receiving waters or the System and/or Facility, or exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Clean Water Act.
- E. Any noxious or malodorous liquids, gases, or solids, either singly or in interaction with other wastes, are sufficient (a) to create a public nuisance or hazard to life or, (b) to prevent entry into the System and/or Facility for maintenance and repair.
- F. Any substance such as residues, sludges, or scums that may cause the Facility's effluent or any other product of the Facility; to be unsuitable for reclamation and reuse, or that interfere with the reclamation process. In no case shall a substance discharged to the System and/or Facility cause the Facility to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under or pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, Section 405 of the Clean Air Act; or any State Criteria applicable to the sludge management method being used.
- G. Any substance that alone, or in combination with discharges from to other sources, will cause a pass-through or interference at the Facility resulting in violation of the Authority's National Pollutant Discharge Elimination System permit or the receiving stream water quality standards.
- H. Any wastewater with objectionable color not removed in the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions.

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- I. Any wastewater having a temperature in excess of 40 degrees C or 104 degrees F, and no wastewater of any temperature which will inhibit biological activity in the treatment facility causing interference.
- J. Any pollutants, including oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentrations which cause interference to the Facility. In no case shall a slug load have a flow rate or contain concentrations or quantities of pollutants that exceed for any time period longer than 15 minutes more than five (5) times the average 24-hour concentration, quantities, or flow during normal operation.
- K. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable State or Federal regulations.
- L. Any wastewater which causes a hazard to human life or creates a public nuisance.
- M. No connections shall be made which bring or allow stormwater, groundwater, roof runoff, subsurface drainage, cooling water or other similar water into the System.
- N. Pollutants which result in the presence of toxic gases, vapors, or fumes within the System and/or Facility is a quantity that may cause acute worker health and safety problems.
- O. Trucked or hauled wastes unless specifically permitted by the Authority.
- P. (Containing substances which may solidify or become viscous at temperatures between 32 degrees F and 14 degree F.)
- Q. (Containing fats, wax, grease or oils of petroleum origin whether emulsified or not in excess of 100mg/L.)

When the Authority determines that a User or Significant Industrial User is contributing to the wastewater collection and treatment system any of the above enumerated substances in such amounts as to interfere with the operation or cause pass-through of the system, the Authority shall advise the User of the impact of such contribution on the wastewater collection and treatment system, and develop effluent limitations for such User to correct the violation.

The Authority may also take enforcement action(s) against the non-complying User or Significant Industrial User, whether or not the User or Significant Industrial User was given prior notification of the violation by the Authority.

### **45.2.02 Federal Categorical Pretreatment Standards**

Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial sub-category, the Federal Standard, if more stringent than limitations imposed under this Sewer Use Ordinance for sources in that sub-category, shall immediately supersede the limitations imposed under this Sewer Use Ordinance. Each User or Significant Industrial User shall be responsible to notify the Authority of changes to his status under the Federal, State, or local regulations. The National Categorical Pretreatment Standards found in 40 CFR Part 405-471 are hereby incorporated into this Sewer Use Ordinance.

- A. Where a categorical pretreatment standard is expressed only in terms of the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR part 403.6(c).
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent shall impose an alternate limit using the combined wastestream formula in 40 CFR Part 403.6(e).
- C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR Part 403.13, that factors relating to its discharge are

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fundamentally different from the factors considered by the EPA when developing the categorical pretreatment standard.

- D. A user may obtain a net gross adjustment to a categorical standard from the EPA in accordance with 40 CFR Part 403.15.

### 45.2.03 Modification of Federal Categorical Pretreatment Standards

Where the Authority's wastewater treatment plant achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the Authority may apply to the Approval Authority for modifications of specific limits in the Federal Pretreatment Standards. "Consistent removal" shall mean the reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater collection system to a less toxic or harmless state in the effluent which is achieved by the system in 95 percent of the samples taken when measured according to the procedures set forth in Section 403.7(c)(2) of Title 40 of the Code of Federal Regulations, Part 403 - "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The Borough may then modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR Part 403, Section 403.7 are fulfilled, and prior approval from the Approval Authority is obtained.

### 45.2.04 Specific Pollutant Limitations

The User shall not contribute or cause to be contributed, directly or indirectly, wastewater containing pollutant levels in excess of the following maximum discharge limitations:

Parameter	Maximum Concentration (mg/l)
BOD	250
TSS	250
Phosphorus (Total as P)	10 *
Ammonia Nitrogen (NH <sub>3</sub> -N)	25 as N
Total Kjeldahl (TKN)	40 as N
Oil and Grease	100
pH (Standard Units)	5.0 - 10.0

\*This limit has been waived at the present time, but may be imposed in the future.

Parameter	Maximum Concentration (mg/l)
Arsenic	0.01
Cadmium	0.01
Chromium (total)	2.00
Copper	0.5
Lead	0.05
Mercury	0.001
Molybdenum	0.01
Nickel	2.50
Silver	0.05
Zinc	3.00
Cyanide (total)	1.00

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### **45.2.05 Borough's Right of Revision**

The Borough reserves the right to require any contributing municipalities to establish by Ordinance, limitations or requirements as least as stringent as the Borough's for Users whose wastewater is ultimately treated at the Authority's wastewater treatment plant, in order to comply with the objectives presented in Section 1.1 of this Sewer Use Ordinance.

### **45.2.06 Dilution**

No User or Significant Industrial User shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or with any other pollutant-specific limitation developed by the Borough, Authority, State, or Federal agencies.

### **45.2.07 Accidental or Slug Discharge**

Each Significant Industrial User shall provide protection from accidental or slug discharge of prohibited materials or other substances regulated by this Sewer Use Ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the User's or Significant Industrial User's own cost and expense. In the case of an "accidental discharge", it is the responsibility of the User to immediately telephone and notify the Authority of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions taken to minimize and eliminate the violation.

In addition, the Authority will evaluate at least once every two years whether a Significant Industrial User needs to develop or update a Slug Control Plan. Detailed Slug Control Plans showing facilities and operating procedures to provide slug control protection shall be submitted to the Authority, as required, for review and approval prior to implementation. A Slug Control Plan shall contain, at a minimum, the following information:

- A. a description of discharge practices, including routine or non-routine batch discharges;
- B. a description of new and spent chemical storage procedures;
- C. procedures for immediately notifying the Wastewater Treatment Plant Superintendent of any accidental or slug discharge, including personnel responsible for such notifications;
- D. procedures to prevent adverse impact from an accidental or slug discharge. Such procedures shall include, but are not limited to, inspection and maintenance of chemical storage areas, handling and transferring of raw and finished products and chemicals, control of site runoff, worker training, building of containment structures, available containment equipment, and contacted environmental services which assist the User fulfill these plans.

A Significant Industrial User who commences contribution to the wastewater collection and treatment system after the effective date of this Sewer Use Ordinance shall not be permitted to introduce pollutants into the system until a Slug Control Plan, if required, has been approved by the Authority. Review and approval of such plans and operating procedures shall not relieve the Significant Industrial User from the responsibility to modify his facility, as necessary, to meet the requirements of this Sewer Use Ordinance.

### **45.2.08 Written Report**

Within five (5) days following an accidental discharge, the Significant Industrial User shall submit to the Authority a detailed written report which shall contain the following information:

- A. the cause of the non-compliance;
- B. the anticipated time that this condition had occurred and which it has been corrected;
- C. the steps taken by the User to reduce and minimize the impact of the non-compliance;

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- D. the steps taken by the User to prevent a re-occurrence of the conditions which caused or led to the accidental or slug loading.

Such report shall not relieve the Significant Industrial User of any fines, civil penalties, or other liability which may be imposed as described in this article, the Borough's Enforcement Response Plan, or any other applicable law.

### **45.2.09 Notice To Employees**

A notice shall be permanently posted on the Significant Industrial User's bulletin board or other prominent place advising employees whom to call in the event of an accidental or slug discharge. Employers shall ensure that all employees who may be involved with hazardous materials are aware of such emergency notification procedures.

## **ARTICLE III – FEES**

### **45.3.01 Purpose**

It is the purpose of this section to provide for the recovery of costs from Users and Significant Industrial Users of the Borough's treatment system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the Authority's Schedule of Charges and Fees.

### **45.3.02 Charges and Fees**

The Authority may adopt charges and fees (after a reasonable public notification period) which may include:

- A. fees for reimbursement of the costs of setting up and operating the Authority's Industrial Pretreatment Program;
- B. fees for monitoring, inspections, and sampling associated with the Industrial Pretreatment Program;
- C. fees for reviewing accidental discharge procedures and construction plans;
- D. fees for review of permit applications;
- E. fees associated with the review of permit appeals;
- F. fees for consistent removal by the Borough of pollutants otherwise subject to federal pretreatment standards;
- G. other fees the Authority may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this Sewer Use Ordinance and are separate from all other fees chargeable by the Authority and the Borough.

## **ARTICLE IV – ADMINISTRATION**

### **45.4.01 Wastewater Dischargers**

It shall be unlawful to discharge any wastewater to any sanitary sewer in any area under the jurisdiction of, or within the service area of, the Borough of Northumberland, except as authorized in writing by the Authority in accordance with the provisions of this Sewer Use Ordinance. The Authority may require any unpermitted or permitted Users of the sewer system to provide any information needed to determine compliance with this Sewer Use Ordinance or other applicable local, state, or federal laws, rules, or regulations. These requirements include, but are not limited to:

- A. wastewater discharge peak rate and volume records over a specified time period;



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- B. information on raw materials, processes, and products affecting wastewater volume and quality;
- C. quantity and disposition of specific liquid, biosolids, oil, solvent, or other materials which may impact the operation of the Authority's sewer system;
- D. a plot plan of all sewer facilities on the User's property including the number and location of all sewer lateral connections to the Authority's sewer system;
- E. details of control measures taken by the User to prevent and control stormwater, drainage, roof runoff, from entering the Authority's sewer system;
- F. details of any significant changes to the nature or quantity of their discharge, including increased flows of 25 percent or more, or the promulgation of a categorical pretreatment standard which applies to their discharge.

All users must notify the Authority, EPA, and the PADER of discharges to the sewer system which, if disposed of in any other manner, would be considered a hazardous waste under Federal regulations 40 CFR Part 261.

Costs incurred for developing the information described above shall be paid by the User, and are in addition to all other sewer use, permit, and surcharge fees charged by the Authority.

The User shall be responsible for obtaining and submitting all applicable Authority, Borough, County, Regional, State, or Federal permits or planning documents required for approval of a sewer connection.

### **45.4.02 Wastewater Contribution Permits**

All Users proposing to, or already connected into the Authority's sewer system, which are deemed a Significant Industrial User through Authority review of the waste questionnaire or permit application, must obtain a Wastewater Contribution Permit from the Authority prior to commencing discharge.

In addition, whenever an existing insignificant industrial User becomes subject to a new National Categorical Pretreatment Standard, the User must notify the Authority within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard.

#### **45.4.02.1 Permit Application**

Any User required to obtain a Significant Industrial User permit shall complete and file with the Authority, an application in the form prescribed by the Authority, accompanied by the required permit filing fee. In support of the application, the Significant Industrial User shall submit in units and terms appropriate for evaluation, the following information:

- A. name, address, and location of the facility (if it is different from the address);
- B. SIC number, according to the Standard Industrial Classification Manual, Bureau of the Budget 1972, as amended;
- C. wastewater constituents and characteristics, including but not limited to those parameters listed in Section 2.0 of this Ordinance, as determined by an approved analytical laboratory. This sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act, and contained in 40 CFR, Part 136, as amended;
- D. time and duration of wastewater contribution;
- E. average daily and 30-minute peak wastewater flow rates, including daily, monthly, and seasonal variation, if any;
- F. site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation;
- G. description of activities, facilities, and plant processes on the premises, including all materials which have a potential for entering the sewer system either accidentally or by purpose;

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- H. the nature and concentration of any pollutants in the discharge which are limited by any Authority, Borough, State, or Federal pretreatment standards; and a statement regarding whether or not the pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance (O&M), source reduction efforts and/or additional pretreatment required for the Significant Industrial User to meet applicable pretreatment standards.
- I. if additional pretreatment and/or O&M will be required to meet the pretreatment standards, the schedule by which the Significant Industrial User will provide such additional pretreatment. For Significant Industrial Users subject to Federal Categorical Standards, the completion date in this schedule can be no later than the compliance date established by the EPA for the applicable pretreatment standard. The following shall also apply to this schedule:
1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment facilities required for the Significant Industrial User to meet the applicable pretreatment standards. This may include dates for installing a sampling manhole, hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.;
  2. No increment referred to in paragraph (1) shall exceed nine (9) months;
  3. No later than 14 days following each date in the schedule and the final date for compliance, the Significant User shall submit a progress report to the Authority, including, as a minimum, whether or not it complied with the increment of progress to be met on such date, and if not, the date on which it expects to comply with this increment of progress; the reason for delay, and the steps being taken by the Significant Industrial User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Authority;
  4. Each product produced by type, amount, process or processes, and rate of production;
  5. Type and amount of raw materials processed (average and maximum per day);
  6. Number and type of employees, the hours of plant operation, and the proposed or actual hours of pretreatment system operation.
  7. Any other information as may be deemed by the Authority necessary to in evaluating the permit application.
- J. a list of all other environmental control permits held by or for the facility;

The Authority will evaluate the data furnished by the Significant Industrial User, and will notify the User of any additional information necessary to complete the application review process. After evaluation and acceptance of the data supplied, the Authority may approve the issuance of a Significant Industrial User permit subject to terms and conditions provided herein.

### **45.4.02.2 Permit Conditions**

Wastewater Contribution permits shall be expressly subject to all provisions of this Sewer Use Ordinance and all other applicable regulations, User charges, and fees established by the Authority by way of separate ordinances. The permit may contain, but is not limited to the following requirements:

- A. statement of duration;
- B. statement on non-transferability;
- C. all applicable pretreatment standards for their discharge;

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- D. limits on average and maximum flow rate and time of discharge, or requirements for flow regulations and equalization;
- E. requirements for installation and maintenance of inspection and sampling facilities;
- F. specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;
- G. compliance schedules;
- H. requirements for submission of technical reports or discharge reports (see Section 4.2.3);
- I. requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Authority; and affording the Borough access thereto;
- J. requirements for prior notification of the Authority of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater collection system;
- K. requirements for notification of slug discharges as per Section 2.7;
- L. specification of type and amount of raw materials processed (average and maximum per day);
- M. statement of all applicable civil or criminal penalties for non-compliance;
- N. other conditions as deemed necessary by the Authority to ensure compliance with this Sewer Use Ordinance.

### **45.4.02.3 Reporting Requirements in Permits**

#### **45.4.02.3.1 Compliance Data Report**

Within 90 days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a new source, following commencement of the introduction of wastewater into the sewer system, any Significant Industrial User subject to federal Categorical Pretreatment Standards shall submit to the Authority a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis, and if not, what additional O&M and/or pretreatment is necessary to bring the Significant Industrial User into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the Significant Industrial User and certified by a qualified professional engineer. Based on the review of this data, the Authority may re-issue the Wastewater Contribution Permit for this Significant Industrial User as soon as possible after incorporating the applicable standards.

#### **45.4.02.3.2 Periodic Compliance Reports**

- A. Every Significant Industrial User shall have their wastewater sampled and analyzed at a frequency specified in the Wastewater Contribution Permit. The frequency and number of pollutants analyzed for, will be specific for each industry. The Authority may at any time require the Significant Industrial User to perform additional sampling if it believes the conditions of this Sewer Use Ordinance are not being met. The Significant Industrial User must submit to the Authority during the months of June and December, unless required more frequently by the Authority, an update report indicating any process, production or flow rate changes which occurred during the previous six month period. This report will also include a record of all daily flow which, during the reporting period, exceeded the average daily flow allowed in the contract. At the discretion of the Authority and in consideration of such factors as local high or low flow rates, holiday, budget cycles, etc., the Authority may agree to alter the months during which the above reports are to be submitted.

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In the event the results of the analysis exceed the pretreatment standards given in the Wastewater Contribution Permit, the Permittee shall provide immediate verbal notification to the Authority WWTP Superintendent. The Permittee shall also repeat sampling and analyses and submit the results of the analyses to the Authority WWTP Superintendent within thirty (30) days after becoming aware of the violation(s).

- B. The Authority may impose mass limitations on Significant Industrial Users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (1) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the Significant Industrial User. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed by the Authority in the Wastewater Contribution Permit. All analyses shall be performed in accordance with procedures established pursuant to Section 304(g) of the Act, and contained in 40 CFR Part 136 and amendments thereto, or with any other EPA-approved test procedures. Sampling shall also be performed in accordance with approved techniques.

### **45.4.02.3.3 Spill Notification Reporting**

Shall take place in accordance with Section 2.7 and 2.8

### **45.4.02.4 Permit Duration**

Permits shall be issued by the Authority for a specified time period, not to exceed five years. All Significant Industrial Users shall apply for a re-issuance of their Wastewater Contribution Permit a minimum of 90 days prior to the expiration of their existing permit. The terms and conditions of the permit may be subject to modification by the Authority during the term of the permit, as limitations or requirements as identified in Section 2 are modified or other just cause exists. A Significant Industrial User shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Where necessary, a schedule for complying with these changes or new conditions may also be issued by the authority.

### **45.4.02.5 Permit Modifications**

Upon the promulgation of a National Categorical Pretreatment Standard, a Significant Industrial User subject to such standards shall have their Wastewater Contribution Permit revised to require compliance with such standards.

### **45.4.02.6 Permit Transfer**

Wastewater Contribution Permits are issued to a specific Significant Industrial User for a specific operation. These Permits shall not be reassigned, transferred, or sold to a new owner, or Significant Industrial User, different premises, or used for a new or changed operation.

### **45.4.02.7 Signatory Requirement**

All reports, applications, or other information required to be submitted under this Ordinance shall be signed by an authorized representative of the industrial user and shall contain the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I

## **Chapter 45 – Sewer Use**

am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

### **45.4.03 Sampling Requirements**

All measurements, tests, and analyses required for determining the characteristics of waters and wastewaters to which reference is made in this Sewer Use Ordinance shall be performed in accordance with 40 CFR Part 136. Sampling methods, locations, times, durations, and frequencies are to be determined on an individual basis, and will be specified in the individual Wastewater Contribution Permits issued to the Significant Industrial Users. SIUs which sample more frequently than the requirements given in their Wastewater Contribution Permit, must submit copies of all such results to the Authority.

### **45.4.04 Monitoring Facilities**

The Wastewater Treatment Plant Superintendent shall inspect the facilities of any Significant User to ascertain whether the purpose of this Sewer Use Ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Authority's representative ready access during all working hours to all parts of the premises for the purposes of inspection, sampling, records examination and/or copying, or in the performance of any of his duties. The Authority has the right to set upon a Significant Industrial User's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations. Where a Significant Industrial User has security measures in force which require proper identification and clearance before entry into his premises, the Significant Industrial User shall make necessary arrangements with his security guards so that upon presentation of suitable identification, personnel from the Authority, PADER, or the EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.

### **45.4.05 Pretreatment**

Users and Significant Industrial Users shall provide necessary wastewater treatment as required to comply with this Sewer Use Ordinance and any applicable Federal Categorical Pretreatment Standards within the time limitations as specified by the Authority or in the Federal Pretreatment Regulations. Any equipment or facilities required to pretreat wastewater to a level acceptable to the Authority shall be provided, operated, and maintained at the User's expense. The Authority may require that detailed plans showing the pretreatment facilities and operating procedures to be submitted to the Authority for review and shall be deemed acceptable to the Authority before construction of the facility. The review of such plans and operating procedures will in no way relieve a User from the responsibility of modifying his facility as necessary to produce an effluent acceptable to the Authority under the provisions of this Sewer Use Ordinance. Any subsequent changes in the pretreatment facilities or method of operation, or any change which may result in a new or increased discharge of pollutants, shall be reported to and be accepted by the Authority prior to the User's or Significant Industrial User's initiation of the changes.

### **45.4.06 Recordkeeping Requirements**

Users subject to the recordkeeping requirements of this section shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring or reporting requirements required in this Sewer Use Ordinance, including any monitoring activities undertaken by the User independent of these requirements. Records shall include the exact date and time of sampling, the date and time of analysis, the name of the person(s) collecting and analyzing all samples, the methodology used in analyzing the samples, and the results of these analyses. These records should be made available for a minimum of three years. In the matters of litigation between the User and the Authority, or where specifically requested by the EPA, the retention period is extended.

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All records relating to compliance with pretreatment standards shall be made available to the Authority, PADER, or EPA upon request.

### **45.4.07 Confidential Information**

Information and data on a User or Significant Industrial User obtained from reports, questionnaires, permit applications, permits, monitoring programs, and from inspections shall be available to the public or governmental agencies without restriction unless the User or Significant Industrial User specifically requests and is able to demonstrate to the satisfaction of the Authority, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the User or Significant Industrial User.

When requested by the person furnishing a report, those portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available, upon written request, to governmental agencies for uses related to this Sewer Use Ordinance, the NPDES Permit, biosolids disposal/re-use forms, and/or the General Pretreatment regulations. Any such portions of a report shall also be available for use by any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the Authority as confidential shall not be transmitted to the general public by the Authority until after a 10-day notification is given to the User or Significant Industrial User.

### **45.4.08 Falsifying Information**

Any person who knowingly makes any false statements, representations, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Sewer Use Ordinance or User or Significant Industrial User permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Sewer Use Ordinance shall be punished as provided by law and shall be subject to the fines set forth in Article VI.

## **ARTICLE V – ENFORCEMENT**

### **45.5.01 Notification of Violation**

#### **45.5.01.1 Emergencies**

The Authority shall serve an Enforcement Order upon any User who has violated or is violating this Sewer Use Ordinance, the User's Wastewater contribution Permit, or the Pretreatment Regulations, when said violation results in conditions which could cause the Authority to violate its NPDES permit or the biosolids quality requirements, or results in a hazardous situation within the Authority's sewer system, or other such emergency situation.

#### **45.5.01.2 Non-Emergencies**

The Authority shall serve upon any User who has violated or is violating this Sewer Use Ordinance, the User's Wastewater Contribution Permit, or the General Pretreatment Regulations, a written Notice of Violation. Service by mail is complete upon mailing. Within 15 days after service of said Notice, the User shall submit to the Authority written response which contains the following information:

- A. cause of non-compliance;
- B. anticipated duration of the non con-compliance and the time by which the violation will be corrected;
- C. steps taken by the User to reduce and eliminate the non-complying discharge;

## **Chapter 45 – Sewer Use**

- D. steps taken by the User to prevent re-occurrence of the condition(s) leading to the non-compliance;
- E. the signature of an authorized representative of the User that certifies to the validity of the report.

### **45.5.02 Show-Cause Meeting**

When the Authority's Wastewater Treatment Plant Supervisor determines that a User's response given to a Notice of Violation is inadequate, the Authority shall serve upon the User a written notice directing the User to attend a Show-Cause Meeting. At the Show-Cause Meeting, an official meeting between the Authority and a User, the User shall show cause why the Authority should not take further action to resolve conditions of continued violations. The Meeting may result in the Authority revoking the permit.

## **ARTICLE VI – CIVIL PENALTY ASSESSMENT/INJUNCTIVE RELIEF POLICY**

### **45.6.01 Civil Penalty Assessment**

In addition to the other enforcement actions described herein, the Authority may also assess civil penalties and/or obtain injunctive relief against industrial/commercial users who fail to comply with the requirements of the Authority's Sewer Use Ordinance or their Wastewater Contribution Permit.

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of the Borough Code are determined by council resolution.]

In civil penalty assessment, the Authority will consider all of the following factors:

- A. Damage to the Authority's treatment plant or collection system, or collection system personnel, resulting from the violation;
- B. Damage to air, water, land or other natural resources of the Commonwealth and their uses;
- C. The cost of restoration and abatement;
- D. The industrial/commercial user's history of past violations;
- E. Deterrence of future violations;
- F. The level of cooperation obtained from the industrial/commercial user;
- G. The economic benefit gained by, or the savings resulting to, the industrial/commercial user as a result of the non-compliance;
- H. Other relevant factors.

All civil penalties shall be developed in accordance with the Publicly Owned Treatment Works Penalty Law, 35 P.S. 752.1 et seq., and will be assessed on a per day, per violation basis. The Authority reserves the right to reduce or waive civil penalties depending upon the circumstances in each case.

All civil penalties collected pursuant to the Borough's Civil Penalty Assessment Policy will be placed in a restricted account, and shall only be used by the Authority for the repair of damage and any additional maintenance or other costs resulting from the violation(s) on which the penalty was imposed, to pay any penalties imposed on the Authority by a state or federal agency as a result of violating any pretreatment standards, for the costs incurred by the Authority to investigate and initiate enforcement actions against the non-complying discharge (including legal and engineering fees), for additional monitoring costs associated with the non-complying industrial/commercial user, and for capital improvements to the treatment plant or collection system required by the Pretreatment Program. Any remaining funds may be used for capital improvements to the treatment plant or collections system not required by the Pretreatment Program.

## **Chapter 45 – Sewer Use**

The Authority's ability to seek civil penalties against non-complying users shall apply to all industrial/commercial users of the Authority's wastewater collection and treatment system regardless of political boundary. The civil penalties may be sought in the Court of Common Pleas where the Authority's treatment plant is located, where the activity took place, where the condition exists or the public was affected, and to that end a jurisdiction is hereby conferred in law and equity upon such courts.

### **45.6.02 Injunctive Relief**

Where necessary, the Authority shall also have the power to obtain injunctive relief against any industrial/commercial users who are in violation of a Pretreatment Standard or Requirement. Injunctive relief will be granted pursuant to Pennsylvania Law, if any of the following conditions can be determined to be true:

- A. A discharge from an industrial/commercial user presents an imminent or substantial danger to the environment;
- B. A discharge from an industrial/commercial user causes the Authority to violate any condition of its NPDES permit, biosolids application standards, or other state or federal requirement;
- C. A discharge from an industrial/commercial user presents an imminent or substantial danger to the Authority's treatment plant or collection system, Authority personnel, or the general public;
- D. The industrial/commercial user has shown a lack of ability or intention to comply with a Pretreatment Standard or Pretreatment Requirement.

Injunctive relief affecting an industrial operation not directly related to the condition or violation may also be issued against a non-complying industrial/commercial user if the court determines that other enforcement actions available to the Authority would not be adequate to affect prompt correction of the condition or violation. In addition to injunctive relief, the court may levy civil penalties in accordance with 35 P.S. 752.4.

The Authority's ability to seek injunctive relief against non-complying industrial/commercial user shall apply to all industrial/commercial users regardless of political boundary. The injunctive relief may be sought in the Court of Common Pleas where the Authority's treatment plant is located, where the activity took place, where the condition exists or the public was affected, and to that end a jurisdiction is hereby conferred in law and equity upon such courts.

### **45.6.03 Right To Appeal**

The industrial/commercial user charged with any penalty previously described shall have 30 days to pay the proposed penalty in full, or, if the industrial/commercial user wishes to contest either the amount of the penalty or the fact of the violation, the industrial/commercial user must file an appeal of the action pursuant to the municipal law or home rule charter, or in the absence of these, within 30 days pursuant to 2 Pa. C.S.A.

Failure to appeal within this period shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

## **ARTICLE VII – SEVERABILITY**

### **45.7.01 Severability**

If any provision, paragraph, word, section, or article of this Sewer Use Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.



## **Chapter 45 – Sewer Use**

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CODE OF THE BOROUGH OF NORTHUMBERLAND

## CHAPTER 46 – ILLEGAL STORM/SURFACE/GROUND WATER CONNECTIONS

[Added 11-5-2007 by Ord. No. 2007-3]

### ARTICLE I - ESTABLISHMENT

#### **46.1.01 Definitions (\$46.01)**

When used herein, the following words shall have the following meanings:

**Applicant** Any Person (defined below) Selling Real Property (defined below) or Purchasing Real Property (defined below) located within the Borough.

**Borough** The Borough of Northumberland, Northumberland County, Pennsylvania.

**Evidence of Compliance Certificate** A certificate from the NSA confirming that it has on file a written report or statement from an Inspector (defined below) certifying there is not located on a property any Illegal Connections (defined below) into the Sanitary Sewer System (defined below).

**Illegal Connections** Connections to the Sanitary Sewer System that allow storm/surface /ground water to be discharged into the Borough's Sanitary Sewer System from sources including, but not limited to, floor drainage, sump pumps, down spout drainage, roof drainage, and areaway drainage.

**Inspection** The term "Inspection" shall include physical inspection, dye testing (a commonly accepted plumbing test whereby a nontoxic, non-staining dye is introduced into the storm/surface/ground water collection system of real property to determine if any storm/surface/ground water is entering the Sanitary Sewer System), smoke testing to detect roof leaders, and any other reasonable and appropriate testing methodology(ies) acceptable to the NSA to determine if any storm/surface/ground water is entering the Sanitary Sewer System.

**Inspector** A representative of the Northumberland Sewer Authority.

**NSA** The Northumberland Sewer Authority, its agents, consultants, contractors, or other designated representatives authorized to act on its behalf.

**Person** Any natural person, partnership, association, authority, syndicate, firm, corporation, developer, contractor, government, or other entity recognized by law as the subject of rights and duties.

**Purchase Real Property, Purchasing Real Property** The terms "Purchase Real Property", "Purchasing Real Property" include any and all acquisitions of title to real property with or without consideration.

**Purchaser** A Person acquiring title to real property with or without consideration.

**Sale of Real Property, Sell Real Property/Selling Real Property** The terms "Sale of Real Property", "Sell Real Property" and "Selling Real Property" include any and all transfers or changes in ownership of real property, with or without consideration.

**Sanitary Sewers** Sewers designed and built to carry sanitary sewage and/or industrial waste separately from water discharge.

**Sanitary Sewer System** The entire Sewer System of the Borough operated by the NSA.

**Seller** A Person transferring or conveying title to real property to another Person.

## **Chapter 46 – Illegal Storm/Surface/Ground Water Connections**

**Storm Sewer System** A sewer system designed to accept and transport flows of storm/surface/ground water, as distinct from sewage.

**Temporary Evidence of Compliance Certificate** A certificate from the NSA issued pursuant to 46.2.04 of this Ordinance.

### **46.1.02 Prohibitions (§46.02)**

- From and after the effective date of this Ordinance, it shall be unlawful for any Person to construct, install, maintain, repair, operate, use, or allow an Illegal Connection to the Sanitary Sewer System on real property owned by that Person. This prohibition expressly includes, without limitation, Illegal Connections made prior to the effective date of this Ordinance, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- From and after the effective date of this Ordinance it shall be unlawful for any Person whose real property is connected to the Sanitary Sewer System to Sell Real Property located within the Borough on which a building or improvement exists without first obtaining and delivering to the Purchaser (defined above) an Evidence of Compliance Certificate or a Temporary Evidence of Compliance Certificate from the NSA as required under this Ordinance.
- From and after the effective date of this Ordinance it shall be unlawful for any Person (Purchaser) to Purchase Real Property located within the Borough connected to the Sanitary Sewer System on which a building or improvement exists without first obtaining from a Seller a valid Evidence of Compliance Certificate or a Temporary Evidence of Compliance Certificate.

## **ARTICLE II - CONNECTIONS**

### **46.2.01 Disconnection of Illegal Connections. (§46.03)**

Illegal Connections must be disconnected from the Sanitary Sewer System and redirected, as appropriate, to either a separate Storm Sewer System, or another appropriate legal place. Connection of the Illegal Connection to the Borough's separate Storm Sewer System is subject to the prior approval of the Borough and the NSA. In no event is water to be discharged from the Illegal Connection upon or across public or private sidewalks, or discharged onto adjacent property. Prior to the commencement of any work on the disconnection of an Illegal Connection, all necessary and required building permits, street opening permits, sidewalk opening permits, tap-in permits, and other approvals and permits that may be necessary to accomplish the disconnection shall be acquired, and all fees paid, and a plan of corrective action shall be presented to the NSA, for NSA's approval, on a NSA Corrective Action Plan form (Plan Form). Disconnection shall mean that the Illegal Connection is disconnected and removed from the Sanitary Sewer System, and that the Illegal Connection access to the Sanitary Sewer System at that location is permanently capped and sealed. The disconnection of the Illegal Connection shall be certified by an Inspector on the NSA Plan Form.

### **46.2.02 Sales of Real Property/Evidence of Compliance Certificate. (§46.04)**

- Any Person Selling Real Property (Applicant) located within the Borough, whose real property is connected to the Sanitary Sewer System, shall have said real property inspected by a NSA Inspector. Said Person shall arrange for an Inspection by obtaining an Application for Evidence of Compliance Certificate (Application) from the NSA, submitting the completed Application to the NSA, and paying such fee(s) and cost(s) as required by the NSA. Upon completion of the Inspection, the Inspector shall complete the appropriate section of the Inspection Results form (Results Form) confirming that the property has been inspected and certifying the results of such Inspection.

## **Chapter 46 – Illegal Storm/Surface/Ground Water Connections**

- If the Inspector determines that there are no Illegal Connections on the real property he shall so note on the Results Form and the Application, and the NSA shall issue the Evidence of Compliance Certificate promptly after the NSA's receipt of the properly completed Application and Results Form.
- If the Inspector determines that there is/are Illegal Connection(s) on the real property he shall so note on the Results Form, and the Applicant shall present a plan of corrective action, for NSA's approval, on a NSA Plan Form. The time period for the completion of the remedial work (based upon the extent of the work required and the existing conditions) shall be such as the NSA will approve. After the corrective action has been taken, the Applicant shall submit a report thereof to the NSA on the NSA's Corrective Action Report form (Report Form) and pay any additional fee(s) and cost(s) required by the NSA. The real property will be re-inspected, and if the Inspector determines that there are then no Illegal Connections on the real property he shall so certify on the Report Form, and the NSA shall issue the Evidence of Compliance Certificate promptly after the NSA's receipt of the completed Application and the Report Form
- If the re-inspection reveals the existence of any Illegal Connections, the Inspector shall so certify on the Results Form, and the NSA shall reject the Application as per 46.2.05 of this Ordinance.
- An Evidence of Compliance Certificate shall expire three (3) years following the date of its issuance. If any additions are made to the property within the three (3) year period, a certification shall be obtained from an Inspector that the addition has no Illegal Connections.

### **46.2.03 Purchase of Real Property/Evidence of Compliance Certificate. (\$46.05)**

- Any Person Purchasing Real Property (Purchaser) located within the Borough connected to the Sanitary Sewer System on which a building or improvement exists without first obtaining from a Seller a valid Evidence of Compliance Certificate or a Temporary Evidence of Compliance Certificate shall have said real property inspected by a NSA Inspector. Said Person shall arrange for an Inspection by obtaining an Application for Evidence of Compliance Certificate, (Application) from the NSA, submitting the completed Application to the NSA and paying such fee(s) and cost(s) as required by the NSA. Upon completion of the inspection, the Inspector shall complete the appropriate section of the Inspection Results form (Results Form) confirming that the property has been inspected and certifying the results of such Inspection.
  - If the Inspector determines that there are no Illegal Connections on the real property he shall so note on the Results Form and the Application, and the NSA shall issue the Evidence of Compliance Certificate promptly after the NSA's receipt of the properly completed Application and Results Form.
  - If the Inspector determines that there is/are Illegal Connection(s) on the real property he shall so note on the Results Form, and the Applicant shall present a plan of corrective action, for NSA's approval, on a NSA Plan Form. The time period for the completion of the remedial work (based upon the extent of the work required and the existing conditions) shall be such as the NSA will approve. After the corrective action has been taken, the Applicant shall submit a report thereof to the NSA on the NSA's Corrective Action Report form. (Report Form) and pay any additional fee(s) and cost(s) required by the NSA. The real property will be re-inspected, and if the Inspector determines that there are then no Illegal Connections on the real property he shall so certify on the Application and the Report Form, and the NSA shall issue

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the Evidence of Compliance Certificate promptly after the NSA's receipt of the properly completed Application and Report Form.

- If the re-inspection reveals the existence of any Illegal Connections, the Inspector shall so certify on the Results Form, and the NSA shall reject the Application as per 46.2.05 of this Ordinance.
- An Evidence of Compliance Certificate shall expire three (3) years following the date of its issuance. If any additions are made to the property within the three (3) year period, a certification shall be obtained from an Inspector that the addition has no Illegal Connections.

### **46.2.04 Temporary Evidence of Compliance Certificate. (§46.06)**

- A. In the event that an Illegal Connection is discovered pursuant to 46.2.02 of this Ordinance, and the Applicant believes that it would create an undue hardship to perform the necessary corrective action prior to the date of closing on the sale of the property, the Applicant may apply to the NSA for a Temporary Evidence of Compliance Certificate on a NSA-approved form. The NSA may issue a Temporary Evidence of Compliance Certificate upon the payment of such fee(s) and cost(s) as the NSA may from time to time establish, and provided there is strict compliance with all the following conditions:
1. The NSA is provided with a bona fide, executed contract (hereinafter "Contract") between the Applicant and a contractor requiring the contractor to complete the necessary remedial work to correct and/or disconnect and remove the Illegal Connection, and granting the NSA the right and power to enforce the Contract as a third-party beneficiary. The time period set forth in the Contract for the completion of the remedial work (based upon the extent of the work required and the existing conditions) shall be such as the NSA will approve;
  2. Cash security (hereinafter "Security") in the amount of 120% of the price of the Contract is deposited with the NSA or provision is made that, at closing, a Security in the amount of 120% of the price of the Contract shall be collected by the closing agent for the NSA and immediately deposited with the NSA. The Security shall be held by the NSA in a non-interest bearing account. Security shall be limited to cash, certified checks and treasurer's checks.
  3. A written agreement between the Purchaser or transferee and the NSA under which the Purchaser or transferee agrees to be responsible for all cost overruns related to the remedial work together with a grant to the NSA of a license to enter upon the property to complete the work at the expense and cost of the Purchaser or transferee should the contractor or the Applicant default on the Contract. Any cost overrun exceeding the Security posted with the NSA shall remain the sole and exclusive liability of the Purchaser or transferee and constitute a recordable lien against the real property.
- B. The Temporary Evidence of Compliance Certificate shall be effective for no more than sixty (60) days, and the expiration date shall be noted thereon. In the event the required remedial work necessitated by the Sale of Real Property is not practical due to the absence of available remedies, and where the NSA has adopted a plan of corrective action applicable to the Sanitary Sewers serving such real property, then the Temporary Evidence of Compliance Certificate shall be extended until the planned corrective action is completed. In such event, the NSA shall set security in the amount of 120% of the price of the Applicant's anticipated pro-rata cost of the anticipated remedial work.
- C. If, upon expiration of the Temporary Evidence of Compliance Certificate, all remedial work has not been completed and Evidence of Compliance Certificate has not been issued, the Security deposited with the NSA shall be forfeited and the NSA may use said Security to have the required remedial work completed.

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### **46.2.05 Rejection of Application. (§46.07)**

The NSA may reject an Application for an Evidence of Compliance Certificate or for a Temporary Evidence of Compliance Certificate whenever the requirements of this Ordinance have not been met. In the event of such a rejection, the Applicant may, within fifteen (15) days of the rejection, file an appeal with an appropriate appellate body.

### **46.2.06 NSA Resolutions. (§46.08)**

The NSA may, by Resolution, adopt any or all of the following in order to accomplish the purposes of this Ordinance:

- A. Establish and promulgate any and all forms, fees, procedures, regulations and/or guidelines necessary to implement and effectuate the objectives and purposes of this Ordinance.
- B. Establish the procedures and guidelines for the retention, release, and/or payment of any Security held by the NSA under and pursuant to 46.2.05 above.

### **46.2.07 Access and Inspection. (§46.09)**

- A. The NSA is authorized to enter real properties at reasonable times to perform Inspections to determine compliance with this Ordinance unless the owner and/or possessor specifically refuses access.
- B. If a property has security measures in force which require proper identification and clearance before entry into its premises, the owner and/or possessor shall, upon reasonable notice by the NSA, make the necessary arrangements to allow access by representatives of the NSA.
- C. The owner and/or possessor of the property shall allow the NSA reasonable access to all parts of a property necessary to the Inspections of the property. The NSA shall have the right to set up on any property such devices as are necessary in the opinion of the NSA to conduct Inspections of the property.
- D. Any temporary or permanent obstruction to safe and easy access to the property to be Inspected shall be promptly removed by the owner and/or possessor of the property at the oral or written request of the NSA and shall not be replaced until such Inspection is completed and/or any violations of this Ordinance are corrected and such corrections are certified by an Inspector.
- E. The NSA may provide notice of the Inspections of a property or properties orally or by written notice or publication. Notice is required if the owner and/or possessor specifically refuses access.
- F. If the NSA has been refused access to any part of a property on which an Illegal Connection is suspected, and the NSA is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine program of inspection and sampling designed to verify compliance with this Ordinance or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the NSA may seek issuance of a search warrant from any court of competent jurisdiction.

### **46.2.08 Penalties. (§46.10)**

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of the Borough Code are determined by Council resolution]

### **46.2.09 Notice of Non-Compliance/Violation. (§46.11)**

Whenever the NSA finds that a non-compliance or violation of this Ordinance has occurred, the NSA may order compliance by written Notice of Non-Compliance/Violation. Said Notice may be served personally on the owner and/or possessor of the property, or by leaving the same at the principal building on the property,

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or by posting the same conspicuously on the property, or by mail sent to the address of the property or at such other address for the owner and/or possessor as maintained in the Borough or County of Northumberland records.

- A. The Notice of Non-Compliance/Violation shall contain:
  - 1. The name and address of the alleged non-complier/violator;
  - 2. The address when available or a description of the building, structure or land upon which the non-compliance/violation is occurring, or has occurred;
  - 3. A statement specifying the nature of the non-compliance/violation;
  - 4. A description of the remedial measures necessary to restore compliance with this Ordinance and a time schedule for the completion of such remedial action;
  - 5. A statement of the penalty or penalties that shall or may be assessed against the Person to whom the Notice of Non-Compliance/Violation is directed; and
  - 6. A statement that the determination of violation may be appealed by filing a written notice of appeal with an appropriate appellate body within fifteen (15) days of the service of Notice of Non-Compliance/Violation.
- B. Such Notice of Non-Compliance/Violation may require without limitation:
  - 1. The performance of Inspections, monitoring, analyses, and reporting;
  - 2. The elimination, disconnection, and removal of the Illegal Connection(s) in accordance with 46.2.01, of this Ordinance; and
  - 3. That the Person whose discharges, practices, or operations are in non-compliance/violation of this Chapter shall cease and desist from such non-compliance/violations.

### **46.2.10 Appeal of Notice of Non-Compliance/Violation. (§46.12)**

Any Person receiving a Notice of Non-Compliance/Violation may appeal the determination of violation by filing a written notice of appeal with an appropriate appellate body within fifteen (15) days of the service of the Notice of Non-Compliance/Violation.

### **46.2.11 Enforcement Measures. (§46.13)**

- A. If the non-compliance/violation(s) has/have not been corrected in accordance with the provisions and/or times established pursuant to this Ordinance, the NSA is authorized to take any and all measures necessary to abate the non-compliance/violation, disconnect and remove the Illegal Connection(s), and/or restore the property. The costs of the enforcement measures taken by the NSA shall constitute a recordable lien against the property.
- B. Where correction of the non-compliance/violation cannot be made in accordance with the provisions and/or times established pursuant to this Ordinance, upon proof to the NSA of a Contract for performance of the correction work, or other document satisfactory to the NSA showing good faith commencement of correction of the non-compliance/violation, abatement by the NSA may be delayed up to a maximum of sixty (60) days after the Notice of Non-Compliance/Violation or, in the case of appeal, for a maximum of sixty (60) days after the decision of the appellate body upholding the determination of non-compliance/violation made by the NSA.

### **46.2.12 Danger to Public Health or Safety. (§46.14)**

In the event a non-compliance/violation of this Ordinance constitutes an immediate danger to public health or public safety, the NSA is authorized to take any and all measures necessary to abate the non-

## **Chapter 46 – Illegal Storm/Surface/Ground Water Connections**

compliance/violations, disconnect and remove the Illegal Connection(s), and/or restore the property. The costs of the measures taken by the NSA shall constitute a recordable lien against the property.

### ***46.2.13 Nuisance/Injunctive and Other Relief. (§46.15)***

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of the provisions of this Ordinance is a threat to public health, safety, welfare, and the environment and is declared and deemed to be a nuisance, and the NSA may seek abatement thereof by injunctive or other equitable relief as provided by law.

### ***46.2.14 Cumulative Remedies/Recovery of Fees and Costs. (§46.16)***

The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, State or local law, and the NSA may seek cumulative remedies. The NSA may recover attorney's fees, court costs, and other expenses associated with enforcement of this Ordinance, including sampling and monitoring expenses.



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**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 47 – RESERVED**

## **Chapter 47 – Reserved**

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**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 48 – RESERVED**

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**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 49 – RESERVED**

## **Chapter 49 – Reserved**

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## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 50 – STREETS AND SIDEWALKS

[History: Adopted by the council of the Borough of Northumberland: Article I, 7-5-27 as Ord. No. 69; Article II, 9-17-06 as Ord. No. 37; Article III, 2-16-14 as Ord. No. 17; Article IV, 7-21-81 as Ord. No. 361; Article V, 5-4-82 as part of Ord. No. 373. Sections 50-8, 50-13, 50-17 and 50-19 amended upon adoption of Code; see Ch 1, General Provisions. Other Amendments noted where applicable.]

## ARTICLE I – EXCAVATIONS

[Adopted 7-5-27 as Ord. No. 69]

### **50.1.01 Permit required. (50-1)**

- A. It shall be unlawful for any person or persons, firm or corporation to make any opening or excavation in or under any street, alley or other thoroughfare within the limits of the Borough of Northumberland unless and until a permit therefor is secured from the Chairman of the Street Committee or, in his absence, from a designated officer, for each separate undertaking. The permit and the application therefor shall be in the form prepared by the Borough Solicitor. The police officers of the borough shall promptly prohibit any work being done without a permit.
- B. No permit shall be issued to any person or persons, firms or corporations that are in default in the payment of any costs or penalties under this Article until said costs and penalties are paid, and no further permit shall be granted to any person or persons, firms or corporations unless and until the holes or trenches opened by them have, in the opinion of the designated officer, been properly filled and the surface permanently maintained in a safe condition at the present grade of the street, alley or other thoroughfare as is required by this Article. [Added 6-7-78 by Ord. No. 341]
- C. The Borough Office shall develop a form for application for excavation of the Borough Streets, which clearly sets forth the fees charged under this Chapter and the responsibilities of the applicant. [Added 9-5-00 by Ord. No. 2000-1]
- D. All public utilities shall be charged the same rates and held to the same standards for bonding, inspection, and restoration as individual applicants. This section shall not apply to the Northumberland - Point Township Sewer Authority. [Added 9-5-00 by Ord. 2000-1]

### **50.1.02 Fees; duration of permit; application information; emergencies. (50-2)**

[Amended 5-13-69 by Ord. No. 255; 10-5-76 by Ord. No. 309; 6-7-78 by Ord. No. 341; 7-1-86 by Ord. No. 390, 5-5-98 by Ord. No. 456; 9-5-00 by Ord. No. 2000-1; 12-18-01 by Ord. 2001-13]

The charge for said permit shall, for each separate opening, be set by resolution for the application fee. The maximum fee assessed for a street opening under this section shall be set by resolution. Each permit so granted shall be terminated at the expiration of thirty (30) days following the permit issue date. Each street opening must be closed according to Borough specifications within seventy-two (72) hours of the time of the street cut. Failure to comply with the seventy-two (72) hour deadline shall result in the imposition of a fine as set by resolution with further liability by collection against the performance bond in the amount set by resolution. Bond in acceptable amount must be posted simultaneously with the payment of the application fee at the time the permit application is submitted. Bond in the form of cash or by reputable insurance company shall be held for the benefit of the borough for five (5) years (60 months) following the date of closing the hole to be certain that the hole was repaired and usable in safety condition as though the same had not been disturbed.



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### **50.1.03 Safety requirements and liability. (50 -3)**

It shall be the duty of any person or persons, firms or corporations to whom a permit is issued or by whom any opening or excavation is made to provide and maintain proper and adequate guards, barriers and lights to prevent accidents, and they shall assume all risks and be liable for all damages by reason of the openings and excavations and by reason of any failure to properly fill the hole or trench and maintain the disturbed surface in a safe condition.

### **50.1.04 Surface restoration. (50-4)**

[Amended 6-7-78 by Ord. No. 341; 12-6-85 by Ord. No. 395; 5-5-98 by Ord. No. 456; 9-5-00 by Ord. No. 2000-1; 8-1-00 by Resolutions B and C]

- A. Any person or persons, firms or corporations to whom a permit is issued to open and excavate in or under any street, alley or other thoroughfare of the borough shall, at his, her, their or its expense, completely fill such opening or excavation and replace the surface thereof as it was before the opening and at the proper grade and with the same surface covering as the part thereof adjoining the opening, place a two-foot seal coat around all abutting edges of the excavation to seal the old and new surfaces together and thereafter, for a period of five (5) years, maintain the surface in a safe and useable condition as though the same had not been disturbed. No filling shall be performed unless an inspector appointed by the borough is present to observe the filling. The fees charged to pay the inspector shall be at the rate set by resolution. If the excavation is filled without an inspector being present, the borough maintains the right to have the excavation dug up and refilled in the presence of an inspector. All fill must be compacted according to Pennsylvania Department of Transportation specifications and according to the posted requirements in the Borough office as amended by the Engineer.
- B. All street cuts that are not completely back filled, but are up to within 1.0" from finish grade, must be brought up to finish grade with 1.0" of cold patch the next day. In case of an emergency, the street cut may be plated and completed the following day as per above. Weather permitting, it will be finished with BC.BC (base course bituminous concrete) or binder of a minimum depth of four and one-half (4.5") inches to a maximum depth that shall be determined in the field by the supervising street inspector. All street cuts must be backfilled in four-inch or eight-inch lifts, depending upon compaction equipment used, compacted to 98% to 100% compaction, or no movement under compaction equipment as approved by the supervising street inspector. One and one-half (1½") inches of a top wearing course (top course) is to be placed and compacted to 98% to 100% compaction, or no movement under compaction equipment as approved by the supervising street inspector.
- C. The top ID2 wearing course will not be placed over BC.BC. or binder until this material is compacted and cooled down. Then the top one and one-half (1½") inches of ID2 wearing course is to be placed and compacted to no movement under compaction equipment. All street cut joints must be sealed with (AC).
- D. After this is done, a ten (10.0') foot inspecting straight edge is to be straight edged throughout the project, repeating within one half the distance of the length of the straight edge, longitudinally and transversed. The deviation should not exceed one-fourth (¼") inch of the deviation according to Penn DOT specifications form 408. (Latest edition)
- E. All backfilling or replacement of material over a pipe trench shall substantially conform to the specifications contained within Exhibit "A". [Adopted 10-3-00 by Resolution H, Amended 8-18-2003 by Resolution M-2003]
- F. All street cuts must be signed by the SUPERVISING STREET INSPECTOR or other authorized Borough representative.

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### **50.1.05 Work completed by borough; costs. (50-5)**

[Amended 6-7-78 by Ord, No, 341]

If the work in opening or excavating or in the filling or maintaining of the surface shall be unskillfully or improperly or incompletely done, the designated officer may cause the same to be done in the manner he deems proper, and the expense of doing the same shall be charged to and paid by the person or persons, firms or corporations by whom the holes or excavations were made, together with twenty-five percent (25%) additional as a penalty.

### **50.1.06 Resurfacing; function of Engineer. (50-6)**

[Amended 10-3-00 by Resolution H]

In cases where the surface disturbed is in the driveway of a paved thoroughfare, the person, firm or corporation making an opening or excavation shall resurface the excavation, when properly filled, with new material of the kind and composition approved by the designated officer as suitable and sufficient, or may arrange with the designated officer for the resurfacing of the paving so as to conform with the other paving on the thoroughfare, in which case an additional twenty-four (24) inches on each side in order to assure a neat and complete job; provided, however, that in the doing of this work the borough does not, and the designated officer is not authorized to, in any way assume liability for the opening or its proper filling or resurfacing or the proper maintenance of the opening or excavation after the surface has been re-laid, but in doing the work the designated officer shall act as agent for, and for the convenience of, the party opening the thoroughfare, and the work shall be in the designated officer's charge only during the actual time of its performance and while the workmen are under his charge as such agent.

### **50.1.07 Permit exemptions. (50-7)**

[Amended 9-5-00 by Ord. No. 2000-1]

- A. It shall not be necessary for the designated officer for the Borough of Northumberland, or their employees acting under their direction, to secure the permit herein required for the borough purposes only.
- B. No person, firm or corporation, however, shall be exempted from the provisions of this Article by the securing of a sewer tap permit or a building permit, but such person, firm or corporation must secure the permit required by this Article under the terms and conditions herein set out before any excavation can be made in, upon or under any of the said streets, alleys or thoroughfares in said borough.
- C. All construction, excavation, or other work which occurs within the Borough of Northumberland and which disturbs the surface or subsurface of any Borough or State roads, alleys, streets, or improved rights of way shall be performed according to the construction standards of the Pennsylvania Department of Transportation (PennDOT). These standards address, but are not limited to, the material used for backfilling, the depth of excavations and the method of inspection. A copy of the relevant PennDOT standards shall be available for inspection at the Borough Office.

### **50 1.08 Violations and penalties. (50-8)**

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]

### **50.1.09 Enforcing agent. (50-9)**

If for any reason the duties prescribed cannot be promptly performed by the Borough Engineer, they may be performed by or under the direction of the designated officer for the Borough of Northumberland.

## Chapter 50 – Streets and Sidewalks

### ARTICLE II – GRADES AND CONSTRUCTION SPECIFICATIONS

[Adopted 9-17-06 as Ord. No. 37; Other amendments noted where applicable.]

#### **50.2.01 Authority for establishment. (50-10)**

The grades of the streets of the Borough of Northumberland shall be as laid down in the plat and in the "Grade Book" made by O. H. Ostrander, surveyor and engineer, during the months of August and September 1893, and adopted by Council on January 7, 1901, and supplemented and amended by Council since that date, and the grades so fixed are hereby established as the grades of the streets and alleys of the Borough.

#### **50.2.02 Specifications. (50-11)**

All persons owning or occupying property in the borough along streets on which the grades have been established or may hereafter be established and accepted shall have their curbs set, pavements made and gutters cobbled or paved in accordance with the following regulations and requirements, which are hereby declared to be general:

- A. The outside of the curbstones shall be placed on the line established for the width of the pavement on the several streets and shall be at least two (2) feet long, two (2) feet, six (6) inches wide or in depth and not less than two (2) inches thick at the top. The front and end of said stones shall be dressed smooth for a breadth of nine (9) inches from the top. The top of the curb must also be dressed straight and smooth and shall be beveled so as to have the same rise as the pavement, and the stones set so that the front shall lean back one and one-half (1½) inches to the foot rise, provided that this Article shall not prevent anyone from using iron or cement instead of stone curbing.
- B. The sidewalks and footways between the curbstone and building line shall be cut down or filled up so as to correspond with the rise and fall thereof and shall be paved with well-burned brick, cement or flagstone, squared and dressed and containing in each tone not less than four (4) square feet. Said pavements shall be as follows: on Water Street between Westway and Orange Streets, to be paved full width: on Front Street between Westway and Orange Streets, to be paved full width: on Queen Street between Water and Second Streets, and Market Square and King Street between Water and Second Streets, to be paved full width. The pavement on all other streets shall be at least five (5) feet wide and be laid two (2) feet from the curb line; the rise in the pavement shall be one-third (1/3) inch to the foot from the curb line to the building line.
- C. No person shall set or cause to be set any curbstones or make or cause to be made any pavement in any streets on which the grades have been established by the Council until the grade and place thereof shall be given by the Borough Engineer or a person appointed by the Council for that purpose the expense thereof shall be borne by the property owner in front of whose lot the same shall be given or by the person requesting the work to be done.
- D. All water stops and plugs must be placed immediately inside of all curbstone or curb line, and all awning posts must be placed on or just inside of the curbstone. The top of the water stops must be on a level with the pavement.
- E. In all of the streets of the borough, the sidewalks from the house line to the curb line shall be twelve (12) feet, and not more than five (5) feet shall be allowed for porches and steps from the building line, leaving seven (7) feet of pavement. Pavement in alleys shall be not more than three (3) feet in width.
- F. All areas and steps leading below the level of the pavement shall be protected by railings, and all gratings and vaults shall be securely fixed and covered in such a manner as to render the passage of the streets safe at all times.

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- G. No drain shall be made from cesspools or privy vaults into any of the culverts, ditches, drains or highways of the borough, and no person shall be allowed to deposit any refuse in any of the watercourses or public drains of the borough.
- H. All property owners shall be and hereby are required to cobble or pave all gutters in front of their several properties, where the same may be necessary or required, to a width of four (4) feet.

### **50.2.03 Construction to meet standards; supervision. (50 -12)**

- A. All streets of the borough shall be curbed, sidewalks paved and streets guttered by the owners of lots of ground respectively fronting on said streets in conformity with these regulations and the grades so established, and all such curbing and paving is required to be done in a good and workmanlike manner under the supervision of the Borough's designated officer.
- B. Technical requirements for sidewalk construction. [Added on December 4, 2001 by Ordinance 2001-12. Amended 8-2-05 by Ord. No. 2005-4.]
  - 1. All sidewalks shall be at least five (5) feet or the width of any abutting sidewalk and at least four (4) inches thick. The thickness where a sidewalk crosses a driveway shall be at least six (6) inches thick.
  - 2. Except as provided in Section 3, all sidewalks shall be constructed of concrete, 3500# type. No design shall be etched into the concrete and all sections shall have a light broomed finish. No sidewalks shall be constructed or replaced with slate or blacktop or other asphalt mixture.
  - 3. Concrete sidewalks must extend through a driveway area at the established grade of the adjoining sidewalks.
  - 4. The surface of the sidewalk shall have the transverse slope of one-quarter inch per foot, with a low side adjacent to the roadway, and shall not exceed a grade slope of one-half inch to the foot and shall contain no steps.
  - 5. All sidewalks shall be placed in an excavation made to the required depth and to a width to permit the installation of bracing of forms. The subgrade shall be shaped and compacted to a firm surface conforming to the established grade. The subgrade shall be filled with four (4) inches of clean ¾ inch stone. All forms shall be of wood or metal and extend for the full depth of the concrete and of sufficient strength to resist the pressure of the concrete without springing.
  - 6. Sidewalks shall have expansion joint fillers ½ inch thick at a maximum of every twenty (20) feet and between the walk and any fixed structures, extending the full depth of the concrete.
- C. Sidewalk replacement standards. [Added on December 4, 2001 by Ordinance 2001-12.]
  - 1. Any sidewalk section has more than one significant crack.
  - 2. Any sidewalk which has one significant crack and one of the pieces on either side of the crack has risen or fallen one (1) inch or more than any of the adjoining sidewalk sections. Said sidewalk may also be repaired provided the sections in question are within one (1) inch of finished grade of the adjoining sidewalk sections.
  - 3. Any section of sidewalk, which has risen or fallen one (1) inch or more above or below an adjoining sidewalk section or curb. Said sidewalk may also be repaired provided the sections in question are within one (1) inch of finished grade of the adjoining sidewalk sections.
  - 4. Any section of sidewalk which has spider-webbed cracks such that the crack pieces can be removed.
  - 5. Any section which has surface deterioration enabling pieces to be removed.

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6. Any sidewalks made of slate, subject to the right to request an exception under Section F.
7. Any sidewalks made of brick, subject to the right to require an exception under Section F.
8. Any sidewalk which has flush edges but have risen or fallen by one (1") inch or more over a twelve (12') foot span.

D. Sidewalks required. [Added on December 4, 2001 by Ordinance 2001-12.]

1. The Borough Council may, after public hearing, designate by resolution a list of locations and addresses in the Borough of Northumberland where sidewalks are required to be installed. This resolution shall be made available to the public. The Borough Council may require that property owners located within the designated area install sidewalks within ninety (90) days. If any property owner refuses to install sidewalks after receipt of written notice from the Borough, then the Borough may enter into the property in question and install a sidewalk at its expense. The Borough may then charge the property owner for the cost of installation. The Borough's costs may also be imposed as a municipal lien in accordance with the laws of the Commonwealth of Pennsylvania.
2. Streets on which sidewalks are required. [Added on January 22, 2002 by Resolution B-2002.]
  - a) Water Street from Barry King Memorial Bridge to C Street. Both sides.
  - b) Front Street from Duke Street to C Street. Both sides.
  - c) Second Street from Duke Street to Prince Street. Both sides.
  - d) Third Street from Duke Street to Prince Street. Both sides.
  - e) Fourth Street from Duke Street to Hanover Street. Both sides.
  - f) Fifth Street from Duke Street to Strawbridge Road. Both sides. Exception: Prince Street to Strawbridge Road even numbered side.
  - g) Sixth Street from Duke Street to Prince Street. Both sides.
  - h) Seventh Street from Duke Street to Prince Street. Both sides.
  - i) Eighth Street from Duke Street to Orange Street. Exception: Along the curve going from the stop sign at Eighth Street and Orange Street to Jolly Hollow.
  - j) Duke Street from Seventh Street to Water Street. Both sides.
  - k) Queen Street from Eighth Street to Priestley Avenue. Both sides.
  - l) King Street from Eighth Street to Priestley Avenue. Both sides.
  - m) Orange Street from Seventh Street to Priestley Avenue. Both sides.
  - n) Hanover Street from Seventh Street to Priestley Avenue. Both sides.
  - o) Prince Street from Seventh Street to Front Street. Both sides. Exception: Washington Avenue to Front Street (east side). Second Street to Front Street (west side).
  - p) Wheatley Avenue from Seventh Street to Sixth Street. Both sides.
  - q) Wallace Street from Seventh Street to Pond Avenue.
  - r) North Avenue from Seventh Street to Pond Avenue.
  - s) Priestley Avenue from Queen Street to Hanover Street.
  - t) Property owners may obtain exclusions by petitioning Borough Council on the basis of impracticality due to building placement or where the contour of the land so inhibits the installation of a sidewalk.

## **Chapter 50 – Streets and Sidewalks**

- u) This code applies to all existing sidewalks in the Borough. No existing sidewalk may be removed even if not included in the required sidewalks list.

**E. Enforcement.** [Added on December 4, 2001 by Ordinance 2001-12.]

This Code shall be enforced by the Code Enforcement Officer or other agent designated by the Borough Council. The Borough may commence a civil action in any court of competent jurisdiction to enforce compliance with this Ordinance.

**F. Exceptions for unique property conditions, unique design requirements and hardship.** [Added on December 4, 2001 by Ordinance 2001-12.]

The Council recognizes that some properties may not be appropriate for the application of the uniform sidewalk specifications set forth due to unique topographic conditions, drainage problems, special design and architectural conditions, including but not limited to the desire to install historically correct sidewalks (brick, cobblestone, or slate) or other conditions which would render the application of Section B a severe hardship upon the property owner. If a property owner believes that he or she should be granted an exception from the application of this Code, then he or she shall submit a written application to council with supporting evidence and Council shall upon voice vote grant or deny the request for exception. A negative vote shall be considered a final action of the local government agency and may be appealed to the Court of Common Pleas with thirty (30) days.

### **50.2.04 Petition for sidewalk paving or repaving. (50-13)**

Where there are no paved sidewalks, or the sidewalks already laid so differ from the established grade and the other adjacent pavements as to render them dangerous to life and limb or inconvenient for public travel, a verified petition may be filed with the Borough Council by five (5) or more residents of the borough stating these facts and stating that the petitioners labor under great inconvenience by reason thereof, and, thereupon, the Council shall have the Borough Secretary cause precepts to be issued and served upon the owners and occupiers of lots fronting on the streets named in the petition, which precepts shall direct and require that sidewalk pavements be laid or re-laid, as the case may be, within thirty (30) days after said notice in accordance with the specifications herein provided. Upon the failure of any owner or occupier of any lot of ground so notified to have the curbing and paving of the sidewalks made and done as required within the time prescribed in said notice, the Secretary of the Council shall certify said failure to the Borough Council, which is hereby authorized, directed, and empowered and required to have the pavement, sidewalk or footwalk paving and curbing to be made and done in accordance with the Act of Assembly in such case made and provided and under the direction and control of the Borough Engineer, and the Borough Council is hereby directed and required to collect the cost of the work and material required, with ten percent (10%) advance thereon, from the owner or owners, by filing a lien after the completion of said work in the manner directed by the provisions of the Act of Assembly in such case made and provided.

### **50.2.05 Petition to repair sidewalks. (50-14)**

Whenever it shall be made to appear to the satisfaction of the Council by petition or affidavit of one (1) or more persons that any sidewalk of the borough is out of repair, it shall be the duty of the Secretary to issue his precepts to the owners and occupiers of the premises in front of which the pavement or sidewalk to be repaired within the time prescribed in said notice, then the Secretary shall immediately certify such failure to the Borough Council, which is hereby authorized, directed, empowered and required to cause the pavement or sidewalk to be repaired in accordance with the Act of Assembly in such case and provided.

### **50.2.06 Posting of danger signals. (50-15)**

It shall be the duty of the Council upon being notified of the dangerous condition of any sidewalk of the borough to cause a danger signal to be placed in a conspicuous position in close proximity thereto.

## **Chapter 50 – Streets and Sidewalks**

### **50.2.07 "Grade Book" (50- 16)**

The "Grade Book" shall be placed in the hands of the Borough Secretary and shall be open to the public, but under no circumstances shall the "Grade Book" be taken out of the possession of the Borough Secretary except by an order of majority of the Borough Council.

### **50.2.08 Violations and penalties. (50-17)**

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]

## **ARTICLE III – SNOW AND ICE REMOVAL**

[Adopted February 15, 1914 as Ord. No. 17, Amended March 3, 2020 by Ord. No. 2020-2]

### **50.3.01 Removal required. (50-18)**

It shall be unlawful for the owner or occupant of any property in the Borough of Northumberland to allow snow and ice to remain on the sidewalks abutting or pavements abutting their several premises and a property for a longer period than twenty-four (24) hours after snow has fallen or ice has accumulated.

### **50.3.02 Violations and penalties. (50-19)**

Any officer or employee of the Borough designated for the purpose of enforcing this Ordinance ("Enforcement Officer"), is hereby authorized to issue a quality of life ticket, by personal service or by mail, to the owner or occupant, as the case may be, of any premises whereon snow and ice have accumulated and remained on the sidewalks abutting or pavements abutting the premises for a period longer than twenty-four (24) hours after snow has fallen or ice has accumulated in violation of Section 50.3.01 of the Code of the Borough of Northumberland, or for violation of any other prohibition itemized in Chapter 50, Article III of the Code of the Borough of Northumberland, assessing a fine of \$25.00 due to be paid to the Borough within ten (10) days, and ordering and directing that the owner or occupant, as the case may be, immediately remove the snow and/or ice. Each day a violation remains unremedied following the issuance of the quality of life ticket shall constitute a separate and independent violation for which a quality of life ticket may be issued. Northumberland Borough Council may designate any Enforcement Officer charged with enforcement of this provision by resolution. Should any person, firm or corporation fail to pay any quality of life ticket or appeal said ticket in the manner set forth in Section 42.1.07, upon conviction thereon, shall be sentenced to pay a fine of not less than \$50.00 nor more than \$300.00 for each violation, plus costs of prosecution, with each day's violation constituting a separate offense, and notice to the offender of subsequent violations shall not be necessary in order to constitute an offense. Borough Council may amend the fines and penalties established herein by resolution. [Amended by Ord. No. 2020-2]

### **50.3.03 Removal by borough; lien for costs. (50-20)**

If the said owners or occupants of the several premises shall fail to remove the said snow or ice as aforesaid, it shall be lawful for the borough to remove the said snow and ice or to have removed the snow and ice, and the cost shall be charged against the owner of the premises and the same shall be collected as debts are now by law collected.

#### **50.3.03.1 Shoveling snow onto street prohibited; penalty. (50-20.1)**

[Added 5-4-82 by Ord. No. 373]

- A. For purposes of this section, a "street" shall be any public way or public thoroughfare having a right-of-way in excess of twenty (20) feet.

## Chapter 50 – Streets and Sidewalks

- B. It shall be unlawful for any person to shovel or place any snow or cause any snow to be shoveled or placed onto or upon any portion of any street in the Borough of Northumberland except that portion of the street extending four (4) feet centerward from the curb or from the edge of the paved portion of the street if there is no curb.
- C. It shall be unlawful for any person in shoveling, moving or removing snow or causing any snow to be shoveled, moved or removed from any portion of any street in the Borough of Northumberland to place said snow or to cause said snow to be placed upon any portion of any street in the borough except that portion of the street extending four (4) feet center ward from the curb or from the edge of the paved portion of the street if there is no curb.
- D. [As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]

### 50.3.04 Appeal from Quality of Life Ticket

Any person, firm or corporation to which the Borough Enforcement Officer issues a quality of life ticket for violation of this Chapter may appeal the ticket and finding of violation by submitting a written request to appeal to the Borough Manager within ten (10) days of the date of violation ticket, stating their reasons for appeal, and accompanied by the fine amount. The Board of appeals shall meet within fifteen (15) days of the filing of an appeal to consider the merits of the appeal. The meeting shall be public and the appellants, his representatives, the enforcing officer and any other person whose interests may be affected by the matter shall be heard. Within thirty (30) days of the submission of the appeal, Northumberland Borough, through a determination made by the Board of Appeals appointed by Borough Council pursuant to Chapter 30 of the Code of the Borough of Northumberland, may decide to uphold the appeal, deny the appeal, or may modify the violation ticket and/or any associated costs, fines, or penalty amounts as deemed appropriate, and shall issue written notice of its decision along with any refunds applicable. **Failure to timely appeal the violation ticket will be deemed an admission of liability for the violation and shall render the violation ticket final.** An appeal from the violation ticket and/or notice of violation issued under this Chapter shall act as an automatic stay of the violation appealed. Any person, firm or corporation aggrieved by the final decision of the Board of Appeals following a timely appeal may obtain judicial review by filing with the Court of Common Pleas of Northumberland County, within 30 days from the date of the Board of Appeal's determination, a petition praying that the decision be set aside in whole or in part. The stay provided in this section shall remain in effect during the pendency of the appeal before the Board of Appeals and during the pendency of any subsequent appeals from the Board of Appeal's decision to the courts of this commonwealth. [Amended by Ord. No. 2020-2]

## ARTICLE IV– RULES AND REGULATIONS FOR THE REMOVAL AND REPLACEMENT FOR DEPRESSED CURBS FOR DRIVES ADJACENT TO THE STREETS AND ROADWAYS OF THE BOROUGH

[Adopted 12-5-00 as Ord. No. 2000-4 to replace Ord. No. 361]

### 50.4.01 Definitions. (50-21)

As used in this Article, the following terms shall have the meanings indicated:

**CURB** For purposes of this Article only, a concrete curb and an amesite watercourse retaining mound.



## **Chapter 50 – Streets and Sidewalks**

**PERSON** Any individual(s), firm(s), association(s), partnership(s), corporation(s), or any other entity or entities.

### **50.4.02 Legislative Intent. (50-22)**

The curbs, which are adjacent to the public streets, roads, and thoroughfares of the Borough of Northumberland, are a valuable resource to the community. The Borough has a vital interest in the maintenance of the curbs in safe, working order. The improper making of cuts into the curbs causes the degradation of existing curbing, increases traffic hazards, and creates visual pollution. Therefore, the Borough shall establish rules and regulations for removal and replacement of the Borough's curbs.

### **50.4.03 Removal and Replacement. (50-23)**

Conditions for removal and replacement for depressed curbs for drives adjacent to the streets and roadways of the Borough

- A. A permit must be approved by the street inspection supervisor.
- B. There is to be proof that all fees and charges established by this Article are paid.

### **50.4.04 Application; issuance of permit (50-24)**

The form of application may be obtained from the Borough Office. The fees charged under this Chapter are set by resolution.

### **50.4.05 Cost; payment; inspection fee. (50-25)**

(Adopted 11-21-00 by Resolution K; amended 12-18-01 by Ord. 2001-13.)

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]

### **50.4.06 Standards of Construction for portion of Driveway and Curb Removal and Replacement for Depressed Curbs and Drives. (50-26)**

The portion of any driveway located between the property line and the curb line shall be constructed of concrete six (6") inches in depth with expansion joints at the curb line and the sidewalk.

All construction, excavation, or other replacement of depressed curbs for drives which are adjacent to the public streets and roadways of the Borough of Northumberland shall be performed according to the construction standards of the Pennsylvania Department of Transportation (PennDOT) as set forth in the most recent edition of PennDOT Standards for Roadway Construction RC-64 (Exhibit B). These standards require that all depressed curbs for single driveways be a minimum of ten (10') feet in width in the main to a maximum of fifteen (15') feet in the main. All depressed curbs for a double driveway are to be a minimum of fifteen and one-hundredth (15.01') feet in the main. The rise shall be within eighteen (18") inches on each side of the depressed curb which shall rise from one and one-half (1 ½") inches to the height of the existing curb as per standard drawings in RC-64, section A-A (Exhibit C). A copy of the relevant PennDOT standards shall be available for inspection by the public at the Borough Office.

### **50.4.07 Standards of Construction for Newly-constructed Roadways or Streets**

Any newly-constructed roadways or streets in the Borough shall have a minimum width of not less than thirty-two (32') feet including a twenty (20') foot wide cartway and a six (6') foot paved berm on either side when measured between the facing curbs on opposite sides of the roadway or street. For purposes of this section, "roadway or street" shall be defined to mean any roadway which is designed to permit vehicular traffic and which the developer intends, at any time, to dedicate to the Borough. All newly-constructed roadways or streets shall be edged by rolled berms located at the edge of the street with said berms to be not less than six

## Chapter 50 – Streets and Sidewalks

(6") inches high and not less than eight (8") inches wide. The street shall be constructed in all respects pursuant to prevailing PENNDOT construction regulations. [Adopted 10-5-2004 by Ord. No. 2004-2]

### 50.4.08 Violations and penalties. (50-27)

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]

## ARTICLE V – REFUSE UPON STREETS

[Adopted 5-4-82 as part of Ord. No, 373]

### 50.5.01 Definitions. (50-28)

The following words, when used in this Article, shall have the meanings indicated:

**Garbage** All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

**Person** Any individual, partnership, association, corporation or any other entity.

**Refuse** Garbage, rubbish, waste and trade waste.

**Rubbish** Solids, including but not limited to rags, old clothes, leather, rubber, carpets, wood excelsior, paper, plastics, ashes, tree branches, leaves, grass, yard trimmings, furniture, cans, glass, crockery, masonry and any other similar materials.

**Trade Waste** All solid or liquid material, rubbish and waste resulting from construction, building operations or the prosecution of any business trade or industry.

**Waste** Paint, chemicals and petroleum products, including but not limited to grease, oil, diesel fuel, gasoline, kerosene and all other similar materials.

### 50.5.02 Prohibition. (50-29)

[Amended 10-29-86 as Ord. No. 392]

It shall be unlawful for any person to throw, dump or place in any manner whatsoever any refuse upon any streets or alleys in the Borough of Northumberland, or for any person to permit or allow his agent or anyone under his control or supervision to do the same.

### 50.5.03 Notice. (50-30)

[Amended 10-29-86 as Ord. No. 392]

- A. Except in the circumstances set out in B below, any person violating this ordinance for the first time shall be given twenty-four (24) hours to remove the refuse.
- B. In those instances where the refuse creates an emergency situation or hazardous condition, the person in violation shall be directed to remove the refuse immediately.
- C. Should any person fail to remove the refuse after being notified to do so, the Borough may remove the same and bill the violator for the cost thereof.

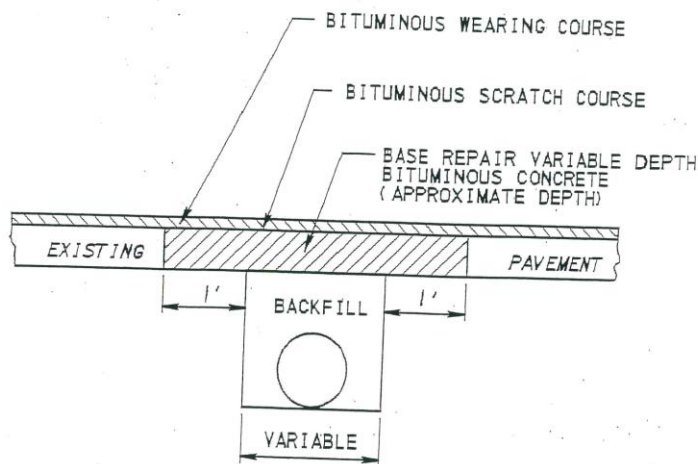
### 50.5.04 Violations and penalties. (50-31)

[Amended 2022-12 as Ord. No 2022-A] [Amended 10-29-86 as Ord. No. 392] [As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]

## Chapter 50 – Streets and Sidewalks

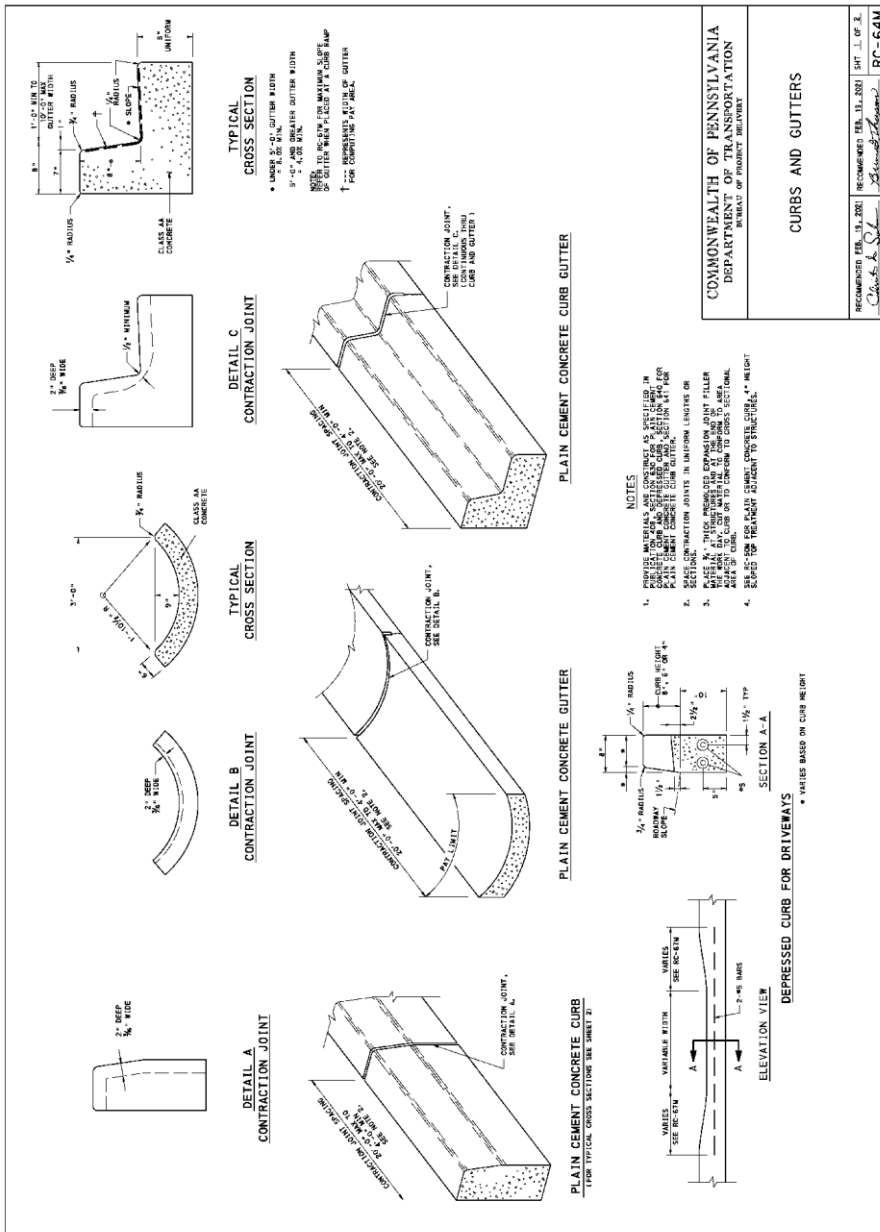
Any officer or employee of the Borough designated for the purpose of enforcing this Ordinance ("Enforcement Officer"), is hereby authorized to give notice, by personal service or by mail, to the owner or occupant, as the case may be, of any premises found to be in violation of Article V of this Chapter, directing and requiring such owner or occupant to remediate the violation within an established reasonable period of time, given the violation and circumstances. Should any person, firm or corporation neglect, fail or refuse to comply with such notice within the period of time stated therein, the Borough Enforcement Officer shall be empowered to issue a quality of life ticket to said individual assessing a fine of \$25.00 due to be paid to the Borough within ten (10) days. Each day a violation remains unremedied following the expiration of the period of time stated in the notice shall constitute a separate and independent violation for which a quality of life ticket may be issued. Northumberland Borough Council may designate any Enforcement Officer charged with enforcement of this provision by resolution. Should any person, firm or corporation fail to pay any quality of life ticket or appeal said ticket in the manner set forth in Section 50.3.04, upon conviction thereon, shall be sentenced to pay a fine of not less than \$50.00 nor more than \$300.00 for each violation, plus costs of prosecution, with each day's violation constituting a separate offense, and notice to the offender of subsequent violations shall not be necessary in order to constitute an offense. Borough Council may amend the fines and penalties established herein by resolution.

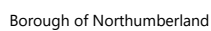
### EXHIBIT A – DETAIL OF BASE REPLACEMENT OVER PIPE TRENCH



DETAIL OF BASE REPLACEMENT  
OVER PIPE TRENCH

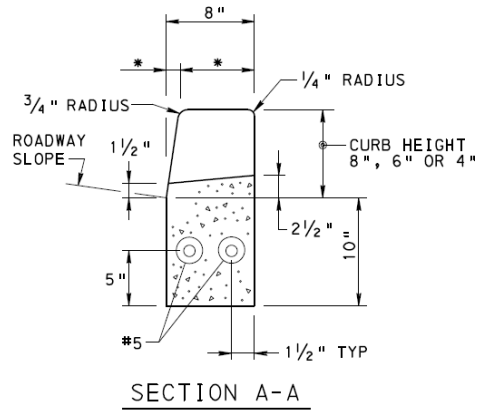
## EXHIBIT B – RC-64 CURBS AND GUTTERS



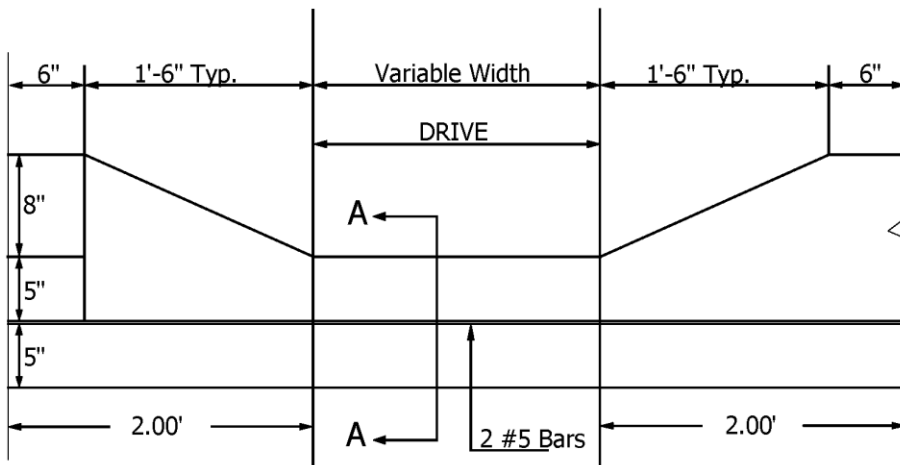


Chapter 50 – Streets and Sidewalks

EXHIBIT C – DETAIL DIAGRAM OF DEPRESSED CURB FOR DRIVES



\* VARIES BASED ON CURB HEIGHT



## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 51 – SUBDIVISION

[History: Adopted by the council of the Borough of Northumberland 1-19-1977, amended on 5-7-1991.  
Other Amendments noted where applicable.]

## ARTICLE I – GENERAL PROVISIONS AND ADMINISTRATION

### **51.1.01 Authority of Northumberland Borough (hereinafter called Borough)**

The Council of the Borough is vested by law with the control of the subdivision of land within the Borough by Act 247 of 1968, the Pennsylvania Municipalities Planning Code, as amended (hereinafter called Planning).

### **51.1.02 Authority of the Northumberland Borough Planning Commission**

The Northumberland Borough Planning Commission (hereinafter called Planning Commission) shall have the power to review and approve or disapprove all land subdivision and development plans within the Borough. All applications for approval of subdivision and land development plans within the Borough shall be filed in the Borough Office and submitted to the Planning Commission for review and approval or disapproval.

### **51.1.03 Purposes of Ordinance**

This Ordinance is adopted for the following purposes:

- A. To protect and provide for the public health, safety, and general welfare of the Borough.
- B. To guide the future growth and development of the Borough in accordance with the Comprehensive Plan of the Borough.
- C. To provide for adequate light, air, and privacy; secure safety from fire, flood, and other danger; and to prevent overcrowding of the land and undue congestion of population in the Borough.
- D. To protect the character and the social and economic stability of all parts of the Borough and to encourage the orderly and beneficial development of all parts of the Borough.
- E. To protect and conserve the value of land throughout the Borough, and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.
- F. To guide public and private policy and action in order to provide adequate and efficient transportation, water supply, sewerage, schools, parks, playgrounds, recreation, and other public requirements facilities in the Borough.
- G. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the Borough, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.
- H. To establish reasonable standards of design and procedures for subdivision and resubdivisions, in order to further the orderly layout and use of land; and to insure proper legal descriptions and monumenting of subdivided land in the Borough.
- I. To insure that public facilities are available and will have sufficient capacity to serve the proposed subdivision.
- J. To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the Borough in order to preserve the community and value of the land.

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- K. To preserve the natural beauty and topography of the Borough and to insure appropriate development with regard to these natural features.
- L. To provide for open spaces through the most efficient design and layout of the land.
- M. And finally, to ensure that documents prepared as of a land ownership transfer fully and accurately describe the parcel of land being subdivided, and new parcels thus created.

### 51.1.04 Interpretation of Ordinance

- A. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- B. Conflict with Public and Private Provisions
  - 1. Public Provisions: This Ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, or other provision of law. Where any provision of this Ordinance imposes restriction different from those imposed by any other provision of this Ordinance or any other ordinance, rule, or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.
  - 2. Private Provisions: This Ordinance is not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of this Ordinance are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreements or restrictions the requirements of this Ordinance shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Borough Planning Commission or the Borough in enforcing this Ordinance, and such private provisions are not inconsistent with this Ordinance or determinations thereunder, then such private provisions shall be operative and supplement to these regulations and determinations made thereunder.
- C. Separability

If any part or provision of this Ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Ordinance or the application thereof to other persons or circumstances. The Borough Council hereby declares that it would have enacted the remainder of this Ordinance even without any such part, provision, or application.
- D. Saving Provision

This Ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the Borough under any section or provision existing at the time of adoption of this Ordinance, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the Borough except as shall be expressly provided for in this Ordinance.
- E. Repealer

Upon the adoption of this Ordinance according to law, all subdivision, ordinances or regulations of the Borough inconsistent herewith are hereby repealed.



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### **51.1.05 Amendment of Ordinance**

- A. For the purpose of providing the public health, safety and general welfare, the Borough Council reserves the right from time to time to amend this Ordinance in accordance with the applicable provisions of the Planning Code.
- B. Before voting on the enactment of a proposed subdivision ordinance amendment, the Borough Council shall hold a public hearing thereon. Notice of said hearing shall be published once each week for two successive weeks in a newspaper of general circulation in the Borough. The first publication shall not be more than 30 days and the second shall not be less than seven days from the date of the hearing. The notice shall state the time and place of the hearing, the particular nature of the matter to be considered at the hearing, a brief summary setting forth the principal provisions of the proposed amendment, and a reference to the place within the Borough where copies of the proposed amendment may be secured or examined.
- C. Unless the proposed amendment shall have been prepared by the Planning Commission, the Borough Council shall submit the ordinance to the Planning Commission at least 45 days prior to the hearing to provide an opportunity to submit recommendations.
- D. At least 45 days prior to the public hearing, the Borough shall submit the proposed amendment to the Northumberland County Planning Commission for recommendations.
- E. Proposed subdivision amendments shall not be enacted unless notice of proposed enactment is given as follows. This notice shall include the time and place of the meeting at which passage will be considered, a reference to a place within the Borough where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Borough Council shall publish the proposed amendment once in one newspaper of general circulation in the Borough not more than 60 days nor less than 7 days prior to passage. Publication of the proposed amendment shall include either the full text thereof or the title and a brief summary, prepared by the solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:
  - 1. A copy thereof shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published.
  - 2. An attested copy of the proposed ordinance shall be filed in the Northumberland County Law Library.
- F. In the event substantial amendments are made in the proposed amendment, before voting upon enactment, the Borough Council shall, at least ten days prior to enactment, readvertise, in one newspaper of general circulation in the Borough, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.
- G. Within 30 days after adoption, the Borough Council shall forward a certified copy of the amendment to the Northumberland County Planning Commission.

### **51.1.06 Appeal of Decisions under this Ordinance**

- A. All appeals from decisions or deemed decisions under this Ordinance shall be taken to the Court of Common Pleas of Northumberland County.
- B. The procedures set forth in the Planning Code shall constitute the exclusive mode for the review, by appeal, of any decision rendered or deemed to have been made under this Ordinance and the Planning Code. Said procedures provide, among other things, (a) that all appeals to the Court shall be filed within 30 days after entry of the decision or, in case of a deemed decision, within 30 days after the date upon

## Chapter 51 – Subdivision

which notice of said deemed decision is given, (b) that an appeal to the Court shall not automatically stay the action appealed from, but the appellant may petition the Court for a stay.

### 51.1.07 Remedies

#### A. Preventive Remedies

1. In addition to other remedies, the Borough may institute and maintain approximate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.
2. The Borough may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of this Ordinance. However, should the Borough decide to issue a permit or grant an approval, as an additional condition for issuance of a permit or the granting of an approval to owner, current owner, vendee or lessee for development of any real property, it may require compliance with the conditions that would have been applicable to the property at time the applicant acquired an interest in the real property.

The Authority to deny such a permit or approval shall apply to any of the following applicants.

- a) The owner of record at the time of such violation.
- b) The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
- c) The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
- d) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

#### B. Enforcement Remedies

1. District justices shall have initial jurisdiction in proceedings brought under this Section.  
[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution.]
2. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.
3. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence action for enforcement pursuant to this section.

#### C. Remedies to Effect Completion of Improvements

In the event that any improvements which may be required have not been installed as provided in this Ordinance or in accord with the approved final plan the Borough Council shall enforce any corporate bond, or other security by appropriate legal and equitable remedies. If proceeds of such bond or other security are insufficient to pay the cost of installing or making repairs or corrections to all tile improvements covered by said security the Borough Council may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal

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or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.

## ARTICLE II – PROCEDURES

### 51.2.01 General Matters

No subdivision or land development of any lot, tract or parcel of land shall be made, no street, sanitary sewer, storm sewer, water main or other improvements in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, except in accordance with the provisions of this Ordinance.

#### A. Classification of Subdivisions

For purposes of this Ordinance there shall be two classes of subdivisions, namely: Minor and Major.

A **Minor** Subdivision is a subdivision that contains 5 or fewer lots, all fronting on a public street that does not involve the creation of any new street.

A **Major** Subdivision is any subdivision other than a Minor Subdivision.

#### B. Filing and Official Filing Date of Plans

All subdivision plans shall be filed in the Borough office. The official filing date shall be the date of the regular meeting of the Planning Commission next following the date that there is received in the Borough Office the application and the requisite fees plus six (6) copies of the map or plan and three (3) copies of material to be submitted with the plan, all of which must be in strict compliance with the provisions of this Ordinance.

#### C. Plan Submission to County

The Borough shall upon receipt of a plan of a proposed subdivision or land development forward to the Northumberland County Planning Commission two (2) copies of each plot or plan received and one (1) copy of all supporting documents required for review.

### 51.2.02 Planning Commission

#### A. Membership

The Planning Commission shall consist of five (5) residents of the Borough appointed by resolution of Borough Council at least two (2) of which shall be citizen members. Citizen members shall not be officers or employees of the Borough. The term of each of the members of the Commission shall be for four years, or until his until his successor is appointed and qualified. All members of the Commission shall serve without compensation, but may be reimbursed for necessary and reasonable expenses. However, elected or appointed officers or employees of the municipality shall not, by reason of membership thereon, forfeit the right to exercise the powers, perform the duties or receive the compensations of the municipal offices held by them during such membership.

#### B. Removal

Any member of the Commission may be removed from office for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Borough Council taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

#### C. Conduct of Business

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The Commission shall elect its chairman and vice chairman and create and fill such other offices as it may determine. Officers shall serve annual terms and may succeed themselves. The Commission may make and alter laws and rules and regulations to govern its procedures consistent with the ordinances of the municipality and the laws of the Commonwealth. The commission shall keep a full record of its business and shall annually make a written report by March 1 of each year of its activities to the governing body. Interim reports may be made as often as may be necessary, or as requested by Borough Council.

### **D. Power and Duties**

The Commission shall, at the request of Borough Council, have the power and shall be required to:

1. Prepare the comprehensive plan for the development of the Borough and present it for the consideration of Borough Council.
2. Maintain and keep on file records of its action. All records and files shall be in the possession of Borough Council.
3. Make recommendations to Borough Council concerning the adoption or amendment of an official map. Make recommendations to Borough Council on proposed amendments to the zoning ordinance.
4. Prepare, recommend and administer subdivision and land development and planned residential development.
5. Do such other acts or make such studies as may be necessary to fulfill the duties and obligations imposed by the Planning Code.
6. Hold public hearings and meetings.
7. Require from other departments and agencies of the Borough such available information as relates to the work of the Commission.
8. In the performance of its functions, enter upon any land to make examinations and surveys with the consent of the owner.

### **51.2.03 Fees**

The applicant shall pay to the Borough the fees established by resolution or Borough Council, including review fees and fees for inspection of improvements.

- A. Review fees shall include reasonable and necessary charges by the Borough's consultants and engineers for reviewing and reporting on the plats, plans and specifications.
- B. Inspection of improvement fees shall include all reasonable and necessary expenses of the Borough's consultants and engineers for the inspection of improvements.
- C. If the applicant disputes the amount of such review and/or inspection fees the following procedure shall be utilized:
  1. The applicant shall give notice of the dispute to the Borough within ten (10) working days of the billing date.
  2. If the applicant and the Borough cannot, within twenty (20) days from the date of billing agree upon the amount of the review fees, they shall jointly, by mutual agreement, appoint a licensed professional engineer to review the same and make a determination.
  3. If the Borough and the applicant cannot agree to the appointment of such engineer, then upon the application of either party the President Judge of the Court of Common Pleas of Northumberland County shall appoint such engineer.

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4. The appointed engineer shall hear such evidence and review such documentation as he or she deems necessary and render a decision within fifty (50) days of the billing date. The applicant shall pay the decided amount immediately.
5. The appointed engineers fee shall be paid
  - a) by the applicant if the decided amount is equal to or greater than the original bill
  - b) by the Borough if the decided amount is less than the original bill by \$1,000.00 or more
  - c) otherwise, by the Borough and the applicant in equal shares.

### **51.2.04 Approval of Subdivision Plans**

#### **A. General Provisions**

All applications for approval of a subdivision plan whether preliminary or final, shall be acted upon by the Planning Commission which shall render its decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the Planning Commission next following the date the application is filed, provided that should the said next regular meeting occur more than 30 days following the filing of the application, the said 90-day period shall be measured from the 30th day following the day the application has been filed.

1. The decision of the Planning Commission shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than 15 days following the decision.
2. When an application is approved subject to conditions, the approval shall be rescinded automatically upon the applicants' failure to accept or reject such conditions within 90 days after notice of the conditional approval has been mailed to the applicant.
3. When the application is not approved in terms as filed the decision shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case cite to the provisions of the statute or ordinance relied upon.
4. Failure of the Planning Commission to render a decision and communicate it to the applicant within the time and in the manner required herein shall be deemed an approval of the application in terms as presented unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in manner of presentation of communication shall have like effect.
5. Before acting on any subdivision plat the Planning Commission may hold a public hearing thereon after public notice.
6. No plan which will require access to a highway under the jurisdiction of the Department of Transportation shall be finally approved unless the plat contains a notice that a highway occupancy permit is required pursuant to section 420 of the act of June 1, 1945 (P.L. 1242, No. 428), known as the "State Highway Law," before driveway access to a State highway is permitted.
7. The effect that a change of ordinance shall have upon a subdivision plan after the plan has been filed and/or approved shall be such as is set forth in the Planning Code.

#### **B. Plan of Minor Subdivisions**

Approval will be based upon the following:

1. Compliance with the plan requirements of this Ordinance.
2. Compliance with Department of Environmental Resources requirements for sewage disposal.
3. Whether the future street pattern of the area will be adversely affected by the proposed plan.

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4. Whether the plan creates problems in the design of future utilities.
5. Other factors such as geology, terrain, location in a flood plain, etc.

### **C. Preliminary Plan of Major Subdivisions**

1. Prospective subdividers are strongly urged to discuss possible development with the Commission prior to submission of a preliminary plan. A sketch plan may be prepared and presented for review and discussion. Submission of a sketch plan will not constitute a formal filing of a subdivision plan with the Planning Commission. Sketch plans should include those items listed in Section III, Plan Requirements, 3.02.
2. A preliminary plan will be reviewed to determine if it is in compliance with the plan requirements and the design standards set forth in this Ordinance.
3. In the case of a preliminary plan calling for the installation of improvements beyond a five year period, a schedule shall be filed by the landowner with the preliminary plan delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the preliminary plat approval, until final plat approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of Borough Council in its discretion.
4. Approval of a preliminary plan shall be rescinded automatically upon the applicants failure to file a final plan within two (2) years after notice of the approval was mailed to the applicant.

### **D. Final Plan of Major Subdivisions**

1. The applicant shall file a final plan after notice of the approval of his preliminary plan has been mailed to him. Said plan shall comply with the provisions of this Ordinance and conform with the approved preliminary plan and all required revisions and conditions thereto, otherwise it shall be considered as a revised preliminary plan.
2. In the case where development is projected over a period of years, the Planning Commission may authorize submission of final plans by section or stages of development subject to such requirements or guarantees as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development. Each section, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted in the preliminary plan unless a lesser percentage is approved by the Planning Commission in its discretion.
3. No plan shall be finally approved unless the streets shown on such plan have been improved as required by this Ordinance, and any walkways, curbs, gutters, street lights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers and other improvements as may be required by this Ordinance have been installed in accordance with the Ordinance. In lieu of the completion of any improvements required as a condition for the final approval of a plan, including improvements or fees required pursuant to this Ordinance there shall be deposited with the Borough financial security in an amount sufficient to cover the costs of such improvements or common amenities including, but not limited to roads, storm water detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which may be required.
  - a) Without limitation as to other types of financial security which the Borough may approve, which approval shall not be unreasonably withheld, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purposes of this Ordinance.

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- b) Such financial security shall be posted with a bonding company or Federal or Commonwealth chartered lending institution chosen by the party posting the financial security, provided said bonding company or lending institution is authorized to conduct such business within the Commonwealth.
- c) Such bond or other security shall provide for, and secure to the public, the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements
- d) The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, the Borough may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the Borough may require the developer to post addition security in order to assure that the financial security equals said 110%. Any additional security shall be posted by the developer in accordance with this Ordinance.
- e) The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by an applicant or developer and prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The Borough, upon the recommendation of the municipal engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the Borough are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this Commonwealth and chosen mutually by the Borough and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Borough and the applicant or developer.
- f) If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one year period by using the above bidding procedure.
- g) As the work of installing the required improvements proceeds, the party posting the financial security may request the Borough Council to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the Borough Council and the Borough Council shall have 45 days from receipt of such request within which to allow the municipal engineer to certify, in writing to the Borough Council that such portion of the work upon the improvements has been completed in accordance with the approved plan. Upon such certification the Borough Council shall authorize release by the bonding company or lending institution of an amount as estimated by the municipal engineer fairly representing the value of the improvements completed or, if the Borough Council fails to act within said 45 day period the Borough Council shall be deemed to have approved the release of funds as required. The Borough Council may, prior to final release at the time of

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completion and certification by its engineer, require retention of 10% of the estimated cost of the aforesaid improvements.

- h) Where the Borough Council accepts dedication of all or some of the required improvements following completion, the Borough Council may require the posting of financial security to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with the design and specifications as depicted on the final plan for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in this section with regard to installation of such improvements, and the amount of the financial security shall not exceed 15% of the actual cost of installation of said improvements.
- i) If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the Borough, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this Ordinance.
- j) If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plan as set forth in this Ordinance the Borough shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plan upon actual completion of the improvements depicted upon the approved final plan. Moreover, if said financial security has been provided, occupancy permits for any building or buildings to be erected shall not be withheld following: the improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted upon the approved plan, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable use of or occupancy of the building or buildings. Any ordinance or statute inconsistent herewith is hereby expressly repealed.

### 51.2.05 Release from Improvement Bond

- A. When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the Borough Council, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the municipal engineer. The Borough Council shall within ten days after receipt of such notice, direct and authorize the municipal engineer to inspect all of the aforesaid improvements. The municipal engineer shall, thereupon, file a report, in writing, with the Borough Council, and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within 30 days after receipt by the municipal engineer of the aforesaid authorization from the Borough Council; said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the municipal engineer, said report shall contain a statement of reasons for such nonapproval or rejection.
- B. The Borough Council shall notify the developer, within 15 days of receipt of the engineer's report, in writing by certified or registered mail of the action of said Borough Council with relation thereto.
- C. If the Borough Council or the municipal engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released from all liability, pursuant to its performance guaranty bond or other security agreement.



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- D. If any portion of the said improvements shall not be approved or shall be rejected by the Borough Council, the developer shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein, shall be followed.
- E. Nothing herein, however, shall be construed in limitation of the developer's right to contest or question by legal proceedings or otherwise, any determination of the Borough Council or the municipal engineer.
- F. Where herein reference is made to the municipal engineer, he shall be as a consultant thereto.

### **51.2.06 Modifications**

- A. The Borough Council may grant a modification of the requirements of one or more provisions of this Ordinance if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the ordinance is observed.
- B. All requests for a modification shall be in writing and shall accompany and be a part of the application for subdivision. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of the Ordinance involved and the minimum modification necessary.
- C. The request for modification shall be referred to the Planning Commission for advisory comments. The Borough Council shall keep a written record of all action on all requests for modifications.

### **51.2.07 Recording of Plans**

Upon the approval of a final plan, the developer shall within 90 days of such final approval record such plan in the Office of the Recorder of Deeds of Northumberland County. Said Recorder of Deeds shall not accept any plan for recording, unless such plan officially notes the approval of the governing body, and review by the Northumberland County Planning Commission.

### **51.2.08 Effect of Plan Approval and Recording**

- A. After a plan has been approved and recorded as provided in this Ordinance all streets and public grounds on such plan shall be, and become a part of the official map of the Borough without public hearing.
- B. Recording the final plan shall be an irrevocable offer to dedicate all streets to public use, and to dedicate or reserve all public grounds to public use unless reserved by the subdivider as authorized hereinafter.
- C. Neither the approval of the final plan nor the fact that any street or public grounds has become part of the official map of the Borough shall obligate the Borough to improve or maintain any such street or land or constitute or be deemed to constitute a taking or acceptance of any land by the Borough.
- D. The applicant, if authorized by the Planning Commission, may place a notation on the final plan to the effect that there is no offer of dedication to the public of streets and certain designated public grounds, in which event the title to such areas shall remain with the owner, and the Borough shall assume no responsibility for improvement or maintenance thereof; which fact shall also be noted on the final plan.
- E. Change of Plan-Resubdivision  
For any change in an approved or recorded subdivision plan, if such change affects any street layout shown on such plan, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally reached prior to the adoption of any ordinance or regulation controlling subdivisions, such change shall be approved by the Planning Commission by the same procedures, rules, and regulations as for a subdivision.

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### **ARTICLE III – PLAN REQUIREMENTS**

#### **51.3.01 General Requirements (3.00)**

- A. All subdivision plans shall meet the requirements outlined in the following sections.
- B. All plats, maps and/or surveys submitted as part of the subdivision plan shall be prepared in accordance with the Pennsylvania Act of May 23, 1945, P.L. 913, No. 367, as amended, known as the Professional Engineers Registration Law.

#### **51.3.02 Sketch Plan (3.01)**

A sketch plan should show the following information, legibly drawn, but not necessarily to scale or showing precise dimensions

- A. Tract boundaries and location.
- B. Name of municipality in which the subdivision is located.
- C. North point and date of plan.
- D. Significant topographic and physical features of the area.
- E. Proposed general street and lot layout.
- F. Location sketch of the surrounding area showing roads and significant community facilities within 1/2 mile of the proposed subdivision.

#### **51.3.03 Minor Subdivision Plan (3.02)**

All minor subdivision plans shall conform to the following:

- A. Title Block: The title block shall show the name of the subdivision, the name of the Borough, the name and address of the owner, the name and address of the engineer or surveyor, the date of preparation, and a line for the signature of the Planning Commission.
- B. Location Sketch: A rough location sketch shall be shown, north oriented to the top, which shall include the roads and community facilities which lie located within 1/2 mile of the proposed subdivision
- C. Lotting Design Scheme: The layout of the lots in the subdivision shall be shown at a scale of 1"=50' 1=100', or 1"=200'. All lots must include dimensions and bearings on each lot line. The right-of-way widths of all existing street and easements shall be shown. If the lots included in the plan do not comprise the entire parcel of the owner, the boundaries of the entire parcel shall be shown. All adjoining properties shall have their intersections shown as dashed lines and the name of the owner(s) of record shall be shown.
- D. Topography and Soils: The applicant should submit a U.S.G.S. topographical map having his property outlined so that the topography will be known. The applicant should also submit a soil map showing the type and aerial extent of the soils on his property. All of this information is available from the Northumberland County Conservation District by using an approved form.
- E. On-lot Sewage: If on-lot sewage disposal is to be utilized, the subdivider or developer must show evidence of compliance with Department of Environmental Resources requirements on sewage disposal.

#### **51.3.04 Preliminary Plan of Major Subdivisions (3.03)**

- A. Scale, Color and Size

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The preliminary plan shall be drawn at a scale of 1=50' or 1"=100'. Copies of the plan shall be either black and white or blue and white prints, and the sheet size shall be no smaller than 18" x 24" and no larger than 24" x 36".

### B. Information to be Shown on Preliminary Plan

1. Title block containing the name of the subdivision, the name of the Borough, the name, address of the owner or subdivider, name of and address of the individual preparing the plan,
2. North arrow.
3. Location map showing relation of proposed subdivision to adjoining properties, related road and highway system, municipal boundaries, and community facilities within at least 1/2 mile of the proposed subdivision.
4. Tract boundaries showing bearings and distance.
5. Names of owners of all adjoining property and names of all submitting subdivisions.
6. Topographic contours at vertical intervals of two (2) feet or five (5) feet and datum and benchmarks to which contour elevations refer; type and aerial extent of soils.
7. Existing water courses and drainage ways, wooded areas, and other significant natural features.
8. Existing buildings, sewers, water mains, culverts power transmission lines, oil and gas pipelines, fire hydrants, and other significant man-made features.
9. All existing or recorded streets on or adjacent to the tract, including name or number, right-of-way width and width of pavement.
10. Soil percolation test sites.
11. Total acreage, number of lots, average lot size, and existing zoning classification.
12. If only part of a tract is being subdivided, a sketch plan of the entire parcel should be included showing the relationship of the subdivided area to the unsubdivided area.
13. Location and width of proposed streets, rights-of-way, and easements; proposed lot lines; and areas to be dedicated to public use.
14. Block for signatures of chairman and secretary of the Planning Commission and date of approval of the plan.
15. Preliminary plans shall include the full plan of the development, showing the location of all proposed streets, right-of-way, easements, public areas including parks and playgrounds, proposed sewer and water facilities, proposed lot lines with approximate dimensions, lot numbers and/or block numbers in consecutive order, and proposed building setback lines for each street.
16. Multi-family, commercial, and industrial land developments shall show building locations and parking areas in addition to the above information.
17. All areas, streets, facilities, etc. proposed to be dedicated for future public use, together with the conditions of such dedications or reservations shall be shown.
18. The soil and water conservation information required by Section II of Appendix I.

### C. Material to be submitted with Preliminary Plan

The following information, data, and documents shall be submitted with the preliminary plan:

1. Planning Commission application form.
2. Copies of proposed deed restrictions if any.
3. Tentative cross-sections and center-line profiles for each proposed street

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4. Preliminary designs of proposed bridges or culverts.
5. Preliminary designs of proposed sewerage systems and water supply systems, where such systems are proposed to be installed.
6. Drawing of present and proposed grades and facilities for storm water drainage.
7. Percolation test data and other on-site sewage disposal data where on-site disposal is proposed to be used.
8. Estimated costs of required improvements.
9. Sketch of proposed street layout for remainder of tract if preliminary plan covers only part of subdivider's land.
10. When the land included in the proposed subdivision has a natural gas pipeline, a petroleum or petroleum products pipeline, or a power transmission line located thereon, the application shall be accompanied by a letter from the owner of such pipeline or transmission line stating the minimum setback distance requirement from such pipeline or transmission line.
11. If on-lot sewage disposal is to be utilized, the subdivider or developer must show evidence of compliance with Department of Environmental Resources requirements on sewage disposal.
12. The soil and water conservation requirements set forth in Section IV of Appendix I.

### **51.3.05 Final Plan of Major Subdivisions (3.04)**

#### **A. Scale, Color and Size**

The final plan shall be drawn at a scale of 1" =50' or 1"=100'. Copies of the final plan shall be either black and white or blue and white prints with a sheet size which is no smaller than 18" x 24" and no larger than 24" x 36". If the final plan is drawn in two or more sections, a key map showing the location of the sections shall be placed on each sheet.

#### **B. Information to be Shown on Final Plan**

1. Title block containing the name of the subdivision, the name of the Borough, the name and address of the subdivider, the date and the scale.
2. Name, address, certification and seal of the registered professional engineer or surveyor preparing the final plan survey and map.
3. North arrow.
4. Location map showing relation of tract to adjoining properties, related road and highway system, municipal boundaries, and community facilities within a minimum of 1/2 mile from the proposed subdivision.
5. Accurate tract boundaries showing bearings and distances which provide a survey of the tract, closing with an error of not more than one (1) foot in 5,000 feet.
6. Existing significant natural or man-made features.
7. Block and lot numbers and lot lines with distances and bearings of all straight lines and radio, arcs, and central angles of all curves.
8. Width and bearings of proposed streets, rights-of- way and easements; and building setback lines.
9. Street names.
10. Location and material of all permanent monuments and lot markers.

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11. Location and size of all existing and proposed sewer and water lines on or adjacent to the proposed subdivision site.
12. Accurate dimensions of existing public land and of any property to be dedicated or reserved for public, semi-public, or community use along with exact extent of street construction and dedication; all areas to which title is reserved by the owner.
13. Source of title to the land of the subdivision or development as shown by the books of the Northumberland County Recorder of Deeds; names of owners of all adjoining land.
14. Block for signatures of the chairman and secretary of the Planning Commission indicating approval of plan.

### **C. Material to be Submitted with Final Plan**

1. Planning Commission application form if different from application previously submitted.
2. Any material from preliminary plan for which Planning Commission had requested correction or updating.
3. Final profiles and cross-sections for street improvements, sanitary and storm sewerage, water distribution systems, and surface water drainage systems; and a final grading plan shall be shown on one (1) or more separate sheets.
4. An erosion and sedimentation control plan for the proposed subdivision to be prepared in accordance with the Rules and Regulations of the Pennsylvania Clean Streams Law, and all items as set forth in Appendix I.
5. Restrictions of all types which will run with the land and become covenants in the deeds of lots within the subdivision.
6. All covenants running with the land governing the reservation and maintenance of dedicated or undedicated land or open space.
7. Certification from utilities that proper water, power, and other facilities also can be installed.
8. Certification from the Pennsylvania Department of Environmental Resources approving the Subdivision's water supply and sewerage systems in all areas when public water and/or sewerage is not available.
9. Certification from the Borough indicating approval of the proposed street layout, sewerage and water supply systems and storm drainage plan
10. Certification from the applicant, subdivider or developer that all required improvements have been installed and completed, or that the financial security provisions of this Ordinance have been fully met.
11. The soil and water conservation information and material required by Sections III and IV of Appendix I.

## **ARTICLE IV – SUBDIVISION DESIGN STANDARDS**

### **51.4.01 Minimum Standards**

- A. The standards outlined in this section shall be applied by the Northumberland Planning Commission in evaluating plans for proposed subdivisions. The standards outlined herein shall be considered to be minimum standards, and the Planning Commission may require more restrictive standards. Whenever

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municipal or other applicable regulations impose more restrictive standards, such other regulations shall control.

- B. The location of the subdivision shall conform to any applicable comprehensive plan, and the use of land in the subdivision shall conform to any applicable zoning ordinance.

### **51.4.02 General Standards**

The following requirements and guiding principles for subdivision and land development shall be observed by all developers.

- A. Land Suitability: Land subject to flooding and all land deemed by the Planning Commission to be uninhabitable because of other hazards to life, health, or property, (such as improper drainage, steep slopes, rock formations or topography, or utility easements or rights-of-way) shall not be plotted for residential occupancy, nor for such other uses as may increase danger to health, life, or property, or aggravate the flood hazard; but such land within an area for which a subdivision plan is developed shall be set aside for such uses as will not be endangered by periods of occasional flooding or will not result in unsatisfactory living conditions.
- B. Municipal Boundaries: Lot lines shall, where possible, follow municipal and county boundary lines rather than cross them.

### **51.4.03 Streets**

#### **A. Systems and Arrangement**

1. Local streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.
2. Where a proposed subdivision or land development abuts or contains an existing or proposed major collector or arterial street, the Planning Commission may require marginal access streets, reverse frontage lots, or seek other treatment as will provide protection for abutting properties, reduction in the number of intersections with the arterial street, and separation of local and through traffic.
3. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Planning Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.
4. All cul-de-sac streets, whether permanently or temporarily designed as such, shall not exceed eight hundred (800) feet in length or serve more than sixteen (16) lots or dwelling units, whichever is the lesser. Permanent cul-de-sac streets must be provided with a paved turn-around with a minimum radius of fifty (50) feet in right-of-way and forty (40) feet in paved cartway.
5. Any street dead-ended for access to adjoining property or because of authorized stage development shall be provided with a temporary all-weather turn-around within the development, the use of which shall be guaranteed to the public until such time as the street is extended.
6. Alleys will not be permitted in residential subdivisions.
7. Private streets are to be discouraged, and will be permitted only if they are designed to meet the requirements of this ordinance for public streets.

#### **B. Street Intersections**

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1. To the fullest extent possible, local streets shall not intersect with collector or arterial streets on the same side at intervals of less than eight hundred (800) feet as measured from centerline to centerline.
2. The distance between centerlines of streets opening onto the opposite side of a proposed or existing street shall be not less than one hundred and fifty (150) feet unless the streets are directly opposite each other.
3. Multiple intersections involving the junction of more than two streets shall be avoided. Where this proves impossible, such intersections shall be designed with extreme care for both pedestrian and vehicular safety.
4. Streets shall be all laid out to intersect as nearly as possible at right angles. Local streets shall not intersect collector or arterial streets at an angle of less than seventy-five (75) degrees. The intersection of two local streets shall not be at an angle of less than sixty (60) degrees.
5. Minimum curb radius at the intersection of two local streets shall be at least twenty (20) feet; and minimum curve radius at an intersection of a local street and a collector or arterial street shall be at least twenty-five (25) feet. [Amended 10-5-95 by Ord. No. 438.]
6. There shall be provided and maintained at all intersections clear sight triangles formed by the curb lines and a straight-line joining points which, measured along said curblines, are twenty-five (25) feet distant from the intersection of the curblines. If there are no curbs, the clear sight triangle shall be measured along the paved portion of the street, avenue or alley. No fence, wall, hedge or other structure or planting more than two (2) feet in height shall be erected, placed maintained or allowed to remain within the clear sight triangle.
7. Intersections shall be designed with a flat grade wherever practical. Where the grade of any street at the approach to an intersection exceeds seven (7) percent, a leveling area shall be provided having a grade of not greater than four (4) percent for a distance of twenty-five feet measured from the nearest right-of-way line of the intersecting street.

### C. Alignment

1. Whenever street lines are deflected by more than five (5) degrees, connection shall be made by horizontal curves.
2. The minimum radius at the center line for horizontal curves on collector streets shall be three hundred (300) feet, and for local streets the minimum radius shall be one hundred (100) feet.
3. On local streets, the minimum tangent between reverse curves shall be at least one hundred (100) feet; on collector and arterial streets the minimum tangent shall be at least two hundred fifty (250) feet.
4. Minimum vertical sight distance measured four (4') feet above grade shall be three hundred (300) feet for collector and arterial streets and one hundred (100) feet for local streets.

### D. Grades

1. The minimum grade on all streets shall be one-half (0.5) percent.
2. The maximum grade on collector or arterial streets shall be seven (7) percent and on local streets ten (10) percent.
3. Vertical curves shall be used in changes of grade exceeding one (1) percent. To provide proper sight distances, the minimum length of vertical curves shall be five hundred (500) feet for collector and arterial streets and three hundred (300) feet for local streets.

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4. Where the development is located in an area having slopes generally in excess of 15%, local streets may be built with gradients of up to (15) percent where it is impractical or impossible to achieve a grade of ten (10) percent or less.

### E. Widths

1. Minimum street right-of-way and cartway widths for streets shall be as follows:

	Predominant lot width at building setback line			
	Street Type	60' or less	61' to 80'	over 80'
Local	Right-of-way	50'	50'	50'
	Cartway	36'	28'	20'
		(with curbs)	(with curbs)	(with 8' graded shoulders)
Cul-de-sac	Right-of-way radius	50'	50'	50'
	Cartway radius	40'	40'	40'
		(with curbs)	(with curbs)	
	Right-of-way	60'	60'	60'
	Cartway	38'	38'	24'
		(with curbs)	(with curbs)	(with 10' graded shoulders)
Arterial Street	Right-of-way	80'	80'	80'
	Cartway	40'	40'	24'
		(with curbs)	(with curbs)	(with 10' graded shoulders)

2. Provision for additional street right-of-way may be required by the Planning Commission in specific cases for:
  - a) Public Safety and convenience;
  - b) Access to off-street parking in commercial and industrial areas and in areas of high-density residential development.
3. Where a subdivision or development abuts or contains an existing municipal street or road of inadequate right-of-way width, additional right-of-way in conformance Article 51.04.03E above shall be required.
4. Where a subdivision or development abuts or contains an existing street or road on the state highway system, the Pennsylvania Department of Transportation shall make a recommendation concerning necessary additional right-of-way width of the state road and minimum building setback from the state road. Any additional right-of-way width required to correct existing problems or to allow necessary improvements shall be reserved on the plan but dedication of this additional right-of-way will not be required for plan approval. Building setback lines shall be measured from this required ultimate street right-of-way line.

### F. Street Verge

1. Sidewalks shall be installed in subdivisions where semi-detached or attached structures are planned, or where lot widths are less than eighty (80) feet or where the subdivision abuts areas which have existing sidewalks. Sidewalks may also be required to provide access to community facilities such as schools, shopping centers, or recreation areas if the Planning Commission deems that a hazard would exist without them.
2. Sidewalks shall commence one (1) foot inside the right-of-way line and extend toward the curb line. They shall be a minimum of four (4) feet in width.
3. Street trees shall be permitted between the sidewalk and building line. Trees shall also be permitted between the sidewalk and the street if the area is more than four (4) feet in width.



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4. Street signs shall be provided at every intersection. They shall be of a design approved by the local municipality.

### 51.4.04 **Blocks and Lots**

#### A. Blocks

1. Blocks shall have sufficient widths to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to arterial streets, railroads, or waterways.
2. The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but in no cases shall blocks in residential subdivisions exceed one thousand six hundred (1600) feet in length unless conditions do not permit longer blocks.
3. In large blocks with interior parks or playgrounds, in exceptionally long blocks where access to a school, shopping center, or to any other facility is necessary, or where cross streets are impractical or unnecessary, a crosswalk with a minimum right-of-way of twelve (12) feet with a minimum surfaced width of five (5) feet may be required by the Planning Commission.
4. In long blocks the Planning Commission may also require the reservation of an easement through the block to accommodate utilities or drainage facilities. Such easement shall not be less than twenty (20) feet in width.

#### B. Lots

All lots shall conform to any applicable zoning ordinance.

### 51.4.05 **Building or Setback Lines, Easement**

#### A. Building or Setback Lines

"The building or setback distance shall be that which is set out in the Zoning Ordinance. Said distance shall be measured from the required minimum or actual right-of-way line whichever is greatest."

#### B. Easements

1. When easements are required for utilities, the minimum width shall be as required by the utility company, but in any case shall not be less than twenty (20) feet. Easements shall, to the fullest extent possible, be centered on or adjacent to rear or side lot lines. Local utility companies shall be consulted by the developer when locating easements.
2. Where a subdivision or land development is traversed by a water course or drainage way, channel, or stream, there shall be provided a drainage easement conforming substantially with the line of such watercourse, drainage way, channel, or stream. Such easement shall be of such width as will be adequate to preserve the unimpeded flow of natural drainage, or for the purpose of widening, deepening; relocating, improving, or protecting; such drainage facilities or for the purpose of installing a storm water sewer. In no case shall the width of such easement be less than fifty (50) feet.
3. There shall be a minimum distance of twenty (20) feet from the right-of-way line, measured at the shortest distance, between any dwelling unit and any petroleum product or natural gas transmission line which traverses the subdivision or development.

### 51.4.06 **Community Facilities**

In reviewing subdivision plans, the Planning Commission will consider the adequacy of existing or proposed community facilities to serve the additional dwelling units to be developed, and may request the reservation or dedication of land for such facilities.

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### **51.4.07 Recreation and Open Space**

The Northumberland Planning Commission may require the reservation of open or recreation space in subdivisions containing twenty-five (25) or more lots. This area shall consist of a minimum of five (5) percent of the total area of all lots and shall be suitable for various outdoor recreational uses. It shall be easily and safely accessible from all parts of the subdivision and shall be free of safety and health hazards and shall also have suitable physical characteristics for varied recreational use including well-drained soils, gentle topography, and suitable shape and size.

### **51.4.08 Sewers**

#### **A. General Requirements**

1. Adequate sewage disposal must be provided to every lot in the proposed subdivision. The method of sewage disposal shall be determined by the Northumberland Planning Commission giving consideration to the following order of preference:
  - a) Connection to a public sanitary sewer system.
  - b) Provision by the developer of a complete private sanitary sewer system using a treatment plant, in accordance with the requirements of the Pennsylvania Department of Environmental Resources.
  - c) Individual on-lot sewage disposal.
2. The Northumberland Planning Commission shall be guided by the Northumberland County Sewage Disposal and Water Supply Plan and the Pennsylvania Department of Environmental Resources in determining what type of sewage disposal facilities should be provided.
3. The Planning Commission may require the installation of capped sewers if the proposed subdivision is located in an area which will be served by public sewers within five (5) years.
4. If the proposed subdivision lies within one thousand (1000) feet of an existing public sewer, the sewer must be extended to serve the subdivision at the expense of the developer.

#### **B. On-lot Sewage Disposal**

Approval of on-lot sewage disposal in any subdivision or development shall be based on a survey of the physical features of the land to be subdivided or developed. The physical features of the tract shall meet the criteria, as specified by the Pennsylvania Department of Environmental Resources.

### **51.4.09 Water**

Where an existing water line is within one thousand (1000) feet of the proposed subdivision, the subdivision shall be connected to such line at the expense of the developer. Where the number of dwelling units in the subdivision exceeds twenty-five (25), the Planning Commission may require installation of a community water system if it is not feasible to connect to an existing public system. For other developments, on-site individual wells will be permitted if the water meets all standards. No individual well shall be located closer than one hundred (100) feet from an on-site sewage disposal system.

### **51.4.10 Drainage**

- A. Storm Sewers: Storm sewer culverts and related facilities shall be required, as necessary, to permit the unimpeded flow of natural water courses and insure the drainage of low points in the subdivision. Facilities shall be designed to handle the runoff from the entire upstream drainage basin. When adequate existing storm sewers are readily accessible, the subdivider shall connect his storm water facilities to these existing sewers.

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- B. **Abutting Properties:** Storm sewers or drainage channels opening onto adjacent land shall empty into natural water courses. Should the outlet abut another property, and not empty into the natural water course, the Northumberland Planning Commission may require the submittal by the developer in writing of the approval of adjoining affected owners.
- C. **Erosion Control:** Paved gutters, curbing, construction of drainage ways, and other improvements may be required by the Planning Commission to eliminate or reduce serious surface water erosion hazards.
- D. **Disturbance of Existing Water Courses:** Other than construction of bridges or erosion control measures approved by the Northumberland Planning County Commission and Northumberland County Conservation District, no disturbance of waterways shall be permitted, including diversions of waterways, filling of waterways, construction of roads or structures in water-ways, or unnecessary operation of equipment therein.
- E. **Areas of Poor Drainage:** Whenever a subdivision plan is submitted for an area which is subject to localized flooding due to trapped or ponded surface water and existing poor drainage, the Planning Commission may approve such subdivision provided that the subdivider fills the affected area to an elevation sufficient to plan the streets and lots at a minimum of twelve (12) inches above the elevation of the maximum flood. The plan of such subdivision shall provide for an overflow zone along the bank of any stream or water course, in a width which shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone nor shall any structure be erected or placed thereon.
- F. **Flood Plain Areas:** The Planning Commission, may, when it deems it necessary for the health, safety, or welfare of the present and future population of the area, prohibit the subdivision of any portion of the property which lies within the flood plain of any stream or drainage course. The determination of a flood plain will be made from the 100 year official flood plain maps developed by HUD as part of the Flood Insurance Program.

## **ARTICLE V – STANDARDS FOR SPECIALIZED SUBDIVISIONS**

### **51.5.01 General Exceptions**

The standards in this section shall be applied by the Northumberland Planning Commission in evaluating plans for specialized types of subdivision and land development projects. The standards in this section shall be considered minimum standards and the Planning Commission may require more restrictive standards. Plans for these specialized subdivisions and land development projects shall comply with the following standards as well as all other applicable provisions of this ordinance not in conflict herewith.

### **51.5.02 Purpose and Intent: (5.021)**

"The purpose of the following standards and requirements is to provide an added degree of flexibility in the placement, bulk and inter-relationship of the buildings and uses within planned residential developments and the implementation of new design concepts while at the same time maintaining the overall intensity of use, density of population and amounts of light, air, access and open space specified by the Zoning Ordinance for the district in which a proposed development is to be located"

#### **A. Site Standards**

1. The development shall be served by an approved public or central water supply system and an approved public or central sanitary sewer system.
2. The site must have sufficient frontage of an existing street to construct the necessary interior roads to service the development.

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- B. Density: "The development shall comply with the density requirements of the Zoning Ordinance."
- C. Common Open Space: Common open space, for the use of residents within the development, shall be provided on the plans submitted. This open space may consist of areas of land and/or water. A minimum of forty (40) percent of the tract shall be allocated to and shall remain common open space, exclusive of roads, parking areas, structures, and service lawns.
- D. Streets: All interval streets in planned residential developments shall have a minimum right-of-way of fifty (50) feet and a minimum paved cartway of twenty-eight (28) feet.
- E. Setbacks;
  - 1. No detached or semi-detached dwelling structure shall be located within fifteen (15) feet of any other structure.
  - 2. No structure shall be located within twenty-five (25) feet of the right-of-way line of any street.
- F. Off Street Parking: "Off-street parking spaces shall be provided according to the requirements of the Zoning Ordinance." Such off-street parking spaces may be provided as an individual garage, carport, or driveway located behind the building setback line or in a parking area located within two hundred (200) feet of the dwelling unit it serves.

### **51.5.03 Mobile Home Parks**

- A. Minimum Park Area: A mobile home park shall have a minimum gross area of five (5) contiguous acres of land suitable for development.
- B. Grading and Ground Cover Requirements: The ground surface in all parts of each mobile home park shall be graded and equipped to drain all surface water in a safe and efficient manner. Exposed ground surfaces in all parts of each of the mobile home park shall be treated in a manner approved by the Northumberland Planning Commission and the Northumberland County Conservation District to effectively prevent soil erosion and blowing dirt and dust.
- C. Lot Requirements
  - 1. The maximum number of mobile home lots or spaces within a mobile home park shall not exceed seven (7) lots per acre of the total area of the mobile home park.
  - 2. The minimum lot size for mobile homes in a mobile home park shall be not less than five thousand (5,000) square feet. The minimum width of a mobile home lot shall be not less than fifty (50) feet, and the minimum length of a mobile home lot shall be not less than one hundred (100) feet or thirty (30) feet greater than the overall length of the mobile home to be located on such lot, whichever is greater.
  - 3. All mobile home lots shall abut a street of the mobile home park internal street system. Lots may be laid out at an angle to the street line, but in no case shall the frontage on each lot be less than forty-five (45) feet.
- D. Setbacks, Buffer Strips, and Screening
  - 1. All mobile homes, auxiliary park buildings, and other structures shall be located at least forty (40) feet from the mobile home park boundary lines and public street right-of-ways. A suitable perimeter screening of plantings or fences may be approved by the Northumberland Planning Commission, in which case the minimum buffer strip may be reduced to twenty-five (25) feet.
  - 2. Repair, maintenance, and storage areas and buildings shall be screened from the mobile home lots, park streets, and public roads by suitable plantings or fencing approved by the Northumberland Planning Commission.

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3. Mobile homes shall be located at least fifty (50) feet from any auxiliary park buildings and any repair, maintenance, or storage areas or buildings.
- E. Recreation and Open Space: A minimum of five (5) percent of the gross area of the mobile home park or ten thousand (10,000) square feet of space, whichever is greater, shall be reserved for recreational space. This space shall be suitable for various outdoor recreational uses as specified in Section 4.07 of this ordinance
- F. Parking Space: A minimum of two (2) auto parking spaces shall be provided for each mobile home lot within the mobile home park. These spaces shall be located within two hundred (200) feet of the mobile home lot that they are intended, to serve.
- G. Streets: All streets within a mobile home park shall be designed and constructed according to the required design standards of this ordinance.
- H. Lot Improvements
  1. All mobile home lots within a mobile home park shall be provided with connections to sewer and water systems, and all necessary utilities.
  2. A cement concrete patio of a minimum area of two hundred (200) feet shall be provided on each mobile home lot.
- I. Utilities and Facilities
  1. Mobile home parks shall be served by an approved public or central water supply system and an approved public or central sanitary sewer system. The systems shall be designed and installed according to the standards of the Pennsylvania Department of Environmental Resources and shall be approved by said department.
  2. Other utilities shall be provided in accordance with plans approved by the Northumberland Planning Commission and the utility companies. Underground installation of the utility distribution and service lines is required for approval of the final plan.
  3. Each mobile home park shall have at least one service building providing sanitation and laundry facilities. There shall be provided at least one (1) flush toilet, and one (1) shower for men, one (1) lavatory and one (1) flush toilet, one (1) lavatory, and one (1) shower for women, within an easily accessible service building.

### **51.5.04 Travel Trailer Parks and Campgrounds**

- A. General Standards: Travel trailer parks and campgrounds shall be subject to all standards set forth for mobile home parks above with the following changes:
- B. Space Requirements
  1. The maximum number of lots or camping spaces within each park or campground shall be no more than fifteen (15) per acre of the total area of the park or campground.
  2. The minimum size of each lot or camping space shall be thirty (30) feet in width and fifty (50) feet in depth and shall be not less than one thousand five hundred (1500) square feet in area.
  3. All lots or camping spaces shall abut on a street of the park or campground internal street system and shall have no less than thirty (30) feet in frontage on such street.
  4. A minimum of one (1) vehicle parking space shall be provided for each park lot or campground space within the travel trailer park or campground.
- C. Streets: An internal park or campground system of private or public streets or roads shall be provided and constructed according to the design standards set forth this ordinance.

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- D. Lot Improvements: Travel trailer park lots may be improved for use by independent travel trailers. Independent trailers used as permanent residences shall not be allowed in travel trailer parks or campgrounds.

### 51.5.05 Commercial Land Development

- A. General Standards: Commercial development plans, including shopping centers, shall comply with the following standards and requirements as well as with all other applicable provisions of this ordinance not in conflict herewith.
- B. Site Standards:
1. The site shall be served by an approved public or community water supply system and an approved public or community sanitary sewer system, or an approved Department of Environmental Resources system.
  2. Adequate storm drainage facilities shall be provided.
- C. General Design: The layout of commercial development areas shall be designed in accordance with any applicable zoning ordinance and with consideration of site conditions to insure:
1. Desirable land utilization,
  2. convenient traffic circulation and parking,
  3. adequate service, delivery, and pickup, and
  4. design coordination with adjacent parcels of land.
- D. Circulation:
1. Access to public streets shall be limited to defined entrance and exit lanes.
  2. Exit lanes shall be separated from entrance lanes by dividers or planting islands.
  3. Painted lines, arrows, and dividers shall be provided to control parking and circulation.
  4. To the greatest extent possible, customer parking and circulation shall be separated from delivery service drives and unloading areas.
- E. Parking Area Requirements:
1. Five and one-half (5 1/2) parking spaces per one thousand (1000) square feet of gross leasable commercial area shall be provided.
  2. To the greatest extent possible, parking aisles shall be designated at right angles to the stores.
  3. Parking area shall be set back from street right-of-way lines and property boundaries a minimum distance of fifteen (15) feet.
  4. The setback areas between the parking area and street right-of-way or property lines shall be maintained as a planting area.
  5. All parking areas, service drives, and exit and entrance lanes shall be graded and paved according to the specifications in Section 6 below.
- F. Landscaping Screen plantings shall be provided where a commercial development abuts residential property. A screen planting shall consist of trees or shrubs at least six (6) feet in height and planted in such a manner as to visually separate the two areas as much as possible.

### 51.5.06 Industrial Land Development

- A. General Standards Industrial development plans, including industrial parks, shall comply with the following standards and requirements as well as with every other applicable provision of this ordinance not in conflict herewith.

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- B. Loading Areas All loading and unloading areas and service areas of the development shall be provided as off-street parking and shall be designed to cause no obstructions to adjacent street traffic.
- C. Off-Street Parking Off-street parking shall be provided for all employees plus extra spaces for visitors. At least one (1) parking space for each 1.2 employees shall be provided.
- D. General Design Standards The layout of the industrial area shall be designed according to any applicable zoning ordinance to provide: 1) the most efficient arrangement for present use and future expansion, and 2) the provision of adequate and safe space for employee and customer access and parking.
- E. Screening Industrial developments shall be adequately screened from adjacent residential or other incompatible use areas. All storage, service, or unsightly areas within the industrial development shall be adequately screened from any adjacent developments and streets.
- F. Utilities All proposed industrial development shall provide written approval from the Pennsylvania Department of Environmental Resources of plans for adequate treatment of any industrial wastes generated within the development. Adequate air and water pollution controls shall be required within these developments. Performance bonds for provision of these controls may be required for approval.

## ARTICLE VI – REQUIRED IMPROVEMENTS

### 51.6.01 General Requirements

The following improvements shall be installed by the subdivider. The final plan shall not be approved until final detailed design of the improvements are approved and the improvements are installed or a suitable guarantee is provided.

### 51.6.02 Streets

- A. General Streets shall be brought to the grades and dimensions drawn on plans, profiles, and cross-sections submitted by the subdivider and approved by the Northumberland Planning Commission. The subdivider must install the required utilities and provide, where necessary, adequate subsurface drainage for the streets. The pavement shall be constructed to the specifications in Sections 51.6.02 B and 51.6.02 C unless a specific substitute is requested and approved by the Planning Commission.
- B. Collector Streets The pavement of collector streets shall consist of a uniform ten (10) inch layer of compacted stone, a uniform four (4) inch layer of compacted bituminous concrete base course, and a uniform one (1) inch layer of compacted bituminous wearing course I-D2, all placed, in accordance with the latest specifications of PENNDOT.
- C. Local Streets The pavement of local streets shall consist of a uniform eight (8) inch layer of compacted stone, a uniform four (4) inch layer of compacted bituminous concrete base course, and a uniform one (1) inch layer of compacted bituminous wearing course I-D2, all placed in accordance with the latest specifications of PENNDOT.

### 51.6.03 Curbs and Gutters

- A. Curbs
  - 1. Curbs shall be provided on all streets and parking compounds located within multi-family and apartment building developments.

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2. Curbs may be either the vertical type or rolled curb and gutter type. Rolled curb and gutter shall not be used on collector streets. The transition from one type of curb to another shall occur only at street intersections.
3. All curbs shall be constructed of Portland cement concrete with expansion joints every twenty (20) feet, or bituminous curbs placed by curbing machines.

B. Gutters In areas where curbs are not used, gutters shall be provided and stabilized to avoid erosion.

### 51.6.04 Sewers

- A. Public Sewer Systems When the subdivision or land development is to be provided with a complete sanitary sewer system connected to a public sanitary sewer system, a statement of approval from the engineer of the sewerage system to which it will be connected shall be submitted to the Planning Commission.
- B. Private Sewer Systems When a complete private sanitary sewer system using a treatment plant is to be provided, a statement shall be submitted to the Planning Commission from the Pennsylvania Department of Environmental Resources certifying that a permit has been issued by the Sanitary Water Board approving the proposed facilities. Adequate provision for the maintenance of such plant shall be furnished to the municipality in which the subdivision is located.
- C. On-Lot Sewage Disposal In subdivisions when neither connection to a public sewerage system nor a complete sanitary sewer system is required, sewage disposal shall be provided on individual lots, consisting of septic tanks and tile absorption fields. The physical features of the tract on which on-lot disposal provided shall meet the criteria specified by D.E.R. Provision of on-lot sewage disposal systems in the standard residential subdivision shall not be the responsibility of the subdivider unless the subdivider is also constructing and selling the homes.

### 51.6.05 Water

- A. Provision of System
  1. The subdivision or land development shall be provided with a complete water main supply system which shall be connected to a municipal water supply or with a community water supply approved by the engineer of the applicable water utility company and the Pennsylvania Department of Environmental Resources with satisfactory provision for the maintenance thereof; except that when such municipal or community water supply water is not available each lot in a subdivision shall be capable of being provided with an individual water supply system in accordance with minimum standards approved by the Pennsylvania Department of Environmental Resources.
  2. If water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the subdivision or development, applicants shall present evidence to the governing body or planning agency, as the case may be, that the subdivision or development is to be supplied by a certificated public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.
- B. Plans The plans for the installation of the mains of a water supply system shall be prepared for the subdivision or land development with the cooperation of the applicable water supply agency and approved by its engineer. A statement of approval from the engineer of the water supply agency, to which the subdivision or land development will be connected, shall be submitted to the Planning



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Commission. Upon the completion of the water supply system, one (1) copy of each of the plans for such system shall be filed with the Planning Commission and the municipality.

- C. Fire Hydrants Fire hydrants shall be provided as an integral part of any public water supply system.

### 51.6.06 Storm Drainage

Storm sewers, culverts, and related installations shall be provided to permit the unimpeded flow of natural water courses, to ensure the drainage of all low points along the line of streets, and to intercept storm water run-off along streets at intervals reasonably related to the extent and grade of the area drained.

### 51.6.07 Utilities

Telephone, electric, TV cable and such other utilities shall be installed underground and shall be provided within the street right-of-way or easements to be dedicated of such utilities, and in accordance with plans approved by the Northumberland Planning Commission and the applicable utility company. Underground installation of the utility distribution and service lines shall be completed prior to street paving and gutter, curbing, and sidewalk installation.

### 51.6.08 Monuments and Markers

Monuments and markers shall be iron pipes or bars thirty (30) inches by three-fourths (3/4) inch diameter and set at all points where lines or lines and curves intersect.

## ARTICLE VII – DEFINITIONS

### 51.7.01 General Interpretation

Unless otherwise expressly stated, the following terms shall be for the purpose of this Ordinance, have the meaning indicated:

- A. Words in the singular include the plural and words in the plural include the singular.
- B. The word "person" includes a corporation, unincorporated association, and a partnership as well as an individual.
- C. The word "building" shall be so construed as if follows by the words "or part thereof".
- D. The word "watercourse" includes "drain", "ditch", and "stream".
- E. The words "shall" and "will" are mandatory.
- F. The word "may" is permissive.

### 51.7.02 Specific Terms and Phrases

**Agent** Any person who represents, or acts for or on behalf of an applicant, a subdivider or developer in selling, leasing, or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plot in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

**Alley** A minor right-of-way, privately or publicly owned primarily for service access to the back or sides of properties.

**Apartment** A dwelling unit separated horizontally and/or vertically from one or more other units in a structure.

**Apartment, Garden** An apartment house not exceeding three stories in height.

**Apartment House or Multiple Dwelling Unit** A residential structure containing three or more apartments.

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**Applicant** A landowner or developer, as hereinafter defined, who has filed an application including his heirs, successors and assigns.

**Application** Every application, whether preliminary, tentative or final, required to be filed and approved prior to start of construction or development including but not limited to an application for the approval of a subdivision plan.

**Building** Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

**Building, Accessory** A detached subordinate building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

**Building, Mobilehome Park Service or Auxiliary** A structure within a mobile home park containing or used for office, operational, recreational, maintenance, or other facilities.

**Building, Principal** The main structure or building located on a given lot.

**Cartway** The portion of a street intended for vehicular use.

**Clear Sight Triangle** An area of unobstructed vision at street intersections defined by the Borough Zoning Code.

**Cul-de-Sac** A street intersecting another street at one end only and terminating at the other end in a vehicular turn around.

**Decision** Final Adjudication of any board or other body granted jurisdiction under this Ordinance to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common pleas of Northumberland County.

**Developer** Any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

**Duplex** A residential unit divided horizontally into two dwelling units (i.e. having one above the other.)

**Dwelling or Dwelling Unit** Any structure, or part thereof, designed to be occupied as living quarters as a single housekeeping unit.

**Easement** Authorization by a property owner for use by another of any designated part of his property for a specified purpose.

**Engineer** A licensed engineer registered in the Commonwealth of Pennsylvania.

**House, Detached** A dwelling unit occupying the whole of a free-standing residential structure.

**House, Row or Town** A dwelling unit with one or two common walls located in a residential structure containing three or more dwelling units and not having any horizontal division between units.

**House, Semi-Detached, or Twin** A residential structure consisting of two dwelling units separated by a common wall.

**Improvement, Lot** Those physical additions and changes to the land which may be necessary to produce usable and desirable lots.

**Improvement, Public** Any drainage ditch, roadway, recreation area, lot improvement or other facility for which the Borough may ultimately assume the responsibility for maintenance and operation or which may affect an improvement for which Borough responsibility is established.

**Land Development** Any of the following activities:

1. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

## Chapter 51 – Subdivision

- a) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
  - b) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds condominiums, building groups or other features.
- 2. A subdivision of land.
  - 3. Development in accordance with section 503(1.1) of the Planning Code.

**Lot** A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

**Lot Area** The area contained within the property lines of a lot as shown on a subdivision plan, excluding space within any street, but including the area of any easement.

**Lot, Corner** A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.

**Lot, Double-Frontage** A lot with street frontage at both the front and the rear.

**Lot, Reverse Frontage** A Lot extending between, and having frontage in, an arterial street and a local street, with vehicular access only from the local street.

**Lot Width** The width of a lot measured at the building set back line.

**Mobilehome** A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

**Mobilehome, Dependent** A mobile home which is not equipped with a toilet and bathtub or shower.

**Mobilehome, Independent** A mobile home which is equipped with a toilet and bathtub or shower.

**Mobilehome Lot** A parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobilehome.

**Mobilehome Park** A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobilehome lots for the placement thereon of mobilehomes.

**Municipal Engineer** A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for the Borough or Planning Commission.

**Municipality** Any city of the second class A or third class, borough, incorporated town, township of the first or second class, county of the second class A through eighth class, home rule municipality, or any similar general purpose unit of government which shall hereafter be created by the General Assembly.

**Plan** The provisions for development including, but not limited to, a plan of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase "provisions of the plan" when used in this Ordinance shall mean the written and graphic materials referred to in this definition

**Plan, Final.** A complete plan containing the information required by this Ordinance and approved by the Planning Commission

## Chapter 51 – Subdivision

**Plan, Preliminary.** The plan, preliminary in nature, containing the information required by this Ordinance, submitted to the Planning Commission for approval prior to the final plan.

**Plan Sketch** A plan containing the information required by this Ordinance submitted prior to the minor subdivision plan or the preliminary plan to save time and expense in reaching general agreement with the Planning Commission as to the layout of the subdivision and the objectives of this Ordinance

**Planning Code** The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended.

**Planning Commission** The Northumberland Borough Planning Commission.

**Plat** A map or drawing of the subdivision or land development, whether preliminary or final.

**Public meeting** A forum held pursuant to notice under the act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act."

**Public Notice.** Notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty days and the second publication shall not be less than seven days from the date of the hearing.

**Right-of-way** A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, power transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or other similar uses.

**Setback.** The distance between a building and the street line nearest thereto.

**Sewage Disposal System, Individual or On-Lot** A septic tank, seepage tile disposal system, or any other sewage treatment device designed to serve one building or lot and approved by the Pennsylvania Department of Environmental Resources.

**Sewerage System, Community or Central** A sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying area.

**Street** Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

**Street, Arterial** A road intended to move through traffic to and from major traffic generators and/or as a route for traffic between communities or large areas.

**Street, Collector** A road intended to move traffic from local streets to arterial streets.

**Street Line** The property line or limit of a right-of-way.

**Street, Local** A road or street intended to provide access to the other roads from individual properties and to provide a right- of-way for utilities such as sewer, water, and storm drainage lines

**Subdivision** The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development. Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**Subdivision, Minor** A subdivision that contains five or fewer lots, fronting on a public street, that does not involve the creation of any new street.

**Substantially Completed** Where, in the judgment of the municipal engineer, at least 90% (based on the cost of the required improvements for which financial security was posted pursuant to this Ordinance of those improvements required as a condition for final approval) have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

## **Chapter 51 – Subdivision**

**Surface Drainage Plan** A plan showing all present and proposed grades and facilities for storm-water drainage.

**Surveyor** A licensed surveyor registered in the Commonwealth of Pennsylvania.

**Water System, Community or Central** A private water company formed by a developer to serve a new community development in an outlying area.

**Zoning Ordinance** The Northumberland Borough Zoning Ordinance.

## Chapter 51 – Subdivision

### APPENDIX I - ITEMS RELEVANT TO SOIL AND WATER CONSERVATION THAT SHALL BE INCLUDED IN A SUBDIVISION AND/OR LAND DEVELOPMENT ORDINANCE

#### A. Definition of Terms

**Erosion, Accelerated Water** Erosion of the soil or rock over and above normal erosion brought about by changes in the natural cover or ground conditions, including changes caused by human activity. There are several kinds of accelerated erosion. They are: Sheet, Rill and Gully erosion.

**Erosion And Sedimentation Control Plan** A plan setting forth the methods to prevent accelerated erosion and sedimentation resulting from earthmoving activities including, but not limited to, excavations, embankments, land development, subdivision development, and the moving, depositing or storing of soil, rock or earth.

**Flood Plain** A nearly level area bordering streams that is subject to overflow.

**Runoff** The surface water discharge or rate of discharge of a given watershed after a fall of rain or snow, or snow melt, that does not enter the soil but runs off the surface of the land.

**Sedimentation** The process by which mineral or organic matter is accumulated or deposited by moving wind, water, or gravity. Once this matter is deposited (or remains suspended in water, it is usually referred to as "sediment".

**Slope** The rise or fall of the land usually measured in percent slope. The percent slope is equal to the rise or fall in feet for a horizontal distance of 100 feet.

<u>Description</u>	<u>Percent Slope</u>	<u>Slope Class</u>
(a) Nearly level	0 – 3 percent	A
(b) Gently sloping	3 – 8 percent	B
(c) Sloping	8 - 15 percent	C
(d) Moderately steep	15-25 percent	D
(e) Steep	25-35 percent	E
(f) Very steep	35 percent plus	F

**Soil Percolation Test** A method of determining the ability of soil to absorb moisture under certain conditions. It is used to measure the amount of water assimilated by the soil in inches of drop per time interval, and indicates the problems that will occur in utilization of on-lot sewage disposal.

**Soil Stabilization** The chemical or structural treatment of a mass of soil to increase or maintain its stability or otherwise insure its resistance to erosion, sliding or other movement.

**Swale** A low-lying stretch of land which gathers or carries surface water runoff.

**Topsoil** Surface soil and sub-surface soil which presumably is fertile soil and soil material ordinarily rich in organic matter or humus debris.

**Watercourse** A permanent stream, intermittent stream, river, brook, creek or a channel or ditch for water whether natural or man-made

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### B. Information Required on Preliminary Plans

1. The proposed plan for storm drainage Systems including location of storm sewers, culverts, inlets, easements, diversion terraces, sedimentation basins, etc., and a determination of the amount of runoff from the project area and the upstream watershed area
2. The location of prominent topographic features such as streams, drainage channels, floodplains, wooded areas and other pertinent features that may influence the design.
3. Soil survey information in the form of a soil map or a sketch showing kinds and extent of soils for the subdivision. This information may be available upon request from the Northumberland County Conservation District.

### C. Documents Required for Final Plan Approval

Certificate from either the Pennsylvania Department of Environmental Resources or the Northumberland County Conservation District stating that the erosion and sedimentation control plan has been approved and that a land disturbance permit has been issued for an earthmoving activity by said Department of District if such a permit is required by the Rules and Regulations of said Department.

### D. General and Specific Requirements for Subdivision and Land Development

1. Easements For Drainage Ways - Where a subdivision or development is traversed by a drainage way, water course, channel or stream, there shall be provided a drainage easement conforming substantially with the water line of such drainage way, water course, channel or stream, and of such width as will be adequate to preserve the unimpeded flow of natural drainage, or for the purpose of widening, deepening, relocating, improving or protecting such drainage facilities or for the purpose of installing a storm sewer.
2. Lot And Block Requirements - The Northumberland Borough Planning Commission may require that the size of lots be increased according to the results of soil percolation tests. In all areas of the Borough where on-site sewage disposal is planned, the subdivider or developer is urged to consult the Soil Survey for Northumberland County and/or the Soil Conservation Service before establishing lot sizes and designing a subdivision or land development
3. Erosion And Sediment Control - Land proposed for subdivision and land development shall not be developed or changed by grading, excavating, or by the removal or destruction of the natural topsoil, trees, or other vegetative cover until an Erosion and Sedimentation Control Plan is prepared as required by Chapter 102, Erosion Control, of the Rules and Regulations of the Pennsylvania Department of Environmental Resources. A land disturbance permit shall be obtained from the Department when required by said Rules and Regulations after review of the permit application by the Northumberland Borough Planning Commission and the Northumberland County Conservation District.

In order to ensure that all earthmoving activities within Northumberland Borough are conducted in such a way as to prevent accelerated erosion and the resulting sedimentation of waters of the Commonwealth, thereby preventing pollution of such waters from sediment, and from fertilizer, pesticides and other polluting substances carried by sediment, the following standards shall apply

#### a) Erosion And Sedimentation Control Plan

The Erosion and Sedimentation Control Plan shall be designed to prevent accelerated erosion and sedimentation and shall consider all factors which contribute to erosion and sedimentation including, but not limited to, the following;

- 1) The topographic features of the project area;
- 2) The types, depth, slope, and a real extent of the soils;

## **Chapter 51 – Subdivision**

- 3) The proposed alteration of the area;
- 4) The amount of runoff from the project area and the upstream watershed area;
- 5) The staging or timetable of earthmoving activities;
- 6) Temporary control measures and facilities for use during earthmoving;
- 7) Permanent control measures and facilities for long term protection;
- 8) A maintenance program for the control facilities including disposal of materials removed from the control facilities or project area; and
- 9) Stream relocation or channelization.

The Erosion and Sedimentation Control Plan shall be prepared by a person trained and experienced in erosion and sedimentation control methods and techniques.

b) Erosion and Sedimentation Control Measures and Facilities

Erosion and sedimentation control measures and facilities shall as a minimum meet the standards and specifications of the Northumberland County Conservation District, as contained in the "Erosion and Sediment Control Handbook" of Northumberland County, and the standards and specifications of the Pennsylvania Department of Environmental Resources Rules and Regulations for Erosion Control.

c) Restoration

Upon completion of the earthmoving project, all areas which were disturbed by the project including off-site borrow areas shall be stabilized so that accelerated erosion will be prevented. Any erosion and sedimentation control facility required or necessary to protect areas from erosion during the stabilization period shall be maintained until stabilization is completed. Upon completion of stabilization, all unnecessary or unusable control facilities shall be removed, the areas shall be graded and the soils shall be stabilized.

d) Responsibility of the Developer

It shall be the responsibility of the developer:

- 1) To submit the application for a land disturbance permit, accompanied by an erosion and sedimentation control plan and such other documents as may be required;
- 2) To remove sedimentation from all adjoining surfaces, drainage systems and watercourses and to repair any damage at developers' expense as quickly as possible whenever sedimentation is caused by stripping vegetation, regrading or other development.
- 3) To maintain all drainage facilities and watercourses within any subdivision or land development until they are accepted by the municipality or some other official agency.
- 4) To maintain as nearly as possible in its present state the stream, watercourse, swale, flood plain or right-of-way during the pendency of any activity of the developer on or across the same, and to return it to its original or equal condition after such activity is completed:
- 5) Not to block, impede the flow of, alter, construct any structure, or deposit any material or thing, or commit any act which will affect normal or flood flow in any stream or watercourse without having obtained prior approval from the Department of Environmental Resources, and/or Pennsylvania Fish Commission.



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- 6) To provide a drainage easement or right-of-way conforming substantially with the line of the water course, and of such width as will be adequate to preserve natural drainage where a subdivision or land development is traversed by a watercourse;
  - 7) To collect on-site surface runoff and dispose it at a stabilized point of discharge into the common natural watercourse of the drainage area when any surface changes are made.
  - 8) To handle existing and potential off-site runoff through his development by designing to adequately handle storm water runoff from a fully developed area upstream when any surface changes are made.
  - 9) To provide and install at developer's expense, in accordance with the approved Erosion and Sedimentation Control Plan, all erosion and sedimentation control measures and facilities when any surface changes are made.
  - 10) Not to conduct any grading within five (5) feet of any subdivision or land development boundary except as is needed for the entrance of streets.
- e) Storm Drainage
- 1) In designing the drainage system, the developer shall pay special attention in the sizing of facilities to serve the entire drainage basin, and the advice of the U.S. Soil Conservation Service and/or an Engineer shall be sought in such matters
  - 2) Where storm drainage must cross a property adjoining the developer's plan, he shall secure approval in writing from the adjoining owner or owners of the affected property for passage of storm water.
  - 3) The minimum diameter of any storm drainpipe shall be fifteen (15) inches.
  - 4) Stabilized outlets shall be provided for footer drains, floor drains, downspouts and private driveways.

ORDAINED AND ENACTED as an ORDINANCE of the Borough of Northumberland,

Northumberland County Pennsylvania, this \_\_\_\_\_ day of \_\_\_\_\_, 1991.

\_\_\_\_\_  
President of Council

Attest:

\_\_\_\_\_  
Secretary

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 1991

\_\_\_\_\_  
Mayor

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**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 52 – RESERVED**

**Chapter 52– Reserved**

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## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 53 –TAXATION

[HISTORY: Adopted by the Council of the Borough of Northumberland: Article I, 12-29-71 as Ord. No. 269; Article II, 12-9-71 as Ord. No. 269; Article III, 12-29-71 as Ord. No. 267; Article V, 12-4-79 as Ord. No. 357. Section 53-23A and B amended upon adoption of Code; see Ch. 1, General Provisions. Article III amended 12-19-05 by Ord. 2005-9; Article III amended 2-6-07 by Ord. 2007-1. Other amendments noted where applicable.]

General References: Amusements - see Ch. 22.

Licensed occupations - see Ch. 94.

## ARTICLE I – PER CAPITA

[Adopted 12-29-71 as Ord. No. 269<sup>1</sup>]

### **53.1.01 Tax levied. (53-1)**

A per capita tax in the amount set by Resolution per annum is hereby levied and assessed upon each resident or inhabitant of the Borough of Northumberland over twenty-one (21) years of age, which tax shall be in addition to all other taxes levied and assessed by the Borough of Northumberland pursuant to any laws of the Commonwealth of Pennsylvania.

[As passed 12-18-2001 as part of Ord. No.2001-13, all fees for this and subsequent parts of the borough code are determined by council resolution.]

### **53.1.02 Collection by Tax Collector. (53-2)**

Said tax shall be collected by the duly elected or appointed Tax Collector of Borough Taxes for the Borough of Northumberland in the same manner and at the same time or times as other borough taxes are collected, as provided by the Local Tax Collection Law of 1945, as amended and supplemented.

### **53.1.03 Bonding of Tax Collector. (53-3)**

The Tax Collector shall give bond secured and conditioned for the collection and payment of such taxes, as provided by the Local Tax Collection Law of 1945, as amended and supplemented.

### **53.1.04 Warrant for collection. (53-4)**

The entry of said per capita tax in the tax duplicate and issuance of said duplicate to the Tax Collector shall constitute his warrant for the collection of said per capita tax hereby levied and assessed.

### **53.1.05 Compensation of Tax Collector. (53-5)**

The expenses of collection and the compensation of the Tax Collector shall be paid and allowed as provided in the Local Tax Collection Law of 1945, as amended and supplemented, which compensation shall be the same as fixed from time to time by the Borough of Northumberland for the collection of other borough taxes.

### **53.1.06 Notice to taxpayers. (53-6)**

The Tax Collector shall give notice to the taxpayers at the same time and in the same manner as for other borough taxes as provided by the Local Tax Collection Law of 1945, as amended and supplemented.

<sup>1</sup> Editor's Note: Adopted initially as Ord. No. 220 and continued as provided by Ord. No. 269, adopted 12-29-71.

## **Chapter 53– Taxation**

### **53.1.07 Reporting and recording new taxpayers. (53-7)**

In case the Tax Collector or a Deputy Tax Collector shall at any time find within the Borough of Northumberland any resident or inhabitant above the age of twenty-one (21) years whose name does not appear upon the tax duplicate, he shall report the name of the person forthwith to the Assessor, who shall thereupon certify the same unto the Borough of Northumberland, which shall promptly certify the same to the Tax Collector reporting the name, whereupon the Tax Collector shall add the name and the assessment of this per capita tax against such person to the duplicate of the Borough of Northumberland and proceed to collect the same.

### **53.1.08 Collection by distress. (53-8)**

The Tax Collector shall be and is hereby empowered with the authority to collect said tax by distress and sell all goods and chattels of the taxpayer, as provided therefor by the Local Tax Collection Law of 1945, as amended and supplemented.

### **53.1.09 Collection from employer. (53-9)**

There is hereby conferred upon the Tax Collector the power and authority to demand, receive and collect from all corporations, political subdivisions, associations, companies, firms, or individuals employing persons owing per capita taxes, or whose wife owes per capita taxes, or if in possession of unpaid commissions or earnings belonging to any person owing per capita taxes, upon presentation of written notice and demand containing the name of the taxable person or husband thereof, the amount of tax due. Upon presentation of such written notice and demand, it shall be the duty of such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employees then owing or that shall within sixty (60) days thereafter become due, or from any unpaid commissions or earnings of any taxable in its or his possession or that shall within sixty (60) days thereafter come into its or his possession, a sum sufficient to pay the respective amount of the per capita taxes due and costs shown upon the written notice and demand, and to pay the same to the Tax Collector of the Borough of Northumberland within sixty (60) days after such notice shall have been given. The employer shall be entitled to deduct not more than two percent (2%) for his expenses for such moneys paid over to the Tax Collector. Upon the failure of such employer to make such deduction when properly notified as herein provided, such employer shall forfeit and pay the amount of such tax for each such taxable whose taxes are not withheld and paid over to the Tax Collector as herein provided, which amount may be recovered by an action of assumpsit in a suit to be instituted by the Tax Collector on behalf of the Borough of Northumberland.

### **53.1.10 Records. (53-10)**

The Tax Collector shall keep a correct account of all per capita taxes collected under this Article. He shall mark the same paid on each duplicate at the name of each taxable and the date on which payment was made. The Tax Collector shall remit said taxes to the Treasurer of the Borough of Northumberland by a separate statement at the same time as other taxes are remitted to the Borough of Northumberland.

### **53.1.11 Discount; penalty for late payment. (53-11)**

[As passed 12/18/2001 as part of Ordinance 2001-13, all fees and penalties for this and subsequent parts of borough code are determined by council resolution]

### **53.1.12 Duties and powers of Tax Collector. (53-12)**

It is the intent of this Article to confer, and there is hereby conferred, upon the Tax Collector all the powers, together with all the duties and obligations, to the same extent and as fully as provided for in the Local Tax Collection Law of 1945, as amended and supplemented.

## Chapter 53– Taxation

### ARTICLE II – EARNED INCOME

[Adopted 12-29-71 as Ord. No. 2692]

#### **53.2.01 Title; effective date of tax. (53-13)**

This Article shall be known as the "Earned Income Tax Ordinance." The tax hereby levied shall become effective on July 1, 1964.

#### **53.2.02 Definitions and usage. (53-14)**

- A. Definitions. The following words and phrases, when used in this article, including the various portions of this section thereof, shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

**Association** A partnership, limited partnership or any other unincorporated group of two (2) or more persons.

**Business** An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, fiduciary, association, corporation or other entity alone or in association with some other person or persons.

**Corporation** A corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency.

**Earnings** Salaries, wages, commissions and other compensation, as defined in this Article.

**Employer** An individual, fiduciary, association or corporation, as defined in this Article, or a governmental body or unit or agency, or any other entity employing one (1) or more persons on a salary, wages, commission or other compensation basis.

**Income Tax Administrator** The Secretary of the Borough of Northumberland or such other person as may be empowered by Borough Council to administer the provisions of this Article.

**Net Profits** The net income from the operation of a business or other activity after provisions for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used in such business or other activity, but without deduction of taxes, federal or state or local, based on income.

**Person** An individual, fiduciary, association, corporation or other entity. Whenever used in any section prescribing and imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

**Resident** An individual domiciled in the Borough of Northumberland.

**Salaries, Wages, Commissions And Other Compensation** Salaries, wages, commissions, bonuses, incentive payments, fees and tips that may be paid to or received by an individual for services rendered, or that may accrue to such individual in accordance with the established accounting procedure, whether directly or through an agent, and whether in cash or in property or by entry of cash benefit, and regardless of the place where services are performed: but excluding periodic payments for sick or disability benefits and those commonly recognized as old-age benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, and public assistance or unemployment compensation benefits, and any wages or compensation paid by the United States to any person for active service in or recognized reserve duty under the provisions of programs of the Army, the Navy or Air Force of the United States or the Commonwealth of Pennsylvania or of any other state for such service.

## Chapter 53– Taxation

**Taxable Period** The period beginning on July 1, 1964 and ending December 31, 1964, provided that for additional calendar years the "taxable period" shall be January 1 to December 31 of the same year.

**Taxpayer** A person required hereunder to file a return of earnings or net profits or to pay a tax thereon.

B. Usage. The singular shall include the plural and the masculine shall include the feminine and the neuter.

### 53.2.03 Imposition of tax. (53-15)

A tax for general revenue purposes of one-half of one percent (.5 of 1%) is hereby imposed on the following:

- A. Net profits earned by residents of the Borough of Northumberland during the taxable period.
- B. Salaries, wages, commissions and other compensation earned by residents of the Borough of Northumberland during the taxable period.

### 53.2.04 Declaration and payment. (53-16)

- A. Every taxpayer who can reasonably be expected to earn net profits or earnings not subject to provisions of 53.2.4 relating to collection at source shall make and file with the Income Tax Administrator, on a form prescribed by the Income Tax Administrator, a declaration of the estimated tax imposed thereon by this Article and such other relevant information as the Income Tax Administrator may require.
- B. The declaration of estimated tax shall be filed and the tax shall be paid at the following times:
  - 1. If said net earnings or profits cannot reasonably be expected on or before the 15th day of October of the taxable period, the taxpayer shall file a declaration on or before said date and shall pay the estimated tax shown thereon in equal quarterly installments on or before the said 15th day of October and on or before the 15th day of the following January, April and July.
  - 2. If said net earnings or profits cannot reasonably be expected on or before October 15th of the taxable period, but can reasonably be expected subsequent to said date, the taxpayer shall file his declaration on or before the first of said remaining quarterly installment dates on which the taxpayer can first reasonably be expected to earn such net profits or earnings and shall pay the estimated tax shown thereon in equal installments on or before said remaining quarterly installment dates.
  - 3. If, during the immediately preceding taxable period, the taxpayer filed a declaration on a calendar year basis setting for his estimated net profits or earnings for the current calendar year, then, in lieu of filing his declaration and making payments thereon at the times set forth in Subsections (1) or (2) immediately hereinabove, he may, on or before the 15th day of October and January of the taxable period, pay the quarterly installments of the estimated tax according to the declaration period filed, and, on or before the 15th day of April of the taxable period, file a declaration of the estimated tax for the portion of the taxable period included in the calendar year, and pay said tax in equal installments on or before said 15th day of April and the 15th day of the following July.
  - 4. If, during the immediately preceding taxable period, the taxpayer filed a declaration on a fiscal year basis different from the preceding taxable period, setting forth his estimated net profits or earnings for a period included in the taxable period, then, in lieu of filing his declaration and making payments thereon at the times set forth in Subsections (1) or (2) immediately hereinabove, he may pay the quarterly installments of the estimated tax according to declaration filed for the portion of the taxable period included in said fiscal year, and, on or before the 15th day after the close of the fiscal year, file a declaration of the estimated tax for the portion of the taxable period in the said succeeding year and pay said tax in equal quarterly installments



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beginning with the due date of the filing and ending with the first installment due date after the close of the taxable period.

5. If the taxpayer, not having done so during the immediately preceding taxable period, elects to file a declaration during the taxable period on a calendar year basis or on a fiscal year basis different from the taxable period, he may do so by complying with the applicable provisions of Subsection (1) and (2) immediately hereinabove for such portion of the taxable period as shall be included in such calendar or fiscal year.
- C. Where a taxpayer who has filed a declaration required hereinabove shall thereafter reasonably expect to earn during the taxable period additional net profits or earnings not subject to collection at source, or finds that he has overestimated his net profits or earnings, he may file an amended declaration with the Income Tax Administrator, setting forth such relevant information as the Income Tax Administrator may require.
- D. Every taxpayer who is required to file a declaration of estimated tax under the provisions of this section shall make and file with the Income Tax Administrator, on a form prescribed by the Income Tax Administrator, a final return showing all net profits and earnings during the taxable period, the total amount of the tax due thereon, the amount of the estimated tax paid under the provisions of this section, the amount of the tax that has been withheld pursuant to the provisions of 53-17 and the balance of the tax due.
- E. The final return shall be filed at the following times:
  1. If the taxpayer's declaration is filed on a calendar year basis, he shall file his final return on or before the 15th day of April after the close of such calendar year.
  2. If the taxpayer's declaration is filed on a fiscal year basis different from the taxable period, he shall file his final return on or before the 15th day of October after the close of the taxable period.
- F. The percentage of the total net profits of any calendar or fiscal year of a taxpayer beginning or ending within the taxable period to which the tax imposed by this Article shall be applicable shall be equal to the same percentage of such total net profits as the number of days in any such year within the taxable period bears to the equal number of the days in any such year.
- G. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for a refund or credit for overpayment.
- H. In the event of the death of the taxpayer during the taxable period, his personal representative or, in absence of a personal representative, his heirs as designated by the Pennsylvania Intestate Act of 1947, as amended, or as hereafter amended or supplemented, shall file his final return within sixty (60) days after the taxpayer's death and pay the tax due or demand a refund in case of overpayment.
- I. In the event the taxpayer's taxable net earned income consists solely of salary, wage, commission or other compensation, the tax on which is withheld by his employer and returned to the Income Tax Administrator, such taxpayer shall be relieved of the necessity of filing a return.
- J. The final return shall include net profits and earnings taxable under any other ordinance of the said Borough of Northumberland for the calendar year or fiscal year, so that but one (1) inclusive return shall be filed by every taxpayer for any one (1) calendar or fiscal year.

### 53.2.05 Collection at source. (53-17)

- A. Every employer doing business within the Borough of Northumberland who employs one (1) or more residents on a salary, wage, commission or other compensation basis shall deduct at the time of payment thereof the tax imposed by this Article on the earnings due to his employee or employees, and, within thirty (30) days after the 30th day of September of the taxable period and within thirty (30) days

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after each quarter of year thereafter, shall make and file a return with the Income Tax Administrator, setting forth the taxes so deducted and such other relevant information as the Income Tax Administrator may require, and shall pay to the Borough of Northumberland the amount of taxes so deducted.

- B. On or before the 15th day of February of the taxable period and the next succeeding taxable period, every employer shall make and file with the Income Tax Administrator, on a form prescribed by the Income Tax Administrator.
1. A return similar to Form W-3 of the Internal Revenue Service of the United States Treasury Department, showing the total amount of the earnings of his employee or employees during the portion of the preceding calendar year embraced within the taxable period, the amount of tax deducted and the total amount of tax paid to the Borough of Northumberland.
  2. A return for each employee similar to Form W-2 of the Internal Revenue Service of the United States Treasury Department, showing the total amount of the employee's earnings during the portion of the preceding calendar year embraced within the taxable period and such other relevant information as the Income Tax Administrator may require. Such employer, on or before February 15 of each of said years, shall furnish a copy of such return to the employee named in the return.

The said return shall include the earnings taxable under any other ordinance of the Northumberland Borough for the same calendar year, so that one (1) W-2 or W-3 return shall be filed by an employer for any one (1) calendar year.

- C. Every employer who discontinues business prior to the Close of the taxable year shall, within thirty (30) days after the discontinuance of business, file the returns hereinabove required and pay the tax due. Where discontinuance of business is due to the death of the employer, his personal representative or, in the absence of a personal representative, his heirs as designated by the Pennsylvania Intestate Law of 1947, as amended, or hereafter amended or supplemented, shall, within sixty (60) days after the death of the employer, file his return and pay the tax due or demand refund in case of overpayment.
- D. The failure or omission of any employer to make deductions required by this section shall not relieve any employee from payment of the tax or from complying with the requirements of this Article relating to the filing declarations and returns.
- E. If an employer makes a deduction of tax as require by the section, the amount deducted shall constitute in the hands of such employer shall not be required in respect to earnings of domestic servants or farm labor nor casual labor not in the course of the employer's business. This subsection shall not be construed to exempt such employees from the requirements of filing a declaration and a return of such earnings and the payment of the tax thereon under the provisions of 53.2.04.

### **53.2.06 Powers and duties of Income Tax Administrator. (53-18)**

- A. It shall be the duty of the Income Tax Administrator to collect and receive the taxes, fines and penalties imposed by this Article and it shall also be his duty to keep a record showing the amount received by him from each person paying the tax and, if paid by such person in respect of another person, the name of such other person and the date of such receipt.
- B. The Income Tax Administrator is hereby charged with the administration and enforcement of the provisions of this Article and is hereby empowered, subject to approval by the Council of the Borough of Northumberland, to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Article including provisions for the reexamination and correction of the declarations and returns and of payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this Article.

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- C. The Income Tax Administrator, and the agent designated in writing by him, are hereby authorized to examine the books, papers and records of any person in order to verify the accuracy of any declaration or return, if no declaration or return was filed, to ascertain the tax due. Every person is hereby directed and required to give to the Income Tax Administrator or to any agent so designated by him the means, facilities and opportunity for such examinations and investigations as are hereby authorized.
- D. Any information gained by the Income Tax Administrator, his agents or by any other official, agent or employee of the Borough of Northumberland as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Article shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this Article or as otherwise provided by law.
- E. Any person aggrieved by any action of the Income Tax Administrator shall have the right of appeal as provided by law.

### **53.2.07 Suit for collection. (53-19)**

- A. The Income Tax Administrator may sue in the name of the Borough of Northumberland for the recovery of taxes due and unpaid under this Article.
- B. Any suit brought to recover the tax imposed by this Article shall be begun within six (6) years after such tax is due or within six (6) years after the declaration or return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following case:
  - 1. Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under the provisions of this Article.
  - 2. Where false or fraudulent declaration or return was filed with intent to evade tax.
  - 3. Where any person has deducted taxes under the provisions of this Article and has failed to pay the amounts so deducted to the Borough of Northumberland.

### **53.2.08 Interest and penalties. (53-20)**

If any tax is not paid when due, interest at the rate of six percent (6%) per annum on the amount of the said tax, and an additional penalty of one-half percent (.5%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

### **53.2.08 Payment and refunds. (53-21)**

The Income Tax Administrator is hereby authorized to accept payment of the amount claimed by the Borough of Northumberland in any case where any person disputes the validity of the amount of the borough's claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Income Tax Administrator, the amount of the overpayment shall be refunded to the person who paid.

### **53.2.10 Applicability. (53-22)**

The tax imposed by this Article shall not apply:

- A. To any person as to whom it is beyond the legal power of the Borough of Northumberland to impose the tax herein provided for under the Constitution of the United States or the Constitution or Laws of the Commonwealth of Pennsylvania.

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- B. To any institution or organization operated for public, religious, educational or charitable purposes, to any institution or organization not organized or operated for private profit or to a trust or foundation established for any of the said purposes.
- C. To the net profit of any corporation which is subject to the Pennsylvania Corporate Net Income Tax or exempt from the Pennsylvania Corporate Net Income Tax, and any foreign corporation which is subject to the Pennsylvania Franchise Tax or exempt from the Pennsylvania Franchise Tax.

### 53.2.11 Violations and penalties. (53-23)

- A. Any person who fails, neglects or refuses to make any declaration or return required by this Article; any employer who fails, neglects or refuses to pay any tax deducted from his employees: any person who refuses to permit the Income Tax Administrator or any agent properly designated by him to examine his books, records and paper: and any person who makes an incomplete, false or fraudulent return to avoid the payment of the whole or any part of the tax imposed by this Article, shall upon conviction thereof before a District Magistrate having jurisdiction, be sentenced to pay a fine [As passed 12/18/2001 as part of Ordinance 2001-13, all fees and penalties for this and subsequent parts of borough code are determined by council resolution]
- B. Any person who, except as permitted by the provisions of 53.2.06D of this Article, divulges any information which is confidential under the provisions of 53.2.06D, shall, upon conviction thereof before a District Magistrate having jurisdiction, be sentenced to pay a fine. [As passed 12/18/2001 as part of Ordinance 2001-13, all fees and penalties for this and subsequent parts of borough code are determined by council resolution]
- C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Article.
- D. D. The failure of any person to receive or procure the forms required for making any declaration or return required by this Article shall not excuse him from making such declaration or return.

## ARTICLE III – LOCAL SERVICES TAX

[This tax replaces the Occupational Privilege Tax Adopted 12-29-71 as Ord. No. 267; Amended 12-19-05 by Ord. 2005-9; Amended 2-06-07 by Ord. 2007-1; Amended 01-02-2018 by Ord. 2018-2]

### 53.3.01 Tax levied. (53-24)

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

**Political Subdivision** - The area within the corporate limits of the Borough of Northumberland

**Collector** - The person, public employee or private agency designated by the political subdivision to collect and administer the tax herein imposed.

**DCED** - The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

**Earned Income** - Compensation as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, § 13, as amended, 53 P.S. § 6913, as amended.

**Employer** - An individual, partnership, association, limited liability corporation, limited liability partnership, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.

**He, His or Him** - Indicates the singular and plural number, as well as male, female and neuter genders.

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**Net Profits** - The net income from the operation of a business, profession; or other activity, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P. L. 1251, § 13, as amended, 53 P.S. § 6913, as amended.

**Occupation** - Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of the political subdivision for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.

**Tax** - The local services tax at the rate fixed in §53.32 of this article.

**Tax Year** - The period from January 1 until December 31 in any year; a calendar year.

### 53.3.02 Levy of Tax.

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2018, upon the privilege of engaging in an occupation with a primary place of employment within the Borough of Northumberland during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$52.00 (fifty-two), assessed on a pro rata basis, in accordance with the provisions of this article. This tax may be used solely for the following purposes as the same may be allocated by the Borough Council from time to time: (1) emergency services, which shall include emergency medical services, police services and/or fire services; (2) road construction and/or maintenance; (3) reduction of property taxes; or (4) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53Pa C.S. Ch. 85, Subch F (relating to homestead property exclusion). The political subdivision shall use no less than twenty-five percent of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than \$52 (fifty-two) on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

### 53.3.03 Exemptions and refunds.

A. Exemption. Any person whose total earned income and net profits from all sources within the political subdivision is less than twelve thousand (\$12,000) dollars for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

1. Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent disability.
2. Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subparagraph, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

B. Procedure to Claim Exemption.

1. A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax

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collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by clause (2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision.

2. With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the municipality in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the person under clause (3).
  3. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under clause (2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under clause (2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this article.
  4. Except as provided in clause (2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.
- C. Refunds. The Borough of Northumberland, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within seventy-five days of a refund request or seventy-five days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed one dollar (\$1): The Borough Council's designee or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

### 53.3.04 Duty of employers to collect.

1. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further,

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each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.

2. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in Paragraph D of this Section. For purposes of this paragraph, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.
3. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
4. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.
5. The tax shall be no more than fifty-two dollars (\$52) on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.
6. No employer shall he held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or plates of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Paragraph B of Section 231-9.1 of this article and this section and remits the amount so withheld in accordance with this article.
7. Employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year.

### **53.3.05 Returns**

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this article, the employer-shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer. -,

### **53.3.06 Dates for determining tax liability and payment.**

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Collector on or before the thirtieth day following the end of each calendar quarter of each such tax year.

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### **53.3.07 Self-employed individuals.**

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this article and pay the pro rata portion of the tax due to the Collector on or before the thirtieth day following the end of each quarter.

### **53.3.08 Individuals engaged in more than one occupation or employed in more than one political subdivision.**

1. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:
  - a. First, the political subdivision in which a person maintains his or her principal office or is principally employed;
  - b. Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
  - c. Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.
2. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

### **53.3.09 Nonresidents subject to tax.**

All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his or her tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

### **53.3.10 Administration of tax.**

- The Collector shall be appointed by resolution of the political subdivision. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer of self-employed person, together with the date the tax was received.
- The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered, subject to municipal approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal consistent with



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the Local Taxpayers Bill of Rights under Act 50 of 1998 (municipalities may detail their appeal processes).

- The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

### **53.3.11 Suits for collection.**

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.
- B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

### **53.3.12 Violations and penalties.**

Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

### **53.3.13 Interpretation.**

- A. Nothing contained in this article shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
- B. If the tax hereby imposed under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

## **ARTICLE IV – REAL PROPERTY**

### **53.4.01 Current ordinance on file. (53-30)**

A copy of the ordinance or resolution establishing the current rate of the tax levied annually on the assessed valuation of real property within the borough is kept on file in the office of the Borough Secretary for examination and inspection by the public.

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### 53.4.02 Effect of Failure to Receive Real Estate Tax Notice

- A. As provided in section 7 of the Local Tax Collection Law, 72 P.S. § 5511.7, except as set forth in section B of this section, failure to receive notice shall not relieve any taxpayer from the payment of any taxes imposed by any taxing district, and such taxpayer shall be charged with his taxes as though he had received notice.
- B. Waiver of additional charges pursuant to the Act of Jul. 11, 2022, P.L. 701, No. 57:
1. Pursuant to the Act of July. 11, 2022, P.L. 701, No. 57, the tax collector shall waive additional charges for real estate taxes beginning in the first tax year after the effective date of Act of Jul. 11, 2022, P.L. 701, No. 57, if the taxpayer does all of the following:
    - a. Provides a waiver request of additional charges to the tax collector in possession of the claim within twelve months of a qualifying event;
    - b. Attests that a notice was not received;
    - c. Provides the tax collector in possession of the claim with one of the following:
      - i. A copy of the deed showing the date of real property transfer; or
      - ii. A copy of the title following the acquisition of a mobile or manufactured home subject to taxation as real estate showing the date of issuance or a copy of an executed lease agreement between the owner of a mobile or manufactured home and the owner of a parcel of land on which the mobile or manufactured home will be situated showing the date the lease commences; and
    - d. Pays the face value amount of the tax notice for the real estate tax with the waiver request.
  2. Requests for waiver of additional charges pursuant to this section shall be made on a form provided by the Pennsylvania Department of Community and Economic Development, available upon request from the Borough, which form shall include a space for attestation by the taxpayer.
  3. A taxpayer granted a waiver and paying real estate tax as provided in this subsection shall not be subject to an action at law or in equity for an additional charge, and any claim existing or lien filed for an additional charge shall be deemed satisfied.
  4. A tax collector that accepts a waiver and payment in good faith in accordance with this section shall not be personally liable for any amount due or arising from the real estate tax that is the subject in the waiver.
  5. As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:
    - a. The term "additional charge" shall mean any interest, fee, penalty or charge accruing to and in excess of the face amount of the real estate tax as provided in the real estate tax notice.
    - b. The term "qualifying event" shall mean:
      - i. For purposes of real property, the date of transfer of ownership.
      - ii. For purposes of manufactured or mobile homes, the date of transfer of ownership or the date a lease agreement commences for the original location or relocation of a mobile or manufactured home on a parcel of land not owned by the owner of the mobile or manufactured home. The term does not include the renewal of a lease for the same location.
    - c. The term "tax collector" shall mean a tax collector as defined in section 2 of the Local Tax Collection Law, 72 P.S. §5511.2, a delinquent tax collector as provided in section 26a of the Local Tax Collection Law, 72 P.S. §551.26a, the tax claim bureau or an alternative collector of taxes as provided in the Real Estate Tax Sale Law, 72 P.S. § 5860.101, et seq., an employee,

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agent or assignee authorized to collect the tax, a purchaser of claim for the tax or any other person authorized by law or contract to secure collection of, or take any action at law or in equity against, the person or property of the taxpayer for the real estate or amounts, liens or claims derived from the real estate tax.

## ARTICLE V – REALTY TRANSFER TAX

[Adopted 12-4-79 as Ord. No. 357]

### 53.5.01 Definitions. (53-31)

The following words when used in this Article shall have meanings ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

**Association** A partnership, limited partnership, or any other form of unincorporated enterprise, owned or conducted by two (2) or more persons.

**Corporation** A corporation or joint-stock association organized under the laws of this commonwealth, the United States, or any other state, territory or foreign country dependency, including but not limited to banking institutions.

**Document** Any deed, instrument or writing whereby any lands, tenements or hereditaments within this commonwealth or any interest therein shall be quitclaimed, granted, bargained, sold or otherwise conveyed to the grantee, purchaser or any other person, but does not include wills, mortgages, transfers between corporations operating housing projects pursuant to the Housing and Redevelopment Assistance Law and the shareholders thereof, transfers between nonprofit industrial development agencies and industrial corporations purchasing from them, any transfers to nonprofit industrial development agencies, and transfers between husband and wife, transfers between persons who were previously husband and wife but who have since been divorced, provided that such transfer is made within three (3) months of the date of the granting of the final decree in divorce, and the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, transfers between parent and child or the spouse of such a child or between parent and trustee for the benefit of a child or the spouse of such child, by and between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises, correctional deeds without consideration, transfers to the United States, the Commonwealth of Pennsylvania, or to any of their instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation, or deed of confirmation in connection with condemnation proceedings, or reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments, provided that said reconveyance is made within one (1) year from the date of condemnation, leases, a conveyance to a trustee under a recorded trust agreement for the express purpose of holding title in trust as security for a debt contracted at the time of the conveyance under which the trustee is the lender and requiring the trustee to make reconveyance to grantor-borrower upon the repayment of the debt, or a transfer by the owner of previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises is taken in trade by such builder as part of the consideration from the purchaser of a new previously unoccupied residential premises or any transfer from a purchase money mortgagor to the vendor holding the purchase money mortgage whether pursuant to a foreclosure or in lieu thereof, or conveyances to municipalities, townships, school districts and counties pursuant to acquisition by municipalities, townships, school districts and counties of tax delinquent properties at sheriff sale or tax claim bureau, or any transfer between religious organizations or other bodies or persons holding title to real estate for a religious organization if such real estate is not

## **Chapter 53– Taxation**

being or has not been used by such transferor for commercial purposes, or in any sheriff sale instituted by a mortgagee in which the purchaser of said sheriff sale is the mortgagee who instituted said sale.

**TRANSACTION** The making, executing, delivering, accepting or presenting for recording of a document.

**VALUE** In the case of any document granting, bargaining, selling or otherwise conveying any land, tenement or hereditament, or interest therein, the amount of the actual consideration therefor, including liens or other encumbrances thereon, and ground rents, or a commensurate part of the liens or other encumbrances thereon, and ground rents, where such liens or other encumbrances and ground rents, also encumber or are charged against other lands, tenements or hereditaments, provided that, where such documents shall set forth a small or nominal consideration, the "value" thereof shall be determined from the price set forth in, or actual consideration for, the contract of sale or, in the case of a gift, or any other document without consideration, from the actual monetary worth of the property granted, bargained, sold, or otherwise conveyed, which in either event shall not be less than the amount of the highest assessment of such lands, tenements or hereditaments for local tax purposes.

### **53.5.02 Rate. (53-32)**

Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording shall be subject to pay for and in respect to the transaction or any part thereof, or for or in respect of the vellum, parchment or paper upon which such document is written or printed, a tax at the rate of one per centum (1%) of the value of the property represented by such document, which tax shall be payable at the time of making, execution, delivery, acceptance or presenting for recording, such document.

### **53.5.03 Transfers by real estate brokers. (53-33)**

Where there is a transfer of a residential property by a licensed real estate broker, which property was transferred to him within the preceding year as part of the consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer. If the tax due upon the transfer from the licensed real estate broker is greater than the credit given for the prior transfer, the difference shall be paid, and, if the credit allowed is greater than the amount of the tax due, no refund shall be allowed.

### **53.5.04 Value of document to be set forth. (53-34)**

Every document, when lodged with or presented to any recorder of deeds in this commonwealth for recording, shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by an affidavit executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Article.

### **53.5.05 Adoption of regulations. (53-35)**

The regulations of the Department of Revenue of the Commonwealth of Pennsylvania relating to the state realty transfer tax, as they may from time to time be amended, are hereby adopted as the regulations of the Borough of Northumberland relating to the borough realty transfer tax.

### **53.5.06 Collection agent. (53-36)**

The Recorder of Deeds of Northumberland County, Pennsylvania, is hereby appointed the borough's agent for collection of the realty transfer tax. A commission shall be allowed to said Recorder's one percent (1%) of the collected.

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### ***53.5.07 Violations and penalties. (53-37)***

It shall be unlawful for any person to make, execute, deliver, accept, or present for recording, or cause to be made, executed, delivered, accepted, or presented for recording, any document without the full amount of the tax thereon being duly paid. Any person violating the provisions of this Article shall, upon conviction therefor, be sentenced to pay a fine of not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) and costs and, upon default of the payment of said fine and costs, to undergo imprisonment for not more than thirty (30) days.

### ***53.5.08 Collection of unpaid taxes. (53-38)***

Unpaid taxes may be collected by suit in assumpsit or other appropriate remedy. Upon each such judgment, execution may be issued without any stay or benefit of any exemption law.

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 54 – RESERVED**

<sup>1</sup> Editor's Note: Adopted initially as Ord. No. 220 and continued as provided by Ord. No. 269, adopted 12-29-71.

## **Chapter 54 – Reserved**

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**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 55 – RESERVED**

<sup>1</sup> Editor's Note: Adopted initially as Ord. No. 220 and continued as provided by Ord. No. 269, adopted 12-29-71.



## **Chapter 55 – Reserved**

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**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 56 – RESERVED**

<sup>1</sup> Editor's Note: Adopted initially as Ord. No. 220 and continued as provided by Ord. No. 269, adopted 12-29-71.

## **Chapter 56 – Reserved**

**Intentionally Blank**

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 57 – RESERVED**

<sup>1</sup> Editor's Note: Adopted initially as Ord. No. 220 and continued as provided by Ord. No. 269, adopted 12-29-71.

**Chapter 57 – Reserved**

**Intentionally Blank**

**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 58 – VEHICLES AND TRAFFIC**

[HISTORY: Adopted by the Council of the Borough of Northumberland: Article I, 1-6-48 as Ord. No. 146; Articles II through VI, upon adoption of Code; see Ch. 1, General Provisions.  
Amendments noted where applicable.]

### **ARTICLE I – PARKING METERS**

[Adopted 1-6-48 as Ord. No. 146]

#### **58.1.01 Streets Designated (58-1)**

[Amended 10-5-54 by Ord. No. 163; 6-5-73 by Ord. No. 275; 9-10-91 by Ord. No. 430; 12-21-24 by Ord. No. 2004-6]

It shall be unlawful for any owner or operator of any motor vehicle or any other vehicle to park said vehicle between the hours of 9:00 a.m. and 5:00 p.m. on Monday through Friday, inclusive, in violation of the provisions of this Article, upon the portions of the streets herein described in the Borough of Northumberland, which portions of the streets are hereby established and designated as parking meter zones, to wit:

- A. Front Street, between Duke Street and King Street;
- B. Queen Street, between Second Street and Water Street; except spaces as are or shall hereafter be designated as bus and taxi spaces, unloading and loading spaces, entrances to hotels, theaters, fireplugs and other places where parking is now or may hereafter be prohibited or allowed.

#### **58.1.02 Placement of Meters. (58-2)**

Parking meters installed in the parking meter zones established as provided in 58.1.01 (58-1) hereof shall be placed upon the sidewalk and immediately adjacent to the individual parking spaces hereinafter described. Each parking meter shall be placed or set in such manner as to show that the parking space adjacent to such meter is or is not occupied. Each parking meter installed shall indicate by a proper legend the legal parking time established by the borough, and when operated shall indicate on its dial the duration of the period of legal parking, and on expiration of such period shall indicate illegal parking or over parking.

#### **58.1.03 Parking Spaces. (58-3)**

There shall be lines or markings painted or placed on the curb, sidewalk or upon the streets adjacent to each parking meter, for the purpose of designating the parking space for which said meter is to be used. Parking shall be parallel with the curb, and meters shall be placed approximately twenty-two (22) feet apart. Each vehicle parked adjacent to or next to any parking meter shall be parked within the lines or markings so placed. It shall be unlawful and a violation of this Article to park any vehicle across such line or marking or to park such vehicle in such position that the same shall not be entirely within the area so designated by such lines or markings.

#### **58.1.04 Placement of Vehicles in Parking Space. (58-4)**

Any vehicle parked in a parking space in any parking meter zone shall be parked so that the foremost or front of such vehicle shall be nearest to the parking meter.

#### **58.1.05 Deposit of Coins. (58-5)**

[Amended 12-6-2011 by Ord. No. 2011-5]

<sup>1</sup> Editor's Note: Adopted initially as Ord. No. 220 and continued as provided by Ord. No. 269, adopted 12-29-71.

## Chapter 58 – Vehicles and Traffic

- A. When any vehicle shall be parked during the time of limited parking in any space adjacent to which a parking meter is located, the owner or operator of said vehicle shall, upon entering the said parking space, immediately deposit or cause to be deposited "U.S. legal tender" in such parking meter and operate the meter in accordance with the instructions thereon, and failure to do so shall constitute a violation of this Article. Upon the deposit of "U.S. legal tender" and placing the meter in operation, the parking space may be lawfully occupied by such vehicle during the period of parking time which has been prescribed for the particular amount deposited, to wit: thirty (30) minutes of parking for one nickel, one (1) hour of parking for one dime, and two (2) hours of parking per quarter. If such vehicle shall remain parked in any such parking space for such a length of time that the meter shall indicate by a proper signal that the lawful time has expired, such vehicle shall be considered as parking overtime, and the parking of a vehicle overtime shall be considered a violation of this Article.
- B. In lieu of depositing U.S. legal tender into a parking meter as stated in paragraph "A" above, a vehicle may be parked in a metered parking space with a permit purchased from the Borough. Permits can be purchased and used in accordance with the following provisions:
1. The Borough offers two classes of parking permits: 1) Business and 2) Residential. A business located on a block that has designated parking meters is eligible to purchase a Business Parking Permit. Each such business is eligible to purchase a maximum of two (2) parking permits per month. Residents living on a block that has designated parking meters are eligible to purchase a maximum of one (1) parking permit per household per month. The initial price for a permit is \$20.00 per month. Borough Council may, from time to time, change the rate of the permit by resolution.
  2. The permits shall be available for purchase at the Borough Office. The applicant for a permit shall submit all information requested by the Borough, including but not limited to name of applicant, address and a signed statement that the permit shall be used in accordance with this Ordinance. The applicant shall be reviewed by the Borough Office to verify the eligibility of the applicant. If the Borough Office determines the applicant is eligible, a permit shall be issued within five (5) days. If eligibility cannot be verified by the Borough Office, the permit shall be denied. An applicant may appeal such denial to the Borough Council solely on the basis that they meet the eligibility requirements.
  3. A Business Permit shall have the month and year of the permit and the name of the business. The Residential Permit shall list the month and the year of the permit and the permit holder's street address. Permits must be hung on the rearview mirror of the vehicle in plain view.
  4. A Business Permit can be used by a permit holder's employee or customer. The permits are not transferable to any other business or person.
  5. A Residential Permit can be used by anyone living in or visiting the permit holder's household.
  6. A Residential Permit can only be used on meters designated by the Borough with an "R". A residential permit shall not be valid for a meter not designated with an "R".
  7. Permits do not absolve the user of any other parking regulations such as no parking on certain days, snow emergencies, etc. that may be contained in any other Borough ordinance, state or federal law or regulation.
  8. Permits may be purchased in advance and shall be in force from the first of the month to the last day of the applicable month. If a permit is purchased for a current month, the permit is valid upon issuance by the Borough and expires on the last day of that month. The cost of a permit shall not be pro-rated due to it applying for a permit for only part of a month.

## **Chapter 58 – Vehicles and Traffic**

9. The permits do NOT guarantee parking in any particular parking space of the metered areas of the downtown. Parking is on a first come, first served basis and parking may not always be available for all permit holders.
10. Any business or resident in violation of the rules of the permit shall be considered in violation of Chapter 58 of the Code and subject to the penalties stated in Chapter 58 of the Code.

### **58.1.06 Unlawful Deposit of Coins. (58-6)**

It shall be unlawful and a violation of this Article for any person to deposit or cause to be deposited in a parking meter any coins for the purpose of increasing or extending the parking time to be specified on the meter.

### **58.1.07 Parking Overtime. (58-7)**

It shall be unlawful and a violation of the provisions of this Article for any person to permit a vehicle to remain or be placed in any parking space adjacent to any parking meter while such meter is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the period of time prescribed for such parking space.

### **58.1.08 Unlawful Substitute Coins. (58-8)**

It shall be unlawful and a violation of the provisions of this Article to deposit or cause to be deposited in any parking meter any slug, device or metallic substitute or any object except "U.S. legal tender".

### **58.1.09 Tampering With Meters. (58-9)**

It shall be unlawful and a violation of the provisions of this Article for any person to deface, injure, tamper with, open or willfully break, destroy or impair any parking meter installed under this Article.

### **58.1.10 Reporting Violations; Notifying Violators. (58-10)**

- A. It shall be the duty of the police officers of the Borough of Northumberland, acting in accordance with the instructions issued by the Chief of Police, to report to the proper designated officials:
  1. The number of each parking meter, which indicates that the vehicle occupying the parking space adjacent to such parking meter, is or has been parked in violation of any of the Provisions of this Article.
  2. The date and hour of such violation.
  3. The state license number of such vehicle.
  4. Any other facts, the knowledge of which is necessary to a thorough understanding of the circumstances of such violation.
- B. Each such police officer shall also attach to or place on such vehicle a notice to the owner or operator thereof that such vehicle has been parked in violation of the provisions of this Article, and instructing such owner or operator to report to the place therein designated in regard to such violation. Each such owner or operator may, within twenty-four (24) hours of the time when such notice was attached to or placed on such vehicle, pay to the person therein designated, as a penalty for and in full satisfaction of such violation, the sum of **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution.]**
- C. The failure of such owner or operator to make such payment at the place designated within said twenty-four (24) hours of said violation shall render such owner or operator subject to the penalties hereinafter provided for violation of the provisions of this Article.



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### **58.1.11 Use of Moneys Collected. (58-11)**

The amount of the coins required to be deposited in the parking meters as provided in this Article are hereby levied and assessed as fees to cover a portion of the costs of installation, operation, maintenance, inspection, supervision, control and use of the parking meters and parking spaces, regulation of the parking of vehicles, street cleaning and maintenance in the parking zones created hereby, police supervision, and protection against potential Liability for negligence, for the maintenance of any traffic upon the streets in said borough and for general purposes in relief of taxes on real estate.

### **58.1.12 Violations and Penalties. (58-12)**

[Amended 9-2-80 by Ord. No. 359; 7-1-86 by Ord. No. 391; 11-5-96 by Ord. No. 446]

- A. Any person violating any of the provisions of this Article, except for 58.1.09 (58-9) thereof, shall, be subject to penalties determined by resolution. **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution.]**
- B. A notice of any violation of the provision of this Article except 58.1.09 (58-9), shall be placed upon the vehicle parked, stopped or standing in violation thereof. Such notice shall provide that the violator can save himself from payment of the maximum fine and costs of prosecution if:
  1. Within twenty-four (24) hours after the time of said notice he shall:
    - a) Pay to the desk clerk of the Police Department of the Borough of Northumberland the sum designated on the notice;
    - b) Place such sum in any of the special boxes installed in various places in the Borough of Northumberland within twenty-four (24) hours after the time of such notice; or
    - c) Mail such sum to the Police Department of the Borough of Northumberland so that said Department within twenty-four (24) hours after the time of such notice receives it.

### **58.1.13 Authorization for Payment of Meters. (58-13)**

The proper officers of the borough are hereby authorized and directed to enter into a contract for the purchase and installation of parking meters, the payment of such meters and the installation of parking meters, the payment of such meters and the installation of same to be provided for solely from the receipts, funds and revenue obtained by the borough from the operation of said parking meters without in any manner obligating the borough to pay for same from any other sources, and from time to time to enter into a contract or contracts for parts and maintenance exclusively from the receipts, funds and revenues received from the operation of said parking meters.

### **58.1.14 Collection of Coins from Meters. (58-14)**

Council shall designate some person or persons who shall collect the coins deposited in such parking meters. In collecting such coins, the person or persons designated shall remove the sealed coin chamber or compartment from each parking meter and deliver the same with seals unbroken to such person who shall be designated by the Council of the Borough of Northumberland. The said person so designated shall open the sealed coin chambers or compartments, count the coins so delivered and deposit it to the credit of the Northumberland Borough in an account designated "Parking Meter Fund."

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### ARTICLE II – GENERAL REGULATIONS

#### **58.2.01 Definitions and Interpretation. (58-15)**

[Amended 5-04-2010 by Ord. No. 2010-4]

- A. Words and phrases, when used in Articles II through VI, shall have the meanings ascribed to them in The Vehicle Code of Pennsylvania, as now in force or as hereafter amended, enacted or reenacted, except where the context clearly indicates a different meaning.
- B. The term "legal Holidays" shall mean and include: New Year's Day, Martin Luther King Jr. Day, President's Day, Good Friday, Primary Election Day, Memorial Day, Independence Day, Labor Day, Columbus Day, General Election Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving and Christmas Day. No other dates shall be considered a "legal Holiday".
- C. In Article II through VI, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

#### **58.2.02 Manner of Adopting Permanent Regulations. (58-16)**

All traffic and parking regulation of a permanent nature shall be enacted as ordinances or as parts of ordinances or as amendments to ordinances of the Borough of Northumberland.

#### **58.2.03 Temporary and Emergency Regulations. (58-17)**

- A. The Mayor shall have the following powers to regulate traffic and parking temporarily and in time of emergency:
  - 1. In the case of fire, flood, storm or other emergency, to establish temporary traffic and/or parking regulations.
  - 2. In the case of emergency or to facilitate public works, or in the conduct of parades, processions or public events, to restrict or prohibit traffic and/or parking in limited areas for periods of not more than seventy-two (72) hours.
- B. The Mayor and the Police Department shall enforce such temporary and emergency regulations in the same manner as permanent regulations. Any person who shall operate or park a vehicle or tractor in violation of any such regulation, or who shall move, remove, destroy, injure or deface any sign or marking erected, posted or made to give notice of any such regulation, shall, upon conviction thereof, be liable to the penalty set forth in the law or elsewhere in Articles II through VI for a violation of such nature, or, in case of a violation for which no specific penalty is set forth in the law or elsewhere in Articles II through VI to a penalty as determined by Resolution. **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]**

#### **58.2.04 Experimental Regulations. (58-18)**

The Borough Council may, from time to time, designate places upon and along the highway in the borough where, for a period of not more than ninety (90) days, specific traffic and/or parking regulations, prohibitions and restrictions shall be in force and effect, and shall designate such locations by proper signs and markings. Such regulations, prohibitions and restrictions shall be effective just as if they had been specified in Articles II through VI. No person shall operate or park a vehicle or tractor in violation of any such regulation, prohibition or restriction, and no person shall move, remove, destroy or deface any sign or marking erected, posted or made by authority of this section. Any person who shall violate any provision of this section shall, upon conviction thereof, be liable to the penalty set forth in the law or elsewhere in Articles II through VI for a

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violation of such nature, or in case of a violation for which no specific penalty is set forth in the law or elsewhere in Articles II through VI, to a fine of **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]** provided, the purpose of this section is to allow for the test and experimental determination of the feasibility and desirability of permanent changes in the ordinances of the borough relative to traffic and parking.

### 58.2.05 Authority of Peace Officers. (58-19)

The peace officers of the borough are hereby given authority to direct traffic on the highways of the borough and at intersections thereof.

## ARTICLE III – TRAFFIC REGULATIONS

### 58.3.01 Driving on Sidewalks. (58-20)

No person shall operate a motor vehicle or tractor upon any sidewalk in the borough, nor shall any person operate a motor vehicle upon or across any sidewalk except in order to gain access to or egress from a driveway or alley at such locations where the curb, if such sidewalk is curbed, shall have been properly cut down for the purpose. Any person who shall violate any provision of this section shall, **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]**

### 58.3.02 Speed Limits Established. (58-21)

[Amended on 12-15-2008 by Ord. No. 2008-5; Amended on 9-6-2016 by Ord. No. 2016-3]

A. The following speed limits are hereby established:

Name of Street	Location	Speed Limit (mph)	Times
Hanover Street	5 <sup>th</sup> Street to Permastone Drive	15 mph (School Zone)	Monday – Friday 7:15 am to 8:15 am 2:45 pm to 3:45 pm
Fifth Street	King Street to Orange Street	15 mph (School Zone)	Monday – Friday 7:15 am to 9:00 am 10:45 am to 12:30 pm 2:15 pm to 3:30 pm
Prince Street	from 150 feet west of the center of Fifth Street to 60 feet east of the center of Permastone Dr.	15 mph (School Zone)	Monday – Friday 6:50 am to 7:40 am 2:50 pm to 3:35 pm
Strawbridge Rd	from 345 feet north of Prince Street to Prince Street	15 mph (School Zone)	Monday – Friday 6:50 am to 7:40 am 2:50 pm to 3:35 pm
Fifth Street	beginning 180 feet north of Prince Street to 40 feet south of the center of Hanover St.	15 mph (School Zone)	Monday – Friday 6:50 am to 7:40 am 2:50 pm to 3:35 pm
Hanover Street	from 50 feet west of the center of Fifth Street to 40	15 mph (School Zone)	Monday – Friday 6:50 am to 7:40 am 2:50 pm to 3:35 pm

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	feet east of the center of Permastone Drive.		
Fourth Street	beginning 250 feet south of the center of Hanover Street to Hanover Street	15 mph (School Zone)	Monday – Friday 6:50 am to 7:40 am 2:50 pm to 3:35 pm

- B. Any person who shall operate a vehicle or tractor at a speed in excess of that established therefor upon any highway or portion thereof specified in this section shall, upon conviction thereof, be sentenced to **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]**

### 58.3.03 Stop Intersections Established. (58-22)

[Amended 6-7-83 by Ord. No. 383; Amended 12-19-96 by Ord. No. 448; Amended 1-7-97 by Ord. No. 449; Amended 2-21-97 by Ord. No. 450; Amended 9-19-00 by Ord. No. 2000-2; Amended 5-22-02 by Ord. No. 2002-7; Amended 8-20-02 by Ord. No. 2002-9; Amended 6-17-03 by Ord. No. 2003-3; Amended 8-2-05 by Ord. No. 2005-3; Amended 11-6-2017 by Ord. No. 2017-5; ]

- A. The following intersections are hereby established as stop intersections, and official stop signs shall be erected (or are hereby confirmed if heretofore erected) in such a position as to face traffic approaching the second-named highway upon the first-named highway. All vehicles and tractors approaching any such intersection upon the first-named highway shall come to a full stop, within a reasonable distance, before entering any such intersection.

<u>Name of Street</u>	<u>Intersection</u>	<u>Ord. No.</u>
Brickyard Alley	Duke Street	383
Brickyard Alley	Sheetz Avenue	383
Buchanan Avenue	Susquehanna Road	449
Church Avenue	Duke Street	383
Church Avenue	Hanover Street	383
Church Avenue	Sheetz Avenue	383
Church Avenue	Wheatley Avenue	2002-9
Depot Avenue	Duke Street	383
Depot Avenue	King Street	383
Duke Street	Eighth Street	383
Duke Street	Route 147	383
Elliott Drive	Fifth Street (northern)	2017-5
Elliott Drive	Fifth Street (southern)	2017-5
Fifth Street	Duke Street	383
Fifth Street	Hanover Street	383
Fifth Street	King Street	
Fifth Street	Orange Street	

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<u>Name of Street</u>	<u>Intersection</u>	<u>Ord. No.</u>
Fifth Street	Prince Street	2023-B
Fifth Street	Queen Street	
Fifth Street	Strawbridge Road	383
Fourth Street	Duke Street	383
Fourth Street	Hanover Street	383
Fourth Street	King Street	383
Fourth Street	Orange Street	
Fourth Street	Queen Street	
Front Street	Duke Street	383
Hanover Street	Fifth Street	383
Hanover Street	Front Street	383
Hanover Street	Priestley Avenue	383
Hanover Street	Second Street	2000-2
Hanover Street	Seventh Street	383
Hanover Street	Sixth Street	383
Hanover Street	Third Street	
Hanover Street	Water Street	383
Honey Locust Lane	Susquehanna Road	383
Horizon Avenue	Strawbridge Road	383
Jefferson Street	Strawbridge Road	383
Jefferson Street	Buchanan Avenue	449
Jefferson Street	Madison Avenue	2005-3
King Street	Eighth Street	383
King Street	Fifth Street	448
King Street	Fourth Street	383
King Street	Front Street	383
King Street	Second Street	
King Street	Sixth Street	383
King Street	Seventh Street	448
Leighow Avenue	Strawbridge Road	383
Madison Avenue	Woodrow Avenue	383
North Street	Pond Avenue	383
North Street	Seventh Street	383
North Street	Sixth Street	383
Old Danville Highway	Front Street	383
Orange Street	Eighth Street	383

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<u>Name of Street</u>	<u>Intersection</u>	<u>Ord. No.</u>
Orange Street	Front Street	383
Orange Street	Priestley Avenue	383
Orange Street	Second Street	
Orange Street	Seventh Street	383
Orange Street	Sixth Street	383
Orange Street	Water Street	
Park Avenue	Duke Street	383
Park Avenue	Hanover Street	383
Park Avenue	King Street	383
Park Avenue	Orange Street	383
Park Avenue	Prince Street	383
Park Avenue	Sheetz Avenue	383
Park Avenue	Wallace Street	383
Park Avenue	Wheatley Avenue	383
Permastone Drive	Hanover Street	383
Permastone Drive	Prince Street	383
Pond Alley	Duke Street	383
Pond Alley	Prince Street	383
Pond Alley	Wallace Street	383
Priestley Avenue	Hanover Street	383
Priestley Avenue	King Street	383
Right turn ONLY at stop, either northbound or southbound; both left turns and straight across traffic is prohibited.		450
Priestley Avenue	Orange Street	2002-7
Priestley Avenue	Queen Street	383
Prince Street	Front Street	383
Prince Street	Third Street	383
Prince Street	Fifth Street	383
Prince Street	Sixth Street	383
Prince Street	Strawbridge Road	2002-9
(Right turn onto Strawbridge Road from Prince Street is still permitted.)		
Prince Street	Seventh Street	2005-3
Queen Street	Eighth Street	383
Queen Street	Front Street	383
Queen Street	Seventh Street	383
Queen Street	Sixth Street	383
Queen Street	Third Street	383

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<u>Names of Street</u>	<u>Intersection</u>	<u>Ord. No.</u>
Queen Street	Water Street	383
Right turn ONLY at stop sign on east and west sides of Queen Street at Water Street. East bound traffic on Queen Street may only turn right to travel south on Route 11 and westbound traffic on Queen Street may only turn right to travel north on Route 11.		
		2003-3
Riverview Drive	Prince Street	383
Ropewalk Avenue	Duke Street	383
Ropewalk Avenue	Wheatley Avenue	2002-7
Second Street	Duke Street	383
Second Street	Hanover Street	383
Second Street	King Street	
Second Street	Orange Street	
Second Street	Prince Street	383
Second Street	Queen Street	
Seventh Street	Duke Street	383
Seventh Street	King Street	383
Seventh Street	Queen Street	383
Sheetz Avenue	Church Avenue	383
Sheetz Avenue	Front Street	383
Sheetz Avenue	Park Avenue	2002-7
Sheetz Avenue	Ropewalk Avenue	383
Sheetz Avenue	Second Street	383
Sheetz Avenue	Sixth Street	383
Sheetz Avenue	Water Street	383
Sixth Street	Duke Street	383
Sixth Street	King Street	383
Sixth Street	Orange Street	383
Sixth Street	Queen Street	383
Strawbridge Road	Prince Street	383
Susquehanna Road	Strawbridge Road	383
Third Street	Duke Street	383
Third Street	King Street	
Third Street	Orange Street	
Third Street	Queen Street	383
Third Street	Prince Street	2000-2
Wallace Street	Front Street	383

## Chapter 58 – Vehicles and Traffic

<u>Names of Street</u>	<u>Intersection</u>	<u>Ord. No.</u>
Wallace Street	Second Street	383
Wallace Street	Seventh Street	383
Wallace Street	Sixth Street	383
Wallace Street	Water Street	383
Washington Avenue	Prince Street	383
Water Street	Hanover Street	
Westway	Fourth Street	2005-3
Westway	Fifth Street	2017-5
Westway	Sixth Street	2017-5
Westway	Seventh Street	2017-5
Wheatley Avenue	Church Avenue	383
Wheatley Avenue	Depot Avenue	
Wheatley Avenue	Front Street	383
Wheatley Avenue	Park Avenue	2002-7
Wheatley Avenue	Ropewalk Avenue	2002-7
Wheatley Avenue	Second Street	383
Wheatley Avenue	Seventh Street	383
Wheatley Avenue	Sixth Street	383
Wheatley Avenue	Water Street	383
Wild Cherry Lane	Honey Locust Lane	383
Woodrow Avenue	Jefferson Street	383

- B. Any operator of a vehicle or tractor who shall fail to come to a full stop, within a reasonable distance, before entering any stop intersection, as hereinabove required, commits a summary offense under Pennsylvania Vehicle Code and shall, upon conviction, pay a fine and any other costs as set forth in said Vehicle Code.

### **58.3.04 One-Way Street Established. (58-23)**

[Added 12-21-04 by Ord. No. 2004-5]

Due to dangerous situations regarding traffic flow, it has been determined that the most effective way to ameliorate the dangerous situation is to create a one-way street. The following street(s) have been designated as one-way:

- A. Seventh Street from the intersection of Duke Street to the intersection of Westway shall be a one-way street for all traffic proceeding in a southerly direction. No traffic shall be permitted to proceed in a northerly direction on said section of Seventh Street.

### **58.3.05 Operation on Closed Highways. (58-24)**

It shall be unlawful for any person to operate any vehicle or tractor upon any highway in the borough that is under construction, resurfacing or repair, in disregard of any official sign, barricade or notice that the same is closed to vehicular traffic. Any person who shall violate any provision of this section shall, [**As passed**



## Chapter 58 – Vehicles and Traffic

**12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution.]**

### **58.3.06 Accident Reports Required. (58-25)**

The operator of any motor vehicle involved in an accident in the borough and required by law to report such accident to any department or agency of the Commonwealth of Pennsylvania, or any other person required to make such report, shall at the time of making such report to the commonwealth, make a written report to the Chief of Police of the borough, containing the same information. Any person failing to make the report to the Chief of Police hereby required shall, upon conviction thereof, be sentenced to pay and costs of prosecution or to undergo imprisonment. **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]**

### **58.3.07 Use of Engine Retarders/ "Jake Brakes" Prohibited. (58-26)**

[Added 12-7-04 by Ord. No. 2004-4]

It shall be unlawful for any person to use brake retarders, "jake brakes" or similar devices within the Borough limits at all times.

- A. Fire Protection Equipment or other emergency vehicles are exempt from this regulation.
- B. All major routes and streets generally utilized by trucks equipped with brake retarders/ "jake brakes" or similar devices shall be posted with appropriate signs as required by the relevant PENNDOT rules and regulations.
- C. Any person who shall violate any provision of this section shall be subject to a fine. **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]**

## ARTICLE IV – PARKING REGULATIONS

### **58.4.01 Parking without Lights Authorized. (58-27)**

The boundary limits of the Borough of Northumberland are hereby established as a zone in which motor vehicles may remain standing without lights, and all highways within such boundary limits are hereby designated as highways where motor vehicles may remain standing without lights.

### **58.4.02 Vehicles Parked within Marked Spaces. (58-28)**

Wherever a space shall be marked off on any highway for the parking of an individual vehicle, every vehicle there parked shall be parked within the lines bounding such space.

### **58.4.03 Prohibited Parking. (58-29)**

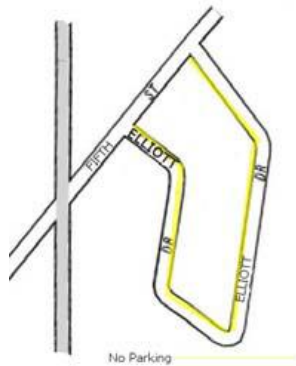
[Amended 9-13-94 by Ord. No. 433, 12-06-2011 by Ord. No. 2011-4, 11-06-2019 by Ord. No. 2017-4]

- A. Parking shall be prohibited at all times in the following locations:

<u>Highway</u>	<u>Side</u>	<u>Location</u>
Depot Avenue	Both	Between Duke Street and King Street

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Duke Street	Both	Where posted "No Parking, This Side"
Fourth Street	North	Posted loading Zone (approximately 30 feet) between Duke Street and Queen Street
Front Street	Both	From the eastern curb lines of all intersecting side streets between King Street and the eastern Borough line to a point of 100 feet east of said curb lines.
Front Street	Both	From the eastern curb lines of all intersecting alleys/avenues between King Street and the eastern Borough line to a point 50 feet east of said curb lines.
Duke Street	Both	Between Seventh Street and Eighth Street
Elliot Drive	North	From 5 <sup>th</sup> Street (south intersection) to Jacobs Lane
Elliot Drive	South	From 5 <sup>th</sup> Street (north intersection) to Jacobs Lane



Orange Street	North	45 feet from stop sign at 5 <sup>th</sup> Street
Park Avenue	Both	Between Duke Street and Wheatley Avenue Between Hanover Street and North Avenue
Pond Avenue	Both	Hanover Street to Prince Street
Queen Street	Both	Where posted "No Parking, This Side"
Water Street	Both	Where posted "No Parking, This Side"
Water Street	Both	From the western curb lines of all intersecting side streets between King Street and the eastern Borough line to a point 100 feet west of said curb lines
Water Street	Both	From the western curb lines of all intersecting alleys/avenues between King Street and the eastern Borough line to a point 50 feet west of said curb lines.
Water Street	Both	Between Penn Central underpass and King Street

## Chapter 58 – Vehicles and Traffic

Wheatley Avenue	Both	Between Depot Avenue and Park avenue
Wheatley Avenue	Both	Between Ropewalk Avenue and Fourth Street
Medical doctors' offices		In front of where posted "No Parking"

- B. The delivery of merchandise, the loading or unloading of vehicles or the reasonable use of highways for these purposes shall be permitted.
- C. The Chief of Police may, with the assistance of borough police or other employees, for special, temporary purposes, restrict or prohibit all traffic and parking on particular highways or parts thereof where otherwise it would be permitted, or may permit traffic on particular highways where otherwise it would be prohibited. Such temporary, special occasions shall include time allowed for painting of lines, parades, exhibitions, demonstrations, celebrations and similar uses, and like permission or prohibition may be imposed or granted where temporary uses are being made of premises immediately adjoining the highway in connection with which unusual of the highway may be deemed necessary. No traffic shall interfere with the provisions of this section.
- D. Parking of certain vehicles prohibited.

[Added 7-6-82 by Ord. No. 375. Amended 8-8-96 by Ord. No. 442]

1. Definitions. The following words and phrases as used in this Subsection D shall have the following meanings:

**Park or Parking** The halting of a vehicle, whether occupied or not, expect monetarily for the purpose of and while actually engaged in loading or unloading property or passengers.

**Truck Tractor** A motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight by a towing tractor.

**Truck Tractor Semitrailer** A trailer so constructed that some part of its weight rests upon or is carried by a towing tractor.

**Truck Tractor Trailer** A vehicle designed to be towed by a towing tractor.

**Camping or Travel Trailer** A vehicle designed to be towed by a motor vehicle and designed or adapted for use as a mobile dwelling or sleeping place.

**Motor Home** A motor vehicle designed or adapted for use as a mobile swelling or office, except a motor vehicle equipped with a truck camper.

**Motor Vehicle** A vehicle that is self-propelled except one, which is propelled solely by human power or by electric power obtained from overhead trolley wires, but not operated upon rails.

**Recreational Vehicle** A vehicle designed or adapted and used exclusively for recreational purposes.

**Trailer** A vehicle designed to be towed by a motor vehicle.

**Truck-Camper** A structure designed, used or maintained primarily to be loaded or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space.

**Special Mobile Equipment** A vehicles not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: ditch digging apparatus, well boring apparatus; earth moving and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, snowplows, ditchers, graders, finishing machines, road rollers, scarifies, earth moving carryalls, carpers, power shovels and drag lines; and self-propelled cranes and tractors, other than truck

## Chapter 58 – Vehicles and Traffic

tractors. The term does not include house trailers; dump trucks; truck mounted transit mixers, cranes or shovels; or other vehicles designed for the transportation of persons or property to which machinery has been attached.

**Vehicle** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks.

2. No person shall park a truck tractor or a truck tractor trailer or a truck tractor semi-trailer or a combination truck tractor and truck tractor trailer or a combination truck tractor and truck tractor semi-trailer or a truck classified by the Pennsylvania Vehicle Code as Class 4 or higher on any public street, public alley or public way in any district in the Borough of Northumberland designated Residential-1, Residential-2, Residential-3 or OS-Conservation.
3. Except as provided herein, it shall be unlawful for any person to park a vehicle of the class or type listed below, or the owner or any such class or type of vehicle to allow the vehicle to remain parked, on any highway, street, avenue, way or alley within the Borough of Northumberland:
  - a) Any truck, truck tractor, truck tractor semi-trailer, or any combination thereof, having a height greater than nine (9) feet, or a length greater than thirty (30) feet, or a weight in excess of twenty thousand (20,000) pounds.
  - b) Any trailer.
  - c) Any special mobile equipment.
  - d) Any dumpster, collection bin, or other such non-motorized containers or equipment that does not have a permit from the borough and that does not have adequate reflectors or safety devices placed around or upon it to prevent a vehicle from colliding therewith.
  - e) Exceptions:
    - 1) Vehicles of the class or type described in (a) above may be parked between sunrise and sunset for the purposes of loading or unloading property for a period not to exceed one (1) hour if parking is not otherwise prohibited.
    - 2) Vehicles of the class or type described in (c) above may be parked between sunrise and sunset when being used for their intended purpose if parking is not otherwise prohibited.
4. It shall be unlawful for any person to park a vehicle of the class or type listed below, or for the owner or any such class or type of vehicle to allow the vehicle to remain parked, on any highway, street, avenue, way or alley within the Borough of Northumberland for more than twenty-four (24) continuous hours:
  - a) Any vehicle with a register gross weight in excess of ten thousand (10,000) pounds.
  - b) Any motor home, truck-camper, recreational vehicle, or camping or travel trailer.
  - c) Any trailer or special mobile equipment without being attached to a power unit or motor vehicle enabling said trailer or equipment to be readily removed.
  - d) Exemptions: Borough Council, if appropriate, upon request, may grant special exemptions of a temporary nature.
5. Any person violating any of the provisions of this Subsection D shall, **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution].**

## **Chapter 58 – Vehicles and Traffic**

### **58.4.04 Parking Prohibited between Certain Hours. (58-30)**

[Amended 5-6-75 by Ord. No. 295, 9-6-94 by Ord. No. 432; 12-21-04 by Ord. No. 2004-6; 8-02-05 by Ord. No. 2005-2, 12-6-2011 by Ord. No. 2011-5]

- A. Parking is hereby prohibited during the entire year from January 1 to December 31 between the hours of 8:00 a.m. and 4:00 p.m. at the locations herein set forth. This parking prohibition is unconditional, that is, parking is prohibited during the entire time between 8:00 a.m. and 4:00 p.m. no matter if said streets, alleys or highways are or are not being, or have or have not been, swept or cleared of leaves or snow:
1. On Mondays:
    - a) the odd numbered side (the southwestern side) of King Street, Hanover Street, Wallace Street, and North Avenue
    - b) the even numbered side (the northeastern side) of Queen Street, Orange Street, and Prince Street
    - c) the odd numbered side (the northwestern side) of Priestley Avenue, Water Street, Front Street, Second Street, Fourth Street, and Sixth Street
    - d) the even numbered side (the southeastern side) of Third Street, Fifth Street, and Seventh Street
    - e) the sides of King Street next to the King Street park except metered areas of said streets
  2. On Tuesdays:
    - a) the even numbered side (the northeastern side) of King Street, Hanover Street, Wallace Street, and North Avenue
    - b) the odd numbered side (the southwestern side) of Queen Street, Orange Street, and Prince Street
    - c) the even numbered side (the southeastern side) of Priestley Avenue, Water Street, Front Street, Second Street, Fourth Street, and Sixth Street and Eighth Street
    - d) the odd numbered side (the northwestern side) of Third Street, Fifth Street, and Seventh Street
    - e) the sides of King Street across from the King Street park except metered areas of said streets
- B. Parking is hereby prohibited on Wednesdays between the hours of 8:00 a.m. and 4:00 p.m. in the Sunnyhill, Villa Vista and Hilltop view sections of the Borough of Northumberland.
- C. Parking is hereby prohibited on Wednesday mornings between the hours of 7:00 a.m. and 8:00 a.m. on all streets metered for parking areas in the Borough of Northumberland.
- D. Parking Restricted Between Certain Business Hours to Customers of a Business (58-301.1)
- E. Parking is hereby restricted in areas designated by Borough Council during business hours to customers of the designated businesses in accordance with the following provisions:
1. Any business may request to have a sign posted in front of their business restricting parking to their customers during their business hours.
  2. To qualify for restricted parking, a business must demonstrate that the business does not have off-street parking available for its business. If a business can demonstrate that it has no off-street parking, the Borough shall approve up to two (2) parking spaces to be restricted for the use of the business customers during normal business hours. A business must request a set, continuous

## Chapter 58 – Vehicles and Traffic

period of time, not to exceed a maximum of ten (10) hours, to be considered their normal business hours.

3. If approved, the business must purchase a sign through the Borough Street Department Supervisor designating the name of the business and the established business hours. The business shall be required to pay for the sign.
4. The Borough shall install all approved signs according to federal, state and Borough regulations.
5. The Borough shall paint lines designating the restricted parking spaces. The business shall be responsible for the cost of painting the lines.
6. Individuals may only park in the restricted parking spaces during the designated business hours while patronizing the designated business. An individual must remove their vehicle from the restricted parking space within fifteen (15) minutes of leaving the designated business.
7. All other applicable provisions of Chapter 58 still apply for the restricted parking spaces. Any individual in violation of this section shall be considered in violation of Chapter 58 of the Code and subject to the penalties stated in Chapter 58 of the Code.

### 58.4.05 Violations and Penalties. (58-31)

[Amended 7-6-82 by Ord. No. 375, 7-1-86 by Ord. No. 391, 5-04-2010 by Ord. No. 2010-4]

- A. Any person who shall violate 58.4.02 (58-28) and Subsections A, B and C of 58.4.03 (58-29), shall... [As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]
- B. Any person who shall violate 58.4.04 (58-30), shall, upon conviction thereof, [As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution] A notice of said violation shall be placed upon the vehicle parked, stopped or standing in violation thereof. Such notice shall provide that the violator can save himself from payment of the maximum fine and the costs of prosecution if within twenty-four (24) hours after the time of said notice he shall:
  1. Pay to the desk clerk of the Police Department of the Borough of Northumberland the sum of. [As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]
  2. Place such sum in any of the special boxes installed in various places in the Borough of Northumberland within twenty-four (24) hours after the time of such notice; or
  3. Mail such sum to the Police Department of the Borough of Northumberland so that said Department within twenty-four (24) hours after the time of such notice receives it.
- C. The prohibitions on parking contained in 58.01.5 (58-5) and 58.4.04 (58-30 A through C) shall not apply or be in effect on legal Holidays, as defined in 58.2.01 B (58-15 B). All other restrictions contained in Chapter 58 shall remain in effect on legal Holidays.

Commented [AA2]: Added "not" per intent of Ordinance

## ARTICLE V – SNOW AND ICE EMERGENCY

### 58.5.01 Declaration of Emergency. (58-32)

[Amended 9-6-94 by Ord. No. 432]

In order to facilitate the movement of traffic and to combat the hazards of excessive snow and ice on the streets, alleys and highways of the Borough, the Mayor or President of Council may declare a snow emergency. In conjunction with the snow emergency, the Mayor or President of Council may, among other

## **Chapter 58 – Vehicles and Traffic**

things, direct that the parking prohibitions set forth in paragraphs B, C and D of 58.4.04 (58-30) shall be in effect on designated days other than Monday, Tuesday, or Wednesday.

### **58.5.02 Parking Prohibition. (58-33)**

[Amended 9-6-94 by Ord. No. 432]

- A. When a snow emergency has been declared, it shall be unlawful during the period of the emergency for any person to:
1. Park a motor vehicle or truck tractor with or without trailer, or to allow the same to be parked or remain parked upon any street, alley or highway named in paragraph A of 58.5.03 (58-34).
  2. Operate any motor vehicle, or truck tractor with or without trailer, upon or over any street, alley or highway named in paragraph A of 58.5.03 (58-34).

### **58.5.03 Placement of Signs. (58-34)**

- A. In order to assist the operators of motor vehicles and tractors in determining the highways affected by this Article, the Mayor or the Chief of Police shall place around the utility poles on the highways or portions thereof designated in 58.5.04 A (58-35A) of this Article, signs reading as follows:

**SNOW EMERGENCY ROUTE  
SNOW TIRES OR CHAINS REQUIRED,  
NO PARKING DURING EMERGENCY,  
VEHICLES TOWED AWAY**

- B. The Mayor or the Chief of Police shall also, through radio, newspaper or other available media, disseminate information as to the existence of such an emergency.

### **58.5.04 Highways Affected. (58-35)**

[Amended 9-6-94 by Ord. No. 432]

- A. The highways or portions thereof to which the provisions of this Article shall be applicable during all periods of emergency declared as provided in 58.5.01 (58-32) of this Article are as follows:
1. Queen Street;
  2. Hanover Street;
  3. Prince Street from Front Street to Strawbridge Road;
  4. Strawbridge Road;
  5. Second Street from Duke Street to Prince Street;
  6. Third Street from Hanover Street to Prince Street;
  7. Fifth Street from Duke Street to Strawbridge Road;
  8. Sixth Street from Duke Street to King Street.
- B. At any time during a period of emergency declared as provided in 58.5.01 (58-32) of this Article, any person who shall park a motor vehicle or tractor anywhere upon or along any of the highways or portions thereof listed in Subsection A of this section shall be guilty of a violation of this Article and, upon conviction thereof, shall be **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]**.
- C. Any person who shall operate a vehicle or tractor upon any highway or portion thereof listed in Subsection A of this section, if such vehicle or tractor shall become stalled upon any of such streets

## **Chapter 58 – Vehicles and Traffic**

during a period of emergency declared as provided in 58.5.01 (58-32) of this Article and if such stalling shall have been by reason of the failure to have such vehicle or tractor equipped with the equipment hereinabove prescribed, shall be guilty of a violation of this Article, and upon conviction thereof such person shall be sentenced to pay a fine of . **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]**

## **ARTICLE VI – REMOVAL AND IMPOUNDING OF ILLEGALLY PARKED VEHICLES**

### **58.6.01 Authority to Remove and Impound. (58-36)**

The Chief of Police of the borough is hereby authorized to remove and impound or to order the removal and impounding of any vehicle parked on any of the streets, highways or public property in the borough in violation of any provision of the law or of any ordinance of the borough; provided, no such vehicle shall be removed or impounded except in strict adherence to the provisions of this Article.

### **58.6.02 Designation of Storage Garages; Bonding. (58-37)**

- A. A garage or garages located in the borough shall be designated from time to time by resolution of the Borough Council as approved storage garages or pounds for the storage of impounded vehicles.
- B. Every such approved storage garage or pound shall be bonded in an adequate amount, to be determined by the Borough Council, for the indemnifying of the owner of every impounded vehicle against the loss thereof or injury or damage thereto while in the custody of the pound keeper.

### **58.6.03 Towing, Storage Charges. (58-38)**

The towing charge to be collected by every pound keeper and the storage charge shall be set by council resolution. **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution.]**

### **58.6.04 Notification of Removal and Impounding. (58-39)**

Within twelve (12) hours from the time of removal of any vehicle under authority granted by this Article, the Chief of Police of the borough shall send notice of the fact that such vehicle has been impounded to the owner of record of such vehicle. Such notice shall designate the place from which such vehicle was removed, the reason for its removal and impounding and the pound in which it shall have been impounded.

### **58.6.05 Effect of Payment without Protest. (58-40)**

The payment of any towing and impounding charges authorized by this Article shall, unless such payment shall have been made under protest, be final and conclusive, and shall constitute a waiver of any right to recover the money so paid.

### **58.6.06 Effect of Payment under Protest. (58-41)**

In the event that any towing and impounding charges, so imposed, shall be paid under protest, the offender shall be entitled to a hearing before a magistrate or court of record having jurisdiction, in which case such defendant shall be proceeded against and shall receive such notice as is provided in The Vehicle Code in other cases of summary offenses and shall have the same rights as to appeal and waiver of hearing.



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### **58.6.07 Records. (58-42)**

The Chief of Police shall keep a record of all vehicles impounded and shall be able at all reasonable times to furnish the owners or the agents of the owners thereof with information as to the place of storage of such vehicles.

### **58.6.08 Liability. (58-43)**

The payment of towing and storage charges authorized by this Article shall not operate to relieve the owner or operator of any vehicle from liability for any fine or penalty for violation of any law or ordinance on account of which such vehicle was removed and impounded.

### **58.6.09 Restrictions. (58-44)**

No vehicle shall be removed under the authority of this Article if, at the time of the intended removal thereof, the owner or person for the time being in charge of such vehicle is present and expresses a willingness and intention to remove such vehicle immediately.

## **ARTICLE VII – RULES & REGULATIONS FOR ROADWAYS UNDER CONSTRUCTION**

[Added 5-2-00 by Ord. No. 1-2000]

### **58.7.01 Legislative Intent. (58-45)**

The Borough Council finds that:

- A. The construction and repair of roadways within the Borough of Northumberland cause a disruption of the normal flow of traffic and create the potential for traffic jams and increased risk of harm to persons and property; and
- B. The orderly diversion of traffic from roadways under construction or repair promotes the public welfare and safety.

### **58.7.02 Declaration of Construction Zone. (58-46)**

- A. The Borough Council of Northumberland may by resolution vote declare a "road construction area" within the Borough. The resolution shall state with particularity:
  - 1. the physical description of the area;
  - 2. the dates during which the area is in effect; and
  - 3. the special rules and regulations applicable to the area.
- B. The resolution shall be advertised one (1) time in a newspaper of general circulation and posted at Borough Hall.

### **58.7.03 Rules and Regulations. (58-47)**

The Council may set reasonable rules and regulations applicable to a road construction area including but not limited to:

- A. Closing a portion of roadway to all traffic;
- B. Closing a portion of roadway to all traffic over a certain weight or number of axles;
- C. Closing a portion of roadway for certain times during the day;
- D. Establishing a detour path for through traffic through the Borough; and

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E. Establishing a lower speed limit applicable to the road construction area.

### 58.7.04 Penalties. (58-48)

Any person who shall violate any provision of this section shall be subject to a fine. [As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]

## ARTICLE VIII – RULES & REGULATIONS LIMITING THE USE OF CERTAIN COMMERCIAL VEHICLES IN DESIGNATED AREAS

[Added 12-21-04 by Ord. No. 2004-7]

### 58.8.01 Definitions. (58-49)

**Commercial Vehicle** Any vehicle licenses as a commercial vehicle.

**Truck** Any vehicle with a gross weight equal to or exceeding ten thousand (10,000) pounds, including, but not limited to, twin axle or multiple axle trucks, vans, or tractor-trailers of any configuration.

### 58.8.02 Rules and Regulations. (58-50)

[Amended 5-6-2008 by Ord. No. 2008-2]

A. It shall be unlawful for any person to operate a commercial vehicle or truck upon any street, alley or other public roadway or portion thereof in the Borough of Northumberland, except as follows:

<u>Name of Street</u>	<u>Limits</u>
Duke Street	From Water Street to west Borough line
Water Street	From the entrance on US Route 11 at the Bridge to the North Borough line on US Route 11
King Street	From the entrance on State Route 147 at the Bridge to Front Street
Front Street	From the North Borough line to King Street
Eighth Street	From Duke Street to Orange Street
Strawbridge Road	From Borough line south to Prince Street
Prince Street	From Strawbridge Road to Front Street

B. Commercial vehicles and trucks shall be permitted upon any street, avenue, alley or other public roadway not mentioned in this section for the purpose of making deliveries or picking up goods, wares, merchandise or other material from premises situate upon any such street, avenue, alley or other public roadway.

### 58.8.03 Exclusions. (58-51)

The provisions contained herein shall not apply to fire prevention apparatus, garbage removal equipment, snow removal equipment, emergency equipment, or other vehicles destined to make repairs of any type within the Borough.

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### **58.8.04 Penalties. (58-52)**

Any individual, business or legal entity which violates the terms and conditions of this Ordinance shall, upon conviction, be fined the sum of [All penalties for this section of the Borough Code shall be determined by Council Resolution.][**As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution.**]

## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 59 – WASTE MANAGEMENT

[HISTORY: Adopted by the Council of the Borough of Northumberland 6-7-83 as Ordinance No. 384.  
Amendments noted where applicable.]

General References - Property Maintenance see Chapter 42.

Refuse upon streets see Chapter 50, Article V.

## ARTICLE I – TITLE

### 59.1 Title (59-1)

This chapter shall be known as the "Northumberland Municipal Waste Management Ordinance".

## ARTICLE II - DEFINITIONS

### 59.2 Definitions (59-2)

As used in this chapter, the following terms shall have the meanings indicated:

**Applicant** A person applying for a license as a collector.

**Borough** The Borough of Northumberland, Northumberland County, Pennsylvania.

**Collector** A person licensed by the borough to collect, transport and dispose of municipal waste.

**Disposal** Incineration, deposition, injection, dumping, spilling, leaking or placing of municipal waste into or on the land or water in a manner that the municipal waste or a constituent of municipal waste enters the environment, is emitted into the air or is discharged to the waters of the Commonwealth of Pennsylvania.

**Disposable Area** Any site, location, area, building, structure, transfer station or premises to be used for municipal waste disposal.

**Garbage** All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

**Glass Containers** All products made from silica or sand, soda, ash and limestone, the product being transparent or translucent and being used for packaging or bottling of various matter and all other material commonly known as "glass," excluding, however, blue and flat glass and glass commonly known as "window glass."

**Institutional Establishment** Any establishment engaged in service to persons, including but not limited to hospitals, nursing homes, orphanages, schools and universities.

**Municipal Waste** Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities, except farm-produced manure and other agricultural waste and food-processing waste used on land where such materials will improve the condition of the soil, the growth of crops or the restoration of the land for the same purposes, and any sludge not meeting the definition of residual or hazardous wastes as defined in Pennsylvania Act 97.

**Newspaper** Paper of the type commonly referred to as "newsprint" and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other

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matters of public interest. Magazines and periodicals as well as all other paper products of any nature are not considered "newspaper."

**Person** Any individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, federal government or agency, state institution and agency, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

**Recyclables** Material having an economic value in the secondary materials market. The following materials have such economic value: aluminum cans and articles, bimetal cans, glass containers, corrugated paper (cardboard and paper bags), magazines, computer printout paper, computer tab cards, office paper, steel cans, newspaper and paper products not chemically coated.

**Refuse** Garbage, rubbish and trade waste.

**Storage** The containment of any waste on a temporary basis in such a manner as not to constitute disposal of such waste. It shall be presumed that the containment of any waste in excess of one (1) year constitutes disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

**Transportation** The off-site removal of any municipal waste at any time after generation.

## ARTICLE III – DUMPING

### **59.3.01 Deposit upon ground or underground restricted. (59-3)**

It shall be unlawful for any person to store, dump, discard or deposit, or permit the storage, dumping, discarding or depositing of, any municipal waste upon the surface of the ground or underground within the jurisdictional limits of this borough, except in proper containers for purposes of storage or collection, and except where the waste is of such size or shape as not to permit its being placed in such containers.

### **59.3.02 Deposit in streams or bodies of water prohibited. (59-4)**

It shall be unlawful for any person to dump or deposit municipal waste in any stream or body of water within the jurisdictional limits of this borough.

### **59.3.03 Transport of waste by non-collectors. (59-5)**

Nothing contained herein shall be deemed to prohibit any person not regularly engaged in the business of transporting municipal waste in any stream or body of water within the jurisdictional limits regular and unscheduled basis to any facility permitted by the Commonwealth of Pennsylvania, Department of Environmental Resources.

### **59.3.04 Farm activities. (59-6)**

Nothing contained in this chapter shall prohibit a farmer from carrying out the normal activities of his farming operation, including composting and spreading of manure or other farm-produced agricultural wastes.

## ARTICLE IV – COLLECTION AUTHORIZATION

### **59.4.01 Unauthorized collection prohibited. (59-7)**

It shall be unlawful for any person, except those duly authorized by the borough, to collect, transport and dispose of municipal waste of any nature within or from the borough.

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### **59.4.02 Authorization to collect own municipal waste. (59-8)**

Persons who collect, transport and dispose of their own municipal waste are hereby authorized to do so, provided that they comply with all relevant provisions of this chapter.

### **59.4.03 Municipal waste collection license. (59-9)**

Authorization to collect, transport and dispose of municipal waste for persons other than oneself may be given only by the borough through the issuance of a municipal waste collection license (hereinafter called "license"). All applications for licensing shall be reviewed by the borough and shall be approved in accordance with the following criteria:

- A. Licenses may be issued to only those persons who can provide satisfactory evidence that they are capable of providing the necessary services and can comply with the provisions and intent of this chapter.
- B. Applicants for a license shall furnish the following information:
  - 1. The number of vehicles, the make, model, Pennsylvania license plate number and size of each vehicle to be used for collection and hauling.
  - 2. The location, address, hours of business, and telephone number of the business office to receive calls from persons in the borough who receive collection service.
  - 3. A schedule of the fees to be charged for the collection and disposal of municipal waste from places within the borough. Such schedule shall include the charges for the number of containers and frequency of collections for residential properties, charges for various sizes of special bulk containers used on commercial properties and charges for the collection and disposal of refuse materials which are not part of the normal household municipal waste.
  - 4. A certificate of the applicant's workmen's compensation insurance as required by law.
  - 5. A certificate of insurance coverage for the applicant providing complete third-party comprehensive, bodily injury and property damage, and liability insurance, the limits of which shall not be less than one hundred thousand/three hundred thousand dollars (\$100,000./\$300,000.) for bodily injury and fifty thousand dollars (\$50,000.) for property damage.
  - 6. In addition to the above, the applicant shall furnish all other information which the borough may request and deem necessary prior to the issuance of a license.
- C. Licenses shall be issued on a calendar-year basis, but may be revoked or rescinded by the borough in accordance with the following:
  - 1. The borough may revoke the license immediately in the event that the collector violates or fails to comply with any of the terms of this chapter.
  - 2. The borough may rescind the license should the borough decide to provide for the collection and disposal of municipal waste by some method other than the licensing procedure established by this chapter. Such rescission shall occur ninety (90) days after the borough sends written notice thereof to the collector.
- D. Conditions relating to licenses.
  - 1. A license shall be issued for only one (1) year on a calendar-year basis. The annual fee for such license shall be set by Resolution for each vehicle used within the borough in the collection, transportation and disposal of municipal waste. The license fee is not refundable and shall not be prorated. The fee shall be submitted with the application for such license. Payment shall be made by check or money order only, payable to the "Borough of Northumberland". **[As passed**

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**12/18/2001, as part of Ordinance 2001-13, all fees for this and subsequent parts of borough code are determined by council resolution].**

2. The collector shall not use more vehicles for the collection, transportation and disposal of municipal waste within the borough than the number of vehicles listed on the application and approved on the license issued. Any increase in the number of listed vehicles as reported in the application shall be reported by the collector to the borough at least five (5) days prior to the date that such increased number of vehicles are to be used and the appropriate fee therefor paid to the borough as provided for herein. The use of a temporary replacement vehicle by reason of the withdrawal of a vehicle from service for scheduled or unscheduled maintenance shall be reported to the borough immediately by the collector.
3. Form of license [Amended 1/3/2006 by Ordinance 2006-2]
  - a) The Borough shall provide the collector with a form of license for each vehicle to be used for collection and hauling. The license will identify the collector as an authorized waste hauler, and the vehicle being licensed. The license shall be carried in the vehicle and provided if proof of authorization is requested.
  - b) The Collector shall display on each side of the body of each vehicle, preferably on the doors, the name of the firm and the telephone number of the firm's office or headquarters in letters and numbers no less than three inches in height and clearly legible.
  - c) Any vehicle used by the collector in the borough to collect, transport and dispose of municipal waste shall be in compliance with Subsections D (3) (a) and D (3) (b) above within ten (10) days after a license is issued.
4. The collector shall maintain each vehicle used to collect, transport and dispose of municipal waste in the borough in good operating condition so as to assure that the collector's schedule of collections can be maintained. The collector shall keep each vehicle clean and painted so as to present a favorable appearance.
5. The borough shall have the right to inspect all vehicles prior to the issuance of a license and during the period that the license is in effect.
6. The collector shall be responsible for the manner in which the collector's employees perform work in connection with the collection, transportation and disposal of municipal waste under the terms of this chapter.
7. The collector shall pay all costs to be charged for the use of the disposal system and facilities.
8. The collector shall not alter, change or revise the schedule of fees for collection submitted to the borough without giving the borough a copy thereof at least sixty (60) days prior to the date that such proposed alterations, changes or revisions are to be made.
9. The borough shall have the right to designate the disposal facilities that a collector shall use for the disposal of municipal waste collected within the borough.
  - a) A collector shall use the disposal facilities designated by the borough no later than ninety (90) days after the borough sends written notice thereof to the collector.
  - b) Should a collector revise the schedule of fees submitted to the borough by reason of the borough's designation of disposal facilities as noted above, the collector need only give the borough a copy thereof thirty (30) days prior to the date that the proposed revision is to be made.
10. A license may not and shall not, in any manner whatsoever, be sold, assigned, leased, transferred, conveyed or otherwise disposed of by a collector.

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### **ARTICLE V – PREPARATION AND STORAGE**

#### **59.5.01 Prevention of health and safety hazards required. (59-10)**

The storage of all municipal waste shall be practiced so as to prevent the attraction, breeding or harborage of insects or rodents and to prevent conditions which may create potential hazards to the public health or which create fire and other safety hazards, odors, unsightliness or public nuisance.

#### **59.5.02 Storage in containers required. (59-11)**

Any person accumulating or storing municipal waste on private or public property in the borough for any purpose whatsoever, including waste being stored temporarily for door-to-door collection, shall place the same or cause the same to be placed in sanitary closed or covered containers in accordance with the following standards, except as otherwise provided in Section 5.03 (59-12) of this Article V:

- A. Containers used for the storage of municipal waste shall be of metal, plastic or fiberglass construction; rust- and corrosion resistant; equipped with lids; waterproof and leakproof; and, except in the case of bulk containers, shall not exceed twenty (20) gallons in capacity. Plastic trash bags, if not punctured, may be used to store municipal waste.
- B. A sufficient number of containers shall be provided to contain all municipal waste materials generated during periods between regularly scheduled collections that are required to be placed in containers.

#### **59.5.03 Preparation for collection. (59-12)**

Municipal waste to be collected on a door-to-door basis shall be prepared for such collection in the following manner:

- A. All garbage shall be drained of excess liquids and wrapped in paper or be placed in plastic bags before being placed in the waste storage containers previously described, and all ashes shall be free of any burning material before being deposited for collection. Placement of plastic bags, if not punctured, is acceptable.
- B. Tree, brush, hedge and similar clippings, including Christmas trees, shall be cut in lengths not to exceed six (6) feet and shall be bound securely in bundles not to exceed forty (40) pounds in weight before being placed for collection.
- C. Newspapers, magazines, cardboard and boxes not placed in the containers previously described shall be securely tied in bundles not to exceed six (6) feet in length and forty (40) pounds in weight before being deposited for collection.
- D. No person, except the occupants of the property on which a waste container is placed and an authorized collector, shall remove the lids of the container and/or remove the contents thereof.
- E. Municipal waste of a highly flammable or explosive nature or highly infectious or contagious refuse shall not be stored for ordinary collection, but shall be disposed of in accordance with the directions of the borough.

#### **59.5.04 Bulk containers. (59-13)**

To facilitate collection, bulk containers shall be placed, whenever possible, at ground level and at a point on the property being serviced by the collector that will enable clear and easy access to the container by the collector's vehicle.



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### **59.5.05 Proof of Contract Required.**

[Amended by Ord. No. 2008-4]

Whenever requested by the Code Officer, or his designee, of the Borough of Northumberland, the owner of any real estate within the Borough of Northumberland shall present proof adequate in the judgment of the Code Officer or his designee that the owner of said real estate has a current contract with a licensed garbage hauler to dispose of garbage and rubbish generated on the premises on a weekly basis or more often. The owner of the premises shall have 72 hours to provide proof to the Code Officer or his designee that he has a current contract with a garbage or refuse hauler to provide sufficient service to satisfy the terms and conditions of this article. Self-transportation of waste by the property owner is permitted, providing the property owner maintains weight slips or receipts from a permitted disposal facility or garbage or refuse hauler for proof of compliance. The owner of the premises shall have 72 hours to provide proof of compliance to the Code Officer or his designee. The property owner shall maintain a 2-year record/ proof of contract retention.

## **ARTICLE VI – DISPOSAL**

### **59.6.01 Disposal at licensed facility required. (59-14)**

All municipal waste produced, collected and transported from within the jurisdictional limits of the borough shall be disposed of at a facility licensed and permitted by the Pennsylvania Department of Environmental Resources, and in accordance with the borough's solid waste management plan. It shall be unlawful for any person to otherwise dispose of such waste.

### **59.6.02 Bulky waste. (59-15)**

In addition to other disposal procedures permitted by this chapter, bulky wastes, such as but not limited to refrigerators, stoves, other appliances, pieces of furniture, auto parts and other such household goods and equipment, may be disposed of in the manner designated by the borough at any cleanup or collection fixed or set by the borough.

## **ARTICLE VII – SPILLAGE**

### **59.7.01 Prevention and cleanup. (59-16)**

Any person transporting municipal waste within the borough shall prevent and/or clean up and remove any spillage from vehicles or containers.

## **ARTICLE VIII - TIME OF COLLECTION; AGREEMENTS AND CHARGES**

### **59.8.01 Collection by collector. (59-17)**

Municipal waste to be collected by a collector shall be collected at least once each week.

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### **59.8.02 Disposal by non-collector. (59-18)**

Any persons who dispose of their own municipal waste shall collect the same at intervals short enough to prevent accumulations of refuse that may be unsafe, unsightly or potentially harmful to the public health.

### **59.8.03 Agreements and charges. (59-19)**

All agreements and charges for collection, transportation and disposition of municipal waste collected on a door-to-door basis shall be by private contract between the person and the collector.

### **59.8.04 Duties of Haulers.**

[Amended by Ord. No. 2008-4]

Any hauler picking up garbage or refuse in the Borough of Northumberland or accepting garbage or refuse at a drop-off location shall be required to advise the Code Officer of the Borough of Northumberland in writing within 72 hours after request from the Code Officer as to whether a property owner has a current contract for garbage and refuse disposal from his premises within the Borough of Northumberland. If at a drop-off location or transfer station, proof of acceptance of waste from a property owner shall be provided. Furthermore, all haulers shall cooperate with the Borough of Northumberland Code Enforcement Officer in providing information in the event that an action is instituted to enforce the terms and conditions of this article.

## ARTICLE IX - RECYCLABLES

[Added 8-8-96 by Ord. No. 445]

### **59.9.01 Title. (59-20)**

This Article IX shall be known as the Northumberland Borough Recycling Ordinance.

### **59.9.02 Public Policy. (59-21)**

The Council of the Borough of Northumberland, recognizing that the reclamation of recycling materials has become an important method of addressing the growing solid waste disposal problem through conservation of landfill space, preservation of natural resources, and a reduction in energy consumption, does hereby authorize the storage, collection, and transportation of recyclable materials in accordance with the provisions of the Municipal Waste Planning, Recycling and Waste Reduction Act of July 28, 1988, P.L. 556, No. 101 (53 P.S. ~ 4000.101 et seq.), the Northumberland County Solid Waste Management Plan, this Article IX and Recycling Regulations relating thereto.

### **59.9.03 Definitions. (59-22)**

**Act** Municipal Waste Planning, Recycling and Waste Reduction Act of July 28, 1988, P.L. 556, No. 101 (53 P.S. ~ 4000.101 et seq.)

**Aluminum Cans** Empty food and beverage containers made entirely of aluminum.

**Bimetallic Container** Empty food or beverage containers made of steel and aluminum.

**Borough** Borough of Northumberland.

**Collector** Borough of Northumberland and/or its authorized agent(s).

**Commercial Establishment** Any premise engaged in retail trade of sales of goods. Expressly included are all restaurants and taverns, all industrials or manufacturing businesses, and all types of offices.

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**Community Activities** Events that are sponsored by public or private agencies or individuals that include, but are not limited to, fairs, bazaars, socials, picnics, and sporting events attended by 200 or more individuals per day.

**Corrugated Paper** Structural paper material with an inner core shape in rigid parallel furrows and ridges.

**Dwelling Unit** A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**Enforcement Officer** The official designated herein, or the official otherwise charged with the responsibilities of administering this Article IX and the Recycling Regulations, or the official's authorized representative(s).

**Ferrous Containers** Empty food or beverage containers made of steel tin coated steel.

**Garbage** Solid waste from the domestic and commercial handling, preparation, cooking, consumption and disposal of food and from the handling, storage and sale of produce.

**Glass** Empty bottles and jars made of clear, green or brown glass, but not plate glass, automotive glass, blue glass, porcelain, and ceramic products.

**High-Grade Office Paper** Bond paper, computer paper, and other similar all-white paper commonly used in offices, but also used in residences and in commercial, institutional, and municipal establishments.

**Institutional Establishment** Those establishments that house or serve groups of people, such as hospitals, schools, day care center, nursing homes, and the like.

**Lead Acid Batteries** All batteries that contain lead, including, but not limited to, automotive, truck, and industrial batteries.

**Leaf Waste** Leaves from trees, bushes and other plants, garden residue, shrubbery and tree trimmings, and similar material, but not including grass clipping.

**Magazines and Periodicals** Publications containing miscellaneous written articles, stories, poems, pieces, etc., published at fixed or varying intervals.

**Multi-Family Housing Property** A residential establishment containing four or more dwelling units.

**Municipal Establishment** Public facilities operated by the Borough, and other governmental and quasi-governmental authorities, agencies or bodies.

**Municipal Waste** Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid, or contained gaseous materials, resulting from operation of residential, municipal commercial, or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act (35 P.S. ~ 6018.010 et seq.) from a municipal, commercial, or institutional water supply treatment plant, waste water treatment, or air pollution control facility. The term does not include source-separated recycling materials.

**Newspapers** Printed matter printed on paper of the type commonly referred to as newsprint, and distributed at fixed intervals, containing news, opinions, advertisements, and other matters of public interest, but not glossy advertising inserts often included with newspapers.

**Occupant** Any person living and/or sleeping in a dwelling unit.

**Ordinance** Northumberland Borough Recycling Ordinance.

**Person** Any individual, partnership, municipal waste hauler, scrap dealer, corporation, association, institution, cooperative enterprise, municipality, municipal authority, Federal Government or agency, State institution or agency, or another other legal entity whatsoever which is recognized by law the subject of right and duties. The term "person" shall include the masculine as well as the feminine, and plural as well as the singular. In any provision of this Article IX containing an obligation or a prohibition, or prescribing a

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fine, imprisonment, penalty, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

**Plastic Containers** Empty food and beverage containers made of plastic. The plastic containers to be recycled shall be those specified in the Recycling Regulations.

**Recyclable Materials** Materials such as clear glass, colored glass, aluminum, steel, and bimetal cans, high-grade office paper, newsprint, corrugated paper, plastics, and any other material identified by the Borough to be recycled.

**Recycling Regulations** Regulations related to recycling adopted from time to time by the Borough of Northumberland.

**Refuse** Garbage, rubbish and trade waste.

**Residential Establishment** A building containing one or more dwelling units.

**Rubbish** Solids, including but not limited to, rags, old clothes, leather, rubber carpets, wood, excelsior, paper, ashes, furniture, can, glass, glass crockery, masonry, leaves, garden residue, shrubbery and tree trimmings, and other similar material.

**Source-Separated Recyclable Materials** Materials separated from municipal waste at the point of origin for the purpose of recycling.

**Steel Cans** Empty food and beverage containers made entirely of steel.

**Trade Waste** All solid or liquid materials or rubbish resulting from construction, building operations or the prosecution of any business, trade or industry, including but limited to, plastic products, paint, grease, oil and other petroleum products, chemical, and other forms of solid or liquid waste materials.

**Waste** A material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise to be disposed of. The term does not include source-separated recyclable materials or material approved by the Borough of Northumberland for beneficial use. (See Municipal Waste)

### 59.9.04 General. (59-23)

Recyclable materials separated, stored, collected or delivered under the provisions of this Article IX and the Recycling Regulations shall not be considered municipal waste and shall not be subject to the provisions of those ordinances which require disposal of municipal waste at designated facilities.

This exemption applies to recyclable materials collected by the Borough or its designated agent and/or delivered to the Borough's drop-off sites by residents and/or collectors. Likewise, the Borough, or its designated agents, shall be exempt from all provisions or those ordinances which require disposal of municipal waste by licensed haulers. Recyclable materials separated, stored, collected or delivered in any manner other than the approved methods listed in this Article IX and the Recycling Regulations shall be considered municipal waste and shall be subject to the provisions of the appropriate ordinance(s).

### 59.9.05 Recycling of Material. (59-24)

No person in the Borough shall dispose of materials required to be recycled by this Article IX and the Recycling Regulation with the ordinary municipal waste, and no person shall burn such materials. No collectors of such materials shall dispose of collected recyclable in landfills or burn the same, but such materials shall be taken to a recycling facility and records must be kept by the collectors to verify same. Notwithstanding any provisions of this Article IX and the Recycling Regulations, any person having ownership of recycling materials may sell or donate the same to any person, whether operating for profit or not for profit, provided, however, that such materials may not be placed for collection at, nor collected from, curbside or at established drop-off sites.

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### 59.9.06 Establishment of Program (59-25)

- A. **Residential Establishment Program.** The Borough hereby establishes a mandatory residential program for occupants of residential establishments in the Borough for the separation for recycling of no less than three of the following recyclable materials from other municipal waste generated at their dwelling: clear glass, colored glass, aluminum, steel and bimetal cans, high-grade office paper, newsprint, corrugated paper, plastics and leaf waste. Occupants shall separate recyclable materials from solid waste, prepare and store the same, and either place said materials at curbside on the designated collection day or deliver them to any established drop-off site during the times permitted, all according to this Article IX and the Recycling Regulations. However, the Borough shall allow an owner, landlord, or agent of an owner or landlord of a multi-family property to comply with its responsibilities under this section by establishing a collection system for recyclable materials at each property. This collection system must include suitable container for collecting and sorting materials, easily assessable locations for the containers and written instructions to the occupants concerning the use and availability of the collection system. Owners, landlords and agents of owners and landlords who comply with this Article IX and the Recycling Regulations shall not be liable for the noncompliance of occupant of their buildings. Nothing herein shall require any person to gather leaf waste, or prevent any person from utilizing leaf waste, for compost, mulch, or other agricultural, horticultural, silvicultural, gardening or landscape purpose.
- B. **Commercial, Institutional, Municipal, and Community Activities Program.** The Borough hereby establishes a mandatory program for commercial, institutional, and municipal establishment, and community activities, for the separation for recycling of no less than three (3) of the following recycling materials from other municipal waste generated at their dwelling: clear glass, colored glass, aluminum, steel and bimetal cans, high-grade office paper, newsprint, corrugated paper, plastics and leaf waste. The Borough will exempt persons occupying commercial, institutional, and municipal establishments from the requirements of this Article IX and the Recycling Regulations if those persons have otherwise provided for the recycling of materials they are required by this Article IX and the Recycling Regulations to recycle. To be eligible for an exemption a commercial, institutional, or municipal establishment must submit to the Borough, at the times and in the manner set forth in the Recycling Regulations, reports of its recycling program and written documentation of the total number of tons recycled. Nothing herein shall require any person to gather leaf waste, or prevent any person from utilizing leaf waste, for compost, mulch, or other agricultural, silvicultural, gardening or landscape purposes.
- C. **Existing Programs.** All recycling operations in existence at the time that this Article IX was adopted may continue to operate within the Borough if the collector obtains a license, operates within the provisions of this Article IX and the Recycling Regulation, and submits to the Borough, at the times and in the manner set forth in the Recycling Regulations, report of its recycling program and written documentation of the total number of tons recycled.
- D. **Public Information and Education Programs.** The Borough shall provide to all persons occupying residential, commercial, institutional and municipal premises within its boundaries information concerning recycling program features, requirements and changes as required by the Act.
- E. **Specific Program Regulations.** Specific program regulations shall be promulgated under this Article IX, and the Borough is empowered to make changes to the program regulations as necessary. Subsequent changes in the program regulations may be made by the Borough Council after proper public notice and notification of all affected persons.

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### 59.9.07 Grass Clippings. (59-26)

- A. Regulation: The deliberate or unintentional disposal of grass clippings, brush, fill, trash, debris, obstructions or unwanted materials into the storm sewers or within or along banks of man-made or natural watercourses or in adjacent floodplain areas which may wash into streams and sewers is unlawful. [Added 10/01/02 by Ord. No. 2002-10.]
1. Powers and Authority of Inspectors: The Code Enforcement Office and other duly authorized employees of the Borough of Northumberland shall be permitted to enter upon all properties for the purpose of inspection, observation and measurement, in accordance with the provision of this ordinance.
  2. Penalties:
    - a) Any person found to be violating the provision of this ordinance shall be served by the Borough of Northumberland with written notice stating the nature of the violation and providing 10 days for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
    - b) Any person who shall continue any violation beyond the time limit provided for shall be guilty of a summary offense, and upon conviction thereof, shall be fined for each violation in an amount to be determined by resolution of the borough council each year. Each day shall count as a separate offense.
    - c) A substitution may be made for hours of community service in lieu of a cash fine, in the service is devoted to remediation of the impact of dumping in the conveyance system.
- B. It shall be unlawful for any person to knowingly cause grass clippings, leaves, or other debris or waste produced in conjunction with yard maintenance or gardening onto the streets, alleys, and other public roads of the Borough of Northumberland. A homeowner is responsible to ensure that any persons hired to cut their grass or maintain their yard abide by this ordinance. Any grass or waste, which inadvertently is caused to enter the streets or alleys of the Borough, shall be promptly removed; there is no "grace period" within which to remove grass or leaves. [Added 11/19/02 by Ord. No. 2002-11.]
1. Enforcement. This ordinance may be enforced by the Police Department or Code Enforcement Officer. A violation of this ordinance shall initially be sanctioned by the civil penalty method set forth in 59.9.07.B.3. The enforcing officer will use common sense and discretion in the enforcement of this Ordinance and shall consider means other than the issuance of a summons where appropriate. No summons may be based upon hearsay.
  2. There shall be a presumption that grass clippings, leaves, or yard waste immediately adjacent to a property where caused to be placed there by the property owner. This is a rebuttable presumption.
  3. Penalty
    - a) **Civil Penalty** A violation of Ordinance 2002-11 shall constitute a civil penalty punishable by a fine set in the Borough's Schedule of Fines and Costs. A summons, similar in form to a parking summons, shall be tendered by the officer to the responsible party. The summons shall be paid at the Borough Office within seventy-two (72) hours. The fine shall be a higher thereafter as set in the Borough's Schedule of Fined and Costs.
    - b) **Criminal Penalty** Any person who fails to pay a civil penalty set under Section 4 within thirty (30) days commits a summary offense under the Borough Code and shall be issued a citation to appear before the District Justice. Upon conviction, a Defendant shall be fined

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according to the Borough's Schedule of Fines and Costs, or in default thereof, sentenced to the county jail for up to thirty (30) days.

4. Severability. Should any portion of this ordinance (Ordinance 2002-11) be determined to be unlawful or constitutional, then the remainder of the Ordinance shall not be affected and shall remain in full force and effect.

### **59.9.08 Unauthorized Removal, collection, Etc., of Recycling Materials Prohibited. (59-27)**

Any recyclable materials placed or located at the curbside, in drop-off sites, in storage bins associated with residential, commercial, municipal, or institutional establishments, or multi-family housing properties, pursuant to this Article IX and the Recycling Regulations, are property of the Borough, and may not be collected, picked up, removed, disturbed by, or disposed of, by a person other than one authorized by this Article IX and the Recycling Regulations.

### **59.9.09 Agreements and/or Licenses. (29-28)**

The Borough shall provide for the collection of recycling program and/or materials from curbside, drop-off sites, or other designated locations in accordance with this Article IX and the Recycling Regulations, and such provisions may include agreements with person(s) to collect such materials. In any case where a person is not serviced at curbside that person may contract with a private collector who has obtained a license in accordance with this Article IX and the Recycling Regulation.

### **59.9.10 Fee. (59-29)**

The Borough may assess a monthly fee, either per bag, or per residential, commercial, institutional, and/or municipal unit, to offset the cost of the recycling program. Collection fees, market rates, and other variable costs associated with the program will be considered in determining the amount of the fee which will be established and set forth in the Recycling Regulations.

### **59.9.11 Violations, Penalties, Enforcement. (59-22)**

- A. Violations. Any person who violates this Article IX and the Recycling Regulations shall, upon conviction, be subject to the fine, penalty and costs set forth in ARTICLE X below.
- B. Theft of Collection Containers. Any person who steals any collection container issued to a residence for use in the Borough recycling program, or who steals any collection container placed at designated drop-off-sites or issued to businesses, institutions, municipalities, and multi-family housing properties for use in the Borough recycling program, shall, upon conviction, be subject to the fine, penalty and costs set forth in ARTICLE X below.
- C. Enforcement. The Borough Street Supervisor and/or such other person(s) designated by Borough Council shall be responsible for the enforcement of the Article IX and the Recycling Regulations.

## **ARTICLE X – PENALTIES**

### **59.10.01 Violations and Penalties. (59-31)**

Any person who violates the provisions of this Chapter shall, [As passed 12/18/2001, as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]. A new and separate violation shall be deemed to have been committed for each day that any violation continues beyond the first day and shall be subject to separate proceedings before a District Magistrate, and subject to the penalty imposed by this Article X each and every day such violations shall continue.

## **Chapter 59 – Waste Management**

### **ARTICLE XI – SEVERABILITY; ADDITIONAL STANDARDS; REGULATIONS; REPEALER**

#### **59.11.01 Severability. (59-32)**

Should any section, paragraph, sentence, clause or phrase of this Chapter be declared unconstitutional or invalid for any reason, the remainder of this Chapter shall not be affected thereby but shall remain in full force and effect.

#### **59.11.02 Additional standards. (59-33)**

This Chapter shall be subject to all applicable federal and state laws, rules and regulations, including the rules and regulations as set forth by the Pennsylvania Department of Environmental Resource and/or the Pennsylvania Department of Environmental Protection.

#### **59.11.03 Regulations. (59-34)**

The Borough Council may establish and revise rules and regulations governing any matters covered by this Chapter.

#### **59.11.04 Repealer. (59-35)**

All ordinances inconsistent herewith are hereby repealed.



**CODE OF THE BOROUGH OF NORTHUMBERLAND**

## **CHAPTER 60 – RESERVED**

## **Chapter 60 – Reserved**

**Intentionally Blank**

## CODE OF THE BOROUGH OF NORTHUMBERLAND

# CHAPTER 61 – ZONING

[History: Adopted by the Council of the Borough of Northumberland on 3-13-71.  
Amended 5-7-91, other amendments noted where applicable.]

## ARTICLE I – SHORT TITLE, PURPOSE AND COMMUNITY DEVELOPMENT OBJECTIVES

### **61.1.01 Short Title**

This Ordinance shall be known as the "NORTHUMBERLAND BOROUGH ZONING ORDINANCE".

### **61.1.02 Purpose**

The fundamental purpose of this Ordinance is to promote the safety, health, morals and general welfare; to encourage the most appropriate use of land throughout the Borough; to conserve and stabilize the value of property; to prevent over-crowding of land and buildings; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate open space for light and air; and to facilitate the adequate provision of streets and highways, water, sewerage, drainage and other public facilities; to conserve life, property and natural resources and to conserve the expenditure of funds earmarked for public improvements.

### **61.1.03 Community Development Objectives**

This Zoning Ordinance is to render a legal basis and framework to the future land use plan and development goals established in the planning studies undertaken by the Northumberland Borough Planning Commission. The objectives of guiding future growth and improvement of existing development within the Borough of Northumberland are to enable the most economical and efficient provision of municipal services; eliminate hazardous and detrimental land uses while encouraging beneficial and compatible land uses; maintain a desirable residential environment with adequate recreational, commercial and industrial supporting areas; protect and conserve open spaces, and in general, avoid the problems of random development inconsistent with Borough-wide goals and objectives.

## ARTICLE II – DEFINITIONS

For the purpose of this Ordinance, certain words, phrases and terms are herewith defined as follows: Words used in the present tense include the future. The singular number includes the plural number, and words in the plural number include the singular number. The word "lot" includes the word "plot;" the word "building" includes the word "structure;" the word "zone" includes the word "district;" the word "occupied" includes the word "designed" and the phrase "intended to be occupied;" the word "use" includes the words "arranged," "designed," and the phrase "intended to be used;" the word "shall" is always mandatory.

**Accessory Use or Building** A subordinate use or building, the purpose of which is customarily incidental to that of the main use or building and on the same lot.

**Alterations** change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

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**Alley** A minor right-of-way used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

**Borough Council** The council of the Borough of Northumberland.

**Building** Any structure having a roof supported by columns, piers or walls, including tents, lunch wagons, trailers, dining cars, camp cars or other structures on wheels or having other supports and any unroofed platform, terrace or porch having a vertical face higher than three (3) feet above the level of the ground from which the height of the building is measured.

**Building Area** The total areas of outside dimensions on a horizontal plane at ground level of the principal building and all accessory buildings.

**Building Height** The vertical dimensions measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in the case of a flat roof; to the deck-line of a mansard roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.

**Building Line** A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered or projected section of a building, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line.

**Certificate of Occupancy** A certificate issued and enforced by the Zoning Officer upon completion of the construction of a new building or upon a change or conversion of the structure or use of a building which certifies that all requirements and regulations as provided herein and within all other applicable requirements have been complied with.

**Decision** Final adjudication of the Zoning hearing Board, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of Northumberland County and the judicial district wherein the Borough lies.

**Determination** Final action by an officer, body or agency charged with the administration of this Ordinance or applications thereunder, except Borough Council and the Zoning Hearing Board.

**Development Plan** The provisions for the development of a planned residential development, including a plat subdivision; all covenants related to use, location and bulk of buildings and other structures; intensity of use or density of development; streets, ways and parking facilities; common open space; and public facilities.

**Dwelling Unit** One or more rooms providing living and sanitary facilities for one (1) family, including equipment for cooking or provisions for same.

**Dwelling, Apartment** A dwelling unit for rent or lease within multiple family buildings providing living and sanitary facilities for one (1) family, including provisions for cooking and sleeping. An apartment dwelling may be classified as an efficiency unit where no specific bedroom is provided or it may contain one or more bedrooms.

**Dwelling, Single Family** A detached building designed for or occupied exclusively by one (1) family.

**Dwelling, Two Family** A building designed for or occupied exclusively by two (2) families living independently of each other.

**Dwelling, Multiple Family** A building designed for or occupied exclusively by three (3) or more families living independently of each other.

**Family** A single individual, doing his own cooking and living upon the premises as a separate housekeeping unit or a collective body of persons, doing their own cooking and living together upon the

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premises as a separate housekeeping unit, in a domestic relationship based upon birth, marriage or other domestic bond.

**Floor Area** A total enclosed area in the horizontal plane of a structure measured from the faces of the exterior walls.

**Garage, Private** A building or space used as an accessory to the main building which provides for the storage of motor vehicles of the families residing upon the premises and in which no occupation, business or service for profit is carried on.

**Habitable Floor Area** The sum of the gross horizontal interior areas of all room used for habitation, such as living room, dining room, kitchen or bedroom, but not including hallways, stairways, cellars<sup>1</sup> attics, service rooms or utility rooms, bathrooms, closets or unheated areas such as enclosed porches or rooms without at least one window or skylight opening onto an outside yard or court. At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet and the floor area of that part of any room where the ceiling height is less than five (5) feet shall not be considered part of the habitable floor area.

**Hearing** An administrative proceeding conducted by the Zoning Hearing Board pursuant to this Ordinance.

**Home Occupation** An accessory use of a service nature customarily conducted within a dwelling by the residents thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Beauty shops, barber shops, hair dressing and manicuring establishments, tea rooms and tourist homes shall not be deemed to be home occupations.

**Hotel** A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building as an accessory use.

**Junk Yard** Any area and/or structure used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material and for the collecting, dismantling, storage and salvaging of machinery or vehicles primarily not in running condition and for the sale of parts thereof.

**Lot** A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law, and to be used, developed or built upon as a unit.

**Lot Area** An area of land, which is, determined by the lines of the lot lines bounding that area.

**Lot, Corner** A parcel of land at the junction of and fronting or abutting on two or more intersecting streets.

**Lot Coverage** The percentage of the lot area covered by the total building area.

**Lot Depth** A mean horizontal distance between the front and rear lot lines measured in the general direction of its side lot lines.

**Lot Width** The mean horizontal distance between the side lot lines measured at right angles to its depth. Required lot width (See Schedule) shall be measured at the most forward allowable building line or setback line; however, the mean lot width shall not be less than the required lot width.

**Mobile Home** A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing. Which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

**Mobile Home Lot** A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of mobile home.

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**Mobile Home Park** A parcel of contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

**Motel** A building or group of buildings, whether detached or connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and provided with accessory off-street parking facilities. The term "motel" includes buildings designed as tourist centers, motor lodges, auto courts and other similar designations but shall not be construed to include mobile or immobile trailers or homes.

**Nonconforming Lot** A lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which is located by reasons of such adoption or amendment.

**Nonconforming Structure** A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

**Nonconforming Use** A use, whether of land or of structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

**Parking Space** An off-street space available for the parking of a motor vehicle and which, in this Ordinance, is held to be an area ten (10) feet wide and twenty (20) feet long, exclusive of passageways and driveways appurtenant thereto and giving access thereto.

**Planned Residential Development** An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk or type of dwelling, or use, density, or intensity, lot coverage and required open space to regulations established in any one district created, from time to time, under the provisions of a municipal zoning ordinance.

**Planning Code** The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended.

**Principal Building** A building or buildings in which is conducted the main or principal use of the lot on which said building is situated.

**Professional Home Occupation** The office or Studio of a resident physician, surgeon, dentist, lawyer, architect, artist, engineer, certified public accountant, real estate broker or salesman, insurance broker or agent, musician teacher as herein restricted; provided that no more than two (2) persons employed who are not members of the family and that such office shall be in the main building and shall not occupy more than the equivalent of one-half (1/2) of the area of one (1) floor of said building. For the purposes of this section, a "teacher" shall be restricted to a person giving individual instruction on a musical instrument, in singing or in academic or scientific subjects to a single pupil at a time. A professional home occupation shall not include the office of any person professionally engaged in the purchase or sale of economic goods. Tea rooms, tourist homes, beauty parlors, barber shops, hairdressing and manicuring establishments, convalescent homes, mortuary establishments and stores, trades or businesses of any kind not herein excepted shall not be deemed to be home professional offices. The home professional office of a physician shall not include a biological or other medical testing laboratory.

**Professional Office** The office of a member of a recognized profession, as hereinafter indicated, when conducted on a residential property shall be conducted by a member or members of the residential family entirely within a residential building and shall include only the offices of doctors, ministers, architects,

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professional engineers, lawyers and such similar professional occupations which may be so designated by the Zoning hearing Board, upon finding by such Board that such occupation is truly professional in character by virtue of the need for similar training and experience as a condition for the practice thereof and that the practice of such occupation shall in no way adversely affect the safe and comfortable enjoyment of property rights in any zone in which it is located to a greater extent than for the professional activities listed herein. The issuance of a State or local license or regulation of any gainful occupation need not be deemed indicative of professional standing.

**Public Hearing** A formal meeting held pursuant to public notice by Borough Council or the Zoning Hearing Board, intended to inform and obtain public comment, prior to taking action in accordance with this Ordinance.

**Public Meeting** A forum held pursuant to notice under the act on July 3, 1966 (P.L. 368, No. 84), known as the "Sunshine Act".

**Public Notice** Notice published once each week for two successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty days and the second publication shall not be less than seven days from the date of the hearing.

**Setback** The setback of a building from a particular lot line is the horizontal distance from such lot line to the part of the building nearest to such lot line.

**Sign** Any device, structure or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others but not including any flag, badge or insignia of any public quasi-public, civic, charitable or religious group.

**Sign, Commercial** Any sign owned or operated by any person, firm or corporation engaged in the business of outdoor advertising for direct profit gained from the rental of such signs or any sign advertising a commodity not sold or produced on the premises. This shall include "billboards" and off-premises signs indicating the directions to a particular place.

**Sign Area** The area defined by the frame or edge of a sign. Where there is no frame or edge to the sign, the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines the said sign.

**Site Plan** A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Zoning Hearing Board in unusual or special cases.

**Story** A story is that part of a building between the surface of any floor and the next floor above it or, in its absence, then the finished ceiling or roof above it. A "split level" story shall be considered a second story if its floor level is six (6) feet or more above the level of the line of the finished floor next below it. Any floor under a sloping roof at the top of a building which is more than two (2) feet below the top plate shall be counted as a story; and, if less than two (2) feet below the top plate, it shall be counted as a half-story. A basement shall be counted as a story if it averages more than five (5) feet above grade.

**Street** Any street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct or other way, whether public or private, used or intended to be used by vehicular traffic or pedestrians.

**Street Line** The street line is that line determining the limit of the street or highway right of the public, either existing or contemplated. Where a definite right-of-way width has not been established, the street line shall be assumed to be at a point twenty-five (25) feet from the centerline of the existing street.

**Structure** Any man-made object having an ascertainable location on or in land or water, whether or not affixed to land.

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**Travel Trailer** A vehicular portable structure built on a chassis (pick-up camper, converted bus, tent-trailer, tent or similar device) designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet.

**Travel Trailer Camp or Park** Any site, lot or tract of land upon which provisions are made to accommodate any travel trailer and/or similar temporary dwelling for travel or recreational purposes for short term occupancy, either free of charge or for revenue purposes, and shall include any appurtenant facilities used or designed as part of the equipment of such travel trailer camp or park.

**Use** The specific purpose, for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

**Variance** Relief granted pursuant to the provisions of Article XVI of this Ordinance.

**Vehicle Service Facilities** A building or lot or part thereof used for the service or maintenance of motor vehicles, including automobile filling stations, repair body shops and body shops.

**Yard, Front** An open, unoccupied space on the same lot with the principal building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of that lot. The depth of the front yard shall be measured at right angles to the street line.

**Yard, Rear** A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of any building. The depth of a rear yard shall be measured at right angles to the rear line of the lot or, if the lot is not rectangular, then in the general direction of its side lot lines.

**Yard, Side** An open, unoccupied space between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard or, in the absence of either such yards, to the street or rear lot lines, as the case may be. The width of a side yard shall be measured at right angles to the sideline of the lot.

**Zoning Hearing Board** The board appointed by Northumberland Borough Council with jurisdiction under this Ordinance to render decisions.

**Zoning Officer** The duly constituted municipal office designated to administer and enforce this Ordinance. The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal terms. The Zoning Officer may be the Building Inspector and serve both offices of the Borough.

**Zoning Permit** A permit stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirement under this Ordinance for the zone in which it is located or is to be located.

## ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS AND MAP

### 61.3.01 Zoning Districts

A. The following types of zoning districts are hereby established for the Borough of Northumberland:

1. R-1 Residential Districts
2. R-2 Residential Districts
3. R-3 Residential Districts
4. HC highway Commercial Districts
5. CBD Commercial Business Districts
6. I Industrial Districts



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7. OS Open Space/ Recreation Districts
8. H Historic Districts (overlying area).

B. The zoning districts of the Borough of Northumberland are as follows:

1. R-1 Residential District      Beginning at the intersection of the center line of Prince Street and the center line of Front Street; thence northeastwardly along the center line of Front Street to the point of intersection with Old Route 11; thence northeastwardly along the center line of Old Route 11 to the Borough line; thence along said Borough line the following five courses and distances: (1) N. 44° 53' 44" W. a distance of 2,473.31 feet; (2) S. 82° 47' 33" W. a distance of 2,847.82 feet; (3) S. 45° 06' 16" W. a distance of 341.72 feet; (4) N. 44° 53' 44" W. a distance of 264 feet; (5) S. 45° 12' 08" W. to a point of intersection of the southwestern line of Vista Avenue if Vista Avenue were extended west; thence southeastwardly along the southwestern line of Vista Avenue if extended to a point in the center line of Seventh Street (unopened); thence southwestwardly along the center line of Seventh Street (unopened) to a point in the center line of Prince Street; thence southeastwardly along the center line of Prince Street to the center line of Front Street, the place of beginning.
2. R-2 Residential District      Beginning at a point in the intersection of the center line of Prince Street and the center line of Front Street; thence northeastwardly along the center line of Front Street to the center line of C Street; thence southeastwardly along the center line of C Street to the center line of Water Street; thence southwestwardly along the center line of Water Street to the center line of Lackawanna Avenue; thence southeastwardly as if center of Lackawanna Avenue were extended to the center line of the North Shore Railroad; thence southwestwardly along the center line of the railroad to the center line of Queen Street; thence northwestwardly along the center line of Queen Street to the center line of Depot Avenue; thence northeastwardly along the center line of Depot Avenue to the center line of King Street; thence northwestwardly along the center line of King Street to the center line of the private alley west of the Methodist Church; thence southwestwardly along the center line of said private alley to the center line of Wheatley Avenue; thence northwestwardly along the center line of Wheatley Avenue to the center line of Church Avenue; thence southwestwardly along the center line of Church Avenue to a point in the center line of Duke Street; thence northwestwardly along the center line of Duke Street to the center line of Fifth Street; thence southwestwardly along the center line of Fifth Street to the center line of West Way Avenue; thence along the center line of West Way Avenue to the northwest Borough boundary line; thence along the said Borough boundary line the following three courses and distances: (1) North forty-five degrees six minutes sixteen seconds East (N. 45° 06' 16" E.) through Eighth Street a distance of one thousand five hundred fifty-one (1,551) feet, more or less, to a point in Orange Street, (2) North forty-four degrees fifty-three minutes forty-four seconds West (N. 44° 53' 44" W.) through Orange Street a distance of two hundred sixty-four (264) feet to a point, (3) North forty-five degrees twelve minutes eight seconds East (N. 45° 12' 08" E.) a distance of approximately 1990 feet to the point of intersection with the center line of Vista Avenue if Vista Avenue were extended northwestwardly; thence southeastwardly along the southwestern line of Vista Avenue, if extended, to a point in the center line of Seventh Street (unopened); thence southwestwardly along the center line of Seventh Street (unopened) to a point in the center line of Prince Street; thence southeastwardly along the center line of Prince Street to the center line of Front Street, the place of beginning.

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3. R-3 Residential District      Beginning at a point in the intersection of the center line of Water Street and the center line of Lackawanna Avenue; thence northeastwardly along the center line of Water Street to a point opposite the southwestern line of land of Norry Welding Co.; thence southeastwardly along said line of Norry Welding Co. a distance of 300 feet, more or less, to the center line of the unopened extension of Priestley Avenue; thence northeastwardly on a curve to the left along the center line of unopened Priestley Avenue a distance of 300 feet, more or less, to the northeast line of Priestley Commons; thence southeastwardly along said line of Priestley Commons to the center line of the North Shore Railroad; thence southwestwardly along the center line of said North Shore Railroad to the center line of Lackawanna Avenue if it were extended southeastward; thence northwestwardly along the center line of Lackawanna Avenue, if extended, to a point in the center line of Water Street, the place of beginning.
4. Highway Commercial Districts
  - a) District 1: Beginning at a point in the southeastern line of Front Street in the line of land now or formerly of Keystone Forge, said point being 135 feet, more or less, southwest of the center line of Duke Street; thence northwestwardly in a line parallel to Duke Street, to a point in the center line of Fourth Street; thence southwestwardly along the center line of Fourth Street to the center line of West Way Avenue a/k/a Penn Street; thence northwestwardly along the center line of West Way Avenue to a point in the center line of Fifth Street; thence northeastwardly along the center line of Fifth Street to the center line of Duke Street; thence southeastwardly along the center line of Duke Street to the southeastern line of Front Street; thence southwestwardly along the southeastern line of Front Street 135 feet, more or less to the place of beginning.
  - b) District 2: Beginning at the intersection of the center line of Water Street and the center line of Queen Street; thence southwestwardly along the center line of Water Street to the center line of the North Shore Railroad line; thence northeastwardly along the center of said railroad on a curve to the left to the point of intersection of the center line of Queen Street; thence northwestwardly along the center line of Queen Street to the center line of Water Street, the place of beginning.
  - c) District 3: The area bounded on the southwest by the center line of "C" Street; on the northwest by the center lines of Front Street and Old Route 11; on the northeast by the Borough boundary line; on the southeast by the center lines of US Route 11 and Water Street.
5. CBD Commercial Business District      Beginning at the intersection of the center line of Depot Avenue and the center line of Queen Street; thence northeastwardly along the center line of Depot Avenue to the center line of King Street; thence northwestwardly along the center line of King Street to the center line of the private alley west of the Methodist Church; thence southwestwardly along the center line of said private alley to the center line of Wheatley Avenue; thence northwestwardly along the center line of Wheatley Avenue to the center line of Church Avenue; thence southwestwardly along the center line of Church Avenue to a point in the center line of Duke Street; thence southeastwardly along the center line of Duke Street to the southeastern line of Front Street; thence southwestwardly along the southeastern line of Front Street to the center line of the railroad leading to Danville; thence southeastwardly along the center of said railroad line to the center line of Water Street; thence northeastwardly along the center line of Water Street to the center line of Queen Street; thence northwestwardly along the center line of Queen Street to the center line of Depot Avenue, the place of beginning.

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### 6. Industrial Districts

- a) District 1: Beginning at a point in the southeastern line of front Street, said point being 135 feet, more or less, southwest of the center line of Duke Street: thence northwestwardly in a line parallel to Duke Street, to a point in the center line of Fourth Street: thence southwestwardly along the center line of Fourth Street to the center line of West Way Avenue a/k/a Penn Street; thence northwestwardly along the center line of West Way Avenue to the northwest Borough boundary line: thence S. 45° 06' 16" W. approximately 1,150 feet to the center line of the railroad line nearest the Susquehanna River; thence southeastwardly along the center line of said railroad line to the point of intersection of the southeastern line of front Street if front Street were extended southwestward; thence northeastwardly along the southeastern line of Front Street, if extended, to the place of beginning.
- b) District 2: Beginning at a point in the centerline of Water Street opposite the southwestern line of land of Norry Welding Co.: thence northeastwardly along the center line of Water Street and U.S. Route 11 to the northeastern Borough boundary line; thence southeastwardly along said boundary line to the center line of the North Shore Railroad line; thence southwestwardly along the center line of said railroad line to a point in the northeast line of Priestley Commons; thence northwestwardly along the northeast line of Priestley Commons to the center line of unopened Priestley Avenue; thence southwestwardly along the said center line of unopened Priestley Avenue to the southwestern line of Norry Welding Co.; thence northwestwardly along said line of Norry Welding Co. to the place of beginning.

### 7. Open Space Districts

- a) District 1: Beginning at the intersection of the center line of Water Street and the center line of the railroad leading to Danville; thence northwestwardly along center Of said railroad line to the southeastern line of Front Street; thence southwestwardly along the southeastern line of Front Street, if it were extended southwestwardly, to the center line of the rail road line nearest to the west branch of the Susquehanna River; thence northwestwardly along the center line of said railroad to the boundary line of the Borough; thence southwestwardly along said boundary line to the low water mark of the west branch of the Susquehanna River; thence southeastwardly along said low water mark of the River to the center line of Water Street; thence northeastwardly along the center line of Water Street to the center line of the railroad leading to Danville, the place of beginning.
- b) District 2: Beginning at the intersection of the center line of Water Street and the center line of the railroad leading to Danville, known as the North Shore Railroad line; thence northeastwardly along the center of said railroad line to the boundary line of the Borough; thence southeastwardly along said boundary line to the low water mark of the north branch of the Susquehanna River; thence southwestwardly along said low water mark of the River to the point of intersection with the west branch of the Susquehanna River; thence northwestwardly along the low water mark of the said west branch of the Susquehanna River to a point in the center line of Water Street; thence northeastwardly along the center line of Water Street to the place of beginning.

8. H Historic District (overlying area) Beginning at the center line of the North Shore Railroad at a point 200 feet, more or less, southwest of the southwestern line of Queen Street; thence northeastwardly along the center of the North Shore Railroad line to the center line of Hanover

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Street; thence northeastwardly along the center line of Hanover Street to the center line of Priestley Avenue; thence southwestwardly along the center line of Priestley Avenue to the center line of Orange Street; thence northwestwardly along the center line of Orange Street to the Center line of Toulman Avenue; thence northeastwardly along the center line of Toulman Avenue to the center line of A Street; thence northwestwardly along the center line of A Street to the center line of Front Street; thence southwestwardly along the center line of Front Street to the center line of North Avenue; thence northwestwardly along the center line of North Avenue to the center line of Perk Avenue; thence southwestwardly along the center line of Park Avenue to the center line of Sheetz Avenue; thence northwestwardly along the center line of Sheetz Avenue to the center line of Fourth Street; thence southwestwardly along the center line of Fourth Street to Wheatley Avenue; thence southeastwardly along the center line of Wheatley Avenue to the center line of Water Street; thence southwestwardly along the center line of Water Street to a point 200 feet, more or less, southwest of the southwesterly line of Queen Street; thence in a southeasterly direction to the place of beginning.

### **61.3.02 Zoning Map**

The boundaries of the above districts as delineated on a map shall constitute the "Northumberland Borough Zoning Map".

### **61.3.03 Interpretation of District Boundaries**

Where uncertainty exists as to the boundaries of the districts shown on the Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed as following such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following municipality limits shall be construed as following such municipality limits.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. Boundaries indicated as following shore lines shall be construed to follow such shore lines and, in the event of a change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed as following such centerlines.
- F. Boundaries indicated as parallel to or extensions of features indicated in Sub-sections A through E above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
- G. Where physical or cultural features existing on the ground are at variance with those shown on the official Zoning Map or in circumstances not covered by Sub-sections A through E above, the Zoning hearing Board shall interpret the district boundaries.

### **61.3.04 District Application to Newly Annexed Territory to the Borough**

Newly annexed territory to the Borough shall automatically be construed to be located within the R-1 Residential District, subject to application for amendment and public hearing, unless otherwise indicated in the approved petition for annexation.

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### **ARTICLE IV – CONFORMANCE REQUIRED**

#### **61.4.01 Application of District Regulations**

The regulations set forth by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

- A. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all the regulations herein specified for the district in which it is located. No residential lot shall have erected upon it more than one (1) principal building.
- B. No building or other structure shall hereafter be erected or altered:
  - 1. To exceed the height;
  - 2. To accommodate or house a greater number of families;
  - 3. To occupy a greater percentage of lot area; or
  - 4. To have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required or in any other manner contrary to the provisions of this Ordinance.
- C. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
- D. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

### **ARTICLE V – R-1 - RESIDENTIAL DISTRICTS**

#### **61.5.01 Intended Purpose**

The R-1 Residential Districts are composed of low-density residential areas of the Borough, plus certain open areas where similar residential development appears likely to occur. The regulations for these districts are designed to stabilize and protect the essential characteristics of the area, protect the amenities of certain areas of the Borough where the pattern has already been established with single family development on relatively large lots and promote and encourage a suitable environment for family life. To these ends, development is restricted to conventional low density single-family detached dwellings and related land uses.

#### **61.5.02 Permitted Uses**

- A. Single family dwellings.
- B. Public nursery, kindergarten, elementary and high school
- C. Churches and similar places of worship.
- D. Public parks, playgrounds and open space.
- E. General gardening and the growing of trees and nursery stock; not including roadside displays or commercial signs.
- F. Public libraries, community activity and municipal buildings.

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G. Customary accessory uses and buildings incidental to any of the above permitted uses, including:

1. Private garages.
2. Garden houses, tool houses, playhouses or greenhouses not used for commercial purposes.
3. Professional offices and home occupations, provided there is no external evidence of such uses except an announcement sign not over two (2) square feet in area, that not more than fifty (50) percent of the total floor area is used for such purposes and that not more than two (2) persons other than members of the immediate family are employed.
4. Signs, as provided in 61.13.08 of this Ordinance.

H. Planned Residential Development: subject to the provisions of Article XIV.

I. The following special exceptions, upon the issuance of a permit by the Zoning Hearing Board as provided for in 61.16.08 of this Ordinance.

1. Private nursery, elementary, high schools and institutions of higher education; providing, however, that the lot upon which located contains a minimum of one (1) acre plus five hundred (500) square feet of land per pupil.
2. Recreational areas and structures operated by membership clubs for the benefit of their members and not for gain, providing that the residential character of the neighborhood is preserved so as to in no way give the impression of a commercial use.
3. Cemeteries.
4. Multiple dwelling and apartments, subject to the controls set forth herein for planned residential developments (Article XIV).
5. Necessary public utility structures and buildings, providing that they do not include materials storage, storage for trucks, repair facilities or housing quarters for repair crews.

### 61.5.03 Lot Area, Building Height and Yard Requirements

A. Lot Regulations A lot width, lot area and setbacks of not less than the dimensions shown in the following table shall be provided for every dwelling unit and/or principal non-residential building hereafter erected or altered for any use permitted in this district.

Public Utilities	Lot Requirements			Yard Requirements			
	Minimum Lot Area (Sq. Ft.)	Minimum Lot Width	Maximum Lot Cover (%)	Front	One Side	Total Sides	Rear
None	18,000	150'	20%	30'	30'	60'	30'
Either Public Water or Sewer	12,000	100'	25%	30'	15'	30'	25'
Both Public Water and Sewer	9,000	75'	25%	30'	10'	20'	25'

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- B. Building Height No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height unless authorized as a special exception.

### 61.5.04 Minimum Off-Street Parking Requirements

Off-street parking shall be provided in accordance with 61.13.07 of this Ordinance.

### 61.5.05 Habitable Floor Area

- A. The minimum habitable floor area of any new dwelling hereafter utilized, with the exception of buildings containing four (4) or more dwelling units, shall be seven hundred (700) square feet.
- B. Multiple family and apartment dwelling units in buildings containing four (4) or more dwelling units shall have a floor area of not less than that listed below and in no case shall the floor area ratio (total floor area divided by the lot area) exceed 2.0. Providing further that there shall be not less than six hundred twenty-five (625) square feet of land area per dwelling unit.

<u>Floor Area</u>	<u># of Bedrooms per Dwelling Unit</u>
500 sq. ft.	0
600 sq. ft.	1
800 sq. ft.	2
1,000 sq. ft.	3

## ARTICLE VI – R-2 - RESIDENTIAL DISTRICTS

### 61.6.01 Intended Purpose

The R-2 Residential Districts are composed of certain medium density residential areas of the Borough representing a compatible mingling of one (1) or two (2) family dwellings, plus certain open areas where similar residential development appears likely to occur. The regulations for these districts are designed to stabilize and protect the essential characteristics of the district and promote and encourage a suitable environment for family life. To these ends, development is limited to medium density concentration, permitting primarily single and two (2) family dwellings.

### 61.6.02 Permitted Uses

- A. Uses permitted in the R-1 Residential Districts, subject to the regulations of the R-2 Residential Districts.
- B. Two family attached or semi-detached dwellings.
- C. Customary accessory uses and buildings incidental to any of the above permitted uses, including those specified in the R-1 Districts.
- D. The following special exception uses, upon the issuance of a permit by the Zoning Hearing Board as provided for in 61.16.08.I of this Ordinance.
1. Special exceptions specified in R-1 Districts.
  2. Conversion apartment dwellings, subject to the limitations of minimum lot and habitable floor requirements (61.13.09).
  3. Clinics and nursing homes, providing that the care of drug addicts, chronic alcoholics or persons suffering from insanity or diseases requiring isolation are not included.

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4. Professional offices.
5. Mobile home parks and subdivisions, provided that each mobile home park and extension thereof shall conform to the following requirements.
  - a) The minimum mobile home park or subdivision tract shall be not less than five (5) acres, in area.
  - b) A minimum of five thousand (5,000) square feet shall be provided for each mobile home unit stand.
  - c) There shall not be more than seven (7) mobile home unit stands per net acres of land use.
  - d) Side yard distances measured from outside of each mobile home unit-to-unit lot line shall not be less than thirty (30) feet in total and no one (1) side yard distance less than twelve (12) feet.
  - e) Front and rear yards shall not be less than ten (10) feet.
  - f) A minimum of thirty (30) feet shall be maintained between any two (2) mobile home units.
  - g) All applications for a mobile home park or subdivision shall be accompanied by a plot plan showing the location of the site, topography, drainage, number of units, access1 road layout, name and address of owner and names of abutting owners.
  - h) Provisions must be made to connect each mobile home unit to a municipal type water and sanitary sewer system, as approved by the Pennsylvania Department of Health.
  - i) Conformance is required to any applicable local and State regulations governing mobile home parks.
6. Funeral homes.
7. Rooming houses and tourist homes.
8. Group Homes, provided that such homes meet the following conditions:
  - a) No more than three (3) such homes shall be located in the R-2 District.
  - b) The homes shall be only for the mentally and physically handicapped; approval for all other types of group homes shall be required by the Planning Commission and Borough Council
  - c) Occupancy in the group home shall not exceed five (5) persons and shall provide proper supervision as defined by State and Public Agencies.
  - d) A permit shall be required for the operation of all such homes.
  - e) No two (2) group homes shall be located within the same block or within two (2) blocks of one another along the same street.

### **61.6.03 Lot Area, Building Height and Yard Requirements**

- A. Lot Regulations A lot width, lot area and setback of not less than the dimensions shown in the following table shall be provided for every dwelling unit and/or principal non-residential building hereafter erected or altered for any use permitted in this district.



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Public Utilities	Lot Requirements			Yard Requirements			
	Minimum Area (Sq. Ft.)	Minimum Lot Width	Maximum Lot Cover. (%)	Front	One Side	Total Sides	Rear
None	10,000	100'	25%	25'	15'	30'	30'
Either Public Water or Sewer	8,000	80'	30%	25'	10'	25'	25'
Both Public Water and Sewer	6,000	60'	35%	25'	8'	20'	20'

\*All setback requirements may be adjusted in built-up areas to coincide with the average setbacks of existing buildings in the general vicinity

- B. Building Height No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height unless authorized as a special exception.

### 61.6.04 Minimum Off-Street Parking Requirements

Off-street parking shall be provided in accordance with 61.13.07 of this Ordinance.

### 61.6.05 Habitable Floor Area

- A. The minimum habitable floor area of any new dwelling unit hereafter utilized, with the exception of apartment buildings containing four (4) or more dwelling units, shall be seven hundred (700) square feet.
- B. Multiple family and apartment dwelling units in buildings containing four (4) or more dwelling units shall have a floor area of not less than that listed below and in no case shall the floor area ratio (total floor area divided by the lot area) exceed 2.0. Providing further that there shall be not less than six hundred twenty-five (625) square feet of land area per dwelling unit.

Floor Area	# of Bedrooms per Dwelling Unit
500 sq. ft.	0
600 sq. ft.	1
800 sq. ft.	2
1,000 sq. ft.	3

## ARTICLE VII – R-3 - RESIDENTIAL DISTRICTS

### 61.7.01 Intended Purpose

The regulations for these districts are designed to accommodate high density development in areas conducive to this type of development in terms of location, accessibility, availability of sewer and water facilities, existing development patterns and anticipated growth trends.

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### 61.7.02 Permitted Uses

- A. Uses permitted in the R-2 Residential Districts, subject to the regulations of the R-3 Residential Districts.
- B. Multiple family apartment dwellings, townhouses, and condominiums.
- C. Customary accessory uses and buildings incidental to the above permitted uses, including those specified in the R-2 Districts.
- D. The following special exception uses, upon the issuance of a permit by the Zoning Hearing Board as provided for in this Ordinance (61.16.08 I).
  1. Special exceptions as specified in the R-2 Districts.
  2. The provision of incidental service stores (such as news, cigar or candy counter sales, delicatessens; restaurants; personal service shops; and similar uses).
  3. Conversion apartment dwellings, subject to the limitations of minimum lot and habitable floor (61.13.09) and parking (61.6.04) requirements. [Added 11-5-03 by Ord. 2003-5]

### 61.7.03 Lot Area, Building Height and Yard Requirements

#### A. Lot Regulations

1. A lot width, lot area and setback of not less than the dimensions shown on the following table shall be provided for every dwelling unit and/or principal non-residential building hereafter erected or altered for any use permitted in the district.

Type Of Dwelling	Lot Requirements			Yard Requirements			
	Minimum Lot Area (Sq. Ft.)	Minimum Lot Width	Max. Lot Cover. (%)	Front	One Side	Total Sides	Rear
Single and Two Family	3,000 **	30'	45%	25'	8'	20'	20'
Multiple Family	5,000 *	50'	60%	25'	20'	40'	25'

\* All setback requirements may be adjusted in built-up areas to coincide with the average setbacks of existing buildings in the general vicinity.

\*\* Per dwelling unit.

2. The minimum lot area per dwelling unit shall be not less than indicated below:

# of Dwelling Units Permitted	Lot Area Per Dwelling Unit (Sq. Ft.)
1	3,000
2	2,000
3 or more	1,600

#### B. Building Height

1. No principal building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height; and no accessory building shall exceed one (1) story or fifteen (15) feet in height, unless authorized as a special exception.

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2. Multiple family dwellings and apartment dwelling structures may exceed thirty-five (35) feet in height when authorized as a special exception, providing that for every ten (10) feet in excess of thirty-five (35) feet or portion thereof there shall be added to each side setback an additional five (5) feet and providing the height does not exceed the firefighting capacity of the Borough fire department.

### 61.7.04 Minimum Off-Street Parking Requirements

Off-street parking shall be provided in accordance with this Ordinance (61.13.07)

### 61.7.05 Habitable Floor Area

- A. The minimum habitable floor area of any new dwelling unit hereafter utilized, with the exception of buildings containing four (4) or more dwelling units, shall be seven hundred (700) square feet.
- B. Multiple family and apartment dwelling units in buildings containing four (4) or more dwelling units shall have a floor area of not less than that listed below and in no case shall the floor area ratio (total floor area divided by the lot area) exceed 2.0. Providing further that there shall be not less than six hundred twenty-five (625) square feet of land area per dwelling unit.

Floor Area	# of Bedrooms per Dwelling Unit
500 sq. ft.	0
600 sq. ft.	1
800 sq. ft.	2
1,000 sq. ft.	3

## ARTICLE VIII – HC - HIGHWAY/COMMERCIAL DISTRICTS

### 61.8.01 Intended Purpose

These districts are designed solely to serve the needs of the vehicular shopper, providing goods that meet the needs generally classified as convenience goods and services. Business activities are to be concentrated with a cluster or linear pattern with adequate parking and vehicular access.

### 61.8.02 Permitted Uses

- A. Retail sales and services in a fully enclosed building.
  1. Food market
  2. Drug store
  3. Bakery
  4. Clothing
  5. Shoe store
  6. Restaurant, but not to include the drive-in type
  7. Jewelry store
  8. Gift shop, florist shop
  9. Book store, stationery store

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10. Radio, TV and music store
  11. Variety store
  12. Dry goods and notions store
  13. Hardware store, sporting goods
  14. Banking facilities.
- B. Personal service shops which deal directly with consumers, offices and establishments, provided that each such use occupies a total floor area of not more than four thousand (4,000) square feet.
1. Barber and beauty shops
  2. Dry cleaning and laundry pick-up shops
  3. Tailors and dressmaker shops
  4. Self-service laundry
  5. Real estate office and similar professional offices
  6. Finance and loan agencies
  7. Medical and dental offices
- C. Adult entertainment or adult-oriented business providing the adult entertainment or adult-oriented business is not within one thousand (1000) feet measured in a straight line without regard to intervening structures or objects, of any existing adult business or public park, church, public or private elementary, middle, junior high, high school, or daycare center. It shall further be unlawful to locate or relocate any adult entertainment or adult-oriented business within five hundred (500) feet of any public or private elementary, middle, junior high, high school or residential zone. The location of a newly established public park, church or school within one thousand (100) feet, or the establishment of a residential zone within five hundred (500) feet of an existing adult entertainment or adult-oriented business shall not thereby cause the existing adult entertainment or adult-oriented business to be deemed a non-conforming use. Subject to the above conditions, an adult entertainment or adult oriented establishment will only be permitted in the Highway Commercial District of the Borough.
1. Definitions
- Adult Entertainment and Adult-Oriented Businesses** include any store, establishment, tavern, club, or theater having as more than fifty percent (50%) of its stock in trade, books, magazines, or other periodicals or video movies, films, photographs, live appearances, or performances which are distinguished or characterized by their emphasis on matters depicting, describing, or related to "specified anatomical areas" or "specified sexual activities", as defined below. Any establishment or premises having as substantial or significant portion of its trade, the display, barter, rental or sale of printed matter, pictures, graphics, or other materials or paraphernalia distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specific sexual activities" or "specified anatomical areas" as defined hereinafter, or any "sexually oriented adult entertainment premises", as defined hereafter, including but not limited to adult bookstores, adult entertainment shows, adult motion picture theaters, and adult arcades, as well as tattoo parlors and body piercing establishments as defined hereafter.
- Specified Anatomical Areas** shall mean:
- Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola.

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- Human male genitals in a discernibly turgid state even if completely and opaquely covered.

**Specified Sexual Activities** shall mean:

- Human genitals in a state of sexual stimulation or arousal
- Acts of human masturbation, sexual intercourse, or Sodom
- Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

**Entertainment** means any exhibition or dance of any type, pantomime, modeling, or any other performance.

**Sexually Oriented Adult Entertainment** means any entertainment conducted in a public place of amusement where such entertainment involves a person appearing or performing in a state of nudity, as defined herein.

**Public Place of Amusement, Public Amusement/Entertainment, and Public Entertainment** mean an amusement, diversion, entertainment, show, performance, exhibition, display or like activity, for the use or benefit of a member or members of the public, or advertised for the use or benefit of a member of the public, held, conducted, operated or maintained for a profit, either direct or indirect.

**Sexually Oriented Adult Entertainment Premises** means any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides sexually oriented adult entertainment on a regular basis and as a substantial part of the business operation.

**Entertainer** means any person who provides sexually oriented adult entertainment within a public place of amusement as defined in this section whether or not a fee is charge or accepted for such entertainment.

**Member of the Public** is defined as any customer, patron or person, other than an employee, who is invited or admitted to a sexually oriented adult entertainment premises.

**Nudity** is defined as: The showing of the human male or female genitals or pubic area, the showing of the female breast, with less than a fully opaque covering of any part of the areola, or the showing of the covered male genitals in a discernibly turgid state.

**Sexually Oriented Adult Arcade and Sexually Oriented Adult Arcade Premise** shall mean any premise on which any sexually oriented adult arcade device is located and to which patrons, customers and/or members of the public are admitted.

**Sexually Oriented Adult Arcade Device** sometimes also known as "panorama," "preview," "picture arcade," or "peep show," means any device which, for payment of a fee, membership fee, or other charge, is used to exhibit or display a picture, view, film, videotape, or videodisc, live show or other graphic display of "specified anatomical areas." All such devices are denominated under this ordinance by the term "sexually oriented adult arcade device."

**Adult Bookstore** is defined as any premises from which minors are excluded and in which the retail sale of books, magazines, newspapers, movie films, devices, slides, or other photographic or written reproductions distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas is conducted as a principal use of the premise; or as an adjunct to some other business activity, but which constitutes the primary or a major attraction to the premises.

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**Adult Entertainment Shows** means any premises from which minors are excluded and in which live entertainment is provided, or any device is provided in which the subject matter is distinguished or characterized by the emphasis on matter depicting, describing, or relating to specified sexual activities or displaying specified anatomical areas as the principal use of the premises or is shown as an adjunct to some other business activity which is conducted on the premises and constitutes a major attraction; and wherein fees of any kind are charged.

**Adult Motion Picture Theater** means any establishment from which minors are excluded in which motion pictures, slides, or similar photographic reproductions are shown depicting adult entertainment as the principal use of the premises, or are shown as an adjunct to some other business activity which is conducted on the premises and constitutes a major attraction; and wherein fees of any kind are charged; and wherein such movies are shown on a regular basis; and not to include a theater showing adult-movies less than 5% of the total showing time of the theater.

**Tattoo Parlor** means any establishment that uses any method of placing ink or pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing.

**Body Piercing** means puncturing or penetration of the skin of a person with pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system shall not be included in this definition.

- D. Other uses which are similar to the above and subject to the following regulations.
1. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
  2. All businesses, servicing or processing, except for off-street parking and loading, shall be conducted within completely enclosed buildings.
- E. Customary accessory uses and buildings incidental to any of the above permitted uses, including the following:
- a) Advertising signs customarily incidental to any of the permitted uses pertaining only to the products or services offered for sale on the premises and subject to the provisions of 61.13.08 of this Ordinance
- F. The following special exception uses, upon the issuance of a permit by the Zoning Hearing Board as provided for in 61.16.02 of this Ordinance.
1. Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and sub-stations and gas regulator stations with service yards, but without storage facilities.
  2. Mortuary and funeral establishments.
  3. Residential uses either as the exclusive occupant of a lot or as a mixed use with a permitted non-residential use are permissible only when, in the opinion of the Board, adequate conditions exist or can be imposed that will make such uses compatible with the purposes of this Ordinance.
  4. Sales offices and sales lots for the retail sales of new and/ or used automobiles, trucks, boats, farm equipment and mobile homes.

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5. Conversion apartment dwellings, subject to the limitations of minimum lot and habitable floor (61.13.09) and parking (61.6.04) requirements. [Added 11-3-05 by Ord. 2003-5]

### 61.8.03 Lot Area, Building Height and Yard Requirements

- A. Lot Requirements Lot widths, area and yard setback requirements of not less than the dimensions shown as follows shall be provided for any use permitted in this district.
1. Minimum Lot Area None required for individual permitted uses.
  2. Minimum Lot Width None required for individual permitted uses.
  3. Maximum Lot Coverage Not more than fifty (50) percent of the total building coverage for any single district area.
- B. Yard Requirements
1. Front Yard Twenty (20) feet
  2. Side Yard None required for individual permitted uses, except that side yards of not less than twenty-five (25) feet shall be required when abutting any other districts specified in this Ordinance.
  3. Rear Yard Twenty (20) feet.
- C. Building Height No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height; and no accessory structure shall exceed one (1) story or fifteen (15) feet in height; except as provided for in 61.16.04 as a special exception.

### 61.8.04 Minimum Off-Street Parking, Loading and Unloading Requirements

- A. Off-street parking shall be provided in accordance with 61.13.07 in this Ordinance.
- B. Each business use shall provide off-street loading and unloading space at the side or rear of the building for each four thousand (4,000) square feet of floor area or fraction thereof in each building. Such space or spaces shall be not less than four hundred (400) square feet in area, with a dimension of ten by forty (10 x 40) feet per space, which shall be located exclusive of any public right-of-way.

### 61.8.05 Limitations of Signs

Only those signs referring or relating to the uses conducted on the premises or the materials or products made, sold or displayed on the premises shall be permitted and further provided that all signs and advertising structures shall be maintained in accordance with 61.13.08 of this Ordinance.

### 61.8.06 General Requirements

Where Highway Commercial Districts abut any residential district, a landscaped strip of not less than ten (10) feet in width shall be planted and maintained with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences shall be planted and maintained at not less than five (5) feet in height, except on corner lots where a clear sight area defined in 61.13.06 shall be maintained.

## ARTICLE IX – CBD COMMERCIAL BUSINESS DISTRICTS

### 61.9.01 Intended Purpose

The CBD Districts are intended to serve the central retail marketing function of the entire Borough and surrounding trade area and are designed to encourage development of an intensive self-contained shopping

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center catering to the free circulation of pedestrian activity having arrived by automobile. These districts are intended for a wide range of shopping and service functions which can provide adequate comparison shopping activities.

### 61.9.02 Permitted Uses

- A. Any retail business whose principal activity is the sale of new merchandise in an enclosed building.
- B. Retail sales in which both a workshop and a retail outlet or showroom are required (such as plumbing, electrician, interior decorating, dress- making, tailoring, upholstering, photographic reproducing, radio and home appliance and similar establishments of more objectionable character), subject to the following provision:

Not more than forty (40) percent of the total usable floor area of the establishment shall be used for servicing, repairing, manufacturing or processing activities.

- C. Restaurants, tea rooms, cafes, and other establishments serving food and beverages.
- D. Enclosed theaters, assembly halls, concert halls and similar places of assembly or entertainment.
- E. Customary accessory uses and building incidental to any principal permitted use, including advertising signs, subject to the provisions of 61.13.08-signs of this Ordinance; providing, however, that such signs shall not detract from the general intended purpose of this district.
- F. Office buildings, Elderly Housing and Handicap Housing.

Addendum: Motion was made at the June 5, 1990 Regular Stated Council Meeting to amend the Zoning Ordinance to read as stated in 61.9.02F permitted uses.

- G. The following special exceptional uses, upon the issuance of a permit by the Zoning Hearing Board as provided for in this Ordinance (61.16.04).
  - 1. Uses which, in the opinion of the Board, are of the same general character as those listed as permitted uses and which will not be detrimental to the intended purpose of this district.
  - 2. Motels and Hotels.
  - 3. Automobile service stations as specified by the regulations below
    - a) A set of plans, specifications and plat plans are submitted to the Zoning Hearing Board showing all structures, pumps, storage tanks, parking areas and driveways for ingress and egress.
    - b) All pumps shall be located outside of buildings and on private property and in no case within twenty (20) feet of any street line, and subject to such conditions and safeguards as the Board may impose with respect to, among other matters, the location and adequacy of entrances and exits.
    - c) All automobile parts, dismantled vehicles and similar articles are stored within a building; all fuel, oil or similar substances are stored at least thirty-five (35) feet from any street or lot line.
    - d) In no event shall a permit be granted for such a use located within five hundred (500) feet of a school hospital, church, museum, club or place of public assembly having a capacity of over one hundred (100) persons; a garage or filling station shall not be deemed non-conforming through the subsequent erection of the above uses.



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4. Roadside stands and outdoor sales of garden supplies, nursery stock, farm produce and similar merchandise sold at retail.

### **61.9.03 Lot Area, Building Height and Yard Requirements**

- A. Lot Area and Yard Setback Requirements None specified except that front, side and rear yards abutting any residential district shall not be less than twenty (20) feet.
- B. Maximum Lot Coverage None specified.
- C. Building Height No principal structure shall exceed three (3) stories or forty (40) feet in height, except as permitted as a special exception under the provisions of 61.16.02 of this Ordinance.

### **61.9.04 Limitations of Signs**

Only those signs referring or relating to the uses conducted on the premises or the materials or products made, sold or displayed on the premises shall be permitted and further provided that all signs and advertising structures shall be maintained in accordance with 61.13.08 of this Ordinance.

### **61.9.05 General Requirements**

Where CBD Districts about any residential district, a landscaped strip of not less than twenty (20) feet in width shall be planted and maintained with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens, fences or masonry walls shall be planted and maintained at not less than five (5) feet in height, except on corner lots) where a clear sight area as defined in 61.13.06 shall be maintained.

## **ARTICLE X – INDUSTRIAL DISTRICTS**

### **61.10.01 Intended Purpose**

These districts are designed to provide for the installation of various types of manufacturing and industrial uses. Regulations to minimize their incompatibility with other districts are the minimum required for the mutual protection of the industrial areas; and, to that end, the district should be buffered from any adjacent residential or business district.

### **61.10.02 Permitted Uses**

- A. Special trade contractors and building material wholesalers, providing that all materials and storage are completely enclosed within a building or similar shelter.
- B. Utilities and communications such as electrical receiving or transforming stations, radio or television broadcasting stations and gas service buildings and yards.
- C. Warehousing, refrigerated and general storage.
- D. Trucking transportation terminals, maintenance and service facilities.
- E. Laundries, laundry services and cleaning and dyeing plants.
- F. Industrial plants manufacturing, processing or assembling the following:
  1. Agricultural products.
  2. Food and kindred products.
  3. Furniture and fixtures.

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4. Printing, publishing and paperboard products.
  5. Biological products, drugs, medicinal chemicals and pharmaceutical preparation.
  6. Electrical machinery, equipment and supplies, electronic components and accessories.
  7. Professional, scientific and controlling instruments, photographic and optical goods.
  8. Any uses which are charged with the principal function of research (such as industrial, scientific and business research).
  9. Any other manufacturing plant and uses having performance characteristics similar to those listed in this district in that they emit a minimum of noise, vibration, smoke, glare, electromagnetic or atomic radiation and odor. There shall be no emission of dust, dirt nor toxic or offensive odors or gases.
- G. General construction contractors such as highway and street, heavy construction and general building, coal and coke dealers.
- H. Railroad and railroad terminal facilities.
- I. Transportation, communications, power and fuel right-of-way.
- J. Industrial plants manufacturing, processing or assembling the following:
1. Prefabricated structures and structural members.
  2. Chemical products such as plastic materials, medical chemicals, biological products and pharmaceutical preparation.
  3. Leather and leather products such as footwear, gloves and luggage.
  4. Stone, clay and glass products such as flat glass, glassware, brick and structural tile, pottery products, ceramic wall and floor tile and concrete products.
  5. Wooden containers such as boxes and crates.
  6. Aluminum, bronze, copper-base alloy and other non-ferrous castings.
  7. Machinery such as engines and turbines.
  8. Transportation equipment.
- K. Customary accessory uses and buildings incidental to any of the above permitted uses.

### 61.10.03 Lot Area, Building Height and Yard Requirements

- A. Lot Requirements      A lot width, lot area and setbacks of not less than the dimensions shown on the following table shall be provided for every principal building hereafter erected or altered for any use permitted in this district.

Lot Requirements			Yard Requirements			
Minimum Lot Area	Minimum Lot Width	Maximum Lot Cover. (%)	Front	One Side	Total Sides	Rear
1/2 Acre	100'	50%	30'	20'	45'	30'
				50' *		

\*Side yard requirement when abutting residential districts.

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- B. Building Height No building shall exceed three (3) stories or forty-five (45) feet in height unless authorized as a special exception.

### 61.10.04 Minimum Off-Street Parking and Loading Requirements

- A. Off-street parking shall be provided in accordance with 61.13.07 of this Ordinance.
- B. On the same premises with every building or structure or part thereof involving the receipt or distribution of materials or products, there shall be provided adequate space for standing, loading and unloading. All such spaces shall conform to a dimension of not less than ten by forty (10 X 40) feet or four hundred (400) square feet in area, with a clearance of not less than fourteen (14) feet in height. Spaces required shall be determined by the table below and located exclusive of any public right-of-way or required parking area.

Gross Floor Area (Sq. Ft.)	Spaces Required
Up to 2,000	None
2,001 to 10,000	One (1) Space
10,001 to 50,000	One (1) space plus one (1) additional space for each 20,000 sq. ft. or fraction thereof in excess of 10,000 sq. ft.
50,001 and Over	Three (3) spaces plus one (1) additional space for each 40,000 sq. ft. or fraction thereof in excess of 50,001 sq.ft.

### 61.10.05 Limitations on Signs

Only those signs referring or relating to the uses conducted on the premises or to the materials or products made, sold or displayed on the premises shall be permitted and further provided that all signs and advertising structures shall be maintained in accordance with 61.13.08 of this Ordinance.

### 61.10.06 General Requirements

Where I Districts abut any other non-industrial district, a landscaped strip of not less than twenty (20) feet in width shall be planted and maintained with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted and maintained at not less than five (5) feet in height, except on corner lots where a clear sight area defined in 61.13.06 shall be maintained.  
[Amended 9-1-92 by Ord. No. 92-4.]

## ARTICLE XA – R&D & LI – RESEARCH AND DEVELOPMENT AND LIGHT INDUSTRIAL DISTRICT

### 61.10A.01 Intended Purpose

The Research and Development and Light Industrial District is defined on the attached map. The purpose of this district is to provide sufficient space for limited research and development and light industrial activity within the Borough. It is further intended that research and development and light industrial operations will be compatible with surrounding residential areas.

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### **61.10A.02 Permitted Uses**

In the Research and Development and Light Industrial District, a lot or parcel may be used and a building or structure may be erected for any other following purposes:

- A. Packing, assembly and crating activities and services.
- B. Research, engineering or testing laboratories including associated offices which shall not include chemical, biological and pharmaceutical research or research concerning other hazardous substances.
- C. Administrative activities and offices, including professional and government offices.
- D. Architectural and engineering consultant offices.
- E. Assembly from components, including the assembly of radios, televisions and similar electronic products.
- F. Fabrication of models or test equipment used in research.
- G. Plastics assembly.
- H. Optical instrument systems development.
- I. Dental laboratories.
- J. Radio or television transmitter, including such as an accessory use, if it is of any type requiring licensing by the Federal Communications Commission.
- K. Clothing assembly, sewing and related activities.
- L. Warehouses, distribution centers and associated office space and showrooms, including furniture, appliances and electrical household items.
- M. Wholesale facilities and related showrooms and storage facilities.
- N. Schools for industrial or business training.
- O. Storage, min-storage and moving company facilities.
- P. Packing of candy or confectionery items, cigars, cigarettes, cosmetics, pharmaceuticals and toiletries.
- Q. Packing or assembly of furniture, electrical and office machinery, equipment and supplies.
- R. Printing, engraving and related reproduction processes.
- S. Publishing and distribution of books, newspapers and other printed materials.
- T. Customary and accessory uses and building incidental to any of the above permitted uses such as a restaurant, cafeteria or recreational facility. Also, customary and accessory uses and building incidental to any of the above permitted uses including operations required to maintain or support any use permitted above on the same lot as the permitted use such as truck repair and maintenance shops. Loading, unloading, servicing and parking of trucks shall be permitted in connection with permitted uses.
- U. Accessory parking facilities for cars, trucks and trailers incidental to the above permitted uses.

### **61.10A.03 Building Height**

No building shall exceed three (3) stories or forty-five feet (45') in height from the lowest floor grade existing on September 1, 1992, unless authorized as a special exception.

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### **61.10A.04 Off-Street Parking**

Off-street parking shall be provided in accordance with 61.13.07 of this Ordinance in connection with B. Industrial Parking Requirements.

### **61.10A.05 Limitations on Signs**

Business identification, directional signs and signs referring or relating to the uses conducted on the premises or to the materials or products made, sold or displayed on the premises, shall be permitted and further provided that all signs and advertising structures shall be maintained in accordance with 61.13.08 of this Ordinance.

### **61.10A.06 Noise and Sound Limitations**

Noise and sound requirements shall conform to all federal, state and local laws, statutes, ordinances and regulations as they are enacted and amended from time to time.

### **61.10A.07 Hazardous Substances**

Except on an incidental basis, the manufacture or use of chemicals, biological, pharmaceutical or hazardous materials in a productions process shall be prohibited in this district, including specifically their use in a production process in a school for industrial training.

### **61.10A.08 Tract No. 2**

Tract No. 2 shall be limited to the parking of automobiles.

### **61.10A.09 Zoning Map**

The zoning map of the Borough of Northumberland shall be changed to reflect the boundaries of the new district as set forth on the attached map.

## **ARTICLE XI – OS - OPEN SPACE/RECREATION**

### **61.11.01 Intended Purpose**

These district regulations are designed to protect areas in the Borough for the preservation and conservation of the natural environment and to permit and encourage the retention of open land; floodplain areas of streams; and open land uses located to constitute a harmonious and appropriate part of the physical development of the Borough.

### **61.11.02 Permitted Uses**

- A. Public conservation areas and structures for the conservation of open space, water, soil and wildlife resources.
- B. Public park and recreation areas, game refuges and similar non-intensive public uses.
- C. Agriculture, horticulture, truck gardening and nurseries.
- D. Customary accessory uses and buildings incidental to any of the above permitted uses.
- E. Single family residences, provided the lot on which located is not less than one (1) acre in area, subject further to the requirements of 61.11.03.
- F. Structures specifically designed for seasonal and/or recreational use such as tents, cabins, travel trailers or similar structures, whether of a fixed or mobile nature, may be erected or established for a limited

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time period not to exceed six (6) months, subject to the issuance of a temporary use permit (and approval of the public health officer) by the Zoning Officer, provided that there shall be no renewal of said permits for successive periods, provided further that such temporary seasonal and/or recreational use structures are so spaced that the distance between any two (2) structures shall not be less than twenty-five (25) feet. Any temporary structure hereafter erected, moved or established shall be setback not less than thirty (30) feet from any river, stream or other body of water.

- G. The following special exception uses, upon the issuance of a permit by the Zoning Hearing Board as provided for in 61.16.04 of this Ordinance.
1. Semi-public or private recreational areas, historical preservation areas.
  2. Public utility and communications buildings and structures.

### 61.11.03 Lot Area, Building Height and Yard Requirements

- A. Lot Requirements A lot width, lot area and yard setback requirements of not less than the dimensions shown in the following table shall be provided for every building or structure hereafter erected or altered for any use permitted in this district.

Public Services	Lot Requirements			Yard Requirements			
	Minimum Lot Area	Minimum Lot Width	Max. Lot Cover. (%)	Front	One Side	Total Sides	Rear
None Required	None	200'	20%	50'	20'	40'	50'

- B. Building Height No principal building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height; and no accessory building shall exceed one (1) story or fifteen (15) feet in height, unless authorized as a special exception in accordance with 61.16.04 of this Ordinance.

### 61.11.04 Minimum Off-Street Parking Requirements

Off-street parking shall be provided in accordance with the provisions of this Ordinance (61.13.07).

## ARTICLE XII – HISTORIC DISTRICTS

### 61.12.01 Intended Purpose

The Historic District area is defined on the Zoning Map (See Zoning Map) and delineated in the Historic District designation as submitted to the Bureau for Historic Preservation.

The Historic District shall be considered an overlay to the existing underlying Zoning Districts as shown on the Zoning Map, and as such, the following provisions of the Historic District shall serve as a supplement to the underlying Districts' provisions.

Where any conflict occurs between the following provisions of the Historic District and those of any underlying Zoning District, the more restrictive provisions shall apply.

### 61.12.02 Conversions Permitted

Conversion of older dwellings in the Historic District shall meet the following requirements:

- A. The maximum number of units permitted in residential properties without prior approval from the Planning Commission and/or Zoning Hearing Board, shall be two (2).

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- B. Approval for additional units within residential properties in the Historic District shall be based on the following requirements:
1. No more than four (4) residential units may be created in a residential structure, except in cases of congregate type living for the elderly which shall be considered as a separate living arrangement subject to the following requirements:
    - a) such homes shall have an on-site supervisor
    - b) such homes shall provide at least six hundred (600) square feet for each occupant and a minimum of one (1) bath per three (3) occupants
    - c) the structure shall meet all applicable state requirements, including fire and building codes for such structures
  2. The minimum size of a residential unit within such structures shall be at least six hundred (600) square feet and shall be provided with a separate exit.
  3. Members of the building owner's immediate family shall be exempt from this requirement as long as a separate and non-accessible unit with its own entrance has been created.
  4. No commercial uses shall be created within structures in the Historic District except as follows:
    - a) Professional offices, including legal, medical, dental, accounting, architect, which shall be limited to three (3) employees, including the principal.
    - b) Home occupations, which shall not employ more than three (3) persons, including the principal and shall be restricted to the following occupations:
      - 1) cottage industry
      - 2) secretarial services
      - 3) sales and service
  5. Signage in the Historic District shall- be limited to the following:
    - a) One (1) sign not to exceed five (5) square feet that shall be either fastened to front of the building at a height no greater than six (6) feet above the first floor or first floor porch area or supported by wooden posts on a front or rear lawn no less than fifteen (15) feet from the sidewalk at the front of the structure, or property line in the event there is no sidewalk.

### **61.12.03 Accessory Uses**

The Historic District Accessory Uses shall be restricted to the following categories:

- A. Cultural Institutions
- B. Mortuaries
- C. Churches
- D. Schools
- E. Parks and other open space uses

### **61.12.04 Siding**

Installation of siding shall not violate the original integrity of the historical structures and shall adhere to the following conditions:

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- A. It shall resemble the clapboard and/or other facing of the original structure.
- B. It shall be applied so that it does not obscure original architectural detailing.
- C. It shall not result in the elimination of original details such as brackets, trim, window hood moldings, roof cornices, and other original features.

### **61.12.05 Window and Door Replacement**

Windows and doors, when replaced, shall respect the original character of structures in the Historic District. Changes shall be made according to the following standards:

- A. Original window openings shall not be altered as a result of replacement. In cases where windows of similar configuration are not available at comparable cost, replacement windows shall be surrounded with trim work that is compatible in texture and color and which fills the original opening. Original arched openings shall be retained.
- B. Windows of multiple panes shall be replaced as nearly as possible to their original condition, replacement windows shall be the same dimensions as the original.
- C. In no case may different sized windows, or windows with varying numbers of panes, be used randomly or intermittently to replace windows that were of consistent size and pane numbers. Doors shall use original openings and be of similar size and texture.

## ARTICLE XIII – SUPPLEMENTARY REGULATIONS

The provisions of this Ordinance shall be subject to such exceptions, additions or modifications as herein provided by the following supplementary regulations.

### **61.13.01 Accessory Buildings**

[Amended 2022-12- as Ord. No. 2022-A.]

An accessory building attached to a principal building shall comply in all respects with the yard requirements of this Ordinance for the principal building. Detached accessory buildings shall be located to the rear of the front building line of the principal building and, if located in a side yard area, shall conform to the side yard requirements with respect to the principal building, except that such structures shall be permitted to maintain a three (3) feet set-back from an adjacent property if placed in a side yard or a ten (10) foot set-back from an alleyway. Accessory buildings shall not exceed one (1) story or fifteen (15) feet in height and may not occupy more than thirty (30) percent of a required rear yard.

### **61.13.02 Temporary Structures for Dwelling Purposes**

No cabin, mobile home, basement or other temporary structure, whether of a fixed or mobile nature, may hereafter be erected or established for any dwelling purpose for any length of time unless approval for temporary use is granted by the Zoning Hearing Board.

### **61.13.03 Water Supply and Sewerage Facilities Required**

In the interest of protecting the public health, safety and welfare, every building or structure hereafter erected, altered or moved upon any premises and used in whole or part for dwelling, commercial or recreational business or industrial purposes shall be provided with both a safe and sanitary water supply and a safe and sanitary means of collection and disposal of human excreta and domestic, commercial and industrial waste. Such facilities shall conform to the minimum requirements set forth by the Pennsylvania Department of Health.



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### 61.13.04 Exceptions

- A. Public Utility Corporations
- B. The provisions of this Ordinance shall not apply to any existing or proposed building, structure, use or extension. Thereof used or to be used by public utility corporation if, upon petition of the corporation, the Public Utility Commission shall, after public hearing, decide that the present or proposed location in question is reasonably necessary for the convenience and welfare of the public.
- C. Application to Lots of Record
  - 1. Where two (2) or more non-conforming abutting lots of record are held in one (1) ownership, either legal or equitable, or subsequently come to be held in one ownership, they shall be considered to be a single lot of record for the purpose of this Ordinance; and the provisions of the Ordinance shall not thereafter be circumvented or avoided by the willful sale or conveyance of a part or portion of any parcel or parcels.
  - 2. Where the owner of a lot of record does not own and cannot reasonably acquire sufficient adjacent land to enable him to conform to the requirements herein prescribed, such lot may be used by said owner as a building site, provided that the required open space and other provisions conform as closely as possible, in the opinion of the Zoning Hearing Board, to the requirements of the district in which it is located.
- D. Height Exceptions
- E. The height limitations of this Ordinance shall not apply to church spires, silos, belfries, cupolas, penthouses, and domes not used for human occupancy nor to chimneys, ventilators, skylights, water tanks, bulkheads and similar features and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as necessary to accomplish the purposes they are to serve and then only in accordance with any other governmental agencies.

### 61.13.05 Required Street Access

Each principal use hereafter established which involve buildings or structures for human occupancy shall be located and maintained upon a lot which abuts a street or road of at least fifty (50) feet in width for a distance of not less than thirty (30) feet, unless abutting on an existing street which is less than fifty (50) feet in width.

### 61.13.06 Visibility at Intersections

[Amended 2022-12- as Ord. No. 2022-A]

On a corner lot in any district, no fence, wall, hedge or other structure or planting more than two (2) feet in height shall be erected, placed, maintained or allowed to remain within the triangular area (the clear sight triangle) formed by the curb lines and a straight line joining points which, as measured along said curb lines, are twenty-five (25) feet distant from the intersection of the curb lines. If there are no curbs, the clear sight triangle shall be measured along the paved portion of the street, avenue or alley. No fence, wall, hedge or other structure may be constructed such that it would infringe on a right-of-way and all such structures must be erected within the property's boundaries.

### 61.13.07 Off-Street Parking

Adequate space for off-street parking of motor vehicles shall be provided and maintained for each building, structure or use hereafter erected, altered or established, exclusive of any public right-of-way. No part of any required front yard shall be used for parking purposes. A minimum of two hundred (200) square feet, exclusive of drives, entrances and exits, shall comprise one (1) vehicular parking space. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

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Minimum Requirements For Parking Areas Or Accessory Garages		
Use	Minimum Spaces Required	For Each
A. Residential		
Single- and Two-family Dwellings	1	Dwelling Unit
Multiple Dwellings & Apartment Houses	1 1/2	Unit or Apartment
Hotels, Motels and Rooming-Tourist Homes	1	Guest room or unit
B. Industrial		
Industrial Plants and Related Activities	1	Two (2) employees in the largest working shift
Warehousing, Wholesale and Storage Establishments	1	Two (2) employees in the largest working shift
Visitor Parking	1	Parking spaces for each two hundred (200) square feet of company offices or four (4) spaces, whichever is larger

### 61.13.08 Signs and Advertising Structures

[Amended 10-5-95 as Ord. No. 437.]

Signs may be erected and maintained only when in compliance with the provisions of this Ordinance and any and all other ordinances and regulations relating to the erection, alteration or maintenance of signs and similar devices.

- A. General Regulations      All signs and/or advertising structures where permitted in the Zoning Ordinance are subject to the following:
1. It shall not contain moving parts or use flashing or intermittent illumination; the source of light shall be steady and stationary.
  2. It shall not cast objectionable light upon any dwelling or mixed-use dwelling on a separate lot
  3. It shall be no higher than thirty-five (35) feet from the ground to the highest part of the sign.
  4. It shall not be so erected as to obstruct entrance to or exit from a required door, window, fire escape or other required exit way.
- B. Signs In Residential Districts.      The following types of signs may be permitted in residential districts unless otherwise provided.
1. One (1) name plate and one (1) house sign for each dwelling unit, professional office or home occupation, provided it does not exceed two (2) square feet and identifies only the name and title of occupant. It shall not extend beyond a vertical plane two (2) feet inside the lot from the street line. If lighted, it will be illuminated without objectionable glare. No displays or change in facade shall indicate from the exterior that the building is being used in whole or in part for any purpose other than that of a dwelling.

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2. Real estate sign, provided it is unlighted, is not closer to a right-of-way than one-half (1/2) the depth of the existing front yard, does not exceed six (6) square feet in area and pertains either to the lease, rental or sale of the premises on which it is maintained.
3. One (1) institutional sign, provided it does not exceed sixteen (16) square feet in area and is not closer to a right-of-way than one-half (1/2) the depth of the existing front yard. If lighted, it will be illuminated without objectionable glare.
4. Signs up to two (2) feet square in area on each side which are necessary for the identification, protection and operation of public utility facilities.

C. Signs in All Districts      The following types of signs are permitted in all districts.

1. Temporary signs of painters, mechanics, contractors and the like, provided that such signs are only located on the premises upon which the work is being done, and provided that such signs are removed immediately after the work is completed on the premises.
2. Temporary signs and banners of a non-commercial nature across rights-of-way if first approved by Borough Council, and provided that and so long as
  - a) The sign or banner is not erected in a location which would create or constitute a traffic hazard; and
  - b) The sign or banner and the method and manner of its erection and suspension over the right-of-way meet reasonable engineering and safety standard; and
  - c) The sign or banner is maintained in a safe condition by the permittee; and
  - d) The sign or banner is removed by the permittee immediately upon the expiration date set by Borough Council.
3. An identification sign of permanent nature indicating the location and/or entrance to a subdivision or development containing five (5) or more lots, provided that and so long as
  - a) The sign is no larger than twenty (20) square feet in area; and
  - b) The sign contains no commercial or advertising message; and
  - c) The sign is located on property of the subdivision or development, or property obtained for the purpose of erecting the sign; and
  - d) The location of the sign does not have an adverse effect upon public safety.
4. An advertising sign of a temporary nature designed to show sales information and the location of lots in a subdivision or development, provided that and so long as
  - a) The sign is not more than twenty-four (24) square feet in area; and
  - b) The sign is located on the property of the subdivision or development; and
  - c) The sign is located behind the front building line of the property upon which it is erected and faces the street upon which the property fronts; and
  - d) The sign does not have an adverse effect upon the health, safety and welfare of the area in which it is located or is to be located; and
  - e) The sign is removed upon expiration of six (6) months following the issuance of the permit, or upon the sale of seventy-five percent (75%) of the lots in the subdivision or development, whichever first occurs, provided, however, that upon request of the permittee

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the sign may be permitted to stand until the expiration of one additional six (6) month period or until seventy-five percent (75%) of the lots in the subdivision or development are sold, whichever first occurs.

5. Signs indicating direction to a location, double sided if requested, to which media advertising may be directed, provided that and so long as
  - a) Such sign does not exceed two (2) square feet in area; and
  - b) Permission in writing is obtained from the owner of the property upon which the sign is to be erected; and
  - c) No more than three (3) such signs may be erected to indicate the direction to a particular location.

D. Definitions For purposes of subparagraph 3 of paragraph B, an “institutional sign” is a sign indicating the location of a building or buildings which house an organization for the promotion of a cause, such as an educational facility, a training facility, a hospital, an extended care facility, or other similar or like facility.

### **61.13.09 Conversion Apartments**

In any residential district, excepting the Historic District, residential structures existing at the date of the adoption of this Ordinance may be converted into apartments, providing there shall be a minimum of two thousand (2,000) square feet of land area per apartment and a minimum of seven hundred (700) square feet of floor area per apartment without expansion of the existing residential structure.

### **61.13.10 Additions**

Additions shall meet all of the standards established for height, setbacks and land area ratios in the appropriate district in which such addition is located. They shall utilize as much as possible materials used in the original construction and relate to the scale and dimensions of the original. In no case may the dimensions of the addition be greater than one-half (1/2) the size of the original structure, unless the owner shall have submitted to the Zoning Hearing Board for approval an architect’s plan for the addition which adheres to these considerations.

### **61.13.11 Yard Sales [Repealed 10-1-99.]**

### **61.13.12 Additional Requirements for 100 Year Floodplain Area**

Any proposed new use or development or substantial changes to existing development located wholly or partially within the 100 Year Floodplain shall be subject to the standard requirements and Regulations of the Northumberland Borough Floodplain Ordinance in addition to all applicable regulations of this Zoning Ordinance.

## ARTICLE XIV – PLANNED RESIDENTIAL DEVELOPMENT

### **61.14.01 Statement of Intent**

- A. The intent of this Article is to provide, in the case of planned projects, an added degree of flexibility in the placement, bulk and inter-relationship of the buildings and uses within the planned project and the implementation of new design concepts while at the same time maintaining the overall intensity of use, density of population and amounts of light, air, access and open space specified by this Ordinance for the district in which the proposed project is to be located.

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- B. The housing type, minimum lot area, yard, height and accessory uses shall be determined by the requirements and procedures set out hereafter which shall prevail over conflicting requirements of this Ordinance or the regulations governing the subdivision of land.

### **61.14.02 Procedure**

- A. An application for a permit authorizing a special exception use must be made with the Zoning Hearing Board in three (3) copies. This application shall contain at least the following:
1. A legal description of the property under consideration, which also shows that such property is at least ten (10) acres in area.
  2. A fully dimensioned map of the land, including topographic information at a contour interval of not less than two (2) feet.
  3. A site plan showing the location of all existing and proposed principal and accessory buildings and structures, parking lots, buffer strips, plantings, streets, public ways and curb cuts.
  4. Proposed reservations for park, parkways, playgrounds, school sites and other open spaces, with an indication of the structure of the organization proposed to own and maintain the common open space.
  5. A vicinity map showing the location of the site in relation to the surrounding neighborhood.
  6. Architectural sketches, at an appropriate scale, showing building height, bulk interior layout and proposed use.
  7. The feasibility of proposals for the disposition of sanitary waste and storm water.
  8. The substance of covenants, grants of easement or other restrictions proposed to be imposed upon the use of the land, buildings and structures, including proposed easements of grants for public utilities.
  9. The required modifications in the land use regulations otherwise applicable to the subject property.
  10. A schedule showing the proposed times within which applications for final approval of all sections of the planned residential development are intended to be filed if the development plans call for development over a period of years. This schedule must be updated annually on the anniversary of its approval until the development is completed and accepted.
  11. A written statement by the landowner setting forth the reasons why, in his opinion, a planned residential development would be in the public interest and consistent with the Comprehensive Plan for the development of the Borough.
- B. The Zoning Hearing Board shall refer the application to the Borough Planning Commission and the County planning agency for study and recommendation. The County and Borough planning agencies shall be required to report to the Borough Zoning Hearing Board within thirty (30) days or forfeit the right to review. The Borough Zoning Hearing Board shall hold a public hearing within sixty (60) days after the filing of the application for tentative approval in the manner prescribed in Article XV for the enactment of an amendment to the Zoning Ordinance. The Zoning Hearing Board may continue the hearing from time to time; provided, however, that, in any event, the public hearing or hearings shall be concluded within sixty (60) days after the date of the first public hearing.
- C. After a study of the application and within thirty (30) days following the conclusion of the public hearings) the Zoning Hearing Board shall make a written report by certified mail to the applicant. Said

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report will grant tentative approval of the development plan as submitted, grant tentative approval subject to specified conditions not included in the development plan as submitted or deny tentative approval to the development plan. Failure to so act within said period shall be deemed to be a grant of tentative approval of the development plan as submitted. If tentative approval is granted subject to conditions, the landowner may, within thirty (30) days after receiving a copy of the official written report, notify the Zoning Hearing Board of his refusal to accept all said conditions; in which case, the Zoning Hearing Board shall be deemed to have denied tentative approval of the development plan. If the landowner does not, within said period, notify the Zoning Hearing Board of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.

The granting or denial of tentative approval by official written communication shall include conclusions and findings of fact related to the proposal and the reasons for the grant, with or without conditions, or the denial. Also contained in the communication shall be a statement of the respects in which the development plan is or is not in the public interest, including conclusions on the following:

1. Those respects in which the development plan is or is not consistent with the Comprehensive Plan for the development of the Borough.
  2. The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including, but not limited to, density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest.
  3. The purpose, location and amount of the common open space in the planned residential development; the reliability of the proposals for maintenance and conservation of the common open space; and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development.
  4. The physical design of the development plan and the manner in which said design does or does not make adequate provision for public service; provide adequate control over vehicular traffic; and further the amenities of light and air, recreation and visual enjoyment.
  5. The relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood in which it is proposed to be established.
  6. In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interest of the public and the residents of the planned residential development in the integrity of the development plan.
  7. The time period within which an application for final approval shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. The time so established shall not be less than three (3) months and, in the case of the phased development, not less than twelve (12) months for applications for each part of a plan.
- D. The official written communication shall be certified by the Secretary of the Zoning Hearing Board and filed in his office. Where tentative approval has been granted, the same shall be noted on the Zoning Map.

Tentative approval shall not qualify a plat of the planned residential development for recording, development or the issuance of any building permits. A plan which has received tentative approval shall not be modified, revoked nor otherwise impaired by action of the Borough if the time periods for submission of the final application specified in said written communication are being fulfilled without the consent of the applicant.

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In the event tentative approval was granted, but prior to final approval, and the applicant elects to abandon said plan and notifies the Zoning Hearing Board in writing or fails to file for final approval within the specified times, the tentative approval shall be deemed to be revoked; and all the area in the development plan which has not received final approval shall be subject to the Zoning Ordinance as otherwise applicable thereto, and the same shall be noted on the Zoning Map and in the records of the Secretary of the Zoning Hearing Board.

- E. The application for final approval may be for all the land included in the plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the Zoning Hearing Board within the time or times specified by the tentative approval. The application for final approval shall meet all requirements and contain all enclosures specified for the final plan of a subdivision within the Northumberland Borough Subdivision and Land Development Ordinance. A public hearing on an application for final approval of the development plan or part thereof shall not be required, provided the development or part thereof submitted for final approval is in compliance with the development plan thereto for a given tentative approval and with any specified conditions attached thereto.
1. When the final application has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the Ordinance and the official written communication of tentative approval, the Zoning Hearing Board shall, within thirty (30) days of such filing, grant final approval to said plan.
  2. When the final application contains variations from the plan given tentative approval, the Zoning Hearing Board may refuse to grant final approval and shall, within thirty (30) days of the filing, so advise the applicant of said refusal, setting forth the reasons why one or more of the variations are not in the public interest. In the event of such refusal, the applicant may either re-file his application without the objected variations or request a public hearing on his application for final approval. Either action shall be taken within the time which the applicant was entitled to apply for final approval or within thirty (30) additional days if the said time already passed when the applicant was advised of the denial. If no action is taken by the applicant, the plan is deemed to have been abandoned. If a public hearing is requested, it shall be conducted in the same manner prescribed for tentative approval; but the written communication shall either grant or deny final approval while in the form and contain the findings required for an application for tentative approval.
- F. A development plan or any part thereof which has received final approval shall be certified by the Zoning Hearing Board and filed within ninety (90) days with the Northumberland County Recorder of Deeds. Should the plan not be recorded within such period, the action of the Zoning Hearing Board shall become null and void. No development plan shall take place until the plan has been recorded; and from that time, no modification of the provisions of said plan or part thereof as finally approved shall be made without the consent of the landowner.
- G. In the event a plan or section thereof has been given final approval and the landowner decides to abandon said plan or section and shall so notify the Zoning Hearing Board or fail to develop the plan according to the annually up-dated schedule, no development or further development shall take place on the property included in the plan until the said property is re-subdivided and reclassified by enactment of an amendment to the Northumberland Borough Zoning Ordinance.
- H. Any decision of the Zoning Hearing Board under this Article granting or denying tentative or final approval of a development plan shall be subject to appeal to court in the same manner and within the same time limitation provided for zoning appeals.

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### 61.14.03 Planned Development Standards

#### A. Dwelling Units Permitted

1. The maximum number of dwelling units permitted as an average per acre shall be four (4) in the case of single-family units and eight (8) in the case of attached multiple-unit development. The area of land set aside for common open space or recreational use shall be included in determining the number of dwelling units permitted. In no case may more than twenty (20) percent of the net developable land area, as defined by zone, be developed into multiple dwellings. Net development area shall be determined by subtracting the area set aside for churches and school use from the gross development area and deducting fifteen (15) percent of the remainder for streets, regardless of the amount of land actually required for streets.
2. The minimum number of dwelling units permitted as an average per acre shall be two (2) in the case of single-family units and four (4) in the case of attached multiple-unit development.

B. Lot Area and Frontage The minimum lot area and minimum lot frontage of single-family dwelling lots established within the development shall not be less than three-fourths (3/4) of the normal- minimum lot area or minimum lot frontage of the single family district in which the lot is located. In no case shall a single-family lot be created with an area of less than five thousand (5,000) square feet or a frontage of less than fifty (50) feet at the building line and thirty (30) feet at the right-of-way property line.

C. Other Requirements Off-street parking shall be provided according to the minimum requirements set forth in 61.13.07 of this Ordinance. The layout and improvement of parking lots and garages shall also conform with this section and other applicable ordinances. The design, arrangement and improvement of streets and driveways shall conform with the ordinance regulating the subdivision of land.

## ARTICLE XV – NON-CONFORMING BUILDINGS AND USES

### 61.15.01 Continuance

Except as otherwise provided in this Section, the lawful use of land or buildings existing at the date of the adoption of this Ordinance may be continued, although such use or building does not conform to the regulations specified by this Ordinance for the zone in which such land or building is located; provided, however, that no non-conforming lot shall be further reduced in size.

### 61.15.02 Cessation of Use

A non-conforming use shall be adjudged as terminated when there occurs a cessation of any such use or activity by an apparent act or failure to act on the part of the tenant or owner to re-instate such use with a period of one (1) year from the date of cessation or discontinuance. Such use shall not thereafter be re-instated, and the structure shall not be re-occupied except in conformance with this Ordinance.

### 61.15.03 Restoration

If any non-conforming building shall be destroyed by reason of windstorm, fire, explosion or other act of God or the public enemy to an extent of more than fifty (50) percent of the building, then such destruction shall be deemed complete destruction; and the structure may not be rebuilt, restored or repaired except in conformity with the regulations of this Ordinance. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the Building Inspector.



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### **61.15.04 Reversion**

No non-conforming use shall, if once changed into a conforming use, be changed back again into a non-conforming use.

### **61.15.05 Alterations**

A non-conforming building may be altered or improved, provided the alteration or improvement does not amount to a substantial increase of a non-conforming use; but if such alterations or improvements involve any increase in lands so used or in the cubic content of the buildings so used, the permit for the alteration or improvement shall be issued only upon special exception granted in accordance with law. In addition, the following criteria shall apply.

- A. The proposed alteration shall be within the lot limits which existed for the property in question at the time of the adoption of this Ordinance.
- B. The proposed alteration shall not exceed twenty-five (25) percent of the gross floor area occupied by the non-conforming use at the time of the enactment of this Ordinance, subject to the approval of the Zoning Hearing Board.
- C. The proposed alteration will not cause an increased detrimental effect on the surrounding neighborhood.

### **61.15.06 Construction Approved Prior To Ordinance**

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit and the ground story framework of which, including the second tier of beams, shall have been completed within six (6) months of the date of the permit and which entire building shall be completed according to such plans as filed within one (1) year from the date of this ordinance.

### **61.15.07 District Changes**

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any non-conforming uses existing thereon or created thereby.

### **61.15.08 Discontinued Non-Conforming Use of Open Land**

All non-conforming signs, billboards, junk storage areas, storage areas and similar non-conforming uses of open land involving a substantial investment in permanent buildings, when discontinued for a period of six (6) months or damaged to an extent of fifty (50) percent or more of replacement costs, shall not be continued, repaired or reconstructed.

## **ARTICLE XVI – ADMINISTRATION AND ENFORCEMENT**

### **61.16.01 Zoning Officer**

The provisions of this Ordinance shall be administered and enforced by the Zoning Officer who is hereby granted all powers necessary to carry out his duties in connection with this Ordinance, including the power to make inspection of buildings or premises and to institute civil enforcement proceedings. The Zoning Officer shall administer this Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the Ordinance.

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### **61.16.02 Permits**

- A. Zoning Permits     Zoning permits shall be issued by the Zoning Officer. The fee for said permit shall be such as Borough Council shall establish by Resolution.
- B. Temporary Use Permits     The Zoning Officer may issue a temporary use permit for a period not to exceed six (6) months for activities otherwise prohibited by other provisions of this Ordinance, under the following conditions:
  - 1. The Zoning Hearing Board must find that the activities are of such nature and so located that they will not have a detrimental effect upon the uses of land and activities normally permitted in the zone, or that the activities contribute materially to the welfare of the Borough, particularly in a state of emergency, under conditions peculiar to the time and place involved.
  - 2. The use shall be subject to any conditions imposed by the Zoning Hearing Board by applying such of the regulations governing the issuance of special exceptions as it deems appropriate under the circumstances.
- C. Occupancy Permits     It shall be unlawful to use or permit the use of any part of any building or premises that is hereafter created, located, erected, changed, converted or enlarged, wholly or partly, until an occupancy permit has been issued certifying that the provisions of this Ordinance have been complied with. Occupancy permits shall be granted or denied by the Zoning Officer.

### **61.16.03 Appeals from Zoning Officer**

All appeals from determinations of the Zoning Officer shall be taken before the Zoning Hearing Board.

### **61.16.04 Enforcement Notice**

- A. If it appears to the Zoning Officer that a violation of this Ordinance has occurred the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- B. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
- C. An enforcement notice shall state at least the following:
  - 1. The name of the owner of record and any other person against whom the Borough intends to take action.
  - 2. The location of the property in violation.
  - 3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable Provisions of this Ordinance.
  - 4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  - 5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this Ordinance.
  - 6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning hearing Board, constitutes a violation, with possible sanctions clearly described.

### **61.16.05 Enforcement Remedies**

- A. District Justices shall have initial jurisdiction over proceedings brought under this section.

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- B. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]** plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence, or be imposed, levied or payable, until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Borough.
- C. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- D. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence any action for enforcement pursuant to this section.

### **61.16.06 Preventive Causes of Action by Borough or Aggrieved Person**

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, the Zoning Officer, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given.

### **61.16.07 Records**

It shall be the duty of the Zoning Officer to keep a record of all applications for permits and of all permits issued together with all notations, correspondence, documents, plans, etc., relating thereto. He shall maintain files for the same in the Borough office.

The Zoning Officer shall prepare a monthly report for the Borough Council of all permits issued, and of all complaints of violations and the action taken by him on said complaints.

### **61.16.08 Zoning Hearing Board ("Board")**

#### **A. Membership Of The Board**

1. The membership of the Board shall consist of three (3) residents of the Borough appointed by resolution by Borough Council. Their terms of office shall be three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough.

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2. The Borough Council may appoint by resolution at least one but no more than three residents of the Borough to serve as alternate members of the Board. The term of office of an alternate member shall be three years. When seated pursuant to the provisions of 61.16.08C21 an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this act and as otherwise provided by law. Alternates shall hold no other office in the municipality, including membership on the planning commission and zoning officer. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated unless designated as a voting alternate member pursuant to 61.16.08C2.

B. Removal Of Members Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Borough Council, taken after the member has received fifty (15) days advance notice of the intent to take such a vote. A public hearing shall be held in connection with the vote if the member shall request it in writing.

### C. Organization Of Board

1. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in this Ordinance.
2. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially designated to set until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.
3. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit a report of its activities to the governing body as requested by Borough Council.

D. Board's Jurisdiction The Board shall have exclusive jurisdiction to hear and render final adjudication in all matters authorized by the Planning Code, which includes, among others, the following matters:

1. Substantive challenges to the validity of this Ordinance, except those brought before Borough Council under curative amendment provisions of the Planning Code.
2. Challenges to the validity of an ordinance amending the Borough's Zoning Ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance.
3. Appeals from the determination of the zoning officer, including, but not limited, to the granting or denial of any permit, or failure to act on the application therefore, or the issuance of any cease and desist order.
4. Applications for variances from the terms of this Ordinance.

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5. Applications for special exceptions under this Ordinance.
6. Nothing contained in this Ordinance shall be construed to deny the appellant the right to proceed directly to court where appropriate, pursuant to the Pennsylvania Rules of Civil Procedure No. 1091 relating to actions in mandamus.

### E. Actions Before The Board

1. Appeals under 61.16.08 D 1, 2, and 3 may be filed with the Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved.
2. Requests for a variance under 61.16.08 D4 and for special exception under 61.16.08 D5 may be filed with the Board by any landowner, or any tenant with the permission of such landowner.
3. No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for a zoning permit has been approved by the Zoning Officer if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given.
4. All appeals from determinations adverse to the landowner shall be filed by the landowner with thirty (30) days after notice of the determination is issued.

### F. Board Hearings:

1. The Board shall conduct its hearings and make its decisions in accordance with Article IX of the Planning Code.
2. Notice of any hearing shall be published once each week for two successive weeks. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing. Written notice shall be given one time to the applicant, the zoning officer, and any person who has made timely request for the same. Written notices shall be given by regular mail and shall be mailed not more than thirty (30) days nor less than seven (7) days from the date of the hearing. In addition, written notice shall be conspicuously posted on the affected tract of land at least one week prior to the hearing. All notices shall state the time and place of the hearing and the particular nature of the matter to be considered.
3. The applicant shall pay such fees as Borough Council prescribes by resolution, which fees may include compensation for the secretary and members of the zoning hearing board, notice and advertising costs and necessary administrative overhead connected with the hearing.
4. The hearing shall be held within sixty (60) days from the date of the applicant's request, unless the hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer.
5. The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer.
6. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument, and to cross examine adverse witnesses on all relevant issues.
7. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
8. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the

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person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

9. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate.
10. The Board or the hearing officer (if his decision or findings are to be final), as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer.
11. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, except in those cases where the validity of this Ordinance or the Zoning Map have been challenged on substantive grounds, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
12. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date.

### G. Board's "Validity Of Ordinance:" Function

1. The following challenges not involving a curative amendment, shall be submitted to the Board:
  - a) A landowner who, on substantive grounds, desires to challenge the validity of this Ordinance or the Zoning Map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest.
  - b) Persons aggrieved by a use development permitted on the land of another by this Ordinance or the Zoning Map, or any provision thereof, who desires to challenge its validity on substantive grounds.
2. The challenging party shall make a written request to the Board that it hold a hearing on its challenge. The request shall contain the reasons for the challenge.
3. Based upon the testimony presented at the hearing or hearings, the Board shall determine whether the challenged ordinance or map is defective, as alleged. If a challenge is found to have merit, the decision of the Board shall include recommended amendments to the challenged ordinance which will cure the defects found. In reaching its decision, the Board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:
  - a) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
  - b) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;

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- c) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains aquifers, natural resources and other natural features;
  - d) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
  - e) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
4. The challenge shall be deemed denied when the Board fails to commence the hearing within the time limits set forth in this Ordinance or fails to act on the request forty-five (45) days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and the Borough.

### H. Board's "Variance" Function

1. The Board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following finds are made where relevant in a given case:
- a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located.
  - b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
  - c) That such unnecessary hardship has not been created by the appellant.
  - d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
  - e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
2. In granting any variance, the Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this Ordinance and Planning Code.

### I. Board's "Special Exceptions" Function

1. Where, in this Ordinance, it is stated that special exceptions may be granted or denied by the Board, the Board shall hear and decide requests for such special exceptions in accordance with the following standards and criteria:
- a) The requested use must be one allowed by special exception.
  - b) The Board must determine that requested use will preserve the public health, safety, morals and general welfare of the Borough, and in making that determination the Board shall

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- 1) Consider whether the requested use will bring about an unwarranted or excessive increase in traffic.
  - 2) Consider whether the requested use will generate a type or volume of traffic that will be unwarranted or excessive in view of congestion.
  - 3) Consider the effect of the requested use upon the character of the immediate neighborhood, taking into consideration all relevant factors including, but not limited to, the conservation of the value of existing buildings and property, and the requested use's consistency with surrounding uses and surrounding zoning.
2. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purpose of this Ordinance.
- J. Stay Of Proceeding        Upon filing of any proceeding referred to in 61.16.06D before the Board, and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or any agency or body and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property; in which case, the development or official action shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Court of Common Pleas of Northumberland County on petition after notice to the Zoning Officer or other appropriate agency or body.
- K. Appeals To Court
1. All appeals from decisions of the Board shall be taken to the Court of Common Pleas of Northumberland County.
  2. The procedures set forth in the Planning Code shall constitute the exclusive mode for the review, by appeal, of any decision rendered or deemed to have been made under this Ordinance and the Planning Code. Said procedures provide, among other things, that all appeals to the Court shall be filed within thirty (30) days after entry of the decision or, in case of a deemed decision, within thirty (30) days after the date upon which notice of said deemed decision is given.

### **61.16.09 Zoning Ordinance Amendments**

The Borough Council may, from time to time, on its own motion or on petition or recommendation of the Planning Commission, amend any provisions of this Ordinance in accordance with the following procedure:

- A. Before voting on the enactment of an amendment, Borough Council shall hold a public hearing thereon. Notice of said hearing shall be published once a week for two successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the place of the hearing and the matter to be considered. The first publication shall be not more than thirty (30) days and the second shall not be less than seven (7) days from the date of the hearing. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the perimeter of the tract at least one (1) week prior to the date of the hearing to notify potentially interested citizens.
- B. In the case of an amendment other than that prepared by the Planning Commission, the Borough Council shall submit each such amendment to the Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.



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- C. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised to include land previously not affected by it, Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- D. At least thirty (30) days prior to the public hearing on the amendment by the Borough Council, the Borough shall submit the proposed amendment to the County Planning Commission for recommendations.
- E. Within thirty (30) days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the County Planning Commission.
- F. Notice of the proposed enactment of zoning ordinance amendments shall be given in the following manner, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the Borough where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Borough Council shall publish the proposed amendment once in one (1) newspaper of general circulation in the Borough not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:
  - 1. A copy thereof shall be supplied to the newspaper in which the notice is published.
  - 2. An attested copy of the proposed ordinance shall be filed in the county law library.
  - 3. In the event substantial changes are made in the proposed amendment, before voting upon enactment, the Borough Council shall, at least ten (10) days prior to enactment, re-advertise a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.

## **ARTICLE XVII – INTERPRETATION, VALIDITY, REPEALER & EFFECTIVE DATE**

### **61.17.01 *Conflicting Regulations***

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals and general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

### **61.17.02 *Repealer***

All ordinances or parts of ordinances in conflict with this Zoning Ordinance or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

### **61.17.03 *Validity***

Should any section, clause, provision or portion of this Ordinance be held to be invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of this Ordinance which is not in itself invalid or unconstitutional

## Chapter 61 – Zoning

### 61.17.04 *Effective Date*

This Ordinance shall take effect immediately upon adoption and advertisement - the public welfare demanding it.

## ARTICLE XVIII – WIRELESS COMMUNICATIONS TOWERS & ANTENNAS

### 61.18.01 *Purpose*

The purpose of this ordinance is to establish general guidelines for the site of wireless communications towers and antennas. The goals of this ordinance are to:

- A. encourage the location of towers in non-residential areas, where possible;
- B. minimize the total number of towers throughout the community;
- C. strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- D. encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- E. encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, site, landscape screening, and innovative camouflaging techniques;
- F. enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently,
- G. consider the public health and safety of communication towers;
- H. avoid potential damage to adjacent properties from structural failure of the tower through engineering and careful siting of tower structures; and
- I. permit and manage reasonable access to the public ways for telecommunications purposes on a competitively neutral basis. In furtherance of these goals, the Borough shall give due consideration to the Borough's zoning map, existing land uses, and environmentally sensitive areas in approving sites for the locations of towers and antennas.

### 61.18.02 *Definitions*

As used in this ordinance, the following terms shall have the meanings set forth below:

**Alternative tower structure** means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**Antenna** means any transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

**Backhaul network** means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long-distance providers, or the public switches telephone network.

**Council** means Council for the Borough.

**FAA** means the Federal Aviation Administration.

**FCC** means the Federal Communications Commission.

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**Height** means when referring to a towers or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

**Preexisting towers and preexisting antennas** means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

**Tower** means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

**Telecommunications Overlay District or TO** means all that property owned, leased, or otherwise controlled by the Borough including its rights of way, and including the rights of way of state highways located in the Borough with the permission of acquiescence of the State.

### 61.18.03 Applicability

- A. New Towers and Antennas: All new towers and antennas in the Borough shall be subject to these regulations, except as provided in Sections 3(b) through (d) inclusive.
- B. Amateur Radio Station Operators/Receive Only Antennas: This ordinance shall not govern any tower, or the installation of any antenna, that complies with the pertinent height requirement of the Zoning Code, and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receiving only antennas.
- C. Pre-existing Towers or Antennas: Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Sections 4(d) and 4(e).
- D. AM Array: For purposes of implementing this ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM Array. Additional tower units may be added within the perimeter of the AM array by right.

### 61.18.04 General Requirements

- A. Inventory of Existing Sites: Each applicant for an antenna and/or tower shall provide to Council an inventory of its existing towers, antennae, or sites approved for towers or antennae, that are either within the jurisdiction of the Borough or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Council may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the Borough, provided, however, that the Council is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- B. Aesthetics: Towers and antennas shall meet the following requirements:
  - 1. Towers shall be either blue, reinforced concrete or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

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2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  3. If an antenna is installed on a structure or a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- C. Lighting: Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternative and design chosen must cause the least disturbance to the surrounding views.
- D. State or Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- E. Building Codes: Safety Standards: To ensure the structural integrity of towers, the owner of a tower shall ensure that it is designed, constructed and maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. All towers shall be designed by a licensed professional Engineer registered in the State of Pennsylvania and all drawings submitted for approvals shall be signed and sealed by the same Engineer responsible for the design. All construction shall be supervised by qualified personnel and a certification shall be prepared and presented to the Borough by a licensed professional Engineer registered in the State of Pennsylvania that the design and construction conform to the highest standards of engineering and construction. If, at any time, the Borough concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days, shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- F. Not Essential Services: Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as public utilities, or private utilities.
- G. Franchises: Owners and/or operators of towers or antennas shall certify that all licenses or franchises required by law for the construction and/or operation of a wireless communication system in the Borough have been obtained and shall file a copy of all required licenses or franchises with the Council.
- H. Public Notice: For purposes of this ordinance, any special exception request or appeal of an administrative decision shall require public notice pursuant to the dictates of the Zoning Code.
- I. Signs: No signs shall be allowed on an antenna or tower, except as required by law.
- J. Support Equipment: The support equipment associated with antennas or towers shall comply with the requirements of 61.8.

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- K. Multiple Antenna/Tower Plan: The Borough encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
- L. Co-location: In order to reduce the number of towers in the Borough in the future, the proposed tower, if required by the Council and/or Zoning Hearing Board, shall be designed to accommodate future other communication users, including commercial wireless communication companies, local police, fire and ambulance companies.
- M. Service to the Borough: A provider of telecommunications service within the Borough shall make its telecommunications services available to the Borough at its most favorable rate for similarly situated users, unless otherwise provided for in a lease, license or franchise agreement.

### **61.18.05 Administrative Review**

The following provisions shall govern the administrative review of towers and antennas

- A. The Borough shall administratively review each request for the siting and/or erection of any tower or antenna.
- B. Each applicant for administrative review shall in the first instance apply to the Council, providing the information set forth in Sections 7(b)(1) and 7(b)(3) or this ordinance and a non-refundable charge as established by resolution of the Council to reimburse the Borough for the costs associated with reviewing the application. This is in addition to any other applications or fees that may be required.
- C. The Council shall review the application to determine if the proposed use complies with Sections 18.04 and 18.07 (c) of this ordinance. The Council shall also consider the factors set forth at 61.18.07(b)(2) through 18.07(b)(7) inclusive.
- D. In connection with any such administrative review pursuant to 61.18.07, the Council may recommend to the Zoning Hearing Board reduction of the setback requirements in 61.18.07(b)(4) and the separation distances between towers in 61.18.07(b)(5).
- E. In connection with any such administrative approval, the Council may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

### **61.18.06 Permitted Uses**

- A. Telecommunications Overlay District. A Telecommunications Overlay District is hereby created. This Telecommunications Overlay District applies to all Zoning Districts in the Borough. The Telecommunications Overlay District ("TO") shall consist of property owned, leased or otherwise controlled by the Borough, including its rights of way, and including the rights of way of state highways within the Borough with the permission or acquiescence of the State.
- B. Locating antennas or towers within a Telecommunications Overlay District is a use specifically permitted provided that:
  - 1. A license or lease authorizing such antenna or tower has been approved by the Borough, and (2) the Borough has administratively approved the application.
  - 2. The requested use must comply in every way with the Zoning Code, except that there shall be a minimum setback of one hundred (100) feet from any residential property line.
- C. All towers and antennae erected, installed or located as a permitted use shall be located so as to minimize the adverse visual impact of the tower and/or antenna.

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1. A license or leave authorizing such antenna or tower has been approved by the Borough, acting through its Council;
  2. the Council has administratively approved the application; and
  3. the use complies in every other way with the Zoning Code.
- D. All towers and antennae erected, installed or located as permitted use shall be located so as to minimize the adverse visual impact of the tower and/or antenna.

### **61.18.07 Special Exception**

- A. General. The following provisions shall govern the issuance of a special exception for towers or antennae:
1. If the tower or antenna is not permitted pursuant to 61.18.06 of this ordinance, a special exception shall be required for the construction of a tower or the placement of an antenna in all zoning districts other than Residence districts. Towers and antennae are only allowed in any Residential districts pursuant to 61.18.06.
  2. Administrative approval pursuant to 61.18.05 of this ordinance shall be requested at the time an applicant files a request for a special exception.
  3. Applications for special exceptions under this 61. shall be subject to the procedures and requirements of the Zoning Ordinance, including the usual costs and fees.
  4. In granting a special exception, the Zoning Hearing Board (AHB) may impose conditions to the extent the Zoning Hearing Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.
  5. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer registered in the State of Pennsylvania.
  6. An applicant for a special exception shall submit, in duplicate, the information described in this 61 with one (1) copy for the Council and the other copy for the Zoning Hearing Board.
- B. Towers:
1. Information required. In addition to any information required for applications for a special exception, applicants for a special exception for a tower shall submit the following information:
    - a) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in 61.7(b)(5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed by the Council to be necessary to assess compliance with this ordinance.
    - b) Legal description of the parent tract and leased parcel (if applicable)
    - c) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
    - d) The separation distance from other towers described in the inventory of existing sites submitted pursuant to 61.4(a) shall be shown on an updated site plan on map. The

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applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

- e) A landscape plan showing specific landscape materials.
  - f) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
  - g) A description of compliance with Sections 4(a), (b), (c), (d), (e), (g), (i) and (j), 7(b)(5) and all applicable federal, state or local laws.
  - h) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
  - i) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
  - j) A description of the feasible location(s) of future towers or antennas within the Borough based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
2. Factors Considered in Granting a Special Exception for Towers. In addition to any standards for consideration of special exception applications pursuant to the Zoning Ordinance, the Zoning Hearing Board shall consider the following factors in determining whether to issue a special exception, although the Zoning Hearing Board may waive or reduce the burden on the applicant of one or more of these criteria if the Zoning Hearing Board concludes that the goals of this ordinance are better served thereby:
- a) Height of the proposed tower
  - b) Proximity of the tower to residential structures and residential district boundaries;
  - c) Nature of uses on adjacent and nearby properties;
  - d) Surrounding topography;
  - e) Surrounding tree coverage and foliage;
  - f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - g) Proposed ingress and egress, with particular reference to access via streets in non-residential districts; and
  - h) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in 61.7(b)(3) of this ordinance.
  - i) Administrative review and recommendation by the Council pursuant to 61.5.
3. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Zoning Hearing Board that no existing tower, building, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Council related to the availability of suitable existing towers, buildings, other structures or alternative technology. Evidence to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

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- a) No existing towers, buildings or structures are located within the geographic area which meet applicant's engineering requirements.
  - b) Existing towers, buildings or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - c) Existing towers, buildings or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers, buildings or structures, or the antenna on the existing towers, buildings or structures would cause interference with the applicant's proposed antenna.
  - e) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - f) The applicant demonstrates that there are other limiting factors that render existing towers and structures suitable.
  - g) The applicant demonstrates that an alternate technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
4. Setbacks. The following setback requirements shall apply to all towers and antennae for which a special exception is required; provided, however, that the Zoning Hearing Board may reduce the standard setback requirements if the goals of this ordinance would be better served thereby;
- a) Towers must be set back a distance equal to at least twice the applicable setback requirements, but in no case less than 50' from any adjoining lot line.
  - b) Guys and accessory buildings must satisfy the minimum zoning setback requirements.
5. Separation. The following separation requirements shall apply to all towers and antennas for which a special exception is required; provided, however, that the Zoning Hearing Board may reduce the standard separation requirements if the goals of this ordinance would be better served thereby.
- a) Separation from off-site uses/designated areas.
    - 1) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated area as specified in Table 1, except as otherwise provided in Table 1.
    - 2) Separation requirements for towers shall comply with the minimum standards established in Table 1.



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**Table 1**

Off-site Use/Designated Area	Separation Distance
Single-family or duplex residential units(1)	500 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	500 feet or 300% height of tower (2) whichever is greater
Existing multi-family residential units greater than duplex units	250 feet or 150% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

i. Includes modular homes and mobile homes used for living purposes.

ii. Separation measured from base of tower to closest building setback line.

b) Separation distances between towers.

- 1) Separation distances between towers shall be applicable for and measured between the proposed tower and pre-existing towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

**Table 2**

	Existing Towers - Types			
	Lattice	Guyed	Monopole 75 Ft. in Height or Greater	Monopole less than 75 Ft. in Height

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Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 Ft. in Height or Greater	1,500	1,500	1,500	750
Monopole Less than 75 Ft. in Height	750	750	750	750

6. Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Council or Zoning Hearing Board may waive such requirements, as it deems appropriate.
7. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special exception is required; provided, however, that the Council or Zoning Hearing Board may waive such requirements if the goals of this ordinance would be better served thereby.
  - a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
  - b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
  - c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
8. Antennae: The applicant shall demonstrate that the antenna(e) is the minimum height required to function satisfactorily to serve the technical requirements of the applicant.

### 61.18.08 Equipment Storage

- A. Antennas Mounted on Rooftops: The equipment cabinet or structure used in association with legally-placed antennas mounted on rooftops shall comply with the following:
  1. The cabinet or structure shall not contain more than ten (10) square feet of gross floor area or be more than eight (8) feet in height. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if over ten (10) square feet of gross floor area or eight (8) feet in height, shall be located on the ground and shall not be located on the roof of the structure.
  2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than one percent (1 %) of the roof area.
  3. Equipment storage cabinets or cabinets shall comply with all applicable building Codes.
- B. All Other Legally-Placed Antennas: For all other legally-placed antennas, the related unmanned equipment cabinet or structure shall comply with all applicable Building Codes and shall contain no

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more than sixteen (16) square feet of gross floor area nor be more than twelve (12) feet in height, and may be located:

1. In front or side yard provided the cabinet or structure is no greater than six (6) feet in height or sixteen (16) square feet of gross floor area and the cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least sixty to sixty-six (60-66) inches and a planted height of at least thirty-six (36) inches.
  2. In a rear yard, provided the cabinet or structure is no greater than six (6) feet in height or sixteen (16) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate of eight (8) feet and a planted height of at least thirty-six (36) inches.
- C. Modification of Size Requirements: The requirements of 61.8 may be modified by the Council in the case of administrative approvals or by the Zoning Hearing Board in the case of a special exception to encourage collocation.

### **61.18.09 Removal of Abandoned Antennas and Towers**

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Council notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds for the Borough to cause the removal of the tower of antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

### **61.18.10 Nonconforming Uses**

Not expansion of Nonconforming Use: Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

- A. Pre-existing Towers: Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such pre-existing towers. New construction other than routine maintenance on a pre-existing tower shall comply with the requirements of this ordinance.
- B. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas: Notwithstanding 61.9, pre-existing nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special exception and without having to meet the separation requirements specified in Sections 7 (b) (4) and 7 (b) (5). The type, height, and location of the tower on-site shall be of the same type and intensity as the original facility. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is first damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in 61.9.

### **61.18.11 Severability**

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any clause, sentence or other provisions of this Ordinance should be declared unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect the remaining provisions of this Ordinance, and the Borough Council declares that it would have adopted this Ordinance had such unconstitutional, illegal or invalid provisions not been contained herein.

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