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OFFICIALS

of the

CITY OF NANTICOKE

County of Luzerne

Pennsylvania

ELECTED OFFICIALS

Mayor - John Toole

Council - John Bushko
- Yvonne Bozinski
- William Brown
- Joseph Dougherty

Tax Collector - Albert Wytoshek

APPOINTED OFFICIALS

Manager - Greg Gulick
Secretary - Michael Yurkowski
Treasurer - Albert Wytoshek
Codes Officer - Richard Wiaterowski
Solicitor - Bernard Kotulak
Engineer - Michael J. Pasonick
FOREWORD

History

This comprises the codification of the ordinances of the City of Nanticoke. The City of Nanticoke was originally settled in [ ] and was incorporated as a City parts of [ ].

The Code of Ordinances of the City of Nanticoke was prepared by Penns Valley Publishers, a division of Fry Communications, Inc., and adopted by the City Council on December 1, 2004 by Ordinance Number 16-2004.

Organization

The Code contains four parts which are (1) the valid current ordinances of the City of Nanticoke contained in Chapters 1 through 27, (2) the Appendix, which lists by abstracted title all ordinances of a temporary or "one time" nature, (3) the Key to the disposition of each ordinance ever enacted by the City of Nanticoke, and (4) the Index, which is an alphabetical arrangement of subjects.

In the Code each Chapter is separated by a divider tab, and specific ordinances can be located by subject on the contents page at the beginning of each Chapter. The Index may also be used to search for a subject when one is looking for general information on a particular subject, or if it is not known in which Chapter the subject might be found. The Appendix consists of several general categories containing a chronological listing of short subject descriptions along with a reference to the original ordinance and its date of enactment, if known.

The Key to disposition indicates what action has been taken by the City Council with regard to every ordinance ever enacted. An ordinance has either been (1) specifically repealed, (2) superseded by another ordinance, (3) is located in a Chapter of the Code book, or (4) is located in the Appendix. Annual tax rate and budget ordinances are located only in the Key. The Key is a cross reference to the original ordinance books of the City of Nanticoke, and to the location within the Code of each ordinance by number.
ORDINANCE NO. 16-2004

AN ORDINANCE ADOPTING THE CODE OF ORDINANCES OF THE CITY OF NANTICOKE, LUZERNE COUNTY, PENNSYLVANIA; CONSOLIDATING, REVISIGN, AMENDING AND REPEALING CERTAIN ORDINANCES; ENACTING CERTAIN NEW PROVISIONS; PROVIDING A PROCEDURE FOR AMENDING THE CODE AND FOR THE CITATION OF THE CODE AND THE EFFECTIVE DATE THEREOF; ESTABLISHING RESPONSIBILITY FOR THE MAINTENANCE OF THE CODE; SAVING CERTAIN PROVISIONS FROM REPEAL; AND PRESCRIBING PENALTIES FOR VIOLATION.

The City Council hereby ordains:

Section 1. Adoption. The “Code of Ordinances, City of Nanticoke,” as prepared and published for the said City of Nanticoke, is hereby adopted as a consolidation, codification and revision of the ordinances of the City of Nanticoke. Chapters 1 through 27 thereof contain the text of the body of all general administrative and regulatory ordinances of the City of Nanticoke organized as follows:

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Chapter 1 . . . . Administration and Government
Chapter 2 . . . . Animals
Chapter 3 . . . . Bicycles [Reserved]
Chapter 4 . . . . Buildings [Reserved]
Chapter 5 . . . . Code Enforcement
Chapter 6 . . . . Conduct
Chapter 7 . . . . Fire Prevention and Fire Protection
Chapter 8 . . . . Floodplains [Reserved]
Chapter 9 . . . . Grading and Excavating [Reserved]
Chapter 10 . . . . Health and Safety
Chapter 11 . . . . Housing
Chapter 12 . . . . Libraries [Reserved]
Chapter 13 . . . . Licenses, Permits and General Business Regulations
Chapter 14 . . . . Mobile Homes and Mobile Home Parks [Reserved]
Chapter 15 . . . . Motor Vehicles and Traffic
Chapter 16 . . . . Parks and Recreation [Reserved]
Chapter 17 . . . . Planned Residential Development [Reserved]
Chapter 18 . . . . Sewers and Sewage Disposal
Chapter 19 . . . . Signs [Reserved]
Chapter 20 . . . . Solid Waste
Chapter 21 . . . . Streets and Sidewalks
Chapter 22 . . . . Subdivision and Land Development
Chapter 23 . . . . Swimming Pools [Reserved]
Chapter 24 . . . . Taxation; Special
Chapter 25 . . . . Trees [Reserved]
Chapter 26 . . . . Water [Reserved]
Chapter 27 . . . . Zoning
APPENDIX:

A. . . . . Annexation of Territory
B . . . . Bond Issues and Loans
C . . . . Franchises and Services
D . . . . Governmental and Intergovernmental Affairs
E . . . . Plan Approval
F . . . . Public Property
G . . . . Sewers
H . . . . Streets and Sidewalks
I . . . . Water
J . . . . Zoning; Prior Ordinances

Key to the Disposition of All Ordinances

The Appendix of the volume lists, by subject matter, in chronological order, the titles (or an abstract of title) of enactments of special nature or of historical interest, for the complete text of which the official records of the City of Nanticoke shall be authoritative.

Section 2. Citation and Effective Date. The codification referred to in Section 1 of this ordinance shall be known and cited officially as the “City of Nanticoke Code of Ordinances,” and all future ordinances shall make reference thereto. This ordinance shall become effective immediately upon publication of notice of final enactment as required by law.

Section 3. Saving Clause. The provisions of the City of Nanticoke Code of Ordinances, so far as they are the same as those ordinances and regulations in force immediately prior to the adoption of said Code, are intended as a continuation of such ordinances and regulations and not as a new enactment. The provisions of the City of Nanticoke Code of Ordinances shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations.

Section 4. Consolidation and Revision. As a necessary part of codification, the following provisions are hereby consolidated and revised as indicated:
### A. Consolidations

<table>
<thead>
<tr>
<th>Chapter, Part, Section</th>
<th>Subject</th>
<th>Ordinance No.</th>
</tr>
</thead>
</table>

### B. Revisions

<table>
<thead>
<tr>
<th>Chapter, Part, Section</th>
<th>Subject</th>
<th>Ordinance No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Section 5. New Enactments, Amendments and Repeals.

As a necessary part of codification, the following ordinances are hereby enacted, amended and repealed as summarized by short title:

#### A. New Enactments

<table>
<thead>
<tr>
<th>Chapter, Part, Section</th>
<th>Subject</th>
<th>Ordinance No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1, 3, §1-301</td>
<td>Planning Commission</td>
<td></td>
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<tr>
<td>13, 6, §§13-601-13-609</td>
<td>Transient Retail Businesses</td>
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</tr>
<tr>
<td>Chapter 15</td>
<td>Motor Vehicles and Traffic</td>
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</tr>
</tbody>
</table>

#### B. Amendments

<table>
<thead>
<tr>
<th>Chapter, Part, Section</th>
<th>Subject</th>
<th>Ordinance No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1, 3, §1-352</td>
<td>Location of Companies</td>
<td>23, §2</td>
</tr>
<tr>
<td>1, 4, §1-402</td>
<td>Pay Periods</td>
<td>12-1997, §4</td>
</tr>
<tr>
<td>2, 1, §2-101</td>
<td>Animals; Keeping of Dogs; Running at Large Prohibited</td>
<td>12-1979, §1</td>
</tr>
<tr>
<td>Chapter,Part,Section</td>
<td>Subject</td>
<td>Ordinance No.</td>
</tr>
<tr>
<td>----------------------</td>
<td>-------------------------------------------------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>2, 1, §2-106</td>
<td>Animals; Keeping of Dogs; Number of Animals on Premises</td>
<td>12-1979, §6</td>
</tr>
<tr>
<td>6, 1, §6-102</td>
<td>Conduct; Sound Trucks; Noncommercial Use of Sound Trucks</td>
<td>4-1955, §2</td>
</tr>
<tr>
<td>13, 1, §13-102</td>
<td>Licenses, Permits and General Business Regulations; Alarm Devices; Permits Required</td>
<td>13-1999, §2</td>
</tr>
<tr>
<td>13, 1, §13-104</td>
<td>Licenses, Permits and General Business Regulations; Alarm Devices; False Alarms</td>
<td>13-1999, §4</td>
</tr>
<tr>
<td>13, 3, §13-307</td>
<td>Licenses, Permits and General Business Regulations; BYOB Clubs; License Required</td>
<td>12-1990, §7</td>
</tr>
<tr>
<td>13, 4, §13-405</td>
<td>Licenses, Permits and General Business Regulations; Licensing of Contractors and Building Movers; Fees</td>
<td>9-1972, §5; 15-1987, §1</td>
</tr>
<tr>
<td>13, 5, §13-503</td>
<td>Licenses, Permits and General Business Regulations; Moving Permits; Permit Issuance Fee</td>
<td>22-1969, §3</td>
</tr>
<tr>
<td>18, 1, §18-104</td>
<td>Sewers and Sewage Disposal; Sewer Use Rates, Rules and Regulations; Rules and Regulations Governing Building Sewers and Connections to Sewers</td>
<td>14-1991, §417</td>
</tr>
<tr>
<td>18, 1, §18-105</td>
<td>Sewers and Sewage Disposal; Sewer Use Rates, Rules and Regulations; Persons Authorized to do Work Relating to Connections</td>
<td>14-1991, §501</td>
</tr>
<tr>
<td>18, 2, §18-202</td>
<td>Sewers and Sewer Rates; Wastewater Collection and Treatment System; General Provisions; Definitions</td>
<td>12-1991, §1.2</td>
</tr>
<tr>
<td>18, 2, §18-238</td>
<td>Sewers and Sewer Rates; Wastewater Collection and Treatment System; Procedures to Contribute; Inspection</td>
<td>12-1991, §4.8</td>
</tr>
<tr>
<td>Chapter, Part, Section</td>
<td>Subject</td>
<td>Ordinance No.</td>
</tr>
<tr>
<td>------------------------</td>
<td>-------------------------------------------------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>18, 2, §18-247</td>
<td>Sewers and Sewer Rates; Wastewater Collection and Treatment System; Procedures to Contribute; Classified Information</td>
<td>12-1991, §4.17</td>
</tr>
<tr>
<td>20, 1, §20-105</td>
<td>Solid Waste; Municipal Collection and Disposal Service; Fees</td>
<td>9-1976, §5</td>
</tr>
<tr>
<td>20, 3, §20-301</td>
<td>Permit Fees</td>
<td>13-2002, §4</td>
</tr>
<tr>
<td>21, 1, §21-118</td>
<td>Road Closing</td>
<td>13-2000, Pt. 2</td>
</tr>
<tr>
<td>21, 1, §21-153</td>
<td>Fee Schedule</td>
<td>13-2000, Pt. 3</td>
</tr>
<tr>
<td>24, 1, §24-101</td>
<td>Levy of Taxes</td>
<td>3-1971, §1</td>
</tr>
<tr>
<td>24, 6, §24-616</td>
<td>Taxation, Special; Business Privilege Tax; Registration Fees</td>
<td>11-1988, §13</td>
</tr>
<tr>
<td>24, 8, §24-807</td>
<td>Taxation, Special; Registration of Deeds; Certified Copies</td>
<td>130, §7</td>
</tr>
<tr>
<td>24, 9, §24-901</td>
<td>Levy of Tax</td>
<td>299, §2</td>
</tr>
</tbody>
</table>

C. Repeals

<table>
<thead>
<tr>
<th>Chapter, Part, Section</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>114</td>
<td>Prohibiting Salt on Sidewalks</td>
</tr>
</tbody>
</table>

Section 6. Adoption of Standard Codes by Reference. As a necessary part of codification, the following ordinances are hereby enacted by reference as standard codes summarized by short title:

<table>
<thead>
<tr>
<th>Chapter, Part, Section</th>
<th>Short Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td></td>
</tr>
</tbody>
</table>

Section 7. Land Use Amendments. The City of Nanticoke Code of Ordinances is hereby amended as is more fully shown in the complete text of Chapters 22 and 27 thereof which is attached hereto and made part hereof by reference hereto as if fully set out at length herein, with deletions shown by strike-through and additions shown by underline, all of which is briefly summarized hereinafter.
A. New Provisions. The following provisions are new provisions which are being added to the Code, are underlined throughout the text, and are summarized as follows:

<table>
<thead>
<tr>
<th>Chapter, Part, Section</th>
<th>Subject</th>
<th>Ordinance No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

B. Revised Provisions. The following provisions of the Code are revised, the text of which indicates deletions by strike-through and additions by underline, and are summarized as follows:

<table>
<thead>
<tr>
<th>Chapter, Part, Section</th>
<th>Subject</th>
<th>Ordinance No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>22, 2, §22-201</td>
<td>Subdivision and Land Development; Definitions</td>
<td>11-1992, §200</td>
</tr>
<tr>
<td>22, 3, §22-302</td>
<td>Subdivision and Land Development; Procedural Requirements; Submission of Plans and Applications</td>
<td>11-1992, §301</td>
</tr>
<tr>
<td>22, 3, §22-303</td>
<td>Subdivision and Land Development; Procedural Requirements; Distribution of Plans</td>
<td>11-1992, §302</td>
</tr>
<tr>
<td>22, 5, §22-505</td>
<td>Subdivision and Land Development; Final Plan; Additional Material; Submitted With Final Plan</td>
<td>11-1992, §504</td>
</tr>
<tr>
<td>22, 8, §22-802</td>
<td>Subdivision and Land Development; Design Standards; General Standards</td>
<td>11-1992, §801</td>
</tr>
<tr>
<td>22, 8, §22-822</td>
<td>Subdivision and Land Development; Design Standards; Bridges and Stream Crossings</td>
<td>11-1992, §821</td>
</tr>
<tr>
<td>22, 8, §22-823</td>
<td>Subdivision and Land Development; Design Standards; Erosion and Sedimentation Control</td>
<td>11-1992, §822</td>
</tr>
<tr>
<td>22, 8, §22-824</td>
<td>Subdivision and Land Development; Design Standards; Stormwater Management</td>
<td>11-1992, §823</td>
</tr>
<tr>
<td>Chapter, Part, Section</td>
<td>Subject</td>
<td>Ordinance No.</td>
</tr>
<tr>
<td>------------------------</td>
<td>--------------------------------------------------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>22, 8, §22-829</td>
<td>Subdivision and Land Development; Design Standards; Centralized Water System</td>
<td>11-1992, §828</td>
</tr>
<tr>
<td>22, 8, §22-831</td>
<td>Subdivision and Land Development; Design Standards; Centralized Sewers</td>
<td>11-1992, §830</td>
</tr>
<tr>
<td>22, 9, §22-902</td>
<td>Subdivision and Land Development; Required Improvements; Minimum Improvements</td>
<td>11-1992, §902</td>
</tr>
<tr>
<td>27, 2, §27-202</td>
<td>Zoning; Definitions; Definition of Terms</td>
<td>12-1993, §202</td>
</tr>
<tr>
<td>27, 3, §27-319</td>
<td>Zoning; General Regulations; Sewage Disposal</td>
<td>12-1993, §319</td>
</tr>
<tr>
<td>27, 6, §27-608</td>
<td>Zoning; Conditional Uses; Supplementary Regulations for Specific Uses</td>
<td>12-1993, §608</td>
</tr>
<tr>
<td>27, 8, §27-802</td>
<td>Zoning; Supplemental Regulations; Use Regulations</td>
<td>12-1993, §802</td>
</tr>
<tr>
<td>27, 12, §27-1208</td>
<td>Zoning; Floodplain Management; Changes to Delineated Boundaries</td>
<td>12-1993, §1208</td>
</tr>
<tr>
<td>27, 12, §27-1210</td>
<td>Zoning; Floodplain Management; Alterations to Watercourses</td>
<td>12-1993, §1210</td>
</tr>
<tr>
<td>27, 12, §27-1211</td>
<td>Zoning; Floodplain Management; Floodway Restrictions</td>
<td>12-1993, §1211</td>
</tr>
<tr>
<td>27, 12, §27-1215</td>
<td>Zoning; Floodplain Management; Activities Requiring Special Permits</td>
<td>12-1993, §1215</td>
</tr>
</tbody>
</table>

C. Repealed Provisions. The following provisions of the Code are repealed, the text of which indicates deletions by strike-through, and are as follows:

<table>
<thead>
<tr>
<th>Chapter, Part, Section</th>
<th>Subject</th>
<th>Ordinance No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Section 8. Procedural Changes. The following minor procedural changes have been made to existing City of Nanticoke ordinances:

A. Grammatical and spelling errors have been corrected where necessary;
B. Minor changes have been made to correct obsolete terms and usages;

C. The penalty provisions have been revised where necessary to comply with the Pennsylvania Third Class City Code, Vehicle Code, Municipalities Planning Code and the Local Tax Enabling Act.

Section 9. Amending the Code of Ordinances. The procedure for amending the Code of Ordinances shall include the citation of the Chapter, Part, Section and subsection to be amended, revised, repealed or added as follows:

A. Amendment or Revision - "Chapter ___, Part ___, Section ___, Subsection ___ is hereby amended [revised] to read as follows..."

B. Additions - "Chapter ___, Part ___, Section ___, Subsection ___ is hereby amended by the addition of the following..."

C. Repeal - "Chapter ___, Part ___, Section ___, Subsection ___ is hereby repealed in its entirety."

Section 10. Responsibility for Code of Ordinances. It shall be the responsibility of the City of Nanticoke Secretary to maintain an up-to-date certified copy of the Code of Ordinances. This copy shall be the official copy of the City of Nanticoke Code of Ordinances and shall be available for public inspection.

Section 11. Penalties. It shall be unlawful for anyone to change, alter or tamper with the Code of Ordinances in any manner which will intentionally misrepresent the laws of the City of Nanticoke. Whosoever shall violate this Section shall, upon conviction thereof, be sentenced to pay a fine of not more than $600 and costs or, in default of payment thereof, shall be subject to imprisonment for a term not to exceed 30 days.

Section 12. Severability of Parts of Codification. It is hereby declared to be the intention of the City Council that the Chapters, Parts, Sections, paragraphs, sentences, clauses and phrases of this codification are severable. If any Section, paragraph, sentence, clause or phrase of this Code is declared unconstitutional, illegal or otherwise invalid by the judgment or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining Chapters, Parts, Sections, paragraphs, sentences, clauses or phrases of this codification.

ORDAINED AND ENACTED by the City Council of the City of Nanticoke, Luzerne County, Pennsylvania, this ___1st___ day of ___December___, 2004.

/s/ John Toole
JOHN TOOLE, MAYOR

/s/ Michael Yurkowski
MICHAEL YURKOWSKI, CITY CLERK
CHAPTER 1
ADMINISTRATION AND GOVERNMENT

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§1-202. Requisition to be Signed by Department Head
§1-203. Presentation of Bill for Payment

B. Regulations Under Which Personal Property of the City May be Sold

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C. Regulations Concerning Contracts for Work to be Performed and/or Materials

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§1-222. Resolution Necessary
§1-223. Advertisement for Bids
§1-224. Rejection of Bids
§1-225. Award of Contract
§1-226. Execution of Contracts
§1-227. Third Class City Code

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§1-233. Litigation
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§1-312. Appointment, Term and Vacancies
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§1-314. Officers and Employees
§1-315. Powers

C. Environmental Advisory Council

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§1-322. Membership
§1-323. Members
§1-324. Compensation
§1-325. Advisory
§1-326. Chairman
§1-327. Powers
§1-328. Records of Meetings
§1-329. Appropriation of Fund

D. Civil Service Board

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§1-332. Membership of Board
§1-333. Oath of Office
§1-334. List of Applicants
§1-335. Vacancy in Position

E. Department of Community Development

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§1-342. Functions
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§1-402. Pay Periods

B. Office of City Manager

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C. Selection and Employment of Park Guards

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§1-422. Compensation
§1-423. Uniforms and Liability Insurance
§1-424. Powers
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§1-502. Articles of Incorporation
§1-503. Publication of Articles of Incorporation
§1-504. Filing of Articles of Incorporation
§1-505. Members of Authority
§1-506. Initial Project
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§1-511. Intention to Organize
§1-512. Articles of Incorporation
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§1-514. Filing of Articles of Incorporation
§1-515. Members of the Board

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§1-601. Creation of Police Pension Fund
§1-602. Contributions
§1-603. Gifts
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§1-610. Investment of Money
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PART 1

COUNCIL MEETING DATE AND TIME

§1-101. Regular Meeting Date and Time.

The regular meeting date and time of the City Council of the City of Nanticoke shall be the first Monday of each month at 7 p.m.

(Ord. 14-1982, --/--1982)
PART 2

ADMINISTRATIVE PROCEDURES AND REGULATIONS

A. Procedure for Ordering Material and Merchandise.

§1-201. Written Requisition Required.

All purchases made on account of the City of Nanticoke, for any department, shall be accompanied by a written requisition for the said purchase, which requisition will contain the item, quantity or amount to be purchased, and he said requisition shall be signed only by the head of the department to which the material shall be charged.

(Ord. 180, 3/3/1942, §1)

§1-202. Requisition to be Signed by Department Head

No merchandise of material shall be delivered to anyone on account of the City of Nanticoke, without such written requisition signed by the department head.

(Ord. 180, 3/3/1942, §2)

§1-203. Presentation of Bill for Payment.

Any corporation, firm or person from whom material or merchandise has been purchased for the City of Nanticoke shall, when presenting a bill for payment, attach the said requisition to its bill. Any bill which is presented for payment to the City of Nanticoke, not accompanied by the written requisition as outlined above, shall not be paid until such written requisition has been procured and attached to the bill which has been rendered of payment.

(Ord. 180, 3/3/1942, §3)
B. Regulations Under Which Personal Property May be Sold.

§1-211. Selling of City Property Under $500.

Whenever the City of Nanticoke possesses personal property which has been determined by Council to be useless for further good of the City of Nanticoke, and value of such property is less than $500, the director of the particular department who has supervision of this property or the City Clerk, when directed by the City Council, shall request that two bids or more be mailed to the City Clerk and said property shall be sold to the highest of these bidders.

(Ord. 211, 5/17/1948, §1)

§1-212. Selling of City Property Over $500.

Whenever the value of the said property is over $500, the director of the particular department who has supervision of this property or the City Clerk, when directed by Council, shall prepare a list of the personal property to be sold and Council shall direct and authorize the City Clerk to advertise for bids and, after receiving such bids, the property shall be sold to the highest bidder by resolution of Council.

(Ord. 211, 5/17/1948, §2)
C. Regulations Concerning Contracts for Work and/or Materials.

§1-221. Written Contract Required.

All work and materials required by the City, or any department thereof, where the amount exceeds the sum of $750 shall be furnished and performed under written contract.

(Ord. 255, 2/2/1953, §1)

§1-222. Resolution Necessary.

No contract in writing under seal shall be issued in the name of the City without an order or resolution therefor, previously passed in due from by Council.

(Ord. 255, 2/2/1953, §2)

§1-223. Advertisement for Bids.

Whenever the City request any work to be done or purchase of materials to be made, in an amount exceeding $750, the City Council, by resolution, shall direct the City Clerk to advertise for bids in accordance with the requirements of Acts of Assembly in such cases made and provided, excepting cases, however, where advertising or bidding is not required by law, and such resolution shall provide that each bid must be accompanied by a certified or cashiers bank check in a fixed amount of at least 10% of the bid, payable to the City Treasurer, as a guarantee that the bidder will enter into a contract with the City for work to be done and/or material to be furnished, and if awarded the contract will conform to the plans and specifications or such terms or conditions as therein set forth and faithfully perform his contract and provide such bond as required by law or forfeit the same if he fails to do so.

(Ord. 255, 2/2/1953, §3)

§1-224. Rejection of Bids.

The City Council shall, in all cases when advertising for bids, have the right to reject all bids or parts of bids, when submitted, as it may deem wise.

(Ord. 255, 2/2/1953, §4)
§1-225. Award of Contract.

The City Council shall, by resolution, make an award of a contract to the successful bidder or bidders.

(Ord. 255, 2/2/1953, §5)

§1-226. Execution of Contracts.

It shall be the duty of the Mayor to execute all contracts on behalf of the City when presented to him in due form and the City Clerk shall attest to the same and attach thereto the seal of the City whenever a contract is awarded.

(Ord. 255, 2/2/1953, §6)

§1-227. Third Class City Code.

All contracts for work to be done and/or materials to be furnished, when required by the City or any department thereof, where the amount exceeds the sum of $750, shall be governed by Act of Assembly of the Commonwealth of Pennsylvania, now or hereafter passed, known as the Third Class City Code, and such supplements and amendments thereto and as is now or shall hereafter be provided for.

(Ord. 255, 2/2/1953, §7)
D. Reimbursement for Extraordinary Expenses and Services.

§1-231. Definitions.

EXTRAORDINARY EXPENSES - those expenses and those related costs and fees that are incurred by the City, local, State or Federal department or agency, emergency services organization and from the private sector for actual costs or charges for labor, materials and any other costs associated with the use of specialized extinguishing or abatement agent, chemical neutralizer or similar equipment or material that is employed to monitor, extinguish, confine, neutralize, contain, clean or remove any hazardous material that is or may be involved in fire or release into the air, ground or water or the potential threat of any release or fire and any and all activities associated with the implementation of a protective action (i.e., evacuation) to protect the public health, safety and welfare.

EXTRAORDINARY SERVICE - a service performed by any City departments or employees or any public or private sector organization, agency or company directly associated with mitigating the hazard or potential hazard or involved in providing services to implement a protection action. “Extraordinary services” may include, but is not limited to, the abatement and disposition of hazardous materials, spills, releases or threat of spills or releases of hazardous materials, utility line breaks or leakage's and other imminent or perceived or potential threats to the health, safety and welfare of the public that may be detailed in subsection (A) above.

(Ord. 15-2001, 12/26/2001, §1)

§1-232. Administration.

The City Council of the City of Nanticoke shall collect all fees as follows:

A. Fees and costs (including overhead costs) shall encompass all personnel, equipment, materials and maintenance expenses in such form as to ensure for full reimbursement for charges from both the public and private sectors actually rendered. A particular cost or fee schedule need not be set forth in this Section or elsewhere in the City Ordinance or by further formal action by the City Council. The City Council approval of this Section shall constitute authorization for the Council to collect all such fees and costs (including overhead costs) pursuant to the receipt of related expenditures or costs that are submitted to the City by affected public and private bureaus, agencies, departments or companies.

B. Within 30 days of the date of the extraordinary or dangerous occurrence giving rise to the extraordinary service, the affected public agencies, departments or private companies shall submit its extraordinary service related costs, fees, charges and expenses to the City Council for review. At such time as all costs, fees, charges and expenses related to the extraordinary services have been collected and reviewed, but in any case not later than 60 days from the date of determining the combined cost of rendering extraordinary services, the City
Council shall submit a bill for all costs, fees, charges and expenses to the owner, agent or manager of the vehicle or fixed facility which caused the need for extraordinary services, with a demand that a full remittance be made within 30 days of the receipt.

C. In cases of hardship or where circumstances are such that a full remittance cannot be made to the City within the 30 day period, the City Council shall hereby authorize the City Solicitor to enter into negotiations with the owner or his agent for an extended payback period of time not to exceed 6 months.

D. All monies received under the provision of this Part shall be placed into the General Fund and reimbursement be made to all public and private sector departments, agencies who had submitted related costs, fees, charges and expenses for providing an extraordinary service as outlined herein.

(Ord. 15-2001, 12/26/2001, §2)

§1-233. Litigation.

The City may enforce the provisions of this Part by civil action in a court of competent jurisdiction for the collection of any amounts due hereunder plus attorneys fees or for any other relief that may be appropriate.

(Ord. 15-2001, 12/26/2001, §3)

§1-234. Emergency Services.

Nothing in this Part shall authorize the City bureau, department or personnel or staff members to refuses or delay an emergency service to any person, firm, organization or corporation that has not reimbursed the City for extraordinary services. Furthermore, nothing in this Section shall be construed to demand reimbursement to the City for those municipal services that are normally provided to City residents and others as a matter of the City’s general operating procedure and for which the levying of taxes or the demand for reimbursement is normally made.

(Ord. 15-2002, 12/26/2001, §4)
A. Planning Commission.

§1-301. Planning Commission.

A City Planning Commission to be composed of five members, appointed as provided by law, 53 P.S. §10202, is hereby created in and for the City of Nanticoke. The Planning Commission shall perform all duties and may exercise all powers conferred by law upon City planning agencies; provided, the Planning Commission previously created in and for the said City of Nanticoke shall constitute the tenure of any of the members thereof, but any and all vacancies in the said Commission, hereafter occurring, shall be filled in the manner and for the term provided in the law governing City planning commissions in effect at the time of the happening of the said vacancy.

(Ord. 16-2004, 12/1/2004, §1)
B. Recreation Board.

§1-311. Establishment; Membership.

The Recreation Board is hereby created and established for the City, such Board to consist of seven residents of the City, two of whom shall be members of the School Board of the Greater Nanticoke Area School District.

(Ord. 13-1969, 2/3/1969, §1)

§1-312. Appointment, Term and Vacancies.

1. Five members of the Board shall be appointed by the Mayor of the City, subject to the approval of Council and two members shall be appointed by the School Board of the Greater Nanticoke Area School District, each to serve for a term of 5 years, or until their successors are appointed, except that the members of such board first appointed shall be appointed one by the City and one by the School Board for 1 year terms; one by the City and one by the School Board for 2 year terms; one by the City for a 3 year term; one by the City for a 4 year term, and one by the City for a 5 year term, and thereafter, annually, the City and School Board shall appoint members for a 5 year term. Vacancies in such Board, occurring otherwise than by expiration of term, shall be for the unexpired term and shall be filled in the same manner as original appointment.

2. Women shall be eligible for appointment

(Ord. 13-1969, 2/3/1969, §2)

§1-313. No Compensation.

Members of the Board shall serve without compensation.

(Ord. 13-1969, 2/3/1969, §3)

§1-314. Officers and Employees.

1. The members of the Recreation Board shall elect their own Chairman and Secretary and select all other necessary officers to serve for a period of 1 year, may employ such persons as may be needed, as authorized by this Part 3B, and Act of Assembly and shall have such powers to adopt rules and regulations for the conduct of all business within its jurisdiction, as permitted by this Part3B and the Act of Assembly.
2. When more than ½ of the full costs of the supervision and maintenance of the recreation places, including the compensation of officers and employees, are born by the City, the compensation of such officers and employees shall be fixed by Council.


§1-315. Powers.

The Recreation Board appointed pursuant to the provisions of this Part and an Act of Assembly shall have authority to equip, operate, maintain and supervise the playgrounds, playing fields and recreation centers of the City, subject at all times to the control and approval of the City Council, and shall have authority to expend monies in accordance with the regular method of expenditure of City funds to the extent that funds are appropriated therefor by Council.

(Ord. 13-1969, 2/3/1969, §5)
C. Environmental Advisory Council.

§1-321. Creation.

An advisory council, to be known as the City of Nanticoke Environmental Advisory Council (EAC), is hereby created and shall continue to function until this Part is revoked.

(Ord. 11-1995, 11/2/1995, §1)

§1-322. Membership.

The Environmental Advisory Council shall be composed of five residents of this City of Nanticoke.

(Ord. 11-1995, 11/2/1995, §2)

§1-323. Members.

Council members shall be appointed in accordance with the following procedures:

A. All advisory council members shall be appointed by the City Council of the political subdivision.

B. Council members terms of office shall expire on the first Monday in January following the last year of their term of office.

C. Duly appointed council members shall serve a term of 5 years, except that initial appointments shall be so staggered that the terms of each member shall expire each year.

D. Whenever possible, one member shall also be a member of the local Planning Commission.

(Ord. 11-1995, 11/2/1995, §3)

§1-324. Compensation.

Council members shall receive no compensation for their services, but may be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties.

(Ord. 11-1995, 11/2/1995, §4)
§1-325. Advisory.

The Environmental Advisory Council is to be advisory to and shall coordinate its activities with the elected officials, Planning Commission, Historical Commission and other such local governmental agencies.

(Ord. 11-1995, 11/2/1995, §5)

§1-326. Chairman.

The City Council shall designate the Chairman of the Council.

(Ord. 11-1995, 11/2/1995, §6)

§1-327. Powers.

The Environmental Advisory Council shall have the following powers:

A. Identify environmental problems.

B. Recommend plans and programs to the appropriate agencies for the promotion and conservation of the natural resources and for the protection and improvement of the quality of the environment within the area of this City.

C. Make recommendations as to the possible use of open land areas of the City of Nanticoke.

D. Promote a community environmental program.

E. Keep an index of all open areas, publicly or privately owned including, but not limited to, flood prone areas, swamps and other unique natural areas.

F. Advise the appropriate local governmental agencies in the acquisition of property, both real and personal.

G. To undertake such environmental tasks as requested by the City Council of the City of Nanticoke.

(Ord. 11-1995, 11/2/1995, §7)

§1-328. Records of Meetings.
The Environmental Advisory Council shall keep records of its meetings and activities and shall make an annual report which shall be printed in the annual municipal report, or otherwise made known and available. Minutes of each meeting shall be forwarded to the City Council.

(*Ord. 11-1995, 11/2/1995, §8*)

§1-329. Appropriation of Funds.

The City Council of the City of Nanticoke may, from time to time, appropriate funds for the expenses incurred by the Council.

D. Civil Service Board.

§1-331. Appointments to Engineering/Electrical Department.

From and after the passage of this Part, all appointments made in the Engineering or Electrical Department, or to the position of Building Inspector or Inspectors of the City of Nanticoke, shall be governed by a Civil Service Board, which Civil Service Board is to be elected by the City Council.

(Ord. 133, 3/26/1934, §1)

§1-332. Membership of Board.

The said Civil Service Board shall consist of three citizens, residents and taxpayers of the City of Nanticoke, who shall be elected by the City Council for a term of 4 years or until their successors are elected and qualified.

(Ord. 133, 3/26/1934, §2)

§1-333. Oath of Office.

Each of the said members, before entering upon the duties of his office, shall take and subscribe to the oath of office prescribed by the Third Class City Act, and file of same duly certified by the officer administering it, with the Controller of the City. Two members of the Board shall constitute a quorum necessary for the transaction of business of that Board. The Board shall prepare and adopt such rules and regulations to cover the selection and appointment of all persons to positions in the Engineering or Electrical Departments, or to the position of Building Inspector or Inspectors, as hereinbefore provided or to be hereafter employed or appointed to positions in the Engineering or Electrical Departments, or to the position of Building Inspector or Inspectors of the City of Nanticoke. Such rules and regulations shall provide for the ascertaining and determining as far as possible the physical qualifications, habits, reputation, experience and education of all applicants for such positions. They shall provide for examination upon any and all subjects deemed proper or necessary by said Board for the purpose of determining their qualifications for the position sought and applied for.

(Ord. 133, 3/26/1934, §3)
§1-334. List of Applicants.

Said Board shall make and keep a numerical list, containing the names of all applicants for positions in the Engineering or Electrical Departments, or to the position of Building Inspector or Inspectors in the City of Nanticoke, who may pass the required mental and physical examinations. All persons successfully passing said examinations shall be entered upon the list of eligible names in the order of their respective percentages, the highest coming first. The Board shall furnish to the Council a certified copy of the list containing all such names and the percentages made by each applicant.

(Ord. 133, 3/26/1934, §4)

§1-335. Vacancy in Position.

Whenever a vacancy shall occur in any position in the Engineering or Electrical Departments or in the position of Building Inspector or Inspectors of the City of Nanticoke, the City Council shall make known this vacancy to the President of the examining board, who shall forthwith certify to the City Council, in writing, the four names on the list of applicants for such position having the highest percentage. Thereupon, the Director of the department in which such appointment is to be made shall nominate to the City Council one of the four persons whose names are submitted to fill such position. If the City Council approves such nomination, the person nominated shall be appointed to fill such vacancy. If the City Council does not approve such nomination, then the Director of the department in which such appointment is to be made shall submit another nomination for such position from the remaining three names, and if such nomination is not approved by Council, he shall submit the fourth name. The person of the four submitted whose nomination by the Director is approved by the City Council shall be appointed to fill such position in the department in which there exists a vacancy.

(Ord. 133, 3/26/1934, §5)
E. **Department of Community Development.**

§1-341. **Creation of the Department.**

A department, to be known as the “Department of Community Development,” is hereby created.

*(Ord. 8-1975, 3/3/1975, §1)*

§1-342. **Functions.**

The Department of Community Development, under the Director of the Department of Community Development, shall perform those functions required for the desirable growth and development of the City of Nanticoke, including the responsibility for the planning, execution and administration of the Housing and Community Development Act of 1974, as amended, extending financial assistance to communities in the elimination or prevention of sums or urban blight, or activities which will benefit low and moderate income families, or other urban community development needs. The areas of responsibility of this Department shall be:

A. The preparation, execution and submission of an application under the Housing and Community Development Act of 1974 for a community development program and funds.

B. The preparation, execution and submission of all necessary applications, documents, contracts, agreement and all other documents and functions on behalf of the City of Nanticoke incident to, necessary for or required by the Community Development Program of 1975.

C. The administration and execution of all functions on behalf of the City of Nanticoke for the implementation of the Community Development Program of 1975, with all Federal, State, regional agencies, departments or bureaus of all political subdivisions and/or body politics.

D. The execution and administration of all activities and functions which the City of Nanticoke is empowered or required to perform under all the laws of the Commonwealth of Pennsylvania and the United States of America.

E. Such other functions which may be implied or assigned by law, resolution or ordinance to this Department.

*(Ord. 8-1975, 3/3/1975, §2)*
§1-343. Duties, Responsibilities and Powers of the Director.

The duties, responsibilities and powers of the Director of the Department of Community Development shall be:

A. To direct the performance of all duties and responsibilities required of his department or its subordinate agencies as provided by statute, ordinance or resolution of the City of Nanticoke, and such other duties as may be required by statute, resolution or ordinance which are not in conflict with law or ordinances.

B. To appoint or remove subordinate officers and employees within the Department of Community Development with the approval of City Council.

C. To prescribe the internal organization of the Department and the duties of the subordinate officers and employees of the Department.

D. To assign functions, powers and duties to subordinate officers and employees within the department and modify such assignments as need appears.

E. To supervise the work of the Department of Community Development.

F. To delegate powers to subordinate officers and employees as the Director may deem necessary for efficient administration.

(Ord. 8-1975, 3/3/1975, §3)

§1-344. Director.

1. The Director of the Department of Community Development is authorized, empowered and directed, on behalf of the City of Nanticoke, to file and execute an application for financial assistance with the United States Department of Housing and Urban Development to carry out the community development program and Act as the authorized representative of the City of Nanticoke.

2. The Director of the Department of Community Development is hereby authorized to provide such assurances and/or certifications on behalf of the City of Nanticoke, as required by the Housing and Community Development Act of 1974, as amended.

(Ord. 8-1975, 3/3/1975, §4)
F. **Fire Department.**

§1-351. **Fire Department.**

On and after the approval of this Part, the Fire Department of the City of Nanticoke shall consist of six fire companies, to wit:

A. The Pioneer Hook and Ladder Company.
B. The Stickney Fire Company No. 1.
C. The Lape Hose Company No. 2.
D. The Mowery Fire Company No. 3.
E. The Hanover Fire Company No. 4.
F. The Washington Fire Company No. 5.

*(Ord. 23, 3/16/1926, §1)*

§1-352. **Location of Companies.**

All of the said hose and fire companies shall be located in buildings erected by the City of Nanticoke or land owned by the City of Nanticoke as follows: the Pioneer Hook and Ladder Company, as at present in the municipal building at the corner of Broad and Walnut Streets; the Stickney fire Company No. 1, as at present quartered in the Stickney Hose House on Prospect Street; the Lape Hose Company No. 2, as at present quartered in the municipal building at the corner Broad and Walnut Streets; the Mowery Fire Company No. 3, as at present quartered in the Mowery Fire Company House on East Noble Street; the Hanover Fire Company No. 4, as at present quartered in the Hanover Hose House on Espy Street in the eighth ward; and, the Washington Fire Company No 5, as at present quartered in the Washington Fire Company House on South Hanover Street.

*(Ord. 23, 3/16/1926, §2)*

§1-353. **Superintendent.**

The Fire Commissioner shall have charge of and supervision of the Chief of the Fire Department and the Fire Department, and of firemen, officers and employees therein and of all property and apparatus used in said Fire Department; the fire alarm system and all property and apparatus belonging thereto; the fire engine houses, fire apparatus and all equipment used in said houses.

*(Ord. 23, 3/16/1926, §3; as amended by Ord. 16-2004, 12/1/2004, §1)*
§1-354. Officers.

The officers of the Nanticoke Fire Department shall consist of one Chief and six Assistant Chiefs.

(Ord. 23, 3/16/1926, §4; as amended by Ord. 30, 7/6/1926, §1)

§1-355. Chief and Assistant Chief.

The Chief of the Fire Department appointed shall hold office for a term of 2 years, expiring on the first Monday of January in the second year following his appointment. The said Chief of the Fire Department shall have supervision, control and direction of the Fire Department and its personnel subject to the orders of Council. He shall perform the duties of a Fire Marshall and have all the powers pertaining thereto. He shall, from time to time, perform such other duties as may be directed by Council. He shall be a resident of the City of Nanticoke and a member of the Fire Department shall be elected by Council and the Assistant Chiefs shall be chosen by the several companies as hereinafter provided.

(Ord. 23, 3/16/1926, §5; as amended by Ord. 73, 1/27/1930, §1)

§1-356. Election of Assistant Chief.

The Assistant Chiefs shall be elected by their respective companies, each company, except the company to which the Chief belongs, being entitled to one Assistant Chief. The election of Assistant Chiefs shall be held by the several companies in the different hose houses, at the same time between March 1 and March 10 in each year, and in such manner as shall be determined by standing rule or bylaws of the particular company. The persons elected as Assistant Chiefs shall be certified in writing to the Superintendent of the Department of Parks and Public Property, by the President and Secretary of the respective companies within 8 hours after the election.

(Ord. 23, 3/16/1926, §6)

§1-357. Report to Council.

The Superintendent of the Department of Parks and Public Property shall, at the regular meeting of the City Council, after the election of Assistant Chiefs, report to Council the names of the persons elected as certified to him, whereupon the City Council shall approve or reject the report as to all or any one or more of the persons elected. No person shall be entitled to hold office as Assistant Chief until his election has been confirmed by Council. If a company elects a person for Assistant Chief who is not eligible therefor, the right of the company shall not thereby abate and another election shall be held by the company to fill the position.

(Ord. 23, 3/16/1926, §7)
§1-358. Failure of or Refusal to Confirm Election.

In the event of failure to elect or that the City Council shall refuse to confirm the election of any Assistant Chiefs, the City Clerk shall immediately certify that fact to the company entitled to fill the position under the term hereof and such company shall, within 2 weeks after such notice, proceed to hold an election thereof and certify the result to the Superintendent of the Department of Parks and Public Property.

(Ord. 23, 3/16/1926, §8)

§1-579. Charges.

Charges of incompetency, nonattendance at fires, misconduct or neglect of duty performed against a Chief or Assistant Chief must be in writing and filed with the City Council, which shall take appropriate action on same. If the person charged is removed from office, then in the event it be the Chief, the Council shall proceed to elect his successor and, if the person be an Assistant Chief, the company of which he is a member shall elect his successor within 1 week after receiving notice of such removal from the City Clerk and certifying his election to the City Council for action on same.

(Ord. 23, 3/16/1926, §9)

§1-360. Executive Board of the Fire Department.

The Chief and Assistant Chiefs are hereby constituted as the Executive Board of the Fire Department. It shall be their duty, within 10 days after the confirmation by Council of the election of Chief and Assistant Chief, to establish the Fire Districts to which each fire company shall respond and report same to Council for approval at the next general meeting. It shall have authority to establish rules and regulations for the government of the Fire Department, which shall be represented to the City Council for approval. The Executive Board shall have power and are hereby authorized to hear all complaints of misconduct or violations of rules and regulations of the Fire Department against any member thereof, except the Chief and Assistant Chiefs. All complaints shall be in writing and filed with the Superintendent of the Department of Parks and Public Property. If, upon hearing any member is found guilty, he may be censured or he may be suspended for a period not exceed 1 year, or expelled from active membership from the Fire Department. The Board shall make all reports of the proceeds to Council and the same shall be confirmed or rejected. If disapproved by a majority of all members elected to Council, the action of the Executive Board shall be set aside and the member reinstated.

(Ord. 23, 3/16/1926, §10)

§1-361. Volunteer Fire Department.

The Fire Department of the City of Nanticoke shall be volunteer.

(Ord. 23, 3/16/1926, §12)
§1-362. Citizens Shall be Members.

Only citizens of the United States shall be members of the Nanticoke Fire Department.

(Ord. 23, 3/16/1926, §13)

§1-363. Annual Appropriation.

The City Council shall annually appropriate and pay to each fire company, except the Hanover Fire Company, the sum of $200, and the annual appropriation to the Hanover Fire Company shall be $250. Said appropriations shall be made in the months of May in each year. From the appropriation so made and paid, each company must furnish its active membership with fire equipment viz: boots, coats, hats, gloves. The first appropriation under this Part shall be made in the month of May, 1926.

(Ord. 23, 3/16/1926, §14)

§1-364. Purpose.

This Part is declared to be urgent and necessary for the immediate preservation of the public peace, health and safety, and shall take effect and be in force from and after its passage as provided by law.

(Ord. 23, 3/16/1926, §15)

§1-365. Reimbursement of Services.

1. The Nanticoke Fire Department Community Ambulance Rescue Unit financial officers are hereby authorized to obtain insurance information from the individuals, businesses and institutions who receive services of the Nanticoke Fire Department Community Ambulance and Rescue Unit for the purpose of billing the same.

2. Insurance information will be obtained by the Nanticoke Fire Department Community Ambulance and Rescue Unit for the purpose of billing for services related, but not limited to, vehicle accidents, ambulance responses, rescues, chemical spills.

3. It is further provided that the above Nanticoke Fire Department Community Ambulance and Rescue Unit are hereby authorized to seek reimbursement from the appropriate insurance companies, if applicable, for any costs relating to services rendered by the Nanticoke Fire Department Community Ambulance and Rescue Unit. It is further provided that the Nanticoke Fire Department Community Ambulance and Rescue Unit shall not bill the individual(s) for any services rendered by the said units.
§1-366. Fire Department at Motor Vehicle Accidents.

Any motorist involved in a motor vehicle accident within the boundaries of the City of Nanticoke, which requires the services of the Nanticoke Fire Department shall pay to the City of Nanticoke a fee plus cost of material used as determined by resolution of the City Council of the City of Nanticoke.

(Ord. 11-2002, 5/1/2002, §1)
PART 4

EMPLOYEES AND OFFICERS

A. Compensation.

§1-401. Salary and Wage Schedule.

The 1997 salary and wage schedule of the City of Nanticoke, Pennsylvania, is attached hereto and make a part hereof by reference thereto.

(Ord. 12-1997, 12/18/1996, §1)

§1-402. Pay Periods.

All salaries and wages shall be paid every 2 weeks.

# Wages and Salaries for the Year 1997

## Department of Public Affairs
- **Mayor**: $2,500 annually
- **Chief of Police**: As per contract
- **All other policemen**: In accordance with collective bargaining agreement
- **Plumbing Inspector**: $2,000 annually

## Department of Accounting and Finances
- **Director**: $2,400 annually
- **Finance Director**: $11,750 annually
- **City Manager**: As per contract
- **Solicitor**: $6,000 annually
- **City Clerk**: $3,500 annually
- **License Clerk**: 3,000 annually
- **Building Inspector**: $3,150 annually
- **Controller**: $2,400 annually

## Treasurer’s Office
- **Treasurer**: $2,166.67 annually
- **Deputy Treasurer**: $5,218.30 annually
- **Senior Clerk**: $4,443.71 annually
- **Junior Clerk**: $4,186 annually

## Fire Department
- **Director**: $2,400 annually
- **Fire Chief**: $5,100 annually
- **Deputy Fire Chief**
- **Assistant Fire Chief**
- **Fire truck driver**: In accordance with collective bargaining agreement
STREET DEPARTMENT

Director $2,400 annually
Street Commissioner $24,000 annually
Engineer
Refuse fee collector $11,550 annually

DEPARTMENT OF PARKS AND PUBLIC PROPERTY

Director $2,4000 annually
Park workers Raise entitled to be established by the City in accordance with collective bargaining agreement

BUREAU OF HEALTH

Health Officer $200 annually
Zoning Officer $2,000 annually
Electrical Inspector $2,300 annually

(Ord. 12-1997, 12/18/1996)
B. Office of City Manager.

§1-411. Creation of the Office.

The office of City Manager is hereby created by the City of Nanticoke.

(Ord. 15-1996, 10/3/1996, §1)
C. Selection and Employment of Park Guards.

§1-421. Authority.

The Mayor of the City of Nanticoke shall have the authority to select such number of persons as he or she shall deem necessary to act as park guards.

(Ord. 21-1998, 5/6/1998, §1

§1-422. Compensation.

Park guards so appointed shall not receive compensation.


§1-423. Uniforms and Liability Insurance.

The City of Nanticoke shall provide the uniforming for said guards and shall provide for liability insurance for said guards.

(Ord. 21-1998, 5/6/1998, §3

§1-424. Powers.

The park guards shall have such powers as are granted to them by §3719 of the Third Class City Code, 53 P.S. §38719.


§1-425. Department of Parks and Public Property.

The park guards shall be under the supervision and control of the Department of Parks and Public Property.

PART 5

AUTHORITIES

A. Wyoming Valley Sanitary Authority.

§1-501. Intention to Organize.

The Council of the City of Nanticoke, County of Luzerne, Commonwealth of Pennsylvania, hereby signified its intention to organize a municipality authority under the "Municipality Authorities Act of 1945," as amended. Said authority will be organized jointly by the following municipalities:

Cities of Nanticoke, Pittston and Wilkes-Barre, the Boroughs of Edwardsville, Exeter, Forty Fort, Kingston, Plymouth, Swoyersville, West Pittston and Wyoming, and the Townships of Hanover, Jenkins and Plains.

(Ord. 10-1962, 12/3/1962, §1)

§1-502. Articles of Incorporation.

The proper officers are hereby authorized and directed to execute and the City Clerk is authorized and directed to affix the common and corporate seal to and attest, and said officers are authorized and directed to deliver Articles of Incorporation for the authority in substantially the following form: [The full and complete Articles of Incorporation of the Wyoming Valley Sanitary Authority are included herein and made part hereof by reference with the same force and effect as if fully copied in this Section.]

(Ord. 10-1962, 12/3/1962, §2)

§1-503. Publication of Articles of Incorporation.

The City Clerk is directed to cause or join in the publication of the notice of this Part and the proposed filing of the Articles of Incorporation as required by §3 of the Municipality Authorities Act of 1945.

(Ord. 10-1962, 12/3/1962, §3)
§1-504. Filing of Articles of Incorporation.

The proper officers are directed to join with the proper officers of other incorporating municipalities in the filing of Articles of Incorporation, together with the necessary proof of publication with the Secretary of the Commonwealth and to do all other acts necessary and appropriate to effect the incorporation of the proposed authority, including the payment of any filing fees in connection therewith.

(Ord. 10-1962, 12/3/1962, §4)

§1-505. Members of Authority.

The person or persons named in the form of Articles of Incorporation set forth above as a citizen or citizens of the City of Nanticoke is hereby appointed as member(s) of the authority for the terms provided in such form. No change shall be made in the membership from incorporating municipalities except following a Federal census.

(Ord. 10-1962, 12/3/1962, §5)

§1-506. Initial Project.

The initial and only project to be undertaken by the authority is the financing, construction and/or provision of facilities for the primary treatment and disposal of sewage, as the physical facilities of the Wyoming Valley Sanitary Authority exist today.

(Ord. 10-1962, 12/3/1962, §6; as amended by Ord. 8-1972, 1/7/1972, §1)
B. Industrial Development Authority.

§1-511. Intention to Organize.


(Ord. 12-1972, 7/3/1972, §1)

§1-512. Articles of Incorporation.

The Mayor is hereby authorized and directed to execute and the City Clerk is hereby authorized and directed to affix and attest the corporate seal of the City to Articles of Incorporation for such authority in substantially the following form:

ARTICLES OF INCORPORATION

TO THE SECRETARY OF THE COMMONWEALTH COMMONWEALTH OF PENNSYLVANIA

In compliance with the requirements of the Act of August 23, 1967, P.L. 102, known as the "Industrial Development Authority Law," the Council of the City of Nanticoke, Luzerne County, Pennsylvania, having duly enacted an ordinance signifying its desire to organize and incorporate an authority thereunder, does hereby certify:

A. The name of the authority is the City of Nanticoke "Industrial Development Authority."

B. The authority is formed under the provisions of the "Industrial Development Authority Law."

C. The name of the incorporating municipality is the City of Nanticoke; and the names and addresses of the members of its Council are: [Here followed the names and addresses of the members of the Council.]

D. The board of authority shall consist of five members. The members shall be selected by the Council. The names, addresses and terms of office of the first members of the board of authority are as follows (such terms to expire as indicated): [Here followed the names, addresses and terms of office of the first members of the board of authority].

E. The term of existence of the authority shall be 50 years.

(Ord. 12-1972, 7/3/1972, §2)
§1-513. Notice of Articles of Incorporation.

The City Clerk is hereby authorized and directed to cause a notice of the enactment of this Part to be published as required by §4 of the Industrial Development Authority Law.

(Ord. 12-1972, 7/3/1972, §3)

§1-514. Filing of Articles of Incorporation.

The Mayor and the City Clerk are hereby authorized and directed to file Articles of Incorporation, in substantially the form above recited, together with proofs of publication of the notice provided or in §1-513, hereof, with the Secretary of the Commonwealth of Pennsylvania, and to do all other acts and things necessary or appropriate to effect the incorporation of the authority.

(Ord. 12-1972, 7/3/1972, §4)

§1-515. Members of the Board.

The persons named in the form of Articles of Incorporation herein set forth are hereby appointed as the first members of the board of the authority, and each of their terms of office to commence on the date of a certificate of incorporation by the Secretary of the Commonwealth; and their respective terms shall expire on the dates set forth in said form of Articles of Incorporation.

(Ord. 12-1972, 7/3/1972, §5)
PART 6

PENSIONS

A. Police Pension Fund

§1-601. Creation of Police Pension Fund

Under the provisions of the Act of June 23, 1931, P.L. 937, as amended, of the General Assembly of the Commonwealth of Pennsylvania, there is hereby created a police pension and retirement fund, which shall be known and designated as the "Police Pension Fund," and shall hereafter be referred to in this Part as the "fund."

(Ord. 21-1969, 7/2/1969, §1)

§1-602. Contributions.

1. Each member of the Police Pension Fund Association shall contribute to the fund monthly during his employment in the Bureau of Police until retirement, a sum equal to 4% of his monthly wage and salary. The City Treasurer is hereby authorized to deduct said sum from the pay, salary or compensation of each member of the association, which sum shall be applied to the purpose of this Part. The City Treasurer is hereby designated as Treasurer of the police pension fund and authorized and directed to make said deductions and to pay the same to himself as Treasurer of the police pension fund. A member contribution of $1 per month is to be paid to fund the widows and children's benefit. [Ord. 14-1996]

2. The payment of the monthly sum or contribution hereinbefore provided for shall cease and determine at the time the member receives the pension hereinafter provided for.

3. Any member of the association who has been granted a leave of absence from the Bureau of Police by the City Council shall be excused from any contributions to the fund during said leave of absence. Said leave of absence shall not interrupt the continuity of service of such member nor shall, said leave of absence be deducted from the years of service of said member, Said leave of absence shall not be granted for a period exceeding 18 months, except in case of the member's being granted such leave of absence to engage in military service during war or time of emergency.

4. Fifty dollars per month is to be paid for COLA payment for current retired members, in accordance with the Third Class City Code in reference to COLA's. [Ord. 14-1996]

§1-603. Gifts.

All gifts, testimonials and emoluments that may be presented, paid or given to any member of the association on account of police services, gifts or donations, all grants, devise or bequest, any money or property, real, personal or mixed, made to said fund or to anyone in trust for the benefit of said fund, shall become and be a part of said fund.

(Ord. 21-1969, 7/2/1969, §3)

§1-604. Appropriation of Funds.

The City Council of the City of Nanticoke, Pennsylvania, shall annually set aside, apportion and appropriate to the fund, a sum of money sufficient to meet the requirements of and maintain said fund, not less than 1/2 of 1% of all City taxes levied by the City of Nanticoke, Pennsylvania, other than taxes levied to pay interest on or extinguishing the debt of said City or any part thereof.

(Ord. 21-1969, 7/2/1969, §4)

§1-605. Regulations.

The fund shall be maintained, directed, applied and distributed only pursuant to the provisions herein contained and the regulations adopted pursuant hereto for the benefit only of the members of the association herein created.

(Ord. 21-1969, 7/2/1969, §5)

§1-606. Police Pension Board.

The said police pension fund shall be under the direction and control at all times of the City Council and committed to the custody and management of a Police Pension Board, (hereinafter referred to as the board) which shall consist of the following officers of the City of Nanticoke, Pennsylvania: the Mayor, the Controller, the Director of Accounts and Finance, the Chief of Police, whose membership on said board shall be concurrent with their tenure in office, and two members of the Police Department to be chosen by members of the association. Of the first members of said board so chosen by members of the association, one shall be chosen for a term of 2 years and one for a term of 4 years; biennially thereafter, one member shall be chosen for a term of 4 years to take the place of the member whose term expires. In case of a vacancy or vacancies on said board, exceeding 1 month, by reason of one or more of the above named offices not being filled, City Council shall fill such vacancy or vacancies by the appointment of another City officer.
or officers to fill the unexpired term of the office so vacated, except that in the case of a vacancy or vacancies on the board with respect to the office held by one or both of the two members of the Police Department, the Chief of Police shall hold an election of the members of the association to fill the unexpired term of the office so vacated. The members of the board shall serve without compensation, but shall be reimbursed from the fund for any necessary expenditures.

(Ord. 21-1969, 7/2/1969, §6)

§1-607. Transaction of Business.

The board shall keep full and accurate accounts of all transactions. It shall have full power to make rules for the transaction of its business and application of its fund, its time and place of meeting, etc., subject to the special provisions and regulations contained in this Part. The board shall meet quarterly, or at such times as it, by resolution, may designate, or upon call of the President for the transaction of such business as may properly come before it. Meetings shall also be called by the President at any time upon the written request of a majority of the board or of the members of the association. A quorum shall consist of four members for the transaction of business.

(Ord. 21-1969, 7/2/1969, §7; as amended by Ord. 9-1985, 1/7/1985, §1)

§1-608. Surety Bond.

The Treasurer shall give a surety bond to the City for the faithful performance of his duties, in a sum to be set by the board, the premium on which bond shall be paid from the fund.

(Ord. 21-1969, 7/2/1969, §8)


The board shall make an annual report to the City Council at its second regular meeting of February in each year and to the association at a meeting on the second Tuesday of February in each year of all receipts and disbursements of the fund and such other matters as should properly be embodied in such report.

(Ord. 21-1969, 7/2/1969, §9)
§1-610. Investment of Money.

The board is authorized to invest any money accumulated in the fund in such investments as are authorized under and pursuant to the laws of the Commonwealth of Pennsylvania for fiduciaries.

(Ord. 21-1969, 7/2/1969, §10)


1. An association is hereby constituted and created which shall be known and designated as the Police Pension Fund Association of the City of Nanticoke, Pennsylvania, herein referred to as the “association.”

2. The membership of the association shall consist of all persons now regularly appointed or now employed by the City of Nanticoke, Pennsylvania, as regular salaried policemen and police officers, or as detectives, and such persons hereinafter employed as regular salaried policemen and police officers or detectives. By virtue of their position, each policeman, police officer or detective shall be a member automatically in the association, and as such member shall ipso facto be entitled to a pension after he or she completes the minimum age and service requirement provided for by this Part; provided, however, that no clerk or other persons shall be eligible for membership in the association unless they are a member of the police force and have first passed the physical tests required for appointment as a regular salaried policeman.

(Ord. 21-1969, 7/2/1969, §11)

§1-612. Members of Association.

The members of the association shall, subject to the limitations of this Part and of law:

A. Establish rules and regulations for the administration and transaction of its business.

B. Elect officers in accordance with established rules and regulations to represent the association.

C. Certify to the board annually a list of the members in good standing, the amount of salaries and wages paid to each member of the Bureau of Police, together with a list of the members of the association who, during said year, were dismissed or resigned or terminated their service and the date thereof; furnish to the board, upon request, such information relative to the subject of this Part as the Board shall require.

(Ord. 21-1969, 7/2/1969, §12)
§1-613. Police Reserve.

Every member of the association with a minimum period of continuous service of 20 years and a minimum age of 50 years may retire from active duty and such members as are retired shall be subject to service, from time to time, as a police reserve until unfit for such service, when they may be finally retired by reason of age or disability. Any member who retired on disability pension prior to the 1969 Police Pension Ordinance shall have their disability pension based on a 50% of their salary at the time of retirement, and shall continue to receive any cost of living increases to which they are entitled to.

(Ord. 21-1969, 7/2/1969, §13; as amended by Ord. 9-1985, 1/7/1985, §2)

§1-615. Disability.

Any active member of the Bureau of Police and a member of the association who has become permanently disabled may, upon his application, be placed upon the retired list, if in the opinion of the board and in the opinion of two reputable physicians, one to be selected by the board and the other by the applicant, and in the case of a dispute a third physician to be selected by the board, who shall make a physical examination and file their opinion in writing with the board, the applicant is physically or mentally incapacitated through injury received by reason of the performance of his duty as a policeman or detective; provided, that the board shall have the authority to order subsequent examination from time to time, but not oftener than 60 days, by physicians chosen in the same manner as set forth above, to ascertain if the disability of the pensioner has been removed and if it has, the board shall terminate the pension and the pensioner shall be reinstated as an active member of the Bureau of Police with the same rank and rating that he or she had upon retirement; provided, however, that the pensioner shall, if reinstated, file with the board a release duly executed and acknowledged of any right or claim to the pension during the period which he or she shall serve after such retirement. The fees of the first two physicians shall be paid by the board and the fees of the third physician, if necessary, shall be paid by the applicant.

(Ord. 21-1969, 7/2/1969, §14)

§1-615. Payment of Pension.

1. The pension that shall be paid to all pensioned or retired members of the association shall be ½ his total W-2 compensation, including overtime pay, if any, and holiday pay, payable monthly until death. The basis of the apportionment of the pension shall be determined by the rate of the monthly pay of the manner at the date of injury, death, honorable discharge or retirement, or the highest average annual total W-2 compensation which the member received during any 5 years of service preceding injury, death, honorable discharge or retirement, whichever is higher.

2. The said pension shall be paid in addition to any Workmen’s Compensation or benefits which the member shall receive by reason of disability.
3. The pension herein provided for shall not be subject to attachment or execution, and shall be payable only to the beneficiary designated and shall not be subject to assignment or transfer.

4. “Pay” shall be the monies received by a participant in each and every month, including base pay, longevity pay, night differential, overtime, and any other such increments. Payments made for unused vacation time will be included for computation of retirement benefits. Payments made for unused “sick time” will not be included for computation of retirement benefits. [Ord. 14-1996]

5. The pension benefit is the higher of the final rate of pay or the average compensation of the 5 highest years preceding retirement. [Ord. 14-1996]

§1-616. Dismissal or Death Benefits.

1. If a member of the association contributing to the fund shall be dismissed from the Bureau of Police, or for any other reason cease to be a member of the Bureau of Police before he becomes entitled to a pension hereunder, the total amount of the contributions paid into the fund and said member shall, upon his request, be refunded in full, without interest.

2. The spouse of a member of the police force or a member who retires on pension who dies shall, for his or her lifetime, be entitled to receive a full pension. Said retirement allowance shall include the service increment the member was receiving or would have been receiving had he or she been retired at the time of their death. If the spouse should die, then the legitimate child or children under the age of 18 years shall receive 50% of said retirement allowance. [Ord. 12-2000]

3. The spouse of a member of the police force who had not retired or attained eligibility for retirement shall for their lifetime be entitled to receive a full pension, said retirement allowance shall include the service increment the member was receiving or would have been receiving had he or she been retired at the time of their death. If the spouse should die, then the legitimate child or children under the age of 18 years shall receive 50% of said retirement allowance. [Ord. 12-2000]

§1-617. Allowance; Service Increments.

1. Payments for allowances shall not be a charge on any other fund in the Treasury of the City or under its control save the police pension fund herein provided for. The basis of, the apportionment of the pension shall be determined by the rate of the
monthly pay of the member at the date of injury, death, honorable discharge or retirement, or the highest average annual salary which the member received during any 5 years of service preceding injury, death, honorable discharge or retirement, whichever is the higher, and except as to service increments provided for in subsection (3) of this Section, shall not in any case exceed in any year ½ of the annual pay of such member computed at such monthly or average annual rate, whichever is the higher.

2. In addition to the retirement allowance which is authorized to be paid from the police pension fund by the Third Class City Code, and notwithstanding the limitations therein placed upon such retirement allowances and upon contributions, every contributor who shall become entitled to a retirement allowance, shall also be entitled to the payment of a "service increment" in accordance with and subject to the conditions hereinafter set forth.

3. Service increment shall be the sum obtained by computing the number of whole years after having served the minimum required by this Part during which a contributor has been employed in the Bureau of Police and paid out of the City Treasury and multiplying the said number of years so computed by an amount equal to 1/40 of the retirement allowance which has become payable to such contributor in accordance with the provisions of this Part. In computing the service increment, no employment after the contributor has reached the age of 65 years shall be included, and no service increment shall be paid in excess of $100 per month.

4. Each contributor, from and after the effective date of this Part, shall pay into the retirement fund a monthly sum in addition to his or her retirement contribution, which shall be equal to ½ of 1% of his or her salary; provided, that such payment shall not exceed the sum of $1 per month; and, provided, that such service increment contribution shall not be paid after a contributor has reached the age of 65 years.

5. Persons who are contributors on the effective date of this Part who have already reached the age of 65 years shall have his or her service increment computed on the years of employment prior to the date of reaching his or her 65th birthday.

6. Service increment contributions shall be paid at the same time and in the same manner as pension contributions, any may be withdrawn in full, without interest, by persons who leave the employment of the City of Nanticoke, subject to the same conditions by which retirement contributions may be withdrawn, or by persons who retire before becoming entitled to any service increment.

7. All officers and employees of the Bureau of Police who are now contributors to the pension fund and all those so employed by the City of Nanticoke after the effective date of this Part, if required to become contributors to the pension fund, shall be subject to the provisions of this Part.

(Ord. 21-1969, 7/2/1969, §17)
§1-618. Date of Pension.

Every policeman, police officer or detective in the Bureau of Police who shall have served in said Bureau for a minimum period of at least 20 continuous years and a minimum age of 50 years, may be retired from active duty with a pension. The pension to date from the time the patrolman, officer or other paid employee in said Bureau shall have filed his application for retirement with City Council, or, if retired by action of City Council, upon the date which City Council designates.

(Ord. 21-1969, 7/2/1969, §18)

§1-619. Credit for Military Service.

1. All members of the association who are contributors to the fund and who served in the Armed Services of the United States subsequent to September 1, 1940, and who were not members of the police pension fund prior to such military service shall be entitled to have full credit for each year, or fraction thereof, not to exceed 5 years of service upon their payments to the police pension fund of the sum of the following:

   A. An amount equal to that which they would have paid had they been members during the period for which they desire credit; computation of said sum would be based on:

      (1) The actual wages which they would have received if they had been members at the time for which credit is required giving consideration to the wages then paid for the period of service involved.

      (2) If the period of service was prior to January 20, 1960, (the date as of which the police pension fund came under the jurisdiction of City Council) the rate of contribution will be the amount which would have been contributed by such member had he been employed with the Police Department of the City of Nanticoke during the period of his or her military service.

      (3) If the period of service was on or after January 20, 1969, the rate of contribution will be the rate in existence during such period of service.

   B. Any policeman who is a member of the policemen’s pension fund and who desires to purchase military service pursuant to the foregoing must do so within 3 years from the adoption of this Part; and any one who subsequently become a member must purchase such military services within 3 years of his first payment to the pension fund, pursuant to the rules and regulations established by the Police Pension Board.

   C. The foregoing military service credit provision shall extend to and establish credit towards the minimum requirements for age and service increments for the purposes of retirement.
D. A photostatic copy of the member's report of separation from the Armed Services of the United States must be submitted along with lump sum payment of contributions to the Board of Directors of the police pension fund.


§1-620. Vesting.

At any time after completing 12 years of total service credited to the service requirements of this Part, any member of the association shall vest, at the option of the member.

A. The vesting option shall be exercised after the completion of 12 years of full time service, by written notice given by the member within 990 days of the date he ceases to become a full time police officer.

B. Any full time police officer with 12 or more years of service, who exercises his vesting option, shall be paid a partial superannuation retirement allowance determinated by the rate of 2.5% for each year of service of his total W-2 compensation, including overtime pay, if any, and holiday pay, during the appropriate period prior to his termination of employment. These benefits payable monthly. The said vesting benefits shall be paid in addition to any Workman's Compensation or benefits which the member shall receive by reason of disability.

*(Ord. 21-1969, 7/2/1969; as added by Ord. 17-1989, –/–/1989, §3)*
B. Firemen Pension Fund

§1-631. Creation of Fund

Under the provisions of the acts, as amended, of the General Assembly of the Commonwealth of Pennsylvania, there is hereby created a firemen pension and retirement fund, which shall be known and designated as the "Firemen Pension Fund," and shall hereafter be referred to in this Part as the "fund."

(Ord. 10-1986, 1/30/1986, §1)

§1-632. Contributions.

1. Each member of the firemen pension fund association shall contribute to the fund monthly during his employment as a firefighter until retirement, a sum equal to 3% of his monthly wage or salary. The City Treasurer is hereby authorized to deduct said sum from the pay, salary or compensation of each member of the association, which sum shall be applied to the purpose of this Part. The City Treasurer is hereby designated as Treasurer of the firemen pension fund and authorized and directed to make said deductions and to pay the same to himself as Treasurer of the police pension fund.

2. The payment of the monthly sum or contribution hereinbefore provided for shall cease and determine at the time the member receives the pension hereinafter provided for.

3. Any member of the association who has been granted a leave of absence from the position of firefighter by the City Council shall be excused from any contributions to the fund during said leave or absence. Said leave or absence shall not interrupt the continuity of service of such member nor shall said leave or absence be deducted from the years of service of said member. Said leave or absence shall not be granted for a period exceeding 2 years, except in case of the members being granted such leave of absence to engage in military service during war or time of emergency.

(Ord. 10-1986, 1/30/1986, §2)

§1-633. Gifts.

All gifts, testimonials and emoluments that may be presented, paid or given to any member of the association on account of firemen services, gifts or donations, all grants, devise or bequest, any money or property, real, personal or mixed, made to said fund or to anyone in trust for the benefit of said fund, shall become and be a part of said fund.

(Ord. 10-1986, 1/30/1986, §3)
§1-634. Appropriation of Funds.

The City Council of the City of Nanticoke, Pennsylvania, shall annually set aside, apportion and appropriate to the fund, a sum of money sufficient to meet the requirements of and maintain said fund, as specified and prescribed by the Third Class City Code of the Commonwealth of Pennsylvania.

(Ord. 10-1986, 1/30/1986, §4)

§1-635. Regulations.

The fund shall be maintained, directed, applied and distributed only pursuant to the provisions herein contained and the regulations adopted pursuant hereto for the benefit only of the members of the association herein created.

(Ord. 10-1986, 1/30/1986, §5)

§1-636. Management of Fund

The said firemen pension fund shall be under the direction and control at all times of the City Council and committed to the custody and management of a Firemen Pension Board, (hereinafter referred to as the board) which shall consist of the following officers of the City of Nanticoke, Pennsylvania: the Mayor, the Controller, the Director of Accounts and Finance, the Fire Chief, whose membership on said board shall be concurrent with their tenure in office, and two members of the firefighters to be chosen by members of the association. Of the first members of said board so chosen by members of the association, one shall be chosen for a term of 2 years and one for a term of 4 years; biennially thereafter one member shall be chosen for a term of 4 years to take the place of the member whose term expires. In case of a vacancy or vacancies on said Board, exceeding 1 month, by reason of one or more of the above named offices not being filled, the City Council shall fill such vacancy or vacancies by the appointment of another City officer or officers to fill the unexpired term of the office so vacated, except that in case of vacancy or vacancies on the board with respect to the office held by one or both of the two members of the firefighters, the Fire Chief shall hold an election of the members of the association to fill the unexpired term of the office so vacated. The members of the board shall serve without compensation, but shall be reimbursed from the fund for any necessary expenditures.

(Ord. 10-1986, 1/30/1986, §6)

§1-637. Account of Transactions.

The board shall keep full and accurate accounts of all transactions. It shall have full power to make rules for the transaction of its business, and application of its funds, its time and place of meeting, etc., subject to the special provisions and regulations contained in this Part. The board shall meet on an as need basis at such times as it, by resolution, may
designate or upon call of the President for the transaction of such business as may properly come before it. Meetings shall also be called by the President at any time upon the written request of a majority of the board or of the members of the association. At least 10 days written notice shall be given to each member of the board of the time and place of any meeting to be held, and said notice of meeting shall state briefly the business to come before the meeting. A quorum shall consist of four members for the transaction of business.

(Ord. 10-1986, 1/30/1986, §7)

§1-638. Bond

The Treasurer shall give a surety bond to the City for the faithful performance of his duties, in a sum to be set by the board, the premium on which bond shall be paid from the fund.

(Ord. 10-1986, 1/30/1986, §8)


The Board shall make an annual report to the City Council at a meeting which must be held on or before April 1 of each and every year of all receipts and disbursements of the fund and such other matters as should be properly embodied in such report.

(Ord. 10-1986, 1/30/1986, §9)

§1-640. Investments.

The board is authorized to invest any money accumulated in the fund in such investments as are authorized under and pursuant to the laws of the Commonwealth of Pennsylvania for fiduciaries.

(Ord. 10-1986, 1/30/1986, §10)


1. An association is hereby constituted and created which shall be known as the Firemen's Pension Fund Association of the City of Nanticoke, Pennsylvania, hereinafter referred to as the association.

2. The membership of the association shall consist of all persons now regularly appointed or now employed by the City of Nanticoke, Pennsylvania, as a regular salaried firefighters, and such persons hereinafter employed as a regular salaried firefighter. By virtue of their position, firefighters shall be a member automatically in the association, and as such member shall be ipso facto entitled to a pension after
he or she completes the minimum age and service requirements provided for by this Part; provided, however, that no clerk or other person shall be eligible for membership in the association unless they are a member of the firefighters and have first passed the physical tests required for appointment as a regular salaried firefighter.

(Ord. 10-1986, 1/30/1986, §11)

§1-642. Members of Association.

The members of the Association shall, subject to the limitations of this Chapter and of law:

A. Establish rules and regulations for the administration and transaction of its business.

B. Elect officers in accordance with established rules and regulations to represent the association.

C. Certify to the board annually a list of the members in good standing, the amount of salaries and wages paid to each firefighter, together with a list of the members of the association who, during said year, were dismissed or resigned or terminated their service and the date thereof; furnish to the board, upon request, such information relative to the subject of this Part as the Board shall require.

(Ord. 10-1986, 1/30/1986, §12)

§1-643. Firefighter Reserve.

That every member of the association with a minimum period of continuous service of 20 years and a minimum age of 50 may retire from active duty and such members as are retired shall be subject to service, from time to time, as a Firefighter Reserve until unfitted for such service, when they may be finally retired by reason of age or disability.

(Ord. 10-1986, 1/30/1986, §13)

§1-644. Disability.

Any active member of the firefighters and a member of the association who has become permanently disabled may, upon his application, be placed upon the retired list, if in the opinion of the board and in the opinion of two reputable physicians, one to be selected by the board and the other by the applicant, and in the case of a dispute a third physician to be selected by the board, who shall make a physical examination and file their opinion in writing with the board, the applicant is physically or mentally incapacitated through injury received by reason of the performance of his duty as a firefighter; provided, that the board shall have the authority to order subsequent examination form time to time, but not
oftener than 60 days, by physicians chosen in the same manner as set forth above, to ascertain if the disability of the pensioner has been removed and if it has, the board shall terminate the pension and the pensioner shall be reinstated as an active member of the firefighters with the same rank and rating that he or she had upon retirement; provided, however, that the pensioner shall, if reinstated, file with the board a release duly executed and acknowledged of any right or claim to the pension during the period which he or she shall serve after such retirement. The fees of the first two physicians shall be paid by the board and the fees of the third physician, if necessary, shall be paid by the applicant.

(Ord. 10-1986, 1/30/1986, §14)

§1-645. Payment.

1. The pension that shall be paid to all pensioned or retired members of the association shall be ½ of the annual pay, payable monthly until death. The basis of the apportionment of the pension shall be determined by the rate of the monthly pay of the member of at the date of injury, death, honorable discharge or retirement, or the highest average annual salary which the member received during any 5 years of service preceding injury, death, honorable discharge or retirement, whichever is higher.

2. The said pension shall be paid in addition to any Workman’s Compensation or benefits which the member shall receive by reason of disability.

3. The pension herein provided for shall not be subject to attachment or execution, and shall be payable only to the beneficiary designated and shall not be subject to assignment or transfer.

(Ord. 10-1986, 1/30/1986, §15)

§1-646. Dismissal or Death Benefit.

1. The spouse of a member of the fire fighters or a member who retires on pension who dies shall, for their lifetime, be entitled to receive a full pension, said retirement allowance shall include the service increment the member was receiving or would have been receiving had he or she been retired at the time of his or her death. If the spouse should die, then the legitimate child or children under the age of 18 years shall receive 50% of said retirement allowance.

2. The spouse of a member of the fire fighters who had not retired or attained eligibility for retirement shall for their lifetime be entitled to receive a full pension, said retirement allowance shall include the service increment the member was receiving or would have been receiving had he or she been retired at the time of their death. If the spouse should die, then the legitimate child or children under the age of 18 years shall receive 50% of said retirement allowance.

(Ord. 10-1986, 1/30/1986, §16; as amended by Ord. 11-2000, 4/26/2000, §1)
§1-647. Allowance.

1. Payments for allowance shall not be a charge on any other fund in the Treasury of the City or under its control save the firemen pension fund herein provided for. The basis of the apportionment of the pension shall be determined by the rate of the monthly pay of the member at the date of injury, death, honorable discharge or retirement, or the highest average annual salary preceding injury, death, honorable discharge or retirement, whichever is higher, and except as to the service increments provided for in subsection (3) of this Section, shall not in any case exceed in any year $2 of the annual pay of such member computed at such monthly or average annual rate, whichever is higher.

2. In addition to the retirement allowance which is authorized to be paid from the firemen pension fund by the Third Class City Code, and notwithstanding the limitations therein placed upon such retirement allowances and upon contributions, every contributor who shall become entitled to a retirement allowance shall also be entitled to the payment of a "service increment" in accordance with and subject to the conditions hereinafter set forth.

3. Service increment shall be the sum obtained by computing the number of whole years after having served the minimum required by this Part during which a contribution has been employed in firefighters and paid out of the City Treasury and multiplying the said number of years so computed by an amount equal to 1/40 of the retirement allowance which has become payable to such contributor in accordance with the provisions of this Part. In computing the service increment, no employment after the contributor has reached the age of 65 years shall be entitled, and no service increment shall be paid in excess of $100 per month.

4. Each contributor, from and after the effective date of this Part, shall pay into the retirement fund a monthly sum in addition to his or her retirement contribution, which shall be equal to 1/2 of 1% of his or her salary; provided, that such payment shall not exceed the sum of $1 per month, and provided that such service increment contribution shall not be paid after a contributor has reached the age of 65 years.

5. Persons who are contributors on the effective date of this Part who have already reached the age of 65 years shall have his or her service increment computed on the years of employment prior to the date of reaching his or her 65th birthday.

6. Service increment contributions shall be paid at the same time and in the same manner as pension contributions, and may be withdrawn in full, without interest, by persons who leave the employment of the City of Nanticoke, subject to the same conditions by which retirement contributions may be withdrawn, or by persons who retire before becoming entitled to any increment.

7. All officers and firefighters who are now contributors to the pension fund and all those so employed by the City of Nanticoke after the effective date of this Part, if required to become contributors to the pension fund, shall be subject to the provisions of this Part.

(Ord. 10-1986, 1/30/1986, §17)
§1-648. Pension Date.

Every firefighter who shall have served in said capacity for a minimum period of at least 20 continuous years and a minimum age of 55 years may be retired from active duty with a pension. The pension to date from the time the firefighter, or other paid employee is said Bureau shall have filed his application for retirement with City Council or, if retired by action of City Council, upon the date which City Council designates.

(Ord. 10-1986, 1/30/1986, §18)

§1-649. Commencement Date.

For the purpose of determining the effective date that the regular salaried policemen shall commence to accrue time towards pension eligibility hereunder, it is hereby ordained to be the first day such officer actually worked and was paid by the City, the effective date of commencing employment hereunder and that the probationary period after final acceptance by the City shall be considered as accrued time for pension purposes hereunder.

(Ord. 10-1986, 1/30/1986, §21)

§1-650. Eligibility.

By reason of agreement dated February 7, 1934, all persons who were paid firefighters as of July 1, 1981, will be entitled to receive a pension as provided for by this Part.

(Ord. 10-1986, 1/30/1986, §22)

§1-651. Amount of Contribution.

The firefighters shall be responsible for contribution into the firemen pension fund association at the rate of 3% of his monthly wage or salary effective as of January 1, 1984 as provided for by agreement between the firefighters and the City Council dated February 7, 1984.

(Ord. 10-1986, 1/30/1986, §23)

§1-652. COLA.

Providing for a $50 per month COLA payment for current retired members, in accordance with Third Class City Code in reference to COLA’s.

(Ord. 10-1986, 1/30/1986; as added by Ord. 12-2001, 9/5/2001, §1)
§1-653.  Definition.

PAY - the monies received by a participant in each and every month, including base pay, longevity pay, overtime and any other such increments. Payments used for unused "vacation time" will not be included for computation of retirement benefits. Payments made for unused "sick time" will not be included for computation of retirement benefits.

(Ord. 10-1986, 1/30/1986; as added by Ord. 12-2001, 9/5/2001, §2)

§1-654.  Vesting.

Proving for a member of the association to be vested into the said pension fund after serving 12 years as an active firefighter for the City of Nanticoke, in accordance with Third Class City Code in reference to vesting.

(Ord.10-1986, 1/30/1986; as added by Ord. 12-2001, 9/5/2001, §3)
PART 7

FIRE INSURANCE LOSSES

A. Transferring of Losses for Security.

§1-701. Designated Officer; Policy.

1. The Treasurer of the City of Nanticoke or such official’s designee (hereinafter, the “municipal officer”) is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties of the City stated herein.

2. A “fire loss” or claim for fire damage is defined as any loss occurring after the effective date of this Part and covered under a policy of fire insurance, including and endorsements or riders to the policy.

(Ord. 24-1998, 10/7/1998, §1)

§1-702. Fire Insurance Proceeds; Transfer.

1. No insurance company, association or exchange (hereinafter the “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 City of Nanticoke (hereinafter the "City") where the amount recoverable for the fire loss to the structure under all policies exceeds $7,500, unless the Insurer is furnished by the municipal officer with a City certificate pursuant to §508(b) and unless there is compliance with §§508(c) and (d) and the provisions of this Part and Ord. 25-1998 [Part 7A].

2. After full compliance with the requirements of §508 (b)(1)(i) and Ord. 25-1998 [Part 7B], the insurer shall pay the claim of the named insured; provided however, that if the loss is agreed upon by the named insured and the insurer equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building structure, the following procedures shall be followed:

   A. The insurer shall transfer from the insurance proceeds to the municipal officer the aggregate of $2,000 for each $15,000 of a claim and for each fraction of that amount of a claim, provided (1) that this Section is to be applied such that if the claim is $15,000 or less, the amount transferred to the City shall be $2,000; and, (2) that, if at the time of a loss report the named insured has submitted a contractor’s signed estimate of the costs 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 to the City from the insurance proceeds the amount based upon the estimate.

   B. The transfer of proceeds shall be on a pro rate basis by all companies, associations or exchanges insuring the building or other structure. Policy
proceeds remaining after the transfer to the City shall be disbursed in accordance with the policy terms.

3. After the transfer, the named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or structure, and the designated officer shall return the amount of the funds transferred to the City in excess of the estimate to the named insured, if the City has not commenced to remove, repair or secure the building or other structure.

4. Upon receipt of proceeds under this Section, the City shall do the following:

A. The municipal officer shall place the proceeds in the separate fund to be used solely as security against the total costs or removing, repairing or securing the building or structure which are incurred by the City. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the City in connection with such removal, repair or securing of the building or any proceedings related thereto.

B. It is the obligation of the insurer when transferring the proceeds to provide the City 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 municipal officer shall contact the named insured, certify that the proceeds have been received by the City and notify the named insured that the procedures under this subsection shall be followed.

C. When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the City and the required proof of such completion received by the municipal officer, and if the City has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the City has incurred costs for repair, removal or securing of the building or structure, the costs shall be paid from the fund and, if excess funds remain, the City shall transfer the remaining funds to the named insured.

D. To the extent that interest is earned on proceeds held by the City pursuant to this Section, and retained by it, such interest shall belong to the City. To the extent that proceeds are returned to the named insured, interest earned on such proceeds shall be distributed to the named insured at the time that the proceeds are returned.

5. Nothing in this Section shall be construed to limit the ability of the City to recover any deficiency. Furthermore, nothing in this Part shall be construed to prohibit the City and the named insured from entering into an agreement that permits the transfer of funds to the named insured if some other reasonable disposition of the damaged property has been negotiated.

(Ord. 24-1998, 10/7/1998, §2)
§1-703. Procedures and Regulations; Fees.

The City Council of the City of Nanticoke may, by resolution, adopt procedures and regulations to implement §508 and this Part and may, by resolution, fix reasonable fees to be charged for city activities or services provided pursuant to §508 and this Part including, but not limited to, issuance of certificates and bills, performance inspections and opening separate fund accounts.

(Ord. 24-1998, 10/7/1998, §3)

§1-704. Penalty.

Any owner of property, any named insured or any insurer who violates any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 24-1998, 10/7/1998, §4; as amended by Ord. 16-2004, 12/1/2004, §1)
B. Payment of Delinquent Taxes.

§1-711. Designated Officer; “Fire Loss” Defined.

1. The Treasurer of the City of Nanticoke or such official’s designee (hereinafter, the "municipal officer") is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties of the City stated herein.

2. A "fire loss" or claim for fire damage is defined as any loss occurring after the effective date of this Part and covered under a policy of fire insurance, including endorsements or riders to the policy.

(Ord. 25-1998, 10/7/1998, §1)

§1-712. Compliance; Issuance of Certificate.

1. No insurance company, association or exchange (hereinafter the “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 City of Nanticoke (hereinafter the "City") where the amount recoverable for the fire loss to the structure under all policies exceeds $7,500, unless the insurer is furnished by the municipal officer with a City certificate pursuant to §508(b) and unless there is compliance with §§508(c) and (d) and the provisions of this Part and Ord. 24-1998 [Part 7A].

2. The municipal officer shall, upon the written request of the named insured specifying the tax description of the property, name and address of the insurer and the date agreed upon by the insurer and the named insured as the date of the receipt of a loss report of the claim, furnish the insurer either of the following within 14 working days of the request:

   A. A certificate, or at the discretion of the City, a verbal notification which shall be confirmed in writing by the insurer to the effect that, as of the date specified in the request, there are no delinquent taxes, assessments, penalties or user charges against the property and that, as of the date of the municipal officer’s certificate or verbal notification, the City has not certified any amount as total costs incurred by the City for the removal, repair or securing of a building or other structure on the property.

   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 request that have not been paid as of the date of the certificate and also showing, as of the date of the municipal officer’s certificate, the amount of total costs, if any, certified to the municipal officer that have been incurred by the City for the removal, repair or securing of a building or other structure on the property. For the purposes of this subsection, the City shall provide to the municipal officer the total amount, if any, of such costs, if available, or the
amount of costs known to the City at the time of the municipal officer’s certificate.

C. A tax, assessment, penalty or user charge becomes delinquent at the time and on the date a lien could otherwise have been filed against the property by the City under applicable law.

3. Upon the receipt of a certificate pursuant to subsection (2)(A), above, the insurer shall pay the claim of the named insured in accordance with the policy terms, provided the insurer and the named insured has complied with the terms of Ord. 24-1998 [Part 7A].

4. Upon the receipt of a certificate and bill pursuant to subsection (2)(b), above, the insurer shall return the bill to the municipal officer and transfer to the municipal officer an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs shown on the bill, or the full amount of the insurance proceeds, whichever is the lesser amount. The City shall receive the amount and apply or credit it to payment of the items shown in the bill.

5. Nothing in this Section shall be construed to limit the ability of the City to recover any deficiency.

(Ord. 25-1998, 10/7/1998, §2)

§1-713. Pro Rata Basis; Procedures and Regulations; Fees.

1. The transfer of proceeds to the municipal officer shall be on a pro rata basis by all insurers with applicable policies of insurance providing for fire loss.

2. The City Council of the City of Nanticoke may by resolution adopt procedures and regulations to implement §508 and this Part and may, by resolution, fix reasonable fees to be charged for city activities or services provided pursuant to §508 and this Part including, but not limited to, issuance of certificates and bills.

(Ord. 25-1998, 10/7/1998, §3)

§1-714. Penalty.

Any owner of property, any named insured or any Insurer who violates any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

PART 8

CENTRAL LUZERNE COUNTY COUNCIL OF GOVERNMENTS

§1-801. Adoption of Articles of Agreement.

the City Council of the City of Nanticoke hereby adopts and incorporates herein by reference, the joint articles of agreement of the Central Luzerne County Council of Governments, dated April _____, 1999, and attached to this Part as Exhibit "A."

(Ord. 15-1999, 6/2/1999, §1)

§1-802. Execution of Articles.

The Mayor of the City of Nanticoke is hereby authorized to execute said articles on behalf of the City of Nanticoke.

(Ord. 15-1999, 6/2/1999, §2)
PART 9

CITY SUBJECT TO THIRD CLASS COUNTY ASSESSMENT LAW

§1-901. City Subject to Third Class County Assessment Law.

On or after the effective date of this Part, the City of Nanticoke shall become and be subject to the provisions of "Third Class County Assessment Law," approved 1931, June 26, P.L. 1379, as amended.

(Ord. 23-1969, 12/15/1969)
CHAPTER 2

ANIMALS

PART 1

KEEPING OF DOGS

§2-101. Running at Large Prohibited
§2-102. Disturbance of the Peace
§2-103. Warnings
§2-104. Injury to Humans
§2-105. Number of Animals on Premises
§2-106. Violations and Penalties

PART 2

CONTROL OF ANIMAL DEFECATION

§2-201. Animal Defecation on Public and Private Property Restricted
§2-202. Disposal of Animal Feces
§2-203. Dogs Accompanying Blind or Handicapped Persons Exempt
§2-204. Penalties
PART 1

KEEPING OF DOGS

§2-101. Running at Large Prohibited.

It shall be unlawful for any person who owns or keeps any dog to permit such dog to run at large in violation of the provisions of the Dog Law of 1982. Any dog running at large in violation of said law shall be subject to seizure, detention and disposal as provided therein.

(Ord. 12-1979, 10/15/1979, §1; as amended by Ord. 16-2004, 12/1/2004, §1)

§2-102. Disturbance of the Peace.

It shall be unlawful to own, harbor or keep in custody any dog which disturbs the peace by barking, howling or making other loud noises to the annoyance and discomfort of any person in the City of Nanticoke. Continuous barking, howling or the making of other noises by such dog for more than 1 hour or continuous barking for periods of less than 1 hour but more than ½ hour, which periods occur on two or more consecutive days, shall be deemed to disturb the peace and to cause annoyance and discomfort of persons in the City of Nanticoke.

(Ord. 12-1979, 10/15/1979, §2)

§2-103. Warnings.

1. Any person may request the City Police Department to warn any persons who shall own, harbor or keep in custody any dog which disturbs the peace by barking, howling or making other loud noise to the annoyance and discomfort of persons in the City of Nanticoke.

2. A warning by the police shall consist of delivery of a notice of violation at the residence in the City of Nanticoke of any such owner, keeper or custodian. In the absence of any such warning made by said police, the complaining person may request the Secretary of the City of Nanticoke to provide such warning.

3. Any request shall be in writing and shall identify and specify the residence of the owner, keeper or custodian of the dog or other animal and shall identify and specify the residence of the person making the request. Upon the receipt of such request, the Secretary shall mail a copy of this Part to the person identified as the owner, keeper or custodian of the dog or other animal.

4. A violation of this Part shall be deemed to have occurred upon a second or subsequent violation of §2-102, above, after the date of delivery of the warning.
§2-104. Injury to Humans.

It shall be unlawful for the owner of any dog to permit said dog to injure any human being by biting, jumping on, knocking down or attaching said human being.

§2-105. Number of Animals on Premises.

It shall be unlawful to keep more than four dogs, 6 months of age or older, on any premises, regardless of the number of owners; provided, however, that this Section shall not apply to any premises for which a kennel license has been obtained pursuant to the Dog Law of 1982.

§2-106. Violations and Penalties.

Any person who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.
PART 2

CONTROL OF ANIMAL DEFECATION


No person, having possession, custody or control of any animal, shall knowingly or negligently permit any dog or other animal commit any nuisance, i.e., defecation or urination, upon any gutter, street, driveway, alley, curb or sidewalk in the City of Nanticoke, or upon the floors or stairways of any building or place frequented by the public or used in common by the tenants, or upon outside walls, walkways, driveways, alleys, curbs or stairways of any building abutting on a public street or park, or upon the grounds of any public park or public area, or upon any private property other than the property of the owner of such animal.

(Ord. 12-1998, 4/1/1998, §1)


Any person having possession, custody or control of any dog or other animal which commits a nuisance, i.e., defecation or urination in any area other than the private property of the owner of such dog or animal, as prohibited in §2-201 shall be required to immediately remove any feces from such surface and either:

A. Carry same away for disposal in a toilet.

B. Place the same in a nonleaking container for deposit in a trash or litter receptacle.


§2-203. Dogs Accompanying Blind or Handicapped Persons Exempt.

The provisions of §2-201 and §2-202, hereof, shall not apply to a guide dog accompanying any blind persons, or to a dog used to assist any other physically handicapped person.

(Ord. 12-1998, 4/1/1998, §3)
ANIMALS

§2-204.   Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

CHAPTER 3

BICYCLES

(Reserved to accommodate future enactments)
CHAPTER 4

BUILDINGS

(Reserved to accommodate future enactments)
CHAPTER 5
CODE ENFORCEMENT

PART 1
BUILDING CODE

§5-101. Adoption of Building Code
§5-102. Additions, Insertions and Changes
§5-103. Saving Clause

PART 2
FIRE PREVENTION CODE

§5-201. Adoption of Fire Prevention Code
§5-202. Additions, Insertions and Changes
§5-203. Established of Limits
§5-204. Saving Clause

PART 3
PLUMBING CODE

§5-301. Adoption of Plumbing Code
§5-302. Additions, Insertions and Changes
§5-303. Saving Clause

PART 4
ELECTRICAL CODE

§5-401. Adoption of Electrical Code
§5-402. Additions, Insertions and Changes
§5-403. Saving Clause
PART 5

PROPERTY MAINTENANCE CODE

§5-501. Property Maintenance Code
§5-502. The Following Sections are Hereby Revised
§5-503. Saving Clause

PART 6

MECHANICAL CODE

§5-601. Adoption of Mechanical Code
§5-602. Additions, Insertions and Changes
§5-603. Saving Clause
PART 1

BUILDING CODE

§5-101. Adoption of Building Code.

A certain document, three copies of which are on file in the office to the City Clerk of the City of Nanticoke being marked and designated as the “BOCA National Building Code, Thirteenth Edition, 1996” as published by the Building Officials and Code Administrators International. Inc., be and is hereby adopted as the building code of the City of Nanticoke in the Commonwealth of Pennsylvania; for the control of buildings and structures as herein provided, and each and all of the regulations, provisions, penalties, conditions and terms of said BOCA National Building Code, are hereby referred to, adopted and made a part hereof as if fully set out in this Part, with additions, insertions, deletions and changes, prescribed in §5-103 of this Part.

(Ord. 15-1998, 4/1/1998, §1)

§5-102. Additions, Insertions and Changes.

The following Sections are hereby revised as follows:

A. Section 101.1. Insert:

City of Nanticoke.

B. Section 112.3.1. Insert:

As adopted from time to time by resolution of the Council of the City of Nanticoke.

C. Section 116.4. Amend to read:

$116.4. Penalties. Any person who shall violate a provision of this Code, or who shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Code Official, or of a permit or certificate issued under the provisions of this Code or any amendments thereto shall, upon conviction thereof, be sentenced to a fine not exceeding 1 per month on a property and limited to no more than $1,000 for the first two continual and uncorrected violations of the same subsection of this Code on the same property and not exceeding $5,000 for the third and any subsequent continual and uncorrected violation of the same subsection of this Code on the same property. If a violation of this Code is found to pose a threat to the public’s health, safety or property, any person found to be in violation hereof shall be
sentenced to a fine no less than $500 and no more than $1,000 for the first two continual and uncorrected violations of the same subsection of this Code on the same property and no less than $1,000 and not exceeding $10,000 for the third and any subsequent continual and uncorrected violation of the same subsection of this Code on the same property, or imprisonment for any term not exceeding 90 days, or both; provided there shall not be more than one citation per 5 calendar days for a continual and uncorrected violation of the same subsection of this Code on the same property.

[Ord. 16-2004]

D. Section 117.2. Amend to read:

§117.2. Unlawful Continuance. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be, upon conviction thereof, sentenced in accordance with the penalty provided in §116.4 hereof.

[Ord. 16-2004]

E. Section 121.2.1. Delete Section in entirety.

F. Section 3408.2. Insert:

April 2, 1998.


§5-103. Saving Clause.

Nothing in this Part or in the building code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired or liability incurred or in any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in §2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Part.

PART 2
FIRE PREVENTION CODE

§5-201. Adoption of Fire Prevention Code.

A certain document, three copies of which are on file in the office of the City Clerk of the City of Nanticoke, being marked and designated as the “BOCA National Fire Prevention Code, Tenth Edition, 1996” as published by the Building Officials and Code Administrators International, Inc., be and is hereby adopted as the fire prevention code of the City of Nanticoke in the Commonwealth of Pennsylvania; for the control of buildings, structures and premises as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said BOCA National Fire Prevention Code, are hereby referred to, adopted and made a part hereof as if fully set out in this Part, with the additions, insertions, deletions and changes, if any, prescribed in §5-203 of this Part.

(Ord. 18-1998, 4/1/1998, §1)


The following Sections are hereby revised as follows:

A. Section F-101.1. Insert:

City of Nanticoke.

B. Table F-107.2.3. Insert:

(Yes or No) on each line in the column headed "Permit Required" and (Dollar Amount) on each line in the columns be added "Permit Fee" and "Inspection Fee."

(Ord. 18-1998, 4/1/1998, §3)

§5-203. Established of Limits.

The limits referred to in §F-3003.2 of the BOCA National Fire Prevention Code/1996 in which the storage of explosive materials is prohibited are hereby established as follows:

(Ord. 18-1998, 4/1/1998, §4)
§5-204. Saving Clause.

Nothing in this Part or in the Fire Prevention Code hereby adopted shall be construed to affect any lawsuit or proceeding impending in any court, or any rights required, or liability incurred, or any cause of action acquired or existing, under any act or ordinance hereby repealed as cited in §2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Part.

(Ord. 18-1998, 4/1/1998, §5)
PART 3
PLUMBING CODE

§5-301. Adoption of Plumbing Code.

A certain document, three copies of which are on file in the office of the City Clerk of the City of Nanticoke, being marked and designated as the “BOCA National Plumbing Code, Ninth Edition, 1993,” as published by the Building Officials and Code Administrators International, Inc., be and is hereby adopted as the plumbing code of the City of Nanticoke in the State of Pennsylvania; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said BOCA National Plumbing Code are hereby referred to, adopted and made part hereof, as it fully set out in this Part, with the additions, insertions and changes, if any, prescribed in §5-303 of this Part.

(Ord. 16-1998, 4/1/1998, §1)

§5-302. Additions, Insertions and Changes.

The following Sections are hereby revised as follows:

A. Section p-101.1 (page 1. second line.) Insert:

City of Nanticoke.

B. Section p-1 13.2 (page 4, third line.) Insert:

In accordance with the fee schedule adopted from time to time by resolution of the Council of the City of Nanticoke.

C. Section P-116.4. Amend to read:

§P-116.4. Violation Penalties. Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair plumbing work in violation of the approved construction documents or directive of the Code Official, or of a permit or certificate issued under the provisions of this Code, shall, upon conviction thereof, be sentenced to a fine not exceeding 1 per month on a property and limited to no more than $1,000 for the first two continual and uncorrected violations of the same subsection of this Code on the same property and not exceeding $5,000 for the third and any subsequent continual and uncorrected violation of the same subsection of this Code on the same property. If a violation of this Code is found to pose a threat to the public’s health, safety or property, any person found to be in violation hereof shall be sentenced.
to a fine no less than $500 and no more than $1,000 for the first two continual and uncorrected violations of the same subsection of this Code on the same property and no less than $1,000 and not exceeding $10,000 for the third and any subsequent continual and uncorrected violation of the same subsection of this Code on the same property, or imprisonment for any term not exceeding 90 days, or both; provided, there shall not be more than one citation per 5 calendar days for a continual and uncorrected violation of the same subsection of this Code on the same property.

[Ord. 16-2004]

D. **Section P-117.2.** Amend to read:

§P-117.2. **Unlawful Continuance.** Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be, upon conviction thereof, sentenced in accordance with the penalty provided in §P-116.4 hereof.

[Ord. 16-2004]

E. **Section p-304.3 (page 13, third line)** Insert:

$300.

F. **Section p-309.4 (page 14, second and third lines)** Insert:

4 feet, 48 inches

G. **Section p-309.5 (page 14, second and fourth lines)** Insert:

60, 60

(Ord. 16-1998, 4/1/1998, §3; as amended by Ord. 16-2004, 12/1/2004, §1)

§5-303. **Saving Clause.**

Nothing in this Part or in the plumbing code hereby adopted shall be construed to affect any suit or proceedingPending in any other 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 §2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Part.

(Ord. 16-1998, 4/1/1998, §4)
PART 4

ELECTRICAL CODE

§5-401. Adoption of Electrical Code.

A certain document, three copies of which are on file in the office to the City Clerk of the City of Nanticoke being marked and designated as "National Electrical Code, 1996," as published by the National Fire Protection Association be and is hereby adopted as the electrical code of the City of Nanticoke in the Commonwealth of Pennsylvania; for the control of electrical conductors, equipment, optical cable and certain buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said National Electrical Code are hereby referred to, adopted and made a part hereof as if fully set out in this Part with additions, insertions, deletions and changes, prescribed in §5-402 of this Part.

(Ord. 20-1998, 4/1/1998, §1)

§5-402. Additions, Insertions and Changes.

The following Sections are hereby revised as follows:

A. Add Section 90-4(a) as follows:

Prosecution of Violation. If the notice of violation is not complied with promptly, the Code Official shall request the legal counsel of the jurisdiction to institute the appropriate proceedings at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of electrical service to the building, structure, equipment or occupancy that is in violation of the provisions of this Code or of the order or direction made pursuant thereto.

B. Add Section 90-4(b) as follows:

Violation Penalties. Any person who shall violate a provision of this Code or shall fail to comply with any requirements thereof or who shall install, alter, repair or maintain an electrical conductor, equipment, optical fiber cable, buildings, structures or appliances in violation of the approved plan or directive of the Code Official, or of a permit or certificate issued under the provisions of this Code shall, upon conviction thereof, shall be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

[Ord. 16-2004]
C. **Add Section 90-4(c) as follows:**

Abatement of Violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal acts, conduct, business on or about a premises.

D. **Add Section 90-4(d) as follows:**

Notice to Owner. Upon notice from the Code Official that work is being prosecuted contrary to the provisions of this Code or in an unsafe and dangerous manner, such work shall be immediately stopped. The work order shall be in writing and shall be given to the owner or the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work will be permitted to resume.

E. **Add Section 90-9 Administration.**

F. **Add Section 90-9(a) as follows:**

These regulations shall be known as the Electrical Code of the City of Nanticoke.


§5-403. **Saving Clause.**

Nothing in this Part or in the electrical code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred or in any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in §2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Part.

PART 5

PROPERTY MAINTENANCE CODE


A certain document, three copies of which are on file in the office of the City Clerk of the City of Nanticoke being marked and designated as the “International Property Maintenance Code, First Edition, 1998,” as published by the Building Officials and Code Administrators International Inc., the International Conference of Building Officials and the Southern Building Code Congress International, Inc., be and is hereby adopted as the property maintenance code of the City of Nanticoke in the State of Pennsylvania; for the control of buildings and structure as herein provided and each and all of the regulations, provisions, penalties, conditions and terms of said property maintenance code are hereby referred to, adopted, and made a part hereof, as it fully set out in this Part, with the additions, insertions, deletions and changes, if any, prescribed in §5-502 of this Part.

(Ord. 19-1998, 4/1/1998, §1)

§5-502. The Following Sections are Hereby Revised.

1. Section 101.1 Insert:

   City of Nanticoke.

2. Section 103.6 Add and Insert:

   In accordance with the fee schedule adopted from time to time by resolution of the Council of the City of Nanticoke.

3. Section 106.4 Revised to read as follows:

   **Violation Penalties.** Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof shall, upon conviction thereof, be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

   [Ord. 16-2004]

4. Section 303.15 Insert:

   April 1 to November 1.
5. **Section 602.3** Insert:

   September 1 to May 1.

6. **Section 602.4** Insert:

   September 1 to May 1.

7. **Chapter 8, Codes.** Insert:


§5-503. **Saving Clause.**

Nothing in this Part or in the property maintenance code hereby adopted shall be construed to affect and suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquiring or existing, under any act or ordinance hereby repealed as cited in §3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Part.

PART 6
MECHANICAL CODE

§5-601. Adoption of Mechanical Code.

A certain document, three copies of which are on file in the office of the City Clerk of the City of Nanticoke, being marked and designated as “BOCA National Mechanical Code, Eighth Edition, 1993,” as published by Building Officials and Code Administrators International, Inc., be and hereby adopted as the mechanical code of the City of Nanticoke in the Commonwealth of Pennsylvania; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the said BOCA National Mechanical Code are hereby referred to adopted and made a part hereof, as it fully set out in this Part, with the additions, insertions, deletions and changes, if any, prescribed in §5-602 of this Part.

(Ord. 17-1998, 4/1/1998, §1)

§5-602. Additions, Insertions and Changes.

The following Sections are hereby revised as follows:

A. Section M-101.1 (page 1, second line) Insert:

   City of Nanticoke.

B. Section M-113.2 (page 4 third line) Insert:

   In accordance with the fee schedule adopted from time to time by resolution of the Council of the City of Nanticoke.

C. Section M-113.3 (page 4 third line) Insert:

   In accordance with the fee schedule adopted from time to time by resolution of the Council of the City of Nanticoke.

D. Section M-116.4 (page 5, seventh, eighth, and ninth lines) Insert:

   summary offense, $1,000 and 90 days.

E. Section M-117.2 (page 5, fifth and sixth lines) Insert:

   $600 or more than $1,000.

(Ord. 17-1998, 4/1/1998, §3)
§5-603. **Saving Clause.**

Nothing in the Part or in the mechanical code 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 of action acquired or existing under any act or ordinance hereby repealed, as cited in §2 of this ordinance; nor shall any just or legal right or remedy of any character be lost impaired or affected by this Part.

CHAPTER 6

CONDUCT

PART 1

CURFEW

§6-101. Curfew
§6-102. Parental Responsibilities
§6-103. Penalties
§6-104. Minors

PART 2

SOUND TRUCKS

§6-201. Definitions
§6-202. Noncommercial Use of Sound Trucks
§6-203. Commercial Advertising by Sound Truck Prohibited
§6-204. Penalties

PART 3

SMOKING IN PUBLIC TRANSPORTATION VEHICLES

§6-301. Smoking in Public Transportation Vehicles Prohibited
§6-302. Penalty
PART 1
CURFEW

It shall be unlawful for any person under 18 years of age to be or remain in or upon the streets, alleys, highways or public places in the City of Nanticoke at night after the hour of 10 p.m., unless accompanied by a parent, a related adult, guardian or other person having the legal custody of such minor person, or bearing a written statement dated that day, signed by a parent or guardian, declaring that said child is performing an errand or duty directed by such parent or guardian, or whose employment makes it necessary to be upon said streets, alleys, highways or public places during the night time after said specified hour.

(Ord. 19-1969, 5/19/1969, §1)

§6-102. Parental Responsibilities.
It shall be unlawful for any parent, guardian or other person having the legal care of custody of any person under 18 years of age to allow or permit any such child, ward or other person under such age, while in such legal custody, to go or be in or remain upon any streets, alleys, highways or public places in said City after the time prohibited in §6-101 of this Part, except as therein provided.

(Ord. 19-1969, 5/19/1969, §2)

§6-103. Penalties.
Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 19-1969, 5/19/1969, §3; as amended by Ord. 16-2004, 12/1/2004, §1)

§6-104. Minors.
No minor person convicted of violating any of the provisions of this Part shall be confined in default of payment of the fine and costs imposed until notice shall have been given to a parent or guardian or such minor person if resident within the City of Nanticoke and such person or guardian shall have neglected to make the payment within 8 hours after such notice has been given.

(Ord. 19-1969, 5/19/1969, §4)
PART 2
SOUND TRUCKS

§6-201. Definitions.

PERSON - includes the singular and plural and shall also mean and include any person, firm, corporation, association, club, partnership, society or any other form of association or organization, and the masculine shall include the feminine.

SOUND TRUCK - any vehicle or conveyance, whether motor driven or not, having mounted thereon, or attached thereto, any sound amplifying equipment.

SOUND AMPLIFYING EQUIPMENT - any machine or device for the amplification of the human voice, music or any other sound, but shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices, on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic safety purposes.

(Ord. 4-1955, 3/21/1955, §1)

§6-202. Noncommercial Use of Sound Trucks.

1. Registration Required. No person shall use or cause to be used a sound truck with its sound amplifying equipment in operation for noncommercial purposes in the City of Nanticoke unless a license has been obtained from the City License Clerk. The fee for said license shall be in an amount as established from time to time by resolution of City Council. This license shall be issued by the City License Clerk after the person applying has filed with the City License Clerk in writing a registration statement. This registration statement shall be filed in duplicate and shall state the following: [Ord. 16-2004]

A. Name and home address of the applicant.

B. Address of place of business of applicant.

C. License number and motor number of the sound truck to be used by applicant.

D. Name and address of person who owns the sound truck.

E. Name and address of person having direct charge of sound truck.

F. Names and addresses of all persons who will use or operate the sound truck.

G. The purposes for which the sound truck will be used.
CONDUCT

H. A general statement as to the section or sections of the City in which the sound truck shall be used.

I. The proposed hours of operation of the sound truck.

J. The numbers of days proposed operation of the sound truck.

K. A general description of the sound amplifying equipment which is to be used.

L. The maximum sound producing power of the sound amplifying equipment to be used in or on the sound truck. State the following:

   (1) The wattage to be used.

   (2) The volume in decibels of sound which will be produced.

   (3) The approximate maximum distance for which sound will be projected from the sound truck.

2. **Registration Statement Amendment.** All persons using or causing to be used sound trucks for noncommercial purposes shall amend any registration statement filed pursuant to subsection (1), above, within 48 hours after any change in the information furnished.

3. **Registration and Identification.** The City License Clerk shall return to each applicant under subsection (1), above, one copy of said registration statement duly certified by the City License Clerk as a correct copy of said application. Said certified copy of the application and the license issued by the City License Clerk shall be in possession of any person operating the sound truck at all times while the sound truck's amplifying equipment is in operation and said copy shall be promptly displayed and shown to any policeman of the City of Nanticoke upon request.

4. **Regulations For Use.** Noncommercial use of sound trucks in the City of Nanticoke with sound amplifying equipment in operation shall be subject to the following regulations:

   A. The only sound permitted are human speech.

   B. Operations are permitted for 4 hours each day between the hours of 11:30 a.m. and 1:30 p.m. and between the hours of 4:30 p.m. and 6:30 p.m. , except on Sundays and legal holidays when no operation shall be authorized or permitted.

   C. Sound equipment shall not be operated unless the sound truck upon which such equipment shall be mounted is operated at a speed of at least 10 miles per hour, except when the sound truck is stopped or impeded by traffic. Where the sound truck is stopped by traffic, the sound amplifying equipment shall not be operated for longer than 1 minute.
D. Sound shall not be permitted to issue from the amplifying equipment at any time the sound truck is within 100 yards of hospitals, schools or churches.

E. The human speech amplified shall not be profane, lewd, indecent or slanderous.

F. The volume of sound shall be controlled so that it will not be audible for a distance of 100 feet from the vehicle and so that said volume is not unreasonably loud, jarring, disturbing or a nuisance to persons within the area of audibility.

G. No sound amplifying equipment shall be operated in excess of 15 watts of power in the last stage of amplification.

H. No sound truck with its sound amplifying equipment shall be operated on any street adjacent to a dwelling wherein any occupant is under medical attention and if the operator of any sound truck with amplifying equipment in operation is requested to cease operation by the occupant of a dwelling because someone in the dwelling is under medical attention and refuses to cease operation, the operator shall be deemed to be in violation of this Part and shall be subject to the penalties contained herein in §6-204.

(Ord. 4-1955, 3/21/1955, §2; as amended by Ord. 16-2004, 12/1/2004, §1)

§6-203. Commercial Advertising by Sound Truck Prohibited.

No person shall operate or cause to be operated any sound truck for commercial sound advertising purposes in the City of Nanticoke with amplifying equipment in operation.

(Ord. 4-1955, 3/21/1955, §3)

§6-204. Penalties.

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 4-1955, 3/21/1955, §4; as amended by Ord. 16-2004, 12/1/2004, §1)
PART 3

SMOKING IN PUBLIC TRANSPORTATION VEHICLES

§6-301. Smoking in Public Transportation Vehicles Prohibited.

From and after the passage of this Part, smoking or carrying lighted cigarettes, cigars, pipes or matches and the use of matches or fire producing devices in buses, street cars, trackless trolleys or any vehicles operating as a common carrier and transporting passengers, is hereby prohibited.

(Ord. 239, 2/19/1951)

§6-302. Penalty.

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 239, 2/19/1951; as amended by Ord. 16-2004, 12/1/2004, §1)
CHAPTER 7

FIRE PREVENTION AND FIRE PROTECTION

PART 1

OUTDOOR FIRES

§7-101. Outdoor Fires Prohibited
§7-102. Enforcement
§7-103. Penalty
PART 1

OUTDOOR FIRES


No person or persons, corporations or associations shall set or maintain any fire upon any of the streets, sidewalks, alleys or public grounds in the City of Nanticoke, or burn or cause to be burned thereon any paper, cardboard, rubbish, leaves or other material or substance of any kind; nor shall any person or persons, corporations or associations set or maintain any fire, burn or cause to be burned any substance of material of any kind, out of doors without exception.


§7-102. Enforcement.

The City Fire Chief and/or his agent shall be responsible for enforcing the provisions of this Part.


§7-103. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

CHAPTER 8

FLOODPLAINS

(Reserved to accommodate future enactments)
CHAPTER 9
GRADING AND EXCAVATING

(Reserved to accommodate future enactments)
CHAPTER 10

HEALTH AND SAFETY

PART 1

NUISANCES

§10-101. Definitions
§10-102. Illustrative Enumeration of Nuisances
§10-103. Nuisance Prohibition
§10-104. Notice to Abate
§10-105. Contents of Notice to Abate
§10-106. Service of Notice
§10-107. Abatement by City
§10-108. Emergency Abatement by City
§10-109. City’s Cost Declared Lien
§10-110. Additional Remedies
§10-111. Enabling Authority
§10-112. Penalty
PART 1

NUISANCES


For the purposes of this Part, the word “nuisance” is hereby defined as any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

A. Injures or endangers the comfort, repose, health or safety of others.

B. Offends decency.

C. Is offensive to the senses.

D. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage.

E. In any way renders other persons insecure in life or the use of property.

F. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(Ord. 20-1982, 7/12/1982, §1)

§10-102. Illustrative Enumeration of Nuisances.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

A. Weeds, grass or other rank vegetation to a height greater than 6 inches on the average.

B. Accumulation of dead weeds, grass or brush.

C. Poison ivy, ragweed or other poisonous plants, or plants detrimental to health growing on any lot in such a manner that any part of such vegetation shall extend upon, overhang or border any public place or such as to allow seed, pollen or other poisonous particles or emanations therefrom to be carried through the air into any public place.

D. Trees, shrubs, plants or vegetation which overhangs any sidewalk or street, or which grown thereon in a manner as to obstruct or impair the free and full use of the sidewalk or street by the public, including the interruption or
interference with the clear vision of pedestrians or persons operating vehicles thereon.

E. Trees, shrubs, plants or vegetation which interferes with electrical poles, wires, pipes or fixtures, or the roots of which interfere with or cause the surface of the street, sidewalk or curb to be upheaved or disturbed.

F. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.

G. Any condition which provides harborage for rats, mice, snakes and other vermin.

H. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.

I. All unnecessary or unauthorized noises and annoying vibrations, including animal noises.

J. All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.

K. The carcasses of animals or fowl not disposed of within a reasonable time after death.

L. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.

M. Any building, structure or other place or location where any activity which is in violation of local, State or Federal law is conducted, performed or maintained.

N. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

O. Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

(Ord. 20-1982, 7/12/1982, §2)

§10-103. Nuisance Prohibition.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

(Ord. 20-1982, 7/12/1982, §3)
§10-104. Notice to Abate.

Whenever a nuisance is found to exist within the City, the City Chief of Police or some other duly designated officer of the City shall give 10 days written notice to the owner or occupant of the property upon which such nuisance exists or upon the causing or maintaining the nuisance.

(Ord. 20-1982, 7/12/1982, §4)

§10-105. Contents of Notice to Abate.

The notice to abate a nuisance issued under the provisions of this Part shall contain:

A. An order to abate the nuisance or to request a hearing within a stated time, which shall be responsible under the circumstances.

B. The location of the nuisance, if the same is stationary.

C. A description of what constitutes the nuisance.

D. A statement of acts necessary to abate the nuisance.

E. A statement that if the nuisance is not abated as directed, and no request for hearing is made within the prescribed time, the City will abate such nuisance and assess the cost thereof against such person.

(Ord. 20-1982, 7/12/1982, §5)

§10-106. Service of Notice.

Proper service of any notice under this Part shall be by personal service upon the person responsible for the nuisance or the owner authorized property management agent, or occupant of the premises. Alternatively, such service may be made to such persons by registered mail and return receipt requested.

(Ord. 20-1982, 7/12/1982, §6)

§10-107. Abatement by City.

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this Part to abate the same, the City Chief of Police or other duly designated officer of the City shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

(Ord. 20-1982, 7/12/1982, §7)
§10-108. Emergency Abatement by City.

When, in the opinion of the City Police Chief or other duly designated officer, there is actual and immediate danger to the public or occupants of a particular premises caused by a nuisance on such premises, the Police Chief or other duly designated officer is hereby authorized and empowered, without any notice or hearing to order and require such premises to be vacated. The City Police Chief or other duly designated officer shall immediately post the premises, warning of the dangerous condition, and shall then abate such nuisance and prepare a statement of costs incurred in the abatement thereof.

(Ord. 20-1982, 7/12/1982, §8)


Any and all costs incurred by the city in the abatement of a nuisance under the provisions of this Part shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided for by law.

(Ord. 20-1982, 7/12/1982, §9)

§10-110. Additional Remedies.

The City may pursue the additional remedies under this Part as authorized by the Third Class City Code, as reenacted, revised and amended, by the institution of proceedings in courts of equity.

(Ord. 20-1982, 7/12/1982, §10)

§10-111. Enabling Authority.

This Part is enacted pursuant to the authority granted in the Third Class City Code.

(Ord. 20-1982, 7/12/1982, §11)

§10-112. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 20-1982, 7/12/1982, §12; as amended by Ord. 16-2004, 12/1/2004, §1)
CHAPTER 11

HOUSING

PART 1

DISCLOSING OF ZONING DISTRICT CLASSIFICATION

§11-101. Intent
§11-102. Definitions
§11-103. Requirements Prior to Entering into an Agreement of Sale, Etc.; Period of Validity
§11-104. Applications; Fees; Certifications; Re-inspections; Compliance Letters
§11-105. Insertion of Provision in Agreements of Sale
§11-106. Disclaimer; Waiver
§11-107. Delivery of Certificate; Receipt of Evidence of Compliance with Part
§11-108. Liability of the City of Nanticoke
§11-109. Filing of Appeal
§11-110. Penalties; Invalidation of Sale or Exchange

PART 2

EQUAL OPPORTUNITY HOUSING

§11-201. Policy
§11-202. Definitions
§11-203. Unlawful Housing Discriminatory Practices
§11-204. Enforcement
§11-205. Amendments
PART 1

DISCLOSING OF ZONING DISTRICT CLASSIFICATION


1. It is the intent of this Part to implement the provisions of 21 P.S. 611-615 et seq., and to prevent owners of properties in the City of Nanticoke which are in violation of zoning, housing, property maintenance, building, safety, plumbing, mechanical, electrical, health and fire prevention ordinances and regulations, from offering such properties for sale without revealing such illegal use or the existence of zoning, housing, property maintenance, building, safety, plumbing, mechanical, electrical, health or fire prevention violations.

2. To prevent undue hardships and losses imposed on such purchasers by owners who have failed to reveal the illegal use or condition of the property being conveyed or who have made misrepresentations in that regard, the City Council finds that it is in the best interest of the City of Nanticoke to declare that all sellers of property, as defined herein, shall be required to advise the purchaser of the legal use and condition of the property, and to deliver to the purchaser prior to the execution of the agreement of sale for such property a use registration certificate, obtained from the Code Official, showing the legal use and zoning district classification for such property, the existence of any zoning, housing, property maintenance, building, safety, plumbing, mechanical, electrical, health or fire prevention violations, and any municipal claims due the City of Nanticoke. 


§11-102. Definitions.

AGENT - any person, co-partnership, association, corporation or fiduciary who for monetary consideration aids in the sale or exchange of property as defined herein. Whenever used in any clause, prescribing or imposing a penalty, the term agent, as applied to copartnerships and associations shall mean the partners, or members thereof, and as applied to corporations, the officers thereof. Liability shall be limited to failure to notify the owner of the obligations imposed by this Part.

AGREEMENT OF SALE - means any agreement, or written instrument, which provides that a title to any property shall thereafter be transferred from one owner to another owner, and shall include, inter alia, written leases which contain options to purchase the leased property, and leases which provide that the lessee of the property shall acquire title thereto after the payment of a stipulated number of regular rent payments or after a stipulated period of time.

DISTRICT - any jurisdictional area or zone as set forth in the Zoning Ordinance [Chapter 27] and Fire Prevention Ordinance [Chapter 5, Part 2] of the City of Nanticoke.
MUNICIPAL CLAIM - all monetary obligations, recorded or unrecorded, due the City of Nanticoke as school, County or City real estate taxes or for services rendered or delivered to the property.

OWNER - any person, co-partnership, association, corporation or fiduciary having legal or equitable title, or any interest in any real estate. Whenever used in any subsection prescribing or imposing a penalty, the term owner, as applied to co-partnerships and associations shall mean the partners, or members thereof, and as applied to corporations, the officers thereof.

PROPERTY - means any building or structure situate in the City of Nanticoke, except building or structures used, designed or intended to be used, exclusively for single-family or two family occupancy, churches or other places of worship, except that for the purpose of certification or statements regarding notices of housing, property maintenance, building, safety, plumbing, mechanical, electrical, health or fire prevention code violations, the word "property" shall include all buildings or structures.

REGULATIONS - regulations shall include, but shall not be limited to, regulations promulgated by the Pennsylvania Department of Labor and Industry under the Pennsylvania Fire and Panic Act of April 27, 1927, P.L. 465, as amended.


§11-103. Requirements Prior to Entering into an Agreement of Sale, Etc.; Period of Validity.

1. Prior to entering into an agreement of sale or exchange of any property, or prior to the transfer of property when no agreement of sale is utilized, the owner shall obtain form the Code Official the certificate set forth in §11-104, hereof. However, subject to the following provisions:

   A. Where such properties are intended to be demolished and a valid demolition permit has been obtained, a certificate shall not be required.

   B. Where such properties are sold at a foreclosure sale or pursuant to the Real Estate Tax Sale Act of 1947, P. L. 1368, as amended, or other judicial sale pursuant to Federal of State statutes, the certificate set forth in §11-104 shall not be required.

2. The certificate shall be valid for a period not to exceed 1 year from the date of issue, or for only one transfer of ownership of the property. Each subsequent transfer of ownership shall require a new certificate as required in §11-104.

3. However, upon the request of the owner, at least 1 month prior to the expiration of the 1 year period referred to in subsection (2), above, the Code Official may issue endorsements to the certificate, extending it validity for up to two additional 3 month periods, showing any changes to the information on the original certificate.
There shall be no fee for the issuance of the endorsement(s). Each endorsement, however, shall extend the validity of the certificate for only 3 months.


§11-104. Applications; Fees; Certifications; Re-inspections; Compliance Letters.

1. Upon application of the owner and the payment to the City of Nanticoke of a fee established by City Council pursuant to resolution, the Code Official, or his/her designee, shall then review the pertinent City records and inspect the premises in question.

2. Upon completion of the review and inspection, the Code Official shall execute and deliver a certificate to the owner which shall contain the following information:

   A. The street address or appropriate description of the subject property.

   B. A statement of the district classifications applicable to the property in question, together with an extract of the applicable ordinance(s) showing the uses permitted within the district.

   C. A statement of variances and use permits, if any, granted to that property, together with the conditions and restrictions of such permits.

   D. A statement as to whether any land development, construction, electrical, plumbing, mechanical, fire prevention, health or building permits have been issued for work not yet completed on the subject premises.

   E. A statement as to whether there appears to be any nonconformity or illegality in the structures on the property or the uses being made thereof. This statement shall also indicate whether the property has been approved or designated as a nonconforming use.

   F. A detailed list of all violations of the zoning, housing, property maintenance, building, plumbing, mechanical, electrical, health or fire prevention ordinances or regulations.

   G. A detailed list of all municipal claims currently due and payable.


1. Every owner shall insert in every agreement for the sale of property a provision showing the district classification(s) of such property, and stating whether the present use of the property is in compliance with or in violation of district laws,
ordinances or regulations, and every owner shall insert in every agreement for the sale of property a provision disclosing whether there exists any notice of an uncorrected violation of the zoning, housing, property maintenance, plumbing, mechanical, electrical, health or fire prevention ordinance and regulations.

2. If any owner fails to include any provision required by this Part in an agreement for the sale of property, then in any action, at law or in equity, instituted by a purchaser against an owner, it shall be conclusively presumed that the owner at the time of signing of such agreement, represented and warranted to the purchaser that such property was being used in compliance with the then, existing district laws and ordinances, and that there was no uncorrected violation of the zoning, housing, property maintenance, building, plumbing, mechanical, safety, health or fire prevention ordinances and regulations.

3. Every agent shall, by written document to the owner, assert the obligation of the owner to comply with the provisions of this Part.


§11-106. Disclaimer; Waiver.

Notwithstanding any other law or ordinance, the provisions of this Part may not be waived or disclaimed by any oral or written agreement executed by any owner or purchaser.


§11-107. Delivery of Certificate; Receipt of Evidence of Compliance with Part.

1. In the City of Nanticoke, it shall be unlawful for any owner to sell his/her property, or any interest therein, unless the owner shall first deliver to the purchaser at or prior to the execution of any agreement of sale, or prior to the transfer of title should no agreement of sale be utilized, the certification described in §11-104.

2. The purchaser or transferee shall execute a receipt for the certificate, as furnished by the City of Nanticoke, and such receipt shall be delivered by the owner to the Code Official, as evidence of compliance with the provisions of this Part.

3. It shall be unlawful for any agent to aid any owner in the sale or transfer of property unless the agent shall first notify the owner of the owner's obligation imposed by §11-104.

§11-108. Liability of the City of Nanticoke.

The use registration certificate shall be compiled from the records of the City and from an inspection of the property. Neither the enactment of this Part nor the preparation and delivery of the certificate required hereunder shall impose any liability upon the City of Nanticoke for any errors or omissions contained in such certificate nor shall the City of Nanticoke bear any liability not otherwise imposed by law.


Appeals from the findings set forth in the certificate must be filed in writing with the City Council of the City of Nanticoke within 3 days after the issuance of said certificate; the City Council of the City of Nanticoke will refer the appeal to the appropriate board of appeals.


§11-110. Penalties; Invalidation of Sale or Exchange.

1. Any owner who violates the provisions of §11-107(1) of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. [Ord. 16-2004]

2. Any owner, agent or purchaser who violates any other provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense. [Ord. 16-2004]

3. No sale or exchange of property (as defined in §11-102 of this Part) shall be invalidated solely because of the failure of any person to comply with any provisions of this Part unless such failure is an act of omission which would be grounds for cancellation of such sale or exchange in the absence of this Part.

PART 2

EQUAL OPPORTUNITY HOUSING

§11-201. Policy.

It is the policy of the City of Nanticoke to provide within statutory limitations, for fair housing throughout the City.

(Ord. 9-1979, 9-9-1979, §1)


As used in this Part:

COMMERCIAL HOUSING - housing accommodations held or offered for sale or rent:

A. By a real estate broker, salesman or agency, or by any other person pursuant to authorization of the owner.

B. By the owner himself.

C. By legal representation.

But, shall not include any personal residence offered for sale or rent by the owner or by his broker, salesman, agent or employee.

DISCRIMINATORY HOUSING PRACTICE - any act that is unlawful under §11-203 of this Part.

FAIR HOUSING OFFICER - a person appointed by the City who shall be responsible for accepting fair housing complaints and investigating the same on behalf of the City.

PERSON - one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees in bankruptcy or receivers. It also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesman, agent, employee, lending institution and Commonwealth of Pennsylvania and all political subdivisions, authorities, boards and commissions thereof.

PERSONAL RESIDENCE - a building or structure containing living quarters occupied or intended to be occupied by no more than two individuals, two groups or two families living independently of each other and used by the owner thereof as a bona fide residence for himself and any members of his family forming his household.

(Ord. 9-1979, 9-9-1979, §2)
§11-203. Unlawful Housing Discriminatory Practices.

It shall be unlawful discriminatory practice for any person to:

A. Refuse to sell, lease, finance, or otherwise to deny or withhold commercial housing from any person because of the race, color, religious creed, ancestry, sex, national origin or handicap or disability of any prospective owner, occupant or user of such commercial housing, or to refuse to lease commercial housing to any person due to use of a guide dog because of the blindness of the user.

B. Refuse to lend money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of commercial housing or otherwise withhold financing of commercial housing from any person because of the race, color, religious creed, ancestry, sex, national origin, or handicap or disability of any present or prospective owner, occupant or user of such commercial housing.

C. Discriminate against any person in the terms or conditions of selling or leasing any commercial housing or in furnishing facilities, services or privileges in connection with the ownership, occupancy or use of any commercial housing because of the race, color, religious creed, ancestry, sex, national origin or handicap or disability of any present or prospective owner, occupant or user of such commercial housing or to discriminate against any person in the terms of leasing any commercial housing or in furnishing facilities, services or privileges in connection with the occupancy or use of any commercial housing due to use of a guide dog because of the blindness of the user.

D. Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of commercial housing because of the race, color, religious creed, ancestry, sex, national origin or handicap or disability of any present or prospective owner, occupant or user of such commercial housing.

E. Print publish or circulate any statement or advertisement relating to the sale, lease or acquisition of any commercial housing or the loan of money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of commercial housing which indicates any preference, limitation, specification or discrimination based upon race, color, religious creed, ancestry, sex, national origin or handicap or disability, or to print or publish or circulate any statement or advertisement relating to the lease of any commercial dwelling which indicates any preference, limitations, specification or discrimination based upon use of a guide dog because of the blindness of the user.

F. Make any inquiry, elicit any information, make or keep any record or use any form of application, containing questions or entries concerning race, color,
religious creed, ancestry, sex, national origin or handicap or disability in connection with the sale or lease of any commercial housing or loan of any money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of commercial housing or to make any inquiry, elicit any information, make or keep any record or use any form of application, containing questions or entries concerning the use of a guide dog because of the blindness of the user, in connection with the lease of any commercial housing.

(Ord. 9-1979, –/-/1979, §3; as amended by Ord. 24-1982, 12/27/1982)

§11-204. Enforcement.

1. The City hereby appoints the City's Building Inspector as its Fair Housing Officer.

2. The Fair Housing Officer shall receive information concerning alleged violations of this Part from any person. Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocable injured by a discriminatory housing practice that is about to occur may file a complaint with the Fair Housing Officer no later than 180 days after the alleged discriminatory housing practice occurred.

3. Each such complaint filed with the Fair Housing Officer shall be in writing and signed, and shall be sworn to before a Notary Public.

4. Within 30 days of his receipt of each such complaint, the Fair Housing Officer shall undertake and complete an investigation of the complaint to determine the accuracy of statements contained therein. If upon such investigation, the Fair Housing Officer finds that statements contained in the complaint are or may be correct, he shall immediately file his report and a copy of the complaint to the City Solicitor.

5. If in the opinion of the City Solicitor an unlawful housing discriminatory practice has or may have occurred, then and in that event the City Solicitor shall immediately forward the complaint to the Pennsylvania Human Relations Commission for follow-up pursuant to the Pennsylvania Human Relations Act, 1955, October 27, P.L. 744, as amended.

(Ord. 9-1979, –/-/1979, §4)

§11-205. Amendments.

This Part may be amended by the City Council from time to time to conform to future Federal, State or local statutory or regulatory requirements.

(Ord. 9-1979, –/-/1979, §8)
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LIBRARIES

(Reserved to accommodate future enactments)
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PART 1

ALARM DEVICES


1. As used in this Part, the following terms shall have the meanings indicated unless a different meaning clearly appears from the context:

   **ACCIDENTAL FALSE ALARM** - any false alarm which is not an intentional false alarm as defined herein or, not when an intrusion, crime, fire or other emergency has actually occurred.

   **ALARM** - a communication to the Nanticoke City Police or Fire Department through the Luzerne County Communications Center that a crime, fire or other emergency situation warranting immediate action by the Nanticoke City Police or Fire Department has occurred or is occurring.

   **ALARM DEVICE** - a mechanical device designed to automatically transmit an alarm by wire, telephone, radio or other means:

   A. To the Nanticoke City Police Department through the Luzerne County Communications Center.

   B. To a person who is instructed to notify the Nanticoke City Police Department of the alarm.

   C. To activate a bell or sounding device to be heard outside of a building which is intended to alert police or others to the existence of a crime, fire or other emergency situation warranting police action.

   **CENTRAL RECEIVING STATION** - the Luzerne County Communications Center also known as the 9-1-1 Center.

   **DIRECT ALARM DEVICE** - an alarm device, other than a telephone dialer alarm device, designed to transmit an alarm directly to the Luzerne County Communications Center.

   **FALSE ALARM** - an alarm to which the Nanticoke City Police or Fire Department responds resulting from the activation of an alarm device when a crime, fire or other emergency warranting immediate action by the Nanticoke City Police or Fire Department has not in fact occurred.

   **FIRE DEPARTMENT** - Nanticoke City Fire Department.
INDIRECT ALARM DEVICE - an alarm device designed to transmit an alarm to a person who is instructed to notify Luzerne County Communications Center, the Nanticoke Police Department or Nanticoke Fire Department of the alarm.

INTENTIONAL FALSE ALARM - a false alarm resulting from the intentional activation of an alarm device by an individual under circumstances where that individual has no reasonable basis to believe that a crime, fire or other emergency warranting immediate action by the Police Department or Fire Department has occurred or is occurring.

PERMIT HOLDER - any person to whom the Nanticoke City Police Department or Nanticoke City Fire Department has issued an alarm device permit.

PERSON - an individual, corporation, partnership, incorporated association or other similar entity.

POLICE DEPARTMENT - Nanticoke City Police Department.

TELEPHONE DIALER DEVICE - an alarm device designed to automatically transmit a recorded message over regular telephone lines directly to the Luzerne County Communications Center, the Nanticoke, Police Department or the Nanticoke Fire Department or to a person who is instructed to notify the Police Department of the alarm.

2. In this Part, the singular shall include the plural; the plural shall include the singular, and the masculine shall include the feminine and the neuter.

(Ord. 13-1999, 6/2/1999, §1)


1. It shall be unlawful for a property owner, lessee of property or a person otherwise occupying a premises in the City of Nanticoke to put an alarm device into operation on his premises or to allow an alarm device to be put into operation on his premises without first obtaining an alarm device permit from the Nanticoke Police Department to the Nanticoke Fire Department.

2. In order to apply for an alarm device permit, a person must submit an application to the Police or Fire Department stating:

A. His name.

B. His home and business address and the telephone number of each.

C. The location at which the alarm device will be installed and operated.
D. The names, addresses and telephone numbers of at least two individuals who have keys to the premises at which the alarm device is located and who are authorized to enter the premises at any time, but who do not reside at the premises at which the alarm device is located.

E. A general written description of the device and other schematics.

If the device is to be leased or rented from, or is to be serviced pursuant to a service agreement by, a person other than the person making application for an alarm device permit, the name, address and telephone number of that person must be stated in the application. In addition, each person submitting an application for an alarm device permit shall submit a signed statement in the following form:

"I (We), the undersigned applicant(s) for an alarm device permit, intending to be legally bound hereby, agree with the City of Nanticoke that neither I (we) nor anyone claiming by, through or under me (us), shall make any claim against the City of Nanticoke, its officials, agents, and employees for any damages caused to the premises at which the alarm device, which is the subject of his application, is or will be located, if such damage is caused by a forced entry to said premises by employees of the City of Nanticoke in order to answer an alarm from said alarm device at a time when said premises are or appear to be unattended or when in the discretion of said employees the circumstances appear to warrant forced entry."

The Police Department and Fire Department shall furnish forms which any person wishing to apply for an alarm device permit shall submit with his application.

3. A person applying for an alarm permit for a telephone dialer device, local sounding device, or an indirect alarm device shall submit the fee, an amount as established from time to time by resolution of City Council, along with his application. The per annum fee shall be pro-rated from the date of the permit and the alarm fee fiscal year shall run from July 1 of each year to June 30 of the next year. The pro-rata fee shall be an amount as established from time to time by resolution of City Council. [Ord. 16-2004]

4. The Police or Fire Department shall, within 10 weekdays from receipt of an application for an alarm device permit, either grant an alarm device permit to the applicant or notify the applicant in writing that his application has been denied and the reason or reasons why it has been denied.

5. An application for an alarm device permit may only be denied for the following reasons:

A. The application submitted by the applicant does not comply with subsection (2) or (3) of this Section.
B. The applicant’s alarm device does not conform to the operational standards set forth in §13-103 of this Part.

6. Notwithstanding the language contained in §13-101 of this Part, it shall not be unlawful for a person to continue to operate an alarm device on his premises without an alarm device permit for a period of 90 days after the effective date of this Part; provided, said alarm device was in operation on the effective date of this Part.

7. The Police or Fire Department shall have the power to revoke an alarm device permit. An alarm device permit shall be revoked by notifying the permit holder in writing that his alarm device permit has been revoked and the reason or reasons why it has been revoked. Said written notice shall be:

A. Delivered personally to the permit holder, in which case the revocation shall be effective immediately upon delivery.

B. Mailed to the permit holder at his last known address by certified mail in which case the revocation shall be effective 3 days after mailing.

8. An alarm device permit may only be revoked for the following reasons:

A. Failure of an alarm device to conform to the operational standards set forth in §13-103 of this Part.

B. Failure of a permit holder to pay a false alarm charge assessed to him by the Police or Fire Department under the provisions of §13-104 of this Part within 30 days of the mailing to him of a notice of the assessment of a false alarm charge.

C. The occurrence of an intentional false alarm caused by the permit holder or by an individual over the age of 15 who resides on the premises where the alarm device is located.

D. The occurrence of more than 12 false alarms from an alarm device during any calendar year.

9. A person who has had his alarm device permit revoked under subsections (7) and (8), of this Section may reapply for an alarm device permit 45 days after the effective date of such revocation; provided, that if a person’s alarm device permit was revoked for nonpayment of a false alarm charge or for nonpayment of installation or maintenance fees or both, the Police or Fire Department shall deny such application unless such charge or fee or both have been paid. Notwithstanding the foregoing, a person who has had his alarm device permit twice revoked on the basis of an occurrence of an intentional false alarm may not reapply for an alarm device permit for 1 year from the effective date of the second revocation.

(Ord. 13-1999, 6/2/1999, §2; as amended by Ord. 16-2004, 12/1/2004, §1)
§13-103. Operational Standards.

1. If an alarm device is designed to transmit a recorded message directly to the Luzerne County Communications Center, the duration of such recorded message shall not exceed 60 seconds. The contents of the recorded message shall be intelligible and in a format approved by the Police Department.

2. A direct alarm device shall be designed to dial only specific telephone numbers designated by the Police Department, Fire Department or the Luzerne County Communications Center, and to allow the permit holder to abort the alarm signals.

3. A direct alarm device shall be designed so that it interfaces with the Luzerne County Communications Center or any other receiving station maintained by the Police or Fire Department.

4. If an alarm device is designed to cause a bell, siren or sound-making device to be activated on or near the premises on which the alarm device is installed at the time it gives an alarm, said alarm device shall be designed to deactivate the bell, siren or other sound making device after 30 minutes of operation. Preexisting units must be modified for a 30 minute device unless said unit cannot be modified without replacement.

5. All alarm devices shall meet the applicable standards of the Underwriters Laboratories and/or the National Fire Protection Association, and/or other recognized industry standards, and shall be permitted under this Part if in conformity thereto. An alarm device which does not meet any of the above standards or for which there is no recognized industry standard shall require the applicant for a permit to submit evidence of the reliability or suitability of the alarm device. Any permit issued for such an alarm device which does not conform to the recognized standard shall be conditionally subject to satisfactory performance of said alarm device after installation. The applicant for a permit may be required to submit subsequent evidence of the reliability and suitability of the alarm device.

6. The sensory mechanism used in connection with an alarm device must be adjusted to suppress false indications of fire or intrusions, so that the alarm device will not be activated by impulses due to transient pressure change in water pipes, short flashes of light, wind noises such as the rattling of vibrating of doors or windows, vehicular noise adjacent to the premises, or other forces unrelated to genuine alarm situations.

(Ord. 13-1999, 6/2/1999, §3)

§13-104. False Alarms.

1. Intentional False Alarms. No permit holder or person shall create an intentional false alarm.
2. **Accidental False Alarms.** Should any alarm system cause a false alarm for any reason the permit holder of said system shall pay to the City of Nanticoke a graduated service charge for each and every false alarm to which the Police and/or Fire Departments responds, in each alarm year (July 1 to June 30), pursuant to a schedule, established from time to time by resolution of City Council. [Ord. 16-2004]

3. A false alarm shall be any emergency alarm which is actuated by inadvertence, negligence or unintentional act to which the Police or Fire Department responds, including alarms caused by the malfunction of the alarm system except that the following shall not be considered false alarms:

   A. Alarms caused by the malfunction of the equipment in the Luzerne County Communications Center.

   B. Alarms caused by the testing, failure or repair of telephone equipment of lines.

   C. Alarms caused by an Act of God, such as earthquakes, flood, windstorm, thunder or lightening.

   D. Alarms caused by an attempted illegal entry or of any other crimes of which there is visible or reasonable evidence.

   E. Alarms followed by a call to the Luzerne County Communications Center with proper coded identification canceling the alarm prior to the arrival of the Police or Fire Department.

4. At the end of each alarm year (July 1 to June 30), the Police or Fire Department shall notify the permit holder of the number of false alarms which occurred during the year and the amount of the charge that is due. Such notice shall be in writing and mailed to the permit holder at his last known address by regular mail.

5. A false alarm charge shall be due and payable at the office of the Police or Fire Department 30 days from the date of the mailing of the notice of assessment of the charge.

6. Failure of a permit holder to pay a false alarm charge on or before the date due shall subject such permit holder to revocation of his alarm device permit under §13-102(8) of this Part.


§13-105. **Testing.**

No person shall conduct a test of any alarm device without first obtaining permission for the Police or Fire Department.

(Ord. 13-1999, 6/2/1999, §7)
§13-106. Liability of the City.

The issuance of any permit shall not constitute acceptance by the City of Nanticoke of any liability to maintain equipment, to answer alarms, nor otherwise render the City of Nanticoke liable to any person for any loss or damage relating to the alarm system or procedure.

(Ord. 13-1999, 6/2/1999, §8)


Administration and enforcement of this Part shall be functions of the City of Nanticoke and shall include the following:

A. Authority to accept or reject a permit application or revoke a permit because of a misrepresentation or false statement contained in any application for a permit, failure to correct any deficiencies in equipment or operation of an alarm device after receipt of due notice from the City of Nanticoke, or not meeting other conditions and specifications of this Part.

B. Authority to order the disconnection of an alarm device until such device is made to comply with operational standards set forth herein, but only when evidence of failure to comply with said standards imposes a burden upon the City of Nanticoke as a result of false alarms.

C. Authority, at reasonable times and upon written notice, to enter upon any premises within the City of Nanticoke to inspect the installation and operation of an alarm device.

(Ord. 13-1999, 6/2/1999, §9)


Whenever, under the provisions of this Part, the Police or Fire Department is empowered to make a decision with respect to the installation, operation or maintenance of any alarm device, or with respect to the denial or revocation of any permit relating thereto, any applicant for a permit or permit holder aggrieved by such decision may, within 10 days following the decision, file a written appeal therefrom with the City Council of the City of Nanticoke, whereupon the City Council shall promptly conduct a hearing within 30 days of the appeal petition and affirm, modify or reverse the decision appealed from. The decision of the City Council shall be final.

(Ord. 13-1999, 6/2/1999, §10)

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

PART 2

LANDLORD RENTAL REPORTING


This Part is enacted to provide for the uniform and equitable distribution of the tax levy in the City of Nanticoke and upon the inhabitants thereof and to promote the health, safety, morals and general welfare of the inhabitants of the City.


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

BUSINESS UNIT - a parcel of real estate, with or without improvements located thereon utilized by any person or persons for any commercial activity or purpose.

DWELLING UNIT - one or more rooms used for living and sleeping purposes arranged for occupancy by one family or by one or more persons.

LANDLORD - a lessor, or person who acts as agent for the lessor, of any parcel of real estate located in the City of Nanticoke, or a lessor, or person who acts as agent for the lessor, of any improvements on real estate or any building located in the City.

OCCUPANCY PERMIT - a permit granted by the Code Official of the City of Nanticoke, allowing the occupancy of a rental or rentable unit by a tenant. Certifying that the unit meets all applicable codes of the City.

PERSON - any individual, partnership, association, firm or corporation.

RENTAL or RENTABLE UNIT - a dwelling unit or a business unit, or any combination thereof.

TENANT - a person who has the use, either by himself or with others, of a dwelling unit or a business unit owned by a person other than himself, for a period exceeding 30 days.


§13-203. Reports by Landlords.

Within 30 days from the effective date of this Part, each landlord shall submit to the Code Official, a report on forms supplied by the City of Nanticoke, which shall include the following information:
LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

A. List of the dwelling units and business units owned by the landlord, located within the city limits, whether occupied or not occupied.

B. Address of each dwelling unit and business unit.

C. A brief description of each dwelling unit or business unit.

D. Whether or not the said dwelling unit or business unit is inhabited or utilized by tenants.

E. Names of the tenant or tenants utilizing the aforementioned dwelling unit or business unit, if any.


§13-204. Reports by Persons Upon Becoming Landlords.

After the effective date of this Part any person who becomes a landlord of any parcel of real estate or any improvement on real estate or building located in the City of Nanticoke by agreement of sale, by deed, or by any other means shall, within 30 days thereafter, report to the Code Official the information and data set forth in §13-203, above, and on forms to be provided by the Code Official.


§13-205. Reports of Changes in Use or Occupancy.

After the effective date of this Part, each and every landlord or property within the City of Nanticoke shall report to the Code Official on a report form to be supplied by the Code Official, any change in the use or occupancy of any dwelling unit or business unit owned by such landlord. The reported change shall include the name or names of new tenants of such dwelling unit or business unit, the date when such change was effected, and the forwarding address of the old tenant or tenants if known. A landlord of a hotel, inn, boarding house, motel, bed and breakfast, or other overnight lodging facility shall not be required to report a person as a “tenant” until that person has resided in such landlord’s establishment for a period exceeding 30 days. In the event that a dwelling unit or business unit was used or utilized by a tenant and then becomes vacant, this change shall also be reported to the Code Official. All reports required by this Section shall be made within 10 days after a landlord has knowledge that such unit has had a change of occupancy or has become vacant.

§13-206. Occupancy Permit Required Prior to Occupancy; Period of Validity.

1. Prior to the occupancy of any rental or rentable property, the owner shall obtain from the Code Official the permit set forth in §13-207, hereof. However, an occupancy permit will not be required for the following units:

   A. Where such property is occupied by a tenant at the time of adoption of this Part, a permit shall not be required for the specific tenant occupying the unit at the time of adoption of this Part, provided the landlord has properly notified the City as required by §13-203, herein.

2. The occupancy permit shall be valid for only the tenant whose name appears on the occupancy permit. Each subsequent change of tenant shall require a new permit as required in §13-207.


§13-207. Applications; Fees; Permits; Re-inspections; Compliance Letters.

1. Upon application of the landlord and the payment to the City of Nanticoke of a fee, established by City Council pursuant to resolution, the Code Official, or his/her designee, shall then review the pertinent City records and inspect the premises in question.

2. Upon completion of the review and inspection, if the Code Official is satisfied there are no violations of City ordinances and codes, he/she shall execute and deliver an occupancy permit to the landlord which shall contain the following information:

   A. The street address or appropriate description of the subject property.

   B. The name of the tenant (s) and the landlord.

   C. A statement of variances and use permits, if any, granted to that property, together with the conditions and restrictions of such permits.

   D. A statement indicating that there does not appear to be any nonconformity or illegality in the structure(s), the property, or the uses being made thereof. This statement shall also indicate whether the property has been approved or designated as a nonconforming use.

3. If the Code Official finds any violations of City ordinances or codes, he/she shall deliver a detailed list of all violations of the zoning, housing, property maintenance, building, plumbing, mechanical, electrical, health or fire prevention ordinances or regulations. An occupancy permit shall not be issued for the rental unit until all ordinance and code violations are corrected.

§13-208. Disclaimer; Waiver.

Notwithstanding any other law or ordinance, the provisions of this Part may not be waived or disclaimed by any oral or written agreement executed by any landlord or tenant.


§13-209. Delivery of Permit; Receipt of Evidence of Compliance with Ordinance.

1. In the City of Nanticoke, it shall be unlawful for any landlord to rent or lease property, or any interest therein, unless the landlord shall first deliver to the prospective tenant at or prior to the execution of any rental agreement or lease, or prior to the occupancy should no rental agreement or lease be utilized, the occupancy permit described in §13-207.

2. The tenant or lessee shall execute a receipt for the occupancy permit, as furnished by the City of Nanticoke, and such receipt shall be delivered by the landlord to the Code Official, as evidence of compliance with the provisions of this Part.


The occupancy permit shall be compiled from the records of the City and from an inspection of the property. Neither the enactment of this ordinance nor the preparation and delivery of the occupancy permit required hereunder shall impose any liability upon the City of Nanticoke for any errors or omissions contained in such permit nor shall the City of Nanticoke bear any liability not otherwise imposed by law.


§13-211. Filing of Appeal.

Appeals from the findings set forth in the occupancy permit or a related violation notice must be filed in writing with the City Council of the City of Nanticoke within 3 days after the issuance of said certificate; the City Council of the City of Nanticoke will refer the appeal to the appropriate board of appeals.


§13-212. Duties of the City Clerk.

The City Clerk, under the authority of this Part shall:
A. Maintain on file at the City offices, the names of the landlords owning dwelling units and business units in the City, said list to include the names of the current tenants of said dwelling units and business units.

B. Maintain a supply of forms for landlords to use in making reports to the Code Official as required by §§13-203, 13-204, 13-205 of this Part.

C. Notify the Chief of Police and the Fire Chief of the City of Nanticoke of the address and description of any dwelling unit or business unit that is vacant, unoccupied and not in use.


Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

PART 3

BYOB CLUBS

§13-301. Purpose.

The City Council of the City of Nanticoke hereby declares the purpose of this Part is to regulate the hours of operation of BYOB clubs in order to preserve the residential character of neighborhoods and to protect the rights of its citizens to the quiet enjoyment of the same. It is the express purpose of this Part to strike a balance between the constitutional rights of the BYOB owners and patrons and the constitutional rights of the residents of the City of Nanticoke.

(Ord. 12-1990, 4/2/1990, §1)


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

ALCOHOLIC BEVERAGES - any and all beverages, including malt beverages, which contain alcohol, liquor or such other intoxicating substances as are further defined in the Pennsylvania Liquor Code, 47 P.S. §1-101 et seq.

BYOB CLUB (otherwise known as “Bring Your Own Bottle Clubs”) - any business facility such as a dance hall, club or association not licensed by the Pennsylvania Liquor Control Board, wherein patrons 21 years of age and older may, after payment of a fee, covet charge of membership fee, consume alcoholic beverages which said patrons have carried into the premises. This definition does not include a facility which is rented for a limited period of time, not to exceed 12 hours, by individual(s) or an organization for the purpose of a private party in which alcoholic beverages are carried onto the premises.

RESIDENCE - a building or structure wholly or partially used for living and sleeping space by human occupants.

RESIDENTIAL ZONE - those classes of residential zones specified in the Nanticoke City Zoning Ordinance [Chapter 27].


It shall be unlawful for any person or persons who own, operate, lease, manage or control a BYOB club to:
LICENCES, PERMITS AND GENERAL BUSINESS REGULATIONS

A. Remain open and/or to transact business between the hours of 2 a.m. and 8 a.m., prevailing time, of each day and at any time on Sundays, if said BYOB club is located in a residence zone or within 500 feet of a residence.

B. Transact business without possessing a valid club permit.


It shall be unlawful for any patron of a BYOB Club to be present on the BYOB club premises between the hours of 2 a.m. and 8 a.m., each day.


In the event any of the unlawful activities specified herein is conducted by or in the name of a corporation, partnership, joint venture, trust, firm or association, in addition to (corporate) entity liability, the officers, agents or principals of said corporation, partnership, joint venture, trust, firm or association shall be deemed in violation of this Part, as well as the person or persons engaged in the unlawful activity.


The unlawful activities specified herein shall constitute separate and distinct offenses for each and every day in which said activities are conducted.


1. Any person or persons desiring to operate or continue to operate a BYOB club shall file with the License Clerk of the City of Nanticoke an application for a BYOB club permit, which application shall include the following information: the name and address of the BYOB club, a statement whether the business premises is leased or owned by the BYOB club, the name and address of the lessor of the business premises, if applicable, the nature of the ownership of the BYOB club, i.e., corporation, partnership, joint venture, association, the names and address of the officers and/or agents of the BYOB club, the names and addresses of any and all persons who possess an ownership and/or financial interest in the BYOB club, and a notarized affidavit and that the applicant has obtained all applicable licenses and paid all applicable taxes and fees for operating such a club.
2. The License Clerk shall determine whether the BYOB club fully and completely complies with the provisions and requirements of this Part within 10 days following the date on which the application is received. If the License Clerk determines that the applicant fully and completely complies with the provisions hereof, the Clerk shall issue a BYOB club permit. If the License Clerk determines that the applicant does not fully and completely comply with the provisions hereof, the Clerk shall deny the issuance of a BYOB club permit and shall furnish written evidence of the same to the applicant together with the reason(s) for the denial.

3. The club shall pay an administrative fee, in an amount as established from time to time by resolution of City Council, for a BYOB club permit, which shall be effective for a period of 1 year following the date of issuance. The City of Nanticoke reserves the right to revoke the BYOB club permit upon failure of the club to fully and completely comply with the provisions of this and other applicable ordinances in the City of Nanticoke. [Ord. 16-2004]

§13-308. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

PART 4

LICENSING OF CONTRACTORS AND BUILDING MOVERS

§13-401. Title.

It is hereby ordained by the authority of the same that this Part shall be known and may be cited as the “Contractors and Building Movers License Ordinance.”

(Ord. 9-1972, 3/6/1972, §1)

§13-402. Exception.

Every person engaged in the business of constructing altering, repairing of buildings not a regular employee of a licensed contractor, except those persons who are constructing, altering or repairing a building exclusively owned, used and occupied as a residence by themselves shall, before engaging in such occupation, obtain a license therefor from the Building Inspector. An employee of a licensed contractor must be on the payroll of the licensed contractor for purpose of Federal, State and City withholding tax and Social Security withholding.

(Ord. 9-1972, 3/6/1972, §2)

§13-403. License Required.

Every person engaged in the business of moving houses or buildings shall, before engaging in such occupation, obtain a license therefor from the Building Inspector.

(Ord. 9-1972, 3/6/1972, §3)

§13-404. Application; Bond

Any person desiring to secure a contractor’s or building mover’s license shall submit to the building Inspector an application, in writing, setting forth the qualifications required in this Part. Such application shall be accompanied by letters from two licensed contractors or building movers certifying to the experience and qualifications set forth by the applicant in his application. The application shall also be accompanied by a bond in the sum of $1,000 with good and sufficient sureties to be approved by the City Solicitor, conditioned among other things, that such contractor or building mover will indemnify and save harmless the City’s officials, servants and employees of and from any damage caused by any negligence in protecting his work or by any unfaithful, imperfect or inadequate work done by virtue of his license and that he also will replace and restore the street pavement or sidewalk over any opening he may have made to as good a state and condition as it was
found and keep and maintain the same in good order for a period of 6 months thereafter. Such application shall also be accompanied by the first year license fee.

(Ord. 9-1972, 3/6/1972, §4)

§13-405. Fees.

The fees, in amounts as established from time to time by City Council, shall be charged for licensing and examination of building contractors and movers.

(Ord. 9-1972, 3/6/1972, §5; as amended by Ord. 15-1987, –/-/1987, §1; and by Ord. 16-2004, 12/1/2004, §1)


A licensed contractor or a licensed building mover shall be a familiar with ordinary building construction and shall have had at least 5 years actual experience in construction work, either as superintendent foreman or skilled mechanic, or at least 3 years experience as an office assistant in an architect’s or contractor’s office. A licensed building mover shall be a person familiar with and accustomed to using the various forms of tackles and appliances ordinarily used in raising and moving buildings.

(Ord. 9-1972, 3/6/1972, §6)


Any licensed contractor or building mover who shall construct, alter or repair, or who shall move or raise or cause to be moved or raised any building or structure within the City, without first having secured a permit therefor shall, upon proof thereof and in addition to other penalties prescribed in this Part, be deprived of his license by the Building Inspector. Such license shall not be re-issued to such person for a period of 6 months.

(Ord. 9-1972, 3/6/1972, §7)

§13-408. Violations and Penalties.

1. Any person who shall violate any provision of this Part, or who fails to comply therewith or with any of the requirements thereof, or who shall erect, construct, alter or repair, or who has erected, constructed, altered or repaired a building structure in violation of a detailed statement or plan submitted and approved thereunder, or of a permit or certificate issued thereunder shall, upon conviction thereof, be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense. [Ord. 16-2004]
2. The owner of a building or structure or premises where anything in violation of this Part shall be placed or shall exist, and an architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of such violation shall each be guilty of a separate offense.

3. The imposition of penalties for the violation of this Part shall not preclude the City Solicitor from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to prevent the occupancy of a building, structure or premises, or to prevent an illegal act, conduct, business or use in or about any premises.

(Ord. 9-1972, 3/6/1972, §8; as amended by Ord. 16-2004, 12/1/2004, §1)
PART 5

MOVING PERMITS


No person shall move, or cause to be moved, into the City or from any place within the City to another place therein, or to any place beyond the limits thereof, any household goods in bulk, without first securing from the City Treasurer a permit for such moving or transportation.

(Ord. 22-1969, 12/1/1969, §1)


Any person desiring such a permit for the removal or transportation of household goods, in the manner above described, shall make application to the City Treasurer setting forth his name and address, and also setting forth the names of the owners or reputed owners of the property to be moved, the address and location from which the property is to be removed, and the new address or location of the place to which the property is to be moved.

(Ord. 22-1969, 12/1/1969, §2)

§13-503. Permit Issuance Fee.

The City Treasurer shall, upon application being made as provided for in §13-502, issue a permit for which a charge, in an amount as established from time to time by resolution of City Council, will be made, setting forth the name of the permittee as well as the names of the owners of the goods to be moved, the address from which the goods are to be moved and the address to which the goods are to be delivered. This permit shall be signed by the police officer in charge at the time.

(Ord. 22-1969, 12/1/1969, §3; as amended by Ord. 16-2004, 12/1/2004, §1)

§13-504. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 22-1969, 12/1/1969, §4; as amended by Ord. 16-2004, 12/1/2004, §1)
PART 6
TRANSIENT RETAIL BUSINESSES


1. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:


PERSON - any natural person, partnership, association, corporation or other legal entity.

TRANSIENT RETAIL BUSINESS -

A. Engaging in peddling, soliciting or taking orders, either by sample or otherwise, for any goods, wares or merchandise upon any street, alley, sidewalk or public ground or from house to house, within the City.

B. Selling, soliciting or taking orders for any goods, wares or merchandise from a fixed location within the City on a temporary basis, which shall include, but not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes or for yearly holidays.

2. The singular shall include the plural, the plural shall include the singular and the masculine shall include the feminine and the neuter.

(Ord. 16-2004, 12/1/2004, §1)

§13-602. License Required; Conditions of Issuance; Fee.

No person shall engage in any transient retail business within the City without first having obtained from the [designated official] a license, for which a fee, which shall be for the use of the City, shall be charged, said fee to be in such amount established, from time to time, by resolution of the City Council.

(Ord. 16-2004, 12/1/2004, §1)

§13-603. Exceptions.

1. No license fee shall be charged:

   A. To farmers selling their own produce.
B. For the sale of goods, ware and merchandise donated by the owners thereof, the proceeds whereof are to applied to any charitable or philanthropic purpose.

C. To any manufacturer or producer in the sale of bread and bakery products, meat and meat products or milk and milk products.

D. To children under the age of 18 who take orders for and deliver newspapers, greeting cards, candy, bakery products and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations.

E. To the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania.

F. To a person who has complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §162.1 et seq., as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

G. For taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license of business privilege tax at their chief place of business.

2. But all persons exempted from the payment of the license fee shall be required to register with the [designated official] and obtain a license without fee; provided, any person dealing in one or more of the above mentioned exempted categories and dealing with other goods, ware or merchandise not so exempted shall be subject to the payment of the license fee fixed by this Section for his activities in connection with the sale of goods, wares and merchandise not in such exempted categories. Provided, further, the [designated official] may similarly exempt from payment of the license fee, but not from registering with him, persons working without compensation and selling goods, wares or merchandise for the sole benefit of a nonprofit corporation. Provided, further, every license issued under the provisions of this Part shall be issued on an individual basis to any person or persons engaging in such business; every individual shall obtain a separate license, issued to him in his name, and the license fee hereby imposed shall be applicable to every such individual license; except that a representative of a charitable organization may obtain licenses for the applicants.

(Ord. 16-2004, 12/1/2004, §1)

§13-6-4. License Application.

Every person desiring a license under this Part shall first make application to the [designated official] for such license. He shall, when making such application, exhibit a valid license from any State or County officer, if such license is also required. The applicant shall state:
A. His criminal record, if any.

B. Name and address of the person by whom he is employed.

C. Type of goods, wares and merchandise he wishes to deal with in such transient retail business.

D. Length of time for which license is to be issued.

E. Type and license number of the vehicle to be used, if any.

(Ord. 16-2004, 12/1/2004, §1)

§13-605. Issuance of License; Custody, Display and Exhibit.

Upon receipt of such application and the prescribed fee, the [designated official], if he shall find such application in order, shall issue the license required under this Part. Such license shall contain the information required to be given on the application therefor. Every license holder shall carry such license upon his person if engaged in transient retail business from house to house or upon any of the streets, alleys, sidewalks or public grounds or shall display such license at the location where he shall engage in such business if doing so at a fixed location. He shall exhibit such license, upon request, to all police officers, City officials and citizens or residents of the City of Nanticoke.

(Ord. 16-2004, 12/1/2004, §1)


No person in any transient retail business shall:

A. Sell any product or type of product not mentioned in his license.

B. Hawk or cry his wares upon any of the streets, alleys, sidewalks or public grounds in the City.

C. When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the City for longer than necessary in order to sell therefrom to persons residing or working in the immediate vicinity.

D. Park a vehicle upon any of the streets or alleys in the City for the purpose of sorting, rearranging or cleaning any of his goods, wares or merchandise or of disposing of any carton, wrapping material or stock, wares or foodstuffs which have become unsalable through handling, age or otherwise.
E. Engage in any business activity, except by prior appointment, at any time on a Sunday or legal holiday or at any time before _______ a.m. of after ___ p.m. on any day of the week other than a Sunday or legal holiday.

(Ord. 16-2004, 12/1/2004, §1)

§13-607. Supervision; Records and Reports.

The [designated official] shall supervise the activities of all persons holding licenses under this Part. He shall keep a record of all licenses issued hereunder and shall make a report thereof each month to the City Council.

(Ord. 16-2004, 12/1/2004, §1)

§13-608. Denial, Suspension and Revocation of License; Appeal.

The [designated official] is hereby authorized to deny, suspend or revoke any license issued under this Part when he deems such denial, suspension or revocation to be beneficial to the public health, safety or morals or for violation of any provision of this Part or for giving false information upon any application for a license hereunder. Appeals from any suspension, revocation or denial of a license may be made to the City Council at any time within 10 days after such suspension, revocation or denial and a hearing shall be held within 30 days of the petition for appeal. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked.

(Ord. 16-2004, 12/1/2004, §1)


Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 16-2004, 12/1/2004, §1)
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MOBILE HOMES AND MOBILE HOME PARKS

(Reserved to accommodate future enactments)
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1. Words and phrases, when used in this Chapter, except for Sections or parts to which different or additional definitions apply, shall have the meanings ascribed to them in The Vehicle Code, the Act of June 17, 1976, P.L. 162 No. 81, as amended, except that in this Chapter the word "street" may be used interchangeably with the word "highway," and shall have the same meaning as the word "highway" as defined in the Vehicle Code.

2. The term "legal holidays" as used in this Chapter shall mean and include: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

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

4. Although the streets in the City of Nanticoke run generally in a northeast-southwest and a northwest-southeast direction, for the purpose of this Chapter, Market Street and the streets running parallel or generally parallel to Market Street shall be deemed to run in a north-south direction, and Main Street and the streets parallel or generally parallel to Main Street shall be deemed to run in an east-west direction.

(Ord. 16-2004, 12/1/2004, §1)


All traffic and parking regulations of a permanent nature shall be enacted as ordinances, as parts of ordinances, as amendments to ordinances, or as amendments to this Chapter, except where the law specifically authorizes less formal action.

(Ord. 16-2004, 12/1/2004, §1)

§15-103. Provisions to Be Continuation of Existing Regulations.

The provisions of this Chapter, so far as they are the same as those of ordinances and regulations in force immediately before the enactment of this Chapter, are intended as a continuation of those earlier ordinances and regulations, and not as new enactments. Nothing in this Chapter shall affect any act done or liability incurred, or any suit or prosecution pending or to be instituted under any of those repealed or superseded ordinances or regulations.

(Ord. 16-2004, 12/1/2004, §1)
§15-104. Temporary and Emergency Regulations.

1. The Mayor of the City of Nanticoke shall have the following powers to regulate traffic and parking temporarily and in time of emergency:

   A. In the case of fire, flood, storm or other emergency, to establish temporary traffic and/or parking regulations; and,

   B. 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 72 hours.

2. Such temporary and emergency regulations shall be enforced by the Police Department in the same manner as permanent regulations. Any person who shall operate or park a vehicle or tractor in violation of any such regulations, 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 subject to the penalty set forth in the law or elsewhere in this Chapter for a violation of such nature, and, in case of a violation for which no specific penalty is set forth in the law or elsewhere in this Chapter, to a fine of not more than $25 together with costs of prosecution.

(Ord. 16-2004, 12/1/2004, §1)

§15-105. Experimental Regulations.

The City of Nanticoke Council may, from time to time by resolution, designate places upon and along the highways in the City of Nanticoke where, for a period of not more than 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 as if they had been specified in this Chapter. No person shall operate 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 subject to the penalty set forth in the law or elsewhere in this Chapter for a violation of such nature, and in case of a violation for which no specific penalty is set forth in the law or elsewhere in this Chapter, to a fine of not more than $25 together with costs of prosecution; 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 City of Nanticoke relative to traffic and parking.

(Ord. 16-2004, 12/1/2004, §1)

§15-106. Traffic on Streets Closed or Restricted for Construction, Maintenance or Special Events.

1. The City of Nanticoke Council shall have authority to close any street or specific part of a street to vehicular traffic and to place barriers or station police officers at each
end of the closed portion, while construction or maintenance work is under way or a special event is being conducted on the closed portion. It shall be unlawful for any person to drive a vehicle upon any such closed portion.

2. The City of Nanticoke Council shall have authority to establish a restricted traffic area upon any street where construction or maintenance work is under way and to station flagmen at each end of the restricted portion. It shall be unlawful for any person to drive a vehicle upon any such restricted traffic area at any time when the flagman is displaying a sign directing that vehicle to stop, or is signaling that vehicle, by a flag or other device, not to proceed.

3. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)

§15-107. Use of Streets by Processions and Assemblages.

1. For the purpose of this Section, the words "assemblage" and "procession" shall have the following meanings:

ASSEMBLAGE - a gathering of people without vehicles, which interferes with the movement of pedestrian or vehicular traffic on any street.

PROCESSION - a group of individuals, vehicles, animals and/or objects moving along a street in a way that interferes with the normal movement of traffic. A procession shall not include a funeral caravan or military convoy.

2. It shall be unlawful for any person to hold or participate in any assemblage unless the person organizing or conducting the assemblage first obtains a permit from the [Designated Official], which shall be issued without fee. Application for the permit shall be made at least 1 week in advance of the day on which the assemblage is proposed to be held, but in any case where a State-designated highway is proposed to be used, application shall be made at least 3 weeks in advance of the proposed date. The permit shall state the place where and the date when the assemblage is to be held, the hour when the assemblage may convene and the hour by which it shall have been completely dispersed. It shall be unlawful for any person to hold or to participate in any assemblage unless the permit has been granted, or at any time or place other than that authorized by the permit.

3. It shall be unlawful for any person to hold or participate in any procession unless the person organizing or conducting the procession first obtains a permit from the [Designated Official], which shall be issued without fee. Application for the permit shall be made at least 2 weeks in advance of the day when the procession is proposed to be held, but in any case where the State-designated highway is proposed to be used, application shall be made at least 3 weeks in advance of the proposed date. The permit shall specify the date on which the procession is to be held, the route to
be followed by the procession, the hour when and place where participants may commence to assemble and form before the procession is under way, the time when the procession may commence to move along its route, and the time by which the end of the procession shall have been disbanded. It shall be unlawful for any person to hold or to participate in any procession unless the permit shall have been granted, or under any conditions as to time or route or otherwise than those stated in the permit.

4. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)

§15-108. Authority of Police Officers.

The police officers of the City of Nanticoke are hereby authorized to direct traffic on the highways of the City of Nanticoke and at intersections thereof and to otherwise enforce the provisions of this Chapter.

(Ord. 16-2004, 12/1/2004, §1)


1. The City of Nanticoke Police Department is hereby authorized to use all speed timing devices for the determination of speed of a motor vehicle as are approved or will be approved by the Department of Transportation of the Commonwealth of Pennsylvania, in accordance with Title 75, Pa. C.S.A. §3368.

2. This Section authorizes the use of said devices upon all highways within the City of Nanticoke be the City of Nanticoke, county or State highways, and does also hereby elect to exercise all powers granted to "local authorities" under the Vehicle Code of the Commonwealth of Pennsylvania, 75 Pa. C.S.A. §6101 et seq., (1977), as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

(Ord. 16-2004, 12/1/2004, §1)
§15-201. Maximum Speed Limits Established on Certain Streets.

1. Maximum speed limits are established on portions of specified streets, as follows, and it shall be unlawful for any person to drive a vehicle, on any part of a street where a maximum speed limit applies, at a higher speed than the maximum prescribed for that part of the street:

<table>
<thead>
<tr>
<th>Street</th>
<th>Between</th>
<th>Maximum Speed Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>All other city streets</td>
<td></td>
<td>25 mph</td>
</tr>
<tr>
<td>All school zones (when applicable)</td>
<td></td>
<td>15 mph</td>
</tr>
<tr>
<td>Main Street</td>
<td>Hanover Township and Newport Township lines</td>
<td>35 mph</td>
</tr>
<tr>
<td>Middle Road</td>
<td>Hanover Township and Newport Township lines</td>
<td>35 mph</td>
</tr>
</tbody>
</table>

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of $2 per mile for each mile in excess of five miles per hour over the maximum speed limit.

(Ord. 16-2004, 12/1/2004, §1)


1. Maximum speed limits are established, as follows, on certain bridges and elevated structures, and it shall be unlawful for any person to drive a vehicle on any such bridge or elevated structure, at a higher speed than the maximum prescribed for that bridge or elevated structure:

<table>
<thead>
<tr>
<th>Bridge or Elevated Structure</th>
<th>Location</th>
<th>Maximum Speed Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>All bridges within City limits</td>
<td></td>
<td>25 mph</td>
</tr>
</tbody>
</table>
MOTOR VEHICLES AND TRAFFIC
2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of $2 per mile for each mile in excess of five miles per hour over the maximum speed limit.

(Ord. 16-2004, 12/1/2004, §1)

§15-203. Maximum Speed Limits Established For Certain Vehicles on Hazardous Grades.

1. The following are declared to be hazardous grades, and, upon any such hazardous grade, no person shall drive a vehicle, having a gross weight in excess of that referred to for that grade, in the direction stated for that grade, at a speed in excess of that established in this Section for that grade, and, if so stated for a particular grade, the driver of every such vehicle shall stop the vehicle before proceeding downhill:

<table>
<thead>
<tr>
<th>Street Between</th>
<th>Maximum Gross Weight</th>
<th>Maximum Speed Limit</th>
<th>Required to Stop Before Proceeding Downhill</th>
</tr>
</thead>
</table>

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of $2 for each mile in excess of five miles per hour over the maximum speed limit.

(Ord. 16-2004, 12/1/2004, §1)

§15-204. Maximum Speed Limits Established in Parks.

1. A speed limit of 15 miles per hour is established on all streets and roadways in the public parks maintained and operated by the City of Nanticoke, except in the following locations, where the lower maximums, as specified, shall apply:

<table>
<thead>
<tr>
<th>Park</th>
<th>Street</th>
<th>Location</th>
<th>Maximum Speed Limit</th>
</tr>
</thead>
</table>

15-10
2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of $2 per mile for each mile in excess of five miles per hour over the maximum speed limit.

(Ord. 16-2004, 12/1/2004, §1)


1. At the following locations, traffic signals as indicated below shall be erected (or are ratified if previously erected), and traffic at those locations shall be directed by those signals:

<table>
<thead>
<tr>
<th>Location</th>
<th>Type of Signal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main and Market Streets</td>
<td>Traffic light</td>
</tr>
<tr>
<td>Main and Kosciuszko Streets</td>
<td>Traffic light</td>
</tr>
<tr>
<td>Middle Road and Lincoln Avenue</td>
<td>Traffic light</td>
</tr>
<tr>
<td>Middle Road and Espy Street</td>
<td>Traffic light</td>
</tr>
</tbody>
</table>

2. Any driver of a vehicle who disobeys the directions of any traffic signal shall, upon conviction, be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)

§15-206. Intersections Where Turn Prohibited on Red Signal.

1. The following are established as intersections where drivers of vehicles headed in the direction or directions indicated are prohibited from making a right turn (or a left turn from a one-way street into another one-way street) on a steady red signal:

<table>
<thead>
<tr>
<th>Intersection</th>
<th>Vehicles Traveling On</th>
<th>Facing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main and Market Streets</td>
<td>Main Street turning onto</td>
<td></td>
</tr>
<tr>
<td></td>
<td>North Market Street or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>South Market Street</td>
<td></td>
</tr>
<tr>
<td>Main and Market Streets</td>
<td>North Market or South</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Market turning onto</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Main Street</td>
<td></td>
</tr>
</tbody>
</table>
MOTOR VEHICLES AND TRAFFIC

### 15-206. Intersection Vehicles Traveling On Facing

<table>
<thead>
<tr>
<th>Intersection</th>
<th>Vehicles Traveling On</th>
<th>Facing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main and Kosciuszko Streets</td>
<td>North on Kosciuszko</td>
<td>north on Kosciuszko</td>
</tr>
<tr>
<td></td>
<td>turning east onto Main</td>
<td>turning east onto Main</td>
</tr>
<tr>
<td></td>
<td>Street</td>
<td>Street</td>
</tr>
<tr>
<td>Main and Kosciuszko Streets</td>
<td>East on Main Street</td>
<td>east on Main Street</td>
</tr>
<tr>
<td></td>
<td>turning South onto</td>
<td>turning South onto</td>
</tr>
<tr>
<td></td>
<td>Kosciuszko Street</td>
<td>Kosciuszko Street</td>
</tr>
<tr>
<td>Main and Kosciuszko Streets</td>
<td>South on Jifkin Street</td>
<td>south on Jifkin Street</td>
</tr>
<tr>
<td></td>
<td>turning west onto Main</td>
<td>turning west onto Main</td>
</tr>
<tr>
<td></td>
<td>Street</td>
<td>Street</td>
</tr>
</tbody>
</table>

2. Any driver of a vehicle who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $25 and costs.

*(Ord. 16-2004, 12/1/2004, §1)*

### §15-207. One-way Streets Established.

1. The following are established as one-way streets, and it shall be unlawful for any person to drive a vehicle on any one-way street other than in the direction established for traffic on that street:

<table>
<thead>
<tr>
<th>Street</th>
<th>From</th>
<th>To</th>
<th>Direction of Travel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shea</td>
<td>State</td>
<td>Main</td>
<td>North</td>
</tr>
<tr>
<td>Broadway</td>
<td>Main</td>
<td>Arch</td>
<td>North</td>
</tr>
<tr>
<td>Field</td>
<td>Kosciuszko</td>
<td>College</td>
<td>South</td>
</tr>
<tr>
<td>Spruce</td>
<td>Hanover</td>
<td>Prospect</td>
<td>East</td>
</tr>
<tr>
<td>State</td>
<td>Walnut</td>
<td>Main</td>
<td>East</td>
</tr>
</tbody>
</table>

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $25 and costs.

*(Ord. 16-2004, 12/1/2004, §1)*
§15-208. Turning at Certain Intersections Prohibited or Restricted.

1. It shall be unlawful for the driver of any vehicle, of the type indicated, traveling upon the first-named street at any of the following intersections, in the direction or directions indicated in each case, to make a left turn and/or a right turn into the second-named street, as indicated, at any time when such a turn is prohibited by this Section:

<table>
<thead>
<tr>
<th>Vehicles Traveling On</th>
<th>Direction of Travel</th>
<th>Not to Make Turn Into</th>
<th>When</th>
<th>Type of Vehicle Applicable To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prospect North</td>
<td>Left Turn</td>
<td>Main</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)

§15-209. Right Turns Prohibited at Certain Intersections.

1. It shall be unlawful for the driver of any vehicle, traveling upon the first-named street at any of the following intersections, in the direction or directions indicated in each case, to make other than a left turn, at any time stated, both right turns and straight-across traffic being prohibited:

<table>
<thead>
<tr>
<th>Vehicles Traveling On</th>
<th>Direction of Travel</th>
<th>Times</th>
<th>Not To Make Right Turn Into or Travel Straight Across</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jifkin South</td>
<td>South</td>
<td>7 a.m. to 9 a.m., Mon.-Fri.</td>
<td>Straight across Main</td>
</tr>
</tbody>
</table>

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)

1. It shall be unlawful for the driver of any vehicle, traveling upon any of the following portions of streets, in the direction or directions indicated for that street, to make a u-turn:

<table>
<thead>
<tr>
<th>Street</th>
<th>Portion</th>
<th>Direction of Travel</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)

§15-211. No Passing Zones Established.

1. The following are established as no passing zones, and it shall be unlawful for the driver of any vehicle to overtake or pass another vehicle or to drive on the left side of the roadway in any no passing zone:

<table>
<thead>
<tr>
<th>Street</th>
<th>Direction of Travel</th>
<th>Between</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kosciuszko Street</td>
<td>North and South</td>
<td>Main Street and Middle Road</td>
</tr>
<tr>
<td>Middle Road</td>
<td>East and West</td>
<td>City line with Hanover Township and City line with Newport Township</td>
</tr>
<tr>
<td>Prospect Street</td>
<td>North and South</td>
<td>Main Street and Middle Road</td>
</tr>
<tr>
<td>Broadway Street</td>
<td>North and South</td>
<td>North Market Street and Plymouth Township</td>
</tr>
<tr>
<td>Main Street</td>
<td>East and West</td>
<td>Hanover Township and Newport Township lines</td>
</tr>
<tr>
<td>Espy Street</td>
<td>North and South</td>
<td>Front Street and Middle Road</td>
</tr>
<tr>
<td>Front Street</td>
<td>East and West</td>
<td>Hanover Township Line and Espy Street</td>
</tr>
</tbody>
</table>

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $25 and costs.
§15-212. Through Highways Established.

1. The following highways are established as through highways, thus authorizing stop or yield signs to be erected facing traffic approaching every intersection with the through highway except for those intersections with traffic signals, or with exceptions or modifications as indicated below. Every driver of a vehicle approaching a stop or yield sign authorized by this Section shall stop the vehicle or yield right-of-way as required by §§3323(b) or 3323(c) of the Vehicle Code, as the case may be, and shall not proceed into or across the through highway until he has followed all applicable requirements of that Section of the law:

<table>
<thead>
<tr>
<th>Highway</th>
<th>Between</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Street</td>
<td>Hanover Township line and Newport Township line</td>
</tr>
<tr>
<td>Middle Road</td>
<td>Hanover Township line and Newport Township line</td>
</tr>
<tr>
<td>Kosciuszko Street</td>
<td>Middle Road and Main Street</td>
</tr>
</tbody>
</table>

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)

§15-213. Stop Intersections Established.

1. The following intersections (in addition to intersections with the through highways established by §15-212) are established as stop intersections, and official stop signs shall be erected (or are ratified if previously erected) in such a position as to face traffic approaching the second-named street (the intersecting or through street) on the first-named street (the stop street) in the direction or directions indicated for that intersection. Every driver of a vehicle approaching the intersection on the first-named or stop street, in the direction indicated in each case, shall stop the vehicle as required by §3323(b) of the Vehicle Code, and shall not proceed into or across the second-named or intersecting or through street until he has followed all applicable requirements of that Section of the law.

<table>
<thead>
<tr>
<th>Stop Street</th>
<th>Intersection or Through Street</th>
<th>Direction of Travel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access Road</td>
<td>Broadway</td>
<td>East</td>
</tr>
<tr>
<td>Access Road</td>
<td>River</td>
<td>West</td>
</tr>
<tr>
<td>Stop Street</td>
<td>Intersection or Through Street</td>
<td>Direction of Travel</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>Alden Road</td>
<td>Main</td>
<td>North</td>
</tr>
<tr>
<td>Apollo Circle</td>
<td>Hay</td>
<td>West</td>
</tr>
<tr>
<td>Apollo Circle</td>
<td>Slope</td>
<td>East</td>
</tr>
<tr>
<td>Apollo Circle</td>
<td>Alley to rear of Slope Street</td>
<td>South</td>
</tr>
<tr>
<td>Arch</td>
<td>North Walnut</td>
<td>West</td>
</tr>
<tr>
<td>Arch</td>
<td>North Market</td>
<td>North</td>
</tr>
<tr>
<td>Arch</td>
<td>Broadway</td>
<td>East and West</td>
</tr>
<tr>
<td>Birchwood Entrance</td>
<td>Middle Road</td>
<td>North</td>
</tr>
<tr>
<td>Bliss</td>
<td>Center</td>
<td>East and West</td>
</tr>
<tr>
<td>Bliss</td>
<td>Pine</td>
<td>East and West</td>
</tr>
<tr>
<td>Bliss</td>
<td>Espy</td>
<td>West</td>
</tr>
<tr>
<td>Bliss</td>
<td>Phillips</td>
<td>East and West</td>
</tr>
<tr>
<td>Broad</td>
<td>Main</td>
<td>West</td>
</tr>
<tr>
<td>Broad</td>
<td>Market</td>
<td>East and West</td>
</tr>
<tr>
<td>Broad</td>
<td>Christian</td>
<td>East</td>
</tr>
<tr>
<td>Broad</td>
<td>Walnut</td>
<td>East and West</td>
</tr>
<tr>
<td>Broad</td>
<td>Chestnut</td>
<td>East and West</td>
</tr>
<tr>
<td>Broad</td>
<td>Prospect</td>
<td>East and West</td>
</tr>
<tr>
<td>Broadway</td>
<td>Arch</td>
<td>South</td>
</tr>
<tr>
<td>Center</td>
<td>Bliss</td>
<td>North and South</td>
</tr>
<tr>
<td>Center</td>
<td>Front</td>
<td>South</td>
</tr>
<tr>
<td>Cherry Drive</td>
<td>Birch Drive</td>
<td>East</td>
</tr>
<tr>
<td>Cherry Drive</td>
<td>Kosciuszko</td>
<td>West</td>
</tr>
<tr>
<td>Chestnut</td>
<td>Union</td>
<td>North and South</td>
</tr>
<tr>
<td>Chestnut</td>
<td>Green</td>
<td>North and South</td>
</tr>
<tr>
<td><strong>Stop Street</strong></td>
<td><strong>Intersection or Through Street</strong></td>
<td><strong>Direction of Travel</strong></td>
</tr>
<tr>
<td>----------------</td>
<td>-----------------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>Chestnut</td>
<td>State</td>
<td>North</td>
</tr>
<tr>
<td>Chestnut</td>
<td>Grant</td>
<td>North and South</td>
</tr>
<tr>
<td>Chestnut</td>
<td>Field</td>
<td>South</td>
</tr>
<tr>
<td>Chestnut, North</td>
<td>Railroad</td>
<td>North</td>
</tr>
<tr>
<td>Chestnut, North</td>
<td>Main</td>
<td>South</td>
</tr>
<tr>
<td>Christian</td>
<td>Green</td>
<td>South</td>
</tr>
<tr>
<td>Christian</td>
<td>State</td>
<td>North</td>
</tr>
<tr>
<td>Church</td>
<td>Hanover</td>
<td>East and West</td>
</tr>
<tr>
<td>Church</td>
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<td>West</td>
</tr>
<tr>
<td>Walnut</td>
<td>Washington</td>
<td>North</td>
</tr>
<tr>
<td>Stop Street</td>
<td>Intersection or Through Street</td>
<td>Direction of Travel</td>
</tr>
<tr>
<td>------------</td>
<td>--------------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>Walnut</td>
<td>Main</td>
<td>North</td>
</tr>
<tr>
<td>Walnut</td>
<td>Green</td>
<td>North and South</td>
</tr>
<tr>
<td>Walnut</td>
<td>Ridge</td>
<td>North and South</td>
</tr>
<tr>
<td>Walnut, North</td>
<td>Main (turning west)</td>
<td>South</td>
</tr>
<tr>
<td>Walnut, North</td>
<td>Broadway</td>
<td>North and South</td>
</tr>
<tr>
<td>Walnut, North</td>
<td>Main (turning east)</td>
<td>South</td>
</tr>
<tr>
<td>Washington</td>
<td>Meade</td>
<td>East and West</td>
</tr>
<tr>
<td>Washington</td>
<td>Kosciuszko</td>
<td>East and West</td>
</tr>
<tr>
<td>Washington</td>
<td>College</td>
<td>East and West</td>
</tr>
<tr>
<td>Washington</td>
<td>Chestnut</td>
<td>East and West</td>
</tr>
<tr>
<td>Washington</td>
<td>Walnut</td>
<td>East and West</td>
</tr>
<tr>
<td>Washington</td>
<td>Prospect</td>
<td>East and West</td>
</tr>
<tr>
<td>Washington</td>
<td>Market</td>
<td>East and West</td>
</tr>
<tr>
<td>Wells</td>
<td>Bliss</td>
<td>North</td>
</tr>
<tr>
<td>Wells</td>
<td>Front</td>
<td>South</td>
</tr>
</tbody>
</table>

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)


1. The following intersections (in addition to intersections with the through highways established by §15-212) are established as yield intersections, and official yield signs shall be erected (or are ratified if previously erected) in such a position as to face traffic approaching the second-named street (the through street) on the first-named street (the yield street) in the direction or directions indicated for that intersection. Every driver of a vehicle approaching the intersection on the first-named or yield street, in the direction indicated in each case, shall slow down or stop the vehicle as required by §3323(c) of the Vehicle Code, and then yield the right-of-way as required by that subsection of the Vehicle Code.
2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)


1. No motor vehicle including a motorcycle, pedalcycle or minibike shall be operated on any property owned by the City of Nanticoke or any other public agency or instrumentality within the City of Nanticoke without the permission of the property owner and a permit from the [Designated Official] of the City of Nanticoke.

2. Any person who violates an provision of this Section shall, upon conviction, be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)

§15-216. Rotary Traffic Islands Established.

1. The following locations are designated as rotary traffic islands, and every vehicle passing around a rotary traffic island shall be driven only to the right of the island:

   Location

2. Any person who drives a vehicle otherwise than to the right of any rotary traffic island shall be guilty of a violation of this Section, and, upon conviction, shall be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)

§15-217. Play Highways Established And Authorized.

1. The following areas upon the streets in the City of Nanticoke are established as play highways:
2. The [Designated Official] is authorized to designate as play highways, whenever he deems that action advisable, and for whatever period of time directed by him, any part of any street in the City of Nanticoke where sledding and coasting, shall be permitted. That play highway shall be set apart for the purpose under the direction of the [Designated Official].

3. No person shall drive any motor vehicle upon any play highway at any time when that street shall be designated as a play highway, except in case of emergency, with special permission of the [Designated Official] or of the police officer in charge, who shall first clear that play highway of all persons using it for the purpose for which it was set aside. Any person who violates any provision of this subsection shall, upon conviction, be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)


1. The following roads and streets within the City of Nanticoke are designated as special snowmobile roads:

<table>
<thead>
<tr>
<th>Street or Road</th>
<th>Between Days</th>
<th>Hours</th>
</tr>
</thead>
</table>

2. It shall be unlawful for any person to operate a snowmobile on any highway, street or road in the City of Nanticoke other than as provided above. Provided, nothing in this Section shall prohibit any person from operating a snowmobile on any other street in the City of Nanticoke:

A. As authorized by §7721 of the Vehicle Code for emergency and bridge crossings and for direct crossing of streets or two-lane highways; or,

B. For special snowmobile events where authorized in advance and the street is blocked off as provided in §7723 of the Vehicle Code. Any person who violates any provision of this Section shall be subject to the penalties prescribed in §7752(a) of the Vehicle Code.

(Ord. 16-2004, 12/1/2004, §1)
Part 3

Restrictions on Size, Weight and Type of Vehicle And Load

§15-301. Vehicle Weight Limits Established on Certain Streets And Bridges.

1. On the following bridges and streets or parts of streets, by authority granted by §4902(a) of the Vehicle Code, it shall be unlawful for any person or persons to drive any vehicle or combination having a gross weight in excess of the maximum prescribed below for that bridge or street or part of street, as the case may be:

<table>
<thead>
<tr>
<th>Street or Bridge</th>
<th>Between</th>
<th>Maximum Gross Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Any person who violates any provision of this Section shall be prosecuted under §§4902(a) and 4902(g-1) of the Vehicle Code, and, upon conviction, shall be sentenced to pay a fine of $150 plus $150 for each 500 pounds, or part thereof, in excess of 3,000 pounds over the maximum allowable weight, and costs.

(Ord. 16-2004, 12/1/2004, §1)

§15-302. Restrictions on Size of Vehicles on Certain Streets And Bridges.

1. On the following bridges and streets or parts of streets, by authority granted by §4902(a) of the Vehicle Code, it shall be unlawful for any person to drive any vehicle or combination in violation of the size restrictions prescribed below for that bridge or street or part of street:

<table>
<thead>
<tr>
<th>Street or Bridge</th>
<th>Between</th>
<th>Restrictions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Any person who violates any provision of this Section shall be prosecuted under §§4902(a) and 4902(g-1) of the Vehicle Code, and, upon conviction, shall be sentenced to pay a fine of $75 and costs.

(Ord. 16-2004, 12/1/2004, §1)

§15-303. Restrictions as to Weight And Size of Vehicles on Certain Streets And Bridges.

1. By reason of hazardous traffic conditions and other safety factors, by authority granted by §4902(b) of the Vehicle Code, it shall be unlawful for any person to drive
any vehicle or combination in violation of the restriction prescribed below for that bridge or street or part of street.

<table>
<thead>
<tr>
<th>Street or Bridge</th>
<th>Between</th>
<th>Restrictions</th>
</tr>
</thead>
</table>

2. Any person who violates any provision of this Section shall be prosecuted under §§4902(b) and 4902(g-1) of the Vehicle Code, and, upon conviction, shall be sentenced to pay a fine of not less than $25 and not more than $100 and costs.

(Ord. 16-2004, 12/1/2004, §1)


1. It shall be unlawful for any person to drive a vehicle other than a passenger car on any of the following streets or parts of streets:

<table>
<thead>
<tr>
<th>Street</th>
<th>Between</th>
</tr>
</thead>
</table>

Provided: nothing in this Section shall prohibit any person from driving an emergency vehicle on any of those streets or parts of streets, or from driving on any of those streets or parts of streets a truck or other commercial vehicle making local deliveries to or pickups from premises located along that street or part of a street.

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)
§15-401.  Vehicles to Be Parked Within Marked Spaces.

Wherever a space is marked off on any street for the parking of an individual vehicle, every vehicle parked there shall be parked wholly within the lines bounding that space, and it shall be a violation of this Part for any person to park a vehicle or allow it to remain parked otherwise.

(Ord. 16-2004, 12/1/2004, §1)


Parking shall be prohibited at all times in the following locations:

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Between</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alden Road</td>
<td>East and West</td>
<td>Newport Township line and West Main</td>
</tr>
<tr>
<td>Broadway</td>
<td>East</td>
<td>River Bridge and North Market</td>
</tr>
<tr>
<td>Broadway</td>
<td>West</td>
<td>River Bridge and Access Road</td>
</tr>
<tr>
<td>Christian</td>
<td>West</td>
<td>Green and State</td>
</tr>
<tr>
<td>College</td>
<td>East</td>
<td>Main and Green</td>
</tr>
<tr>
<td>Hanover</td>
<td>West</td>
<td>Washington and Field</td>
</tr>
<tr>
<td>Hanover</td>
<td>West</td>
<td>Enterprise and Hanlon Drive</td>
</tr>
<tr>
<td>Jifkin</td>
<td>West</td>
<td>Main and Loomis</td>
</tr>
<tr>
<td>Kosciuszko</td>
<td>East</td>
<td>Middle Road and Main</td>
</tr>
<tr>
<td>Kosciuszko</td>
<td>West</td>
<td>Middle Road and East Grove</td>
</tr>
<tr>
<td>Kosciuszko</td>
<td>West</td>
<td>Main and Green</td>
</tr>
<tr>
<td>Lincoln Avenue</td>
<td>East and West</td>
<td>Middle Road and Field</td>
</tr>
<tr>
<td>Main, East</td>
<td>North</td>
<td>Jifkin and State</td>
</tr>
<tr>
<td>Main, East</td>
<td>North</td>
<td>North Walnut and Locust*</td>
</tr>
</tbody>
</table>
§15-403. Parking Prohibited in Certain Locations, Certain Days And Hours.

Parking shall be prohibited in the following locations at all times on the days and between the hours indicated in this Section, as follows:

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Between</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main, East</td>
<td>North</td>
<td>Locust and North Market</td>
</tr>
<tr>
<td>Main, East</td>
<td>South</td>
<td>Hanover Township line and South Walnut</td>
</tr>
<tr>
<td>Main, East</td>
<td>South</td>
<td>Locust and South Market</td>
</tr>
<tr>
<td>Main, West</td>
<td>North</td>
<td>North Market and Newport Township line</td>
</tr>
<tr>
<td>Main, West</td>
<td>North</td>
<td>South Market and Orchard</td>
</tr>
<tr>
<td>Main, West</td>
<td>North</td>
<td>Park and Newport Township line</td>
</tr>
<tr>
<td>Market, North</td>
<td>East and West</td>
<td>River Bridge and Green*</td>
</tr>
<tr>
<td>Middle Road</td>
<td>North and South</td>
<td>Hanover Township and Newport Township lines</td>
</tr>
<tr>
<td>Nanticoke</td>
<td>East</td>
<td>Main and North Market</td>
</tr>
<tr>
<td>Prospect</td>
<td>East</td>
<td>Middle Road and LCCC Northern Gate</td>
</tr>
<tr>
<td>Prospect</td>
<td>West</td>
<td>Middle Road and Spruce</td>
</tr>
<tr>
<td>Walnut, North</td>
<td>East</td>
<td>Arch and Broadway</td>
</tr>
<tr>
<td>Walnut, North</td>
<td>West</td>
<td>Main and Broadway</td>
</tr>
<tr>
<td>Washington, East</td>
<td>South</td>
<td>Prospect and Walnut</td>
</tr>
</tbody>
</table>

*Except in designated cut outs.

(Ord. 16-2004, 12/1/2004, §1)
§15-404. Parking of Trucks, Buses And Certain Other Vehicles Prohibited in Certain Locations.

It shall be unlawful for any person to park, or to allow to remain parked, on any of the following streets or parts of streets, any vehicle other than a passenger car (which shall not include any bus, motor home or passenger car attached to a trailer of any kind):

<table>
<thead>
<tr>
<th>Street</th>
<th>Between</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division</td>
<td>Main and Loomis</td>
</tr>
<tr>
<td>Dewey</td>
<td>Main and Loomis</td>
</tr>
</tbody>
</table>

(Ord. 16-2004, 12/1/2004, §1)


No person shall park a vehicle, or allow it to remain parked, for longer than the time indicated, in any of the following locations, at any time on the days and between the hours indicated:

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Between</th>
<th>Days</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 Minute Parking Zones:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>34 Broad Street, West</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>620 Fairchild Street</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>235 Main Street, West</td>
<td></td>
<td>As marked, at, near or in the area of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>279 Main Street, East</td>
<td></td>
<td>At Nanticoke Towers, Nanticoke Avenue</td>
<td></td>
<td></td>
</tr>
<tr>
<td>152 - 160 Market Street,</td>
<td></td>
<td>At Park Towers, East</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South</td>
<td></td>
<td>Green Street</td>
<td></td>
<td></td>
</tr>
<tr>
<td>825 Prospect Street, South</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>126 Ridge Street, East</td>
<td></td>
<td>On Union at Walnut</td>
<td></td>
<td></td>
</tr>
<tr>
<td>165 Union, West</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Street</td>
<td>Side</td>
<td>Between</td>
<td>Days</td>
<td>Hours</td>
</tr>
<tr>
<td>------------------------------</td>
<td>----------</td>
<td>-------------------------------------------------</td>
<td>------</td>
<td>-------</td>
</tr>
<tr>
<td><strong>30 Minute Parking Zones:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Broad Street</td>
<td></td>
<td>All cutouts adjacent to Patriot Square</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Broadway</td>
<td></td>
<td>Between Main and Arch Streets</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Green Street</td>
<td></td>
<td>All cutouts adjacent to Patriot Square</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Locust Street</td>
<td></td>
<td>Between Main and Arch Streets</td>
<td></td>
<td></td>
</tr>
<tr>
<td>73 - 100 block Main Street, East</td>
<td></td>
<td>As marked, at, near or in the area of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>106 - 126 Main Street, East</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>30 Main Street, East</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25 Main Street, East</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>430 Market Street, South</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>200 block of Market Street, South</td>
<td>East</td>
<td>East</td>
<td></td>
<td></td>
</tr>
<tr>
<td>152 - 160 Market Street, South</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>143 - 149 Market Street, South</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>110 Market Street, South</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Market Street</td>
<td></td>
<td>All cutouts adjacent to Patriot Square</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prospect Street</td>
<td></td>
<td>Between Main and Spring (west side)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prospect Street</td>
<td></td>
<td>Between Main and Alley (east side)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
§15-406. Special Purpose Parking Zones Established; Parking Otherwise Prohibited.

The following are established as special purpose parking zones, and it shall be unlawful for any person to park a vehicle or to allow it to remain parked, in any such zone, except as specifically provided for that zone:

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Location</th>
<th>Authorized Purpose or Vehicle</th>
</tr>
</thead>
<tbody>
<tr>
<td>Locust East</td>
<td>East</td>
<td>30 feet from Main Street</td>
<td>Police department only</td>
</tr>
<tr>
<td>Ridge, East</td>
<td>North</td>
<td>I.F.O. Fire Headquarters</td>
<td>Fire, ambulance, police personnel</td>
</tr>
</tbody>
</table>

(Ord. 16-2004, 12/1/2004, §1)

§15-407. Standing or Parking on Roadway For Loading or Unloading.

It shall be unlawful for any person to stop, stand or park a vehicle (other than a pedalcycle) on the roadway side of any vehicle stopped or parked at the edge or curb of any street, except that standing or parking for the purpose of loading or unloading persons or property shall be permitted on the following named streets on Monday through Saturday, between the hours of 9 a.m. and 11:30 a.m. and between the hours of 1:30 p.m. and 4 p.m., and for no longer than necessary for the loading or unloading.

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Between</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Street</td>
<td>North and South</td>
<td>Walnut and Market</td>
</tr>
<tr>
<td>Market Street</td>
<td>East and West</td>
<td>Main and Green</td>
</tr>
</tbody>
</table>

(Ord. 16-2004, 12/1/2004, §1)

1. Only angle parking shall be permitted on the following portions of streets:

<table>
<thead>
<tr>
<th>Street Side</th>
<th>Between</th>
</tr>
</thead>
<tbody>
<tr>
<td>Green</td>
<td>In front of Park Towers All hours</td>
</tr>
</tbody>
</table>

2. On all streets where angle parking is required, every vehicle parked at the angle shall be parked with its front nearest the curb.

(Ord. 16-2004, 12/1/2004, §1)

§15-409. Parking Prohibited on Portions of Certain Highways During Street Sweeping Hours.

It shall be unlawful for any person to park a vehicle or to allow the same to remain parked, at any time between 8 a.m. and 10 a.m. on any of the following portions of the highways of the City of Nanticoke on the days hereby respectively designated for street sweeping purposes:

<table>
<thead>
<tr>
<th>Street Between Day</th>
</tr>
</thead>
</table>

(Ord. 16-2004, 12/1/2004, §1)


1. Findings and Purpose. The City of Nanticoke finds that:

   A. Certain residential areas in the City of Nanticoke are subjected to commuter vehicle parking, therefore, depriving the residents of those areas of spaces in which to park their own vehicles;

   B. Those residential streets are also subjected to a high degree of commuter traffic which substantially reduces the quality of the ambient air level; and,

   C. The establishment of a parking permit program for certain affected areas should facilitate efficient movement of traffic by providing for parking preference during certain hours of the day and days of the week. Therefore, the City of Nanticoke considers it to be in the interest of the people of the City of Nanticoke to provide for the establishment of a residential permit parking program to insure primary access to available parking spaces by neighborhood residents and also to provide a cleaner ambient air level.
2. **Definitions.** For the purpose of this Section, words and terms listed in this subsection, as follows, shall have the following meanings:

- **COMMUTER VEHICLE** - a motor vehicle parked in a residential area by a person not a resident of that residential area;
- **PROPRIETOR** - a person who owns or leases real estate within a residential area of which he is not a resident, but who owns or manages a business enterprise or professional office maintained at that address; for the purpose of this Section, a proprietor shall be entitled to one parking permit for that business or professional office address;
- **RESIDENT** - a person who owns or leases real property within a residential area and who maintains either a voting residence, or bona fide occupancy, or both, at that address;
- **RESIDENTIAL AREA** - a contiguous area containing public highways or parts of public highways primarily abutted by residential property or residential and non-business property (such as schools, parks, places of worship, hospitals and nursing homes).

3. **Criteria.** The residential areas designated in subsection (4) of this Section are those deemed impacted and hence eligible for residential parking on the basis of the following criteria:

   A. During any period between the hours of 7 a.m. and 6:30 p.m., Monday through Saturday, except legal holidays, the number of vehicles parked (or standing), legally or illegally, on the streets in the area is equal to 70% or more of the legal, on-street parking capacity of the area. For the purpose of this criterion, a legal parking space shall be 20 linear feet.

   B. During the same period as specified in subsection (A), directly above, 10% or more of the vehicles parked (or standing) on the streets in the area are not registered in the name of a person residing in the area. For the purpose of this criterion, the latest available information from the Bureau of Motor Vehicles and Licensing of the Pennsylvania Department of Transportation regarding registration of motor vehicles shall be used.

Provided: in determining that a specific area identified as impacted and eligible for residential permit parking is designated as a residential permit parking area, the following factors are taken into consideration:

1. The local and metropolitan needs with respect to clean air and environment;
2. The possibility of a reduction in total vehicle miles driven in the City of Nanticoke;
MOTOR VEHICLES AND TRAFFIC

(3) The likelihood of alleviating traffic congestion, illegal parking and related health and safety hazards;

(4) The proximity of public transportation to the residential area;

(5) The desire and need of the residents for residential permit parking and their willingness to bear the administrative costs in connection with it; and,

(6) The need for parking in excess of the residential permit parking program in proximity to establishments located in the residential permit parking area and used by the general public for religious, health or educational purposes.

4. Designation of Residential Permit Parking Areas. The following are designated as residential permit parking areas:

<table>
<thead>
<tr>
<th>Area</th>
<th>Bounded By And Including</th>
</tr>
</thead>
</table>

Signs shall be erected along the streets in each residential permit parking area, indicating the days, hours, locations and conditions under which parking shall be by permit only.

5. Application for Permit. Application for a residential parking permit shall be made to the Chief of Police by the person desiring the permit, who shall be only the owner or the driver of a motor vehicle who resides on or is a proprietor of property immediately adjacent to a street or other location within a residential parking permit area. A separate application shall be required for each motor vehicle, and each application shall be accompanied by a permit fee, set pursuant to a resolution of the City of Nanticoke, which shall be for the use of the City of Nanticoke, to be applied to the cost of administering the residential permit parking program. Each application shall contain the following information: the name of the owner or the driver, as the case may be, of the motor vehicle; the address of the resident or the proprietor, as the case may be; the make, model and registration number of the motor vehicle; and the driver number as taken from the applicant’s current driver’s license. At the discretion of the Chief of Police, the applicant shall be required, at the time of making application, to present his driver’s license and the vehicle registration card.

6. Issuance of Permit. Upon receipt of the application and the permit fee, and determination by him that the information upon the application shows that the applicant is entitled to a residential parking permit, the Chief of Police shall issue to the applicant a residential parking permit, which shall be valid for the remainder of the calendar year. The permit shall display the serial and registration numbers of the motor vehicles, the residential parking area number, and the expiration date. The permit shall be renewable annually before the expiration date, upon making
application for renewal and payment of the permit fee. It shall be unlawful and a violation of this Section for any person to display other than the current and valid permit while standing or parking in a residential permit parking area at any time when those permits are to be displayed.

7. **Temporary and Exemption Parking Permits.** Temporary parking permits may be issued by the Chief of Police, upon payment of a fee established pursuant to a resolution, to bona fide visitors of residents of a designated residential permit parking area, and exemption parking permits may be issued, without payment of a fee, to handicapped persons.

8. **Responsibility of Permit Holder.**

   A. Notwithstanding any provision of this Section to the contrary, the holder of a residential parking permit shall be permitted to stand or park a motor vehicle operated by him in any designated residential parking area during those times when parking of motor vehicles is permitted in that area. While a vehicle for which a residential parking permit has been issued is so parked, that permit shall be displayed so as to be clearly visible through the windshield of the vehicle. A residential parking permit shall not guarantee or reserve to the holder a parking space within a designated residential permit parking area.

   B. A residential parking permit shall not authorize its holder to stand or park a motor vehicle in any place where or at any time when stopping, standing or parking of motor vehicles is prohibited or set aside for other specified types of vehicles, nor shall the permit exempt its holder from the observance of any traffic or parking regulation other than residential permit parking regulation or restriction.

   C. No person other than the permit holder whose name appears on the permit shall use a residential parking permit or display it on a vehicle operated; any such use or display by a person other than the permit holder shall constitute a violation of this Section by the permit holder and by the person who so used or displayed the parking permit.

   D. It shall constitute a violation of this Section for any person falsely to represent himself as eligible for a residential parking permit or to furnish false information in an application to the Chief of Police in order to obtain a residential parking permit.

   (1) **Revocation of Permits.** The Chief of Police shall have authority to revoke the residential parking permit of any permit holder found to be in violation of any provision of this Section. Upon written notification to him of the revocation, the permit holder shall surrender the permit to the Chief of Police. Failure to do so, when so requested, shall constitute a violation of this Section. Provided: any person receiving such a notice may, within 10 days after the date of the notice, appeal to

The City of Nanticoke for a hearing on the revocation, and the decision of the City of Nanticoke shall be final.

(Ord. 16-2004, 12/1/2004, §1)

§15-411. Penalties.

Any person who violates any provision of this Part shall, upon conviction, be sentenced to pay a fine of not more than $15 and costs. Provided: it shall be the duty of the police officers and of parking enforcement personnel of the City of Nanticoke to report to the appropriate official all violations of any provision of this Part, indicating, in each case: the Section violated; the license number of the vehicle involved in the violation; the location where the violation took place; and any other facts that might be necessary in order to secure a clear understanding of the circumstances attending the violation. The police officer or other person making the report shall also attach to or place upon every such vehicle a notice stating that the vehicle was parked in violation of this Part. The notice shall contain instructions to the owner or driver of the vehicle that if he will report to the office of the Chief of Police and pay the sum of $____ within ____ hours after the time of the notice, or if he will place the sum of $____ enclosed within the envelope provided, in any of the special parking fine boxes installed at various locations within the City of Nanticoke that act will save the violator from prosecution and from payment of the fine and costs prescribed in the first sentence of this Section.

(Ord. 16-2004, 12/1/2004, §1)

§15-412. Handicapped Parking Program

1. Legislative Intent. The City Council of the City of Nanticoke, recognizing the special needs of handicapped persons in the City of Nanticoke, hereby establishes a handicapped parking program which will facilitate access to and from the handicapped persons’s place of residence.

2. Definitions. As used in this Section, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

HANDICAPPED PERSON - an individual possessing a handicapped or severely disabled veteran registration plate or a handicapped parking placard.

HANDICAPPED PARKING SIGN - a sign issued by the City of Nanticoke reserving parking for one handicapped tagged or placarded vehicle and erected at a designated area for access for handicapped persons.

ISSUING AUTHORITY - Nanticoke City’s Handicapped Co-ordinator and Police Department.

In this Section, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and neuter.
3. **Application Procedure.**

   A. The City of Nanticoke will promulgate and have available applications for handicapped parking signs. Said applications can be obtained from the Nanticoke City Municipal Building located on East Ridge Street Nanticoke. Once the application has been completed it shall be submitted to the City’s Handicapped Coordinator for consideration.

   B. **Application Fee.** Upon submission of the application, the applicant shall include a check or money order in the amount, as established from time to time by resolution of City Council, made payable to the Nanticoke Police Dept. This is the cost of the sign and post including installation. It is understood that when the handicapped sign is no longer needed, it shall remain the property of the City of Nanticoke. Said application fee will be refundable in full to the applicant when it is determined that the application is disapproved by the issuing authority.

   C. All approved applications shall be subject to annual review and are subject to revocation for cause shown.

   D. Applicants must possess a handicapped or severely disabled veteran registration plate or placard in order to obtain an application. (Owners of disabled veteran plates as distinguished from owners of severely disabled veteran’s plates are not eligible for handicapped parking signs).

   E. Applications are to be completed in their entirety.

   F. Each applicant shall submit with the completed application a written statement from his or her physician describing the disability at the time of the application including, but not limited to, the anticipated duration of the disability.

   G. Approval or denial of applications will be made within 30 days by the issuing authority.

   H. Upon approval of an application and payment of requisite fees, the City of Nanticoke will erect one handicapped parking sign as near as practicable to the applicant’s residence.

   I. The City of Nanticoke Handicapped Coordinator shall maintain a log of all applications for a handicapped parking sign and shall provide the Nanticoke Police Department a copy thereof on a monthly basis.

4. **General Provisions.**

   A. It shall be unlawful for any person or owner of realty to erect a handicapped parking sign upon the streets of the City of Nanticoke without first making application to the City. Any person who erects or utilizes a handicapped parking sign who has not followed the requirements of this Section is subject to penalties set forth herein.
MOTOR VEHICLES AND TRAFFIC

B. Any stipulations made at the time of application regarding the eligibility of an applicant shall be updated periodically at the request of the issuing authority.

C. Handicapped parking signs shall not supersede existing parking regulations including, but not limited to, street sweeping, snow parking ban or snow removal regulations.

D. The issuing authority shall be notified immediately if an eligible person no longer qualifies for a sign under this Section; for example, if an eligible person enjoys an improved health condition or moves from the premises wherein the sign is located. His survivors shall notify the issuing authority in the event of his or her death. Failure to notify the issuing authority constitutes a violation of this Section.

E. The issuing authority shall take the following factors into consideration when issuing handicapped parking signs:

(1) Overall availability of parking in the area wherein a sign is requested.

(2) Living arrangements of an individual applicant; for example, a disabled person living alone and responsible for his or her own transportation.

(3) Existing parking problems in the area where a sign is requested.

(4) Availability of off street parking.

F. The Nanticoke Police Department reserves the right to remove any handicapped parking signs for cause shown.

5. Penalties.

A. Any vehicle parked in a handicapped parking space which is not displaying the proper handicapped registration plate, severely disabled veteran plate or a handicapped parking placard which is properly displayed from the rear view mirror shall be subject to a $10 parking ticket fine. A handicapped parking placard displayed from the sun visor, laying on the dashboard or seat is not considered to be properly displayed and vehicles in those conditions will be deemed in violation of this Section.

B. Failure to respond to the City parking ticket will cause a citation to be filed against the violator in the office of the District Justice.

C. Any person violating any of the provisions of this Section shall, upon conviction thereof, be sentenced to pay a fine of not less than $25 and not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Section continues shall constitute a separate offense.

(Ord. 16-2004, 12/1/2004, §1)

Parking meter zones are established upon and along certain streets in the City of Nanticoke as follows:

<table>
<thead>
<tr>
<th>Street Between Rate</th>
<th>Maximum Parking Time</th>
</tr>
</thead>
</table>

(Ord. 16-2004, 12/1/2004, §1)

§15-502. Days And Hours Parking Meters in Operation And Parking Time Limits Apply.

Parking meters shall be operated, by the deposit of a coin in the meter, as prescribed by §15-505, and the parking rates for specified lengths of time, as well as the maximum parking times prescribed in §15-501, shall apply at all times between the hours of 9 a.m. and 5 p.m. Monday through Thursday and Saturday, and between the hours of 9 a.m. and 9 p.m. Friday, in the parking meter zones listed in §15-501. Provided, however: the requirements of this Part as to parking time limit and as to deposit of coins in meters shall not apply on City of Nanticoke holidays.

(Ord. 16-2004, 12/1/2004, §1)


Parking meters installed in the parking meter zones established by §15-501 of this Part shall be placed upon the curb or sidewalk, and immediately adjacent to the individual parking spaces described in §15-504 of this Part. Each parking meter shall be placed or set so as to show that the parking space adjacent to that meter is or is not legally occupied. Each parking meter installed shall indicate by a proper legend the legal parking time established by the City of Nanticoke and when the adjacent space is occupied by a vehicle, the parking meter shall indicate on and by its dial and pointer the duration of the period of legal parking, and, on the expiration of that period, shall indicate illegal parking or over-parking.

(Ord. 16-2004, 12/1/2004, §1)
§15-504. Parked Vehicles to Be Wholly Within Marked Spaces.

Lines and/or markings shall be painted or placed upon the curb, sidewalk or roadway adjacent to each parking meter for the purpose of delineating the parking space for which that meter shall be used. Every vehicle parked at any parking meter shall be parked wholly within the lines or markings so placed and applicable to that meter. It shall be unlawful and a violation of this Part for any person to park a vehicle across any such line or marking, or to park a vehicle in such a position that that vehicle is not wholly within the area designated by those lines or markings.

(Ord. 16-2004, 12/1/2004, §1)

§15-505. Coin Deposit in Meter; Overtime Parking Unlawful.

Whenever a vehicle is to be parked in any space adjacent to a parking meter, at any time in the period of limited parking as prescribed by §15-502 of this Part, the driver of the vehicle, upon entering the parking space, shall immediately deposit, or cause to be deposited, in that parking meter, one or more proper coins of the United States of America as specified in the legend on the parking meter. Upon the deposit of the coin or coins, and placing the meter in operation, the parking space may be lawfully occupied by the vehicle for the time indicated on the meter. If any vehicle shall remain in any space parking space for any length of time that the meter shall indicate by proper signal that the lawful parking time has expired, that vehicle shall be considered as having been parked overtime, and the parking of a vehicle overtime shall be a violation of this Part.

(Ord. 16-2004, 12/1/2004, §1)

§15-506. Unlawful to Deposit Substitute For Coin in Meter.

It shall be unlawful for any person to deposit in any parking meter installed under the provisions of this Part any slug or other substitute for a coin of the United States of America.

(Ord. 16-2004, 12/1/2004, §1)

§15-507. Unlawful to Deposit Coin in Meter to Extend Parking Time Beyond Legal Limit.

It shall be unlawful and a violation of this Part for any person to deposit or cause to be deposited, in any parking meter installed under the provisions of this Part, any coin for the purpose of increasing or extending the parking time of any vehicle beyond the legal parking time of 15 minutes in any 15 minute parking meter zone, 1½ hour in any ½ hour parking meter zone, 1 hour in any 1 hour parking meter zone, or 2 hours in any 2 hour parking meter zone.

(Ord. 16-2004, 12/1/2004, §1)
§15-508. Unlawful to Remain Parked at Meter Showing Violation.

It shall be unlawful, and a violation of this Part, for any person to permit a vehicle to remain in a parking space adjacent to a parking meter installed under this Part, when that meter displays a signal indicating that the vehicle has already been parked there beyond the period of time prescribed for that parking space, or the time for which a coin or coins was deposited in that meter for the parking of that vehicle.

(Ord. 16-2004, 12/1/2004, §1)

§15-509. Unlawful to Tamper With Meter.

It shall be unlawful, and a violation of this Part, for any person to deface, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this Part. Provided: nothing in this Section shall apply to the servicing or opening of parking meters by officers, employees or police officers of the City of Nanticoke under the direction of the [Designated Official] or City of Nanticoke.

(Ord. 16-2004, 12/1/2004, §1)

§15-510. Ticketing of Vehicles Parked Unlawfully; Effect of Payment Within 48 Hours.

1. It shall be the duty of the police officers and parking enforcement personnel of the City of Nanticoke, acting in accordance with the directions of the Chief of Police, to report;

   A. The number of each parking meter that indicates that a vehicle occupying the adjacent parking space is, or has been, parked in violation of any provision of this Part;

   B. The date and hour of the violation;

   C. The license number of the vehicle;

   D. Any other facts, the knowledge of which is necessary for a thorough understanding of the circumstances attending the violation.

2. The police officer or other person making the report shall also place on or attach to the vehicle a notice to the owner or driver of the vehicle that the vehicle was parked in violation of this Part, and instructing the owner or driver that if he will report to the office of the Chief of Police and pay, for the use of the City of Nanticoke, the sum of $____ within _____ hours after the time of the notice, or will place the sum of $____ enclosed within the envelope provided, in any of the special parking fine boxes installed at various locations within the City of Nanticoke within the time
limit, that act will save the violator from prosecution and from payment of the fine prescribed in §15-511(1) of this Part.

(Ord. 16-2004, 12/1/2004, §1)

§15-511. Penalty For Violation.

1. Any person who violates any provision of this Part, with the exception of §15-509, and who fails to pay the fine set forth in §15-510, shall be cited within 15 days of the violation and upon conviction, be sentenced to pay a fine of not more than $15 and costs.

2. Any person who violates any provision of §15-509 of this Part shall, upon conviction, be sentenced to pay a fine of not more than $600 and costs, and, in default of payment of fine and costs, to imprisonment for not more than 30 days.

(Ord. 16-2004, 12/1/2004, §1)

§15-512. Exceptions.

1. By resolution, the City of Nanticoke may temporarily suspend the provisions of this Part by requiring coin deposit in meters and establishing a maximum parking time at meters.

2. The City of Nanticoke shall have authority to establish no parking or special-purpose parking zones within any parking meter zone, and to remove parking meters from those areas as previously installed there, and the provisions of this Part shall not apply in those areas where no parking or special-purpose parking are in effect.

(Ord. 16-2004, 12/1/2004, §1)
Part 6

Off-street Metered Parking


The following are established as the metered parking lots established by this City of Nanticoke:

<table>
<thead>
<tr>
<th>Lot</th>
<th>Location</th>
<th>Rate</th>
<th>Maximum Parking Time</th>
<th>Days In Operation</th>
<th>Hours in Operation</th>
</tr>
</thead>
</table>

*(Ord. 16-2004, 12/1/2004, §1)*


Parking meters installed in the parking lots shall be placed immediately adjacent to the individual parking spaces that shall be marked off and maintained in the lots. For each parking meter there shall be a clear indication, through use of a directional arrow, or an identification as to number with the parking space, to show which individual parking space it serves. Each parking meter shall indicate by a proper legend the parking rate and the maximum parking time established by §15-601 of this Part, and, when the parking space is occupied and the parking meter put into operation by the insertion of one or more coins, the parking meter shall indicate on and by its dial and pointer the duration of legal parking, and, upon the expiration of that period, shall indicate illegal parking or over-parking.

*(Ord. 16-2004, 12/1/2004, §1)*

§15-603. Reserved Parking Spaces For Handicapped May Be Provided.

The City of Nanticoke, at its discretion, may provide, at convenient and suitable locations in any one or more of the metered parking lots, reserved parking spaces for handicapped, and shall designate those spaces by appropriate signs. It shall be unlawful, and a violation of this Part, for any person to park in any such reserved parking space, any vehicle unless that vehicle bears or displays either: a "handicapped registration plate," a "handicapped parking placard," a "disabled veteran registration plate" or a "disabled veteran placard".

*(Ord. 16-2004, 12/1/2004, §1)*
§15-604. Parked Vehicles to Be Wholly Within Marked Spaces.

Lines and/or markings shall be painted or placed upon the surface of the metered parking lots, adjacent to each parking meter, for the purpose of delineating the parking space for which that meter shall be used. Every vehicle parked adjacent to any parking meter shall be parked wholly within the lines or markings so placed and applicable to that meter. It shall be unlawful and a violation of this Part for any person:

A. To park a vehicle across any such line or marking; or,

B. To park a vehicle in such a position that the vehicle shall not be within the area so delineated by the lines or markings;

C. To park a vehicle elsewhere in any such lot that in an individual parking space adjacent to a parking meter.

(Ord. 16-2004, 12/1/2004, §1)

§15-605. Manner of Parking at Meters.

It shall be unlawful for any person to park a vehicle in any metered parking lot:

A. Otherwise than with the front of the parked vehicle nearest to the parking meter applicable to that vehicle; or,

B. With any part of the vehicle touching the meter post or head or the raised base or barrier on which meters are erected.

(Ord. 16-2004, 12/1/2004, §1)

§15-606. Coin Deposit in Meter; Overtime Parking Unlawful.

Whenever a vehicle is to be parked in any metered parking lot, at any time when the lot is open for use and the meters are to be in operation, the driver of the vehicle, upon entering the parking space, shall immediately deposit, or cause to be deposited, in the proper parking meter, one or more proper coins, of the United States of America as specified in the legend on the parking meter. Upon the deposit of the coin or coins, and placing the meter in operation, the parking space may be lawfully occupied by the vehicle for the time indicated on the meter. If any vehicle remains in any such parking space for such length of time that the meter indicates that the lawful parking time has expired, that vehicle shall be considered as being parked overtime, and the parking of a vehicle overtime shall be a violation of this Part. Provided: every hour that a vehicle remains parked at a meter showing a violation shall constitute a separate violation of this Part.

(Ord. 16-2004, 12/1/2004, §1)
§15-607. **Unlawful to Deposit Substitute For Coin in Meter.**

It shall be unlawful for any person to deposit in any parking meter installed under the provisions of this Part any slug or other substitute for a coin of the United States of America.

*(Ord. 16-2004, 12/1/2004, §1)*

§15-608. **Unlawful to Remain Parked at a Meter Showing Violation.**

It shall be unlawful, and a violation of this Part, for any person to permit a vehicle to remain in a parking space adjacent to a parking meter installed under this Part, when that meter displays a signal indicating that the vehicle has already been parked there beyond the period of time prescribed for that parking space, or the time for which a coin or coins was deposited in that meter for the parking of that vehicle.

*(Ord. 16-2004, 12/1/2004, §1)*

§15-609. **Unlawful to Tamper With Meter.**

It shall be unlawful, and a violation of this Part, for any person to deface, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this Part. Provided: nothing in this Section shall apply to the servicing or opening of parking meters by officers, employees or police officers of the City of Nanticoke under the direction of the [Designated Official] or City of Nanticoke.

*(Ord. 16-2004, 12/1/2004, §1)*

§15-610. **Metered Parking Lots For Certain Types of Vehicles Only.**

The metered parking lots established by this Part shall be for the use of passenger cars, passenger vans and pickup trucks only, and it shall be unlawful for any person to park any other type of vehicle in any of those lots.

*(Ord. 16-2004, 12/1/2004, §1)*

§15-611. **Ticketing of Vehicles Parked Unlawfully; Effect of Payment Within 48 Hours.**

1. It shall be the duty of the police officers and parking enforcement personnel of the City of Nanticoke acting in accordance with the direction of the Chief of Police, to report:
MOTOR VEHICLES AND TRAFFIC

A. The number of each parking meter that indicates that a vehicle occupying the adjacent parking space is, or has been, parked in violation of any provision of this Part;

B. The date and hour of the violation;

C. The license number of the vehicle;

D. Any other facts, the knowledge of which is necessary for a thorough understanding of the circumstances attending the violation.

2. The police officer or other person making the report shall also place on or attach to the vehicle a notice to the owner or driver of the vehicle that the vehicle was parked in violation of this Part, and instructing the owner or driver that if he will report to the office of the Chief of Police and pay, for the use of the City of Nanticoke, the sum of $____ within ____ hours after the time of the notice, or will place the sum of $____ enclosed within the envelope provided, in any of the special parking fine boxes installed at various locations within the City of Nanticoke, within that time limit, that act will save the violator from prosecution and from payment of the fine prescribed in §15-612(1) of this Part.

(Ord. 16-2004, 12/1/2004, §1)

§15-612. Penalty For Violation.

1. Any person who violates any provision of this Part, with the exception of §15-609, and who fails to pay the fine set forth in §15-611, shall be cited within 15 days of the violation and upon conviction, be sentenced to pay a fine of not more than $15 and costs.

2. Any person who violates any provision of §15-609 of this Part shall, upon conviction, be sentenced to pay a fine of not more than $600 and costs, and, in default of payment of fine and costs, to imprisonment for not more than 30 days.

(Ord. 16-2004, 12/1/2004, §1)
Part 7

Off-street Unmetered Parking


The following are established at the unmetered parking lots operated by the City of Nanticoke:

<table>
<thead>
<tr>
<th>Lot</th>
<th>Location</th>
<th>Maximum Parking Time</th>
<th>Days in Operation</th>
<th>Hours in Operation</th>
</tr>
</thead>
</table>

(Ord. 16-2004, 12/1/2004, §1)

§15-702. Reserved Parking Spaces For Handicapped May Be Provided.

The City of Nanticoke at its discretion, may provide, at convenient and suitable locations in one or more of the unmetered parking lots, reserved parking spaces for handicapped, and shall designate those spaces by appropriate signs. It shall be unlawful, and a violation of this Part, for any person to park in any such reserved parking space, any vehicle unless that vehicle bears or displays either: a "handicapped registration plate," a "handicapped parking placard," a "disabled veteran registration plate," or a "disabled veteran placard." Provided: all provisions, requirements and restrictions contained in the other Sections of this Part shall apply to vehicles lawfully parked in reserved parking spaces for handicapped.

(Ord. 16-2004, 12/1/2004, §1)

§15-703. Unlawful to Park Overtime or When Lot Closed.

It shall be unlawful for any person to park a vehicle, or to allow a vehicle to remain parked in any unmetered parking lot:

A. For longer than the maximum parking time prescribed by §15-701 of this Part.

B. At any time when the lot is not in operation and is closed to public use.

(Ord. 16-2004, 12/1/2004, §1)
§15-704. Unmetered Lots For Certain Types of Vehicles.

The unmetered parking lots established by §15-701 of this Part shall be for the use of passenger cars, passenger vans and pickup trucks only, and it shall be unlawful for any person to park any other kind or class of vehicle in any such lot.

(Ord. 16-2004, 12/1/2004, §1)


Every vehicle parked in an unmetered parking lot shall be parked wholly within the lines bounding or marking the individual parking space assigned to that vehicle, and shall be parked headed into the parking space. It shall be unlawful for any person:

A. To park a vehicle in a space not rented by him.

B. To park a vehicle otherwise than as required by this Section.

C. To park a vehicle elsewhere than in an individual parking space, the prohibited areas including, but not limited to, the access and exit driveways and turning and maneuvering spaces.

(Ord. 16-2004, 12/1/2004, §1)

§15-706. Parking on Rental Basis Only.

The parking spaces in the unmetered parking lots shall be available for parking on a monthly rental basis only. The rental fee shall be fixed by the City of Nanticoke pursuant to a resolution and shall be for a calendar month or the part of a calendar month remaining after the rental arrangements are made. The rental fee shall be paid in advance to the City Secretary for the use of the City of Nanticoke, and after the first month shall be automatically renewable until the renter notifies the City of Nanticoke that he wishes to terminate the rental arrangements. At any time, however, the City of Nanticoke may, by amending §15-701 of this Part, discontinue provision of a specific unmetered parking lot or a portion of the parking spaces in any such lot, or may change any unmetered parking lot, or part of an unmetered parking lot, to a metered parking lot or to metered parking spaces. The rental parking spaces shall be assigned by the City Secretary. The name of the render of a parking space and/or the numbers and/or letters on the registration tag of the vehicle entitled to be parked there shall be posted by the City of Nanticoke at the rental space or shall be painted on the surface of that parking space.

(Ord. 16-2004, 12/1/2004, §1)
§15-707. **Penalty For Violation.**

1. The police officer or other person making the report shall also place on or attach to the vehicle a notice to the owner or driver of the vehicle that the vehicle was parked in violation of this Part, and instructing the owner or driver that if he will report to the office of the Chief of Police and pay, for the use of the City of Nanticoke, the sum of $____ within ____ hours after the time of the notice, or will place the sum of $____ enclosed within the envelope provided, in any of the special parking fine boxes installed at various locations within the City of Nanticoke, within that time limit, that act will save the violator from prosecution and from payment of the fine prescribed in subsection (2) hereof.

2. Any person who violates any provision of this Part and who fails to pay the fine set forth in this Section, shall be cited within 15 days of the violation and upon conviction, be sentenced to pay a fine of not more than $15 and costs.

*(Ord. 16-2004, 12/1/2004, §1)*
Part 8

Removal And Impoundment of Illegally Parked Vehicles

§15-801. Applicability And Scope.

This Part is enacted under authority of §6109(a-22) of the Vehicle Code, and gives authority to the City of Nanticoke to remove and impound those vehicles which are parked in a tow-away zone and in violation of parking regulations of this Chapter. Vehicles which have been abandoned (as defined by the Vehicle Code) or which are parked in such a manner as to interfere with traffic or pose a hazard to others, may be towed under the provisions of the Pennsylvania Vehicle Code.

(Ord. 16-2004, 12/1/2004, §1)

§15-802. Authority to Remove And Impound

The City of Nanticoke shall have authority to remove and impound, or to order the removal and impounding, of any vehicle parked overtime or otherwise illegally, provided that the circumstances of its parking were within the conditions stated in §15-801 of this Part. Provided: no such vehicle shall be removed or impounded except in strict adherence to the provisions of this Part, or the provisions of the Pennsylvania Vehicle Code.

(Ord. 16-2004, 12/1/2004, §1)

§15-803. Tow Away Zones Designated.

The following designated streets and/or parking lots are hereby established as tow-away zones. Signs shall be posted to place the public on notice that their vehicles may be towed for violation of the City of Nanticoke parking regulations:

<table>
<thead>
<tr>
<th>Street Side Between Parking Lot</th>
</tr>
</thead>
</table>

(Ord. 16-2004, 12/1/2004, §1)

§15-804. Designation of Approved Storage Garages; Bonding; Towing And Storage.

Removal and impounding of vehicles under this Part shall be done only by "approved storage garages" that shall be designated from time to time by the City of Nanticoke. Every such garage shall submit evidence to the City of Nanticoke that it is bonded or has
acquired liability insurance in an amount satisfactory to the City of Nanticoke as sufficient to indemnify owners of impounded vehicles against loss or damage to those vehicles while in the custody of the garage keeper for the purpose of towing or storage. The approved storage garage shall submit to the City of Nanticoke its schedule of charges for towing and storage of vehicles under this Part, and, when the schedule is approved by City of Nanticoke, those charges shall be adhered to by the approved storage garage; no different schedule of charges shall be demanded of or collected from any person whose vehicle is removed or impounded under this Part by any approved storage garage. The City of Nanticoke shall delete from its list of approved storage garages any garage that makes any unapproved charge in connection with any vehicle removed or impounded under this Part.

(Ord. 16-2004, 12/1/2004, §1)

§15-805. Payment of Towing and Storage Charges.

The payment of towing and storage charges shall not relieve the owner or driver of any vehicle from liability for any fine or penalty for the violation of the provision of this Part for which the vehicle was removed or impounded.

(Ord. 16-2004, 12/1/2004, §1)

§15-806. Reclamation Costs [Reserved].

(Ord. 16-2004, 12/1/2004, §1).


The City of Nanticoke shall cause a record to be kept of all vehicles impounded under this Part and shall be able at all reasonable times to furnish the owners or the agents of the owners of those vehicles with information as to the place of storage of the vehicle.

(Ord. 16-2004, 12/1/2004, §1)


No vehicle shall be removed under the authority of this Part or the Vehicle Code if, at the time of the intended removal, the owner or the person for the time being in charge of the vehicle is present and expresses a willingness and intention to remove the vehicle immediately.

(Ord. 16-2004, 12/1/2004, §1)
§15-809.  Penalty For Violation.

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of $50 together with all costs of disposing of the vehicle under provisions of the Vehicle Code, 75 P.S. §7301 et seq., (1977) as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

(Ord. 16-2004, 12/1/2004, §1)

§15-810.  Reports And Disposition of Unclaimed Vehicles.

If after a period of 15 days the vehicle in storage remains unclaimed, a report shall be filed with PennDOT in accordance with §7311 of The Vehicle Code, by the person having legal custody of the vehicle.  If the vehicle has not been claimed after 30 days, the vehicle may be transferred to a licensed Salvor who will then be responsible for filing the proper reports and disposing of the vehicle in accordance with the provisions of Chapter 73 of the Pennsylvania Motor Vehicle Code (75 Pa C.S.A. §101 et seq., as amended).

(Ord. 16-2004, 12/1/2004, §1)
Part 9

Snow and Ice Emergency

§15-901. Declaration of Snow and Ice Emergency.

In order to facilitate the movement of traffic and to combat the hazards of snow and ice on the snow emergency routes named in §15-903 of this Part, the [Designated Official], in his discretion, may declare a snow and ice emergency (designated in this Part as a "snow emergency"). Information on the existence of a snow emergency shall be given by the City of Nanticoke through radio, newspaper or other available media, and information on the termination of the emergency may be given by use of the same media.

(Ord. 16-2004, 12/1/2004, §1)

§15-902. Parking Prohibited, Driving Motor Vehicles Restricted, on Snow Emergency Routes During Emergency.

After any snow emergency is declared, it shall be unlawful, at any time during the continuance of the emergency, for any person:

A. To park a motor vehicle or to allow that vehicle to remain parked anywhere on any snow emergency route designated in §15-903 of this Part; or,

B. To drive any motor vehicle on any such snow emergency route, unless that vehicle is equipped with snow tires or chains.

(Ord. 16-2004, 12/1/2004, §1)


The following are designated as snow emergency routes:

Street

Espy Street from Front Street to Middle Road

Front Street (entire length)

Hanover Street from Main Street to its terminus.

Kosciuszko Street from Main Street to Middle Road

Main Street from Hanover Township line to Newport Township line.
MOTOR VEHICLES AND TRAFFIC

Street

Middle Road from Hanover Township line to Newport Township line.

North Market Street from Main Street to its terminus.

Prospect Street from Main Street to Middle Road

South Market Street from Main Street to its terminus.

Washington Street from Kosciuszko Street to Hanover Street.

(Ord. 16-2004, 12/1/2004, §1)

§15-904. Penalty for Violation.

1. If, at any time during a period of snow emergency declared under §15-901 of this Part, a person shall park a motor vehicle or allow a motor vehicle to remain parked anywhere upon a snow emergency route, that person shall be guilty of a violation of this Part, and, upon conviction, shall be sentenced to pay a fine of not more than $15 and costs.

2. If, at any time during a period of snow emergency declared under §15-901 of this Part, a person shall drive a motor vehicle upon a snow emergency route, without having that vehicle equipped with snow tires or chains, that person shall be guilty of a violation of this Part, and, upon conviction, shall be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)

1. It shall be unlawful for any person to ride or to park a pedalcycle on the sidewalk along the following portions of the streets in the City of Nanticoke:

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Between</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $5 and costs.

(Ord. 16-2004, 12/1/2004, §1)

§15-1002. Restrictions on Use of Pushcarts.

1. The word "pushcart," as used in this Section, shall mean a vehicle, including a pedalcycle, propelled solely by human power, and used or intended for use for the display, transport, exhibit or sale of goods, wares or merchandise.

2. It shall be unlawful for any person to propel a pushcart upon any sidewalk in any business district except as necessary to move the pushcart to a location from which it is to be loaded or unloaded or from which goods, wares or merchandise are to be sold or dispensed under permit from the City of Nanticoke as provided in subsection (3) of this Section.

3. It shall be unlawful for any person to park a pushcart upon any sidewalk except for the purpose of selling or dispensing from that pushcart goods, wares or merchandise to passersby under permit from the City of Nanticoke. Every such permit shall be issued to the person making application for the permit, upon payment of a fee, which shall be for the use of the City of Nanticoke set by the City of Nanticoke pursuant to a resolution. The permit shall be granted to the applicant, upon payment of the fee, and upon his signing an agreement with the City of Nanticoke that he shall be bound by the conditions imposed by City of Nanticoke and made a part of the permit, dealing with the following matters:

   A. Restricting or limiting the parking of the pushcart to one or more stated locations upon the sidewalk and to stated days and hours at each location;
B. Stating requirements to be adhered to in connection with the disposal of garbage and refuse resulting from the operations carried on;

C. Requiring that there be no violation of any law, ordinance or regulation pertaining to health, sanitation and the handling of food or drink.

4. Any person who violates any provision of this Section, or any condition of any permit granted under this Section, shall be guilty of a summary offense, and, upon conviction, shall be sentenced to pay a fine of $25 and costs.

(Ord. 16-2004, 12/1/2004, §1)

§15-1003. Skates, Skateboards, Coasters, Sleds And Other Toy Vehicles.

1. It shall be unlawful for any person to ride on a sled upon any sidewalk in the City of Nanticoke, or upon any roadway unless that roadway is on a portion of a street blocked off for sledding by authority of §15-105 of Part 1 or §15-216 of Part 2 of this Chapter. Provided: nothing in this subsection shall prevent a pedestrian from pulling a sled, with or without a rider, upon a sidewalk.

2. It shall be unlawful for any person to engage in roller-skating, skateboarding or to ride upon or propel any coaster or other toy vehicle upon:

   A. Any street except in order to cross the roadway; or,

   B. Any sidewalk located in a business district, except that nothing in this subsection shall prevent a pedestrian from pulling a coaster or other toy vehicle, with or without a rider, upon a sidewalk.

3. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of $5 and costs.

(Ord. 16-2004, 12/1/2004, §1)
Part 11

Pedestrian Regulations

§15-1101. Pedestrians to Obey Traffic-control Signs.

At all locations in the City of Nanticoke where official traffic-control signals are installed, pedestrians, except where directed otherwise by pedestrian-control signals installed under §15-1102 of this Part, shall obey the directions of those traffic-control signals, as follows:

A. When facing a green signal, a pedestrian may proceed across the roadway within a crosswalk;

B. When facing a steady yellow signal, a pedestrian shall not start to cross the roadway;

C. When facing a steady red signal, a pedestrian shall not enter the roadway.

(Ord. 16-2004, 12/1/2004, §1)

§15-1102. Pedestrian-control Signal Locations Established.

1. At the following locations, official pedestrian-control signals shall be erected (or are ratified if previously erected):

Location

Intersection of Main and Mart Streets

Intersection of Main and Kosciuszko Streets

2. Every pedestrian facing a steady or flashing "Don't Walk" signal shall obey the directions of that signal, as follows:

A. When facing a steady "Don't Walk" signal, a pedestrian shall not start to cross the roadway in the direction of the signal, but any pedestrian who has partially completed his crossing on the "Walk" signal should proceed to a sidewalk or safety zone while the "Don't Walk" signal is showing.

B. When facing a flashing "Don't Walk" signal a pedestrian shall not start to cross the roadway in the direction of the indication, but any pedestrian who has partly completed crossing during the "Walk" indication should proceed to a sidewalk or safety zone.
Any pedestrian who fails to obey the directions of a "Don't Walk" signal, as indicated above, shall be guilty of an offense and a violation of this Part.

(Ord. 16-2004, 12/1/2004, §1)

§15-1103. Locations Where Pedestrian Crossing in Unmarked Crosswalks Restricted.

Except when authorized by a police officer or other appropriately attired person authorized to direct, control or regulate traffic, it shall be unlawful for any pedestrian to cross the roadway at any of the following streets, at the intersection with that street indicated.

<table>
<thead>
<tr>
<th>Street</th>
<th>Intersection</th>
<th>Direction of Travel</th>
</tr>
</thead>
</table>

(Ord. 16-2004, 12/1/2004, §1)

§15-1104. Locations Where Pedestrians May Cross Only in Crosswalk.

It shall be unlawful for any pedestrian:

A. To cross any roadway in a business district within the City of Nanticoke except in a crosswalk;

B. To cross the roadway, in any of the following portions of streets in the City of Nanticoke, except in a crosswalk:

<table>
<thead>
<tr>
<th>Street</th>
<th>Between</th>
</tr>
</thead>
</table>

Provided: nothing in this Section shall permit any pedestrian to cross in a crosswalk at any location where that crossing is prohibited by §15-1102 of this Part.

(Ord. 16-2004, 12/1/2004, §1)

§15-1105. Penalty for Violation.

Any pedestrian who violates any provision of this Part shall be guilty of a summary offense, and, upon conviction, shall be sentenced to pay a fine of $5 and costs.

(Ord. 16-2004, 12/1/2004, §1)
CHAPTER 16

PARKS AND RECREATION

(Reserved to accommodate future enactments)
CHAPTER 17

PLANNED RESIDENTIAL DEVELOPMENT

(Reserved to accommodate future enactments)
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§18-261. Cooperation
PART 1
SEWER USE RATES, RULES AND REGULATIONS


Unless the context specifically and clearly indicates otherwise, the meaning of terms and phrases used in this Part shall be as follows:

CITY - the City of Nanticoke.

BOD (BIOCHEMICAL OXYGEN DEMAND) - the quantity of oxygen, expressed in parts per million (ppm) by weight, utilized in the biochemical oxidation of organic matter under standard laboratory procedure for 5 days at 20/Centigrade. The standard laboratory procedure shall be that found in the latest edition "Standard Methods for the Examination of Water and Sewage" published by the American Heath Association.

BUILDING SEWER - the connection piping from the sewage drainage system of any structure to the main collection sewer.

COLLECTION SEWER - the City's sanitary sewers located under highways, roads, streets and right-of-ways with that collect and convey sanitary sewage or industrial wastes or a combination of both and into which storm, surface and ground water or unpolluted industrial wastes are not intentionally admitted.

CHLORINE REQUIREMENT - the amount of chlorine, in parts per million by weight, which must be added to sewage to produce a specific residual chlorine content, or to meet the requirements of some other objective, in accordance with procedures set forth in "Standard Methods."

CONNECTION UNIT - each individual building or house, whether constructed as detached unit or as one of a pair or row which is designed or adaptable to separate ownership for use as a family dwelling unit or for commercial or industrial purposes. A school, factory, apartment house, office building or other multiple unit structure whose individual apartments or units are connected to a common internal sewage system and which are not commonly subject to separate ownership shall be considered as one connection unit per individual unit or apartment.

EQUIVALENT DWELLING UNIT - a family dwelling unit or the equivalent.

GARBAGE - solid wastes resulting from preparation, cooling and dispensing of food and from handling, storage and sale of food products and produce.
GROUND GARBAGE - the residue from the preparation, cooking and dispensing of food that has been shredded to such degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in public sewers with no particle greater than \( \frac{1}{2} \) inch in any dimension.

IMPROVED PROPERTY - any property located or a building lot or for which a building permit has been issued within the sewered area upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.

INDUSTRIAL WASTES - any solid, liquid or gaseous substance discharged, permitted to flow or escaping in the course of any industrial, manufacturing, trade or business process or in the course of the development, recovery or processing of natural resources, as distinct from sanitary sewage.

MEMBER MUNICIPALITY - Nanticoke City, when used herein.

OWNER - any person vested with ownership, legal or equitable, sole or partial, of property located in the sewered area.

PERSON - any individual, partnership, company, association, society, trust, corporation or other group-or entity.

\( \text{pH} \) - the logarithm (base 10) of the reciprocal of the weight of hydrogen ions, expressed in grams per liter on solution, and indicates the degree of acidity or alkalinity of a substance.

PARTS PER MILLION OF ppm - a weight to weight ratio; the parts-per-million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

SANITARY SEWAGE - normal water-carried household and toilet wastes discharged from any improved property.

SANITARY SEWER - a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface and groundwaters or unpolluted industrial wastes are not intentionally admitted.

SERVICE LATERAL - that part of the sewer system extending from a collection sewer to the drainage system of any structure and is same as a building sewer.

SEWAGE TREATMENT PLANT the plant and facilities operated for such purpose to which the sewer system is to be connected.

SEWER - any pipe or conduit constituting a part of the sanitary sewer system used or usable for sewage collection purposes and to which ground, surface and stormwater is not intentionally admitted.
SEWER RENTAL UNIT - each family dwelling unit or the equivalent which is connected with the sanitary sewer system.

SEWER SYSTEM - all facilities, as of any particular time for collecting, pumping, treating and disposing of sanitary sewage and industrial wastes, situate in the sewered area and owned and/or operated by the City.

SEWERAGE - the system of sewers and appurtenances for the collection, transportation and pumping of sewage and industrial waste.

SEWERED AREA - those portions of the member municipalities in which there shall be constructed a sewage collection system of the City in accordance with the plans of the City, as from time to time constructed and extended.

SHALL - is mandatory, may is permissible.

SLUG - any discharge of water, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of longer duration than 15 minutes, more than 5 times its average hourly concentration or flow.

STANDARD METHODS - the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water, Sewage, and Industrial Waste," published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

STORM SEWER - a sewer that carried storm, surface and ground water drainage but excludes sewage and industrial wastes.

SURCHARGE - the extra charge in addition to the service charge rental which is levied on those persons whose wastes are greater in strength than the concentration values established as representative of normal sewage.

SUSPENDED SOLID - solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtration. The standard laboratory procedure shall be that found in the latest edition of "Standard Methods."

STREET - includes any street, highway, road, lane, court, alley and public square.

TOXIC SUBSTANCES - any poisonous substance including, not but limited to, copper, cyanide and chromium ions.

CITY - Nanticoke City.

UNPOLLUTED WATER OF LIQUIDS - any water or liquid containing none of the following: free or emulsified grease or oil, acids or alkalis, substances that may impart taste and odor or color characteristics; toxic or poisonous substances in
SEWERS AND SEWAGE DISPOSAL

suspension, colloidal state or solution; odorous or otherwise obnoxious gases. It shall contain not more than 1,000 parts per million by weight of dissolved solids, and not more than 5 parts per million each of suspended solids or biochemical oxygen demand. Analytical determination shall be made in accordance with procedures set forth in "Standard Methods."

WASTEWATER - sanitary sewage and/or industrial wastes as defined in this Section.


§18-102. Use of Public Sewers Required.

1. The owner of any improved property accessible to and whose principal building is within 150 feet from the sewer system shall connect such improved property with and shall use such sewer system, in such manner as this City may require, within 60 days after notice to such owner from this City to make such connection, for the purpose of discharge of all sanitary sewage and industrial wastes from such improved property; subject, however, to such limitations and restrictions as shall be established herein or otherwise shall be established by the City from time to time.

2. All sanitary sewage industrial wastes from any improved property, after connection of such improved property with a sewer as required under subsection (1), above, shall be conducted into a sewer, subject to such limitations and restrictions as shall be established herein or as otherwise shall be established by this City from time to time.

3. No person shall place or deposit or permit to be placed or deposited upon public or private property within this City any sanitary sewage or industrial wastes in violation of subsection (1), above.

   A. No person shall discharge or permit to be discharged to any natural outlet within this City any sanitary sewage or industrial wastes in violation of subsection (1), above, except where suitable treatment has been provided which is satisfactory to this City.

4. No privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be used or maintained at any time upon any improved property which has been connected to a Sewer or which shall be required under subsection (1), above, to be connected to a sewer.

   A. Every such privy vault, cesspool, sinkhole, septic tank or similar receptacle in existence shall be abandoned and, at the discretion of this City, shall be cleansed and filled at the expense of the owner of such improved property and under the direction and supervision of this City; and any such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned and, if required by this City, not cleansed and filled, shall constitute a nuisance and
such nuisance may be abated as provided by law at the expense of the owner of such improved property.

5. No privy vault, cesspool, sinkhole, septic tank or similar receptacle at any time shall be connected with a sewer.

6. The notice by this City to make a connection to a sewer referred to in subsection (1), above, shall consist of a copy of this Part, including any amendments and/or supplements at the time in effect, or a summary of each Section hereof, and a written or printed document requiring the connection in accordance with the provisions of this Part and specifying that such connection shall be made within 60 days from the date such notice if given. Such notice may be given at any time after a sewer is in place which can receive and convey sanitary sewage and industrial wastes for treatment and disposal from the particular improved property. Such notice shall be served upon the owner either by personal service or by registered mail or by such other method as at the time may be provided by law.


§18-103. Building Sewers and Connections.

1. No person shall uncover, connect with, make any opening into or use, alter or disturb, in any manner, any sewer or the sewer system without first obtaining written permission from this City. Such permission will be issued to owners required to connect to a sewer by ordinance of the City subject to compliance with the rates, rules and regulations and may be issued by the City to owners not so required to connect.

2. Application for a permit required under subsection (1), above, shall be made by the owner of the improved property to be served or his authorized agent.

3. No person shall make or cause to be made a connection of any improved property with a sewer until such person shall have fulfilled each of the following conditions:

   A. Such person shall have notified the City of the desire and intention to connect to a sewer.

   B. Such person shall have applied for and obtained a permit as required by subsection (1), above.

   C. Such person shall have given the City at least 48 hours notice of the time when such connection will be made so that this City may supervise and inspect the work of connection and necessary testing.

4. Except as otherwise provided in this subsection (4), each connection unit on each improved property shall be connected separately and independently with a sewer through a building sewer. Grouping of more than one improved property on one building sewer shall not be permitted except under special circumstances and for
good sanitary reasons or other good cause shown and then only after special permission of the City in writing, shall have been secured.

5. All costs and expenses of construction of a building sewer to the collection sewer shall be borne by the owner of the improved property to be connected; and such owner shall indemnify and save harmless this City from all loss or damage that may be occasioned, directly or indirectly, as a result of construction of a building sewer or of connection of a building sewer to the collection sewer.

6. Materials for a building sewer, jointing materials and methods of installation shall be in accordance with requirements of §18-104 and shall be subject to approval of this City.

7. The permit required by subsection (1), above, shall be displayed prominently upon the improved property to be connected to a sewer at all times during construction of the building sewer and connection of the building sewer to the collection sewer.

8. A building sewer shall be connected to a sewer at the location so designated by the City. No person shall make a connection directly to or tamper with a collection sewer in any manner without city authorization.

   A. Connections to the collection sewer shall be accomplished by a branch or wye (y) fitting.

9. Connections to service lateral, if provided by the City, if of the same pipe size, shall be made by properly joining to the bell end of the service lateral provided. Where different types or sizes of materials are to be joined, an approved adapting fitting shall be used. Projecting the smaller pipe into the larger and sealing will not be permitted. This applies also to the connection of the house drain to the building sewer pipe.

10. The City recommends that all abandoned cesspools and seepage pits be filled with crushed stone, gravel or shale to prevent said pits from caving in or from in any other way becoming a health or safety hazard in the future.


1. A building sewer shall be no less than 4 inches in internal diameter except within public rights-of-way where this pipe shall be 6 inches.

2. Types of Pipes.

   A. All service laterals and building sewers shall be constructed of one of the following types of pipes:
(1) Service weight cast iron soil pipe at least 4 inches in internal diameter conforming to ASTM A-74-66.

(2) Schedule 40 or SDR-35 Polyvinyl Chloride (PVC) sewer pipe conforming to ASTM D-1785.

B. Jointing materials for the various types of pipe shall be as follows:

(1) Cast iron pipe shall have leaded joints properly caulked or neoprene rubber gaskets conforming to C.I.S.P.I. HSN-68T.

(2) PVC pipe shall have solvent welded joints of the same schedules as the pipe used. The solvent shall conform to ASTM D-25464 and the fitting shall conform to ASTM D-R4GG (Schedule 40) and D-2467 (Schedule 80).

3. Uniform bearing shall be provided along the entire length of a building sewer; and all joints of a building sewer shall be watertight and root-proof. No cement mortar joints shall be used.

4. Where an improved property, at the time of securing a permit under §18-103(1), to connect to a sewer shall be served by its own sewage disposal system or device, the existing house sewer line shall be broken on the structure side of such sewage disposal system or device and attachment shall be made, with proper fittings to continue such house sewer line, as a building sewer, undiminished in inside diameter, but not less than 4 inches to the public R/W, thence 6 inches to the collection sewer.

5. A building sewer to serve one improved property may occupy the same trench as a building sewer to serve the next adjoining improved property; provided, however, that the common trench is on or immediately adjacent to the common property line and such joint occupancy is by mutual agreement of the owners concerned.

A. This subsection (5) is subject in all respects to subsection (4), above.

6. It shall be the duty of every person constructing or owning any building connected to the sewer system, to assure that their building sewer, house drain and plumbing fixtures are adequate for the purpose and will allow free passage of any material that enters or should enter the system.

A. No change of the building sewer of any building shall be permitted unless notice thereof shall have been given City, and approval of the City thereto obtained in writing.

7. Fittings in a building sewer shall conform to the type of pipe used in construction.

8. Changes in direction in a building sewer must be made only by use of "Y" branches or of 1/8 or 1/16 bends. No 1/4 bends will be permitted. Caulking of lead joints or
alignment of self-sealing joints to angles of less than 1/16 bend equivalent only shall be permitted.

9. Fittings or connections in a building sewer which have an enlargement, chamber or recess with a ledge, shoulder reduction of pipe area that shall offer any obstruction to flow, shall not be allowed.

10. Leaded joints in cast iron soil pipe in a building sewer shall be packed with oakum in the bell and spigot terminations and thereafter shall be filled with molten lead to a depth of at least 1 inch for pipes 4 inches and 6 inches diameter pipe and 1.25 inches for 8 inches and 12 inches diameter pipe and not to be depressed more than 1/8 inch below the rim of the hub. The lead then must be caulked in place. No paint, varnish or other coating shall be permitted on the jointing material until after the building sewer has been tested and approved as provided in subsections (17), (18) and (19), below.

11. Basement floor drains shall not be permitted to be connected to the building sewer except where it can be shown to the satisfaction of the City that their connection is absolutely necessary.

A. A permit shall be obtained from the City before any floor drain may be attached to the building sewer drainage system.

B. No permit for a basement floor drain shall be granted until the owner of the building or his agent has executed, signed, and filed with City a written statement releasing the City from any damage or personal injury that may result.

12. Cleanouts. Generally, cleanouts shall be provided in each building sewer and at intervals to permit complete rodding with a 100 foot long auger or tape. Cleanouts shall be constructed by using a "Y" fitting in the run of pipe with a 45° bend and riser to the ground surface. The riser pipe must be provided with a standard 4-inch screw-type ferrule and plug.

13. Special Conditions. Wherever, in the opinion of the City, the trenching conditions require either specific type of pipe jointing material or encasement in a concrete, such materials, as it may direct, shall be installed to protect the property owner and/or the City for special conditions as follows:

A. Where the trench is over 12 feet deep, extra strength PVC pipe or Class 3300 A.C. Pipe or cast iron pipe or Schedule 80 PVC or SDR-35 pipe must be used.

B. Where the trench is less than 4 feet deep in a traveled roadway, special bedding consisting of crushed stone or concrete cradle, as directed by the City, must be used.

C. Where lines are laid in fill, extra heavy cast iron soil pipe with lead joints are neoprene rubber gaskets may be used.
D. Where foundation conditions are poor due to groundwater or subsurface materials, a bedding of Pennsylvania Department of Transportation No. 2B crushed stone at least 6 inches in depth shall be installed beneath the pipe.

E. Where rock is encountered, the trench shall be excavated to a depth of 4 inches below the bottom of the pipe and the trench refilled to the grade line within clean earth or crushed stone.

14. A building sewer may be provided with a horizontal trap, known as a house trap, of not less than 4 inches inside diameter. Such trap shall be provided with a vent and cleanout openings, each to be at a level of at least equal to the finished grade level and to be provided with bent cowls. Lines from such trap to such finished grade level shall be of the same size and material as the building sewer.

15. The house trap described under subsection (14), above, shall be located at a point approved by the City Inspector in accordance with rules and regulations applicable thereto as adopted by this City. Such trap and its vent shall be on the property side of the curb.

16. The slope or grade of a building sewer, when the inside diameter is 4 inches or more, shall be no less than 1/4 inch per foot of length and shall be downward in the direction of flow; provided, however, that when a commercial or industrial establishment requires a building sewer with an inside diameter of 6 inches or more, the slope shall be no less than 1/8 inch per foot of length. When physically required in order to connect with the sewer lateral, the slope of the building sewer may be reduced to 1/8 inch per foot but only with the permission of this City.

17. This City shall observe all testing of a building sewer. All equipment and material required for testing shall be furnished by the owner of the improved property to be connected to a sewer.

A. In the event that a building sewer is not approved by this City, further test or test shall be made following completion of necessary corrections. A fee, in an amount as established from time to time by resolution of City Council, will be charged by this City for observation of each test subsequent to the initial test. [Ord. 16-2004]

18. No building sewer shall be covered until it has been inspected, tested, as provided in subsection (17), above, and approved. If any part of a building sewer is covered before so being inspected, tested and accepted, it shall be uncovered for inspection and testing at the cost and expense of the owner of the improved property.

19. Every building sewer shall be tested by filling the same with water, completely, so that every section shall be tested with not less than a 10 foot head of water. Water shall be kept in the building sewer for 15 minutes before inspection starts and no leakage shall be observable at the time of inspection.
A. Upon approval of the test of a building sewer by this City, a certificate of approval will be issued to the owner of the improved property to be connected to a sewer.

20. Whenever this City has reason to believe any building sewer has become defective, such building sewer shall be subject to test and inspection. Defects found upon such test and inspection shall be corrected as required by this City, in writing, at the cost and expense of the owner of the improved property served through such building sewer.

21. Every building sewer of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.

22. Every excavation for a building sewer shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Streets, sidewalks and other public property disturbed in the course of installation of a building sewer shall be restored, at the cost and expense of the owner of the improved property being connected, in a manner satisfactory to the City.

23. Street Opening Permits and Restoration of Surface. Whenever the surface of any public street, sidewalk or cartway is disturbed by construction of the building sewer, the surfacing material must be restored in kind and maintained to the satisfaction of this City and the City involved. Any and all construction in a public street of the City involved shall be in compliance with the ordinances of the City and any and all construction in a State and County highway shall be in compliance with the Pennsylvania Department of Transportation requirements of the Luzerne County Engineer and specifications and all necessary permits shall be obtained from the City and the City involved before construction is commenced, including the permit required for opening, or disturbing the surface of a street.

24. The construction of building sewers shall, at all times, be subject to supervision and inspection by this City or its representative and shall conform to this City specifications. The building sewer shall not be covered until permitted by this City and all backfilling of trenches shall be under its supervision and shall be thoroughly compacted by tamping in 6 inch layers to a minimum height of 12 inches above the top of the pipe.

25. Connections with sewers where same are run through private property shall in all respect be governed by these rates, rules and regulations or subsequent revision.

26. No roof drainage, cellar, surface water, waste from hydrants or groundwater from underground drainage field shall be permitted to drain into the sewer system. The sewer system is intended to convey sanitary sewage and liquid wastes only.

27. The City shall have the right to close up or disconnect from the sewer system any service lateral or building sewer used for carrying rain, cellar drainage, surface water, groundwater or objectionable matter whenever any violations of these rules and regulations are committed.
28. The City shall not be liable for any damage or expense resulting from leaks, stoppages or defective plumbing or from any other cause occurring to any premises or within any house or building; and it is expressly stipulated by and between this City and the owner that no claims shall be made against this City on account of the breaking or stoppage of, or any damage or expense to, any lateral, building sewer or house connection when the cause thereof is found to be in the lateral, building sewer or house connection.

29. The City shall not be liable for a deficiency or failure of service when occasioned by emergency, required repairs or failure from any cause beyond control. This City reserves the right to restrict the use of sewer service whenever the public welfare may require it. In consideration of the right to connect to the sewer system, this City shall not be liable for any damage or expense resulting from leaks, stoppages or defective plumbing or from any other cause occurring to any premises or within any building and it is hereby expressly agreed by all persons making connection with the sewer system that no claims shall be made against this City or the City on account of the breaking or stoppage of, or any damage or expense to, any service lateral or building sewer where the cause thereof is found to be in such service lateral or building sewer.


§18-105. Persons Authorized to do Work Relating to Connections.

1. Any person desiring to do plumbing work upon any building sewer for any improved property shall obtain from the City a permit authorizing such individual to engage in such plumbing work. Such permits shall be issued on a calendar year basis. A fee, in an amount as established from time to time by resolution of City Council, shall be charged for issuance of each permit. Such permits shall be issued to such individuals who have demonstrated by past performance to the satisfaction of the City that they are qualified and capable of performing plumbing work in accordance with good plumbing practice and shall be revocable by this City negligent or willful failure to comply with these rates, rules and regulations. Such permits shall be reissued from calendar year by appropriate endorsement of this City or by issuance of a new permit, at the discretion of this City, upon payment of the required fee. Owners, their agents, employees or independent contractors may do ditch preparation work independently of the plumbing work involved upon receipt of a permit from the City and subject to compliance with these regulations and inspection requirements. [Ord. 16-2004]

2. Any individual not possessing a permit as required under subsection (1), above, shall not perform any plumbing work upon any building sewer.

3. The City reserves the right to revoke any permits issued under this Section for just cause; such notice of revocation to be given in writing to their permit holder, stating the reasons for the action.

§18-106. Reservations.

1. If any person shall fail or refuse upon receipt of a notice of this City, in writing, to remedy any unsatisfactory condition with respect to a building sewer, within 60 days of receipt of such notice, this City may refuse to permit such person to discharge sanitary sewage and industrial wastes into the sewer system until such unsatisfactory condition shall have been remedied to the satisfaction of this City.

2. This City reserves the right to refuse to any person the privilege of connection of any improved property to a sewer, or to compel discontinuance of use of a sewer by any person or to compel the pretreatment of industrial wastes, in order to prevent discharge into the sewer system of wastes which may be deemed by this City to be harmful to the sewer system or to have a deleterious effect on sewage treatment process.

3. This City reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with a sewer and the sewer system, which additional rules and regulations, to the extent appropriate, shall be and shall be construed as part of these rates, rules and regulations.


§18-107. Connection Fee.

1. There is hereby imposed a connection fee for each connection to be made to the sewer system, which fee shall be payable upon application for permit to make the connection, and which fee shall be calculated by reference to the size of the building lateral so connected as follows:

   A. For each improved property applying for a permit, the fee shall be $275, plus the direct and indirect costs to the City for any construction work accomplished by the City.

2. Existing or proposed subdivisions connecting to the system must receive a permit from the City. This permit will be issued after the City has assured itself that the connection will be made properly. The cost for this permit shall be determined by multiplying $25 by the number of improved properties located in the subdivision at the time of application for the permit. All costs related to the connection shall be borne by the applicant. Thereafter, each individual improved property will receive its permit based on the fee schedule set forth in subsection (1), above.

3. Sewer rents and maintenance charges are hereby established, which shall be payable and collected from the owner of each collection unit located inside or outside the legal boundaries of the City which discharges flows through, across or under the legal boundaries of the City.
4. There is hereby imposed upon the owners and upon the users of each collection unit served by the sanitary sewer facilities, for the use thereof, an annual rent, to be computed and payable in accordance with the following subsections of this Section.

5. **Sanitary Sewer Rentals.**

A. The sewer rent in respect of all residential properties, whether or not metered, served by the sewer system (other than those for which the rent is computed as provided in subsection (B), below), shall be computed on a flat rate basis at the rate of $25 per quarter year per sewer rental unit or equivalent dwelling unit. The City reserves the right to change equivalency values from time to time, to add or delete property classifications and, in cases of dispute, to determine the proper classifications of any property. In the event that the City is not provided upon request with accurate information, including supporting documents, necessary in order to determine a user's classification or rate hereunder, the City's estimate, or determination shall be conclusive.

B. If two or more dwellings, apartments, stores, commercial or industrial establishments are connected to the sewer system through a single lateral, or if two or more families use separate cooking and/or toilet facilities in a single dwelling, the sewer rent payable under subsection (A), above, shall be computed as though each such dwelling, apartment or small unmetered commercial establishment and each such family were a separate property or user with a separate connection to such sewer system.

C. The sewer rent in respect of nonresidential properties upon application to the City may be computed by meter on the basis of gallonage of discharge, per quarter year or monthly, as the City may determine, at the rates outlined in subsection (7), below, but in no case will the minimum charge be less than $25 per quarter.

6. The annual sewer rental and maintenance fee in respect of nonresidential properties served by a metered water supply shall be computed on the basis of gallonage of water usage, per quarter year, at the following rates:

A.

- First 12,000 gallons per quarter $2.042 per 1,000 gallons
- Next 188,000 gallons per quarter $1.41 per 1,000 gallons
- Next 200,000 gallons per quarter $0.84 per 1,000 gallons
- Next 20,000,000 gallons per quarter $0.72 per 1,000 gallons
- Next 30,000,000 gallons per quarter $0.65 per 1,000 gallons
- Next 40,000,000 gallons per quarter $0.59 per 1,000 gallons
- Minimum charge $25 per quarter, $100 per year.
B. Metered accounts shall be billed based upon the actual gallonage used per quarter, as determined by the Pennsylvania Gas and Water Company’s meter readings or meters on other suppliers. Invoices shall be issued quarterly. If current meter readings are not available at the time of billings, an estimated amount may be computed based on previous usage.

C. The City of Nanticoke shall designate, by resolution, a collection agent who or which is authorized to collect such annual sewer rental or charge together with any penalty and/or interest thereon. Said agent shall perform the duties of said office in accordance with the rules and regulations of the Wyoming Valley Sanitary Authority which were adopted on June 19, 1967, and as amended thereto.

D. The said rules and regulations of the Wyoming Valley Sanitary Authority are hereby incorporated in this Part by reference as though the same were more fully set forth herein at length and as the same may be amended, from time to time, by the Board of Directors of the Wyoming Valley Sanitary Authority.

7. **Time and Method of Payment; Interest.** The flat-rate sewer rents imposed by subsection (5), above, shall be payable quarterly in advance and rent for each quarter shall be billed and payable on a quarter annual date for each owner or user. Rent for the quarter in which the connection is made shall be prorated and shall be billed in conjunction with the next regular quarterly billing or by special billing as the official responsible for billing may elect.

A. The water usage sewer rents imposed by subsection (6), above, shall be payable upon billing and shall be billed and payable on a quarterly or monthly basis, as the City may determine. The respective dates of quarterly or monthly meter reading and billing, as the case may be, in respect of the several properties subject to such sewer rents shall be established by the sewer City and may be on a cycle or staggered basis. The first such reading and billing in respect of each such property may be based upon such time period not exceeding three months as the City may determine, with appropriate proration of the rent in respect of any such periods which vary from an exact quarter year.

B. Bills for sewer rent shall be mailed to the address of the record owner of the unit unless and until a different address is specified by the owner or user of the property to the City. Failure to receive a bill as a result of incorrect address or otherwise shall not excuse nonpayment or sewer rent or extend the time for payment.

C. In any quarterly installment of sewer rent is not paid within 30 days after the date of the bill, a 10% penalty shall be added thereto; and, if the installment plus penalty is not paid within 60 days after the date of the bill, aggregate amount thereof shall bear interest from the penalty date at the rate of $\frac{1}{2}$ of 1% per month or fraction thereof.
8. **Measuring Volume of Wastewater.**

**A. Method of Measuring Volume.**

(1) It shall be the responsibility of the owner of an industrial, commercial or institutional property, or if the City shall so decide, it may be the responsibility of the City to so measure the flow of water to the said facility and/or the flow of industrial waste and/or sanitary sewage out of the said facility that the volume of wastewater being discharged into the sewer system may be determined with reasonable accuracy to the satisfaction of the City.

(2) If it is not practical in the opinion of the City, to so measure the volume of wastewater being discharged into the sewer system, then this City shall, in such a manner and by such method as it may prescribe, estimate such volume which estimate shall be final for the then current fiscal year of the City.

**B. Measuring Devices.** Meters or other measuring devices required to comply with the above provisions shall be furnished, installed, repaired and maintained by the owner at his expense and shall be accessible to the City at all reasonable times for testing, inspection or repair. Should the owner fail, after notice, to keep required meters in good operating condition, the City may make replacements and repairs made necessary by ordinary wear and tear or other causes. Bills for such repairs, if made by this City, shall be due and payable immediately upon completion of such repairs and shall be collected in the same manner as quarterly bills for sewer rental and charges.

**C. Meter Readings.** The City shall be responsible for the reading of all meters or other measuring devices and the same shall be available to this City at all reasonable times.

9. **Unpaid Claims-Liens.** Any unpaid sewer rent (together with penalties and interest therein to the extent permitted by law) shall be a lien on the property served which may be collected by action in assumpsit, by distress of personal property on the premises or by a lien filed in the nature of a municipal lien as and to the extent provided by law. In addition, the City may require any water utility to shut off the water supply to any property with respect to which the sewer rent imposed hereby is unpaid until all such sewer rent, together with interest and penalties as aforesaid, is paid.


§18-108. **Industrial Wastes and Prohibited Wastes.**

1. **Admission of Industrial Wastes into the Sewer System.**
A. **Approval Required for Industrial Wastes.** Industrial wastes may be discharged into the sewer system, but only upon prior written permit issued by the City. Application for any such permit shall be accompanied by such information relating to the nature or character of the industrial waste proposed to be discharged or otherwise including, without limitation, a detailed engineering report in respect thereof or an industrial wastes questionnaire prepared by a registered engineer or engineering firm, as the City may reasonably require. Any permit issued under this Section may be conditioned upon compliance with such reasonable restrictions as the City may impose. No permit for the discharge of industrial wastes issued under this Section shall be deemed to give any right to the applicant to continue such use and any such permit may be revoked by the City at any time.

B. **Preliminary Treatment and Handling of Industrial Wastes.** Whenever necessary, in the opinion of this City, the owner of improved property shall provide, at his expense, such facilities for preliminary treatment and handling of industrial wastes as may be necessary to:

1. Reduce BOD to 250 ppm and suspended solids to 300 ppm by weight.
2. Reduce objectionable characteristics or constituents to come within the maximum limits permitted in these rate, rules and regulations.
3. Control the quantities and rates of discharge over a 24 hour day and a 7 day week.

2. **Prohibited Wastes.**

A. No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial or unpolluted commercial process water into any sewer. Except as otherwise provided in these rates, rules and regulations, no person shall discharge or cause to be discharged and of the following described wastes or water into the sewer system:

1. Having a temperature of higher than 150°Fahrenheit.
2. Containing more than 120 parts per million by weight of tar, oil and/or grease,
3. Containing any gasoline, benzine, naptha, fuel, oil or other flammable or explosive liquids, solids or gases.
4. Containing any garbage which has not been ground by a household type or other suitable garbage grinder.
5. Containing any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, cotton, wool or other
solid or viscous substances capable of causing interference with proper operation of the sewer system.

(6) Having a pH lower than 6.0 or higher than 9.0 or having any other corrosive property causing damage or hazards to structures, equipment or operating personnel of the sewer system.

(7) Containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage or sludge treatment process, constitute hazards to humans or create any hazard in operation of the sewer system. Toxic wastes shall include, but not by way of limitation, wastes containing cyanide, chromium and/or copper ions.

(8) Containing noxious or malodorous gases or substances capable of creating a public nuisance.

(9) Any water or waste containing suspended solids of such character and quantity that unusual attention or expense shall be required to handle such water or waste at the sewage treatment plant.

(10) Any toxic radioactive isotopes, except by special permission of this City.

(11) Any drainage from building construction.

B. Gas stations and garages may be required to provide oil interceptors of the types Series GA, GX, GWC, GRC of Josam Manufacturing Company, Michigan City, Indiana, or equivalent, in the proper location, where the dangerous liquids are to be intercepted.

C. Restaurants or other commercial establishments as directed may be required to provide grease interceptors of the type Series J of the Josam Manufacturing Company or equivalent.

D. Nothing contained in this subsection (2) shall be construed as prohibiting any special agreement or arrangement between this City and any person whereby industrial wastes or unusual strength or character may be admitted into the sewer system by this City, either before or after this preliminary treatment.

3. Regulations Governing Admission of Industrial Wastes into the Sewer System.

A. Control Manholes.

(1) Any person who shall discharge industrial wastes into the sewer system, when required by this City, shall construct and thereafter properly shall maintain, at his own expense, a suitable control manhole to facilitate observation, measurement and sampling by this City.
(2) Any such control manhole, when required by this City, shall be constructed at an accessible, safe, suitable and satisfactory location in accordance with plans approved by this City prior to commencement of construction.

B. **Grease, Oil and Sand Interceptors.** Grease, oil and sand interceptors shall be provided by the applicant when they are required by the City for the proper handling of liquid wastes containing grease in excessive amounts, or flammable wastes, sand or other harmful ingredients. All such interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection. Where any such required facilities or interceptors are constructed, they shall be maintained continuously in satisfactory and effective operation by the applicant at his expense.

C. **Sewage Sampling.** Industrial wastes being discharged into the sewer system shall be subject to periodic sampling, inspection and determination of character and concentration. Such sampling, inspection and determination shall be made by this City as frequently as may be deemed necessary and the cost for the analysis will be billed to the industry. Sewage sampling facilities shall be accessible to this City at all times. Due care shall be exercised in the collection and preservation thereof in as nearly the natural state as possible, including refrigeration of all samples which are intended for analysis by biochemical methods.

D. **Analysis.**

(1) This City shall be responsible for analysis of samples of industrial wastes.

(2) Laboratory methods used in the analysis of samples of industrial wastes shall be those set forth in the latest edition of "Standard Methods for the Examination of Water and Sewage" as published by the American Public Health Association; provided, however, that alternate methods for the analysis of industrial wastes may be used, subject to mutual agreement between this City and the person discharging such industrial wastes into the sewer system.

E. **Changes in Type of Wastes.** Any owner of an improved property who is discharging industrial wastes into the sewer system and who contemplates a change in the method of operation which will alter the type of industrial wastes at the time being discharged into the sewer system shall notify this City, in writing, at least 10 days prior to consummation of such changes.

4. **Slugs and Equalized Discharge.** No person shall cause the discharge of slugs of water or wastes. The City may require, without limitation, the construction of flow equalization facilities to assure a uniform rate of discharge.
5. **Computation of Surcharge.** The surcharge per person shall be determined as follows:

A. The excess pounds of 5 day biochemical oxygen demand (BOD), suspended solids (SS), and chlorine demand will be computed by multiplying the person's waste water flow volume in million gallons per day by the constant 8.345 and then multiplying this product by the difference between the person's concentration of biochemical oxygen (BOD), suspended solids (SS), and chlorine demand in mg/L (parts per million by weight) and the "normal" concentration of 250 mg/L BOD, 200 mg/L SS, and 5 mg/L chlorine demand. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge listed in subsection (6), below. This product will then be multiplied by the number of days in the billing period to determine the surcharge.

6. **Rates of Surcharge.** The rates of surcharge for each of the aforementioned constituents shall be as follows:

A. For biochemical oxygen demand (BOD), $0.00 per pound.

B. For suspended solids (SS), $0.00 per pound.

C. For chlorine requirement, $0.00 per pound.

7. **Discount for Off-Peak Discharge.** When approved by the City in its absolute and sole discretion, a 30% discount from the rates listed in §18-107(3) will be given for discharge during the off-peak hours from approximately midnight to 6 a.m., depending upon location. The industrial discharger must provide the necessary facilities and controls to store the wastewater during the day and discharge only during the specified off-peak (night-time) hours. This discount is offered to encourage the use of the full capacity of the treatment plant during the off-peak hours and will be offered only until this unused capacity is committed.

8. **Revision of Rates.** The rates of surcharge shall be reviewed periodically by the City in order to determine whether they are sufficient to defray the fixed charges, amortization costs and annual cost of operation as determined from the sewage treatment plant records. If the difference between the revenue derived from the rates of surcharge and the total annual cost is sufficient to justify an increase or decrease in the rates the City shall make the appropriate change.


§18-109. **Housing Developments and Real Estate Subdivisions.**

1. **Construction of Extensions.** In cases where a builder or developer desires or is required by local ordinance to install collection sewers, service laterals and building sewers to every housing unit within a housing development prior to their individual sale, he may do so upon meeting all conditions as set forth in this Section and in
other Sections of these rates, rules and regulations. Plot plans for such a
development must be submitted to the City for approval prior to any construction.
Sewer plans conforming to all original specifications established by the City, as
to type of pipe, location of mains, size of pipe, grades, all necessary appurtenances
will be prepared by the City's Engineer prior to approval from the necessary State
agencies. The engineering fees and charges for permits shall be paid by the
builder or developer to the City. In no case will lesser standards than exist in the
presently constructed sewer system and as outlined in these rates, rules and
regulations be permitted for any future extensions may be constructed by and at
the expense of the builder or developer, but only under the inspection of an
inspector designated by the City and/or its Engineer. The cost of such inspections,
including salaries and expenses, shall be borne by the builder or developer
making the extensions.

2. In addition to the above, the developer or builder shall provide a duly executed
maintenance bond in the amount of 100% of the construction costs as security for
the maintenance of the work described in the approved plans and specifications
for a period of 1 year from the date of acceptance of said work, and having as
surety each surety company or companies as are acceptable to the City.

3. Upon completion of sewer system for a housing development or subdivision and
following formal acceptance by the City, the ownership of said sewer system shall
be deeded to the City, after which time the City will assume all maintenance and
operation of said system except that maintenance which is specifically excluded
at the time of acceptance.


§18-110.  Miscellaneous.

1. **Access.** This City shall have the right of access at reasonable times to any part of
any improved property served by the sewer system as shall be required for
purposes of inspection, measurement, sampling and testing and for performance
of other functions relating to service rendered by this City through the sewer
system.

2. **Additional Rules and Regulations.** This City reserves the right to amend, by
motion or resolution, these rates, rules and regulations, or to adopt by motion or
resolution, additional rates, rules and regulations, from time to time, as it shall
deem necessary and proper in connection with the use and operation of the sewer
system, or as may be required to meet necessary costs and expenses. [Ord. 12-
1995]

3. **Variance from Rules.** No officer or employee of the City is authorized to vary
these rules without action by the City.

4. **Control of Service.** The City shall not be liable for a deficiency or failure of
service when occasioned by an emergency, required repairs, or failure from any
cause beyond control. The City reserves the right to restrict the use of sewer
service whenever the public welfare may require it.
5. **Vacating Premises.** When premises are vacated, the property owner must give notice at the Office of the City and he will be responsible for the sewage charges until such notice is given.

6. **Notice of Change of Ownership.** Each property owner must give the City or his authorized representative written notice of any change of ownership of any improved property.

7. **Abatement from Bills.** An owner desiring an abatement from sewage bills shall report same in writing or call in person at the office of the City. All vacancies shall date from the day reported at the office of the City. When vacancy is properly reported an allowance will be made for the period of vacancy, but not for a period of less than 90 consecutive days.

8. **Construction and Severability.** In the event that any provision, Section, sentence, clause or part of these rates, rules and regulations shall be held to be invalid, such invalidity shall not affect or impair any remaining provisions, Section, sentence, clause or part of these rates, rules and regulations, it being the intent of the City that such remainder shall be and shall remain in full force and effect.


§18-111. **Enforcement.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.


§18-112. **Declaration of Purpose.**

It is declared that the enactment of this Part is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this City.


§18-113. **Covenants of City.**

The City does hereby agree and covenant to keep this Part or a subsequent similar ordinance requiring such connections in full force and effect continuously during the time the City owns and operates the sewer system and to enforce the same as may be permitted by law.

PART 2

WASTEWATER COLLECTION AND TREATMENT SYSTEM

A. General Provisions.

§18-201. Purpose and Policy.

1. This Part sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system of the City of Nanticoke, and enables the City of Nanticoke to comply with all applicable State and Federal laws as required by the Clean Water Act of 1977 and the General Pretreatment Regulations (Title 40, Code of Federal Regulations, Part 403), and the rules and regulations of the Wyoming Valley Sanitary Authority (WVSA), a publicly owned treatment works with which the City of Nanticoke has a service agreement for the collection and treatment of wastewater flowing from the sanitary sewer system of the City of Nanticoke.

2. The objectives of this Part are:

   A. To prevent the introduction of pollutants into the wastewater system which will interfere with the operation of the system, contaminate the resulting sludge or be difficult to treat by conventional means.

   B. To prevent the introduction of pollutants into the wastewater system which will pass through the system, inadequately treated, into receiving streams or the atmosphere or otherwise be incompatible with the system.

   C. To improve the opportunity to recycle and reclaim wastewater and sludges from the system.

   D. To provide for equitable distribution of costs of the municipal wastewater system.

   E. To provide for penalties and costs for the willful and/or negligent violation of the provisions of this Part, or the falsifying of information required by the Part.

3. This Part provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for all users, authorizes monitoring and enforcement activities, requires user reporting, assures that existing customer’s capacity will not be preempted and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
SEWERS AND SEWAGE DISPOSAL

4. This Part shall apply to the City of Nanticoke and to persons outside the City of Nanticoke who are, by contract or agreement with the City of Nanticoke, users of the City of Nanticoke and/or the WVSA. Except as otherwise provided herein, the Executive Director of the WVSA shall administer, implement and enforce the provisions of this Part.


§18-102. Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Part, shall have the meanings hereinafter designated:

ACT or THE ACT - the Federal Water Pollution Control Act, also known as the Clean Water Act of 1977, as amended.

APPROVAL AUTHORITY - the registered administrator of the EPA, Region III, until such time as the Department of Environmental Protection (PADEP) is authorized by the EPA to administer the pretreatment program, and thereafter the Secretary of PADEP. [Ord. 16-2004]

AUTHORIZED REPRESENTATIVE - must be:

A. A principal executive officer of at least the level of vice-president if the user is a corporation.

B. A general partner or proprietor if the user is a partnership or proprietorship, respectively.

C. A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

BIOCHEMICAL OXYGEN DEMAND (BOD) - the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, as specified, in 5 days at 20°C Celsius expressed in terms of weight and concentration (milligrams per liter (mg/l)).

CHEMICAL OXYGEN DEMAND (COD) - the measure of the oxygen-consuming capacity of inorganic and organic matter present in water, sewage, industrial waste or other liquid as determined by standard laboratory procedure, as specified, expressed as milligrams per liter (mg/l).

CONTROL AUTHORITY - the WVSA.

COOLING WATER - the water discharged from any system of condensation, such as air conditioning, cooling or refrigeration.
DIRECT DISCHARGE - the discharge of treated or untreated wastewater directly to the waters of the Commonwealth of Pennsylvania.

DOMESTIC USER - a user whose facility is engaged solely for residential purposes.

ENVIRONMENTAL PROTECTION AGENCY or 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.

EXECUTIVE DIRECTOR - the person designated by the WVSA to supervise the operation of the treatment plant and who is charged with certain duties and responsibilities by this Part, or his duly authorized representative.

GARbage - solid waste from domestic or commercial preparation, cooking, dispensing or manufacturing of food or from the handling, storage and sale of produce.

GRAB SAMPLE - a sample which is taken from a waste stream on a one-time basis with no regard to flow or time.

HOLD-HAUL TANK - a storage tank installed by the user to hold such industrial waste which is prohibited from being discharged to the sanitary sewer system and from which the contents must be hauled to a disposal site. Such tank shall not be connected to the sanitary sewer system.

INDIRECT DISCHARGE - the discharge or the introduction of pollutants into the sanitary sewer system from any nondomestic user regulated under §307(b) or (c) of the Act.

INDUSTRIAL WASTE - any amount of liquid waste and water borne liquid, gaseous and solid substances discharged or disposed of from any industrial, manufacturing, trade or commercial establishment including nonprofit organizations, governmental agencies or business activities. Such term shall not include discharges from sanitary conveniences on the premises unless such flow is commingled with the above waste.

INDUSTRIAL WASTEWATER DISCHARGE PERMIT - a permit to deposit or discharge nondomestic waste into the sanitary sewer system.

INTERFERENCE - the inhibition or disruption of the WVSA treatment process or operations which contributes to a violation of any requirement of the WVSA's NPDES permit. The term includes prevention of sewage sludge use or disposal by the WVSA in accordance with §405 of the Act, or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or more stringent state criteria for the disposal of waste sludge.
LOCAL LIMITS - technically-based limits established by the WVSA to implement the prohibitions of §403.5(a) and (b) of the Act. Where specific limits are developed, such limits shall be deemed pretreatment standards in accordance with §307(d) of the Act.

NATIONAL CATEGORICAL PRETREATMENT STANDARD - national categorical pretreatment standards as promulgated in §307(b) and (c) of the Act which applies to industrial users. This term includes prohibited discharge limits established pursuant to Title 40 CFR, Part 403.5.

NEW SOURCE - any source, the construction of which is commenced after publication of proposed pretreatment standards under §307(c) of the Act which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

NONDOMESTIC USER - a user whose property is engaged, wholly or in part, for the manufacturing, fabricating, processing, cleaning, laundering, bottling or assembling of a product, commodity or article, or in the engagement of commerce or trade.

NORMAL WASTE - waste which, when analyzed, indicates a concentration of BOD not to exceed 300 parts per million (ppm), concentration of suspended solids not to exceed 350 ppm, concentration of COD not to exceed 600 ppm over any 24 hour period.

OIL and GREASE - any hydrocarbons, fatty acids, soaps, fats, waxes, oils or any other material that is extracted by addition of a solvent to an acidified sample.

PASS THROUGH - a discharge which exits the WVSA treatment plant into the receiving stream 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 WVSA’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 or any other legal entity, or their legal representatives, agents or assigns.

pH - the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions.

POLLUTION - the alteration of the thermal, chemical, physical, biological or radiological integrity of, or the contamination of any water to the extent that the water is rendered harmful, detrimental or injurious to humans, animal life, vegetation or property or to public health, safety or welfare, or that impairs the usefulness of the public enjoyment of that water.
PRETREATMENT or TREATMENT - the reduction by physical, chemical or biological means, of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state.

PRETREATMENT REQUIREMENTS - any substantive or procedural requirements related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

PROHIBITED WASTE - any waste which is totally restricted from discharge into the sanitary sewer system by this Part.

RECEIVING STREAM - the waterway into which the wastewater treatment plant operated by the WVSA discharges treated effluent, specifically the Susquehanna River.

SANITARY SEWER SYSTEM - all of the property involved in the operation of a sanitary sewer facility. It includes land, wastewater lines and appurtenances, pumping stations, treatment works, wastewater treatment plants and general property.

SHALL VERSUS MAY - shall is mandatory; may is permissive.

SIGNIFICANT INDUSTRIAL USER - any user subject to national categorical pretreatment standards under 40 CFR 403.6; that discharges an average flow of 25,000 gallons or more per day of process wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the WVSA's treatment plant; or is designated as such by the WVSA on the basis that the user has a reasonable potential for adversely affecting the WVSA's operation or for violating any pretreatment standard or requirement.

SLUG DISCHARGE - any discharge of a nonroutine, episodic nature including, but not limited to, an accidental spill or a noncustomary batch discharge.

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 - the Commonwealth of Pennsylvania.

STORMWATER - any flow occurring during or following any form of natural precipitation and resulting therefrom.

SURCHARGE - the additional sewerage service charge levied against any person for discharging abnormal industrial waste into the sanitary sewer system.

SUSPENDED SOLIDS - the total suspended matter that floats on the surface of, or is suspended in, water and which is removable by filtration.
TOXIC POLLUTANT - any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under provision of §307(a) of the Act.

USER - any person, including corporations or other legal entities, who contributes, causes or permits the contribution of wastewater into the WVSA.

WASTE OR WASTEWATER - sewage, industrial waste or wastes, and drainage water.

WASTEWATER TREATMENT PLANT - any arrangement of structures used for treating wastewater by the WVSA, including treatment plant, interceptor lines and pump stations.

THE WYOMING VALLEY SANITARY AUTHORITY OR WVSA - a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, under the Municipal Authorities Act of 1945, as amended, with which the City of Nanticoke has a service agreement providing for the collection and treatment of wastewater flowing from the sanitary sewer system of the City of Nanticoke. Its principal place of business is located at 1000 Wilkes-Barre Street, Wilkes-Barre, PA 18711.

B. Regulations.

§18-211. General Prohibitions.

1. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the WVSA. These general prohibitions apply to all such users of the WVSA whether or not the user is subject to national categorical pretreatment standards or any other Federal, State or local pretreatment standards or requirements. A user may not contribute the following substances to the WVSA’s treatment plant:

A. Any liquids, solid or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with any other substance to cause fire or explosion or be injurious in any other way to the WVSA or to the operation of the WVSA’s treatment plant. Discharges prohibited under this Section shall include, but not be limited to, waste streams with a closed cup flashpoint of less than 140°F Fahrenheit or 60°C Celsius using the test methods specified in 40 CFR §261.21. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or any point in the system) be more than 5%, nor any single reading over 10% of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which are a fire hazard or a hazard to the system.

B. Any wastewater having a pH value less than 6.5 or greater than 11.5, or a wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel.

C. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, garbage with particles greater than ½ inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, gas, tar, asphalt residues, mud or glass grinding or polishing wastes.

D. Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the WVSA. In no case shall a slug load have a flow rate or contain a concentration of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24 hour flow or concentration of pollutants during normal operation.

E. Any wastewater having a temperature which will inhibit biological activity in the WVSA treatment plant resulting in interference, but in no case waste-
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water with a temperature at the introduction into the WVSA plant which exceeds 40/ Celsius (104/ Fahrenheit).

F. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with any wastewater treatment process, which constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the WVSA, or to exceed the limitation set forth in a national categorical pretreatment standard or local limit. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to §307(a) of the Clean Water Act of 1977, and presently listed in Appendix B to 40 CFR, Part 403.

G. Any discharge which may result in the presence of toxic gases, vapors or fumes within the treatment system in a quantity that may cause acute worker health and safety problems or is sufficient to create a public nuisance or hazard.

H. Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.

I. Any trucked or hauled pollutants, except at discharge points designated by the WVSA.

J. Any substance which may cause the WVSA's effluent or any other product of the WVSA such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the WVSA's treatment system cause the WVSA to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under §405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or State criteria applicable to the sludge management method being used.

K. Any substance which will cause the WVSA to violate its NPDES and/or residual disposal permit or the receiving water quality standards.

L. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

M. Any wastewater containing any radioactive wastes or isotopes by such half-life or concentration as may exceed limits established by the Executive Director in compliance with applicable State or Federal regulations.

N. Any substance which causes a hazard to human life or creates a public nuisance.

2. When the Executive Director determines that a user is contributing to the WVSA, any of the above enumerated substances in such amounts as to interfere with the operation of the WVSA, the Executive Director shall advise the user of the impact
of the contribution on the WVSA and develop effluent limitations for such user to correct the interference with the WVSA.


§18-212. National Categorical Limits Override.

Upon the promulgation of national categorical pretreatment standards for a particular industrial subcategory, the national standards, if more stringent than limitations imposed under this Part for sources in that subcategory, shall immediately supersede the limitations imposed under this Part. The Executive Director shall notify all affected users of the applicable reporting requirements under 40 CFR §403.12.

(Ord. 12-1991, 4/1/1991, §2.2)

§18-213. Cannot Cause WVSA to Violate Regulatory Limits.

No user shall contribute or cause to be contributed any discharge which by nature shall cause an upset in the performance of the WVSA’s treatment system or a pass through of pollutants, which shall cause the WVSA to exceed the limitations of its NPDES permit.


§18-214. Must Meet Local Limits.

The WVSA shall develop technically based local limits as set forth in 40 CFR, Part 403.5. Such limitations shall be applied in all cases where they are more stringent than the Federal or State requirements. The WVSA shall continually develop these limits as necessary, and reserves the right to alter any and all local limit permit parameters as necessary to comply with the objectives presented in §18-201 of this Part.

(Ord. 12-1991, 4/1/1991, §2.4)


State requirements and limitations on discharge shall apply in any case where they are more stringent than Federal and/or local requirements and limitations, or those in this Part.

(Ord. 12-1991, 4/1/1991, §2.5)
§18-216. City's Right of Revision.

The City of Nanticoke reserves the right to establish more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in §18-201 of this Part.


§18-217. Excessive Dilution.

No 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 national categorical pretreatment standards, or in any pollutant-specific limitations developed by the WVSA or the Commonwealth. Dilution may be an acceptable means of complying with some of the prohibitions set forth in §18-211, e.g., the pH prohibition.


§18-218. Rain or Cooling Water.

The WVSA shall prohibit the discharge of any wastewater which includes stormwater, surface water, ground water, roof run-off or subsurface drainage. Any wastewater containing once-through cooling water shall be prohibited.

C. Fees.

§18-221. Purpose.

The purpose of this Section is to provide for the recovery of costs from users of the WVSA's wastewater treatment system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the WVSA's schedule of charges and fees.

(Ord. 12-1991, 4/1/1991, §3.1)

§18-222. Charges and Fees.

1. The City of Nanticoke and/or the WVSA may adopt charges and fees which may include:

   A. Fees for reimbursement of costs setting up and operating the WVSA's pretreatment program.
   B. Fees for monitoring, inspections and surveillance procedures.
   C. Fees for reviewing accidental discharge procedures and construction.
   D. Fees for response to accidental discharges.
   E. Fees for permit applications.
   F. Fees for filing appeals.
   G. Fees for consistent removal of pollutants otherwise subject to Federal pretreatment standards.
   H. Fees for consistent removal of conventional pollutants such as BOD, TSS, oil and grease, etc.
   I. Other fees as the City of Nanticoke and/or the WVSA may deem necessary to carry out the requirements contained herein.

2. These fees relate solely to the matters covered by this Part and are separate from all other fees chargeable by the City of Nanticoke.

(Ord. 12-1991, 4/1/1991, §3.2)
D. Procedures to Contribute.

§18-231. Pretreatment Requirement.

1. Any user generating waste prohibited from discharge into the sanitary sewer system under Part 2B, shall pretreat or otherwise dispose of the prohibited waste so as to make the waste actually discharged into the sanitary sewer system acceptable under this Part.

2. Grease, oil and sand traps, interceptors or hold-haul tanks shall be provided for the proper handling of waste containing grease in amounts above the limits herein, sand and other material deemed harmful to the WVSA's treatment plant. All interceptors and traps shall meet the standards prescribed in §18-237.

3. Storage, handling, disposal and transportation of materials removed from pretreatment facilities shall be done according to all applicable Federal, State and local regulations that pertain to the type and/or class of waste generated.

4. Any facilities required to pretreat wastewater to a level acceptable to the WVSA shall be provided, operated and maintained at the user's expense.


§18-232. WVSA Approval for Pretreatment.

Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the WVSA for review, and shall be acceptable to the WVSA before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the WVSA under the provisions of this Part. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the WVSA prior to the user's initiation of the changes.


§18-233. Permit Requirement.

1. It shall be unlawful to discharge to any natural outlet within the City of Nanticoke, the sanitary sewer system of the City of Nanticoke, or in any area under the jurisdiction of the WVSA and/or said City of Nanticoke, any wastewater, except as authorized by the Executive Director in accordance with the provisions of this Part or the rules and regulations of the WVSA, as amended.

2. All nondomestic users proposing to connect to or to contribute to the WVSA shall obtain an industrial wastewater discharge permit before connecting to or contributing to the WVSA. All existing nondomestic users connected to or contributing to the
WVSA shall apply to obtain an industrial wastewater discharge permit within 30 days after effective date of this Part.

3. Industrial wastewater discharge permits shall be expressly subject to all provisions of this Part and all other applicable regulations, user charges and fees established by the WVSA.

4. Permits shall be issued for a specified time period, not to exceed 1 year. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for a permit reissuance a minimum of 30 days prior to the expiration of the user’s existing permit. The terms and conditions of the permit may be subject to modification by the WVSA during the term of the permit as limitations or requirements as identified in Part 2A, are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit itself shall include a reasonable time schedule for compliance, as determined by the WVSA.

5. Industrial wastewater discharge permits are issued to a specific user for a specific operation. A permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without the approval of the WVSA. If approval is granted by the WVSA, any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

6. Permits shall contain the following:

A. Effluent limits based on applicable general pretreatment standards in §18-211 of this Part, national categorical pretreatment standards, local limits and State and local law.

B. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.

C. Compliance schedules.

D. Requirements for submission of technical reports or discharge reports.

E. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the WVSA, and affording WVSA access thereto.

F. Requirements for notification of the WVSA or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.

G. Requirements for installation and maintenance of inspection and sampling facilities.
H. Requirements for notification of slug discharges as per §18-248.

I. Other conditions as deemed appropriate by the WVSA to ensure compliance with this Part.

J. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

7. In addition, permits may contain a unit charge or schedule of user charges and fees for the wastewater to be discharged into the sanitary sewer system.


§18-234. Permit Application Process.

1. All nondomestic users shall file with the WVSA an industrial wastewater discharge questionnaire containing information which can be used by the WVSA in determining whether the user is required to file for an industrial wastewater discharge permit. Users required to obtain an industrial wastewater discharge permit shall complete and file with the WVSA, an application in the form prescribed by the WVSA, and accompanied by the appropriate fee. Existing nondomestic users shall apply for an industrial wastewater discharge permit within 30 days after the effective date of this Part, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the WVSA. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

A. Name, address and location (if 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 mentioned in Part 2B, as determined by a State-certified analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to §304(g) of the Act and contained in 40 CFR, Part 136, as amended.

D. Time and duration of contribution.

E. Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations, 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 are or could be discharged.

H. Material safety data sheets (MSDS) for all chemicals used on site.

I. Where known, the nature and concentration of any pollutants in the discharge which are limited by any local, 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) and/or additional pretreatment facilities are required for the user to meet applicable pretreatment standards.

J. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

1. The schedule shall contain increments of progress in the form of "milestone" dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., 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 subsection (1), above, shall exceed 9 months.

3. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Executive Director 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 user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Executive Director.

K. Each product produced by type, amount, process or processes and rate of production.

L. Type and amount of raw materials processed (average and maximum per day).

M. Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system.

N. Any other information as may be deemed by the WVSA to be necessary to evaluate the permit application.
2. The WVSA will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the WVSA may issue an industrial wastewater discharge permit subject to terms and conditions provided herein.


§18-235. Modification of Permit.

Within 9 months of the promulgation of a national categorical pretreatment standard, the industrial wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standards within the time frame prescribed by such standard. Where a user, subject to a newly promulgated national categorical pretreatment standard had not previously submitted an application for an industrial wastewater discharge permit as required by §18-233, the user shall apply for an industrial wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing industrial wastewater discharge permit shall submit to the Executive Director, within 180 days after the promulgation of an applicable national categorical pretreatment standard, the information required by §18-234(1)(I) and (J).


§18-236. Classifications of Dischargers.

1. Following review of an industrial wastewater discharge permit application, each nondomestic user shall be placed into the appropriate classification of discharger. Said classifications are defined as follows:

   A. A Class I or significant industrial user (SIU) shall be any user who has a discharge flow of 25,000 gallons or more per average work day, has a discharge which constitutes 5% or more of the WVSA’s capacity, is subject to national categorical pretreatment standards, or has been classified as having reasonable potential to adversely affect the treatment system based on the nature or history of its wastewater contributions.

   B. A Class II or potentially significant industrial user shall be any user who discharges nondomestic pollutants to the sanitary sewer system in amounts that on a routine basis have insignificant impact on the treatment system, but may present a potential to impact on the treatment system. This includes industries that present a potential to cause sewer obstructions, slug loads or chemical spills.

   C. A Class III or insignificant industrial user shall be any user who discharges only domestic waste or has a dry process, or is considered to have insignificant impact on the treatment system.
D. A Class IV or commercial user shall be any user who discharges nondomestic waste of the nature produced by facilities such as vehicle wash facilities, vehicle maintenance shops, fluid change facilities, steam cleaning facilities, restaurants, lounges, etc.

2. For the purpose of the permit process all Class I users shall be required to obtain an industrial wastewater discharge permit from the WVSA. Class II, Class III and Class IV users may be required to obtain a permit, as determined by the WVSA.

3. Whether a user is required to obtain a permit or not, it may be required to install such facilities as the WVSA deems necessary to comply with the goals outlined in Part 2A.


Users shall apply to the WVSA for a list of standard construction design criteria as prepared by and available through the WVSA's Engineering Department in accordance with current pretreatment design requirements. Users may deviate from standard construction design criteria only with permission of the Executive Director.


§18-238. Inspection.

The WVSA shall inspect the facility of a user to ascertain whether the purpose of this Part is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow representatives of the WVSA ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and/or copying, or in the performance of any of their duties. The WVSA, PADEP and/or the EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security personnel so that upon presentation of suitable identification, representatives of the WVSA, PADEP and/or the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.


§18-239. Operation and Maintenance of Pretreatment.

It shall be the responsibility of the user to maintain its pretreatment facility in a working order to provide consistent compliance with the limitations set forth in the industrial
wastewater discharge permit and/or the rules and regulations of the WVSA. Operation of the pretreatment system shall be undertaken by the user according to the prescribed methods of the manufacturer as approved by the WVSA, to provide consistent compliance with the limitations set forth in the industrial wastewater discharge permit and/or the rules and regulations of the WVSA. The user shall be required to maintain documentation reflecting operations and maintenance of all pretreatment facilities.


The volume of flow used in computing loadings or surcharges shall be based on the total water consumption data as obtained from the permittee or the records of the local water utility. If a user has a substantial portion of the metered water that does not reach the sanitary sewer system the user may, at its own expense and with approval from the Executive Director, install a separate flow metering device to measure the actual discharge into the sanitary system. If the actual flow to the sanitary system is measured, the equipment used for the measurement of the flow must be maintained in proper working order at all times. A separate written record of calibration and maintenance must be kept for the flow metering device and made readily available for inspection by the WVSA.


§18-241. WVSA Monitoring.

The WVSA will conduct periodic monitoring of the following types:

A. Scheduled sampling and inspections shall be conducted at all permitted users at least once during the permit period. Said inspection will include a complete tour of the facility, including manufacturing, pretreatment, and storage areas.

B. Unscheduled sampling and inspections shall be conducted whenever the WVSA determines a need to routinely investigate the discharges of a user. Users governed by national categorical pretreatment standards will be sampled on an unscheduled basis at least once every 6 months.

C. Demand sampling and inspections shall be performed in response to a complaint or an emergency situation. Demand sampling shall be initiated whenever the WVSA determines a change in the normal discharge characteristics of the user’s wastewater flow, or if a violation was detected during either a scheduled or unscheduled sampling.


1. All users subject to an industrial wastewater discharge permit shall be required to submit such reports as required by 40 CFR §403.12. Said reports shall include:
   
   A. Baseline monitoring reports for all users subject to national categorical pretreatment standards which shall contain identifying information on the user, a list of any environmental control permits held by the user, the measured average daily and maximum daily discharge flows from the user's facility, a measurement of pollutants discharged, a certification statement from an authorized representative indicating whether pretreatment standards are being met, and any compliance schedules proposed by the user for the installation or addition of any pretreatment facilities or O&M required to meet pretreatment standards.
   
   B. Compliance schedule for meeting Federal, State or local discharge limits which shall include "milestone" dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment facilities.
   
   C. Ninety day compliance reports for meeting Federal, State or local discharge limits for all users subject to national categorical pretreatment standards which shall contain the measured average daily and maximum daily discharge flows, a measurement of pollutants discharged and a certification statement from an authorized representative indicating whether pretreatment standards are being met.
   
   D. Periodic reports on continued compliance as scheduled in accordance with the user's industrial wastewater discharge permit.
   
   E. Notice of slug loadings as defined by §18-202, "slug discharge."
   
   F. A spill prevention (slug loading) plan detailing all steps to be taken by the user to prevent accidental discharges which may create an adverse affect on the WVSA treatment plant, or cause the WVSA to violate its NPDES permit.
   
   G. Semi-annual self-monitoring reports containing a measurement of all regulated parameters as directed in the users industrial wastewater discharge permit.
   
   H. Notification of any discharge changes or modifications planned by the user.
   
   I. Resampling reports in the event of noncompliance with permit limitations.
   
2. In addition, all users subject to an industrial wastewater discharge permit shall be required, at the user's expense, to conduct sampling and analyses of their wastewater on a periodic schedule as determined by the permit. Should the results of said analyses indicate a violation to the user's permit, an additional sampling and
analysis must be performed to determine if compliance has been achieved. Results of all analyses shall be forwarded to the WVSA as determined by the permit.

3. All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request. Records relating to pretreatment must be maintained by the user for a minimum of 3 years. The reports and other documents required to be submitted or maintained under this Section shall be subject to:

   A. The provisions of 18 U.S.C. §1001 relating to fraud and false statements.

   B. The provisions of §309(c)(4) of the Act, as amended, governing false statements, representations or certifications.

   C. The provisions of §309(c)(6) regarding responsible corporate officers.


1. All users subject to an industrial wastewater discharge permit shall be required, in accordance with 40 CFR §403.12(p), to report the discharge into the sanitary sewer system of any substance, which if otherwise disposed of, would be a hazardous waste under 40 CFR, Part 261. Said notification shall be in writing to the WVSA, the EPA Regional Waste Management Division Director, and the State hazardous waste authorities, and shall include the name of the hazardous waste as set forth in 40 CFR, Part 261, the EPA hazardous waste number, and the type of discharge (batch, continuous, or other).

2. If the user discharges more than 100 kilograms of such waste per calendar month to the WVSA, the notification shall also contain the following:

   A. An identification of the hazardous constituents contained in the wastes.

   B. An estimation of the mass and concentration of such constituents in the wastestream to be discharged in that calendar month.

   C. An estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following 12 months.

3. All notifications must take place within 180 days of the first discharge of said hazardous waste. Any notification under this Section need be submitted only once for each hazardous waste discharged. The notification requirement does not apply to pollutants already reported under the permitted self-monitoring requirements of this Part.
4. In the case of any notification made under this Section, the user shall certify that it has in place a program to reduce the volume and toxicity of hazardous wastes generated.


§18-244. Signatory Responsibility.

1. All required reports submitted by a user must be signed by an authorized representative, as defined by 40 CFR §403.12(k), to be:
   A. A principal executive officer of at least the level of vice president if the user is a corporation.
   B. A general partner or proprietor if the user is a partnership or sole proprietorship respectively.
   C. A duly authorized representative of the individual designated in subsection (A) or subsection (B), above, if such representative is responsible for the overall operation of the facility from which the discharge originates.

2. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to Federal pretreatment regulations and/or this Part, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under Federal pretreatment regulations or this Part, shall be subject to the provisions of 40 CFR §403.12(n) governing false statements, representations or certifications in reports required under the Act.


§18-245. Monitoring Location.

1. The WVSA shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the WVSA may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

2. There shall be ample room in or near such monitoring facility to allow accurate sampling and preparation of samples for analysis. The monitoring facility shall be maintained at all times in a safe and proper operating condition at the expense of the user.
3. Whether constructed on public or private property, the monitoring facilities shall be provided in accordance with the WVSA’s requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification of approval of the plans by the WVSA.


§18-246. **Surcharges.**

1. The WVSA may require any user who, by the nature of its discharge, places a burden on the normal operation of the WVSA’s treatment plant to be subject to surcharges for excess treatment. Such surcharges shall be in addition to the regular sewer rent set forth in the rules and regulations of the WVSA. These surcharges may be made for all wastewater discharged into the system having an average total suspended solids (TSS) concentration in excess of 350 parts per million (ppm), average biochemical oxygen demand (BOD) concentration in excess of 300 ppm, average chemical oxygen demand (COD) concentration in excess of 600 ppm, or oil and grease concentration in excess of 100 ppm.

2. In the event any industrial discharge is found to have an average concentration in excess of the above levels, the surcharge shall be computed in the following manner:

\[ Rs = (W-L) \times 0.00834 \times B \times F, \]

where,

- \( Rs \) is the surcharge rate in dollars
- \( W \) is the average concentration of the wastewater in ppm
- \( L \) is the established limit of concentration in ppm
- \( B \) is the annual fixed operating and maintenance cost as determined by resolution of the WVSA, in dollars per pound
- \( F \) is the total water consumption by the user in thousands of gallons


§18-247. **Classified Information.**

1. Information and data on a user obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the WVSA that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.
2. When requested by the person furnishing a report, the 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 Part, the national pollutant discharge elimination system (NPDES) permit, Commonwealth disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristic will not be recognized as confidential information.

3. Information accepted by the WVSA as confidential shall not be transmitted to the general public by the WVSA until and unless a ten-day notification is given to the user. Information accepted as confidential by the WVSA shall be made available to governmental agencies. If requested by the user, the EPA and PADEP will treat the submitted information as confidential to the extent provided in 40 CFR, Part 2. [Ord. 16-2004]


§18-248. Accidental Discharges.

1. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Part. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the WVSA for review, and shall be approved by the WVSA before construction of the facility. No user who commences contribution to the WVSA after the effective date of this Part shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the WVSA. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this Part. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the WVSA of the incident. The notification shall include location of the discharge, type of waste, concentration and volume and corrective actions.

2. Within 5 days following an accidental discharge, the user shall submit to the Executive Director a detailed report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the WVSA, its facilities or any other person or property; nor shall notification relieve the user of any fines, civil penalties or other liability which may be imposed by these standards or other applicable law. Failure to notify the Executive Director of an accidental discharge shall result in legal action or discontinuation of service.
3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of an accidental discharge. Employers shall insure that all employees who may cause or suffer such an accidental discharge to occur are advised of the emergency notification procedure.


§18-249. **Emergency Discharges.**

If the user required to pretreat its waste pursuant to this Part has an emergency caused beyond the user's control that affects the pretreatment program and/or facility and may cause a violation of the industrial wastewater discharge permit, the user may appeal to the Executive Director for an emergency discharge permit. Before the Executive Director may issue an emergency discharge permit the user shall submit plans and a compliance schedule showing what methods will be used to bring the discharge into compliance with the current industrial wastewater discharge permit and when this will be done. An emergency discharge permit shall not be issued for longer than 30 days and may be renewed only after a new application has been made. An accidental discharge does not require an emergency discharge permit unless it was caused by a failure of the pretreatment facility and the failure is of a permanent nature.

E. Violations and Enforcement.

§18-251. Notification of Violation.

Whenever the WVSA finds that any nondomestic user has violated or is violating this Part, the rules and regulations of the WVSA, its industrial wastewater discharge permit or any prohibition, limitation or requirements contained herein, the WVSA may serve upon such person a written notice of violation stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the WVSA by the user.


§18-252. Administrative Orders.

The WVSA shall have the right to issue such administrative orders that shall require the user to achieve compliance. Said orders shall include but not be limited to the following:

A. Compliance Schedules. As determined by the WVSA as a time-scheduled method to achieve total compliance.

B. Cease and Desist Orders. Prohibiting any further discharge of the wastewater in question into the sewer system.


§18-253. Show Cause Hearing.

The WVSA may order any user who causes or allows an unauthorized discharge to enter the WVSA to show cause before the appropriate WVSA committee of the Board of Directors why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the WVSA regarding the violation, the reasons why the action is to be taken, the proposed enforcement action and directing the user to show cause before the WVSA why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 10 days before the hearing. Service may be made on any agent or officer of a corporation.

§18-254. Other Legal Action.

If any person discharges sewage, industrial waste or other wastes into the WVSA’s wastewater system contrary to the provisions of this Part, Federal or State pretreatment requirements, or any order of the WVSA, the Solicitor may commence an action for appropriate legal and/or equitable relief in the courts. When the WVSA determines the need for legal action, said action shall be undertaken by the City of Nanticoke within 30 days of notification by the WVSA.


§18-255. Revocation of Permit.

Any user who violates the following conditions of this Part or applicable State and Federal regulations, is subject to having its industrial wastewater discharge permit revoked in accordance with the procedures of this Section:

A. Failure of a user to factually report the wastewater constituents and characteristics of their discharge.

B. Failure of the user to report significant changes in operations or wastewater constituents and characteristics.

C. Refusal of reasonable access to the user’s premises for the purpose of inspection or monitoring.

D. Violation of conditions of the industrial wastewater discharge permit.

(Ord. 12-1991, 4/1/1991, §5.5)

§18-256. Termination of Service.

1. The City of Nanticoke and/or the WVSA may suspend the wastewater treatment service when such suspension is necessary, in the opinion of the WVSA, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the WVSA’s treatment plant or causes the WVSA to violate any condition of its NPDES permit.

2. Any person notified of a suspension of the wastewater treatment service shall immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the WVSA shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WVSA system or endangerment to any individuals. The WVSA shall reinstate the wastewater treatment service upon proof.
of elimination of the noncomplying discharge. All costs associated with the severance and/or reconnection of a sewer shall be incurred by the user.


§18-257. Penalties.

Any user who is found to have violated an order of the City of Nanticoke or the WVSA, with regard to the violation of any provision of this Part, the rules and regulations of the WVSA, as amended, or any regulations or permits issued under the aforesaid rules and regulations shall, upon conviction thereof, be sentenced to a fine of not less than $100 nor more than $1,000 plus costs, or to a term of imprisonment not to exceed 90 days, or both. Each day on which a violation shall occur or continue to occur shall be deemed a separate and distinct violation. In addition to penalties provided herein, the City of Nanticoke and/or the WVSA may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Part or the orders, rules and regulations and permits issued herein.


§18-258. Right of Appeal.

Any user subject to enforcement action may file an appeal with the WVSA within 15 days of receipt of the notice of the enforcement action. Said appeal shall be in the form of a show cause hearing, pursuant to §18-253 of this Part 2E.


1. The authority shall annually publish in a local newspaper of general circulation, a list of the users which were considered to be in significant noncompliance with the pretreatment standards contained herein at least once during the previous 12 months. Significant noncompliance shall include any of the following:

   A. Chronic violations defined as those in which 66% or more of all measurements taken for each regulated pollutant in a 6 month period are in excess of the daily maximum limit or the monthly average limit.

   B. Technical review criteria (TRC) violations defined as those in which 33% or more of all measurements taken for each regulated pollutant in a 6 month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC. TRC is determined to be 1.4 for BOD, TSS, oil and grease and 1.2 for all other pollutants except pH.
C. Any other violations of an effluent limit which the WVSA determines has caused interference or pass through.

D. Any discharge that has caused imminent endangerment to human health and safety.

E. Failure to meet a compliance schedule milestone.

F. Failure to provide within 30 days after the due date, required reports.

G. Failure to report noncompliance.

H. Any other violation or groups of violations which the WVSA determines to adversely affect the operation of its approved pretreatment program.

2. The notice shall also summarize any enforcement actions taken against the user during the same time period.

(Ord. 12-1991, 4/1/1991, §5.9)

§18-260. Cost of Monitoring.

The WVSA shall reserve the right to recover cost of monitoring from any user found to be in violation of its industrial wastewater discharge permit, this Part and/or the rules and regulations of the WVSA for costs associated with sampling, inspecting and monitoring during the period required to determine said violation and until such time as the violation ceases to exist.

F. Cooperation.

§18-261. Cooperation.

The City of Nanticoke and the WVSA shall cooperate in all matters as they pertain to this Part. Neither the City of Nanticoke nor the WVSA shall act in any manner so as to compromise in any way the ability of the other party to administer this Part.

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SIGNS AND BILLBOARDS

(Reserved to accommodate future enactments)
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PART 1

MUNICIPAL COLLECTION AND DISPOSAL SERVICE


The following words, when used in this Part, shall have the meanings ascribed to them in this Section, except in those instances where the context clearly indicates otherwise:

ASHES - the residue from the burning of wood, coal, coke and other combustible materials for the purpose of heating and cooking. It shall not include the cinders produced in steam generating plants.

COLLECTOR or PRIVATE COLLECTOR - any person, association, partnership, firm or corporation that collects, transports and disposes of refuse, solid waste or construction debris. [Ord. 26-1998]

CONSTRUCTION DEBRIS - all refuse and solid waste generated as the result of the construction on the property or structure, including refuse and solid waste. [Ord. 26-1998]

GARBAGE - the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of foods. It shall not include more than a minimum amount of free liquids. It shall not include food-processing wastes from canneries, packing plants or similar industries, nor large quantities of condemned food products.

PERSON - a natural person, association, partnership, firm or corporation. [Ord. 26-1998]

REFUSE - all solid waste, except human body waste, including garbage, ashes, glass, metal, paper, plant growth, wood, nonputrescible solid waste and rubbish. [Ord. 26-1998]

RUBBISH - all waste materials not included in garbage and ashes except building rubbish from building construction and reconstruction, street refuse, industrial refuse, dead animals, abandoned large machinery or vehicles or such other waste materials as are not commonly produced in homes, stores and institutions.

SOLID WASTE - any waste including, but not limited to, all animal and vegetable waste resulting from the handling, preparation, cooking or consumption of foods; municipal, residual or hazardous wastes including solidified liquids, semisolids or contained gaseous materials. [Ord. 26-1998]

§20-102. Administrations.

1. All refuse accumulated in the City of Nanticoke shall be collected, conveyed and disposed of by the City of Nanticoke and the cost of such service shall be paid as provided in the schedule of fees set forth in §20-105, hereof, by the person producing the refuse, or responsible for the existence or disposal thereof, or for whom such refuse is removed. It shall be unlawful for any person to collect, convey over any of the streets or alleys of the City of Nanticoke, or dispose of any refuse accumulated in the City of Nanticoke; provided, however, that this Part shall not prohibit the actual producers of refuse or the owners of premises upon which refuse has accumulated, from personally collecting, conveying and disposing of such refuse, if such producers or owners comply with all regulations for collection, conveyance and disposal prescribed in this Part, or made by Council or the Director of Streets and Public Improvements under the terms hereof and, provided further, that collectors of refuse from outside of the City, providing they have the proper City of Nanticoke license as ordained, shall have the right to haul such refuse over City of Nanticoke Streets, if such collectors comply with the provisions of this Section as to their equipment and vehicles, the operation of such equipment and vehicles, and also as to the disposal of such refuse.

2. The collection and disposal of refuse in the City of Nanticoke shall be under the supervision of the Director of Streets and Public Improvements. He shall have the authority to make regulations concerning the days of collection, type and location of waste containers and such other matters pertaining to the collection and disposal as he may deem advisable, and to change and modify the same after notice as required by law; provided, that such regulations are not contrary to the provisions hereof. An aggrieved person shall have the right to appeal against such regulation made by the Director of Streets and Public Improvements to the City Council which may confirm, modify or revoke any such regulation.

3. The producers of refuse or the owners of premises upon which refuse is accumulated who desire personally to collect and dispose of such refuse, and persons who desire to dispose of waste material not included in the definition of refuse, and collectors of refuse outside of the City who desire to haul over the streets of the City shall use a water tight vehicle provided with a tight cover and so operated as to prevent offensive odors escaping therefrom and refuse from being blown, dropped or spilled. Such disposal shall be made outside the City limits, unless expressly authorized by City Council. The Director of Streets and Public Improvements shall have authority to make such other reasonable regulations concerning individual collection and disposal and relating to the hauling over City streets by collectors of refuse from outside of the City as he may deem necessary, subject to the right of appeal as set forth in subsection (2), hereof.

4. Ownership of refuse material set out for collection shall be vested in the City of Nanticoke; the ownership of all material placed on the City dump be vested in the owner of the dump premises.

(Ord. 9-1976, –/–/1976, §2)
§20-103.     Precollection Practices.

1.   Separation of Refuse. Garbage, ashes and rubbish shall each be placed and maintained in separate containers.

2.   Preparation of Refuse.

   A. All garbage, before being placed in garbage cans or collection, shall have drained from it all free liquids and may be wrapped in paper.

   B. All rubbish shall be drained of liquid before being deposited for collection.

   C. All cans and bottles which have contained food shall be thoroughly rinsed and drained before deposited for collection.

   D. Tree trimmings, hedge clippings and similar material shall be cut to a length not to exceed 4 feet and securely tied in bundles not more than 2 feet thick before being deposited for collection.

3.   Refuse Containers.

   A. Garbage receptacles shall be made of metal, must be watertight and be provided with a tight fitting cover. No person shall use for the reception of garbage any receptacle having the capacity of more than 10 gallons. All garbage receptacles shall be kept as sanitary as possible in view of the use to which they are put, and shall be thoroughly cleansed by the occupant after garbage is removed by the collector.

   B. Ash receptacles shall be made of metal and have a capacity of not more than one bushel.

   C. Rubbish receptacles shall be of a suitable kind, which can be easily handled by one man.

   D. All refuse receptacles shall be provided by the owner, tenant, lessee or occupant of the premises. All refuse receptacles shall be maintained in good condition. Any receptacle that does not conform to the provisions of this Part, that may have ragged or sharp edges or any other defect liable to hamper or injure the person collect the contents thereof shall promptly be replaced upon notice. Failure to comply may result in refusal to collect or the removal of the defective receptacle as refuse.

4.   Storing of Refuse.

   A. No person shall place any refuse in any street, alley or other public place, or upon any private property, whether owned by such person or not, within the City, except it be in proper receptacles for collection or under an express
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approval granted by the City Council. No person shall throw or deposit any refuse in any stream or other body of water.

B. Any unauthorized accumulation of refuse on any premises is hereby declared to be a nuisance and is prohibited. Failure to remove any existing accumulations of refuse within 30 days after the effective day of this Part shall be deemed a violation of this Part.

C. It shall be unlawful for any person, other than the occupants of the premises on which refuse receptacles are stored for the collector, to remove the covers off any of the contents of refuse receptacles.

5. **Points of Collection.** Refuse receptacles shall be placed for collection at ground level on the property, not within the right-of-way of a street, alley and accessible to and nor more than 10 feet from the side of the street or alley from which collection is made.

(Ord. 9-1976, 1/1/1976, §3)

§20-104. **Collection Practices.**

1. **Frequency of Collection.**

   A. Refuse will be collected at least once each week.

   B. Hotels, restaurants and such other businesses and institutions as deem it necessary may enter into an agreement for a greater frequency of collection. Where necessary to protect public health, the Director of Streets and Public Improvements may require that more frequent collections be made.

2. **Limitation on Quantity.**

   A. It is the intent of this Part that the reasonable accumulation of refuse of each family for the collection period will be collected for the standard charge. The Director of Streets and Public Improvements may refuse to collect unreasonable amounts or to make an additional charge for such amounts.

   B. It is the intent of this Part that large restaurants, hotels, apartments and other businesses and institutions shall have their reasonable accumulations of refuse for the collection period collected at a fair charge based upon the average weight or volume. The Director of Streets and Public Improvements may refuse to collect unreasonable amounts or to make an additional charge for such amounts.

3. **Special Refuse Problems.**
A. **Contagious Disease Refuse.** The removal of wearing apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and director of the Health Officer. Such refuse shall not be placed in containers for regular collections.

B. **Inflammable or Explosive Refuse.** Highly inflammable or explosive materials shall not be placed in containers for regular collections but shall be disposed of as directed by the Director of Streets and Public Improvements at the expense of the owner or possessor thereof.

4. **Dumping Area Limitations.**

   A. It shall be unlawful for any person to dump any garbage, rubbish, ashes and other refuse at any place in the City of Nanticoke except at the place or places designated by Council, from time to time.

   B. Any person, whether as principal or agent or employee, violating or assisting in the violation of this provision or any regulation thereunder shall, upon conviction thereof, be sentenced to pay a fine of not less than $5 nor more than $1,000 plus costs or, to a term of imprisonment not to exceed 90 days, or both. [Ord. 16-2004]

   C. After notice of violation of this provision or after conviction thereof, any further violation thereof shall be a separate offense and may be prosecuted accordingly.

   (Ord. 9-1976, 1/1/1976, §4; as amended by Ord. 16-2004, 12/1/2004, §1)

§20-105. **Fees.**

1. **Residential.**

   A. All persons, residents, corporations, businesses, associations, etc., who or which own any structure in the City of Nanticoke, including any apartment or mobile home, which is used in whole or in part for residential purposes shall each year be required to pay a collection fee to the City of Nanticoke for the pickup of garbage.

   B. It shall be the obligation of the owner of any such residential structure to pay the collection fee to the City of Nanticoke.

   C. It shall be the obligation of the owner of a multifamily dwelling to pay the collection fee to the City of Nanticoke for each occupied dwelling unit within one structure.
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D. Owners of rental housing properties of four units or more and the property managers of condominiums or townhouses in which each living unit is individually owned must provide for garbage collection in their facility and include the following:

(1) Collection receptacles must be provided that are big enough to hold the garbage generated in the building, and the receptacles must be placed at easily accessible locations.

(2) Separate collection receptacles must be provided that are big enough to hold the recyclables generated in the building, and the receptacles must be placed at easily accessible locations.

(3) Employees and residents of the facility must be informed of the garbage and recycling program, and written instructions must be provided to residents on what materials are recycled and how they are prepared.

(4) Garbage must be collected weekly and recyclables twice a month.

E. It shall be unlawful hereafter to accumulate, collect, transport, remove, deposit, maintain or dispose of garbage, solid waste, and recyclable materials upon any public or private property within the City of Nanticoke, except in accordance with the terms and provisions of this Part.

F. All residential solid waste and recyclable materials produced, generated, accumulated or deposited within the City of Nanticoke shall be collected, transported and disposed of solely and exclusively by the City of Nanticoke, or its agents or contractor.

G. It shall be unlawful for any person who is not a permanent resident of the City of Nanticoke to transport or convey into the City of Nanticoke, or to deposit, place or dispose of upon or within any premises or structure located in the City of Nanticoke any garbage, solid waste or recyclable materials produced and generated elsewhere for the purpose of the collection, transportation or permanent disposal of any garbage, solid waste or recyclable materials by anyone within the City of Nanticoke.

2. Commercial. All persons who own property, structure or part of a structure in the City of Nanticoke which is used for nonresidential uses shall provide private refuse removal and recycling services to the nonresidential use. Private refuse removal and recycling services may only be provided by a collector licensed by the City of Nanticoke. [Ord. 26-1998]

3. Licensing of Private Collectors.

A. No person shall collect, remove, haul or convey any refuse or solid waste through or upon any of the streets or alley of the City or dispose of the same in any manner or place without obtaining a license.
B. The fee for such license shall be payable annually and fixed pursuant to a resolution of the City Council, and all licenses shall be issued for the calendar year, or such portion thereof as shall remain after the issuance thereof. There shall be no reduction in the fee for a license after the beginning of the calendar year.

C. Every person who shall apply for a license under this Section shall state the types of refuse or solid waste to be collected, the manner of collection and the place and method of disposal.

D. No license shall be granted if the place and method of disposal shall not conform to the requirements of this Section.

E. No licensed collector shall make any change in the arrangements of disposal of refuse or solid waste collected by him without the approval of the Code Official.

F. It shall be unlawful for any unlicensed collector to collect or remove refuse or solid waste from any property, business or other use within the City.

G. The collector shall be required, at his own cost, to dispose of, at an approved disposal area, all quantities of refuse or solid waste collected by him, and to furnish at his own cost, all vehicles, machinery and equipment necessary for proper performance.

H. Each collector applying for a license shall provide a valid agreement, not subject to cancellation, covering use of an approved disposal facility in accordance with the Luzerne County Waste Management Plan and any requirements of the City of Nanticoke.

I. Workmen's Compensation and Social Securities Acts, as amended, are deemed a part of the license. The collector shall be obligated to provide such coverage and shall fulfill the terms and save harmless the City and all its officers, agents and employees, jointly and severally, of and from all manner of losses, suits, actions, payments, costs, charges, damages, judgments or claims or demands of any character, name or description brought on account of any injuries or damages received or sustained by any person, persons or property by reason of any act, omission, negligence or misconduct of said collector, his agents or employees in the execution of the license conditions.

J. The collector granted a license shall not in any manner be construed as an agent, servant or employee of the City, but shall at all times be considered and remain an independent contractor.

K. The licensed collector shall carry an insurance policy providing complete third party comprehensive liability and property damage insurance, covering not only the collector, but also the City. The limits of such insurance shall not be
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less than $500,000 personal liability and $500,000 property damage and shall furnish proper certificates of insurance coverage to the City.

L. The collector shall be required to enforce and provide a recycling program for its customers. The recycling program shall meet or exceed the requirements of City ordinances and regulations.

M. The collector shall deliver to the City Code Enforcement Officer a certified list of customers with his license application, at least 15 days prior to the date of the license. The list shall be updated monthly by no later than the fifth day of the month, showing both new and terminated customers, and the number of tons of refuse/solid waste and recycling collected; and the location where the refuse/solid waste and recycling materials were disposed of.

N. Any violation of this Part shall be sufficient cause for the revocation of the license. City Council will appoint a Hearing Officer to determine the validity of any complaints against a licensed collector and/or hear appeals regarding the revocation or nonissuance of a collector's license.

O. Any person, firm or corporation, except a licensed collector, who violates any provision of this subsection (3) shall, upon conviction thereof, be sentenced to pay a fine not to exceed $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. [Ord. 16-2004]

[Ord. 26-1998]

4. **Purchase of Tickets.** Garbage stickers can be purchased from the Refuse Collection Department of the City of Nanticoke or from any other individual or officer authorized by City Council to sell garbage stickers and to collect garbage fees.

5. **Sticker Information; Display.** Upon payment of the garbage fee and chargers hereinafter set forth, a garbage sticker will be issued. The sticker will note the year and expiration date as well as other relevant wording or numbering. The sticker must be prominently displayed on the building from which the garbage is to be removed. Any person not paying the fee or not prominently displaying this sticker shall not have their garbage collected by the City of Nanticoke and those persons responsible for the placement of refuse for collection without the payment of the fee or display of the garbage stickers shall be in violation of this Part.

6. **Sticker Fee and Limitations.** Residents of the City of Nanticoke have two payments options for the annual garbage sticker fee. Those fees shall be as established from time to time by resolution of City Council. [Ord. 16-2004]

7. The garbage sticker will allow each occupied structure to dispose of up to four 30 gallon bags of garbage per week. The garbage bags shall not exceed a maximum weight of 40 pounds per bag.
8. **Construction Debris Collection.** It shall be the responsibility of owner of any property or structure within the City of Nanticoke that is undergoing construction to provide for the proper disposal of such debris by use of a licensed private collector. The City of Nanticoke shall not provide removal services for construction debris to any person (other than a public entity if approved by the City). [Ord. 26-1998]

§20-106. **Violations and Penalties.**

1. Any person, resident, corporation, business, association, etc., not paying his or its garbage sticker fee as required by this Part, and each day that the fee remains unpaid shall constitute a separate violation of this Part.

2. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not less than $50 nor more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both. Each day a violation of this Part continues shall constitute a separate offense. [Ord. 16-2004]

3. Anyone paying after the date on which payment is due shall pay a penalty equal to 20% of the payment due, in addition to the payment. [Ord. 26-1998]
PART 2
RECYCLING

§20-201. Title.

The short title of this Part shall be the “City of Nanticoke Recycling Ordinance,” and the same may be cited in that manner.

(Ord. 12-1989, 12/5/1988, §1)


As used in this Part:

ALUMINUM CANS - empty all-aluminum beverage and food containers.

BIMETALLIC CANS - empty food and beverage containers consisting of ferrous sides and bottom and an aluminum top.

COMMERCIAL ESTABLISHMENTS - those properties used primarily for commercial or industrial purposes.

CORRUGATED CARDBOARD - that material consisting of two or more pieces of kraft liner separated by corrugated (fluted) liner board. Excluded are materials without a corrugated interliner and those materials with a corrugated liner made from rice or other nonwood-based materials.

CURBSIDE COLLECTION - the collection by the City or its authorized agent(s) of recyclable materials placed at the curbside or other designated location.

FERROUS CANS - empty steel or tin food or beverage containers.

GLASS CONTAINERS - bottles and jars made of clear, green or brown glass. Expressly excluded are noncontainer glass, plate glass, blue glass and porcelain or ceramic products.

HIGH GRADE OFFICE PAPER - paper collected from commercial, institutional and municipal establishments that was discharged from xerographic copiers, from nonthermal computer printers, from general office use forms, memos and correspondence and from print shops and other commercial printing processes. Material sorting and classification grades will be specified in the regulations specific to this Part. Expressly excluded are papers with self carbons, carbon paper, envelopes and all other grades of paper not meeting specifications in the regulations.

INSTITUTIONAL ESTABLISHMENT - those facilities that house or serve groups of people, e.g., hospitals, schools, nursing homes.
LEAF WASTE - leaves, garden residues, shrubbery, trees trimmings and similar material, but not including grass clippings.

MAGAZINES and PERIODICALS - printed matter containing miscellaneous written pieces published at fixed or varying intervals. Expressly excluded, however, are all other paper products of any nature whatsoever.

NEWSPAPERS - paper of the type commonly referred to as newsprint and distributed at fixed intervals, having printed thereon news and opinions, containing advertisements and other matters of public interest. Expressly excluded, however, are newspapers which have been soiled.

PERSON(S) - owners, lessees and occupants or residences or commercial or institutional establishments.

PLASTIC CONTAINERS - empty plastic food beverage containers. Due to the large variety of types of plastics, the recycling regulations shall stipulate the specific types of plastic which may be recycled.

RECYCLABLE MATERIALS - those materials specified by the City of Nanticoke to be recycled. The list of materials shall be specified in the recycling regulations resulting from this Part and may be revised from time to time as needed necessary by the City.

RESIDENCE - any occupied single or multifamily dwelling from which a municipal or private waste hauler collects solid waste.

SOLID WASTE - all refuse (garbage and rubbish) and other discarded solid material normally collected by a municipal or private hauler.

YARD WASTE - prunings, grass clippings, weeds, leaves and garden waste.

(Ord. 12-1989, 12/5/1988, §2)

§20-203. Establishment of Program.

There is hereby established by the City of Nanticoke hereinafter referred to as the City, a program that mandates that recyclable materials shall be kept separate from solid waste by all persons within the City.

(Ord. 12-1989, 12/5/1988, §3)

§20-204. Separation of Recyclables and Placement for Collection.

Recyclable materials shall be placed at the curb (or in areas designated by the City) separate from solid waste, for collection at such times and dates as may be hereinafter established by regulations.
§20-205. Collection by Unauthorized Persons.

It shall be a violation of this Part for any person(s) unauthorized by the City to collect or pick up or cause to be collected or picked up any such recyclable material. Each such collection in violation hereof shall constitute a separate and distinct offense punishable as hereinafter provided.

§20-206. Enforcement and Administration.

The City is authorized and directed to enforce this Part. The same is hereby authorized and directed to establish and promulgate reasonable regulations as to the manner, days and times for the collection of recyclable materials in accordance with the terms hereof, and any other matters required to implement this Part. The City may change, modify, repeal or amend any portion of said rules and regulations at any time.

§20-207. Violation and Penalty.

Any action by any person, firm, corporation or other entity which violates or does not comply with any provision of this Part, or any regulation thereof shall, upon conviction thereof, be sentenced to pay a fine not less than $25 or more than $1,000 plus costs or to a term of imprisonment not to exceed 90 days, or both.

§20-208. Franchise or License.

The City may enter into agreements with public or private agencies or firms to authorize them to collect all or part of the recyclable materials from curbside or elsewhere as designated by the City.


Any person may donate or sell recyclable materials to individuals or organizations authorized by the City in its recycling regulations. These materials must either be delivered to the individual’s or organization’s site or they may be placed at the curb for collection by said individual or organization on days not indicated as recyclable material.
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collection days by the City. Said individuals or organizations may not collect recyclable materials on or immediately preceding (within 24 hours) a regularly scheduled curbside collection day.

(Ord. 12-1989, 12/5/1988, §9)
PART 3

DUMPSTERS

§20-301. Scope.

1. **Enactment.** The following divisions, Section, subsections providing for the regulation of waste dumpsters located in public right-of-ways by the Building Inspection Office of the City of Nanticoke and providing permits, fees and the licensing of waste dumpsters hauling contractors and prescribing penalties for the violation of this Part be and the same are hereby enacted.

2. **Short Title.** This Part may be cited as the “Waste Dumpsters Ordinance of the City of Nanticoke” hereinafter referred to as the “Dumpsters Ordinance.”

3. **Effective Date.** The provisions of the Dumpsters Ordinance and rules and regulations of the Office of Code Enforcement interpreting such provisions shall become effective as provided in the ordinance adopting this Part.

4. **Intent.** This Part is hereby declared to be remedial and shall be constructed to secure the beneficial interests and purposes thereof, which are, public safety, health and welfare, by providing a system of specifications, regulations and licensing to ensure that the location of waste dumpsters within the public right-of-way does not impede or endanger the free flow of pedestrians or vehicular traffic within the City, it is the intent and purpose to further protect the health, safety and welfare of the general public of the City.

5. **Legislative.** If any Section, subsection, sentence, clause or phrase of this Part is for any reason declared to be invalid, such decision shall not affect the validity of the remaining portions herein. The City Council hereby declares that it would have passed the remaining parts of this Part and the remaining Sections, subsections, sentences, clauses or phrases irrespective of any one or more Sections, subsections, sentences, clauses or phrases which have been ruled invalid.

6. **Interchangeability.** Word used in the present tense include the future, words used in the masculine gender include the feminine and neuter, the singular number includes the plural and the plural the singular.

7. **Terms Not Defined.** Where terms are not defined through the methods authorized by this Section, such terms shall have ordinarily accepted meanings such as the context implies.

*(Ord. 13-2002, 10/2/2002, §1)*

As used in this Part, the following terms shall have the meaning indicated:

- **CARTWAY** - that portion of the right-of-way designated for vehicular use. This shall include both opened and unopened streets.

- **CONSTRUCTION WASTE DUMPSTERS** - a unit designed for the deposit of waste materials at building construction, repair or demolition sites, commonly located on a temporary basis on a public right-of-way abutting the site and transportable to an from the site for purposes of disposal of its contents by means of a carry vehicle.

- **GARBAGE** - putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

- **NON-CONSTRUCTION WASTE DUMPSTERS** - a unit designed for the deposit of all types of rubbish materials, excluding garbage, generated at sites other than building construction, repair or demolition.

- **PERSON** - any individual, firm or partnership, association or corporation.

- **PUBLIC RIGHT-OF-WAY** - the width of a strip of land between property lines set aside for public use or ownership as a street, alley, crosswalk, easement or other facility.

- **RUBBISH** - non-putrescible solid waste consisting of both combustible and noncombustible waste such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar items.

- **SIDEWALK** - that portion of the sidewalk area which is paved for pedestrian use.

- **SIDEWALK AREA** - that area extending from the curb line to the property line which is designated by the City Engineering Office for pedestrian use.

- **TREELAWN** - that portion of the treelawn area which is grass and/or tree lined.

- **TREELAWN AREA** - that area extending from the curb line to the sidewalk area which is designated by the City Engineer office for grass and/or trees.


§20-303. Permit Required.

Regulations applicable to the permit requirements for the placement of construction or non-construction waste dumpsters upon a public right-of-way area as follows:
A. It shall be unlawful for any person to place upon, cause to be placed upon or permit to remain upon a public right-of-way a construction or non-construction waste dumpster without first filing with the Code Enforcement Office an application, in writing, and obtaining a formal permit. The duration of such permit shall be stated thereon and the continued validity of such permit shall be contingent upon full compliance with the regulations set forth in this Part.

B. An application for a permit shall be filed with the Office of the Code Enforcement by the property owner or a licensed contractor employed in their respective field by the property owner in connection with the placement of a construction or non-construction waste dumpster. An application must be signed by the property and, in the case of a permit being issued to a licensed contractor employed by the property owner, an application permit must also be signed by the contractor.

C. All permits issued shall cover only the work set forth in the permit application, however, in the event that it is necessary to replace a construction or non-construction waste dumpster upon a public right-of-way prior to the completion of said work, additional permits shall not be required.

D. The placement of only one dumpster per job site upon a public right-of-way shall be permitted at any one time.

E. No permits shall be issued by the Code Enforcement Office if, in their opinion, the location and placement of this construction or non-construction waste dumpster will create a safety hazard to the use of the sidewalk area, treelawn area or cartway by pedestrians or vehicles.

F. Upon the issuance of a construction or non-construction dumpster permit by the Code Enforcement Office, the permit must be displayed in a conspicuous place in front of the premises plainly visible to passerby and kept there for the duration of the permit. The applicant is responsible for the maintenance of this permit and should it be destroyed or removed, must immediately obtain another copy.

(Ord. 13-2002, 10/2/2002, §3)

§20-304. Permit Fee.

A fee, in an amount to be established, from time to time, by resolution of City Council, shall be paid for each construction or non-construction waste dumpster issued by the Code Enforcement office. [Ord. 16-2004]


A construction waste dumpster shall be permitted to be placed upon a public right-of-way for the duration of a specific building construction, repair or demolition project for which a building permit was secured from the Office of the Code Enforcement.

(Ord. 13-2002, 10/2/2002, §5)


A non-construction waste dumpster shall be permitted to be placed upon a public right-of-way for a maximum of 5 consecutive days. The Code Enforcement Office shall have the discretion to approve a time extension for a non-construction waste dumpster; however, under no circumstances shall a non-construction waste dumpster be permitted to be placed upon a public right-of-way for a period exceeding 30 days.


Regulations applicable to the placement of construction or non-construction waste dumpsters upon a public right-of-way area are as follows:

A. The placement of a construction or non-construction waste dumpster upon a public right-of-way must be temporary in nature and must be one that can be readily removed from the right-of-way.

B. A construction or non-construction waste dumpster placed upon a public right-of-way shall not extend into a cartway or impede or endanger the free flow of pedestrian or vehicular traffic.

C. A construction or non-construction waste dumpster placed upon a public right-of-way shall not be placed within 20 feet of a crosswalk at an intersection.

D. A construction or non-construction waste dumpster placed upon a public right-of-way shall not be placed within 15 feet of a fire hydrant.

E. A construction or non-construction waste dumpster placed upon a public right-of-way shall bear the owner’s name and telephone number displayed in a conspicuous place plainly visible to passerby and kept there for the duration of the permit.

F. A construction or non-construction waste dumpster placed upon a public right-of-way shall bear reflective markings in sufficient positions and with sufficient reflective capacity to provide reasonable warning to approaching nighttime traffic of its location and a standard barricade light shall be in operation.
on the dumpster side nearest the travel lane of the public right-of-way from sunset to sunrise.

G. No public right-of-way shall be closed for the purpose of location or utilization of a construction or non-construction waste dumpster.

H. The location and utilization of a construction or non-construction waste dumpster upon a public right-of-way shall not be such as to constitute a safety hazard to person or property.

I. The placement of a construction or non-construction waste dumpster shall not extend into the sidewalk area any more than the width of the sidewalk area, but in no case, more than 3 feet.

J. The placement of a construction or non-construction waste dumpster shall not extend into the treelawn area unless approved by the Code Enforcement Office.

K. Where a construction or non-construction waste dumpster is placed upon a portion of public right-of-way within a parking meter zone, authorization from the Nanticoke City Police Department to bag the meter or meters must be secured for all affected meters, at a fee of $5 per day, Monday through Saturday, per meter.

L. The location and utilization of a construction or non-construction waste dumpster upon a public right-of-way shall be in compliance with all other Federal, State and local statutes, rules and regulations applicable thereto.

(Ord 13-2002, 10/2/2002, §7)


A non-construction waste dumpster shall not be permitted to be placed upon a public right-of-way for the disposal of garbage as defined in §20-302 of this Part.


§20-309. Licenses.

1. Every person engaged in the business of construction and/or non-construction waste dumpsters shall, before engaging in such occupation, obtain a license therefore from the Office of Code Enforcement after the submission of the following documents:

   A. A certificate of insurance, naming the City of Nanticoke as certificate holder, establishing that said hauling contractor is currently covered by a reputable insurance company acceptable to the Office of Code Enforcement and the City.
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of Nanticoke covering said hauling contractor in the amount of not less than $300,000 being single limit or split limit for bodily injury and property damage. Said certificate shall be for continuous coverage. In the event that the insurance is canceled the Office of Code Enforcement shall be notified, in writing, within 30 working days by said insurance company.

B. A certificate of Workers’ Compensation insurance naming the City of Nanticoke as certificate holder. In the event that a hauling contractor is not obligated to maintain Workers’ Compensation insurance because he does not employ individuals, he shall be required to file a contractor affidavit form with the Office of Code Enforcement, affirming that he is not obligated to maintain Workers’ Compensation insurance.

C. Their Federal or State employer identification number.

D. An indemnity agreement, in form acceptable by the City Attorney, promising to indemnify, save harmless and defend the City of Nanticoke, its officials, agents, servants and employees each of them against, and hold it and them harmless from, any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and reasonable attorney’s fees, for or on account of any injury to any person or death at any time resulting from such injury or any damage to any property which may arise or which may be alleged to have arisen out of or in connection with the placement or utilization of the waste dumpster in the public right-of-way. A license shall not be transferable or assignable. Every person licensed under this Part shall give immediate notice of any change in his home or business address.

2. Every person engaged in the business of construction and/or non-construction waste dumpsters shall before engaging in such occupation pay an annual license fee in an amount to be established, from time to time, by resolution of City Council. [Ord. 16-2004]

3. All construction and/or non-construction waste dumpster hauling contractor licenses shall be issued solely by the Code Enforcement Officer and shall be valid for 1 licensing year and renewed annually. Prior to renewing a license, a hauling contractor must submit the following documents to the Office of Code Enforcement:

A. A certificate of insurance, naming the City of Nanticoke as certificate holder, establishing that said hauling contractor is currently covered by a reputable insurance company acceptable to the Office of Code Enforcement and the City of Nanticoke covering said hauling contractor in the amount of not less than $300,000 being single limit or split limit for bodily injury and property damage. Said certificate shall be for continuous coverage. In the event that the insurance is canceled, the Office of Code Enforcement shall be notified, in writing, within 30 working days by said insurance company.

B. A certificate of Workers’ Compensation insurance naming the City of Nanticoke as certificate holder. In the event that a hauling contractor is not
obligated to maintain Workers’ Compensation insurance because he does not employ individuals, he shall be required to file a contractor affidavit form with the Office of Code Enforcement, affirming that he is not obligated to maintain Workers’ Compensation insurance.

C. Their Federal or State employer identification number.

4. In the event that a licensed construction and/or non-construction waste dumpster hauling contractor fails to renew his license at the specified time established by the City, the City will provide written notification within 7 working days after the date their license has expired giving the hauler 45 days to renew said license. The hauling contractor will be required to pay, in addition to the normal license fee, a late charge of $25 made payable to the City of Nanticoke.

5. Any construction and/or non-construction waste dumpster hauling contractor’s license issued to any person may be suspended by the Code Enforcement Officer if, after a through and proper investigation, it is determined that:

A. Said license was partially or wholly procured by or through non-disclosure, misstatement or misrepresentation.

B. If previously imposed penalty shall not have met with full compliance.

C. The holder of said license has repeatedly and/or willfully violated any of the provisions of this Part. Repeated violations is hereby defined as a minimum of three separate offenses within a period of 5 years under this Part for which the licensee or offender has either pleaded guilty or has been found guilty by a district justice or other court of competent jurisdiction.

The Code Enforcement Officer, prior to invoking a suspension of a license, shall first cause to be served upon said licensee by certified or registered mail, a written notice of suspension or revocation of license, as the case may be, setting forth in specific terms and language the nature of the repeated violations, the times thereof and places of occurrences.

On first offense a hauling contractor’s license shall be suspended for a period of 1 to 3 months. On a second offense a hauling contractor’s license shall be suspended for a mandatory 6 months. A third offense shall constitute an immediate revocation of a hauling contractor’s license.

If during the time of suspension, a hauling contractor’s license is eligible for renewal, said contractor will be exempt from meeting the license renewal provisions as defined in subsection (2) above for the entire time period said license is suspended. Within 30 working days from the date the suspension is removed by the Code Enforcement Officer, the license renewal provisions as defined in subsection (2) shall apply. In the event that the hauling contractor fails to renew his license within 30 working days from the date the suspension was removed, the provisions outline in subsection (3) shall apply.
6. **Revocation of License.** Any construction and/or non-construction waste dumpster hauling contractor's license issued to any person may be immediately revoked by the Code Enforcement Officer if, after a thorough and proper investigation, it is determined that:

   A. The holder of the said license was willfully or negligently damaged or caused to be damaged the City's public right-of-way.

   B. The holder of said license was willfully or negligently placed a construction waste dumpster in a public right-of-way which has created a dangerous or unsafe condition which poses a threat to the safety and welfare of pedestrian and/or vehicular traffic.

   C. The holder of said license has repeatedly and/or willfully ignored the stop work order(s) issued by the Code Enforcement Officer.

7. **Use of License by Another Prohibited.** No person licensed under these provisions shall allow a permit to be issued in his or its own name for use by a person not licensed as required herein to place construction or non-construction waste dumpsters within the City’s public right-of-way under penalty of forfeiture of his or its license.


§20-310. **Safety Hazard.**

1. Whenever the placement of a construction or non-construction waste dumpster shall have been declared a safety hazard to the use of the sidewalk area, treelawn area or cartway by pedestrians or vehicles by the Building Inspector or his designee, the Code Enforcement Officer or his designee shall serve or cause to be served upon the owner or other person who may have a vested or contingent interest in said waste dumpster, a written notice describing the unsafe or hazardous condition and ordering the same made safe and secure or removed within 48 hours after notice has been issued relative to the unsafe or hazardous condition.

2. If the person to whom such notice and order is addressed cannot be found after diligent search, then such notice and order shall be sent by registered mail to the last known address of such person and a copy of such notice shall be posted in a conspicuous place on the construction or non-construction waste dumpster to which it relates. Such mailing and posting shall be deemed adequate service.

3. If the person served with a notice to make safe and secure or remove the construction or non-construction waste dumpster should fail, with the time frame specified by the Code Enforcement Officer or his designee, when authorized by the Mayor, the Mayor's designee or Nanticoke City Council, whichever is deemed appropriate, may have said waste dumpster removed from the public right-of-way. Any costs incurred
shall be paid out of the City Treasury on certification by the Code Enforcement Officer or his designee.

4. The City Attorney or other prosecuting authority shall institute proper actions against the owner of the construction or non-construction waste dumpster for the recovery of costs incurred by the Code Enforcement Officer or his designee in the performance of having said waste dumpster removed from the public right-of-way.


§20-311. Violations and Penalties.

1. Any person, firm or corporation who shall violate any of this provisions of this Part shall, after having been served with written notice, shall be liable to a fine of not more than $1,000 for each offense. Each day that said violation or unsafe condition shall continue shall constitute a separate offense and shall be liable to a fine of not more than $1,000.

2. The owner of a building, structure or premises, where the violation of this Part shall be placed or shall exist and the contractor employed in connection therewith and who may have assisted in the commission of such violation and the owner of the waste dumpster who may have assisted in the commission of such violation, shall each be guilty of a separate offense and upon conviction thereof shall be liable to a fine of not more than $1,000 for each offense. Each day that said violation or unsafe condition shall continue shall constitute a separate offense and shall be liable to a fine of not more than $1,000.

CHAPTER 21
STREETS AND SIDEWALKS

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STREET OPENINGS

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PART 1

PAVE CUT

A. Definitions.


The following words, terms and phrases when used in this Part shall have the same meaning ascribed to them in this Section, except where the context clearly indicates a different meaning. The word “shall” is always mandatory and not merely directory. Whenever in this Part the words “directed,” “required,” “permitted,” “prescribed” or words of like import are used, it shall be understood that the direction, requirement, permission, order designation or prescription of the City Engineer is intended and similarly, the words “approved,” “acceptable” or “satisfactory” or words of like import shall mean approved by, acceptable to or satisfactory to the City Engineer.

APPLICATION FOR A PAVE CUT PERMIT - a form provided the utility by the City noting pertinent data for the purposes of inspection and control by the City and constituting a receipt for services performed by the City.

CAPITAL IMPROVEMENT - preplanned to improve or upgrade an existing system or to install a completely new system providing new and additional service.

CITY - the City of Nanticoke, Luzerne County, Pennsylvania.

CITY PAVE CUT LOG - a chronological record of pave cuts as reported by the City containing pertinent data as required by the City for the purposes of inspection and control.

EMERGENCY REPAIR - work necessitated by the rupture or sudden malfunction of existing underground facilities.

FACILITIES - all the plant and equipment of a public utility, including all tangible and intangible, real and personal property without limitations and any and all means and instrumentalities in any manner owned, operated, leased, licensed, controlled, furnished or supplied for, by or in connection with the business of any public utility; provided, however, that no property owned by the Commonwealth of Pennsylvania or any municipal corporation thereof at the date when this Part becomes effective shall be subject to any of the terms of this Part, except as elsewhere expressly provided herein.

INSPECTION - a careful or critical investigation not necessarily confined to optical observation but is understood to embrace tests and examination for the purpose of ascertaining quality and compliance as prescribed in this Part and discovering and correcting errors.
STREETS AND SIDEWALKS

LICENSED CONTRACTOR - the utility company and/or its subcontractor must possess a valid contractor's license under the Building Code of The City of Nanticoke applicable to the type of work performed.

MUNICIPAL CORPORATION - all cities, boroughs, towns, township or counties of this Commonwealth and also any public corporation, authority or body whatsoever created or organized under any law of this Commonwealth for the purpose of rendering any service similar to that of a public utility. For the purpose of this Part, Municipal Corporation shall mean the City of Nanticoke.

NEW PAVEMENT - roadway paved within the past 5 years.

PAVEMENTS - riding surfaces of machine laid asphalt over a base of concrete, brick, Belgian block, crushed stone, bituminous concrete or oil and stone.

PERSON - individuals, partnerships or associations other than corporation and includes their lessees, assignees, trustees, receivers, executors, administrators or other successors in interest.

PUBLIC UTILITY - persons or corporation now or hereafter owning or operating in the Commonwealth, equipment of facilities for:

A. Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity or steam for the production of light, heat or power to or for the public compensation.

B. Diverting, developing, pumping, impounding, distributing or furnishing water to or for the public compensation.

C. Transporting or conveying natural or artificial gas, crude oil, gasoline or petroleum products by pipe lines or conduit, for the public compensation.

D. Conveying or transmitting messages or communications by telephone or telegraph to the public for compensation.

E. Sewage collection, treatment or disposal for the public for compensation.

The term “public utility” shall not include:

F. Any person or corporation, not otherwise a public utility who or which furnishes, serves only to himself or itself.

G. Any bona fide cooperative association which furnishes services only to its stockholders or members on a nonprofit basis.

H. Any producer of natural gas not engaged in distributing such gas directly to the public for compensation.
SERVICE - used in this Part in its broadest and most inclusive sense and includes any and all acts done, rendered or performed and any and all things furnished or supplied and any and all facilities used, furnished or supplied by public utilities, in the performance of their duties under this Part to their patrons, employees, other public utilities and the public as well as the interchange of facilities between two or more of them.

STREET - any street, highway, road, land, court, alley, public square or place of whatever nature, whether dedicated or not, open to the use of the public as a matter or right for purposes of vehicular travel.

UTILITY RELOCATION - utility relocation shall mean and include the adjustment, replacement or relocation of utility facilities as required by street construction or repaving project, such as, removing or reinstalling the facility, acquiring the necessary rights-of-way, moving or rearranging existing facilities, changing the type of facility and any necessary safety protective measure. It shall also mean the construction of a replacement facility functionally equal to the existing facility, where necessary for the continuous operation of the utility service, the project economy or sequence of street construction.

SPECIAL PAVEMENT - riding surfaces of concrete, brick, Belgian Block or cobblestone.

WORK - the furnishing of all materials, labor, equipment and other incidentals necessary or convenient to the successful completion of the project and the fulfillment of all duties and obligations imposed by this Part.

(Ord. 13-2000, 11/1/2000, Part I)
B. Permit Procedures and Construction Guidelines.

§21-111. Permit Procedure.

A permit must first be obtained before any opening can be made in any paved thoroughfare, cartway or sidewalk in the City.

(Ord. 13-2000, 11/1/2000, Part II)

§21-112. Normal Permit Procedures.

Applications for a pave cut permit shall be available from the City of Nanticoke’s Municipal Building, 1 East Ridge Street, Nanticoke, Pennsylvania. An authorized agent of a utility or contractor may complete said application at the Municipal Building. This shall be done a minimum of 24 hours in advance of a planned excavation. A copy of the completed application signed by the City Compliance Officer or his agent shall be in the hands of a competent person at the worksite described in said application and shall constitute a permit.

(Ord. 13-2000, 11/1/2000, Part II)


1. In the case where an emergency repair, as herein before defined, is found the utility shall first notify the City Compliance Officer or his designee and inform them that an emergency exists.

2. When the emergency occurs after normal City Hall working hours, on weekends and holidays, these same persons must be notified. A list of persons to be contacted shall be available at the Nanticoke Municipal Building. Emergency pave cuts shall be recorded in the City pave cut log at the start of the next business day following the emergency.

(Ord. 13-2000, 11/1/2000, Part II)


Pave cut necessitated by City sponsored public improvements will be on a nonfee basis, but limited to a specific contract area. Work done outside a project area will require a permit fee. A list noting exact locations and dimensions of all such cuts shall be submitted to the City Compliance Officer at the completion of work. Notification will be required for any pave cuts made in State highways located within the City for which a highway occupancy permit has been issued.

(Ord. 13-2000, 11/1/2000, Part II)
§21-115. **Penalty for Failure to Obtain a Permit.**

All work done without a permit shall be subject to a $300 penalty, plus regular fees.

*(Ord. 13-2000, 11/1/2000, Part II)*

§21-116. **Insurance Protection.**

The applicant shall protect, defend, indemnify and save harmless the City, its officers and or agents thereof from all claims, suits, actions and proceedings of every nature and description which may be brought against the City, its officers or agents therefor for, or on account of any injuries or damage to person or public or private property, because of any materials or appliances used in the work or on account of improper materials or workmanship or for or on account of any accident or any other act, negligence or omissions of said applicant or his agents, servants or employees and the City shall not in any way be liable therefore, during the period of the work progress and the 1½ year guarantee period following the completion of the work. Minimum insurance shall be:

A. Five hundred thousand dollars per individual and $1,000,000 for each occurrence for bodily injury.

B. Five hundred thousand dollars liability for property damage.

C. Evidence of insurance in the form of a certificate or letter executed by a duly authorized representative of the applicant’s insurance carrier shall be submitted to the City Clerk each January 15. Said evidence of insurance must include the provision that the City shall be given proper advance notice of at least 30 days of cancellation or any material alteration in the applicant’s policy.

*(Ord. 13-2000, 11/1/2000, Part II)*

§21-117. **Safety Precautions.**

During the progress work the applicant shall provide and maintain such barricades, warning signs and flagpersons as may be deemed necessary by the City to prevent accidents to the public and/or adjoining tenants. Minimum precautions must include, but should not be limited to, advance warning signs on all approaches to the work, safe crossing for pedestrians each 300 feet, barricades with flashers on each exposed side at 50 foot intervals. All precautions shall be in accordance with 67 Pa. Code, Chapter 211; 67 Pa. Code, Chapter 203 and material and construction requirements outlined in §901 of PennDOT 1994 Specifications, as amended. Referrals therein to the “Department” shall mean the “City of Nanticoke.” Comply with all other safety precautions of the Occupational Safety and Health Act (OSHA), as amended. When required, comply with material and construction requirements of §902 of PennDOT 1994 Specifications for Maintenance and Protecting During Temporary Suspension of Work.

*(Ord. 13-2000, 11/1/2000, Part II)*
§21-118. Road Closing.

No street in the City of Nanticoke may be completely closed to traffic at any time during a pave cut. One lane of traffic must be able to pass unobstructed at all times. Flagpersons must be posted at the limits of work at all times to direct traffic through the work area and all established traffic patterns must be maintained at all times. If all other means of traffic control have been exhausted, the City may permit a road to be completely closed temporarily only with the consent of the Fire Chief and Police Chief. When an emergency exists, the Police and Fire Department shall be notified. An application form for a permit to close a street will be available from the Nanticoke City Municipal Building. The complete application bearing the signatures of the before mentioned officers shall be returned to the applicant and shall constitute a permit. A penalty shall be imposed for failure to notify the Chiefs of the Fire Department and Police Departments in an amount to be established, from time to time, by resolution of City Council.


§21-119. Time Periods.

For small area pave cuts, the utility or contractor shall be required to complete the temporary restoration within 48 hours (consecutive) of the initial cut during the normal working week, excluding holidays and weekends. Extension of time may be allowed upon appeal to the City Compliance Officer; provided, the contractor substantiates sufficient reasons for the extension required. Work on long cuts, those over 25 feet in length, shall proceed in a continuous manner. Permits for long cuts or capital improvements will not be granted during the months of November through March, except by written permission from the City Compliance Officer. The utility or contractor shall coordinate planned cuts in the City streets with the paving program of the City. A construction schedule comprising planned cuts shall be submitted to the City Compliance Officer as they become available. The City will provide a paving program for 1 year period to the utilities prior to February 15th. Changes in the utilities schedule of planned cuts shall require confirmation from the City Compliance Officer. Changes in the City paving program shall be submitted to all utilities at the earliest possible date to permit the utilities to adjust their respective schedule.

(Ord. 13-2000, 11/1/2000, Part II)

§21-120. Scheduling.

All excavations shall be commenced and completed by the use of reasonable work force. In congested areas and the central business district, the City may limit work to other normal daytime working hours. At the cessation of work adequate steel plates shall be placed over the excavation while it is not being worked to ensure full traffic flow over the excavation. The maximum length of any opening in the roadway shall be 200 feet, unless otherwise permitted, in writing, by the City Compliance Officer.

(Ord. 13-2000, 11/1/2000, Part II)
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§21-121. Excavated Material.

Unless indicated in writing by the City Compliance Officer, all excavated materials are to be deemed unsuitable for backfilling and shall be removed from the project site immediately as it is generated and disposed of in a legal manner at the sole expense of the permittee. All gutters and drainage facilities shall be kept clean of all debris and excavated materials. At all times, fire hydrants adjacent to the work shall be readily accessible to fire apparatus and no materials or obstructions shall be placed within 15 feet of any hydrant.

(Ord. 13-2000, 11/1/2000, Part II)

§21-122. Backfill Material and Compaction Requirements.

1. Except for pipe bedding materials, all backfill material placed under City streets, alleys and other public thoroughfares, shall be either PennDOT designated Select Granular Material, conforming to §703.3 of PennDOT 1994 Specifications or No. 2A modified, conforming to §703.2 and Table C of PennDOT 1994 Specifications. The City Compliance Officer shall designate which of the two materials will be required for backfilling as determined by field conditions. In both cases, the materials shall be supplied by a State certified source. No other type of materials will be permitted for backfilling, unless so authorized in writing by the City Compliance Officer.

2. Upon completion of the pipe or utility appurtenance, the entire trench shall be backfilled to the subgrade of the finished surface course with the approved backfill materials, placed in 8 inch loose lifts and compacted with a mechanical tamper or trench roller to 98% of the materials by dry weight density, as determined by Modified Proctor Test ASTM D-1557, Method C or D. Each lift shall be constructed and compacted to the minimum compaction requirements specified, prior to starting the next lift. Compaction shall be attained by either mechanical tamper or trench roller. No other means of compaction will be permitted.

3. Failure to complete the work with proper backfill or failure to compact the backfill material to the minimum percents indicated shall be grounds for the City to charge penalties as set forth in other portions of this Part.

4. When the City Compliance Officer deems either the work or materials to be marginal, he/she shall call for compaction testing by an independent test laboratory. When testing verifies the materials or workmanship is not in compliance with these regulations, the materials or workmanship shall be either removed or corrected to comply with these regulations. The costs for testing and reinspection shall be at the permittee's expense. Failure to comply with these provisions shall result in fines as set forth herein.

(Ord. 13-2000, 11/1/2000, Part II)

§21-123. Waste Material.
Material which is unsuitable and any surplus of excavated material shall be considered waste and shall be disposed by the utility or contractor beyond the project limits. In no case shall waste material be left at the work site.

(Ord. 13-2000, 11/1/2000, Part II)


Approved backfill material containing moisture in excess of that percentage required to attain maximum compaction shall be properly dried prior to its placement in the trench.

(Ord. 13-2000, 11/1/2000, Part II)

§21-125. Dry Backfill Material.

Approved backfill material containing insufficient moisture to attain maximum compaction shall be properly moistened prior to its placement in the trench.

(Ord. 13-2000, 11/1/2000, Part II)

§21-126. Opening of a Street.

All roads are to be saw cut to full depth by asphalt or concrete saws. All saw cuts shall be straight and even, parallel with the pipeline and to create a smooth edge, with no unbroken edges on adjacent roadway surfaces. As an option, if approved by the City Compliance Officer, the road may be cut by air hammer; provided, that the cutting is completely through the asphalt or concrete courses and that saw cuts are provided 1 foot beyond the damaged roadway edges in conjunction with the final restoration. Opening in brick or Belgium block based streets shall be of sufficient width to expose ½ row of undisturbed interlocking stone or brick. No pavement busters, such as drop hammers, hor rams and the like, shall be used for any opening of a street.

(Ord. 13-2000, 11/1/2000, Part II)

§21-127. Special Type Pavements.

The removed riding surface of brick, Belgian block or cobblestone, tiles or other special surface shall be preserved at the worksite for restoration after the opening has been backfilled.

(Ord. 13-2000, 11/1/2000, Part II)

§21-128. Responsibility for Damages.

In the event a cut is made and, upon inspection, damage to another utility’s underground facilities is discovered, it shall be the responsibility of the party making the cut to contact the City Compliance Officer and all concerned pertinent utilities to instruct them (it) to have representatives inspect the condition before any backfilling is begun.
§21-129. Backfilling.

The City Compliance Officer or his designated representative must be notified 48 hours in advance of any backfilling. Generally, backfilling with approved materials and its placement shall comply with §21-122 and all applicable Sections of PennDOT Publication 408 and as follows: Excavate the trench to the subgrade elevations of the pipe repair or replacement, including excavation required to install the pipe bedding. Should the pipe subgrade be wet and unsuitable, over-excavate and remove the material to stable ground. Fill the voids with either PennDOT 2A, 3A or approved pipe bedding materials, compacted to 9% of the materials dry weight density. Construct the pipe bedding and install the pipe. Starting from the top elevation of the pipe bedding, backfill the trench with Select Granular Material or 2A modified in 8 inch loose lifts and compact each lift to 98% of the materials dry weight density, as determined by the Modified Proctor Test ASTM D-1557 method C or D. Do not start the next lift until the prior lift has attained the minimum percent compaction indicated. Construct each lift in accordance with these requirements to the subgrade elevation of the roadway or surface base course. Do no place any stones, rocks, bricks or asphalt in the backfill materials. As directed, remove any unsuitable materials from trench and excavation areas.

§21-130. Temporary Restorations.

When weather conditions prevent permanent restorations, temporary restorations shall be made within 48 hours of completion of the backfilling. When cold patch or other temporary type of bituminous materials are used for temporary restorations, it shall be placed to a minimum compacted depth of 3 inches. As required or directed by the City, temporary restorations shall be adequately maintained by the permittee until permanent restorations are made. When cold patch or other bituminous materials are used for temporary restorations, the compacted trench backfill materials shall be removed to a depth of 3 inches, so when temporary restorations are completed, the temporary surface is flush and even with the adjacent roadway surfaces. When the permittee fails to maintain temporary restorations, as requested by the City, and the City is forced to maintain the temporary surfaces, the City’s costs for labor, materials and equipment shall be paid by the permittee within 30 days of receipt of the invoice.


Only utilities or their contractors are permitted to make permanent restorations of openings in pavement. The restored pavement shall be guaranteed from failure or defects in workmanship and materials for a period of 2 years from the completion of the work (the date the City deems all work to be completed in an acceptable manner). Permanent restorations shall be completed within 30 days of the initial cut. Any cuts made during
inclement weather (when hot asphalt is not being manufactured) shall be permanently restored within 30 days after hot asphalt is available. Any failure of restoration shall be reported to permittee. Within 24 hours from the notification date, the permittee shall begin the restoration repairs and complete the work in a timely manner. Should the permittee fail to repair the work in a satisfactory manner, the City shall complete the work and bill the utility for their costs (labor, materials, equipment and other related expenses). In addition, penalties for noncompliance shall be levied against the permittee.

A. Disturbed portions of roads, streets and alleys including, but not limited to, slopes and appurtenances and structures such as guide rail, curbs, walks, signs, markings, drain pipes, driveways and vegetation, brick islands and laws, etc., shall be restored by the permittee to a condition at least equal to that which existed before the start of work authorized by the permit. Additional restoration may also be required, upon written notification, to restore the structural integrity of the pavement or shoulder.

B. If the permittee opens pavement having a bituminous concrete surface and the City’s wearing course is less than 5 years old, the permittee shall, in addition to the restoration conditions outlined in other Sections of this Part, overly the pavement in accordance with the following conditions:

(1) When a longitudinal opening longer than 100 linear feet has been made in the pavement, the permittee shall overlay the traffic lanes in which the opening was made, for the entire length of highway that was opened, in a manner authorized by the City.

(2) When two or more openings have been made within 100 linear feet of pavement, the permittee shall overlay traffic lanes in which the openings are made, for the entire length of highway between the openings, in a manner authorized by the City.

(3) When four or more emergency openings have been made by the same permittee within 100 linear feet of pavement, the permittee shall overlay the traffic lanes in which the openings were made, for the entire length of highway between the openings, in a manner authorized by the City.

(4) If disturbed lanes adjacent to the undisturbed lanes are overlayed, the edge of the disturbed land shall be saw cut or milled to a depth of 1.5 inches or the depth of the existing surface course, whichever is less, for the length of the opening to ensure a smooth joint, with proper elevation and cross section. A full width overlay may be authorized by the City on various roads instead of saw cutting or milling the disturbed lane.

C. Regardless of age of the wearing course:

(1) If more than 100 linear feet of longitudinal or transverse openings, or both, are made in the pavement, the City may require the permittee to overlay traffic lanes in which the openings were made, for the entire
length of the street or alley that was opened, if the City Engineer
determines the rideability or structural integrity of the pavement has
been impaired by the openings.

(2) If four or more openings are made by the same permittee within 100
linear feet of pavement, the City may require the permittee to restore
the entire disturbed pavement between the openings by milling,
planing or other authorized method of overlaying the entire disturbed
pavement.

D. Aggregate used in a bituminous overlay wearing course shall comply with
skid resistance level (SRL) criteria specified in PennDOT Design Manual,
Part 2, Chapter 11.

E. If an opening is made in a bituminous concrete pavement within 3 feet from
the edge of pavement or other longitudinal joint or opening, the surface
restoration shall extend to the edge of pavement or other longitudinal joint
or opening.

F. At the end of an overlay, the permittee shall install a paving notch, utilizing
PDT RC Standard RC-28 by milling, planing or other authorized method
and provide a minimum 10 foot transition.

G. The transition areas at the end of an overlay shall follow the contour of the
surrounding surface.

H. When pavement markings on more than 100 linear feet of highway are
covered or destroyed by the permitted work, including overlays, they shall
be replaced with temporary markings, in compliance with PennDOT
standards for temporary markings, before opening the disturbed pavement
to traffic. When the pavement surface is restored, pavement markings that
were covered or destroyed shall be replaced in their former location.

I. Sealing. Restored openings in the pavement or paved shoulder shall be
sealed in accordance with §401.3(j)3 of PennDOT Publication 408 in the case
of bituminous concrete or §501.3(n) of Publication 408 in case of cement
concrete.

J. Where manholes, inlets and similar infrastructure exists, where a road,
alley, street, etc., is being overlayed in conjunction with utility repair, the
permittee shall adjust all said facilities flush with the overlays finish grade
within the limits of restoration.

(Ord. 13-2000, 11/1/200, Part II)

§21-132. Restoration.

In addition to the requirements set forth in §21-131, the permittee shall restore all cuts
and roads as follows:
A. Prior to placement of the base or concrete course of any road, street, alley, the trench shall be saw cut back 1 foot on each side of the damaged edges, to the full depth of the pavement courses to the top of existing stone base course. All saw cuts shall be straight, even and parallel to the trench edges. When areas outside of the parallel lines are damaged, the saw cut shall be made perpendicular with the parallel saw cut lines until the damaged portion can be sawed parallel with the trench and as directed by the City. In this operation, all saw cuts shall be made with approved asphalt cutting saws (no jack hammers or backhoe bucket cutting equipment is permitted), to the full satisfaction of the City. The asphalt, base course and subbase course shall be removed to a depth to complete the restorations noted hereafter.

B. For bituminous roads, the base course restoration shall consist of a minimum of 4.5 inches of B.C.B.C. or 4.5 inches of C1."A" or “HES” concrete, in accordance with the applicable Section of PennDOT 1994 Specifications 408. For placement of C1 A or HES concrete, special City approval is required, due to the fact it may be an obstruction to any planned milling projects. Except for continuous overlays, the surface course (ID-2 Wearing Course) shall be placed to a minimum depth of 1.5 inches. Bituminous materials placement and compaction shall comply with applicable Section of PennDOT 1994 Specifications, using properly sized asphalt pavers and rollers, except as follows:

1. Where small cuts are made, similar to a standard 3 foot by 5 foot cut, the permittee will be allowed to spread the materials to the required depth by hand methods; provided, the materials are not segregated. Compaction of the materials shall be done by either trench roller or by mechanical tamper, to the satisfaction of the City.

2. Where continuous trenches are to be restored and where no permanent overlay is required, as outlined in other Sections of this Part, the material placement shall comply with the recommendations of the City, except the bituminous material shall be compacted with a 6 ton trench roller (minimum size) to attain the required compaction, slope and contour of the adjacent surface.

C. For concrete bases, allow the concrete to cure prior to placement of the wearing course, in accordance with methods prescribed in applicable Sections of PennDOT 1994 Specifications 408. Immediately upon completion of curing, but not more than 28 days, place the 1.5 inch ID-2 wearing course.

D. Upon completion of all bituminous paving, seal all joint in accordance with §401.3(j)3 of PennDOT 1994 Specifications 408. Use hot bituminous sealant and extend 6 inches in both directions from the joint. Class E-6 of E-8 emulsified asphalt will be permitted in lieu of hot bituminous material.

E. Finish surface elevation of the trench shall match the slope and contour of the adjacent roadway and shall be flush at the joints. Defects in surface irregularities, as determined by the City, shall be corrected at the expense of
the permittee. This shall include, but is not limited to, irregularities of 3/16 inch or greater, ponding water, bird baths, depressions, humped areas, etc. When required, the City shall conduct surface tolerance tests, in conformance with methods prescribed in §401.3(k) of PennDOT 1994 Specifications 408.

(Ord. 13-2000, 11/1/2000, Part III)

§21-133. Restoration, Special.

The permanent restoration of special type pavements, such as concrete, brick, Belgium brick, cobblestone gutters or tiles shall consist of relaying the original wearing course in accordance with the original installation specifications in such a manner as to prevent settlement or other deterioration.

(Ord. 13-2000, 11/1/2000, Part III)

§21-134. Testing and Inspection.

The City Compliance Officer or his designee may inspect all cut and an inspection fee shall be charged. Such inspection fees shall constitute acceptance and approval of work performed by the utility or its contractor, but it is understood that such acceptance and approval does not relieve the utility of any responsibility under this Part throughout the guarantee period. Inspection fees shall be those standard fees charged by the City Engineer and/or testing laboratory. Generally, City Engineer inspections fees shall range from $25 to $30 per hour, plus costs (mileage). Testing fees will be the actual cost charged by the independent laboratory.

(Ord. 13-2000, 11/1/2000, Part III)

§21-135. Repaving and Reconstruction.

Upon notification from the City Compliance Officer of a planned street resurfacing or reconstruction, all utilities will be required to test their lines and services and to schedule necessary capital improvements and services and to schedule necessary capital improvements and service connections prior to resurfacing or reconstruction. Thereafter cuts will be permitted in the new pavement only in an emergency. Pave cuts made in new pavement shall be subject to a penalty. (See Fee Schedule). Essential services for new building construction will be exempt from this penalty. New construction shall not include the addition of an alternate or secondary source of fuel, water, heat or other service not included in the original construction or regarded as essential to the original construction. Pavement shall be considered new for a period of 5 years, from the date of placement. Except only in an emergency, no cuts shall be permitted in any pavement 5 years old or less.

(Ord. 13-2000, 11/1/2000, Part II)
§21-136. Linestone and Monuments.

No linestone or monument in the City of Nanticoke may be removed, altered or buried at any time. When pave cuts or road construction require the temporary removal of linestone or monument, it must be preserved at the site and reset at the direction of the City Compliance Officer. All costs incidental thereto, including surveys, shall be charged to the utility or contractor. A penalty shall be imposed for failure to report the removal or alteration of a linestone or monument. Burial of paving over a linestone or monument shall carry a penalty for each stone or monument covered. In addition, all costs incidental to exposing and/or resetting a linestone or monument shall be charged to the utility or contractor.

(Ord. 13-2000, 11/1/2000, Part II)

§21-137. Parking Meters.

When street work renders meter parking unavailable, the applicant shall be charged $2 per day metered space

(Ord. 13-2000, 11/1/2000, Part II)

§21-138. Test Borings.

All test holes and borings shall require restoration. Restoration of bore holes shall follow immediately after testing with the application of asphalt or other water resistant plugs. A penalty of $25 will be charged for each test hole found unplugged.

(Ord. 13-2000, 11/1/2000, Part II)

§21-139. Replacement of Pavement Markings.

The utility and/or its contractor must replace in kind all pavement markings damaged or removed by pave cuts and work incident thereto. All markings must be replaced within 5 days after permanent restoration. The City shall contract to have the necessary repairs made and bill the utility.

(Ord. 13-2000, 11/1/2000, Part III)

§21-140. Replacement of Electronic Traffic Control Devices and Ancillary Equipment.

Electronic traffic control devices and ancillary equipment damaged or removed because of pavement excavations or work incident thereto, must be replaced by the utility or its
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contractor, in king, in whole or in part as required by the City Engineer or his agent. The City shall contract to have the necessary repairs made and bill the utility.

(Ord. 13-2000, 11/1/2000, Part III)

§21-141. Additional Requirements.

1. For major projects, such as new pipelines, replacement of pipes and other utilities along section of any City streets, greater than 200 feet in length, the permittee must file a plan (four copies required) to show the locations, depth and all details of the work. The plan must be a minimum size of 2 feet by 3 feet, submitted 4 months in advance of when work will begin, be prepared by a professional engineer and must show all pertinent details of the work (location of pipe lines with relation to curbs, walks, storm and sanitary sewers, the location of easements, etc.). The plan must include restoration and backfill details, construction procedures, etc., as is normally required to secure PennDOT permit for similar work.

2. The City reserves the right to reject the permittee’s contractor, in the event the contractor has performed defective and nonconforming work in the past on City streets.

3. The City shall impose stiff penalties to any contractor who damages any road, pipe or other public facility of the City, without notifying the City of the damage. If the City deems the repairs were either not made or were made in an unacceptable manner, the City shall notify the permittee to immediately remove the contractor from the site and the contractor shall be debarred from working in the City for a period of at least 5 years. This shall relate to on-going work and work covered over which is found to be defective for a period of 5 years from when the actual defective work was performed.

4. The permittee agrees to photo-document site conditions prior to starting work, of which a copy shall be provided to the City. This shall comply with requirements outlined in Chapter 459, Occupancy of Highways by Utilities, Pennsylvania Code, Title 67, Transportation.

5. Blasting shall not be permitted in any operation, without prior approval of the City, and then only upon the terms and conditions set forth in detail by the City.

6. At the end of a workday, an opening in the right-of-way shall be covered, backfilled or plated in compliance with §459.8(d)2 of the aforementioned Chapter 459, Department of Transportation Publication.

7. Altering of any drainage facilities of the City is prohibited.

8. For special subsurface operations, the permittee shall comply with the requirements of §459.8 of the aforementioned Chapter 459, Department of Transportation Publication. Referrals to the Department shall mean the City.

(Ord. 13-2000, 11/1/2000, Part II)
C. Enforcement.

§21-151. Street Inspectors.

The City Council may appoint as their representatives person to enforce this Part. These agents shall have the authority and responsibility for the enforcement of this Part.

(Ord. 13-2000, 11/1/2000, Part III)

§21-152. Enforcement.

All pave cuts shall be made by and all work shall be performed by licensed contractors. At the discretion of the City Engineer, licensed contractors, other than those licensed contractors under contract to a utility, may be permitted to make an opening, cut or excavation in the City's public streets. Sections pertaining to the public utilities shall be applicable to licensed contractors. (See the fee schedule).

(Ord. 13-2000, 11/1/2000, Part III)

§21-153. Fee Schedule.

A fee in an amount to be established, from time to time, by resolution of City Council shall be paid for the processing and issuing of a permit, processing and issuing a permit to close a road, testing, at cost, inspection by the day/hr., other expenses (mileage, engineering fees, legal, etc.) at cost and each pavement cut made pursuant to a valid permit by the square foot or portions thereof.


When work performed by a utility or contractor under this Part is found in violation of same, the contractor or utility may be given the opportunity to make corrections as required by the City. If the corrections are not completed in the specified time or not completed as specified, the City may suspend all work whether completed or in progress in noncompliance with this Part and take appropriate safety precautions. All work performed or contracted for by the City of Nanticoke to attain compliance in this regard shall be billed to the utility or contractor.

(Ord. 13-2000, 11/1/2000, Part III)
§21-155.  **Resumption of Suspended Work.**

The utility shall actively resume work upon order from the City after a suspension.


§21-156.  **Penalties for Noncompliance.**

If the utility or contractor fails to make adequate corrections to work found in noncompliance with this Part in the time specified, a penalty of $250 per day shall be imposed until said corrections are completed to specifications.


§21-157.  **Non-Issuance.**

The City reserved the right to bar any contractor or his employee from working within the City limits whose work is found in noncompliance with this Part. The City reserves the right to refuse issuance of a permit to any applicant who fails to maintain pave cuts in accordance with this Part or who fails to pay sums due the City within 30 days from the date of billing. The City reserves the right to refuse issuance of a permit to cut new pavement.


§21-158.  **Designation of Statutory Agent.**

Every public utility shall file with the City Clerk, a designation, in writing, of the name and Post Office address of a person within the Commonwealth of Pennsylvania upon whom service of any notice, order or process may be made under this Part. Such designation may, from time to time, be changed by like writing similarly filed.


§21-159.  **Pertaining to General Contractors.**

At the discretion of the City, licensed contractors, other than those under contract to a utility, may be permitted to make an opening, cut or excavation in the City's public streets. Sections pertaining to public utilities shall be applicable to licensed contractors.

D. Repealer.

§21-161. Severability.

It is hereby declared that the provisions of this Part are severable one from another and severable as to the public utilities, persons, corporations or municipal corporations subject thereto and the subject matters respectively dealt with thereby and if for any reason one or more of such provisions be judicially held to be unconstitutional, as applicable to any particular public utility, person or corporation or subject matter dealt with holding or decision shall not affect the validity of such provision or provisions as applicable to other public utilities, persons, corporations or municipal corporations or subject matters dealt with thereby, or the validity of the remaining provisions, would have been enacted notwithstanding such judicial determining of the invalidity of any such particular or provisions in any respect.

(Ord. 13-2000, 11/1/2000, Part IV)


All litigation, hearing, investigations and other proceedings whatsoever pending under any ordinance repealed by this Part shall continue and remain in full provision of this Part. All orders, rules, regulations issued or filed under any ordinance repealed by this Part and in full force and effect upon the effective date of this Part shall remain in full force and effect for the term of issued or until revoked, vacated or modified under the provisions of this Part. All existing contracts and obligations entered into or created under any ordinance repealed by this Part and in force upon the effective date of this Part shall remain in full force and effect.

(Ord. 13-2000, 11/1/2000, Part IV)


The repeal by this Part or any other ordinance shall not revive any law heretofore repealed or suspended, and shall not impair or affect any act done, offense committed or liability, penalty, judgment or punishment incurred prior to the time of this Part takes effect, but the same may be enforced, prosecuted or inflicted as fully and to the same extent as if this Part has not been passed. The provisions of this Part, as far as they are the same as those of existing laws, shall be construed as a continuation of such laws and not as new enactments.

(Ord. 13-2000, 11/1/2000, Part IV)
§21-164. Penalty for Violation.

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not less than $25 and not more than $1,000 plus costs and, in default of payment of said fine and costs, 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.


§21-165. Acknowledgment of Guilt.

Any person charged with violating any provision of this Part may sign an acknowledgment of the offense committed, either before or after the beginning of suit and pay to any duly authorized agent of the City, the maximum fine provided by this Act, together with costs accruing to that date. Such person shall receive a printed receipt therefor, which shall bear the imprint of the seal of the City and the signature of its Mayor, which shall be evidenced of full satisfaction of the offense committed.

(Ord. 13-2000, 11/1/2000, Part IV)
PART 2

SIDEWALK OBSTRUCTIONS

§21-201. Obstruction of Sidewalk Prohibited.

It shall be unlawful for any person, firm or corporation to obstruct in any manner the sidewalks by placing thereon any article which does not permit the full use of the entire width of the sidewalk by pedestrian.

(Ord. 81, 4/1/1930, §1)


Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed $1,000 plus costs or to imprisonment for a term not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 81, 4/1/1930, §2; as amended by Ord. 16-2004, 12/1/2004, §1)
PART 3

CONSTRUCTION OF CURBS, GUTTERS AND SIDEWALKS

§21-301.  Property Owner Responsibilities.

Every owner of property abutting upon any public street shall be, and he is hereby
directed and required, after given as herein provided to construct a curb, gutter and
sidewalk in front of his property or properties in accordance with the grade and line
established, or to be established by the City Engineer and in strict conformity with
plans and specifications which the City Engineer is herein and hereby directed to
prepare and sent to Council for approval and which shall be approved by the
Department of Streets and Public Improvements and by the Council of the City of
Nanticoke. The costs of constructing said curb, gutter and sidewalk shall be paid in
each and every such case by the owner of the property affected.

(Ord. 38, 4/5/1927, §1)

§21-302.  Notice to Construct.

The City Engineer, when so directed by Council, shall notify in writing the owners of
property abutting upon any of the public streets of the City of Nanticoke that they shall
comply with the provisions of this Part within a period of time, not less than 30 days,
to be specified in said notice. Every property owner so notified shall immediately
procure and pay for a warrant of survey from the Treasurer of the City of Nanticoke and
deposit the same in the office of the City Engineer, who shall thereupon establish lines
and grades for the construction of the required curb, gutter and sidewalk, and set stakes
necessary in connection with the construction of the same. When grade and line stakes
shall have been set by the City Engineer they shall be protected by the property owner
affected. In case property owner shall not proceed with the construction of such curb,
gutter and sidewalk, in accordance with the lines and grades so established and the
stakes set as aforesaid within 30 days, he or they shall procure a new warrant of survey
and the line and grade shall be re-established by the City Engineer. The City of
Nanticoke does not guarantee the line and grade as indicated by the stakes set, unless
said stakes are used at once or property protected until used.

(Ord. 38, 4/5/1927, §2)

§21-303.  Compliance with City Specifications Required.

All owners of property abutting as aforesaid on any public street of the City of
Nanticoke, when constructing private crossings or passages to yards, stables or garages,
in connection with complying with the provisions hereof, shall perform such work in
strict conformity
§21-304. Approval of Engineer Required.

No concrete shall be deposited in the forms set by a property owner or his contractor in the course of complying with the provisions of this Part until the approval of the City Engineer, or his authorized agent, as to the manner of setting such forms shall have been obtained.

(Ord. 38, 4/5/1927, §3)

§21-305. Fencing Required.

All property owners, while engaged, either by themselves or by their contractors, in carrying out the provisions of this Part, shall fully protect, by a sufficiently strong guard fence or railing not less than 2 feet, 8 inches in height, the openings and excavations, if any, in, upon or about the works hereby required to be performed.

(Ord. 38, 4/5/1927, §4)

§21-306. Reconstruction of Curb, Gutter or Sidewalk.

If curb or gutter shall have been constructed prior to the effect date hereof, in front of property abutting upon any of the public streets of the City of Nanticoke, in accordance with lines and grades established by the City Engineer, no such curb, gutter or sidewalk shall be required to be reconstructed under the provisions hereof, anything hereinbefore contained to the contrary notwithstanding.

(Ord. 38, 4/5/1927, §6)


That no such property owner, or the contractor of any such property owner shall perform any of the work required by this Part to be done without having first applied for and procured a license therefor from the office of the City Treasurer, application therefor having been made upon a form to be supplied by said office to the applicant. All such applications shall be submitted to the City Engineer and if, in his opinion, the applicant is capable of performing the work contemplated in a workmanlike manner, the license shall be granted upon payment of the fee hereinafter provided. Each and every license granted to any such property owner shall authorize only the construction of curb, gutter and sidewalks in front of property therein specifically mentioned. Each and every license
granted to a contractor shall embody a grant of general authority to perform work of the sort required by this Part to be done and shall expire on the first day of January next ensuing; no work shall be done by such license after the expiration of the term of any license unless and until a new license shall have been obtained. The City of Nanticoke reserves the right to revoke any license issued upon violation of any provision of this Part.

(Ord. 38, 4/5/1927, §7)

§21-308. License Fee.

1. There shall be collected, by the Treasurer of the City of Nanticoke, in connection with carrying out the provisions of this Part, for each warrant of survey, an amount as established from time to time by resolution of City Council, where the construction of curb, gutter and sidewalk shall have been required.

2. For each license to an individual property owner or owners a fee, in amount as established from time to time by resolution of City Council.

(Ord. 38, 4/5/1927, §8; as amended by Ord. 16-2004, 12/1/2004, §1)

§21-309. Penalties.

1. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed $1,000 plus costs or to imprisonment for a term not to exceed 90 days, or both. Each day that a violation of this Part continues shall constitute a separate offense. [Ord. 16-2004]

2. Provided, however, that the City of Nanticoke may proceed through the proper department and under the supervision of the City Engineer to lay and construct any curbs, gutters and sidewalks provided for in this Part upon failure of such property owner to commence and complete said work in accordance with the notice given. Said work to be performed by the City, through its own employees or by an independent contract, as the authorities of said City may see fit and the actual cost thereof or the contract price thereof shall be collected by suit or lien according to law assessed against the abutting property and the owner or reputed owner thereof, together with a penalty of 5% added thereto. Said claim and 5% penalty shall be placed for collection in the hand of the City Treasurer within 60 days of notice served upon said property owner or left upon the property if such owner cannot be found shall be placed in the hand of the City Solicitor, who shall add thereto an addition 5% and collect the same by lien or suit according to law.

(Ord. 38, 4/5/1927, §9; as amended by Ord. 16-2004, 12/1/2004, §1)
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PART 1

GENERAL PROVISIONS

§22-101. Title.

This Chapter shall be known and cited as the “City of Nanticoke Subdivision and Land Development Ordinance.”

(Ord. 11-1992, 8/13/1992, §100)

§22-102. Authority.

The City of Nanticoke is empowered to regulate subdivisions and land developments within its municipal limits as provided for under the Pennsylvania Municipalities Planning Code, Act 247, as amended. The Planning Commission is hereby designated by the City Council to exercise the authority for the approval or disapproval of all subdivision and land development as set forth in this Chapter, as provided for under §501 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

(Ord. 11-1992, 8/13/1992, §101)

§22-103. Objectives.

Through the adoption, administration and enforcement of this Chapter, the City of Nanticoke proposes to create conditions favorable to promote the health, safety and general welfare of the City with regulations aimed at achieving the following objectives:

A. To guide the future growth and development of the City in accordance with the comprehensive plan.

B. To provide a standard set of minimum regulations to guide subdividers, developers, architects, landscape architects, land planners, surveyors and engineers in the design and development of subdivisions and land developments.

C. To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population.

D. To protect and conserve the value of land throughout the City and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.
E. To insure that public facilities are available and will have a sufficient capacity to serve a proposed subdivision or land development.

F. To establish reasonable standards of design and procedures for subdivisions and resubdivision in order to further the orderly layout and use of land and to insure proper legal descriptions and monumentation of proposed subdivisions.

G. To guide public and private policy and action in order to provide adequate and efficient transportation, water, electrical service and other utilities, sewage, schools, parks, playgrounds, recreation and other public requirements and facilities.

H. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the City 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.

I. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in the Zoning Ordinance [Chapter 27].

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 prudent use and management of natural resources throughout the City in order to preserve the integrity and stability of the community and the natural environmental characteristic of the land.

K. To protect and regulate land in critical areas which may be unsuitable for development.

(Ord. 11-1992, 8/13/1992, §102)

§22-104. Application of the Chapter.

1. No subdivision or land development of any lot, tract or parcel of land shall be made, and no street, sanitary sewer, water main, gas, oil or electric transmission line, or other facilities 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 regulations adopted herein.

2. No lot in a proposed subdivision or land development say be sold, and no zoning permit to erect any building upon land in a subdivision or land development may be issued unless and until the following conditions are met:
A. The plans and application have been granted final approval by the Planning Commission.

B. The final plan, as approved, is filed with the Luzerne County Recorder of Deeds.

C. All required improvements as set forth in the grant of approval have been constructed or until the applicant posts a form of financial security, acceptable to the Planning Commission, which guarantees that all required improvements shall be subsequently constructed within a defined period of time.

(Ord. 11-1992, 8/13/1992, §103)


From the time an application for approval of a subdivision or land development, whether preliminary or final, is duly filed in accordance with the provisions of this Chapter and while such application is pending approval or disapproval, an amendment to this Chapter the Zoning Ordinance [Chapter 27], or any other applicable ordinance, could affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of all applicable ordinances as they stood at the time the application was duly filed. When an application is, however, properly and finally denied, any subsequent application shall be subject to any amendments to this Chapter, the Zoning Ordinance [Chapter 27] and any other applicable ordinance and/or regulations.

(Ord. 11-1992, 8/13/1992, §104)

§22-105. Status of Approved Subdivision or Land Development Applications.

1. When an application for approval of a subdivision or land development, whether preliminary or final, has been approved, no subsequent amendment to this Chapter, the Zoning Ordinance [Chapter 27], or any other applicable ordinance, shall be applied to adversely affect the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within 5 years from such approval. If final approval is preceded by preliminary approval, the 5 year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of the governing ordinances or plans as they stood at the time when the application for such approval was duly filed.

2. Where the applicant has substantially completed the required improvements as depicted upon the final plat within the aforesaid 5 year limit, or any extension thereof as may be granted by the Planning Commission, no change of municipal ordinance or plan enacted subsequent to the date of filing of the preliminary plat
shall modify or revoke any aspect of the approved final plat pertaining to zoning classification or density, lot, building, street or utility location.

(Ord. 11-1992, 8/13/1992, §105)

§22-106. Phased Development Exceeding 5 Years.

1. In the case of a preliminary plat calling for the installation of improvements beyond the 5 year period, a schedule shall be filed by the landowner with the preliminary plat 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 the Planning Commission in its discretion.

2. Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the Planning Commission in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with landowner’s aforesaid schedule of submission of final plats for the various sections, then the protections afforded by substantially completing the improvements depicted upon the final plat within five years, as contained in §22-106, shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five year period the aforesaid protections shall apply for an additional term or terms of 3 years from the date of final plat approval for each section.

3. Failure of landowner to adhere to the aforesaid schedule of final plats for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinance enacted by the City subsequent to the date of the initial preliminary plan submission.

(Ord. 11-1992, 8/13/1992, §106)

§22-108. Resubdivision of Land

A revision or resubdivision of a plan of record shall be considered as a new subdivision and shall come under the jurisdiction of this Chapter.

(Ord. 11-1992, 8/13/1992, §107)
§22-109. Interpretation.

1. In the interpretation and application, the provisions of the Chapter shall be held to the minimum requirements for the promotion of the public health, safety and general welfare. When provisions, standards and specifications of this Chapter differ from those of any other ordinance, statute or regulation, the more restrictive or higher standards shall apply.

2. The provisions of this Chapter are not intended to abrogate any private easement, covenant or any other restriction of record, provided that where the provisions of this Chapter are more restrictive or impose higher standards or regulations than such easement, covenant or other restriction, the applicable provisions of this Chapter shall govern.

(Ord. 11-1992, 8/13/1992, §108)

§22-110. Modification of Required Standards.

1. If any provision of this Chapter is shown by the applicant or his engineer or land surveyor to be unreasonable of application due to exceptional topographic or other physical conditions or where strict compliance with any requirement of this Chapter would cause practical difficulty or exceptional or undue hardship not of his making or when an alternative standard can be demonstrated to provide equal or better results, the Planning Commission may grant a modification to the literal requirements of such provision, provided that such modification is the minimum modification required to grant relief. Granting such modification shall not be contrary to the public interest and the intent of this Chapter shall be observed.

2. Any request for a modification shall be submitted in writing and shall accompany and be deemed part of the plan, preliminary or final as the case may be. Such request shall state in full the circumstances and facts of unreasonableness and hardship on which the request is based, the provisions or requirements of this Chapter in question, and the exact modifications requested.

3. All proposals for modification of provisions or requirements of this Chapter shall require approval by the Planning Commission.

4. Upon rendering a final decision for any proposed modification, the Planning Commission shall provide a record of their action within the minutes of their meeting.

(Ord. 11-1992, 8/13/1992, §109)

§22-111. Fees.

1. Municipal Fees. The City Council shall establish, by resolution, a fee schedule for subdivision and land development applications.
2. **County Fees.** The applicant shall also be required to submit all required fees for review and comment by the Luzerne County Planning Commission.

3. **Filing Date and Payment of Fees.** A completed application and plans for any proposed subdivision or land development shall not be considered as filed until all fees are paid and all applications are properly signed.

*(Ord. 11-1992, 8/13/1992, §110)*

§22-112. Violations and Penalties.

1. Any person, partnership or corporation who or which has violated the provisions of this Chapter shall, upon being found liable therefor under civil enforcement proceedings commenced by the City, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by the City as a result of such proceedings. No judgment shall be commenced 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 City 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 this Chapter to have believed that there was no such violation. Under such circumstances, there shall be deemed to have been only one such violation until the fifth day following the date of the termination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation.

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. Nothing contained within this Section shall be construed or interpreted to grant any person or entity other than the City the right to commence action for enforcement pursuant to this Section.

3. In addition to other remedies, the City may institute and maintain appropriate actions by law or 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 to 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.

4. The City 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 Chapter. 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 the 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.

(Ord. 11-1992, 8/13/1992, §111)

§22-113. Amendment Procedure.

The regulations set forth in this Chapter may, from time to time, be amended by the City Council. The following requirements shall be observed prior to enacting any amendments to this Chapter:

A. A public hearing on the proposed amendment shall be held by the City Council pursuant to public notice.

B. In the case of an amendment other than that prepared by the Planning Commission, the City Council shall submit such amendment to the Planning Commission not less than 30 days prior to the public hearing.

C. The proposed amendment shall be submitted to the Luzerne County Planning Commission not less than 30 days prior to the public hearing.

D. The proposed amendment shall not be enacted unless public notice is given which shall include the time and place of the meeting at which passage will be considered and a reference to a place within the City where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost of reproduction.

E. Public notice of the proposed amendment shall include the full text thereof or the title and a brief summary, prepared by the municipal solicitor, setting forth all the provisions in reasonable detail. If the full text is not provided, a copy shall be supplied to the newspaper in which the public notice is placed and an attested copy shall be placed on file at the Luzerne County Law Library.
F. Within 30 days following the adoption of an amendment to this Chapter, the City Council shall forward a certified copy of the amendment to the Luzerne County Planning Commission.

(Ord. 11-1992, 8/13/1992, §112)

§22-114. Appeals to Court.

Decisions rendered by the Planning Commission may be appealed to a Court of proper jurisdiction in accordance with the procedures, provisions and time limitations as contained in Article X-A of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

(Ord. 11-1992, 8/13/1992, §113)
§22-201. General Interpretation.

Words used in the present tense include the future. Words in the masculine gender include the feminine and the neuter. The singular includes the plural, and the plural the singular. The word "may" is permissive. When used in this Chapter, the following words, terms and phrases shall have the following meanings, unless expressly stated otherwise, or unless the context clearly indicates otherwise:

**ABUT** - next to or adjacent to, and includes the words "directly across from streets, natural features, and right-of-ways."

**ACRE** - 43,560 square feet.

**ADJACENT** - a state of being side by side, next to, adjoining, contiguous or abutting one to another, and includes the words "directly across from streets, natural features, and right-of-ways."

**ADMINISTRATOR** - the person designated by the Planning Commission who is authorized to accept and receive subdivision and land development plans and applications for and on behalf of the Planning Commission.

**ALL** - a public or private right-of-way affording secondary means of access to abutting property.

**APPLICANT** - a landowner or developer who has filed an application for a subdivision or land development, including his heirs, successors and assigns.

**BASE FLOOD ELEVATION** - the highest elevation, expressed in feet above mean sea level, of the flood waters of a 100 year flood, as projected and delineated upon the most recent official Flood Insurance Rate Map, published by the Federal Insurance Administration.

**BLOCK** - a unit of land bounded by streets or by a combination of streets and public land, railroad right-of-ways, waterways or any other barrier to the continuity to development.

**BUILDING** - any structure built for the support, shelter or enclosure of persons, animal or property of any kind.

**BUILDING SETBACK LINE** - the minimum distance as required in the Zoning Ordinance [Chapter 27] between any building or structure, to the front, rear or side property.
CARTWAY - the paved portion of a street or alley designated, intended or capable of being used for vehicular travel.

CATCH BASIN - an inlet designated to intercept and redirect surface stormwater.

CLEAR SIGHT TRIANGLE - an area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of the street center lines.

COMPREHENSIVE PLAN - the most recent comprehensive plan, and any amendments thereto, as adopted by the City of Nanticoke.

CONDOMINIUM - a building, or group of buildings, in which the units are owned individually, while the structure, common areas and facilities are owned by all owners on a proportional and individual basis.

CONSTRUCTION PLANS - the maps or drawings accompanying a subdivision or land development plan and showing the specific location and design of improvements to be installed in accordance with the requirements of this Chapter and in accordance with any terms or conditions as set forth by the Planning Commission.

COUNTY - Luzerne County, Pennsylvania.

COUNTY PLANNING COMMISSION - the Luzerne County Planning Commission.

COVENANT - a restriction on the use of land usually set forth in the deed. A covenant usually runs with the land and the restrictions thereunder are binding upon subsequent owners.

CRITICAL AREA - an area with one or more of the following characteristics:

A. Slopes in excess of 20%.
B. Floodplain and/or wetlands; soils classified as having a high water table.
C. Soils classified as highly erodible, subject to erosion or highly acidic.
D. Soils contaminated with a toxic pollutant.
E. Land incapable of meeting percolation requirements.

CULVERT - a drain, ditch or conduit not incorporated in a closed system that carries storm drainage water under a driveway, roadway or railroad.

DEVELOPER - any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or caused to be made a subdivision of land or a land development.
DEVELOPMENT - any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DEVELOPMENT PLAN - the provisions for development included within an application for a subdivision and/or land development, including all covenants relating to use, location and bulk of buildings and other structure intensity of use or density of development, streets, ways and parking facilities, common open space, easements and public facilities. The phrase "development plan" shall mean the written and graphic materials referred to in this definition.

DISTRICT or ZONING DISTRICT - a portion of the territory of the City within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Chapter.

DRAINAGE -

A. Surface water runoff.

B. The removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development.

DRAINAGE EASEMENT - an easement required for the installation of stormwater sewers or drainage ditches, and/or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility.

DRIVEWAY - a privately owned and constructed vehicular access from an approved private or public road into a lot or parcel having a frontage on the road.

DWELLING - one or more rooms, designed, occupied or intended for occupancy as separated living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a family maintaining a household.

DWELLING, SINGLE-FAMILY - a detached building arranged or used for occupancy by one family.

DWELLING, TWO FAMILY - a detached or semidetached building where not more than two individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.

DWELLING, MULTIPLE - a building containing three or more dwelling units entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.

EASEMENT - a grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.
ENGINEER (CIVIL) - a registered professional civil engineer licensed and registered as such by standards established by the Commonwealth of Pennsylvania.

FINAL APPROVAL - last official action of the Planning Commission granting approval of a subdivision or land development which has been granted preliminary approval, after all conditions and requirements have been met, including as applicable, the installation of all required improvements or the posting of an improvement bond to guarantee the installation of such.

FLOOD - a temporary condition of partial or complete inundation of normally dry land areas occurring from the overflow of inland waters and/or the unusual and rapid accumulation of runoff and surface waters from any source.

FLOOD FRINGE - the portion of a 100 year floodplain outside of the floodway, as delineated upon the most recent Flood Hazard Boundary Maps as published by the Federal Insurance Administration.

FLOOD HAZARD BOUNDARY MAP - the most recent map, as published by the Federal Insurance Administration, which delineates the boundaries of the floodway and flood fringe of a 100 year floodplain.

FLOOD INSURANCE RATE MAPS - the most recent map, as published by the Federal Insurance Administration, which delineates areas of special flood hazards, base flood elevations and applicable risk premium zones of a 100 year floodplain.

FLOODPLAIN (100-YEAR FLOODPLAIN) - areas of land which are subject to inundation by waters of a 100 year flood. The source of delineating the boundaries of a 100 year floodplain shall be based upon the most recent maps of the Flood Insurance Administration.

FLOODPROOFING - a combination of structural provisions, changes or adjustments to properties and structures subject to flooding for the reduction or elimination of flood damage to properties, water and sanitary facilities and other utilities, structures and the contents of buildings.

FLOODWAY - the portion of a 100 year floodplain, as delineated upon the most recent Flood Hazard Boundary Maps as published by the Federal Insurance Administration, which is designated to carry and discharge water and flow of a 100 year flood without increasing the water surface elevation by more than 1 foot at any given point.

GOVERNING BODY - the City of Council of the City of Nanticoke.

GRADE - the slope of a road, street or other public or private way, specified in percentage terms.

GRADING - any stripping, gutting, filling, stockpiling of earth or land, including the land in its cut or filled condition.
HIGHWAY OCCUPANCY PERMIT - a permit, issued by the Pennsylvania Department of Transportation, which authorizes access from a parcel of land onto a street or highway which is under the jurisdiction of the Pennsylvania Department of Transportation.

HOMEOWNERS ASSOCIATION - a community association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space or facilities.

IMPACT ANALYSIS - a study, which may be required by the Planning Commission prior to preliminary or conditional approval of a subdivision or land development, to determine the potential impact of a proposed development on activities, utilities, traffic generation and circulation, surrounding land uses, community facilities, environmental features, critical areas, the health, safety and welfare of residents and other factors directly, indirectly or potentially affected. The landowner and/or applicant shall be responsible for all costs related to any and all reports and/or studies required by the Planning Commission under or within the context of the term "impact analysis." The landowner and/or applicant shall also be responsible to fully reimburse the City for any engineering and/or other consulting fees which are incurred for the review of any required studies or reports.

IMPROVEMENT BOND - financial security which may be accepted by the City in lieu of a requirement that certain improvements be completed by a developer before a plat is approved; including a letter of irrevocable credit, a cash deposit, an escrow agreement or other similar collateral or surety agreements as approved by the Planning Commission upon the advice of its Solicitor and/or that of the City's Solicitor.

IMPROVEMENTS - manmade physical additions, alterations and/or changes which becomes part of, placed upon or is affixed to real estate.

LAND DEVELOPMENT - 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 residential or nonresidential buildings, whether proposed initially or cumulatively, a single nonresidential building on a lot or lots with two or more occupants regardless of their tenure, or a single nonresidential building, designed or intended for a single occupant, with a minimum gross floor area of not less than 10,000 square feet and/or located upon a lot or parcel containing a minimum land area of not less than 1 acre.

B. Any nonresidential use of land, with or without structures, which encompasses 5 or more acres of land.

C. 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.
D. The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into more than three residential units. Any conversion, described above, which results in not more than three residential units shall be deemed as a land development if the units are intended to be a condominium.

E. The development of a mobile home park or the expansion of an existing mobile home park within the context of the definition of said term as contained within this Chapter.

F. A single residential structure containing 10 or more residential units.

**LAND DEVELOPMENT; MAJOR** - a land development which does not qualify or classify as a minor land development.

**LAND DEVELOPMENT; MINOR** - a development of a parcel of land which contains not more than three detached single-family residential structures, whether developed initially or cumulatively.

**LANDOWNER** - the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other persons having a proprietary interest in land, shall be deemed to be a landowner for the purpose of this Chapter.

**LAND SURVEYOR** - a person who is licensed and registered by the Commonwealth of Pennsylvania, which qualifies said person to perform accurate field measurements including the description and definition of land boundaries.

**LOT** - a designated parcel, tract or area of land established by plat, subdivision or as otherwise permitted by law, to be used, developed or built upon as a unit.

**LOT AREA** - the total area within the lot lines of a lot, excluding any street rights-of-way.

**LOT, CORNER** - a lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135°.

**LOT COVERAGE** - that portion of the lot that is covered by buildings and structures.

**LOT DEPTH** - the distance measured from the front lot line to the rear lot line.

**LOT FRONTAGE** - the length of the front lot line measured at the street right-of-way line.

**LOT INTERIOR** - a lot other than a corner lot.
LOT LINE - a line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT - the lot line separating a lot from a street right-of-way.

LOT LINE, REAR - the lot line opposite and most distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot.

LOT LINE, SIDE - any lot line other than a front or rear lot line.

LOT, MINIMUM AREA OF - the smallest lot area established by the Zoning Ordinance [Chapter 27] on which a use or structure may be located in a particular zoning district.

LOT, THROUGH - a lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

LOT WIDTH - the horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

MOBILE HOME - a transportable, single-family dwelling intended for permanent occupancy, and contained in one unit, or two units designed to be joined into one integral unit, 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 with or without a permanent foundation when connected to required utilities.

MOBILE HOME LOT - a parcel of land in a mobile home park, improved with the necessary utility connection and other appurtenances necessary for the erection thereon of a single mobile home, which is leased or rented by the park owner to the occupants of the mobile home erected on the lot.

MOBILE HOME PARK - A site with required improvements and utilities for the long term placement of mobile homes which may include services and facilities for the residents.

MULTIPHASE DEVELOPMENT - a development project that is to be constructed in stages, each stage being capable of existing independently of the others.

MUNICIPALITY - the City of Nanticoke, Luzerne County, Pennsylvania.

NATURAL DRAINAGE FLOW - the pattern of surface and stormwater drainage from a particular site before the construction or installation of improvements or prior to any regrading.
NONCONFORMING LOT - a lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the Zoning Ordinance [Chapter 27], but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

NONCONFORMING STRUCTURE or BUILDING - a structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to the Zoning Ordinance [Chapter 27], but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

NONCONFORMING USE - a use or activity which was lawful prior to the adoption, revision or amendment of the Zoning Ordinance [Chapter 27], but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

OFFICIAL MAP - the City map adopted by ordinance, conclusively showing the location of the lines of existing and proposed public streets, watercourses and public grounds including the widening, narrowing, extension, diminution, opening or closing of the same, for the entire City.

OFFICIAL SOIL MAP - soil survey maps of Luzerne County, as provided by the Luzerne County Conservation District.

OFFICIAL SOILS INTERPRETATION - the written description of soil types and their characteristics and accompanying maps based upon soil survey maps of Luzerne County as provided by the Luzerne County Conservation District.

ONE HUNDRED (100) YEAR FLOOD - a flood that, on the average, is likely to occur once every 100 years and has a 1% chance of occurring each year.

ONE HUNDRED (100) YEAR FLOODPLAIN - the areas within the City that have a 1% chance of being flooded in any given year based upon the most recent data and maps as provided by the Federal Insurance Administration.

OPEN SPACE, COMMON - land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include complementary structures and improvements which are deemed appropriate to the development.

ORDINANCE - this Chapter, and any amendments thereto.

PERSON - an individual, partnership, organization association, trust or corporation. When used in a provision, "person" shall include the members of such partnership, the trustees of such trust, and the officers of such organization association, or corporation.
PLAN OR PLAT - the map or plan of a subdivision or land development:

A. Preliminary Plan. The preliminary drawings and any accompanying data, which accurately shows the proposed layout of lots, streets and other information as required by this Chapter, with all such material being properly indicated in title as "preliminary plan."

B. Final Plan. A complete and exact plan prepared for official recording with the Luzerne County Recorder of Deeds, as required by this Chapter with said plan being properly indicated in title as "final plan."

PLANNING COMMISSION - the Planning Commission of the City of Nanticoke.

PUBLIC HEARING - a formal meeting held pursuant to public notice by the City Council or the Planning Commission, intended to inform and obtain public comment, prior to taking action on a particular subject.

PUBLIC NOTICE - a notice published once each week for 2 successive weeks in a newspaper of general circulation in City. 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 30 days and the second publication shall not be less than seven days from the date of the hearing.

RESUBDIVISION - a change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved therein for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

RETAINING WALL - a structure constructed to hold back or support an earthen bank.

RIGHT-OF-WAY - a defined and designated area for vehicular or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane or alley, and including both cartway and shoulders.

SANITARY SEWER - pipes that carry only domestic or commercial sewage and into which storm, surface and ground waters are not intentionally admitted.

SEDIMENTATION - the depositing of earth or soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

SEPTIC SYSTEM - an underground system with a septic tank used for the decomposition of domestic wastes, in which bacteria in the wastes decompose the organic matter and the sludge settles to the bottom. The effluent flows through drains into the ground. Sludge is pumped out at regular intervals.
SEPTIC TANK - a watertight receptacle that receives the discharge of sewage from a building, sewer or part thereof, and is designed and constructed so as to permit settling of solids from this liquid, digestion of the organic matter, and discharge of the liquid portion into a disposal area.

SEWAGE DISPOSAL SYSTEM; CENTRAL - a means of collecting sanitary sewage from individual lots by a system of pipes which transports the sewage to a central treatment and disposal system, with all aspects of the system being constructed and operated in compliance with all governing Federal, State, County and City regulations.

SEWAGE DISPOSAL SYSTEM; ONLOT - a structure designed to biochemically treat sewage within the boundaries of an individual lot.

SITE - a plot or parcel of land or combination of contiguous lots or parcels of land.

SOIL EROSION AND SEDIMENTATION CONTROL PLAN - a plan that indicates necessary land treatment measures, as approved by the Luzerne County Conversation District, designed to effectively minimize soil erosion and sedimentation.

STORM SEWER - a pipe that collects and transports rainwater, surface water and other liquid waste exclusive of sewage.

STREET - a public or private thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, parkway, drive, lane, boulevard, highway, road and alley.

    ARTERIAL - designed primarily to carry traffic and generally should not provide access to land which would interfere with their primary traffic functions. They are also designed for medium to heavy volumes at moderately high speeds with restricted vehicular access to abutting properties.

    COLLECTOR STREET - designed to carry a moderate volume of traffic between local streets and arterials and provide only limited vehicular access to the abutting properties.

    LOCAL STREET - provide direct access to abutting properties and provide routes to collector streets.

    CUL-DE-SAC - a minor or local street with a single common ingress and egress and with a turnaround located at its end.

    DEAD END STREET - a street with a single common ingress and egress.

    LIMITED ACCESS - a street designed to carry a high volume of traffic and usually designated as an expressway, freeway, highway or boulevard.

Owners
or occupants of abutting property normally have no expressed or legal right to access to or from the same.

**SUBDIVISION** - the division or redividing 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 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**SUBDIVISION, MAJOR** - any subdivision which does not qualify or classify as a minor subdivision.

**SUBDIVISION, MINOR** - a subdivision of a parcel of land into not more than six lots, which has frontage along an existing street, which does not adversely affecting the remainder of the parcel or adjoining property, and not involving or requiring any of the following:

1. The extension or improvement of any street.
2. The extension of any municipal facilities or public utilities.
3. The construction of any improvements required in the subdivision of land or to service or otherwise provide access to lots within a proposed subdivision.

**SUBSTANTIALLY COMPLETED** - the point at which, in the judgment of the municipal engineer, at least 90% of those improvements required as a condition for final approval, based upon the cost of the posted financial security, 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.

**STRUCTURE** - any manmade object having an ascertainable stationary located on or in land or water, whether or not affixed to the land.

**WATERCOURSE** - a permanent or intermittent stream, river, brook, creek or channel or ditch for collection and conveyance of water, whether natural or manmade.

**WATER TABLE** - the upper surface of groundwater, or that level below which the soil is seasonally saturated with water.

**WETLANDS** - those areas that are inundated or saturated by surface or groundwater 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 and similar areas. The term includes, but is not limited to, wetlands areas listed in the State Water Plan,
the United States Forest Service Inventory of Pennsylvania, the Pennsylvania Costal Management Plan and any wetland area designated by a river basin commission.

**YARD** - an open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard is unoccupied and unobstructed from the ground upward except as may be specifically provided in the Zoning Ordinance [Chapter 27].

**FRONT YARD** - a space extending the full width of the lot between any building and the front lot line, and measured perpendicular to the building at the closest point to the front lot line.

**REAR YARD** - a space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

**SIDE YARD** - a space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building.

**ZONING OFFICER** - an administrative officer authorized to administer the literal terms and provisions of the Zoning Ordinance [Chapter 27].

**ZONING ORDINANCE** - the Zoning Ordinance [Chapter 27] of the City of Nanticoke. [*Ord. 16-2004*]

**ZONING PERMIT** - a permit issued indicating that a proposed use, building or structure is in accordance with the Zoning Ordinance [Chapter 27] which authorizes an applicant to proceed with said use, building, or structure.

PART 3

PROCEDURAL REQUIREMENTS

§22-301. Review and Approval Process.

The submission and review process for subdivision and land development applications shall be in accordance with the following:

A. Major subdivision shall require the submission and approval of a preliminary plan and a final plan.

B. Minor subdivision shall require the submission and approval of only a final plan, in accordance with the provisions as set forth in Part 6 of this Chapter.

C. Major land development shall require the submission and approval of a preliminary plan and a final plan.

D. Minor land development shall require the submission and approval of only a final plan, in accordance with the provisions as set forth in Part 6 of this Chapter.

(Ord. 11-1992, 8/13/1992, §300)


The applicant shall provide the following information to the Administrator not less than 21 days prior to the next regularly scheduled meeting of the Planning Commission:

A. Twenty prefolded copies of the plan (preliminary or final).

B. Twenty refolded copies of construction plans (if applicable).

C. A completed subdivision application and five copies of the same.

D. A completed planning module, if applicable, as required by the Pennsylvania Department of Environmental Protection and five copies of the same. [Ord. 16-2004]

(Ord. 11-1992, 8/13/1992, §301; as amended by Ord. 16-2004, 12/1/2004, §1)

§22-303. Distribution of Plans.

1. The Planning Commission shall retain five copies of the plan (preliminary or final), five copies of construction plans, a copy of the application, and a copy of the planning module.
2. A copy of the plan (preliminary or final), the construction drawings, the application and the planning module shall be provided to the Mayor and Council.

3. A copy of the plan (preliminary or final), a copy of the application and a copy of construction plans and the planning module, as applicable, shall be provided to the following agencies and officials for review, comment and approval, as applicable:
   
   A. The Luzerne County Planning Commission.
   B. The City Zoning Officer.
   C. The City Engineer.
   D. The Pennsylvania Department of Environmental Protection. [Ord. 16-2004]
   E. The City Solicitor.
   F. The Solicitor to the Planning Commission.
   G. The Luzerne County Conservation District.
   H. The consultant to the City Planning Commission

4. The applicant shall be responsible to insure that copies of the plan and supporting material are provided to all applicable utility companies intended to service the site.

(Ord. 11-1992, 8/13/1992, §302; as amended by Ord. 16-2004, 12/1/2004, §1)


The Planning Commission shall not approve any subdivision or land development plans or application until the written comments and recommendation of the Luzerne County Planning Commission are received or until the expiration of 30 days from the date said plans and application were forwarded to the Luzerne County Planning Commission. The applicant shall pay the review fee required by the Luzerne County Planning Commission.

(Ord. 11-1992, 8/13/1992, §303)

§22-305. Public Hearing.

The Planning Commission may hold a public hearing prior to rendering a decision on any plan (preliminary or final).

(Ord. 11-1992, 8/13/1992, §304)

§22-306. Installation or Guarantee of Required Improvements.

Prior to approving the final plan of a major subdivision or a major land development in which the approval was conditioned upon specific improvements, the Planning Commission shall require the following of the applicant:
A. The installation of all required improvements in accordance with the design standards and specifications of this Chapter.

B. Provision of a form of financial security, acceptable by the Planning Commission, which assures and guarantees the subsequent installation of all required improvements in accordance with the design standards and specifications of this Chapter.

(Ord. 11-1992, 8/13/1992, §305)


1. The Planning Commission shall approve or reject a submitted plan (preliminary or final) within 90 days following the date of the Planning Commission’s regular meeting at which said plan is first reviewed. Should the regular meeting date occur more than 30 days following the date of submission of said plan, the 90-day period shall be measured from the thirtieth day following the date on which the plan was properly submitted to the City.

2. The Planning Commission shall communicate its decision to the applicant in writing either by delivery in person or by mail to applicant’s last known address not later than 15 days following the decision.

3. When an application and plan (preliminary or final) is not approved as submitted, the Planning Commission’s decision shall specify the defects found in such, and describe the requirements which have not been met and shall, in each case, cite the provisions of the statute or ordinance relied upon.

4. In granting approval to a plan, preliminary or final, which is subject to specific conditions, the Planning Commission shall include in their notification that the applicant, may notify the Planning Commission of his refusal to accept all said conditions in writing. In such cases, the Planning Commission’s conditional approval shall be deemed rescinded upon receipt of the applicant’s written notification. In the event the applicant fails to notify the Planning Commission of his refusal to accept all said conditions within the 30-day time period, all conditions shall stand granted and deemed accepted by the applicant.

5. As prescribed by the Pennsylvania Municipalities Planning Code, Act 247, as amended, failure of the Planning Commission to render a decision and communicate said decision to the applicant as set forth in this section shall be deemed approval of the plan as submitted, unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of communication of the decision.

(Ord. 11-1992, 8/13/1992, §306)

§22-308. Withdrawal and/or Revisions to Submitted Plans.

Until a submission is approved or rejected by the Planning Commission, the applicant may withdraw by written notice the submission and submit a revised plan following the
submission and review procedures which apply to the plan. If a revised plan is submitted within 120 days from the date of withdrawing said plan, no additional submission fee shall be charged by the City for the first revision. Failure to resubmit a revised plan within said period of time, or a second revision and any subsequent revision shall be considered a new submission for which a new submission fee shall be required. The Planning Commission shall have the discretion to require a revised plan to be subject to additional review and comment procedures under §22-303(3) of this Part, with the applicant responsible for payment of any applicable fees.

(Ord. 11-1992, 8/13/1992, §307)

§22-309. Recording of Final Plan.

1. The applicant shall record the final plan as approved by the Planning Commission in the Office of the Recorder of Deeds of Luzerne County within 90 days of such final approval, unless an extension has been granted in writing by the Planning Commission. Failure by the applicant to record the final plan within the 90 days, or an approved extension of the time period, will result in the Planning Commission's approval becoming null and void. The final plan for recording shall comprise all plans submitted for final approval.

2. A final plan shall not be submitted for recording within the Recorder of Deeds Office unless it bears the signature of the Planning Commission's Chairman and Secretary and bears appropriate signature and/or seal that it has been reviewed by the Luzerne County Planning Commission.

3. Within 14 days from the date on which the final plan is recorded, the applicant shall furnish to the Planning Commission a copy of a certificate or receipt attesting to the recording of the final plan in the Recorder of Deeds Office.

(Ord. 11-1992, 8/13/1992, §308)

§22-310. Phasing Major Subdivision Plans.

Prior to granting final approval of a major subdivision plan, the Planning Commission may permit the plan to be divided into two or more sections or phases and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the plan. The Planning Commission may require that the financial security be in such amount as is commensurate with the section or sections of the plan to be filed and may defer the remaining required financial security principal amount until the remaining sections of the plan are offered for filing. The developer may also file in writing irrevocable offers to dedicate streets and public improvements in the sections offered to be filed and defer filing offers of dedication for the remaining sections until such sections, subject to any conditions imposed by the Planning Commission shall be granted concurrently with final approval of the plan.

(Ord. 11-1992, 8/13/1992, §309)
PART 4
PRELIMINARY PLAN

§22-401. Initial Review.

The Planning Commission shall review the preliminary plan to determine its completeness with regard to the standards, provisions, and requirements of this Chapter. Any submission which is found to be incomplete shall be deemed to be invalid. The Planning Commission shall notify the applicant in writing as to the nature and type of additional information which the applicant must submit.

(Ord. 11-1992, 8/13/1992, §400)

§22-402. Review by Luzerne County Planning Commission.

The Planning Commission shall not approve a preliminary plan until a report is received from the Luzerne County Planning Commission or until the expiration of 30 days from the date it was forwarded to the Luzerne County Planning Commission.

(Ord. 11-1992, 8/13/1992, §401)


The Planning Commission shall consider all official reports, comments and recommendations as provided in §22-303(3) of this Chapter. The Planning Commission shall render a decision in conformance with §22-307 of this Chapter. The following constitutes the types of action the Planning Commission may take:

A. The Planning Commission may disapprove the preliminary plan, in which case it shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite the provisions of this Chapter relied upon.

B. Planning Commission may conditionally approve the preliminary plan, in which case it shall specify all additional information or changes needed, describing the requirements that have not been met, citing in each case, the provisions of this Chapter which were relied upon. The additional information or changes shall be required prior to further consideration of the preliminary plan or the submission of the final plan. In granting conditional preliminary approval, the Planning Commission shall include in their notification that the applicant, within 30 days from the date of conditional approval, may notify the Planning Commission of his refusal to accept all said conditions. Such notification shall be in writing. In such cases, the Planning Commission's conditional approval shall be deemed rescinded upon receipt of the applicant’s
written notification. In the event that the applicant fails to notify the Planning Commission of his refusal to accept all said conditions within 30 days from the date of conditional approval, all conditions shall stand granted and deemed accepted by the applicant.

C. The Planning Commission may approve the preliminary plan. Such approval shall constitute approval of the subdivision or land development as to the character and intensity of development, the arrangement and approximate dimensions of streets, lots, and other planned features. The approval binds the applicant to proceed with the installation of the required improvements and/or to provide a financial security to cover installation of improvements, and to prepare the final plan. Approval of the preliminary plan, when a financial security is not posted, does not authorize the sale of lots or the recording of the preliminary plan. The Planning Commission shall render a decision in conformance with §22-307 of this Chapter.

(Ord. 11-1992, 8/13/1992, §402)

§22-404. Preliminary Plan Drafting Standards.

1. The preliminary plan of a proposed subdivision or land development shall be clearly and legibly drawn to a scale not greater than 1 inch equals 50 feet if the subject site is 2 or more acres of land; for site less than 2 acres, a scale of 1 inch equals 10 feet shall apply.

2. The original drawing, and all submitted prints thereof shall be made on a sheet size 22 inches by 36 inches.

3. All dimensions shall be set in feet and decimal parts thereof, and bearings in degrees, minutes and seconds.

4. If the preliminary plan requires more than one sheet, a key diagram showing relative location of the several sections shall be drawn on each sheet, and appropriately labeled with match lines.

5. Preliminary plans shall be so prepared and shall bear an adequate legend to indicate clearly which features are existing and which are proposed.

(Ord. 11-1992, 8/13/1992, §403)

§22-405. Preliminary Plan; Exiting Conditions.

The preliminary plan shall contain the following information:

A. Name and address of record owner, including certification of ownership which carries a notarial seal.
B. Name and address of applicant if different from owner.

C. Name of proposed subdivision or land development.

D. Name and address of registered engineer, or registered land surveyor, responsible for the subdivision plan or land development plan, including certification of the accuracy of the plan and its conformance to the provisions of this Chapter.

E. North point, graphic scale and date including the month, day and year that the original drawing was completed and the month, day and year that the original drawing was revised for each revision.

F. Total tract boundaries of the property being subdivided, showing bearings and distances and total size of the property, expressed in acreage and square feet.

G. The names of all adjoining landowners, including block and lot numbers from the Luzerne County Assessor's Office.

H. All existing streets, including streets of record (recorded but not constructed) on or abutting the tract, including names, right-of-way widths, cartway (pavement) widths and approximate grades.

I. All existing sewer lines, water lines, fire hydrants, utility transmission lines, utility easements, or utility right-of-ways, culverts, storm drains, bridges, railroad, watercourses and other significant manmade or natural features within the proposed subdivision or land development and within 100 feet from the boundaries of the proposed subdivision or land development.

J. All existing building or structures within the boundaries of the proposed subdivision or land development.

K. The zoning district or districts within which the proposed subdivision or land development is located.

L. Existing contour lines at vertical intervals of 2 feet.

M. The location width and purpose of existing easements and utility right-of-ways within 100 feet of the proposed subdivision or land development.

N. A location map at a scale of not greater than 1 inch equals 2,000 feet, indicating the relation of the site to its geographic proximity within the City.

Ord. 11-1992, 8/13/1992, §404)

§22-406. Preliminary Plans; Prohibited Development.

The preliminary plans shall contain and include the following information:
A. Lot layout and related features which shall indicate and provide:

(1) The total number of lots, with identification numbers, proposed for the site.

(2) The dimensions and area of all lots, expressed in either square feet or acres.

(3) The building setbacks for all lots along each street, or in the case of a land development, the proposed placement of each building along each street, and the proposed use of each building.

(4) Proposed open space, parks, playgrounds or recreational facilities, with any governing conditions thereof.

(5) Watercourses, lakes, wetlands, forested areas and 100 year floodplains.

(6) Copies of proposed deed restrictions, easements and protective covenants referenced on the plan.

(7) Proposed contour lines at vertical intervals of 2 feet of the entire site.

(8) Location, width and purpose of proposed easements and utility right-of-way.

B. Street and right-of-way layout which shall indicate and/or provide:

(1) The location of all proposed streets and existing streets (public and private) within the site and abutting or adjoining the site.

(2) The location, right-of-way and cartway of all proposed streets, with a statement of any condition governing their use and the right-of-way and cartway of any existing streets (public or private) to which the proposed street will intersect.

(3) Suggested street names and location of street signs.

(4) The beginning and end point of proposed street construction.

(5) Location, width and purpose of proposed easement and utility right-of-way.

(6) The location of street lighting.

(7) The location of sidewalks.

C. All subdivisions and/or land developments shall be serviced by sanitary sewers which shall be connected to public sewers. The developer shall provide a letter.
of commitment from the Wyoming Valley Sanitary Authority providing notice that said Authority can adequately serve the proposed subdivision or land development and accept the conveyance of sewage for treatment and disposal, including any conditions required for the provision of service. If applicable, written approval from any adjoining municipality regarding the conveyance of sewage into their system to access intended conveyance of sewage to facilities of the Wyoming Valley Sanitary Authority shall also be required. The following information shall be provided upon the plan:

(1) The layout, site and material of sanitary sewers within the site.

(2) Location of manholes with invert elevation of flow line and grade at the top of each manhole.

(3) Location of laterals.

D. Subdivisions or land developments shall be serviced by a centralized water system shall indicate and/or provide the following:

(1) If to be served by an existing water company or Authority, a letter from the same indicating said company or authority can adequately serve the proposed subdivision or land development, including any conditions required for the provision of service.

(2) Location and size of all waterlines.

(3) Location of fire hydrants.

E. Storm drainage shall indicate and/or provide:

(1) The location, size and material of all storm drainage facilities.

(2) Watershed areas for each drainage facility or swale.

F. A letter from the applicable public utility company which provides electrical service and/or gas service to the City, indicating said company can and shall adequately serve the proposed subdivision or land development, including any conditions required for the provision of service.

(Ord. 11-1992, 8/13/1992, §405)


The following material and information shall be submitted with the preliminary plan:

A. Proof of ownership.
B. Preliminary plan application and required fee.

C. The required fee for Luzerne County Planning Commission review.

D. A copy of the application for a highway occupancy permit, if applicable, as required by the Pennsylvania Department of Transportation.

E. Construction plans which include, where applicable, preliminary design, preliminary profiles, typical cross-sections and specifications for the construction or installation of streets, sidewalks, sanitary sewers, underground utilities, storm drainage facilities, water lines, bridges or culverts.

F. Five copies of a Planning Module for Land Development as required by the Pennsylvania Department of Environmental Protection. [Ord. 16-2004]

G. A copy of the application and drawings required by the Luzerne County Conservation District for approval of appropriate soil erosion and sedimentation control plan.

H. Estimated costs by item for required improvements in accordance with §22-704 of this Chapter.

I. Any other information deemed necessary by the Planning Commission including, but not limited to, any impact analysis, as defined in Part 2 of this Chapter.

J. An executed written agreement under which the applicant agrees to fully reimburse the City for any and all consulting fees incurred resulting from the review of plans, applications and supporting information, data and/or reports or studies.

(Ord. 11-1992, 8/13/1992, §406; as amended by Ord. 16-2004, 12/1/2004, §1)
**PART 5**

**FINAL PLAN**


1. The Planning Commission shall review the final plan to determine its completeness including, but not limited to, conformance with the standards and data as set forth in Part 4 and any changes or modifications required by the Planning Commission as a condition of granting approval of the preliminary plan.

2. The applicant shall submit the final plan within 1 year from the date of the approval of the preliminary plan by the Planning Commission, unless an extension in writing has been approved by the Planning Commission. Failure to comply with the 1 year time requirement, shall render the preliminary plan and any accompanying approval as null and void, thus requiring a new submission of the preliminary plan.

*(Ord. 11-1992, 8/13/1992, §500)*


The Planning Commission shall render a decision in conformance with §22-307 of this Chapter. The following constitutes the types of action the Planning Commission may take:

A. The Planning Commission may disapprove the final plan, in which case it shall specify the defects found in the application and plan, describing the requirements which have not been met and in each case citing the provisions of this Chapter relied upon.

B. The Planning Commission may conditionally approve the final plan, in which case it shall specify all additional information or required changes, describing the requirements that have not been met, citing in each case, the provisions of this Chapter which were relied upon. Such additional information or changes shall be required prior to further consideration of the final plan or filing the final plan with the Luzerne County Recorder of Deeds Office. In granting conditional approval of the final plan, the Planning Commission shall include in their notification that the applicant, within 30 days from the date of conditional approval, may notify the Planning Commission of his refusal to accept all said conditions in writing. In such cases, the Planning Commission’s conditional approval shall be deemed rescinded upon receipt of the applicant’s written notification. In the event that the applicant fails to notify the Planning Commission of his refusal to accept all said conditions within 30 days from the date of conditional approval, all conditions shall stand granted and deemed accepted by the applicant.
C. The Planning Commission may approve the final plan as submitted. Such approval by the Planning Commission shall allow the applicant to file said final plan with the Luzerne County Recorder of Deeds Office.

(Ord. 11-1992, 8/13/1992, §501)

§22-503. Final Plan Drafting Standards.

The final plan of a proposed subdivision or land development shall be in accordance with the standards as set forth in §27-405 of this Chapter.

(Ord. 11-1992, 8/13/1992, §502)

§22-504. Final Plan Requirements.

The final plan shall include all additional information and changes required by the Planning Commission in granting approval of the preliminary plan and all of the following:

A. Drawings and/or plans shall be titled "Final Plan - Major Subdivision."

B. An accurate field boundary survey of the entire site which shall be balanced and close with an error of closure not to exceed 1 foot in 5,000 feet.

C. The location and material of all permanent monuments and lot markers.

D. Written certification by the responsible land surveyor, which attests to the accuracy of the survey and compliance with the applicable provisions of this Chapter.

E. A 3 inch by 5 inch blocked space shall be provided on the final plan for the signatures of the Chairman and Secretary of the City Planning Commission indicating approval and date of the same. A separate 3 inch by 5 inch blocked space shall also be provided on the final plan for the appropriate signature and/or seal which indicates the final plan was reviewed by the Luzerne County Planning Commission.

F. The latest source of title to the property as shown by deed, page number and book of the Luzerne County Recorder of Deeds Office.

G. The exact dimensions of all streets, including right-of-way and cartway; lot lines, areas and distances; utility and other easements; and all land to be dedicated to public use.

H. All lot lines shall be completely dimensioned in feet if straight, and if curved, by designating length of arc and radius (in feet) and central angle (in degrees,
minutes and seconds). All internal angles within the lots shall be designated to the closest second.

I. The zoning district and the proposed building setback line or the proposed placement of each building shall be shown, and where corner lots are involved, the setbacks on both streets shall be shown.

(Ord. 11-1992, 8/13/1992, §503)

§22-505. Additional Material; Submitted With Final Plan.

The following material and information shall be submitted with the final plan:

A. Certification of ownership, certification of plan’s compliance with all applicable terms and conditions provided by this Chapter and/or the Planning Commission and any offer of dedication, if applicable, signed by the owner of the property and notarized.

B. Final application and required fee.

C. If applicable, a copy of the highway occupancy permit, as required by the Pennsylvania Department of Transportation and/or a noted condition upon the plan that no development or improvement to the site or parcels thereunder shall be undertaken until a highway occupancy permit is secured.

D. Copies of final deed restrictions, those existing and those to be included upon recording, if any.

E. All final covenants running with the land governing the reservation and maintenance of dedicated or undedicated land or open space.

F. Written certification from the Pennsylvania Department of Environmental Protection approving the required planning module and supporting accompanying data. [Ord. 16-2004]

G. Written certification from the Luzerne County Conservation District approving the soils erosion and sedimentation control plan.

H. Final construction plans or as built drawings of all sanitary sewer, water distribution and storm drainage systems, showing their exact location, size and invert elevations; the location of all manholes, inlets and culverts; and final profiles, cross-sections and specifications for proposed streets, sidewalks, sanitary sewers, water distribution systems and storm drainage systems.

I. If any streets are not offered for dedication to public use, the applicant shall submit and record with the plan a copy of the agreement made and executed on behalf of the applicant, including his heirs or assigns, subject to review and
approval by the City Solicitor and the Planning Commission Solicitor, establishing the conditions under which the streets may be later offered for dedication. Said conditions shall include, although not limited to, that the subject streets shall conform to the City's design specifications at such time the offer of dedication is made or that the owners of the lots within the subject subdivision shall include with their offer of dedication sufficient funds, as estimated by the City Engineer, to provide the needed improvements required for conformance to the City's design specifications at the time of such dedication.

J. An agreement for any streets not offered for dedication, stating who shall be responsible for the improvements and maintenance of such streets. If a homeowners association is deemed to be responsible, such association must be legally organized prior to approval of the final plan.

K. A financial security for the installation of required improvements, unless all such improvements are installed and completed to design specifications prior to final plan approval.

L. A financial security, if required by the Planning Commission for the maintenance of improvements.

M. The cost of all consulting fees and costs incurred by the City for the review of the application, plan and supporting information, data and/or reports or studies including, but not limited to, any required impact analysis and site inspections to insure compliance with the terms of approval and required improvements.

(Ord. 11-1992, 8/13/1992, §504; as amended by Ord. 16-2004, 12/1/2004, §1)
PART 6

MINOR SUBDIVISION/LAND DEVELOPMENT

§22-601. Only Final Plan Required.

The classification of a proposed subdivision as a minor subdivision shall only require the submission, review and approval of only a final plan. A land development classified as a minor land development, shall only require the submission, review and approval of only a final plan.

(Ord. 11-1992, 8/13/1992, §600)

§22-602. Submission Procedure.

The submission procedure for a minor subdivision or minor land development shall be in accordance with §22-302 of this Chapter.

(Ord. 11-1992, 8/13/1992, §601)

§22-603. Distribution of Plan.

The distribution of a minor subdivision plan or minor land development plan shall be in accordance with §22-303 of this Chapter.

(Ord. 11-1992, 8/13/1992, §602)


1. The final plan for a proposed minor subdivision or minor land development shall be clearly and legibly drawn to a scale of not greater than 1 inch equals 10 feet.

2. The original drawing, and all submitted prints thereof shall be made on a sheet size of 22 inches by 36 inches or 24 inches by 36 inches.

(Ord. 11-1992, 8/13/1992, §603)

§22-605. Requirements for Minor Plans.

The final plan shall be noted as "minor subdivision final plan" or "minor land development final plan" and contain the following information:
A. Name and address of record owner, including certification of ownership which carries a notarial seal.

B. The name and address of the applicant, if different from owner.

C. Name of proposed subdivision or land development.

D. Name and address of registered engineer and/or registered land surveyor, responsible for the subdivision plan or land development plan, including certification of the accuracy of the plan for an error of closure not to exceed 1 foot in 5,000 feet and its conformance to the applicable provisions of this Chapter.

E. North point, graphic scale and date, including the month, day and year that the original drawing was completed and the month, day and year that the original drawing was revised for each revision.

F. Total tract boundaries of the property being subdivided and/or developed, showing bearings and distances, and total size of the property, expressed in acreage and square feet.

G. The total number of proposed lots, within a subdivision, with identification numbers for each or for a land development, the location of buildings upon the lot with identification numbers for each.

H. The dimensions and area of all lots, expressed in either square feet or acres.

I. The required yard setbacks and the proposed yard setbacks for all lots along each street or in the case of a land development, the proposed placement of each building along each street and the proposed use of each building.

J. The zoning district or districts in which the property is located.

K. The location and dimensions of all existing structures, including accessory structures and off-street parking areas upon the subject property.

L. The distance of all existing structures to lot lines, front, rear and side, which will result upon approval of the plan.

M. The names of all adjoining property owners, including block and lot numbers from the Luzerne County Assessors Office.

N. All existing streets, public or private, including streets of record (recorded but not constructed) on or abutting the subject tract, including their names and right-of-way widths.

O. All existing sewer lines, water lines, fire hydrants, utility transmission lines, utility easements or right-of-ways, culverts, storm drains, bridges, railroad
right-of-ways, watercourses and other significant manmade or natural features located within or abutting the boundaries of the proposed subdivision or land development.

P. Existing contours, and if applicable, proposed contours at vertical intervals of 5 feet.

Q. All easements, existing and/or proposed, including their location, dimensions and purpose.

(Ord. 11-1992, 8/13/1992, §604)

§22-606. Information to be Submitted with Plan.

The following information, as applicable, shall be submitted with the final plan of a minor subdivision or minor land development:

A. Proof of ownership.

B. Application for minor subdivision plan or minor land development plan, and the required fee.

C. Required fee for Luzerne County Planning Commission review.

D. A highway occupancy permit, as required by the Pennsylvania Department of Transportation or a notation upon the plan that no development or improvement to the site or parcels thereunder shall be undertaken until a highway occupancy permit is secured.

E. A letter of commitment from an existing water company or authority, indicating the same can and shall adequately serve the proposed subdivision or land development, including any conditions for the provision of service.

F. A letter of commitment from the Wyoming Valley Sanitary Authority that said Authority can and shall adequately serve the proposed subdivision or land development and accept the conveyance of sewage for treatment and disposal, including any conditions required for the provision of service.

G. A letter of commitment from the applicable public utility company which provides electrical service and/or gas service to the City, indicating said company can and shall adequately serve the proposed subdivision or land development, including any conditions required for the provision of service.

H. Copies of deed restrictions, those existing, and those to be included upon recording of plan.
I. Copies of description of easements, existing easements of record and any additional ones to be included upon recording of plan.

J. The cost of all consulting fees incurred by the City for the review of the application, plans and supporting information, data and/or reports or studies including, but not limited to, any required impact analysis and site inspections of the property to insure compliance with the terms of approval and required improvements.

K. An appropriate soil erosion and sedimentation control plan, approved by the Luzerne County Conservation District.

L. Any other information as requested by the Planning Commission.

(Ord. 11-1992, 8/13/1992, §605)

§22-607. Recording of Plan.

The applicant shall record the final plan in accordance with the requirements as set forth in §22-309 of this Chapter.

(Ord. 11-1992, 8/13/1992, §606)

§22-608. Certain Exemptions for Providing Side Yard Setbacks.

Any existing structure which contains two or more units, residential or nonresidential, shall be exempted from the governing side yard setback requirements under the Zoning Ordinance [Chapter 27] relative only to interior side yards. When a side yard of a proposed subdivision is directly attached to another unit within the structure, subdivision approval by the Planning Commission shall exempt the property from requesting and/or securing an interior side yard variance from the Zoning Hearing Board.

(Ord. 11-1992, 8/13/1992, §607)
PART 7

ASSURANCES FOR COMPLETION OF IMPROVEMENTS

§22-701. Installation or Guarantee of Improvements.

No plan shall be granted final approval until the applicant either:

A. Installs all improvements as required by this Chapter in accordance with the applicable design standards.

B. Posts a form of financial security, acceptable to the Planning Commission, which shall be of sufficient amount to fully cover the costs of all required improvements in accordance with the applicable design standards.

(Ord. 11-1992, 8/13/1992, §700)


1. A financial guarantee which shall be deemed as acceptable financial security for the purposes of this Chapter shall include:

A. An unconditional and irrevocable letter of credit with authorization for drawing upon by the City of Nanticoke in the event of default or failure by the developer or applicant to complete the installation of required improvements.

B. A restrictive escrow account.

C. Other types of financial security which the City may approve, which approval shall not be unreasonably withheld.

2. Such financial security shall be with a lending institution which is chartered by the Federal government or the Commonwealth of Pennsylvania or with a bonding company which is legally authorized to conduct such business within the Commonwealth of Pennsylvania.

(Ord. 11-1992, 8/13/1992, §701)

§22-703. Legal Review.

The financial guarantee shall be submitted to the City’s Solicitor and the Solicitor to the Planning Commission for their review not less than 14 days prior to the public meeting at which the plan will be submitted for final approval.

(Ord. 11-1992, 8/13/1992, §702)

The amount of financial security to be posted for the completion of required improvements shall be equal to 110% of the cost of completion, estimated as of 90 days following the scheduled completion date. The amount of the required financial security shall be based upon a written estimated cost of completion of required improvements, submitted by the developer or applicant, and prepared by a professional engineer, licensed as such by the Commonwealth. Said engineer shall certify in writing that his estimated cost for the completion of the required improvements is a fair and reasonable estimate. The Planning Commission, upon the recommendation of the City Engineer, may for good cause shown, refuse to accept the developer's estimated cost. In cases where the City and the developer or applicant are unable to agree on an estimate, then the estimate shall be recalculated and recertified by another licensed professional engineer, mutually accepted by the City and the developer or applicant. The estimate certified by the third party engineer, being presumed fair and reasonable, shall be deemed the final estimate. In the event that the third party engineer is chosen, the cost of his services shall be paid equally by the City and the developer or applicant.

(Ord. 11-1992, 8/13/1992, §703)

§22-705. Required Time Period for Completion.

1. The financial security shall provide for, and secure to the public the completion of the required improvements within 1 year of the date fixed on the final plan for the completion of such improvements.

2. If the applicant in posting the financial security requires more than 1 year from the date of posting the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each 1 year period beyond the anniversary date from posting of the financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or before the expiration of the preceding 1 year period.

(Ord. 11-1992, 8/13/1992, §704)

§22-706. Phasing of Development.

In the case where development is projected over a period of years, the Planning Commission may authorize the submission of final plans by sections or phases of development subject to such requirements or guarantees as to improvements in future sections or phases of development as it finds essential for the protection of any finally approved section of the development.

(Ord. 11-1992, 8/13/1992, §705)


1. As the work of installing the required improvements proceeds, the party may request the Planning Commission to release or authorize the release, from time to time, of
such portions of the financial security necessary for payment to the contractor or contractors performing the work.

2. Any such request shall be in writing addressed to the Planning Commission, and the Commission shall have 45 days from receipt of such request within which to allow the City Engineer to certify in writing to the Planning Commission that such portion of the work upon the improvements has been completed in accordance with the approved plan.

3. Upon such certification the Planning Commission shall authorize release by the bonding company or lending institution of an amount as estimated by the City Engineer as fair in representing the value of the completed improvements. Failure of the Planning Commission to act within the said 45 day period shall be deemed an approval of the release of the funds requested.

4. The Planning Commission may, prior to final release at the time of completion and certification by its Engineer, require retention of 10% of the estimated cost of the aforesaid improvements.

(Ord. 11-1992, 8/13/1992, §706)


1. Where the City accepts dedication of all or some of the required improvements following completion, it may require the posting of financial security to secure the structural integrity of said improvements in accordance with the design and specifications as shown on the final plan for a term not to exceed 18 months from the date of acceptance of dedication.

2. Said financial security shall be of the same type as otherwise required in §22-702 of this Part 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.

(Ord. 11-1992, 8/13/1992, §707)


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 which is separate and distinct from the City, the 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 Section.

(Ord. 11-1992, 8/13/1992, §708)
§22-710. Issuance of Permits When Financial Security Has Been Posted.

1. If financial security has been provided in lieu of the completion of improvements required as a condition for final approval as set forth in this Part, the City shall not condition the issuance of zoning, building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as shown on the final plan upon actual completion of the improvements shown on the approved final plan.

2. If a financial security has been provided occupancy permits for any building or buildings 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 permanently passable condition, as well as the completion of all other improvements as shown on the approved final plan, either upon the lot or lots beyond the lot or lots in question, if such improvements are deemed necessary for the reasonable use or occupancy of the building or buildings.

(Ord. 11-1992, 8/13/1992, §709)

§22-711. Completion of Required Improvements.

1. When the applicant has completed all of the necessary and required improvements, the applicant shall notify the Planning Commission in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the City Engineer.

2. The Planning Commission shall, within 10 days after receipt of such notice, direct and authorize the City Engineer to inspect all the aforesaid improvements. The City Engineer shall thereupon submit a report, in writing to the Planning Commission, and shall promptly mail a copy of the same to the developer. The report by the City Engineer shall be made and mailed within 30 days from the aforesaid authorization from the Planning Commission.

3. The report shall be detailed and shall indicate, approval or rejection of said improvements, either in whole or in part. If said improvements, or any portion thereof be rejected, said report shall contain a statement of the reasons for such rejection.

4. The Planning Commission shall notify the developer, in writing, within 15 days of receipt of the City's Engineer's report, by certified or registered mail, of the action of the Planning Commission with relation thereto.

5. If the Planning Commission or the City Engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved, and the applicant shall be released from all liability, pursuant to its performance guarantee bond or other security agreement.

(Ord. 11-1992, 8/13/1992, §710)
§22-712. **Responsibility of Applicant Upon Disapproval of Improvements.**

If any portion of the said improvements are not approved or are rejected by the Planning Commission, the applicant shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined in §22-711 shall be followed.

*(Ord. 11-1992, 8/13/1992, §711)*

§22-713. **Applicant's Right to Contest Action.**

Nothing herein, however shall be construed in limitation of the applicant's right to contest or question by legal proceedings or otherwise any determination of the Planning Commission or City Engineer.

*(Ord. 11-1992, 8/13/1992, §712)*

§22-714. **Remedies to Effect Completion of Improvements.**

1. In the event that any improvements which may be required have not been installed as provided in this Chapter or in accordance with the approved final plan, the Planning Commission can enforce any corporate bond or other security by appropriate legal and equitable remedies.

2. If the proceeds of such bond or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the City may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements.

3. All of the proceeds, whether resulting from the security or from any legal or equitable action or from both brought against the applicant shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.

*(Ord. 11-1992, 8/13/1992, §713)*

§22-715. **Engineering Fees and Consulting Fees.**

In addition to the fees noted in §22-110 of this Chapter, the developer shall be responsible for payment of all engineering fees which the City may incur as related to §§22-704, 22-705, 22-707, 22-708 and 22-711 of this Chapter. The developer shall be required to fully reimburse the City for said engineering fees. The developer shall also be required to fully reimburse the City for any engineering and/or other consulting fees which the City may incur for the review of any required studies and/or reports within the context of an “impact analysis” as so defined in Part 2 of this Chapter. Upon notification by the City of such costs, the developer shall provide a certified check or money order to the City to fully
reimburse the City for said engineering fees. An approved plan shall not be signed by the Planning Commission until all fees are paid in full.

(Ord. 11-1992, 8/13/1992, §714)

§22-716. **Procedure for Disputes Over Consulting Fees.**

1. An applicant may contest the amount to be reimbursed to the City for consulting fees. The applicant shall notify the City, in writing, within 10 working days of the billing date, as to which consulting fees are disputed as being unreasonable and/or unnecessary. The applicant shall forfeit any right to contest the amount to be reimbursed to the City for consulting fees, if written notification is not submitted within the prescribed 10 working days of the date of the billing.

2. In such cases, the Planning Commission shall not delay or disapprove a subdivision or land development application or any permit related to development due to the applicants written request to contest certain consulting expenses.

3. If, within 20 days from the date of billing, the City and the applicant cannot agree on the amount of consulting expenses which are reasonable and necessary, then the applicant and the Planning Commission shall jointly, by mutual agreement, appoint another professional engineer, licensed as such in the Commonwealth of Pennsylvania, to review the said expenses and make a determination as to the amount thereof which is reasonable and necessary.

4. The professional engineer so appointed shall hear such evidence and review such documentation as the professional engineer in his or her sole opinion deems necessary and render a decision within 50 days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.

5. In the event that the City and applicant cannot agree upon a professional engineer to be appointed within 20 days of the billing date, then upon application of either party, the President Judge of the Court of Common Pleas of the judicial district in which the municipality is located (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such engineer, who shall be neither the City Engineer nor any professional engineer who has been retained by, or performed services for, the City or the applicant within the preceding 5 years.

6. The fee of the appointed professional engineer for determining the reasonable and necessary consulting expenses shall be paid by the applicant if the amount of the payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by $1,000 or more, the City shall pay the fee of the professional engineer. If neither of the aforementioned cases apply, the City and the applicant shall each pay ½ of the fee of the appointed professional engineer.

(Ord. 11-1992, 8/13/1992, §715)
PART 8

DESIGN STANDARDS

§22-801. Application.

1. The design standards and requirements as outlined in this Part shall be utilized in evaluating the plans for all proposed subdivisions and land developments.

2. Any request to modify the design standards and requirements of this Part shall be in accordance with §22-110 of this Chapter.

(Ord. 11-1992, 8/13/1992, §800)

§22-802. General Standards.

All proposed subdivisions and land developments and the design of improvements thereunder shall be in conformance and compliance with the following:

A. All applicable City, County, State and Federal statutory provisions and/or regulations.

B. All governing rules and regulations of the Pennsylvania Department of Environmental Protection. [Ord. 16-2004]

C. The applicable regulations and design standards of Pennsylvania Department of Transportation.

D. The applicable regulations and design standards of the Americans With Disabilities Act, and any subsequent amendments to said Act.

E. Whenever another City, County, State or Federal statute and/or regulation imposes a higher or more restrictive standard than those contained in this Chapter, the higher or more restrictive standard shall apply.

(Ord. 11-1992, 8/13/1992, §801; as amended by Ord. 16-2004, 12/1/2004, §1)

§22-803. Site Suitability for Development.

1. The land for any proposed subdivision or land development shall be suited for the purpose of its intended use.

2. Land which is classified as critical area land may be deemed unsuitable for subdivision or development due to flooding, wetlands, improper drainage, rock formations, adverse earth formations or topography, steep slopes, utility easements,
or other features which may reasonably be harmful to the safety, health, and
general welfare of the present or future inhabitants of the subdivision and/or its
surrounding areas. Approval to subdivide or develop such land may be withheld
unless adequate methods and provisions are formulated by the applicant to safely
overcome such constraints.

3. The approval of a plan for any proposed subdivision or land development shall not
constitute a representation, guarantee or warranty of any kind by the City, any
official, any employee or agent thereof, of the practicability or safety of the use of
such land or development, and shall create no liability upon the City, its officials,
employees or agents.

(Ord. 11-1992, 8/13/1992, §802)

§22-804. Markers and Monuments.

The applicant shall place markers and permanent reference monuments by a licensed
professional registered land surveyor.

A. Monuments shall be placed so that the center of a scored or marked point
shall coincide exactly with the intersection of the lines to be marked.

B. Monuments shall be of concrete or stone, with a flat top having a minimum
width or diameter of 4 inches and a minimum length of 30 inches. Concrete
monuments shall be marked with a 3/4 inch copper or brass dowel; stone or
precast monuments shall be marked on the top with a proper inscription
and a drill hole. Monuments shall be set so that the top of the monument or
marker is level with the surface of the surrounding ground.

C. Markers shall consist of either iron or steel bars at least 36 inches long and
not less than 5/8 inch in diameter. Markers normally shall be flush with the
surrounding grade.

(Ord. 11-1992, 8/13/1992, §803)

§22-805. Blocks.

The configuration of blocks and lots shall be based upon the lot area requirements as set
forth in the Zoning Ordinance [Chapter 27], the salient natural features, the existing
man-made features and the proposed type of structure. Lot configurations should
provide for flexibility in building locations, while providing safe vehicular and
pedestrian circulation.

A. Residential Blocks. Residential blocks shall be not less than 500 feet in
length or greater than 1,200 feet in length. Said blocks shall be of sufficient
depth to permit two tiers of lots, except where reverse frontage lots
bordering an arterial or collector street are provided or due to the
topography of the site
and/or necessary layout of the development which results in insufficient depth between intersecting streets for a two-tier design.

B. Nonresidential. Blocks within a nonresidential development may vary from the requirements of subsection (A), above, when required by the nature of the use and subject to incorporating adequate design provisions for traffic and pedestrian circulation, off-street parking and loading zones.

(Ord. 11-1992, 8/13/1992, §804)

§22-806. Lots.

1. All subdivisions and land development shall be in conformance with the applicable minimum lot sizes, lot widths and yard requirements applicable to the zoning district in which the site is located. The size, shape and orientation of lots shall be appropriate for the type of development and use contemplated.

2. All lots shall have frontage on an existing or proposed public street. This requirement may be waived in cases of a multifamily or nonresidential subdivision or development where access is proposed to be by private streets within the subdivision or development.

3. The lot depth for single family residential lots shall not be less than one nor greater than two and one-half times its width. The depth and width of multifamily and nonresidential lots shall be adequate for the proposed use and provide satisfactory space for off-street parking, loading and unloading, setback requirements and landscaping.

4. Side lines of lots shall be at right angles to straight streets and on radial lines on curved streets. Pointed or very irregular shaped lots shall be avoided.

5. Double frontage lots shall be avoided but may be permitted when required to provide a separation of a residential development from arterial streets or to overcome specific disadvantages of topography or other natural features of the site.

6. Lots shall be laid out and graded to prevent cross lot drainage patterns and to provide positive drainage away from all proposed buildings areas. All lots shall, however, be graded to retard stormwater runoff from the site to take maximum advantage of natural onsite stormwater percolation into the soils.

(Ord. 11-1992, 8/13/1992, §805)

§22-807. Streets; General Requirements.

1. Proposed streets shall be properly related to the road and highway plans of the City, County and State. Streets shall be designed to provide adequate vehicular access to
all lots or parcels and with regard for topographic conditions, projected volumes
of traffic, and further subdivision possibilities in the area.

2. The street system of a proposed subdivision or land development shall be
designed to create a hierarchy of street functions which includes collector and
local streets.

3. The street system of a proposed subdivision or land development shall be
designed so as to minimize street intersections and pedestrian-vehicular conflict
points.

4. Proposed local streets shall be designed so as to discourage through traffic and
excessive speeds. However, consideration to provision for the extension and
continuation of arterial and collector streets into and from adjoining properties.

5. All streets shall be properly integrated with the existing and proposed system of
streets and dedicated right-of-ways.

6. All streets shall be properly related to specific traffic generators such as
industries, business districts, schools, churches and shopping centers; to
population densities; and to the pattern of existing and proposed land uses.

7. 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 such extension is not necessary or desirable for the coordination of the
layout of the subdivision or land development with the existing layout or the most
advantageous future development on adjacent tracts.

8. All streets shall be designed and improved in accordance with the governing
design standards of this Chapter in relationship to the appropriate street
classification.

(Ord. 11-1992, 8/13/1992, §806)

§22-808. Street Names and Signs.

1. Street Names. Continuations of existing streets shall be known by the same
name. Names for new streets shall not duplicate or closely resemble names of
existing streets within the City.

2. Street Signs. Street name signs shall be installed at all new street intersections.
The design, size, color and construction of said signs shall be subject to the
approval of the Planning Commission.

3. Traffic Control Signs. Traffic control signs, designed to regulate the speed of
traffic or to convey any other pertinent traffic or physical characteristic of the
street to motorists shall be installed at appropriate locations.

(Ord. 11-1992, 8/13/1992, §807)
§22-809. **Street Right-of-Way Widths.**

Street right-of-way widths in a proposed subdivision or land development shall conform to the following minimum standards:

<table>
<thead>
<tr>
<th>Type of Street</th>
<th>Minimum Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arterial highway</td>
<td>PennDOT specifications based upon projected average daily traffic and speed limit</td>
</tr>
<tr>
<td>Collector street</td>
<td>60 feet</td>
</tr>
<tr>
<td>Local street</td>
<td>50 feet</td>
</tr>
<tr>
<td>Turnaround of cul-de-sac</td>
<td>100 feet</td>
</tr>
</tbody>
</table>

*(Ord. 11-1992, 8/13/1992, §808)*

§22-810. **Street Cartway Widths.**

Street cartway widths, measured from curb to curb, shall conform to the following minimum standards.

<table>
<thead>
<tr>
<th>Type of Street</th>
<th>Minimum Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limited access highway</td>
<td>PennDOT specifications based upon projected average daily traffic and speed limit</td>
</tr>
<tr>
<td>Collector street</td>
<td>40 feet</td>
</tr>
<tr>
<td>Local street</td>
<td>34 feet</td>
</tr>
<tr>
<td>Diameter of turnaround of cul-de-sac</td>
<td>80 feet</td>
</tr>
</tbody>
</table>

*(Ord. 11-1992, 8/13/1992, §809)*

§22-811. **Horizontal Visibility.**

When street centerlines are deflected more than $\frac{5}{8}$ over a linear distance of 500 feet or less, connection shall be made by horizontal curves. Streets shall be so laid out that there will be unobstructed sight distances along centerlines thereof measured from a point 5 feet above the proposed grade line, to permit horizontal visibility as follows:

<table>
<thead>
<tr>
<th>Type of Street</th>
<th>Minimum Distance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arterial street</td>
<td>600 feet</td>
</tr>
<tr>
<td>Collector streets</td>
<td>300 feet</td>
</tr>
<tr>
<td>Local streets</td>
<td>150 feet</td>
</tr>
</tbody>
</table>

*(Ord. 11-1992, 8/13/1992, §810)*
§22-812. Street Grades.

The centerline grade shall be not less than 0.75% nor greater than the following based upon the classification of the street:

- Arterial streets: 6%
- Collector streets: 7%
- Local streets: 11%

(Ord. 11-1992, 8/13/1992, §811)

§22-813. Vertical Curves.

Vertical curves shall be used at changes of grade exceeding 1%. Vertical curves shall be designed to produce the following minimum sight distances:

- Arterial street: PennDOT specifications based upon most recent PennDOT design manual
- Collector street: PennDOT specifications based upon most recent PennDOT design manual
- Local street: 300 feet

(Ord. 11-1992, 8/13/1992, §812)

§22-814. Street Intersections.

1. Multiple intersections involving the junction of more than two streets are prohibited.

2. Two streets intersecting a third street from opposite sides shall either intersect with a common centerline or their centerlines shall be offset according to the following distances:

   A. The two streets shall be separated by a distance of not less than 150 feet between centerlines measured along the centerline of the street being intersected when all three streets involved are local streets.

   B. The two streets shall be separated by a distance of not less than 400 feet between centerlines measured along the centerline of the street being intersected when one or more of the streets involved is a collector street.
C. The two streets shall be separated by a distance of not less than 1,000 feet between centerlines measured along the centerline of the street being intersected when one or more of the streets involved is an arterial street.

3. Streets shall be designed and constructed to intersect as nearly as possible at right angles, but in no instance shall two streets intersect with an angle of intersection of less than 80° as measured from their centerlines.

4. Minimum curb radii at street intersections shall be 20 feet for intersections involving only local streets; 30 feet for intersections involving other type streets, or such greater radius as is suited to the specific intersection based upon the recommendation of the City Engineer. A property line corner shall be rounded to the same radius as the curb which it adjoins.

5. Intersections shall be approached on all sides by leveling areas. Such leveling areas shall have a minimum length of 75 feet, measured from the intersection of the centerlines, within which no grade shall exceed a maximum of 4%.

6. The cross-slopes on all streets, including intersections shall be 2% as measured from the centerline of the streets.

7. Where appropriate and deemed necessary for safety and efficient movement of traffic, additional traffic lanes to facilitate vehicular turning movements at existing or proposed street intersections within or bordering subdivision or land development plans may be required.

(Ord. 11-1992, 8/13/1992, §813)

§22-815. Sight Distance at Street Intersections.

1. Clear sight triangles shall be provided at all street intersections. Within such triangles, no object between 2-1/2 feet and 12 feet in height, and no other object including, but not necessarily limited to, earth embankment and/or vegetation that would obscure the vision of the motorist shall be permitted. Such triangles shall be established from a distance of:

A. Seventy-five feet from the point of intersection of the centerlines, of two streets where both are local streets.

B. One hundred feet from the point of intersection of the centerlines of two streets where one is a collector street.

C. One hundred fifty feet from the point of intersection of the centerlines of two streets where one is an arterial street.
2. Wherever a portion of the line of such triangles occur within the proposed building setback line, such portion shall be shown on the final plan of the subdivision, and shall be considered a building setback line.

(Ord. 11-1992, 8/13/1992, §814)

§22-816. Cul-De-Sac Streets.

1. A cul-de-sac street will not be approved when a through street is more advantageous.

2. Cul-de-sac streets, permanently designed as such, shall not exceed 800 feet in length and shall furnish access to not more than 15 dwelling units.

3. Cul-de-sac streets shall terminate in a circular right-of-way with a minimum diameter of 100 feet, and 80 feet diameter to the outer pavement edge or curb line.

4. Any street which is terminated, with planned future access to an adjoining property or because of authorized stage development, shall be provided with a temporary, all-weather turning circle. The turning circle shall be completely within the boundaries of the subdivision and/or land development, and the use of the turn around shall be guaranteed to the public until such time as the street is extended.

(Ord. 11-1992, 8/13/1992, §815)

§22-817. Driveways.

1. Driveways to individual lots or to a land development shall be located in accordance with the following minimum distances as measured from the centerline of a driveway to the centerline of the nearest intersecting street by street classification.

<table>
<thead>
<tr>
<th>Type</th>
<th>Arterial</th>
<th>Collector</th>
<th>Local</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>150</td>
<td>75</td>
<td>50</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>200</td>
<td>150</td>
<td>100</td>
</tr>
</tbody>
</table>

Access shall be provided to the street of lesser classification when there is more than one street classification involved. Driveways shall not interfere with the normal traffic movement or be inconsistent with the design, maintenance, and drainage of the street. Driveway location shall be delineated on all land development plans; however, subdivision plans may delineate locations or include a notice of conformity to this specification.

2. Adequate provisions shall be made to maintain uninterrupted parallel drainage along a street at the point of the driveway entry.
3. Driveway entrances and/or aprons within the street right-of-way shall be surfaced with material compatible to the cartway.

(Ord. 11-1992, 8/13/1992, §816)


The classification of any street, if not identified within a comprehensive plan of the City, shall be determined by the Planning Commission in accordance with applicable definitions contained within this Chapter.

A. Subgrade and Subbase Specifications.

(1) The subgrade of all streets shall be rolled and prepared in accordance with the PennDOT Specification as contained in §210 of the 1987 edition of Publication 408, and/or any subsequent revisions or amendments thereto.

(2) The subbase for all streets, unless otherwise specified shall contain 6 inches of stone subbase placed upon a prepared and compacted subgrade. The required 6 inches of stone subbase shall be comprised of 2 inches of 2B stone and 4 inches of 3A stone. The construction of the subbase for all streets shall be in accordance with PennDOT Specifications as contained in §350 of the 1987 edition of Publication 408, and any subsequent revisions and/or amendments thereto. Any modifications to the above specifications must be based upon evidence that the natural subbase is composed of suitable soils and has adequate bearing capacity to support the anticipated volume and types of traffic. Such evidence shall be submitted in writing by the developer to the City Engineer for his review and recommendation to the Planning Commission.

B. Slope. All streets shall have a minimum slope of 2% percent as measured from the centerline of the street to the edge of each side of the cartway.

C. Use of Fill Material. If fill material is proposed to be used for the roadway bed, subgrade or any other aspect of the design and construction of a street, the fill material shall be acceptable material for such use as determined by the City Engineer. Placement of acceptable fill material shall be in 8 loose lifts and compacted to not less than 98% of the material’s dry weight density as determined by methods prescribed by the City Engineer. The type of compaction equipment to be used for such purposes shall be of sufficient and nature as determined by the City Engineer.

D. Slope of Embankments. The recommended slope of any required road embankment shall be three horizontal to one vertical, but under no circumstances shall the embankment have a slope greater than two horizontal to one vertical.
E. **Local Streets.** The minimum pavement structure for a local street shall be as follows:

1. One and one-half inches of ID-2A wearing course; upon,
2. Four and one-half inches of B.C.B.C.

Applicable construction and design standards of PennDOT, as contained within §400 of the 1987 edition of Publication 408, and/or any subsequent revisions or amendments thereto shall apply.

F. **Collector Streets.** The minimum pavement structure for a collector street shall be as follows:

1. One and one-half inches of ID-2A wearing course; upon,
2. Five inches of B.C.B.C.

All applicable construction and design standards of PennDOT, as contained within §400 of the 1987 edition of Publication 408, and/or any subsequent revisions or amendments thereto shall apply.

G. **Arterial Streets.** The pavement structure for an arterial street or highway shall be governed by PennDOT Publication No. 242, “Roadway Management Manual,” and/or any subsequent revisions or amendments. All applicable construction and design standards of PennDOT, as contained within §400 of the 1987 edition of Publication 408, and/or any subsequent revisions or amendments thereto shall apply.

*(Ord. 11-1992, 8/13/1992, §817)*

§22-819. **Street Lighting.**

Street lights shall be installed at all street intersections and other such locations as recommended by the City Engineer and the applicable utility company.

*(Ord. 11-1992, 8/13/1992, §818)*

§22-820. **Curbs.**

Curbs shall be installed to the following minimum construction standards or PennDOT construction standards and design specifications, where applicable:

A. Straight curbs of Portland cement concrete shall be 24 inches in depth, 6 inches wide at the top, and 8 inches wide at the bottom, and shall have an exposed face between 6 inches and 8 inches.
B. Expansion joints shall be provided at least every 20 feet. Each expansion joint shall contain ½ inch premolded bituminous expansion joint material. Contraction joints shall be provided at least every 10 feet.

C. Portland cement concrete used in the construction of curbs and gutters shall meet the minimum 3,000 P.S.I. 28 day strength test according to A.S.T.M standards, air entrained.

D. All curbs shall be depressed at intersections with the sidewalk to accommodate handicapped individuals. The design standards and specifications shall comply with all governing Federal and/or State standards.

(Ord. 11-1992, 8/13/1992, §819)

§22-821. Sidewalks.

Sidewalks shall be required in all residential developments. In other subdivisions or land developments, sidewalks or pedestrian interior walkways may also be required by the Planning Commission based upon features of the site and the proposed use and/or development of the property.

A. Location. Sidewalks, where required or provided, shall be located within the street right-of-way and no closer than 1 foot from the right-of-way line, no closer than 3 feet from the curb line. A grass planting strip shall be planted between the curb and sidewalk.

B. Width. Sidewalks shall have a minimum width of 4 feet.

C. Required Construction. Sidewalks shall be constructed with class "AA" concrete at least 5 inches thick, underlain by 4 inches of compacted gravel or crushed stone. Sidewalks at driveway crossings shall be at least 6 inches thick and underlain by 4 inches of compacted gravel or crushed stone. All sidewalks shall be sprayed with an anti-spalling compound and shall meet the minimum 3750 P.S.I. 28 day strength test according to A.S.T.M Standards, air entrained.

(Ord. 11-1992, 8/13/1992, §820)

§22-822. Bridges and Stream Crossings.

Bridges and other stream crossing structures which are part of the proposed street system shall be designed and constructed in accordance with current PennDOT standards and specifications. Evidence of compliance with and approval of the Division of Dams and Encroachments, Pennsylvania Department of Environmental Protection, shall be provided by the developer, if applicable.

(Ord. 11-1992, 8/13/1992, §821; as amended by Ord. 16-2004, 12/1/2004, §1)
§22-823. Erosion and Sedimentation Control.

All proposed subdivisions and land developments which include construction, grading, excavation or any form of earth moving activities shall provide for both temporary and permanent erosion and sedimentation facilities in conformance with the April 1990 edition of the “Erosion and Sedimentation Pollution Control Program Manual,” as published by the Bureau of Soils and Water Conservation, Pennsylvania Department of Environmental Protection. All erosion and sedimentation control plans shall be submitted along with any required fee to the Luzerne County Conservation District for their review and approval. No construction including, but not limited to, grading, excavation and/or any forms of earth moving activities, shall be undertaken until written approval of an erosion and sedimentation control plan is approved by the Luzerne County Conservation District. [Ord. 16-2004]

A. All earth moving activities shall be conducted in such a way as to prevent accelerated erosion and the resulting sedimentation.

B. No changes shall be made in the contour of the land; no grading, excavating, removal or destruction to the topsoil, trees or other vegetative cover of the land shall be commenced until such time that a plan for minimizing erosion and sedimentation has been reviewed and approved by the Luzerne County Soil and Water Conservation District, or there has been a determination by the Luzerne County Soil and Water Conservation District that such a plan is not necessary.

C. The soil erosion and sedimentation control plan and measures used to control erosion and sedimentation shall meet the standards and specifications set forth in the Pennsylvania Department of Environmental Protection’s Soil Erosion and Sedimentation Control Manual and Chapter 102 of the rules and regulations of the Pennsylvania Department of Environmental Protection. [Ord. 16-2004]

D. The following measures are deemed effective in minimizing erosion and sedimentation, and shall be included in control plans as applicable:

1. **Stripping.** Stripping of vegetation for development shall be done in such a way that will prevent all but minor erosion.

2. **Natural Features.** Development plans shall preserve salient natural features, keep cut-fill operations to a minimum, and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.

3. **Natural Vegetation.** Whenever feasible, natural vegetation shall be retained, protected and supplemented.

4. **Disturbed Areas.** The disturbed area and the duration of exposure shall be kept to a practical minimum.
(5) **Stabilization.** Disturbed soils shall be stabilized as quickly as practicable.

(6) **Temporary Vegetation and Mulching.** Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.

(7) **Permanent Vegetation and Measures.** The permanent final vegetation and structural erosion control and drainage measures shall be installed as soon as practical in the development.

(8) **Accommodation of Increased Runoff.** Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. Where necessary, the rate of surface water runoff shall be structurally retarded.

(9) **Containment of Sedimentation.** Sediment in tile runoff water shall be trapped until the disturbed area is stabilized by the use of debris basins, sediment basins, silt traps or similar measures.

E. Where the earth moving activity affects 25 acres or more, the soil erosion and sedimentation control plan must be submitted to the County Conservation District, together with an application for an earth moving permit. An earth moving permit must be granted by the Pennsylvania Department of Environmental Protection prior to preliminary approval of a subdivision or land development. [Ord. 16-2004]

F. The Planning Commission in its consideration of all proposed subdivisions and land developments shall condition its approval upon the execution and implementation of an erosion and sedimentation control plan which meets the governing standards of the Luzerne County Soil and Water Conservation District, based upon written verification by said agency in approval of a submitted plan.

(Ord. 11-1992, 8/13/1992, §822; as amended by Ord. 16-2004, 12/1/2004, §1)

§22-824. **Stormwater Management Plan.**

1. A stormwater management plan shall be required for any major subdivision or major land development, which shall be prepared in coordination with the erosion and sedimentation control plan. The stormwater management plan shall provide the means and methods of control by which there shall be no increase in the rate stormwater discharge and runoff from the site than that prior to the proposed, subdivision or land development.

2. Storm drainage systems and facilities, excluding detention facilities, shall be designed and constructed for storms of a 10 year frequency which provides for the following:
A. Permit unhampered flow of natural watercourses except as modified by stormwater detention facilities.

B. Insure adequate drainage of all low points along the line of streets.

C. Intercept stormwater runoff along streets at intervals related to the extent and grade of the area drained.

D. Take surface water from the bottom of vertical grades, lead water from springs and avoid excessive use of cross-gutters at street intersections and elsewhere.

E. Prevent overloading of drainage systems and watercourses downstream as a result of increased runoff caused by the proposed development.

3. A site drainage plan for the proposed subdivision or land development shall be prepared which illustrates the following information:

   A. Mapping of the water shed area or areas in which the proposed subdivision or land development is located.

   B. Calculations of runoff for all points of runoff concentration.

   C. Complete drainage systems, facilities and easements for the subdivision or land development. All existing drainage features which are to be incorporated in the design shall be so identified. If the subdivision or land development is to be constructed in stages, a general drainage plan for the entire subdivision or land development shall be presented with the first stage and appropriate development stages for the drainage systems shall be indicated.

   D. Pre-development and post-development peak flows.

4. Storm drainage facilities required by this Chapter, excluding detention facilities, shall be designed to provide protection from storms with a 10 year frequency. The acceptable methods of computation for calculating stormwater runoff shall be those contained in the following publications:


The applicant shall confer with the City Engineer prior to the selection of a specific method for the computation and calculation of stormwater runoff. Complete detailed drainage calculations, prepared and certified by a registered professional engineer, shall be submitted to the City Engineer for his review and comment to the Planning Commission.

5. All lots or sites within a subdivision or land development shall be laid out and graded to prevent cross-lot drainage away from proposed building areas. Natural drainage courses shall be maintained.

6. Drainage easements may be incorporated into lots or established separately and apart therefrom. To minimize sheet flow of stormwater across lots located along the lower side of roads or streets, and to divert flow away from building areas, the cross section of the street as constructed shall provide for parallel ditches, swales or curbing on the lower side which shall discharge only at drainage easements.

7. The existing points of natural drainage discharge onto adjacent property shall not be altered nor shall the rate of water runoff be increased as a result of development, unless design measures are incorporated to prevent damage and appropriate drainage easement is obtained from the affected adjoining land owner. Hydrologic calculations must be provided by a professional registered engineer which demonstrates the discharge or runoff of stormwater will not over burden nor have any potential negative impact upon the existing drainage course or point of discharge. Proposals of such a nature shall only be considered if a positive recommendation is received by the City Engineer following the review of all applicable information.

8. No stormwater runoff or natural drainage water shall be so diverted as to overload existing drainage systems, or create flooding or the need for additional drainage structures on other private properties or public lands, without complete approval of provisions being made by the developer for properly handling such conditions, including water runoff impoundments, if necessary.

9. Storm drainage facilities shall be designed not only to handle the anticipated peak discharge from the property being subdivided development, but also the runoff that will occur from the property at a higher elevation in the same watershed.

10. Where a subdivision or land development is traversed by a watercourse, a drainage easement shall be provided conforming substantially to the line of such watercourse of such width as will be adequate to preserve the unimpaired flow of natural drainage. Such drainage easement shall be at least 100 feet from any recognized high water mark of any watercourse of body of water.

11. Drainage structures that are located on State highway right-of-ways shall be approved by the Pennsylvania Department of Transportation, and a letter from that office indicating such approval shall be directed to the Planning Commission.
12. All streets shall be so designed to provide for the discharge of surface water from their right-of-way. The slope of the crown on proposed streets shall be 1/4 inch per foot away from the centerline.

13. All proposed surface drainage structures shall be indicated on the preliminary plan. Drainage plans shall include all appropriate designs, details, and dimensions necessary to clearly explain proposed construction materials and elevations.

14. Whenever storm sewers are required by the Planning Commission, such storm sewer system shall be separate from the sanitary sewer system. Storm sewer facilities shall be provided where the Planning Commission, with the advice of the City Engineer, determines that surface drainage facilities are inadequate to prevent excessive erosion and lot or road maintenance problems.

15. Drainage easements shall be provided as follows:

   A. Drainage easements shall be provided adjacent to street right-of-ways, streams, side property lines and rear property lines as required by the Planning Commission, on the advice of the City Engineer.

   B. Drainage easements shall be minimum width of:

      (1) Ten feet adjacent to a street right-of-way plus the width of any required pipe or other necessary improvements.

      (2) Fifteen feet when following side and rear lot lines. Such easements shall to the fullest extent possible, either immediately adjoin or be centered on such lot lines.

      (3) One hundred feet from any recognized boundary of a 100 year floodplain or a recognized high-water mark of any watercourse or body of water.

(Ord. 11-1992, 8/13/1992, §823; as amended by Ord. 16-2004, 12/1/2004, §1)

§22-825. Accommodation of Upstream Drainage Areas.

A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The City Engineer shall give approval to the necessary size of the facility, phased on the provisions of the construction standards and specifications assuming conditions of maximum runoff rate calculated by the applicant and reviewed by the City Engineer. The calculation of this runoff rate shall take into account any land use and development regulations including runoff controls in effect in the tributary areas.

(Ord. 11-1992, 8/13/1992, §824)
§22-826. **Effect of Downstream Drainage Areas.**

No stormwater runoff or natural drainage shall be so diverted as to overload existing drainage systems, or create potential flooding or the need for additional drainage structures on other private properties or public lands, without approved provisions being made by the developer for properly handling such conditions. The Planning Commission may withhold approval of the subdivision until provisions have been made for the improvement of said potential conditions. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

(Ord. 11-1992, 8/13/1992, §825)

§22-827. **Stormwater Detention.**

1. Areas of extremely poor drainage should be discouraged by the Planning Commission.

2. Stormwater detention facilities shall be required whenever post-development runoff rates for each point of discharge exceeds the pre-development runoff rates. Such detention facilities shall be designed for a storm with a 50 year frequency, with an emergency spillway designed for a storm with a 100 year frequency. Calculations for all stormwater facilities shall be submitted with the preliminary plan. The rational method utilizing accepted values of Manning’s "N" shall be utilized in design calculations. Technical Release 55, “Urban Hydrology for Small Watersheds,” as published by the U.S. Soil Conservation Service, shall also be deemed acceptable for design methods. PennDOT Design Manual 2 may be used as a reference for storm frequencies.

3. Whenever detention facilities are required, such facilities will be designed to provide that the peak runoff rate at all points of discharge from the site, when developed, will not exceed the peak runoff rate at each of those points prior to development unless existing or planned detention facilities located elsewhere in the same drainage basin will provide that the peak runoff rate from the drainage basin after the site is developed will not exceed the peak runoff rate prior to development.

4. Where detention facilities are included as part of the storm drainage system, the following provisions will apply:

   A. Detention facilities shall be designed so that they return to normal conditions within approximately 12 hours after the termination of the storm, unless the City Engineer finds that downstream conditions may warrant other design criteria for stormwater release.

   B. The developer shall demonstrate that such facilities are designed, protected and/or located to assure that public safety is maximized and health problems are prevented. A detention facility shall be fully enclosed by an industrial gauge chain link fence, not less than 8 feet in height.
C. The developer shall verify that the operation of the detention facilities will not aggravate potential downstream peaking conditions.

D. Emergency overflow facilities shall be provided for detention facilities and shall be designed and constructed to a 100 year storm frequency to handle runoff in excess of design flows.

E. If the lands of the proposed land development will remain in common ownership, the developer shall provide written assurances to the City that the detention facilities will be properly maintained.

F. If the lands of the proposed land development will be conveyed to two or more separate owners, the developer shall provide written assurances to the City that the detention facilities will be properly maintained, or dedicate the land on which the detention facilities are located to the City which shall then be responsible for maintaining the detention facilities.

(Ord. 11-1992, 8/13/1992, §826)

§22-828. Improvement Specifications of Drainage Facilities.

1. **Design Features.** Materials and methods of construction for all storm drainage facilities shall conform with all applicable Pennsylvania Department of Transportation Specifications. This requirement shall be the obligation of the parties who shall erect structures on any parcel within the subdivision/development. The developer shall include such requirement in the sales contract and in the deed restrictions.

2. **Location.** Storm sewers shall be located adjacent to the curb and within the right-of-way of the street; they shall be protected by a cover of at least 18 inches.

3. **Size and Grade.** Storm sewers shall have a minimum internal diameter of 15 inches and a minimum grade of 0.5% unless otherwise specified by the City Engineer. All storm sewers shall be hydrologically sized in conformance with the governing PennDOT Design Manual criteria.

4. **Manholes.** Manholes shall be constructed at all changes in horizontal or vertical alignment; shall be spaced not more than 300 feet apart on pipe of 24 inches internal diameter or less, and not more than 500 feet apart where larger sizes are installed. Inlets may be substituted for manholes where they will serve a useful purpose.

5. **Inlets.** Inlet spacing shall be so arranged that 95% of the gutter flow will be captured. Inlets at street intersections shall be placed on the tangent and not on the curved portions. The gutter adjacent to and immediately upgrade from the inlet shall be so warped as to direct the water into the inlet.
6. **Castings.** Manhole and inlet castings, together with their covers or gratings shall conform to the Standards of the Pennsylvania Department of Transportation as may be in effect at the time the design is submitted.

7. **Stormwater Roof Drains.** Stormwater roof drains and pipes shall not discharge water directly onto a road surface or road right-of-way. Where storm sewers are accessible, the roof drain shall be connected thereto. This requirement shall be the obligation of the parties who shall erect structures on any parcel within the subdivision/development. The developer shall include such requirement in the sales contract and in the deed restrictions.

(Ord. 11-1992, 8/13/1992, §827)

§22-829. **Centralized Water System.**

1. All subdivisions and land developments shall utilize an approved public distribution system for water supply.

2. The plans for the installation of water lines of a public water supply shall be prepared by the developer with the cooperation of the applicable public water company or authority and submitted with preliminary plans.

3. When a subdivision or land development is to be serviced by a centralized water supply system, fire hydrants shall be installed. The location and number of fire hydrants shall be determined on a case by case basis. Fire hydrants along any approved street shall not be more than 500 feet apart and connected to a water main not less than 8 inches in diameter.

4. All suppliers of water to any proposed subdivision or land development shall be organized in such a fashion as to fall within the jurisdiction of the Pennsylvania Public Utility Commission. One copy of all correspondence, supporting documentation, application for permits, and certificates for operation submitted to the Pennsylvania Department of Environmental Protection and the Pennsylvania Public Utility Commission for the right to provide such services shall be forwarded to the City as part of the public record. One copy of the permit and Certificate of Convenience issued by the Pennsylvania Department of Environmental Protection and the Pennsylvania Public Utility Commission authorizing such services shall be forwarded upon receipt to the Planning Commission as part of the public record. \[Ord. 16-2004\]

(Ord. 11-1992, 8/13/1992, §828; as amended by Ord. 16-2004, 12/1/2004, §1)

§22-830. **Sewage Disposal Facilities.**

All subdivisions and land developments shall be served by a centralized sewage system which shall meet or exceed the applicable minimum design requirements of Chapter 73 of
Pennsylvania Sewage Facilities Act, Act 537, as amended. A registered professional engineer employed by the applicant shall provide written certification that the existing or proposed sewage system has adequate capacity to satisfactorily treat the total projected sewage flow.

(Ord. 11-1992, 8/13/1992, §829)

§22-831. Centralized Sewers.

1. All centralized sewage disposal systems shall be compatible with the official City sewage plan.

2. All sanitary sewers shall be designed and constructed to provide adequate capacity for the ultimate flow of the subject development plus additional flow as may be projected to be generated by adjacent properties.

3. All individual lateral connections shall be installed to the curb or right-of-way line at the time of initial installation of the system.

4. Design standards, materials and specifications shall conform with the most current Pennsylvania Department of Environmental Protection Sewage Manual, any supplements or amendments thereto and all other requirements, Federal, State and/or City. [Ord. 16-2004]

5. A centralized sewage system which is not owned and operated by a municipal or public agency or authority shall be organized in such a fashion to fall within the jurisdiction of the Pennsylvania Public Utility Commission, requiring a certificate of public convenience from the Pennsylvania Public Utility Commission.

(Ord. 11-1992, 8/13/1992, §830; as amended by Ord. 16-2004, 12/1/2004, §1)

§22-832. Utility Easements.

Easements shall be provided for all utilities including, but not limited to, poles, wires, conduits, storm and sanitary sewers, water and heat mains, gas, electrical power, telephone and cable television.

A. With the exception of individual sewer laterals, utilities shall be located either within the public right-of-way or in easements centered on or adjacent to rear or side lot lines. No structures or trees shall be placed within such easements. Such easements shall be a minimum of 20 feet in width.

B. As a condition of approval, the developer of a proposed subdivision or land development shall provide written evidence from all applicable utility companies of their agreements to service the development and the design and construction plans for such utilities.

(Ord. 11-1992, 8/13/1992, §831)
§22-833. Nonresidential Subdivision/Land Development.

1. Land zoned for nonresidential purposes shall provide a subdivision or land development plan designed with respect to such use. A nonresidential subdivision or land development shall also be subject to receiving appropriate zoning approval, based upon the submission of a site plan, zoning application and any other appropriate information.

2. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions or land developments, the applicant shall demonstrate to the satisfaction of the Planning Commission that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

   A. Street right-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.

   B. Special requirements may be imposed by the local government with respect to street, curb, gutter and sidewalk design and construction.

   C. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.

   D. Special requirements may be imposed by the Planning Commission with respect to the installation of public utilities, including water, sewer and stormwater drainage.

   E. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development, and provisions for a permanently landscaped buffer strip when necessary.

   F. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

3. Any major nonresidential subdivision and/or land development which involves any form of waste processing and/or waste disposal operation shall be required to submit as part of the application an impact analysis report which addresses the following items:

   A. The impact of the proposed development upon roads, sewer facilities, water supplies, schools and other public service facilities.
B. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features.

C. The impact of the proposed use on the site’s soils, slopes, woodlands, wetlands, floodplains, 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.

D. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

4. In addition to the required application fee, the developer shall reimburse the City for all consulting fees incurred by the City for the review of any information contained within an impact analysis report.

(Ord. 11-1992, 8/13/1992, §832)
PART 9

REQUIRED IMPROVEMENTS

§22-901. Construction Standards.

Construction standards for all required improvements shall be as set forth in §22-902, or where not set forth shall be in accordance with standards as established by the Planning Commission upon advice of the City Engineer. Alternate improvement standards may be permitted in accordance with §22-110 of this Chapter, if the Planning Commission deems that they are equal or superior in performance characteristics to the specified improvements.

(Ord. 11-1992, 8/13/1992, §901)

§22-902. Minimum Improvements.

1. Monuments and Markers.

   A. Monuments shall only be required for major subdivisions or major land developments and shall be set in accordance to the following:

      (1) One at each single angle of the perimeter of the property at all major subdivisions and land developments.

      (2) One at the beginning and end of all curves along street right-of-ways lines along one side of street.

      (3) A minimum of one at each street intersection along the street right-of-way line.

   B. Markers shall be set as follows:

      (1) At the beginning and ending of all curves along street property lines.

      (2) At all points where lot lines intersect curves, either front or rear.

      (3) At all angles in property lines of lots.

      (4) At all corner lots.

      (5) At all points where lot lines intersect street right-of-way lines, except for monument locations.

2. Streets. Streets shall be designed and constructed in accordance with the standards set forth in §§22-807, 22-809, 22-810, 22-811, 22-812, 22-813, 22-814, 22-815, 22-816
and 22-818 of this Chapter. Drawings and plans shall be submitted which provides the grades, dimensions, profiles, and cross-sections of all proposed street improvement under the proposed subdivision or land development. The developer shall be responsible for the installation of all required utilities and, where required, any subsurface drainage for the street prior to installing the street surface. Upon completion of the installation of improvements, a reproducible set of as-built plans shall be filed with the City.

3. **Erosion and Sedimentation Control.** Erosion and sedimentation control measures and improvements, when deemed necessary by City Engineer, the Luzerne County Conservation District, or DEP, shall be installed and maintained in accordance with the plans submitted by the developer and approved by City Engineer and/or the aforementioned agencies. All such measures and improvements shall be designed and constructed in accordance with the standards set forth in §22-823 of this Chapter. [Ord. 16-2004]

4. **Stormwater Management Control.** A stormwater management plan is required for all major subdivisions and major land developments; any resulting improvements required as a result of said plan and approved by the City Engineer shall be designed and constructed in accordance with the standards set forth in §22-824 of this Chapter.

5. **Water Supply System.** All subdivisions and land developments shall be serviced by and connected to a centralized water system, which shall be designed and installed in accordance with plans submitted by the developer and approved by the City Engineer and/or the applicable water utility company. Improvements shall be designed and constructed in accordance with the standards set forth in §22-829 of this Chapter. Fire hydrants shall be installed as part of the system.

6. **Sewage Disposal.** A centralized sewage system shall be designed, constructed and maintained in accordance with the plans as submitted by the applicant and approved by the City Engineer and DEP. A DEP planning module approval shall be secured by the applicant prior to final plan approval. All improvements shall fully conform to the standards set forth in §22-831 of this Chapter. Upon completion of the installation of improvements, a reproducible set of as-built plans of the system shall be filed with the City. [Ord. 16-2004]

7. **Storm Drainage Facilities.** Whenever the evidence available to the Planning Commission under the required stormwater management plan indicates that natural surface drainage is inadequate, any applicable storm drainage facilities shall be designed and constructed in accordance with the standards set forth in §§22-825, 22-826, 22-827 and 22-828 of this Chapter.

8. **Curbs.** Curbs shall be required as improvements with the street right-of-way of any proposed subdivision or land development. Curbs shall be designed and constructed in accordance with the standards set forth in §22-820 of this Chapter.
9. **Sidewalks.** Sidewalks shall be required as improvements with the street right-of-way of any proposed residential subdivision or land development. The need to install sidewalks for nonresidential subdivisions and land developments shall be determined by the Planning Commission on a case by case basis. Sidewalks shall be designed and constructed in accordance with the standards set forth in §22-821 of this Chapter.

10. **Street Lighting.** Street lights shall be installed at all street intersections and other such locations as recommended by the City Engineer and the applicable utility company.

11. **Street Signs.** Street signs shall be provided at all intersections. There shall be not less than two street signs at each intersection; they shall be placed in a manner which will make them legible to traffic flows entering the intersection from all directions. The signs shall be constructed in accordance with City standards, and shall be subject to the approval of the City Engineer.

12. **Tree Lawn and Street Trees.** The developer shall sod or seed the planting strip between the curb and the sidewalk and plant street trees of a caliber ranging between 2 inches to 3 inches with a minimum height ranging between 12 feet to 15 feet. Such trees shall be planted along both sides of a street with minimum spacing distance of not less than 25 feet nor greater than 40 feet apart. No tree shall be planted within 10 feet of a fire hydrant or within 35 feet from a street intersection. Street trees shall be of a deciduous variety and may include any of the following types:

   A. Sweetgum.
   B. Thornless Honeylocust.
   C. Littleleaf Linden.
   D. Red Maple.
   E. Crimson King Maple.
   F. European Mountain Ash.
   G. Bradford Pear

PART 10

FLOODPLAIN MANAGEMENT

§22-1001. Intent and Scope of Regulations.

The intent of the regulations set forth in this Part is to:

A. Promote the general welfare, health, 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 nature 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. Supplement all other applicable procedures relative to the proposed use and/or development of property which is defined as a "subdivision" or a "land development" under Part 2 of this Chapter.

(Ord. 11-1992, 8/13/1992, §1000)

§22-1002. Special Definitions.

The definitions of terms provided herein shall apply to the enforcement and administration of the regulations contained within this Part:

BASE FLOOD - a flood having a 1% chance of being equaled or exceeded in any given year and also referred to as a 100 year flood.

BASEMENT - the lowest level or story of a building which has its floor subgrade (below ground level) on all sides.

CONSTRUCTION - the construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of manufactured homes.

DEVELOPMENT - any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, storage of equipment or material and the subdivision of land.
**FEMA** - the Federal Emergency Management Agency

**FIRM** - the most recent map prepared by FEMA which delineates the special hazard areas and risk premium zones applicable in the City of Nanticoke.

**FLOOD** - the temporary inundation of normally dry land.

**FLOOD, 100 YEAR** - see "base flood."

**FLOOD INSURANCE STUDY** - a study prepared by FEMA, for the City of Nanticoke which includes an examination, evaluation and determination of flood hazards, and if appropriate, corresponding water surface elevations.

**FLOOD FRINGE** - the portion of a 100 year floodplain which is beyond the delineated limits of the floodway, based upon the most current Flood Insurance Study and FIRM.

**FLOODPLAIN, 100 YEAR** - the areas specifically identified as being subject to inundation by the base flood and/or the 100 year flood, which is comprised of a flood fringe area and floodway as delineated upon the FIRM.

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

**FLOODWAY** - the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Chapter, the floodway shall be capable of accommodating a flood of the 100 year magnitude.

**FREEBOARD** - a margin of safety, expressed in feet above the flood elevation of a 100 year flood.

**LOWEST FLOOR** - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements.

**MANUFACTURED HOME** - a transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, 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 with or without a permanent foundation. 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 - a parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for nontransient use.

OBSTRUCTION - any structure or assembly of materials including fill above or below the surface of land or water, and any activity which might impede, retard or change flood flows.

RECREATIONAL VEHICLE - a vehicle which exhibits the following:

A. Is built upon a single chassis.
B. Is 400 square feet or less when measured at the largest horizontal projections.
C. Is designed to be self-propelled or permanently towable by a light duty truck.
D. Is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SUBSTANTIAL IMPROVEMENTS - any repair, reconstruction, or improvement of a structure, the cost of which equals 50% of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either (A) any project for improvement of a structure to correct existing violations of State or municipal health, sanitary or safety code specifications which are identified by the municipal code enforcement official and which are the minimum necessary to assure safe living conditions, or (B) any alteration of a "historic structure."

(Ord. 11-1992, 8/13/1992, §1001)


The provisions of this Part supersede 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 among any of the provisions of this Part and Chapter, or any other ordinance of the City of Nanticoke, the more restrictive shall apply.

(Ord. 11-1992, 8/13/1992, §1002)

§22-1004. Warning and Disclaimer of Liability.

1. The degree of flood protection sought by the provisions of this Part is considered reasonable for regulatory purposes and is based upon acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-
made or natural causes such as ice jams and bridge openings restricted by debris. This Part does not imply that areas outside the various 100 year flood area(s), or that land uses permitted within such areas will be free from flooding or flood damages.

2. The provisions and regulations contained within this Part shall not create liability on the part of the City of Nanticoke or any officer or employee thereof for any flood damages that result from reliance on this Part or of any decision lawfully made thereunder.

(Ord. 11-1992, 8/13/1992, §1004)


In addition to the provisions contained in Part 4 of this Chapter, the following information and requirements shall apply:

A. The delineation of the boundaries of the 100 year floodplain, and any applicable floodway shall be clearly illustrated upon the plan.

B. The base flood elevations upon the site and the existing and proposed topographical contours at intervals of 2 feet shall be provided and clearly illustrated upon the plan.

C. The proposed use and development of the site shall be fully defined and overlaid upon the delineated flood boundaries and clearly illustrated upon the plan.

D. Written agreement with the developer that fully acknowledges any approval of the proposed subdivision and/or land development shall be conditioned upon the inclusion of deed restrictions which shall provide:

   (1) That all development, uses, structures, and buildings are designed and constructed to be elevated with 1-1/2 feet of freeboard or floodproofed in accordance with the applicable regulations of the building regulations of the City of Nanticoke.

   (2) Any portion of the site which is located within a delineated floodway shall remain as undisturbed open space.

   (3) Any other provisions which the Planning Commission deems necessary to insure the public health, safety and welfare of the general public.

(Ord. 11-1992, 8/13/1992, §1005)
§22-1006. Final Plan.

In addition to the provisions contained in Part 5 of this Chapter, the following information and requirements shall apply:

A. The final plan shall include all information provided upon the preliminary plan and any changes or modifications required by the Planning Commission in granting such approval.

B. Certification that all structures and/or buildings within the development have been and/or will be floodproofed or elevated with 1-1/2 feet of freeboard. Certification shall include the submission of elevation certificates and/or floodproofing certificates.

(Ord. 11-1992, 8/13/1992, §1006)


1. All buildings, structures and development shall be designed, located and constructed in such a manner 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.

2. Building sites for residences or any other type of dwelling or accommodation shall not be permitted in any floodway. Building sites for residences or any other type of dwelling or accommodation may be permitted in a flood fringe area, if the building sites and the lowest floor of any structure, including basements, are elevated to a height of not less than 1-1/2 feet above the elevation of the 100 year flood. If fill is used to raise the elevation of the site the following regulations shall apply:

A. The fill area shall extend laterally for a distance of at least 15 feet beyond the building line from all points.

B. The fill shall solely consist of soil or small rock material.

C. The fill shall be compacted to provide the necessary permeability and resistance to erosion, scouring and settling.

D. The fill shall be no steeper than 1 vertical foot for each 2 horizontal feet, unless substantiated data justifying steeper slopes are submitted to and approved by the Building Code Officer of the City of Nanticoke.

E. Fill shall only be permitted to be used to the extent which it does not adversely affect adjacent properties.

3. Building sites for structures and/or buildings for nonresidential uses shall not be permitted in any floodway area. Building sites for structures and/or buildings for nonresidential uses may be permitted within a flood fringe area, if the building sites
and the lowest floor of any structure, including basements, are elevated to a height of not less than 1-1/2 feet above the elevation of the 100 year flood or if the proposed structures and/or buildings are floodproofed to preclude the infiltration of any flood waters.

4. If the Planning Commission determines that only a portion of the entire site can be safely developed, it shall have the discretion to limit development to that portion and shall require that the plan be resubmitted in a manner consistent with its determination.

5. If an applicant for a proposed subdivision and/or land development does not intend to construct structures and/or buildings upon any or all sites or lots within the proposed subdivision and/or land development, the Planning Commission shall require the imposition of deed restrictions to insure all applicable floodproofing requirements of the City of Nanticoke shall be met. Such deed restrictions shall be included in every deed and noted upon the recorded plan, prior to final approval and the recording of the plan.

(Ord. 11-1992, 8/13/1992, §1007)

§22-1008. Streets.

In addition to compliance with all applicable provisions under Part 8 of this Chapter, the finished elevation of proposed streets shall not be below elevation of the 100 year flood. Profiles, cross-sections and elevations of streets shall be required for verification of compliance with the requirement. Drainage openings shall be sufficient to discharge flood flows without unduly increasing flood heights.

(Ord. 11-1992, 8/13/1992, §1008)

§22-1009. Sanitary Sewer Facilities.

In addition to compliance with all applicable provisions under Part 8 of this Chapter, all new and/or replacement sanitary sewer facilities located within a 100 year floodplain shall be located, designed and constructed to minimize or eliminate flood damage and the infiltration of flood waters. Said facilities and systems shall also be designed to prevent the discharge of sewage into flood waters.

(Ord. 11-1992, 8/13/1992, §1009)

§22-1010. Water Facilities.

In addition to compliance with all applicable provisions under Part 8 of this Chapter, all new and/or replacement water facilities located within a 100 year floodplain shall be
located, designed and constructed to minimize or eliminate flood damage and the
infiltration of flood waters.

(Ord. 11-1992, 8/13/1992, §1010)

§22-1011. Other Utilities and Facilities.

In addition to compliance with all applicable provisions under Part 8 of this Chapter,
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.

(Ord. 11-1992, 8/13/1992, §1011)

§22-1012. Stormwater Drainage.

In addition to compliance with all applicable provisions under Part 8 of this Chapter,
the following shall apply:

A. Required Easements.

(1) Any proposed subdivision and/or land development shall be designed
to regulate stormwater runoff in such a manner which insures that
peak runoff rate at all points of discharge from the site, when
developed, shall not exceed the peak runoff rate at each of those
points prior to development.

(2) When a proposed subdivision and/or land development is traversed by
a watercourse, the following provisions shall apply:

   (a) If the watercourse is included within the Flood Insurance Study
       and related FEMA mapping, an easement shall be provided
       which conforms to and includes the line of the watercourse and
       any floodway of the watercourse.

   (b) If the watercourse is not included within the Flood Insurance
       Study and related FEMA mapping, and no other technical data
       can be provided, an easement shall be provided which conforms
       to and includes the line of the watercourse and a distance of not
       less than 50 feet landward from the top-of-bank of the
       watercourse.

   (c) The easement, at the discretion of the Planning Commission,
       may include defined points to allow municipal access along and
       into the watercourse for periodic maintenance and debris
       removal.

The easement shall prohibit any type of development including, but
not limited to, excavation and placement of fill, or any other form of
alteration of the land which could adversely affect the flow and/or drainage of water.

B. **Accommodation of Upstream Drainage.** A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The City Engineer shall give approval to the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum runoff rate calculated by the applicant and reviewed by the City Engineer. The calculation of this runoff rate shall take into account any land use and development regulations including runoff controls in effect in the tributary areas.

C. **Effect of Downstream Drainage Areas.** No stormwater runoff or natural drainage shall be so diverted as to overload existing drainage systems or create potential flooding or the need for additional drainage structures on other private properties or public lands, without approved provisions being made by the developer for properly handling such conditions. The Planning Commission shall withhold approval of the subdivision until provisions have been made for the improvement of said potential conditions. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

D. **Use of Detention Facilities.** The proposed use of any type of detention facility shall be subject to verification that design and construction of any such facility shall not result in adversely affecting any downstream areas which are included within a 100 year floodplain or result in adversely affecting potential downstream peaking conditions.

(Ord. 11-1992, 8/13/1992, §1012)

§22-1013. Erosion and Sedimentation Control.

Any proposed subdivision and/or land development shall be required to provide an erosion and sedimentation control plan in conformance with §22-823 of this Chapter.

(Ord. 11-1992, 8/13/1992, §1013)

§22-1014. Prohibited Development.

In addition to all other applicable limitations and restrictions, the proposed development of a manufactured home park, a hospital, nursing home or jail within the context of either a subdivision or a land development, shall be prohibited within any area of land which is within the boundaries of a delineated 100 year floodplain.

(Ord. 11-1992, 8/13/1992, §1014)
CHAPTER 23

SWIMMING POOLS

(Reserved to accommodate future enactments)
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PER CAPITA TAX

§24-101. Levy of Tax.

A per capita tax for general revenue purposes of the City be and the same is hereby levied on all inhabitants above the age of 18 years in the sum of $5.

(Ord. 3-1971, 12/21/1970, §1; as amended by Ord. 16-2004, 12/1/2004, §1)


This Part does not repeal the residence tax ordinance levying a like sum of $5 under the provisions of the Third Class City Code.

(Ord. 3-1971, 12/21/1970, §2)

§24-103. Declaration of Necessity.

The tax levied under this Part is necessary to enable the City to maintain its service to the public in the face of rising costs and a drop in revenue resulting from decreased assessments.

(Ord. 3-1971, 12/21/1970, §3)
§24-201.  Short Title.

This Part shall be known as the "Realty Transfer Tax Ordinance of the City of Nanticoke."

(Ord. 25-1986, 11/24/1986, §1)

§24-202.  Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the City of Nanticoke, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place as authorized by Article XI-D, "Local Real Estate Transfer Tax," 72 P.S. §8101-D et seq.

(Ord. 25-1986, 11/24/1986, §2)

§24-203.  Definitions.

ASSOCIATION - a partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent's estate.

CITY - the City shall be known as the City of Nanticoke, Luzerne County, Pennsylvania.

CORPORATION - a corporation, joint-stock association, business trust or banking institution which is organized under the laws of this Commonwealth, the United States or any other State, territory, foreign country or dependency.

DOCUMENT - any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under §24-208 of this Part.

FAMILY FARM CORPORATION - a corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business or agriculture shall not be deemed to include:
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A. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing.

B. The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities.

C. Fur farming.

D. Stockyard and slaughterhouse operations.

E. Manufacturing or processing operations of any kind

MEMBERS OF THE SAME FAMILY - any individual's brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendents of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half-blood or legal adoption shall be treated as if they were related by the whole-blood.

PERSONS - every natural person, association or corporation, whenever used in any subsection prescribing and imposing a fine or imprisonment, or both. The term "person" as applied to associations, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

REAL ESTATE -

A. All lands, tenements or hereditaments within this City including, without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance or land, but excluding permanently attached machinery and equipment in an industrial plant.

B. A condominium unit.

C. A tenant-stockholder's interest in an cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

REAL ESTATE COMPANY - a corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, 90% or more of the ownership interest in which is held by 35 or fewer persons and which:

A. Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate.

B. Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.
TITLE TO REAL ESTATE -

A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years including, without limitation, an estate in fee simple, life estate, or perpetual leasehold.

B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximately those of an estate in fee simple, life estate or perpetual leasehold including, without limitation, a leasehold interest or possessory interest in real estate in which the lease has equity.

TRANSACTION - the making executing, delivering, accepting, or presenting for recording of a document.

VALUE -

A. In the case of any bona fide sale of real estate at arm’s length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate; provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale.

B. In the case of a gift, sale by execution upon a judgement or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations.

C. In the case of an easement or other interest in real estate the value of which is not determinable under subsection (A) or (B), the actual monetary worth of such interest.

D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent
or principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(Ord. 25-1986, 11/24/1986, §3)

§24-204. Imposition of Tax; Interest.

1. 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, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within thirty days of acceptance of such document or within 30 days of becoming an acquired company.

2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by (the recorder/other designee) whereon the date of the payment of the tax, amount of the signature of the collecting agent shall be set forth.

3. It is the intent of this Part that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 §6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the person or transfer then the tax levied by the City under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be ½ of the rate and such ½ rate shall become effective without any action on the part of the City; provided, however, that the City and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to ½ of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the “Local Tax Enabling Act.”

4. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due, shall be added and collected.

(Ord. 25-1986, 11/24/1986, §4)

§24-205. Exempt Parties.

The United States, the Commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment or the tax imposed by this Part. The exemption of such government bodies shall not, however, relieve any other party to a transaction from liability for the tax.

(Ord. 25-1986, 11/24/1986, §5)
§24-206. Excluded Transactions.

1. The tax imposed by Section shall not be imposed upon:

   A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property fine adjustments provided said reconveyance is made within 1 year from the date of condemnation.

   B. A document which the City is prohibited from taxing under the Constitution or statutes of the United States.

   C. A conveyance to a municipality, township, school district or County pursuant to acquisition by the municipality, township, school district or County of a tax delinquent property at sheriff sale or tax claim bureau sale.

   D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.

   E. A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by, cotenants; however, if any of the parties take shares greater in value that their undivided interest, tax is due on the excess.

   F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided 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, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister or spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within 1 year shall be subject to tax as if the grantor were making such transfer.

   G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent’s devise or heir.

   H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
I. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.

J. A transfer for no or nominal actual consideration from trustee or successor trustee.

K. A transfer:
   
   (1) For no or nominal actual consideration between principal and agent or straw party.

   (2) From or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part.

Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the claims an exemption from taxation under this subsection.

L. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.

M. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than 2 years.

N. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.

O. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.

P. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the internal Revenue Code of 1954, (68A Stat. 3, 26 U.S.C. §501(c)(3) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.

Q. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.
R. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.

S. A transaction wherein the tax due is $1 or less.

T. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

2. In order to exercise any exclusion provided in this Section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for the purposes. For leases of coal, oil, natural gas or minerals, the statement of the value may be limited to an explanation of the reason such document is not subject to tax under this Part.

(Ord. 25-1986, 11/24/1986, §6)

§24-207. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided in§24-206, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this Part, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

(Ord. 25-1986, 11/24/1986, §7)

§24-208. Acquired Company.

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of 3 years.

2. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part.

3. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each County in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such
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County. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

(Ord. 25-1986, 11/24/1986, §8)

§24-209. Credits Against Tax.

1. 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 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.

2. Were there is a transfer by a builder of residential property which was transferred to the building within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

3. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.

4. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.

5. If the tax due upon the transfer is greater than the credit given under this Section, the difference shall be paid. If the credit allowed is greater than the amount or tax due, no refund or carryover credit shall be allowed.

(Ord. 25-1986, 11/24/1986, §9)

§24-210. Extension of Lease.

In determining the taxes of a lease it shall be permitted that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

(Ord. 25-1986, 11/24/1986, §10)

§24-211. Proceeds of Judicial Sale.

The tax herein imposed shall be fully paid, and have priority out of the proceeds or any judicial sale of real estate before any other obligation, claim, lien, judgement, estate or costs of the sale of the writ upon which the sale is made the state realty transfer tax, and the Sheriff, or other officer said sale, shall pay the tax herein imposed out of the first
moneys paid to him in connection therewith. If the proceeds of the sale are insufficient
to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

(Ord. 25-1986, 11/24/1986, §11)


21), the Recorder of Deeds shall be the collection agent for the local realty
transfer tax, including any amount payable to the City based on a redetermination
of the amount of tax due by the Commonwealth of Pennsylvania realty transfer
tax, without compensation from the City.

2. In order to ascertain the amount of taxes due when the property is located in
more than one political subdivision, the recorder shall not accept for recording
such a deed unless it is accompanied by a statement of value showing what taxes
are due each municipality.

3. On or before the tenth of each month, the recorder shall pay over to the City all
local realty transfer taxes collected, less 2% for use of the County, together with
a report containing the information as is required by the Commonwealth of
Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The
2% commission shall be paid to the County.

4. Upon a redetermination of the amount of realty transfer tax due by the
Commonwealth of Pennsylvania, the recorder shall rerecord the deed or record
the additional realty transfer tax form only when both the state and local amounts
and a rerecording or recording fee has been tendered.

(Ord. 25-1986, 11/24/1986, §12)

§24-213. Statement of Value.

Every document lodged with or presented to the Recorder of Deeds for rerecording,
shall set forth therein and as a part of such document the true, full and complete value
thereof, or shall be accompanied by a statement of value 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 Part. A copy of the Pennsylvania Realty Tax Statement of
Value may be submitted for this purpose. The provisions of this Section shall not apply
to any excludable real estate transfers which are exempt from taxation based on family
relationship. Other documents presented for the affixation of stamps shall be
accompanied by a certified copy of the document and statement of value 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 Part.

(Ord. 25-1986, 11/24/1986, §13)
§24-214. Civil Penalties.

1. If any part of any underpayment of tax imposed by this Part is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.

2. In the case of failure to record a declaration required under this Part in the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of tax if the failure is for not more than 1 month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

(Ord. 25-1986, 11/24/1986, §14)


The tax imposed by this Part shall become a lien upon the lands, tenants or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the City, which lands, tenements, hereditaments or interest therein are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this Part. Said lien to begin at the time when the tax under this Part is due and payable, and continue until discharge by payment, or in accordance with the law, and the Solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Luzerne County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. §7101 et seq., its supplements and amendments.

(Ord. 25-1986, 11/24/1986, §15)

§24-216. Enforcement.

All taxes imposed by this Part, together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

(Ord. 25-1986, 11/24/1986, §16)

§24-217. Regulations.

The Tax Collector of the City is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. §8101-C et seq. are incorporated into and made a part of this Part.

(Ord. 25-1986, 11/24/1986, §17)
PART 3

OCCUPATIONAL PRIVILEGE TAX

§24-301. Definitions.

The following words and phrases, when used in this Part, shall have the meanings ascribed to them in this Section, except where the context or language clearly indicates or requires a different meaning.

**INDIVIDUAL** - any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the City of Nanticoke.

**OCCUPATION** - any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the City of Nanticoke for which compensation is charged or received whether by means of salary, wages, commissions or fees for services rendered.

**EMPLOYER** - an individual, partnership, association, 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.

**TAX** - the occupation privilege tax in the amount of $10 levied by this Part.

**TREASURER** - the Treasurer of the City of Nanticoke, under whose direction this tax shall be enforced.

**FISCAL YEAR** - the 12 month period beginning January 1, 1966 and ending December 31, 1966.

**CITY OF NANTICOKE** - the area within the corporate limits of the City of Nanticoke.

**HE, HIS, OR HIM** - indicates the singular and plural number as well as male, female and neuter gender.

(Ord. 5-1966A, 1/1/1966, §1)

§24-302. Levy.

The City of Nanticoke hereby levies and imposes on each individual engaged in an occupation during the fiscal year of 1966, within the corporate limits of the City of Nanticoke, an occupation privilege tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the City of Nanticoke.

(Ord. 5-1966A, 1/1/1966, §2)
§24-303. Amount of Tax.

Beginning with January 1, 1966, each individual engaged in an occupation as hereinbefore defined within the City of Nanticoke shall be required to pay an occupation privilege tax in the amount of $10 per annum.

(Ord. 5-1966A, 1/1/1966, §3)

§24-304. Duty of Employers.

Each employer within the City of Nanticoke, as well as those employers situate outside the City of Nanticoke, but who in engage in business within the City of Nanticoke, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the City of Nanticoke, the said tax of $10 per annum and making a return and payment thereof, to the Treasurer; further, each employer is hereby authorized to deduct this tax from each employee in his employ, whether said employee is paid y salary, wages or commission and whether or not each such services are performed within the City of Nanticoke.

(Ord. 5-1966A, 1/1/1966, §4)

§24-305. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Treasurer's Office, City Hall, Nanticoke, Pennsylvania. Each employer, in filing this return and making payment of the tax withheld from his employees, shall be entitled to retain a commission calculated at the rate of 2% of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth. It is further provided that is if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages or commission paid by him to said employee, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him.

(Ord. 5-1966A, 1/1/1966, §5)

§24-306. Dates for Determining Tax Liability and Payment.

Each employer shall use his employment records from January 1 to May 15, 1966, for determining the number of employees from whom said tax shall be deducted and paid over to the Treasurer on or before June 15, 1966. Supplement reports shall be made by each employer on August 15, 1966 and October 15 1966, of each new employees as reflected on his employment record from May 15 1966 to August 15, 1966; and from August 15, 1966 to October 15, 1966, payments on these supplemental reports shall be made on September 15, 1966 and November 15, 1966, respectively.

(Ord. 5-1966A, 1/1/1966, §6)
§24-307. Individuals Engaged in More Than One Occupation.

Each individual who shall have more than one occupation within the City of Nanticoke shall be subject to the payment of this tax on his principal occupation and his principal employer shall deduct this tax and deliver to him evidence of deductions on a form to be furnished to the employer by the Treasurer, which form shall be evidence of deduction having been made and when presented to any other employer shall be authority for such employer to not deduct this tax from the employees wages, but to include such employee on his return by setting forth his name, address and the name and account number of the employer who deducted this tax.

(Ord. 5-1966A, 1/1/1966, §7)

§24-308. Self-Employed Individuals.

All self-employed individuals who perform services of any type or kind, engage in any occupation or profession within the City of Nanticoke, shall be required to comply with this Part and pay the tax to the Treasurer on June 15, 1966, or as soon thereafter as he engages in an occupation.

(Ord. 5-1966A, 1/1/1966, §8)

§24-309. Employers and Self-Employed Individuals Residing Beyond the Corporate Limits of the City of Nanticoke.

All employers and self-employed individuals residing or having their place of business outside of the City of Nanticoke, but who perform services of any type or kind, or engage in any occupation or profession with the City of Nanticoke do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Part with the same force and effect as though they were residents of the City of Nanticoke. Further, any individual engaged in an occupation within the City of Nanticoke and an employee of a nonresident employer may, for the purpose of this Part, be considered a self-employed person, and in the event this tax is not paid, the City of Nanticoke shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

(Ord. 5-1966A, 1/1/1966, §9)

§24-310. Administration of Tax.

1. It shall be the duty of the Treasurer to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person together with the date the tax was received.

2. The Treasurer is hereby charged with the administration and enforcement of this Part and is hereby charged and empowered to prescribe, adopt, promulgate rules and
regulations relating to any matter pertaining to the administration and enforcement of this Part including provisions for the examination of the payroll records of any employer subject to this Part; the examination and correction of any return made in compliance with this Part 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 Treasurer shall have the right to appeal to the Court of Common Pleas of Luzerne County as in other cases provided.

3. The Treasurer 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 Treasurer the means, facilities and opportunity for such examination.

(Ord. 5-1966A, 1/1/1966, §10)

§24-311. Suits for Collection.

1. In the event that any tax under this Part remains due or unpaid 30 days after the due dates set forth, the Treasurer may sue for the recovery of any such tax due or unpaid under this Part together with interest and penalty.

2. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of said tax shall be calculated beginning with the due date of said tax and a penalty of 5% shall be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liability therefor shall, in addition, be responsible and liability for the costs of collection.

(Ord. 5-1966A, 1/1/1966, §11)

§24-312. Fine and Penalty.

Whoever makes any false or untrue statement on any return required by this Part, or who refuses inspection of his books, records or accounts in his custody and control setting forth the number of employees subject to this tax who are in his employment or, who fails or refuses to file any return required by this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed $1,000 or to a term of imprisonment not to exceed 90 days, or both. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refuses to file a return required by this Part.

(Ord. 5-1966A, 1/1/1966, §12; as amended by Ord. 16-2004, 12/1/2004, §1)
PART 4

EARNED INCOME TAX

§24-401. Incorporation of Statute.

The provisions of §13 of the Local Tax Enabling Act (Act of Assembly of the Commonwealth of Pennsylvania, No. 511 of 1965), its supplements and amendments are incorporated herein by reference, except that where options are provided in said §13, this Part designates the option selected, and except as and where hereinafter specifically provided otherwise.

(Ord. 7-1968, 12/22/1967, §1)

§24-402. Imposition of Tax.

A tax for general revenue purposes in the amount of 1% is hereby imposed on earned income and net profits earned by residents and nonresidents of the City of Nanticoke during the taxable year beginning on the January 1, 1968, or the effective date of this Part, and continuing for each taxable year thereafter.

(Ord. 7-1968, 12/22/1967, §II)

§24-403. Declaration, Return and Payment of Tax.

1. Net Profits.

A. For 1968, every taxpayer making net profits shall, on or before April 15, 1968, make and file with the Income Tax Officer on a form prescribed or approved by the officer, a declaration of his estimated net profits during the period beginning January 1, 1968, or the effective date of this Part, and ending December 31, 1968, and pay to the officer in four equal quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration; the second installment on or about July 15, 1968; the third installment on or about October 15, 1968, and the fourth installment on or before January 15, 1969; and on or before April 15, 1969 shall file a final return showing the amount of net profits earned during the period beginning January 1, 1968, or the effective date of this Part, and ending December 31, 1968, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the officer the balance of tax due or shall make demand for refund or credit in the case of over payment.

B. After 1968, every taxpayer making net profits in any year succeeding 1968, shall file a declaration of his estimated net profits for the current year and
shall pay the tax due thereon in quarterly installments and shall file a final return and pay to the officer the balance of the tax due, all as provided in §13, III, A (1), of the Local Tax Enabling Act, its supplements and amendments.

2. **Earned Income.**

   A. For 1968, every taxpayer shall, on or before April 15, 1767, make and file with the officer a final return showing the amount of earned income (other than net profits) received during the period beginning January 1, 1968, or the effective date of this Part, and ending December 31, 1968, the total tax due thereon, the amount of tax paid thereon that has been withheld pursuant to the provisions relating to collection at the source and the balance of the tax due at the time of filing said final return, the taxpayer shall pay the balance of the tax due, or shall make demand for refund or credit in the case of overpayment.

   B. After 1968, for years succeeding the year 1968, every taxpayer shall make and file final returns and pay the taxes due all as provided in §13, III, B, first paragraph of the Local Tax Enabling Act, its supplements and amendments.

   C. **Quarterly Returns.** Every taxpayer who is employed for a salary, wage or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make and file with the officer quarterly returns and shall pay quarter annually the amount of tax shown as due on such returns, all as provided in §13 (III)(B)(2) of the Local Enabling Act, its supplements and amendments.

(Ord. 7-1968, 12/22/1967, §III)

§24-404. **Collection at Source.**

1. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction of the City of Nanticoke, shall deduct the tax imposed by this Part on the earned income due to his employee or employees and shall file quarterly returns and final returns and pay quarterly to the Income Tax Officer, the amount of taxes, deducted, all as set forth in §13(IV) of said the Local Tax Enabling Act, its supplements and amendments: except that:

   A. For the period from January 1, 1968, or the effective date of this Part to December 31, 1968, such employer shall, on or before April 30, 1968, and on or before July 31, 1968, October 31, 1968 and January 31, 1969, file a return and pay to the income tax officer the taxes deducted during the preceding 3 months periods ending March 31, 1968, June 30, 1968, September 30, 1968 and December 31, 1968, respectively.

   B. On or before February 28, 1969, every employer shall file with the Income Tax Officer:
(1) An annual return showing the total amount of earned income paid, the total amount of tax deducted and the total amount of tax paid to the Income Tax Officer for the period beginning January 1, 1968, or the effective date of this Part and ending December 31, 1968.

(2) A return withholding statement for each employee employed during all or any part of the period beginning January 1, 1968, or the effective date of this Part and ending December 31, 1968, setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, the amount of tax paid to the income tax officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

2. Every employer who discontinues business prior to December 31, 1968 shall, within 30 days after discontinuance of business, file returns and withholding statements hereinabove required and pay the tax due.

3. No employer shall be required to register, deduct taxes, file returns or pay taxes in the cases of domestic servants.

(Ord. 7-1968, 12/22/1967, §IV)

§24-405. Administration.

The Income Tax Officer shall be selected from time to time by resolution of, and shall receive such compensation for his services and expenses as determined from time to time by the City Council. Such officer shall have the powers and duties, and be subject to the penalties, provided in the “Local Tax Enabling Act,” its supplements and amendments.

(Ord. 7-1968, 12/22/1967, §VI)

§24-406. Applicability.

The tax imposed in §24-402 of this Part shall not be levied on the net profits of any person, institution, or organization as to whom it is beyond the power of the City Council to impose said tax under the Constitution of the United States of America or the Constitution and laws of the Commonwealth of Pennsylvania.

(Ord. 7-1968, 12/22/1967, §VII)
PART 5

MERCANTILE LICENSE TAX


The following words and phrases, when used in this Part, shall have the meaning ascribed to them:

PERSON - any individual, partnership, limited partnership, association or corporation.

WHOLESALE DEALER or WHOLESALE VENDOR - any person who sells to dealers in, or vendors of goods, ware and merchandise and to no other persons.

RETAIL DEALER or RETAIL VENDOR - any person who is a wholesale dealer or vendor.

The terms “person,” “wholesale dealer,” “wholesale vendor” and “retail vendor” shall not include nonprofit corporations organized for religious, charitable or educational purposes, any association organized for such purposes, clubs, agencies of the government of the United States or Commonwealth of Pennsylvania, or any person vending or disposing of articles of his own growth, production or manufacture for shipment or delivery from the place of growth, production or manufacture thereof.

LICENSE YEAR - that period of time beginning January 1 and ending December 31 of each year.

GROSS VOLUME OF BUSINESS - includes both cash and credit transactions.

A. Gross volume of business shall not include the dollar volume of business derived from the resale of goods, wares and merchandise taken by any dealer as a trade-in or as part payment for other goods, wares and merchandise except to the extent that the resale price exceeds the trade-in allowance.

B. Gross volume of business shall not include the dollar value of business attributable to sales taxes and excise taxes including liquid fuel taxes, the amount of which are shown in the sale price of any article to the Commonwealth of Pennsylvania or the United States of America.

MERCANTILE TAX COLLECTOR - the person or agency properly appointed by the resolution of Council to collect the taxes imposed by this Part.

(Ord. 10-1988, 2/8/1988, §1)
§24-502. Levy and Collection of Tax.

For the license year 1988, the City of Nanticoke hereby imposes an annual mercantile license tax in the manner and at the rates hereinafter set forth.

(Ord. 10-1988, 2/8/1988, §2)

§24-503. Licenses.

Beginning on January 1, 1988, and for the balance of the calendar year, every person desiring to continue to engage in, or hereafter begin to engage in the business of wholesale or retail vendor or dealer in goods, wares or merchandise, and any person conducting a restaurant or other place where food, drink or refreshments are sold, whether or no the same be incidental to some other business or occupation shall, on or before January 1, 1988, procure a mercantile license for his place of business, or if more than one, for each of his places of business in the City of Nanticoke from the Mercantile Tax Collector, as required by law. Such license shall be conspicuously posted at the place of business of every person at all times.

(Ord. 10-1988, 2/8/1988, §3)

§24-504. Imposition and Rate of Tax.

Every person engaged in any of the following occupations or businesses in the City of Nanticoke shall pay an annual mercantile license tax, for the calendar year 1988, at the rates herein set forth:

A. Wholesale vendors or dealers in goods, wares and merchandise, at the rate of 1 mill on each dollar of volume of annual gross business transacted by him, or at the rate of $1 per $1,000 of gross volume of business.

B. Retail vendors, or dealers in goods, wares and merchandise, and all persons engaged in conducting restaurants or other places where food, drink or refreshments are sold, at the rate of 1 ½ mills on each dollar of the volume of the annual gross business transacted by him or, at the rate of $1.50 per $1,000 of gross volume of business.

C. Wholesale and retail vendors or dealers in goods, wares and merchandise, at the rate of 1 mill on each dollar of the volume of the annual gross wholesale business transacted by him and 1 ½ mills on each dollar of the volume of the annual gross retail business transacted by him.

D. Each person engaged in a business temporary, seasonal or itinerant by its nature, at the rate of 1 ½ mills on each dollar of the gross volume of business, as that term is herein defined, transacted within the territorial limits of the City during each license year.

(Ord. 10-1988, 2/8/1988, §4)
§24-505. Computation of Volume of Business.

1. Every person subject to the payment of the tax hereby imposed who has commenced his business at least 1 year prior to the beginning of the license year shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the preceding calendar year.

2. Every person subject to the payment of the tax hereby imposed who has commenced or who commences his business less than 1 full year prior to the beginning of the license year, shall compute his annual gross volume of business for such license year upon the gross volume of business transacted by him during the first month he engaged in business multiplied by 12.

3. Every person subject to the payment of the tax hereby imposed who commences his business subsequent to the beginning of the license year shall compute his annual gross volume of business for year license year upon the gross volume of business transacted by him during the first month of his engaging in business multiplied by the number of months he engages in business in such license year.

4. Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal or itinerant by its nature, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the license year.

5. The Mercantile Tax Collector is hereby authorized to accept payment protest of the amount of mercantile tax claimed by the City in any case where the taxpayer disputes the validity or amount of the City's claim for tax. If it is thereafter judicially determined by a court of competent jurisdiction that the City has been overpaid, the amount of overpayment shall be refunded to the taxpayer. The provisions of this Section shall be applicable to cases in which the facts are similar to those in a case litigated in a court of competent jurisdiction.

(Ord. 10-1988, 2/8/1988, §5)

§24-506. Returns.

1. Every return shall be made upon a form furnished by the Mercantile Tax Collector. Every person making a return shall certify the correctness thereof by an affidavit.

2. Every person subject to the tax imposed by this Part who commenced his business at least 1 full year prior to the beginning of any license year shall, on or before March 15 of each year, file with the Mercantile Tax Collector a return setting forth his name, his business and his business address, and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the preceding calendar year, the amount of tax due.
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3. Every person subject to the tax imposed by this Part who has commenced his business less than 1 full year prior to the beginning of any license year shall, on or before March 15 of each year, file with the Mercantile Tax Collector a return setting forth his name, his business and business address and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the first month of business and the amount of tax due.

4. Every person subject to the tax imposed by this Part who commences business subsequent to the beginning of any license year shall, within 40 days from the date of commencing such business, file a return with the Mercantile Tax Collector setting forth his name, his business and business address and such information as may be necessary in arriving at the actual gross amount of business transacted by him during his first month of business and the amount of tax due.

(Ord. 10-1988, 2/8/1988, §6)

§24-507. Payment.

At the time of filing the return, the person making the same shall pay the amount of tax due shown as due thereon on the Mercantile Tax Collector.

(Ord. 10-1988, 2/8/1988, §7)

§24-508. Powers and Duties of Mercantile Tax Collector.

1. It shall be the duty of the Mercantile Tax Collector to collect and receive the taxes, fines and penalties imposed by this Part. It shall also be his duty to keep a record showing the amount received by him from each person payment the tax and the date of each receipt.

2. The Mercantile Tax Collector is hereby charged with the administration and enforcement of the provisions of this Part, and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the re-examination and correction of returns and payment alleged or found to be incorrect, or as to which an overpayment is claimed, or found to have occurred. Any person aggrieved by the decision of the Mercantile Tax Collector shall have the right to appeal to a court or courts of competent jurisdiction as in other cases provided.

3. The Mercantile Tax Collector is hereby authorized to examine the books, papers and records of the taxpayer or supposed taxpayer in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax due. Every such taxpayer is hereby directed and required to give the Mercantile Tax Collector the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

(Ord. 10-1988, 2/8/1988, §8)
§24-509. Confidential Nature of Returns, Etc.

Any information gained by the Mercantile Tax Collector, or any other officer, official, agent or employee of the City as a result of any returns, investigations, hearing or verifications, required or authorized by this Part, shall be confidential except in accordance with proper judicial order or as otherwise provided by law, and divulgence of any information so gained by hereby declared to be a violation of this Part, which may be punished by dismissal from office or employment.

(Ord. 10-1988, 2/8/1988, §9)

§24-510. Suit on Collection; Payment.

1. The Mercantile Tax Collector may sue for the recovery of taxes imposed by this Part whenever any of said taxes remain due to unpaid.

2. If for any reason the tax is not paid when during each year, interest at the rate of 6% on the amount of said tax, and any additional penalty of 1% per year of the amount of the unpaid tax for each month or fraction thereof during which the tax remained 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 interest and penalties herein imposed.

(Ord. 10-1988, 2/8/1988, §10)

§24-511. Fine and Penalties.

Whoever makes any false or untrue statement on his return, or who refuses to permit inspection of the books, records or accounts of any business in his custody or control, when the right to make such inspection by the Mercantile Tax Collector is required and whoever fails or refuses to file a return required by this Part, and whoever fails or refuses to procure a mercantile license when who required under this Part, or fails to keep his license conspicuously posted at his place of business, as herein required shall, upon conviction thereof, be sentenced to pay a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 30 days, or both.

PART 6
BUSINESS PRIVILEGE TAX

§24-601. Short Title.

The tax enacted hereunder shall be known as the "Business Privilege Tax."

(Ord. 11-1988, 2/8/1988, §1)

§24-602. Definitions.

The following words and phrases, when used in this Part, shall have the meanings ascribed to them in this Section unless the context clearly indicates a different meaning:

BUSINESS, TRADES, OCCUPATIONS, PROFESSIONS and VOCATIONS - includes, but is not limited to, all businesses, trades, occupations, professions and vocations in which there is offered any service or services to the general public or a limited number thereof including those enterprises engaged in by hotel operators, motel operators, parking lot and garage operators, warehousemen, lessors of real and tangible property, physicians and surgeons, osteopaths, podiatrists, chiropractors, veterinarians, optometrists, pharmacists, lawyers, dentists, engineers, architects, chemists, certified public accountants, public accountants, funeral directors, promoters, factors, commission merchants, agents, brokers, manufacturer's representatives, advertising and public relations agencies, real estate brokers, insurance brokers and agents, cable television operators, operators of places of amusement providing either passive or active recreation, vending machine operators, barber shop operators and beauty shop operators, cleaning, pressing and dyeing establishment operators, laundry operators, shoe repair, shoe operators, tailors, upholsterers, electrical and painting contractors engaged in the class of heavy building or other construction of any kind or in the alteration, maintenance or repair thereof, repairs or consultants of electrical, electronic and automotive machinery or equipment or other machinery and equipment and other wares and merchandise.

The terms as hereinbefore defined ["person" and "business, trades, occupations, professions and vocations"] shall not include the following: employees, agencies of the government of the United States or associations organized solely and exclusively for religious, educational or charitable purposes and not conducting any regular or established business competing commercially with any other person, subject to the tax herein imposed.

CITY - the City of Nanticoke.

COLLECTOR - the Business Privilege Tax Collector either a person or agency properly appointed by resolution of City Council to collect the tax imposed by this Part.
GROSS RECEIPTS - includes both cash and credit transacting made by a person for service rendered including both services, labor and any materials entered into or becoming component parts of the services performed within the City.

PERSON - an individual, a partnership, a corporation or any other legal entity which engages in a taxable activity.

SECRETARY - the City Clerk of the City of Nanticoke.

SERVICE - any act or instance of helping or benefitting another for a consideration.

TAX YEAR - the 12 month period beginning January 1 and ending the last day of December.

TEMPORARY, SEASONAL or ITINERANT BUSINESS - any business that is conducted at one location for less than 60 consecutive days.

(Ord. 11-1988, 2/8/1988, §2)

§24-603. Applicability of Part.

1. The registration and tax provision of this Part apply to any person engaging in any business, trade, occupation, profession or vocation in which there is offered any service or services to the general public or a limited number of the general public for a consideration except for persons who are wholesale or retail vendors or dealers in goods or who conduct restaurants or other places where food or beverages are sold and who are thus subject to the Mercantile Tax.

2. This Part applies not only to businesses in existence at the beginning of the license year, but also to businesses begun the tax year or carried on in the City for any part of the tax year.

(Ord. 11-1988, 2/8/1988, §3)

§24-604. Place of Business.

1. If the taxpayer has a place of business in the City and one or more places of business outside the City, only those receipts properly allocable to the place of business in the City are taxable. For this purpose a person may be considered to have a place of business outside the City if services are rendered at a fixed location outside the City which are such duration, size and complexity that the person would be considered doing business at such location.

2. Generally, receipts will be considered allocable to the place of business in the City if any significant aspect of the transaction occurs at or arises out of the place of business. For example, if a contract is made at the place of business in the City, the
receipts arising from that contract may be allocable to the City even though all or part of the contract is to be performed outside the City. The fact that the receipts from any transaction may be subject to tax in a jurisdiction outside the City does not necessarily mean that those receipts are not allocable to the City and subject to this tax. However, in appropriate cases, the principles set out in §24-609 below, may be applied to allocate business within and without the City.

(Ord. 11-1988, 2/8/1988, §4)

§24-605. Gross Receipts.

In general, the gross receipts upon which the tax is imposed is the value of all cash, credits or property received by a person which is attributable to the carrying on of business in the City, undiminished by any costs of doing business. A receipt generally will be considered attributable to the City if any part of the transaction or service giving rise to the receipt takes place within the City. The broad reach of this general rule is limited in certain situations by this Part and by State and Federal law as more fully explained hereinafter.

(Ord. 11-1988, 2/8/1988, §5)

§24-606. Cash or Accrual Basis.

A tax return may be filed on a cash basis or on an accrual basis, but the return must be prepared in accordance with the method of accounting regularly employed in keeping the books of the taxpayer. A person who keeps his books on the cash basis will report his gross receipts on the basis of amounts actually received during the period used as the measure of the tax. A taxpayer who keeps his books on the accrual basis will report the receipts from all sales made or services rendered during their period used as the measure of the tax, irrespective of the date when such moneys are collected from the customer. In either case, the taxpayer must file on a calendar year basis beginning January 1 and ending December 31, regardless of the taxpayers's fiscal year.

(Ord. 11-1988, 2/8/1988, §6)

§24-607. Deductions from Gross Receipts.

1. Refunds, credits or allowances given by a person to a customer on account of defects in services rendered or in goods, wares and merchandise sold or returned, may be deducted from the amount of the “gross receipts” of the person.

2. Adjustments allowed to customers may be deducted from “gross receipts” if they are deducted on the face of the invoice as a medium of adjusting the price or fee for the service and if they are not reimbursed to the person by his supplier or some other person.
3. Federal, State and local taxes are not included in "gross receipts" if they are collected from the customer and are separately stated on the evidence of charge or sale.

(Ord. 11-1988, 2/8/1988, §7)

§24-608. Exclusions.

This Part excludes from the definition of gross receipts the receipts from services performed from a place of business regularly maintained outside the City by the taxpayer to a place of business regularly maintained outside the City by the customer; provided, that such performance is not made for the purpose of evading the tax. Services or deliveries to a residence located outside the City do not qualify for this exclusion does not apply to factors commission merchants except with respect to sales of goods which they have taken title to and sold for their own account.

(Ord. 11-1988, 2/8/1988, §8)

§24-609. Interstate Commerce Exemption.

Under certain circumstances, receipt from sales in interstate or foreign commerce may be exempt from tax in whole or in part, even though they are allocable to a place of business in the City under §24-604, above. Receipts are not automatically exempt from tax merely because the sale involves interstate or foreign commerce. The controlling principles in determining whether any such receipts are subject to tax are that there by some nexus between the business activity carried on in the City and the imposition of the tax that there be a fair method of allocation of receipts to the business carried on in the City which will avoid an undue burden on interstate commerce. Bearing these principles in mind, the following methods of allocation will be followed by the City.

A. Receipts directly payable or paid to a place of business located with the City shall be considered allocable to the City and subject to tax.

B. If the collector determines, either upon his own initiative or upon application by the taxpayer, that the receipts covered by subsection (A) above do not properly reflect all receipts attributable to the activity carried on in the City, then to the extent possible, bearing in mind the accounting system used by the taxpayer and any other information reasonably capable of being derived from the books and records of the taxpayer, a separate accounting shall be made with respect to each place of business in the City and all receipts attributable to the place of business shall be considered allocable to the City and subject to tax.

C. If the collector determines, either on his own initiative or upon application by the taxpayer, that the provisions of subsections (A) and (B) above do not properly reflect all receipts attributable to the activity carried on in the City a different method of allocation may be used, with due regard to the extent of
the receipts, property and wages of the taxpayer within the City, the nature of the business concerned, the number of jurisdictions in which the receipts may be taxes, and such other factors as may be considered relevant.

D. All receipts from interstate commerce, whether taxable or nontaxable under the foregoing rules, must be included on the return filed by the taxpayer and a deduction for the nontaxable receipts shall be allowed thereon.

(Ord. 11-1988, 2/8/1988, §9)

§24-610. Either Business Privilege Registration or Mercantile License Required.

A person who may engage in a business with gross receipts from wholesale or retail sales of merchandise or restaurant as well as receipts from services, is not required to obtain both a registration certificate under this Part and a mercantile license under this Part. Either a mercantile license or a business privilege registration, whichever is appropriate to the majority of the taxpayer’s gross receipts, shall be obtained.

(Ord. 11-1988, 2/8/1988, §10)

§24-611. Certificate of Registration.

A separate certificate of registration must be obtained each year for each place of business in the City. The certificate must be obtained on or before May 1 of each tax year if the business was begun prior to the tax year. If a business is begun or a new place of business established during the tax year, the certificate must be obtained prior to commencing business. The certificate shall be valid for the location for which it was insured and the applicant only and shall not be assignable.

(Ord. 11-1988, 2/8/1988, §11)

§24-612. Registration Period.

The certificate is issued a tax year from January 1 to December 31 of each year. A certificate obtained at any time during the year is valid only from the date of issue until the end of the year with respect to which it is issued.

(Ord. 11-1988, 2/8/1988, §12)

§24-613. Registration Fees.

Before the issuance of a certificate, the applicant shall make payment to the collector of a registration fee for each place of business. The fee shall be in an amount as established
§24-614. **Late Charges.**

All registration fees due under this Part and not paid by May 1 of the tax year shall bear interest at the rate of 1% per month or fractional part of a month, from the day they are due and payable until paid. If any person shall neglect or refuse to obtain a registration certificate as herein required, an additional penalty of 10% of the registration fee shall be added by the collector and collected.

(Ord. 11-1988, 2/8/1988, §14)

§24-615. **Forms and Where to File.**

1. The application for certificate of registration forms shall be available from the City License Clerk, 15 East Ridge Street, Nanticoke, Pennsylvania, 18634. Failure to obtain or receive the application form shall not excuse any person from the obligation to file and obtain the registration certificate or the business privilege tax return or payment of the applicable tax hereunder.

2. Each application for registration shall be signed by the applicant if a natural person and, in the case of an association or a partnership, by a member or partner thereof, and in the case of a corporation, by an officer thereof.

3. All applications for certificate of registration shall be filed with the City License Clerk, 15 East Ridge Street, Nanticoke, Pennsylvania, 18634.

(Ord. 11-1988, 2/8/1988, §15)

§24-616. **Tax.**

Every person engaging in a business, trade, occupation, profession or vocation in the city shall pay an annual Business privilege Tax for the year at the rate of 1 ½ mills on his gross receipts; provided, however, that in no event shall the annual Business Privilege Tax herein imposed be less than $10.00.

(Ord. 11-1988, 2/8/1988, §16)

§24-617. **Requirement of Filing Return.**

A return must be filed and an estimated tax must be paid for each tax year at the time set forth in §24-618 below. The estimated tax is computed on the estimated gross receipts for
the tax year, which is determined as described in §24-519 below. At the end of each tax
year, the actual gross receipts for the year must be determined and an appropriate
adjustment made in the tax due. This adjustment will be shown on the final return for
the tax year. The final return for the prior tax year will be combined with, thus filed
at the same time as, the estimated return for the current year and a single payment
made in an increased or decreased by the adjustment for actual gross receipts for the
prior year.

(Ord. 11-1988, 2/8/1988, §17)

§24-618. Time of Filing.

Every person subject to this Part shall file a return as follows:

A. If the person has commercial business prior to January 1 of the tax year, the
   return shall be filed on or before May 15 of the tax year.

B. If the person commences business after January 1 of the tax year, the return
   shall be filed within 40 days from the date of commencing business.

C. If the person is engaged in a business which is temporary, seasonal or
   itinerant in its nature, the return shall be filed within 7 days of the
   completion of such business.

D. If the person discontinues, terminates or otherwise ceases business activity
   at the registered location, the return shall be filed within 30 days of the
   termination.

(Ord. 11-1988, 2/8/1988, §18)
PART 7

TAX EXEMPTION FOR CERTAIN DETERIORATED INDUSTRIAL AND COMMERCIAL PROPERTY

§24-701. Boundaries.

The boundaries of the Downtown Commercial District (C-2) as shown on the City of Nanticoke Zoning Map dated July 1972 are hereby affixed as the boundaries of a deteriorated area and all industrial, commercial and other business property located therein shall be considered deteriorated property for the purpose of said Act [Local Economic Revitalization Tax Assistance Act].

(Ord. 13-1993, 7/20/1993, §1)

§24-702. Schedule of Tax Exemptions.

The following schedule of tax exemptions, with respect to improvement of deteriorated property as provided in said Act is hereby adopted with the exemption to be granted on the increase in assessment attributable to the actual cost of improvements, regardless of the dollar amount:

IMPROVEMENT EXEMPTION SCHEDULE

<table>
<thead>
<tr>
<th>Year</th>
<th>Percent of Deduction on Improvements</th>
<th>Percent of Tax Collected on Increased Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>2</td>
<td>90%</td>
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<tr>
<td>3</td>
<td>80%</td>
<td>20%</td>
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<tr>
<td>4</td>
<td>70%</td>
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<tr>
<td>5</td>
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<td>80%</td>
</tr>
<tr>
<td>10</td>
<td>10%</td>
<td>90%</td>
</tr>
</tbody>
</table>

(Ord. 13-1993, 7/20/1993, §2)
§24-801. Registry Created.

A registry of the ownership of all real estate situate within the City of Nanticoke, Pennsylvania, liable to municipal taxation or assessments, be and the same is hereby created and established in accordance with the provisions of Article 16 of the Act of Assembly, approved June 27, A.D., 1913, and government of Cities of the Third Class, regulating nomination and election of municipal officers therein, and repealing consolidating and extending existing laws in relation thereto.

(Ord. 130, 3/20/1934, §1)

§24-802. City Engineer to Prepare Books.

The City Engineer is hereby authorized to prepare the necessary books and papers to register all such real estate and maintain and keep the same in his office in accordance with the terms, conditions and provisions of said Act of Assembly.

(Ord. 130, 3/20/1934, §2)

§24-803. City Engineer to Search Title.

The City Engineer may also cause search to be made for evidence of title not reported to him, as required for the completion of such plans.

(Ord. 130, 3/20/1934, §3)

§24-804. Books to be Preserved by City Engineer.

Said books of plans and other papers shall be carefully preserved by said City Engineer, and shall be so kept by additions from time to time, as to show the ownership of each lot or piece of real estate or subdivision thereof, within the City limits, with the successive transmissions of title from the date of the commencement of such plans.

(Ord. 130, 3/20/1934, §4)
§24-805. Owners Responsibility to Register.

It shall be the duty of all owners of unregistered real estate within the City limits, within 4 months of the approval of this Part, and of every subsequent purchaser, devise or person acquiring title by partition or otherwise, to any real estate therein, within 1 month after acquiring such title to furnish to the City Engineer, at his office, a description of their respective properties, upon blank furnished by the City and at the same time present their conveyances to be stamped by said City Engineer, without charge as evidence of the registration thereof. Any person or persons neglecting or refusing to comply with the provisions of this Section, for a period of 4 months after public notice of the requirements thereof, upon conviction thereof shall be sentenced to a fine of not more than $1,000 plus costs or to a term of imprisonment not to exceed 30 days, or both.

(Ord. 130, 3/20/1934, §5; as amended by Ord. 16-2004, 12/1/2004, §1).

§24-806. Judicial Sales.

The Sheriff of Luzerne County shall present for registry the deeds of all properties within the City limits sold by him at judicial sales, whether in partition, or otherwise, and the Prothonotary and Recorder of Deeds thereof shall not admit for record any deed for any City property bearing date subsequent to the approval of this Part for the establishment of such registry unless the same shall first have been duly stamped by the signature of the City Engineer, as proof of registry. Any Prothonotary or Recorder who shall record any deed before the provisions of the Act of June 27, 1913, and this Part shall have been complied with, shall be liable to a penalty of $5 for each deed recorded in violation hereof, as provided by Article 16, §8, of the Act of June 27, 1913.

(Ord. 130, 3/20/1934, §6)

§24-807. Certified Copies.

The City Engineer is hereby authorized to issue under his hand, to any person applying for the same, certified copies of any of the entries in said books of plans, upon the payment to him of the sum, in an amount as established from time to time by resolution of City Council, for use of the City of Nanticoke, for each and every certificate issued as aforesaid.

(Ord. 130, 3/20/1934, §7; as amended by Ord. 16-2004, 12/1/2004, §1).
§24-901. Levy of Tax.

A residence tax for general revenue purposes of the City be and the same is hereby levied on all inhabitants above the age of 18 years in the sum of $5.

(Ord. 299, 12/19/1960, §2; as amended by Ord. 16-2004, 12/1/2004, §1)
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TREES

(Reserved to accommodate future enactments)
CHAPTER 26

WATER

(Reserved to accommodate future enactments)
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GENERAL PROVISIONS

§27-101. Short Title.

This Chapter shall be known and may be cited as the “Zoning Ordinance of the City of Nanticoke, Pennsylvania.”


§27-102. Purpose.

This Chapter is enacted to accomplish the purposes enumerated in §604 of the Pennsylvania Municipalities Planning Code, Act 247, as amended. The provisions of this Chapter are designed to achieve the following:

A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, emergency management preparedness, airports and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.

B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.

C. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.

D. To provide for the use of land within the City for residential housing of various swelling types encompassing all basic forms of housing, including single-family and two family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks; provided however, that this Chapter shall not be deemed invalid for the failure to provide any other specific dwelling type.
E. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for the development of a variety of residential dwelling types and nonresidential uses.


§27-103. Community Development Objectives.

The community development objectives of the City of Nanticoke shall be to:

A. Achieve the best use of land within the City, ensuring that varying land uses will complement one another and thus improve the economic and aesthetic character of the community.

B. To maintain its urban character, emphasizing urban amenities and solving or ameliorating urban problems.

C. Commercial development, will be encouraged to be prosperous, efficient and attractive at all scale of development.

D. Provide desirable educational and recreational facilities.

E. Industrial development will be encouraged at specific locations, both to minimize adverse impacts on certain adjoining activities and to enhance the appearance and efficient functioning of industry itself.

F. Encourage and promote the provision of a wide range and variety of housing types to meet the needs of all City residents, newly formed households, growing families and senior citizens.

G. Rehabilitation of older homes will be encouraged; the construction of new homes will be encouraged; and, dilapidated structures will be removed.

H. Strip-mined land and land scarred by culm banks or other mining activity will be restored to improve its usefulness to increase the tax base, and to make the community attractive.

I. Establish realistic population densities in order to ensure adequate circulation, health standards, privacy and open space and in order to provide utilities, protection and facilities in the most convenient and efficient manner.

J. Streets throughout the City will be improved and maintained to provide safe and convenient access through the community and to the activities located along such streets. Wherever possible, streets will be brought up to State standards in width and construction.
K. Wherever possible, streets will be provided with curbs and sidewalks as well as with adequate lighting, traffic control, and landscaping.

L. Provide the best possible police and fire protection consistent with the community's needs, including cooperation with adjacent municipalities.

M. Expand and activate a continuing planning program that will serve to continually update and revise planning goals and objectives, and the operational tools necessary for implementation, in light of new data and conditions.


§27-104. Compliance With Ordinance Required.

Except as hereinafter provided, no land, building, structure or premises shall hereafter be used, and no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted, altered or moved except in conformity with the regulations herein specified for the zoning district in which it is located.

PART 2

DEFINITIONS

§27-201. Application and Interpretation.

The definition of words included herein are provided to facilitate the interpretation of this Chapter for administrative and enforcement purposes. Unless expressly stated otherwise, within the context of this Chapter, the following shall apply:

A. Words used in the present tense shall include the future tense.

B. The word "person" shall include a profit or nonprofit corporation, company, partnership or individual.

C. The words "used" or "occupied" as applied to any land or building shall include the words "intended," "arranged," or "designed" to be used or occupied.

D. The word "building" shall include "part thereof" and "structure."

E. The word "lot" shall include "plot" or "parcel."

F. The word "shall" is always mandatory.

G. The singular number shall include the plural, and the plural the singular.

H. The masculine gender shall include the feminine and neuter.

I. The word "street" shall include "road," "highway," and "lane."

(Ord. 12-1993, 6/3/1993, §201)

§27-202. Definition of Terms.

For the purpose of this Chapter, the following words, terms, and phrases have the meaning indicated herein:

ABANDONMENT - to cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility.

ABUTTING - having a common border with, or being separated from such a common border by a right-of-way, alley or easement.
ACCESS - a way or means of approach to provide physical ingress and/or egress to a property.

ACCESSORY STRUCTURE - a subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

ACCESSORY USE - a use incidental to, and on the same lot as, a principal use.

ADULT USES -

ADULT ARCADE - an establishment where, for any form of consideration, one or more motion picture projectors, slide projectors or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE - an establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or, (2) instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

ADULT CABARET - a nightclub, bar, restaurant or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTION PICTURE THEATER - an establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions are show, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

MASSAGE PARLOR - an establishment where massage, alcohol rub, fomentation, electric or magnetic treatment or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State. This definition does not include an athletic club, health club, school, gymnasium,
reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

SPECIFIED ANATOMICAL AREAS - as used herein, specified anatomical areas means and includes any of the following: (1) less than completely andopaqueley covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or, (2) human male genitals in a discernible turgid state, even if completely andopaqueley covered.

SPECIFIED SEXUAL ACTIVITIES - as herein specified, sexual activities means and includes any of the following: (1) the fondling or other erotic touching of human genitals, public region, buttocks, anus or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy; (3) masturbation, actual or simulated; or, (4) excretory functions as part of or in connection with any of sexual activity.

ALLEY - a public right-of-way intended and/or used as secondary means of access to abutting property.

ALTERATION - any change, addition or modification in construction or occupancy of an existing structure.

ALTERATION, STRUCTURAL - any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

AMENDMENT - a change in the regulations and provisions of this Chapter including changes to boundaries of zoning districts as provided upon the Zoning Map.

AMUSEMENT ARCADE - a building or part of a building in which five or more pinball machines, video games or other similar player-operated amusement devices are maintained.

ANTENNA - see “satellite antenna dish and tower.”

AUTOMOBILE WRECKING YARD - see also, “junkyards.” The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two or more motor vehicles, which, for a period exceeding 30 days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute prima-facie evidence of an automobile wrecking yard.

AUTOMOTIVE SALES - the use of any building, structure or land, other than a street, for the display and sale or rental of motor vehicles, which are in operable condition. The owner/operator of this business must have a valid State license for
the sale or rental of such motor vehicles. Any related repair shall be conducted within an enclosed building and shall be an accessory use.

**BAKERY, RETAIL** - a retail limited bakery primarily serving individual public consumers.

**BAKERY, WHOLESALE** - a business processing and producing bakery products primarily for retail bakeries as opposed to individual consumers.

**BASEMENT** - that portion of a building that is partly or completely below grade. A basement shall be counted as a story if the vertical distance from the average adjoining grade to the ceiling is 5 feet or greater.

**BILLBOARD** - a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

**BOARDING HOUSE** - a structure or portion thereof, in which lodging is provided by the owner or operator, for not more than four persons.

**BUFFER AREA** - a landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

**BUILDING** - any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons, animals, or property.

**BUILDING, ACCESSORY** - a subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use.

**BUILDING COVERAGE** - the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

**BUILDING HEIGHT** - the vertical distance of a building measured from the average elevation of the finished grade within 20 feet of the structure to the highest point of the roof.

**BUILDING, PRINCIPAL** - a building in which is conducted the principal use of the lot on which it is located.

**CANOPY SIGN** - any sign which is a part of or attached to an awning, canopy or other fabric-like or plastic protective structure which is extended over a door, window or entranceway. A marquee is not a canopy.

**CAR WASH** - an area of land and/or a structure with machine or hand-operated facilities used principally for the cleaning, washing, polishing or waxing of motor vehicles.
CEMETERY - land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

CHILD CARE FACILITY -

CHILD CARE SERVICES - the provisions of out-of-home care for children for part of a 24 hour day, excluding the care provided by relatives.

FAMILY CHILD CARE CENTER - a residential structure in which child care services are provided for more than six but less than 12 children, at any one time, where the child care areas are also used as a portion of a family residence.

GROUP CHILD CARE HOME - a structure in which child care services are provided for seven or more children at any one time, where the child care areas within the structure are not jointly used as a portion of a family residence.

CLEAR SIGHT TRIANGLE - an area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the "corner" so as not to interfere with traffic visibility across the corner.

CLINIC - a facility comprised of professional offices, for the examination and treatment of persons as outpatients by physicians, dentists or other licensed medical specialists, in which said medical practitioners work in cooperative association. Said clinics may provide medical services customarily available at hospitals, excluding overnight care of patients and 24 hour emergency service.

CLUB - buildings or facilities owned or operated by a corporation, association or persons for a social, educational or recreational purpose; but not primarily for profit or to render a service that is customarily carried on as a business.

COMMERCIAL USE - any use or establishment wherein services are rendered or goods are purchased or sold, whether to the consuming public (retail) or to another business (wholesale).

COMMUNITY CENTER - a place, structure, area or other facility used for and providing religious, fraternal, social and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

CONDOMINIUM - a building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

CONTRACTOR'S STORAGE - a lot, building or part thereof, used to store materials used by a contractor in the construction of a road, highway, structure or building, landscaping or utilities.
CONVENIENCE STORE - any retail establishment offering for sale prepackaged food products, household items and other goods commonly associated with the same. Such store may include the selling of gasoline, oil and related products.

COUNTY PLANNING COMMISSION - the Planning Commission of Luzerne County.

CREMATORY - a facility for the disposal by incineration of the bodies of dead people, located on a plot of land other than any land used for interment of dead people below ground.

CRITICAL AREAS - an area with one or more of the following characteristics: stream corridors, streams, floodplain areas, wetlands, slopes which equal or exceed 15%, soils classified as highly acidic or highly erodible, soils classified as having a high water table, land and associated soils which display poor percolation, mature stands of native vegetation and aquifer recharge and discharge area.

DAY CARE SERVICES - the provision of out-of-home care for children for part of a 24-hour day, excluding the care provided by relatives.

DAY CARE CENTER - see “child care facility.”

DENSITY - the number of dwelling units permitted per net unit of land.

DECISION - final adjudication of any board or other body granted jurisdiction under any land use ordinance or this act 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 Luzerne County.

DEVELOPMENT - the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure, any mining, excavation, landfill or land disturbance; and any use or extension of the use of land.

DETERMINATION - final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

A. The City of Nanticoke Council.

B. The Zoning Hearing Board.

C. The Planning Commission, only if and to the extent the Planning Commission is charged with final decision on preliminary or final plans under the Subdivision and Land Development Ordinance [Chapter 22] or planned residential development provisions.

Determination shall be appealable only to the boards designated as having jurisdiction for such appeal.
DISTRICT - see “zoning district.”

DORMITORY - a building that is owned and/or operated by an educational institution whose primary purpose is to provide living accommodations for individuals associated with the institution.

DRIVE-IN FACILITY - an establishment that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises or to be entertained while remaining in an automobile.

DRY CLEANER, RETAIL - a retail limited processing dry cleaner primarily serving individuals public consumers.

DRY CLEANER, WHOLESALE - a business primarily processing dry cleaning for other businesses as opposed to the individual public.

DWELLING - a building or portion thereof used exclusively for residential purposes, including one-family, two family and multiple-family dwellings, but not including hotels and boarding houses and dormitories.

DWELLING, MULTIFAMILY - a detached residential building containing three or more dwelling units, including what is commonly known as an apartment building.

DWELLING, SINGLE-FAMILY, ATTACHED (GROUP, ROW, AND TOWNHOUSES) - one of two or more residential buildings having a common or party wall separating dwelling units.

DWELLING, SINGLE-FAMILY, DETACHED - a residential building containing not more than one dwelling unit.

DWELLING UNIT - one or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

EASEMENT - a grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

EASEMENT, DRAINAGE - an easement required for the installation of stormwater sewers or drainage ditches, and/or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility.

ENTERTAINMENT FACILITIES - commercial establishments engaged in providing entertainment for a fee or an admission charge, such as a arcade, bowling alley, billiard hall, roller skating rink or similar facilities.
ENVIRONMENTAL IMPACT STATEMENT - a report and/or series of reports on the effect of a proposed development or major action which may significantly affect the environment and associated features thereunder.

EXCAVATION - removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

FAMILY - one or more persons occupying a dwelling unit and living together as a single nonprofit housekeeping unit. Foster children placed into the care and custody of a family shall be deemed to be a member of the family. A group in excess of four individuals who are not related by blood, marriage or legal adoption, shall not be deemed to constitute a family.

FLEA MARKET - an occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

FLOOD - a temporary condition of partial or complete inundation of normally dry land areas occurring from the overflow of inland waters and/or the unusual and rapid accumulation of runoff and surface waters from any source.

FLOOD FRINGE - the portion of a 100 year floodplain outside of the floodway, as delineated upon the most recent Flood Boundary Maps as published by the Federal Insurance Administration.

FLOOD HAZARD BOUNDARY MAP - the most recent map, as published by the Federal Insurance Administration, which delineates areas of special flood hazards, base flood elevations and applicable risk premium zones of a 100 year floodplain.

FLOODPLAIN (100 YEAR FLOODPLAIN) - areas of land which are subject to inundation by waters of a 100 year flood. The source of delineating the boundaries of a 100 year floodplain shall be based upon the most recent maps of the Flood Insurance Administration.

FLOODPROOFING - a combination of structural provisions, changes or adjustments to properties and structures subject to flooding for the reduction or elimination of flood damage to properties, water and sanitary facilities and other utilities, structures and the contents of buildings.

FLOODWAY - the portion of a 100 year floodplain, as delineated upon the most recent Flood Hazard Boundary Maps as published by the Federal Insurance Administration, which is designated to carry and discharge water and flow of a 100 year flood without increasing the water surface elevation by more than 1 foot at any given point.

FLOOR AREA, GROSS - the sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls.
FLOOR AREA RATIO - determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

FRONTAGE - the length of any one property line of a premises, which property line abuts a legally accessible street right-of-way.

FUNERAL HOME - a building or part thereof used for human funeral services. Such building may contain space and facilities for: (A) embalming and the performance of other services used in preparation of the dead for burial; (B) the performance of autopsies and other surgical procedures; (C) the storage of caskets, funeral urns and other related funeral supplies; and, (D) the storage of funeral vehicles, but shall not include facilities for cremation.

GARDEN APARTMENTS - two or more multifamily residential structures, each containing more than two, but not more than six dwelling units, having a common hallway for entrance into such dwelling units.

GARAGE, PRIVATE - a building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

GARAGE, REPAIR - also see, “service station.” A building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work.

GASOLINE SERVICE STATION - a building or premises, or portion thereof, used for the retail sale of gasoline, oil or other fuel, automotive parts, supplies or accessories for motor vehicles and which may include, as an incidental use only, facilities used for polishing, greasing, washing or otherwise cleaning or light servicing of motor vehicles, but not including liquefied petroleum gas distribution facilities.

GENERAL NUISANCE - any use considered to be inconsistent with the public comfort, convenience, health, safety and general welfare, including the following: fire and explosion hazards; electrical and radioactive disturbances; noise and vibration; dust, dirt and fly ash; glare; smoke and odors; and other forms of air pollution.

GOVERNING BODY - the City Council of the City of Nanticoke.

GROUP RESIDENCE - a dwelling unit which is shared under congregate living arrangements by more than four persons, who are residents of the dwelling unit by virtue of their need to receive supervised services limited to health, social and/or rehabilitative services provided by a person or persons or their licensed or certified agents, a governmental agency or their licensed or certified agents, a responsible corporation or their licensed or certified agents, a partnership or their licensed or certified agents or any other legal entity. Such services shall be provided in a
family-like environment to persons who are in need of supervision and/or specialized services in a residential setting. The following shall not be deemed to constitute a group residence:

A. A boarding home and/or personal care boarding home.

B. A facility providing shelter and/or rehabilitative care or treatment of persons for alcoholism and/or an addiction to a controlled substance.

C. A facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

HAZARDOUS SUBSTANCES - any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

HEALTH/RECREATION FACILITY - an indoor facility including uses such as game courts, exercise equipment, locker rooms, jacuzzi and/or sauna and pro shop.

HEIGHT - the vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front lot line or from the grade in all other cases.

HIGHWAY OCCUPANCY PERMIT - a permit, issued by the Pennsylvania Department of Transportation, which authorizes access from a parcel of land onto a street or highway which is under the jurisdiction of the Pennsylvania Department of Transportation.

HOME OCCUPATION - an occupation, profession, activity or use that is clearly a customary, incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

HOMEOWNERS ASSOCIATION - a community association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space or facilities.

HOSPITAL - an institution specializing in giving clinical, temporary and emergency services of a medical or surgical nature of human patients and injured persons, and licensed by state law to provide facilities and services in surgery, obstetrics and general medical practice.

HOTEL - see also, “motel.” A facility offering transient lodging accommodations on a daily rate to the general public and providing additional services such as restaurants, meeting rooms and recreational facilities.
IMPACT ANALYSIS - a study, which may be required by the Zoning Hearing Board of the City Council prior to approval of a use and/or development to determine the effect of the same on activities, utilities, circulation, surrounding land uses, community facilities, environmental features, both on and off the site of the proposed development and other factors directly, indirectly or potentially effected. The landowner and/or applicant shall be responsible for all cost related to any and all studies and/or reports required by the Zoning Hearing Board or the City Council under and within the context of the term "impact analysis."

IMPERVIOUS MATERIAL - any material and/or development that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land. Impervious surfaces shall include, but may not be limited to, buildings, roofs, surfaced, graded or compacted parking areas, streets, sidewalks, driveways and similar vehicular and/or pedestrian rights-of-way.

IMPROVEMENTS - manmade physical additions, alterations and/or changes which becomes part of, placed upon or is affixed to real estate.

INDUSTRY, HEAVY - a use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

INDUSTRY, LIGHT - a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing.

IMPROVEMENTS - manmade physical additions, alterations and/or changes which becomes part of, placed upon or is affixed to real estate.

JUNK - old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles and parts thereof.

JUNKED VEHICLE - any vehicle, including a trailer, which does not bear current license and inspection stickers or is incapable of being moved under its own power, and presents a hazard or danger to the public by virtue of its state or condition of disrepair. The following conditions, which are not exclusive, are examples of what may constitute a state or condition of disrepair:

A. Rusted and/or jagged metal on or protruding from the body of the vehicle.

B. Broken glass or windows on or in the vehicle.

C. Leaking of any fluids from the vehicle.
D. Unsecured and/or unlocked doors, hood or trunk.

E. Storage or placement of the vehicle in an unbalanced condition, such as on concrete blocks.

F. Harboring of rodents, insects or other pests.

JUNKYARD - see also, “automobile wrecking yard.” An open area where wastes or used or secondhand materials are bought, sold, exchanged, stored, processed or handled. Materials shall include but are not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. An automobile wrecking yard is also considered a junkyard.

LAND DEVELOPMENT - 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 residential or nonresidential buildings, whether proposed initially or cumulatively, a single nonresidential building on a lot or lots with two or more occupants regardless of their tenure, or a single nonresidential building, designed or intended for a single occupant, with a minimum gross floor area of not less than 10,000 square feet and/or located upon a lot or parcel containing a minimum land area of not less than 1 acre.

B. Any nonresidential use of land, with or without structures, which encompasses 5 or more acres of land.

C. 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.

D. The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into more than three residential units. Any conversion, described above, which results in not more than three residential units shall be deemed as a land development if the units are intended to be a condominium.

E. The development of a mobile home park or the expansion of an existing mobile home park within the context of the definition of said term as contained within this Chapter.

F. A single residential structure containing 10 or more residential units.

LANDOWNER - the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a propriety interest in land.
LAUNDRIES -

LAUNDROMAT, SELF-SERVICE - a business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises.

COMMERCIAL INDUSTRIAL LAUNDRY - a business that provides washing, drying and ironing services operated by the employees on the premises.

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, for principal and accessory buildings or structures.

LOT AREA - the total horizontal area within the lot lines of a lot.

LOT, CORNER - a lot abutting on and at the intersection of two or more streets.

LOT COVERAGE - determined by dividing that area of a lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings and structures by the gross area of that lot.

LOT DEPTH - the average horizontal distance between the front and rear lot lines.

LOT LINE - a line dividing one lot from another lot or from a street or alley.

LOT LINE, REAR - the lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.

LOT LINE, SIDE - any lot line not a front or rear lot line.

LOT OF RECORD - a lot which exists as shown or described upon a plat or deed and duly recorded in the Office of the Recorder of Deeds or Luzerne County, Pennsylvania, on the effective date of the adoption of this Chapter.

LOT, THROUGH - a lot having its front and rear yards each abutting on a street.

LOT WIDTH - the horizontal distance between side lot lines, measured at the required front setback line.

MANUFACTURED HOME - a structure, transportable in one or more sections, which is built upon a chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term shall include park trailers, travel trailers, recreational and other similar vehicles placed upon a site for more than 180 consecutive days.
MANUFACTURED HOME PARK - a parcel, or contiguous parcels of land, which has been planned and improved for the placement of two or more manufactured homes.

MEDIATION - a voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

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 foundations.

MOBILE HOME 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 mobile home.

MOBILE HOME 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.

MOTEL - see also, “hotel.” A building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance. Such building or group of buildings is designed, intended or used primarily for the accommodations of automobile travelers and provides automobile parking conveniently located on the premises.

MUNICIPALITY - City of Nanticoke, Luzerne County, Pennsylvania.

NIGHTCLUB - a commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing is permitted and includes the term "cabaret."

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 it 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 this Chapter or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such Chapter or amendment or prior to the application of such Chapter 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 this Chapter or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such Chapter or amendment to its location by reason of annexation.

OFFICES -

PROFESSIONAL OFFICE - an office (other than a service office and other than an office for care and/or treatment of, or medical attention to, animals as distinguished from persons) for the practice of professions, such as the offices of physicians, dentists, attorneys-at-law, architects, engineers, artists, musicians, teachers and others who, through training, are qualified to perform services of a professional nature (as distinguished from a professional office) and where there is no storage, sale or display of merchandise on the premises.

SERVICE OFFICE - an office in which are offered services by real estate agents, insurance agents, public stenographers, brokers or others who, through training, are duly qualified to perform services of an executive nature (as distinguished from a professional office) and where there is no storage, sale or display of merchandise on the premises.

OPEN SPACE - an area that is intended to provide light and air and is designed for either environmental, scenic or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas and watercourses. Open space shall not be deemed to include driveways, parking lots or other surfaces designed or intended for vehicular travel.

OUTDOOR STORAGE - the keeping, in an unroofed area, of any goods, material merchandise, equipment or vehicles which are related to the operation of a commercial business, excluding the storage of solid waste, hazardous substances, refuse, junk or any inoperative durable items.

PARCEL - a continuous quantity of land in the possession of or owned by or recorded as the property of the same person or persons.

PARKING LOT - see also, “garage, public.” An area not within building where motor vehicles may be stored for the purposes of temporary, daily or overnight off-street parking.

PARKING, SHARED - the development and use of parking areas on two or more separate properties for joint use by the business on those properties.

PARKING SPACE - an unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one motor vehicle.

PATIO - an area or courtyard which is not covered by a roof or permanent awning and is designated for outdoor living purposes as an accessory use to a structure.
PERMITTED USE - any use which is specifically authorized in a particular zoning district.

PERSONAL SERVICES - any enterprise conducted for gain, which primarily offers services to the general public, such as shoe repair, valet service, watch repairing, barber shops, beauty parlors, manicuring, tanning salons and related activities.

PHOTOCOPY SERVICE - a business that produces drawings, plans, maps or other copy by means of blueprinting or photocopying.

PLACE OF WORSHIP - a building used for religious services, including churches, synagogues, mosques and similar edifices.

PLANNING COMMISSION - the Planning Commission of City of Nanticoke.

PLANNED RESIDENTIAL DEVELOPMENT - an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, with a development plan which does not correspond in lot size, bulk or type of dwelling density, lot coverage and required open space to the regulations established in any one residential district created, from time to time, under the provisions of this Chapter.

PRINCIPAL USE - the main use of land or structures, as distinguished from a secondary or accessory use.

PRINT SHOP - a retail establishment that provides duplicating services using photocopy, blueprint and offset printing equipment, including collating of booklets and reports.

PRIVATE - something owned, operated and supported by private individuals or a corporation, rather than by government, and not available for public use.

PRIVATE CLUB - see “club.”

PRIVATE VOCATIONAL/TECHNICAL SCHOOL - a facility primarily teaching usable skills that prepare students for jobs in a trade or profession. Schools of this type shall include, but are not limited to, art, barber, beauty, dance, karate, modeling, music and other similar uses.

PUBLIC - something owned, operated and supported by the community or the residents for the use and benefit of the general public.

PUBLIC HEARING - a formal meeting held pursuant to public notice by the City Council, Planning Commission or Zoning Hearing Board, which is intended to inform and obtain public comment prior to taking action on a particular subject matter or development.
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 City. 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 30 days and the second publication shall not be less than 7 days from the date of the hearing.

PUBLIC USE - public schools and colleges, parks and administrative cultural and service buildings excluding public land or buildings primarily devoted exclusively to the storage and maintenance of equipment and materials.

RECREATIONAL FACILITIES, COMMERCIAL - recreational facilities operated as a business and open to the public for a fee.

RECREATIONAL FACILITIES, PRIVATE - recreational facilities other than commercial or public, not operated for a profit, and only open to its members and their guests.

RECREATIONAL FACILITIES, PUBLIC - recreational facilities operated as a nonprofit enterprise by a governmental entity or a nonprofit organization, and open to the general public.

RESTAURANT, FAST-FOOD - an establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried or grilled quickly or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table and food is generally serviced in disposable wrapping or containers.

RIGHT-OF-WAY - a defined and designated area for vehicular or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane or alley, which usually include cartway, shoulders and sidewalks.

SATELLITE DISH ANTENNA - a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrial and/or orbital based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas) and satellite microwave antennas.

SELF-STORAGE FACILITY - a building and/or series of buildings divided into separate storage units for personal property and/or property associated with some business or other organization. These units shall be used solely for dead storage of nonhazardous materials and no processing, manufacturing, sales, research and development, service or repair or other storage activities shall occur.
SEWAGE DISPOSAL, ONSITE - any facility designed to biochemically treat sewage within the boundaries of any individual lot in accordance with the applicable rules and regulations of the Pennsylvania Department of Environmental Protection. [Ord. 16-2004]

SEWAGE DISPOSAL, OFF-SITE - a sanitary sewage collection system, approved by the Pennsylvania Department of Environmental Protection, in which sewage is carried from individual lots by a system of pipes to a central treatment and disposal facility. [Ord. 16-2004]

SCHOOL - a facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools and high schools.

SCREENING - the method by which a view of one site from another adjacent site is shielded, concealed or hidden. Screening techniques include fences, walls, hedges, berms or other features.

SEATING CAPACITY - the actual seating capacity of an area based upon the number of seats or one seat per 18 inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the uniform Building Code [Chapter 5, Part 1].

SELF-SERVICE STORAGE FACILITY - a building or groups of buildings in a controlled access and fenced compound that contains varying sizes of individual compartmentalized, and controlled access stalls or lockers for the storage of customer’s goods or wares.

SERVICE STATION - see also, “garage, repair,” Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting and body fender work are conducted.

SELF-SERVICE STATION - an establishment where liquids used as motor fuels are stored and dispersed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

SETBACK - the required minimum horizontal distance between the building line and the related front, side or rear property line.

SHOPPING CENTER - a grouping of retail business and service uses on a single site with common parking facilities.

SIGN - a structure or device designed or intended to convey information to the public in written or pictorial form.
BULLETIN BOARD SIGN - a sign used for purposes of notification to the public of an event or other occurrence of public interest, such as church service, political rally, civic meeting or similar event.

SIGN AREA - the entire area within a continuous perimeter, enclosing the extreme limits of sign display, including any frame or border. Curved, spherical or any other shaped sign face shall be computed on the basis of actual surface area. The copy of signs composed of individual letters, numerals or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of said letter or devices. The calculation for a double-faced sign shall be the area of one face only. Double-faced signs shall be so constructed that the perimeter of both faces coincide and are parallel and not more than 24 inches apart.

SIGN, ELECTRONIC MESSAGE BOARD - any sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

SIGN, FLASHING - any sign, which, by method or manner of illumination, flashes on or off, winks or blinks with varying light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of being on or off.

SIGN, FREE STANDING - a sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure.

SIGN, OFF-PREMISE - see “billboard.”

SIGN, PORTABLE - any sign not permanently affixed in the ground or to a building, including any sign attached to or displayed on a vehicle that is used for the expressed purpose of advertising a business establishment, product, service or entertainment, when that vehicle is so parked as to attract the attention of the motoring or pedestrian traffic.

SIGN, PROJECTING - any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure.

SIGN, WALL - a sign painted on the outside of a building or attached to, and erected parallel to the face of a building and supported throughout its length by such building.

SITE - a plot or parcel of land or combination of contiguous lots or parcels of land.

SITE PLAN - a plan prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses and features proposed for a specific parcel of land.
SOIL EROSION AND SEDIMENTATION CONTROL PLAN - a plan that indicates necessary land treatment measures, as approved by the Luzerne County Conservation District, designed to effectively minimize soil erosion and sedimentation.

SPECIAL EXCEPTION - a use which may only be permitted in a particular zoning district, by special approval, granted by the Zoning Hearing Board in accordance with Part 8 and §27-1210 of this Chapter.

SOCIAL HALL - a room or building used for friendly or convivial gatherings, normally owned and/or operated by a nonprofit or civic organization.

SOLID WASTE - any garbage, refuse or other material including solid, liquid, semisolid or contained in gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities. The term shall also include any garbage, refuse or other discarded material or other waste, including solid, liquid, semisolid or containing gaseous materials resulting from industrial, mining, agricultural operations, local facilities or any other by-product or effluent from an industrial, mining or agricultural water supply treatment facility, waste water treatment facility or air pollution control facility.

SOLID WASTE FACILITY - any facility operated pursuant to the laws of the Commonwealth of Pennsylvania governing the management and disposal of solid waste including but not limited to: liquid, solid, toxic, hazardous and infectious medical waste. A transfer station shall be deemed included as such a facility.

STORY - that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between such floor and the ceiling above. A basement shall be counted as a story if its ceiling equals or exceeds 5 feet of the finished ground surface adjoining the exterior walls of such story.

STREET - a public (dedicated) or private (undedicated) right-of-way, whether or not improved, intended for use by vehicular and pedestrian traffic.

STRUCTURE - any manmade object, the use of which requires an ascertainable stationary location on land, whether or not it is affixed to the land.

SUBDIVISION - the division or redividing 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 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.
SWIMMING POOL - a water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above surface pool, having a depth of more than 30 inches, designed, used and maintained for swimming.

TOWNHOUSE - a residential structure constructed as a single entity containing a row of more than two single-family attached dwelling units but not more than 7 single-family attached dwelling units, whereby each unit may be sold as an individual single-family attached unit, with each unit having a lot under individual or association ownership. Each unit shall have its own front and rear access to the outside and may have a common or public open space, such as an off-street parking area, yard area, recreational area or similar common area. No dwelling units shall be located over another unit and each unit shall be separated from another unit by one or more party walls without openings.

TRUCK FACILITY - a structure, building and/or land consisting of a storage area, management and dispatch office and loading and unloading facilities connected with receipt or delivery of freight shipped by truck.

TRUCK REPAIR AND STORAGE - a property used for the maintenance and storage of large commercial vehicles, with all maintenance to be conducted within a building.

VARIANCE - a waiver granted by the Zoning Hearing Board from the terms and requirements of this Chapter in accordance with §27-1509 of this Chapter.

WAREHOUSE - a building used primarily for storage of goods and material.

WAREHOUSING AND DISTRIBUTION - a use engaged in storage, wholesale and distribution of manufactured products, supplies and equipment, excluding the bulk storage of material that are inflammable, explosive, hazardous or commonly recognized as offensive.

WATERCOURSE - a permanent or intermittent stream, river, brook, creek or channel or ditch for collection and conveyance of water, whether natural or manmade.

WETLANDS - those areas that were inundated or saturated by the surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. The term includes, but is not limited to, wetland areas listed in the State Water Plan, The United States Forest Service Wetlands Inventory of Pennsylvania, The Pennsylvania Coastal Zone Management Plan and any wetland area designated by a river basin commission.
YARD - an open space that lies between the principal building and the nearest lot line. Such yard is unoccupied and unobstructed from the ground up except for accessory buildings or projections which are expressly permitted by this Chapter.

YARD, FRONT - a space extending the full width of the lot between the principal building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

YARD, REAR - a space extending the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building at the closest point to the rear lot line.

YARD, SIDE - a space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building.

ZONING DISTRICT - a portion of City of Nanticoke illustrated upon the Official Zoning Map, within which certain uniform regulations and requirements apply under the provisions of this Chapter.

ZONING HEARING BOARD - the Zoning Hearing Board of City of Nanticoke, Luzerne County, Pennsylvania.

ZONING MAP - the official map which is part of this Chapter and indicates and delineates the zoning districts of City of Nanticoke, Luzerne County, Pennsylvania.

ZONING OFFICER - the administrative officer appointed by the Mayor to administer and enforce this Chapter of City of Nanticoke, Luzerne County, Pennsylvania.

PART 3

GENERAL REGULATIONS

§27-301. Compliance Required.

No structure or land shall be used or occupied, and no structure or part of a structure shall be erected, demolished, altered converted or moved, unless in compliance with all applicable provisions and regulations of this Chapter.

(Ord. 12-1993, 6/3/1993, §301)

§27-302. Interpretation and Conflict.

In interpreting and applying the provisions of this Chapter, they shall be held to the minimum requirements for the protection and promotion of the public health, safety, convenience, comfort, morals and general welfare of the residents of the City of Nanticoke. In the event of any conflict in the application of this Chapter with other applicable public or private provisions, the following shall apply:

A. Public Provisions. The regulations of this Chapter are not intended to interfere with or abrogate or annul any other ordinance, rules or regulations previously adopted or previously issued by the City of Nanticoke which are not in conflict with any provisions of this Chapter. Where this Chapter imposes a greater restriction upon the use of land, structure or building than any other previously adopted ordinance, rules or regulations of the City of Nanticoke, the provisions of this Chapter shall apply.

B. Private Provisions. The regulations of this Chapter, are not intended to interfere with or abrogate or annul any easement, covenant or other form of private agreement or restriction, provided that where the provisions of this Chapter impose a greater restriction, the requirements of this Chapter shall govern. Where the provisions of any easement, covenant or other form of private agreement or restriction imposes obligations, duties and/or requirements which are more restrictive and/or impose higher standards than the requirements of this Chapter, and such private provisions are not inconsistent with the requirements of this Chapter, then such private provisions shall be operative and supplemental to the requirements of this Chapter.


Accessory structures which are attached to a principal structure shall be considered a part of the principal structure and shall comply with the same yard and lot requirements applicable to the principal structure.


1. **Nonresidential.** When the principal use of structure is nonresidential, an unattached accessory structure shall comply with the front yard setback requirements applicable to the principal structure or use for the zoning district in which it is located and shall not be less than 10 feet from any side yard lot line or rear yard lot line.

2. **Residential.** When the principal structure is residential, unattached accessory structures shall only be erected within the rear yard or side yard access of the lot subject to the following requirements:

   A. The maximum height shall not exceed one and one-half stories or 15 feet, whichever is the lesser.

   B. An accessory structure shall not be located less than 5 feet from a side lot line or the rear lot line; in cases where it abuts a street or alley a setback of 10 feet shall be required.


§27-305. Corner Lot Restriction.

On a corner lot there shall be provided on each side thereof, adjacent to a street, a yard setback equal in depth to the required front yard setback of the prevailing zoning district in which the corner lot is located.


§27-306. Types of Residential Accessory Structures.

For residential lots, permitted accessory structures shall include noncommercial greenhouses, tool or lawn sheds, private garages or carports, private noncommercial swimming pools and noncommercial satellite antenna dishes.


In cases when a residential structure is a conforming use, located in a nonresidential zone, the proposed erection of an accessory residential structure shall be deemed exempt from classification as an expansion of a nonconforming use, but shall be subject to the regulations contained under Section §27-304(2) of this Chapter.

§27-308.  **Private Noncommercial Swimming Pools.**

Swimming pools shall be located in either the rear yard or side yard of the property on which it is an accessory use. The swimming pool and any accessory structures thereto, shall have a minimum setback of 5 feet from any rear or side yard lot line. All swimming pools, capable of containing water to a depth, at any point, in excess of 18 inches shall be enclosed in accordance with the following subsections:

A.  **In Ground Pools.** The pool or the entire property on which the pool is located shall be enclosed with a permanent fence not less than 4 feet in height, which includes a gate secured with a lock.

B.  **Above Ground Pools.** An above ground pool shall be enclosed with a permanent fence not less than 4 feet in height which includes a gate secured with a lock in accordance with the above requirements of subsection (A), above, or in lieu of a fence, a barrier not less than 4 feet in height. Said barrier may include the pool wall and any extension thereto which equals or exceeds a height of 4 feet. Access into the pool shall be secured by a gate with a lock, retractable steps or any similar device which prohibits uncontrolled access into the pool when not in use. Shrubbery is not to be considered as a barrier. Decks which are attached to the pool shall not project into any required yard setback for the pool.

C.  **Existing Pools.** Existing pools shall conform to the requirements of this Section within 1 year from the effective date of this Chapter.


§27-309.  **Lots Divided by Zoning Boundaries.**

If a zoning district boundary line divides a lot held in single and separate ownership prior to the effective date of this Chapter, placing 85% or more of the lot area in a particular zoning district, the location of such district boundary line may be construed to include the remaining 15% or less of the lot so divided.


§27-310.  **Projections Into Required Yards.**

The following projections shall be permitted into required yards and shall not be considered in the determination of yard setback requirements or building coverage:

A.  **Terraces or Patios.** Provided that such terraces or patios are not under roof, without walls or other form of enclosure and are not closer than 5 feet to any adjacent lot line.
B. **Projecting Architectural Features.** Such as bay windows, cornices, eaves, fireplaces, chimneys, window sills or other similar architectural features provided that any of the aforementioned features do not extend more than two feet into any required setback.

C. **Uncovered Porches.** Provided that such does not exceed 4 feet in length and 4.5 feet in depth as extended from the structure.

D. **Handicapped Ramps.** May be constructed without meeting any applicable front and/or rear yard setback requirements in any zoning district, but shall have a minimum side yard setback of not less than 5 feet.


**§27-311. Exceptions to Height Limitations.**

The height limitations of this Chapter shall not apply to church spires, belfries, cupolas, domes, chimneys, flagpoles, water towers, television or radio transmission towers, skylights; nor to any accessory mechanical appurtenances usually located above the roof level.


**§27-312. Conversion of Nonresidential Structures.**

The conversion of a building not constructed for residential use which is located in an R-2 Zone, R-3 Zone or a nonresidential district may be converted into a residential use upon approval of such as a special exception use by the Zoning Hearing Board and subject to the following:

A. A ratio of one dwelling unit for every (3,500 square feet of lot area; provided, that not more than six dwelling units shall be created in the conversion of any such building.

B. All other applicable requirements of this Chapter are met including, but not limited to, the provision of two off-street parking spaces for each dwelling unit created.


**§27-313. Required Access.**

Every building or structure hereafter erected shall have access to or be located upon a lot adjacent to a public or private street.


1. **Multiple Structures And/or Uses.** In addition to zoning approval, the proposed development of more than one principal use and/or one principal structure on a zoning lot, whether initially or cumulatively, shall be classified as a "land development," requiring approval under the applicable provisions of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22].

2. **Certain Nonresidential Uses.** In addition to zoning approval, the proposed construction of a nonresidential building with two or more occupants or a single nonresidential building having a minimum gross floor area of not less than 10,000 square feet and/or located upon a lot or parcel containing a minimum land area of not less than 1 acre shall be classified as a "land development," requiring approval under the applicable provisions of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22].

(Ord. 12-1993, 6/3/1993, §314)


1. **Intersection of Streets.** On any corner lot no visual obstruction between 2.5 feet and 8 feet in height, excluding street signs, utility poles or traffic signs, shall be erected or maintained within the triangle formed by a line projected between two points measured at a minimum distance of 20 feet from the intersection of the side yard lot lines of the property which abut the public right-of-way.

2. **Private Driveways.** No visual obstruction between 2.5 feet and 8 feet in height, shall be erected or maintained within the triangles formed by a line projected between two points measured at a minimum distance of 10 feet from the outer edge of each side of the driveway in each direction to a depth of 10 feet along the centerline of the driveway.


§27-316. Fences and Walls.

1. **Residential.** Fences and walls to be constructed within a residential zoning district or upon a lot in any other type of zoning district which contains a residential property, shall be permitted according to the following subsections:

   A. **Front Yard.** The maximum height of any fence or wall is a front yard shall not exceed 4 feet in height above the adjacent ground level.

   B. **Side and Rear Yards.** The maximum height of any fence or wall located in a side yard or rear yard shall not exceed 6 feet in height.
C. **Materials.** All fences shall be constructed with materials recognized by the fencing industry and designed to provide a permanent enclosure. No barbed wire or other potentially injurious material shall be constrained upon the fence or as part of the material to construct the fence.

2. **Nonresidential.** Fences to be constructed within any commercial zoning district shall not exceed 8 feet in height above the adjacent ground level. Fences to be constructed within any industrial zoning district shall not exceed 10 feet in height above the adjacent ground level.

3. **Exemptions.** The provisions of this Section shall not be applied to prevent the construction of a chain link, not to exceed 15 feet in height, designed as an enclosure to public property, a public park, a public playground or similar outdoor recreational facility.


§27-317. **Public Utilities.**

With the exception of storage yards, the provisions and regulations of this Chapter shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation deemed necessary for the convenience of welfare of the public in accordance with §619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.


§27-318. **Validity/invalidity Prior Approvals and/or Permits.**

1. **Valid Approvals and/or Permits.** Any use of land, structure and/or building approved prior to the enactment of this Chapter shall be governed by the provisions and terms of approval under the City of Nanticoke Zoning Ordinance of July 23, 1971, as amended, when all of the following conditions are met:

   A. **Work in Progress.**

   (1) The approved use of land, structure and/or building displays conclusive visible evidence that the physical installation, development and/or construction of the use in question had commenced prior to the date of adoption and enactment of this Chapter.

   (2) The physical installation, development and/or construction shall be completed in not less than 12 months from the date of adoption and enactment of this Chapter.
Failure to comply with the above two requirements shall render any such prior approval and/or zoning permit as null and void. Any further consideration for the approval of such use shall be fully governed by the terms and provisions of this Chapter.

B. Work Not Started.

1. The approval and/or zoning permit for the use of land, structure and/or building in question was granted not more than 90 days prior to the date of the adoption and enactment of this Chapter.

2. The physical installation, development and/or construction of the use in question shall commence within 90 days from the date of adoption and enactment of this Chapter and shall be completed in not less than 12 months from the date of adoption and enactment of this Chapter.

Failure to comply with the above two requirements shall render any such prior approval and/or zoning permit as null and void. Any further consideration for the approval of such use shall be fully governed by the terms and provisions of this Chapter.

(Ord. 12-1993, 6/3/1993, §318)

§27-319. Sewage Disposal.

1. Sanitary Sewers. All nonresidential structures shall be required to be serviced by central sewers. Residential structures may utilize an onlot sewage disposal system, subject to having the design and construction of the system approved by the Pennsylvania Department of Environmental Protection including, but not limited to, any applicable regulations governing the minimum lot size for an onlot system. No building permit shall be issued until such approval is issued by the Pennsylvania Department of Environmental Protection. [Ord. 16-2004]

2. Holding Tanks. The use of a holding tank shall be expressly prohibited to service any use and/or development.


Any structure proposed to subdivided, containing two or more units, residential or nonresidential, shall be exempted from the governing side yard setback requirements under this Chapter relative only to interior side yards. When a side yard of a proposed subdivision is directly attached to another unit within the structure, subdivision approval shall exempt the property from requesting and/or securing an interior side yard variance from the Zoning Hearing Board.

§27-321. **Highway Occupancy Permit.**

Zoning approval for any proposed use and/or development of a property, which includes the construction and/or relocation of a driveway onto a State Legislative Route, shall be conditioned upon the applicant securing a highway occupancy permit from the Pennsylvania Department Transportation prior to the start of construction.


§27-322. **Soil Erosion and Sedimentation Control Plan.**

A prerequisite of zoning approval for any proposed use and/or development of a property which includes earth moving and/or earth disturbance activities shall be subject to the applicant’s submission of a soil erosion and sedimentation control plan to the Luzerne County Conservation District and approval of said plan by said agency or written notification that said plan is not required for the proposed use and/or development.


§27-323. **Conflicting Regulations.**

If in any instance where the use and/or development of a property is subject to any conflicting regulations, the more restrictive shall apply.

PART 4

ZONING MAP AND ZONING DISTRICTS


The City of Nanticoke is hereby divided into zoning districts, as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this Chapter, together with all future notations, references and amendments.


§27-402. Changes to Official Zoning Map.

Any changes to the location of zoning district boundaries or other matters portrayed upon the Official Zoning Map shall be undertaken in accordance with the applicable provisions contained within Part 14 of this Chapter and the Pennsylvania Municipalities Planning Code, Act 247, as amended. Such changes shall be provided upon the Official Zoning Map promptly after the enactment of the subject amendment by the City Council of the City of Nanticoke.


§27-403 Interpretation of Boundaries.

For the interpretation of zoning district boundaries, the following subsections shall apply if or when a determination is not made by the Zoning Officer:

A. Zoning Hearing Board. If uncertainty exists as to the boundary of any zoning district shown upon the Official Zoning Map, the Zoning Hearing Board shall determine the location of such boundary according to the guidelines set forth in subsection (B), below.

B. Guidelines.

(1) Zoning district boundary lines are intended to follow or parallel the centerline of streets, streams and railroads; and the lot or property lines as they exist on a recorded deed or plan in the Luzerne County Recorder of Deeds Office at the time of adoption of this Chapter, unless such zoning district boundary lines are fixed by dimensions as shown on the Official Zoning Map.

(2) Where a zoning district boundary is not fixed by dimensions and where it approximately follows lot lines, and does not scale more than 10 feet
therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.

(3) If the guidelines as stated above fail to provide and establish the boundary of a zoning district, a survey of the property or area of land in question shall be made by a registered surveyor, with the cost of the survey paid by the party who is questioning or contesting the boundary location.

(Ord. 12-1993, 6/3/1993, §403)


For the purpose of this Chapter, the City of Nanticoke is hereby divided into zoning districts as designated below:

R-1 Single-Family Residential District
R-2 Two Family Residential District
R-3 Multifamily Residential District
C-1 Neighborhood Commercial District
C-2 Central Business District
C-3 Heavy Commercial District
I-1 Industrial District
S-1 Special Purpose District
FPCD Floodplain Conservation District
PRD Planned Residential Development District

PART 5

ZONING DISTRICT REGULATIONS


1. **Purpose.** The purpose of this district is to preserve and enhance areas primarily composed of single-family residences at low to moderate land use and population densities. This district is primarily reflective of areas of the City of Nanticoke which contain stable residences with a minimal amount of nonconforming uses. The majority of land under this classification is located upon streets which are local in nature and carry relatively low volumes of traffic.

2. **Permitted Uses.**
   
   A. Single-family detached dwellings.
   
   B. Public utility facilities (excluding storage yards).
   
   C. Accessory uses to the above.

3. **Uses Permitted by Special Exception.**
   
   A. Home occupations.
   
   B. Public uses.
   
   C. Public recreational facilities.
   
   D. Day care homes.
   
   E. Place of worship.
   
   F. Accessory uses to the above.

4. **Conditional Uses.**
   

5. **Dimensional Regulations.** Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable including, but not limited to, State regulations and supplementary regulations contained in Part 8 of this Chapter:

   A. **Minimum Lot Area.** Each principal building, or use shall be located upon a lot having a minimum lot area of not less than 8,500 square feet.
B. **Minimum Lot Width.** Seventy-five feet, as measured from a depth of the required front yard setback.

C. **Front Yard.** Twenty-five feet in depth as measured from the front lot line.

D. **Rear Yard.** Thirty feet in depth as measured from the rear lot line.

E. **Side Yard.** The side yard shall be not less than 10 feet on each side.

F. **Lot Coverage.** Not more than 35% of the lot area shall be covered with buildings or structures.

G. **Building Height.** The maximum height of any building shall not exceed two and one-half stories or 35 feet.

H. **Maximum Density.** Not to exceed 8,500 square feet per dwelling unit.

6. **Supplementary Regulations.** See Part 8.

7. **Subdivision and Land Development.** Any property proposed to be divided into parcels or developed in accordance with the definitions of a “subdivision” or “land development,” as provided in Part 2 of this Chapter, shall also be subject to the governing regulations and provisions of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22].


§27-502. R-2, Two Family Residential District.

1. **Purpose.** The majority of residential land within The City of Nanticoke is classified as R-2. The uses within this district are primarily single-family and two family residences with land use and population densities which are moderate, but higher than those within the R-1 District. Similar to the R-1 District, the majority of land under this classification is located upon local streets designed and intended to carry relatively low volumes of traffic.

2. **Permitted Uses.**

   A. Single-family detached dwellings.

   B. Two family dwellings.

   C. Public utility facilities (excluding storage yards).

   D. Accessory uses to the above.

3. **Uses Permitted by Special Exception.** See Part 8.
A. Single-family attached dwellings.

B. Townhouses.

C. Garden apartments.

D. Home occupations.

E. Public uses.

F. Public recreational facilities.

G. Day care homes.

H. Place of worship.

I. Group residences.

J. Conversion of nonresidential building into residences (§312).

K. Accessory uses to the above.

4. **Conditional Uses.**


5. **Dimensional Regulations.** Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable including, but not limited to, State regulations and supplementary regulations contained in Part 8 of this Chapter.

A. **Minimum Lot Area.** Each principal building, structure and/or use shall have a minimum lot area of not less than:

   (1) Five thousand square feet for detached single-family residences.

   (2) Seven thousand square feet for a two family dwelling.

   (3) Seven thousand square feet for the first two units and 3,500 square feet for each additional dwelling unit for any type residential structure with three or more dwelling units.

B. **Minimum Lot Width.**

   (1) Fifty feet for lots requiring a minimum lot area of 5,000 square feet.

   (2) Seventy feet for lots requiring a minimum lot area of 7,000 square feet.
(3) One hundred feet for any type of residential structure containing three or more dwelling units.

C. **Front Yard.** The minimum front yard shall be not less than 25 feet in depth as measured from the front lot line.

D. **Rear Yard.** The rear yard shall be not less than 25 feet in depth as measured from the rear lot line.

E. **Side Yard.** The side yard shall be not less than 6 feet on each side.

F. **Lot Coverage.** Not more than 40% of the lot area shall be covered with buildings or structures.

G. **Building Height.** The maximum height of any building shall not exceed two and one-half stories or 35 feet.

H. **Maximum Density.**

(1) Five thousand square feet per dwelling unit for detached single-family residential developments.

(2) Seven thousand square feet for two family residential developments.

(3) Seven thousand square feet for the first two units and 3,500 square feet for each additional dwelling unit.

6. **Supplementary Regulations.** See Part 8.

7. **Subdivision and Land Development.** Any property proposed to be divided into parcels or developed in accordance with the definitions of a "subdivision" or "land development," as provided in Part 2 of this Chapter, shall also be subject to the governing regulations and provisions of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22].


§27-503. **R-3, Multifamily Residential District.**

1. **Purpose.** The purpose of this district is to provide for and recognize existing areas of higher density and to allow for a further diversification of housing types within the City of Nanticoke. The uses within this district include a mix of a variety of housing types.

2. **Permitted Uses.**

   A. Single-family detached dwellings.
B. Single-family attached dwellings.
C. Two family dwellings.
D. Townhouses.
E. Public utility facilities (excluding storage yards).
F. Accessory uses to the above.

3. **Uses Permitted by Special Exception.** See Part 8.
   A. Multifamily dwellings.
   B. Garden apartments.
   C. Home occupations.
   D. Public uses.
   E. Public recreational facilities.
   F. Day care homes.
   G. Place of worship.
   H. Home occupations.
   I. Boarding homes.
   J. Group residences.
   K. Conversion of nonresidential building into residences (§27-312).
   L. Accessory uses to the above.

4. **Conditional Uses.**

5. **Dimensional Regulations.** Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable including, but not limited to, State regulations and supplementary regulations contained in Part 8 of this Chapter:

   A. **Minimum Lot Area.** Each principal building, structure and/or use shall have a minimum lot area of not less than:

      (1) Five thousand square feet for detached single-family residences.
(2) Six thousand square feet for a two family dwelling.

(3) Three thousand five hundred square feet for each dwelling unit for any type of multifamily residential structure or development.

B. **Minimum Lot Width.**

(1) Fifty feet for lots requiring a minimum lot area of 5,000 square feet.

(2) Sixty feet for lots requiring a minimum lot area of 6,000 square feet.

(3) One hundred feet for any type of multifamily residential structure or development.

C. **Front Yard.** The minimum front yard shall be not less than 20 feet in depth as measured from the front lot line.

D. **Rear Yard.** The rear yard shall be not less than 20 feet in depth as measured from the rear lot line.

E. **Side Yard.** The side yard shall be not less than 6 feet on each side.

F. **Lot Coverage.** Not more than 50% of the lot area shall be covered with buildings or structures.

G. **Building Height.** The maximum height of any building shall not exceed three stories of 40 feet.

H. **Maximum Density.**

(1) Five thousand square feet per dwelling unit for detached single-family residential developments.

(2) Six thousand square feet for two family residential developments.

(3) Three thousand five hundred square feet for any type of multifamily residential structure or development.

6. **Supplementary Regulations.** See Part 8.

7. **Subdivision and Land Development.** Any property proposed to be divided into parcels or developed in accordance with the definitions of a "subdivision" or "land development," as provided in Part 2 of this Chapter, shall also be subject to the governing regulations and provisions of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22].

§27-504 C-1, Neighborhood Commercial District.

1. **Purpose.** The purpose of this district is intended to create, preserve and enhance business areas which primarily serve residential neighborhoods. This district is characterized by small scale retail establishments serving frequently recurring needs in locations convenient to residents.

2. **Permitted Uses.**

   A. Retail business including, but not limited to the sale of:

      (1) Food.
      (2) Drugs.
      (3) Clothing and clothing accessories.
      (4) Convenience store.
      (5) Newspapers, books and stationery.
      (6) Dry goods.
      (7) Hardware, paint.
      (8) Variety goods.
      (9) Household goods and appliances.
      (10) Garden supplies.
      (11) Building lumber or plumbing supplies.
      (12) Sporting goods.
      (13) Artist, music and hobby supplies.
      (14) Furniture or office supplies and equipment.
      (15) Automotive supplies.
      (16) Accessory uses to the above.

   B. Service-oriented business including, but not limited to:

      (1) Personal services.
      (2) Professional offices.
ZONING

(3) Service offices.

(4) Banks, credit unions and similar uses.

(5) Funeral homes.

(6) Automotive sales.

(7) Gasoline service stations.

(8) Restaurants.

(9) Taverns.

(10) Public uses.

(11) Clinics.

(12) Day care centers.

(13) Health clubs.

(14) Public utility facilities (excluding storage yards).

(15) Accessory uses to the above.

C. Recreation and entertainment related business including but not limited to:

(1) Commercial recreational facilities.

(2) Private recreational facilities.

(3) Public recreational facilities.

(4) Entertainment facilities.

(5) Nonprofit social halls, clubs and community centers.

(6) Accessory uses to the above.

D. Residential Uses.

(1) Single-family detached dwellings.

(2) Single-family attached.

(3) Townhouses.
(4) Two family dwellings.

(5) Dwelling over business.

(6) Accessory uses to the above.

3. **Uses Permitted by Special Exception.**

   A. Public uses.

   B. Multifamily dwellings.

   C. Garden apartments.

   D. Group residences.

   E. Boarding homes.

   F. Conversion of nonresidential building into residences (§27-312)

   G. Accessory uses to the above.

4. **Conditional Uses.** None.

5. **Dimensional Regulations.** Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable including, but not limited to, State regulations and supplementary regulations contained in Part 8 of this Chapter:

   A. **Minimum Lot Area.** Each principal building, or use shall be located upon a lot having a minimum lot area of not less than 4,000 square feet.

   B. **Minimum Lot Width.** Forty feet, as measured from a depth of the required front yard setback.

   C. **Front Yard.** The minimum front yard shall be not less than 10 feet in depth as measured from the front lot line.

   D. **Rear Yard.** The rear yard shall be not less than 10 feet in depth as measured from the rear lot line.

   E. **Side Yard.** The side yard shall be not less than 3 feet on each side, except when abutting an R District or a residential property, a side yard setback of 10 feet shall be required.

   F. **Lot Coverage.** Not more than 60% of the lot area shall be covered with buildings or structures.
G. **Building Height.** The maximum height of any building shall not exceed two and one-half stories or 35 feet.

6. **Supplementary Regulations.** See Part 8.

7. **Subdivision and Land Development.** Any property proposed to be divided into parcels or developed in accordance with the definitions of a "subdivision" or "land development," as provided in Part 2 of this Chapter, shall also be subject to the governing regulations and provisions of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22].


§27-505  **C-2, Central Business District.**

1. **Purpose.** The purpose of this district is intended to create, preserve and enhance business areas with a wide range of retail and service establishments typically appropriate with the community’s Central Business District, along major traffic arteries.

2. **Permitted Uses.**

   A. Retail business including, but not limited to, the sale of:

      (1) Food.

      (2) Drugs.

      (3) Clothing and clothing accessories.

      (4) Convenience stores.

      (5) Newspapers, books and stationery.

      (6) Pet store.

      (7) Dry goods.

      (8) Hardware, paint.

      (9) Variety goods.

      (10) Gift shop.

      (11) Household goods and appliances.

      (12) Garden supplies.
(13) Building supplies.

(14) Florist shop.

(15) Camera shop.

(16) Sporting goods.

(17) Artist and hobby supplies.

(18) Furniture or office supplies and equipment.

(19) Automotive supplies.

(20) Accessory uses to the above.

B. Service-oriented business including, but not limited to:

(1) Personal services.

(2) Professional offices.

(3) Banks, credit unions and similar uses.

(4) Automotive sales.

(5) Gasoline service stations.

(6) Dry cleaners.

(7) Restaurants.

(8) Fast food restaurants.

(9) Taverns.

(10) Public uses.

(11) Clinics.

(12) Day care centers.

(13) Institutional uses.

(14) Health clubs.

(15) Public utility facilities (excluding storage yards).
(16) Accessory uses to the above.

C. Recreation and entertainment related business including, but not limited to:
   (1) Health and recreational facilities.
   (2) Commercial recreational facilities.
   (3) Private recreational facilities.
   (4) Public recreational facilities.
   (5) Entertainment facilities.
   (6) Nonprofit social halls, clubs and community centers.
   (7) Accessory uses to the above.

D. Residential Uses.
   (1) Dwellings over businesses.

   A. Hotels and motels.
   B. Public uses.
   C. Accessory uses to the above.

   A. Adult uses.

5. Dimensional Regulations. Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable including, but not limited to, State regulations and supplementary regulations contained in Part 8 of this Chapter:
   A. Minimum Lot Area. None.
   B. Minimum Lot Width. None.
   C. Front Yard. The minimum front yard shall be not less than 10 feet in depth as measured from the front lot line.
   D. Rear Yard. The rear yard shall be not less than 10 feet in depth as measured from the rear lot line.
E. **Side Yard.** None, except when abutting an R District or a residential property, a side yard setback of 10 feet shall be required.

F. **Lot Coverage.** Not more than 90% of the lot area shall be covered by buildings or structures.

G. **Building Height.** The maximum height of any building shall not exceed six stories or 80 feet.

6. **Supplementary Regulations.** See Part 8.

7. **Subdivision and Land Development.** Any property proposed to be divided into parcels or developed in accordance with the definitions of a "subdivision" or "land development," as provided in Part 2 of this Chapter, shall also be subject to the governing regulations and provisions of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22].


§27-506 C-3, Heavy Commercial District.

1. **Purpose.** The purpose of this district is intended to create, preserve and enhance business areas with a wide range of retail and service establishments typically appropriate along major traffic arteries, due to the fact that the volume portion of their sales is related to vehicular traffic.

2. **Permitted Uses.**

   A. Retail business including, but not limited to, the sale of:

      (1) Food.

      (2) Drugs.

      (3) Clothing and clothing accessories.

      (4) Convenience stores.

      (5) Newspapers, books and stationery.

      (6) Dry goods.

      (7) Hardware, paint.

      (8) Variety goods.

      (9) Household goods and appliances.
ZONING

(10) Garden supplies.

(11) Building, lumber or plumbing supplies.

(12) Sporting goods.

(13) Artist and hobby supplies.

(14) Gift shops.

(15) Pet stores.

(16) Furniture or office supplies and equipment.

(17) Automotive supplies.

(18) Wholesale businesses.

(19) Equipment sales and repair.

(20) Accessory uses to the above.

B. Service-oriented business including, but not limited to:

(1) Personal services.

(2) Professional offices.

(3) Service offices.

(4) Banks, credit unions and similar uses.

(5) Funeral homes.

(6) Automotive sales.

(7) Gasoline service stations.

(8) Restaurants.

(9) Fast food restaurants.

(10) Taverns.

(11) Public uses.

(12) Night clubs.
(13) Clinics.

(14) Day care centers.

(15) Institutional uses.

(16) Health clubs.

(17) Public utility facilities (excluding storage yards).

(18) Accessory uses to the above.

C. Recreation and entertainment related business including, but not limited to:

(1) Health and recreational facilities.

(2) Commercial recreational facilities.

(3) Private recreational facilities.

(4) Public recreational facilities.

(5) Entertainment facilities.

(6) Nonprofit social halls, clubs and community centers.

(7) Accessory uses to the above.

D. Residential Uses.

(1) Dwelling over business.


(1) Hotels and motels.

(2) Public uses.

(3) Self storage facility.

(4) Institutional uses.

(5) Hospitals.

(6) Stone or monument works.

(7) Machine shops.

(8) Tire retreading and recapping.
(9) Automotive repair.

(10) Accessory uses to the above.

4. **Conditional Uses.** Any use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:

   A. The initial or cumulative disturbance which equals or exceeds 87,120 square feet of surface area.

   B. The initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings, structures and/or other impervious surface area.

5. **Dimensional Regulations.** Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable including, but not limited to, State regulations and supplementary regulations contained in Part 8 of this Chapter:

   A. **Minimum Lot Area.** Each principal building, or use shall be located upon a lot having a minimum lot area of not less than 10,000 square feet.

   B. **Minimum Lot Width.** Seventy-five feet, as measured from a depth of the required front yard setback.

   C. **Front Yard.** The minimum front yard shall be not less than 30 feet in depth as measured from the front lot line.

   D. **Rear Yard.** The rear yard shall be not less than 25 feet in depth as measured from the rear lot line.

   E. **Side Yard.** The side yard shall be not less than 20 feet on each side.

   F. **Lot Coverage.** Not more than 50% of the lot area shall be covered by buildings or structures.

   G. **Building Height.** The maximum height of any building shall not exceed three stories or 40 feet.

6. **Supplementary Regulations.** See Part 8.

7. **Subdivision and Land Development.** Any property proposed to be divided into parcels or developed in accordance with the definitions of a "subdivision" or "land development," as provided in Part 2 of this Chapter, shall also be subject to the governing regulations and provisions of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22].

§27-507 S-1, Special Purpose District.

1. **Purpose.** The purpose of this district is to create, preserve and enhance areas intended for use by the public including public and private schools, colleges, vocational training facilities, along with public and quasi-public uses of a governmental, welfare and/or cultural nature.

2. **Permitted Uses.**
   A. Public uses.
   B. Institutional uses.
   C. Library.
   D. Public recreational facility.
   E. Clinics.
   F. Professional offices.
   G. Accessory uses to the above.

3. **Uses Permitted by Special Exception.**
   A. Colleges.
   B. Public and private schools.
   C. Hospital.
   D. Cemeteries.
   E. Accessory uses to the above.

4. **Conditional Uses.** Any use permitted by right or by special exception shall be deemed a conditional use if it involves the initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings, structures and/or other impervious surface areas.

5. **Dimensional Regulations.** A principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable including, but not limited to, State regulations and supplementary regulations contained in Part 8 of this Chapter:
   A. **Minimum Lot Area.** Each principal building, or use shall be located upon a lot having a minimum lot area of not less than 40,000 square feet.
B. **Minimum Lot Width.** One hundred feet, as measured from a depth of the required front yard setback.

C. **Front Yard.** The minimum front yard shall be not less than 50 feet in depth as measured from the front lot line.

D. **Rear Yard.** The rear yard shall be not less than 50 feet in depth as measured from the rear lot line.

E. **Side Yard.** The side yard shall be not less than 25 feet on each side.

F. **Lot Coverage.** Not more than 60% of a lot shall be covered by buildings.

G. **Building Height.** The maximum height of any building shall not exceed two and one-half stories or 35 feet.

6. **Supplementary Regulations.** See Part 8.

7. **Subdivision and Land Development.** Any property proposed to be divided into parcels or developed in accordance with the definitions of a "subdivision" or a "land development," as provided in Part 2 of this Chapter, shall also be subject to the governing regulations and provisions of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22].


**§27-508 FPCD, Floodplain Conservation District.**

1. **Purpose.** The purpose of this district is to provide for the protection and preservation of natural and environmentally sensitive areas which are inappropriate for intensive development. Such areas shall include, but shall not be limited to, agricultural land, streams, wooded areas, wildlife habitats, low lying areas with poor drainage, floodplains, watersheds and wetlands or other "critical areas" as so defined in Part 2 of this Chapter.

2. **Permitted Uses.**
   
   A. Agriculture.
   
   B. Greenhouses and nurseries.
   
   C. Private recreational facilities.
   
   D. Public recreational facilities.
   
   E. Parks.
F. Single-family detached dwellings.

G. Public uses.

H. Public utility facilities (excluding storage yards).

I. Accessory uses to the above.

3. **Uses Permitted by Special Exception.**

A. Home occupations.

B. Commercial recreational facilities.

C. Accessory uses to the above.

4. **Conditional Uses.** See Part 6. Any use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:

A. The initial or cumulative disturbance which equals or exceeds 87,120 square feet or surface area.

B. The initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings, structures and/or other impervious surface areas.

5. **Dimensional Regulations.** A principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable including, but not limited to, State regulations and supplementary regulations contained in Part 8 of this Chapter:

A. **Minimum Lot Area.** Each principal building or use shall be located upon a lot having a minimum lot area of not less than 1 acre.

B. **Minimum Lot Width.** Each lot shall have a lot width not less than 150 feet.

C. **Front Yard** The minimum front yard shall be not less than 50 feet in depth as measured from the front lot line.

D. **Rear Yard.** The rear yard shall be not less than 50 feet in depth as measured from the rear lot line.

E. **Side Yard.** The side yard shall be not less than 25 feet on each side.

F. **Lot Coverage.** Not more than 20% of a lot shall be covered by buildings. Total impervious cover shall not exceed 30%.
G. **Building Height.** The maximum height of any building shall not exceed two and one-half stories or 35 feet.

6. **Supplementary Regulations.** See Part 8.

7. **Subdivision and Land Development.** Any property proposed to be divided into parcels or developed in accordance with the definitions of a "subdivision" or a "land development," as provided in Part 2 of this Chapter, shall also be subject to the governing regulations and provisions of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22].


§27-509. **I-1 Industrial District.**

1. **Purpose.** The purpose of this district is to provide for development of industrial uses which are primarily engaged in the manufacturing of previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, with the intent of insuring that the subject industrial uses are compatible with other activities within the community. It is also the intent of this district to provide space for uses for industrial and related uses of such a nature which may require isolation from other land uses to avoid conflicting and/or incompatible development patterns.

2. **Permitted Uses.**

   A. Light industry (as defined in Part 2).
   
   B. Offices buildings.
   
   C. Warehouse and distribution facilities.
   
   D. Warehousing, including self-storage facilities.
   
   E. Public utility facilities.
   
   F. Public uses.
   
   G. Laboratories for research and testing.
   
   H. Outdoor storage (as defined in Part 2).
   
   I. Contractors' yards.
   
   J. Accessory uses to the above.
3. **Uses Permitted by Special Exception.**

4. **Conditional Uses.**

   A. Solid waste facilities.

   B. Heavy industry.

   C. Extraction of natural resources.

   D. Any use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:

      (1) The initial or cumulative disturbance which equals or exceeds 87,120 square feet of surface area.

      (2) The initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings, structures and/or other impervious surface area.

5. **Dimensional Regulations.** Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable including, but not limited to, State regulations and supplementary regulations contained in Part 8 of this Chapter.

   A. **Minimum Lot Area.** Each principal building, or use shall be located upon a lot having a minimum lot area of not less than 25,000 square feet.

   B. **Minimum Lot Width.** One hundred feet as measured from a depth of the required front yard setback.

   C. **Front Yard.** The minimum front yard shall be not less than 10 feet in depth as measured from the front lot line.

   D. **Rear Yard.** The rear yard shall be not less than 25 feet in depth as measured from the rear lot line.

   E. **Side Yard.** The side yard shall be not less than 20 feet on each side.

   F. **Lot Coverage.** Not more than 50% of a lot shall be covered by buildings.

   G. **Building Height.** The maximum height of any building shall not exceed four stories or 60 feet.

6. **Supplementary Regulations.** See Part 8.
7. **Subdivision and Land Development.** Any property proposed to be divided into parcels or developed in accordance with the definitions of a "subdivision" or a "land development," as provided in Part 2 of this Chapter, shall also be subject to the governing regulations and provisions of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22].

PART 6

CONDITIONAL USES

§27-601. Purpose.

The purpose of a use classified as a "conditional use" is to provide expressed standards to regulate uses classified as such in particular zoning districts, as provided in Part 5, “Zoning District Regulations.”


§27-602 General Provisions.

The authority for approving or denying applications for uses permitted as a conditional use shall be vested in the City Council, with the City Planning Commission having the authority to review and submit their recommendations to the City Council. Decisions by the City Council shall be made in accordance with standards and criteria set forth in this Part, the respective zoning district in which the use is located, all other applicable regulations of this Chapter, other ordinances of the City and any applicable State and/or Federal regulations.


§27-603 Procedure for Submission and Decisions.

The procedure for approval or denial of a conditional use shall be in accordance with the following:

A. An application for a conditional use permit shall be submitted to the Zoning Officer with a site plan at a scale of not greater than 1 inch equals 50 feet. Such plan shall, at minimum, indicate:
   
   (1) The location and size of all buildings and structures, both principal and accessory, open space, parking areas, traffic access and circulation.
   
   (2) All public or private streets within 500 feet of the site.
   
   (3) Contours of the site for each 2 feet of change in elevation, based upon a field survey or the site, with the name of the person or firm who conducted survey and the date of survey.
   
   (4) Streams, ponds, watercourses, wetlands or any other bodies of water, including natural or manmade drainage swales located both on the site and within 500 feet of the site.
(5) The location, nature and terms of an existing or proposed easements on the site and any existing or proposed easements both onsite and offsite which are used or intended to be used for access to the site.

(6) The location, type and height of any required screening.

(7) The location of all residential structures within 500 feet of any property line boundary of the subject site.

(8) The map, block and lot number of the subject parcel.

(9) Any other information required by the City Council for determining the conformance of the conditional use with the regulations for that particular use.

B. Prior to approving or denying an application for a conditional use, the City Council shall conduct a public hearing pursuant to public notice. The City Council shall submit the application for the proposed conditional use to the City Planning Commission not less than 30 days prior to the public hearing to allow for the submission of recommendation from the Planning Commission.

C. The public hearing shall be held and conducted in accordance with the same procedural guidelines which govern the Zoning Hearing Board under §27-1506 of this Chapter. The term “City Council” shall replace the term “Zoning Hearing Board” in relevant passages of said Section.

D. The City Council shall convene a public hearing within 60 days from the submission of a completed application and supporting material and render a final decision on a conditional use application not less than 45 days following the conclusion of the last public hearing. Failure to convene a public hearing and/or render a decision within the aforementioned time periods, shall constitute approval of the application and plans as submitted.

E. The City Council shall grant an approval for a conditional use upon its determination that adequate evidence and information has been provided, which indicates the applicant’s proposal meets the general and specific requirements for the type of conditional use in question.

(Ord. 12-1993, 6/3/1993, §603)

§27-604 General Standards.

The general standards contained herein, shall be utilized in the review of applications and plans for any use which is classified as a conditional use.

A. The proposed use shall not jeopardize the community development objectives of this Chapter or the public health, safety and welfare.
B. Public services and facilities such as streets, sewage disposal, water, police and fire protection shall be adequate for the proposed use.

C. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.

D. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of location and size relative to the proposed operation and the nature and intensity of the operation involved.

E. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls and fences, so that the use, development and value of adjacent property is not impaired.

F. The proposed use shall not be more objectionable in its operation in terms of noise, fumes, gases, smoke, vapors, heat, glare, odors, vibration, lighting or electrical disturbances than would be the operations of any permitted use in the district.

G. The submission of any reports and/or studies within the context of the definition "impact analysis," as contained within Part 2 of this Chapter, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the City Council. In their review of an impact analysis, the City Council shall have the discretion to retain the services of firms or agencies which have expertise within the subject or subjects addressed therein. All fees and costs incurred for such consultation shall be paid by the applicant.

H. Any other reasonable conditions and safeguards, in addition to those expressed in this Chapter, may be imposed by the City Council in the interest of protecting the health, safety and welfare of the public.


§27-605 Uses/developments Classified as Conditional Uses.

The following uses/developments are classified as conditional uses within Part 5 of this Chapter:

A. Solid waste facilities.

B. Extraction, excavation, removal of natural resources and/or surface mining of coal and/or coal by products.

C. Adult uses.
D. Planned residential developments.

E. Heavy industry, (as defined in Part 2 of this Chapter).

F. Any use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:

   (1) The initial or cumulative disturbance which equals or exceeds 87,120 square feet of surface area.

   (2) The initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings structures and/or other impervious surface area.


1. In addition to all other requirements, an environmental impact statement shall be required for any use/development which is classified as a conditional use. The City Council, at their sole discretion, may exempt uses and/or developments which are residential in character. The purpose of the environmental impact statement is to disclose the environmental consequences of a proposed action. This requirement is designed to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of any kind, flooding and waste disposal. The intent is to preserve trees and vegetation, to protect water courses, air quality, aquifers and the quality of life throughout City of Nanticoke and it environs.

2. An environmental impact statement shall include a response to the following items and said proposed use/development shall further comply with all other applicable standards and requirements of this Chapter.

   A. Soil Types.

      (1) U.S.D.A. Soil Types (illustrated upon map).

      (2) Permeability of soil on the site.

      (3) Rate of percolation of water through the soil for every 5 acres.

   B. Surface Waters.

      (1) Distance of site from the nearest surface water and head waters of streams.

      (2) Sources of runoff water from the site.
(3) Rate of runoff from the site.

(4) Destination of runoff water and method of controlling down stream effects.

(5) Chemical additives to runoff water on the site.

(6) Submission of a soils erosion and sedimentation control plan meeting the requirements of the Luzerne County Conservation District.

(7) A stormwater management plan which shall be developed in coordination with the soils erosion and sedimentation plan.

C. **Ground Cover Including Trees.**

(1) Extent of existing impervious ground cover on the site.

(2) Extent of proposed impervious ground cover on the site.

(3) Extent of existing vegetative cover on the site.

(4) Extent of proposed vegetative cover on the site.

D. **Topography.**

(1) Maximum existing elevation of site.

(2) Minimum existing elevation of site.

(3) Maximum proposed elevation of site.

(4) Minimum proposed elevation of site.

(5) Description of the topography of the site and all proposed changes in topography.

E. **Ground Water.**

(1) Average depth to seasonal high water table.

(2) Minimum depth to water table on site.

(3) Maximum depth to water table on site.

F. **Water Supply.**

(1) The source and adequacy of water to be provided to the site.

(2) The projected water requirements (GPD) for the site.
(3) The uses to which the water will be put.

G. **Sewage System.**

(1) Sewage disposal system (complete description, plans and location on the site of system).

(2) Expected content of sewage effluents (human waste, pesticides, detergents, oils, heavy metals, other chemicals).

(3) Projected daily volumes of sewage.

(4) Affected sewage treatment plant and pumping stations present capacity and design capacity.

H. **Solid Waste.**

(1) Estimated quantity of solid waste to be developed and/or processed on the site during and after construction.

(2) Method of disposal and/or processing of solid waste during and after construction.

(3) Plans for recycling of solid waste during and after construction.

I. **Air Quality.**

(1) Expected changes in air quality due to activities at the site during and after construction.

(2) Plans for control of emissions affecting air quality.

J. **Noise.**

(1) Noise levels, above existing levels, anticipated to be generated at the site, (source and magnitude), for pre-construction, during construction and post-construction.

(2) Proposed method of control of additional noise onsite during and after construction.

K. **Impact of Proposed Use/Development.** A written report, which describes in full detail, the impact of the proposed use/development on the environment and any proposed mitigating action in relation to the following:

(1) Existing plant species, (upland and marine) and effects thereon.

(2) Existing animal species and effects thereon.
(3) Existing wild fowl and other birds and effects thereon.

(4) Effects on drainage and stormwater runoff, both on and off site.

(5) Effects on ground water quality.

(6) Effects on surface water quality.

(7) Effects on air quality.

(8) Alternatives to proposed use/development, consistent with the zoning of the site.

(9) Effects on sites of historic significance.

(10) Projected amount and type of traffic to be generated and the effects of the same on public roads and highways, based upon a traffic study.

L. Impact Upon Critical Areas. The applicant shall define, describe and identify upon a map, critical areas as defined in Part 2 of this Chapter. A statement of any potential impact upon critical areas shall be provided by the applicant including, but not limited to, adverse impacts which cannot be avoided and/or fully mitigated as a resulting effect of the development.


(1) Upon receipt of an environmental impact statement, the City Council shall promptly forward the environmental impact statement to the City Planning Commission, the City Engineer and any other agency, firm or individual which the City Council may desire for their consultation and input.

(2) The Planning Commission shall review the applicant’s environmental impact statement and provide the City Council with its comments and recommendations within 30 days from the date of its submission to the Planning Commission.

(3) The City Council shall have the discretion to retain the expertise of appropriate parties in their review of the environmental impact statement. All fees and costs incurred for such consultation shall be paid by the applicant.

(4) A determination of a potential adverse impact which may result, based upon the environmental impact statement or the City Council’s review of the same shall constitute a sufficient basis for the denial of a conditional use permit.

§27-608 Supplementary Regulations For Specific Uses.

1. **Solid Waste Facility.** The following regulations are supplementary in nature, separate and distinct from the requirements of §27-606 of this Chapter, and are applicable to any use/development which is classified as a solid waste facility in accordance with the definition of the same as contained in Part 2 of this Chapter. A solid waste facility must demonstrate compliance and/or conformance with the following:

   A. The applicant shall provide a comprehensive soil analysis and ground water report which shall conclusively demonstrate that the proposed design, construction and operation of the facility shall not pollute surface or ground water, nor otherwise cause any potential health or environmental hazard. Said report shall be jointly signed and certified by the applicant and the consultant who prepares the report, attesting to the accuracy of information and the validity of said report.

   B. The applicant shall sign an agreement, prepared by the City's Solicitor, prior to final approval of the application for a conditional use permit which shall specify all the terms and conditions of approval, including the City's authority to revoke the permit for the violation of any terms and/or conditions under which the application was approved. Prior to formal action to revoke the conditional use permit, the City Council shall convene a public hearing, pursuant to public notice, to consider testimony and evidence relative to the alleged violations. Based upon the testimony and evidence provided, the City Council shall render a decision.

   C. The applicant of a proposed solid waste facility shall provide conclusive evidence, based upon a mining report, soil analysis, test boring and other appropriate technical data, which conclusively demonstrates that the subsurface conditions beneath any area to be used as a landfill is safe and capable of sustaining the bearing load of projected and/or planned quantities of material to be deposited and/or disposed of upon the site. The applicant and the person, party or firm providing such evidence shall jointly sign and certify the accuracy and validity of the information and data which is provided as conclusive evidence.

   D. A solid waste facility may conduct and operate all approved functional aspects of their operation within the facility from the hours of 7:00 a.m. to 3:00 p.m. from Monday through Friday. Said facility shall not conduct and/or operate any approved functional aspects associated with the facility on Saturdays, Sundays and all legally recognized holidays by the Federal Government and/or the Commonwealth of Pennsylvania.

   E. A solid waste facility shall be completely enclosed by an industrial gauge chain link fence not less than 10 feet in height. All gates shall be closed and locked at the end of business hours. There shall be no advertising of any kind displayed upon the fence.
F. No operation and/or activities permitted within a solid waste facility shall be permitted within 1,000 feet of any property line, boundary and/or within 2,500 feet of any residences and/or zoning districts in which residences are permitted.

G. The area or areas upon which any permitted operations and/or activities within a solid waste facility are conducted shall be entirely screened. Such screening shall consist of a variety of evergreen trees, approved by the City Council, planted not more than 6 feet apart and being not less than 8 feet in height at the time of planting. Said screening shall be located not greater than 300 feet from the operations and/or activities which are subject to be screened. The owner and/or operator of the facility shall be responsible to maintain such screening, including there placement of any trees which are damaged, die, removed by whatever means or otherwise fail to grow.

H. All solid waste facilities and staging areas which store the solid waste at any stage prior to disposal at an approved facility shall maintain the aforesaid solid waste within a completely enclosed building. Storage of materials, supplies or solid waste in motor vehicles, trucks, trailers or other containers normally used to transport the materials shall not be permitted unless the aforesaid motor vehicles, trucks, trailers or other containers shall be stored within a completely enclosed building.

I. A solid waste facility shall provide for treatment and disposal of all liquid effluent and discharges generated by the facility due to the storage, washing or other process used in treating and/or processing the solid waste. Any water discharge from the facility after being treated by the waste water treatment system shall meet all applicable regulations and requirements of the Pennsylvania Department of Environmental Protection. [Ord. 16-2004]

J. All stormwater collected on the site shall be treated by the facility's waste water treatment system. Parking of motor vehicles containing solid waste or motor vehicles which have not been properly cleaned and washed shall only be permitted in completely enclosed buildings with handling areas or parking areas in which containment of spillage, leakage or other contaminants is provided.

K. The owner and/or operator of any solid waste facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted every 3 monthson any stream within 500 feet of any areas used for the storage, treatment or disposal of solid waste, if water drainage from the facility is discharged into said stream. For each testing period two testing samples shall be collected; one sample shall be taken from the stream at a point upstream of the facility drainage area and on sample shall be taken from the stream at a point below the facility drainage area. In addition, the well location, if applicable, located on the premises shall also be sampled every 3 months. All water samples shall be collected and analyzed by an independent party which is a certified water analysis laboratory for
hydrocarbons or other parameters deemed appropriate by the City Council, and the results shall be provided to the City. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the facility shall immediately cease operation until such time as the source of the contamination has been identified and totally corrected. The cost of testing water samples shall be borne by the developer. [Ord. 16-2004]

L. The owner/operator of a solid waste facility shall provide a detailed narrative which fully describes the daily operations of all permitted functions and activities within the proposed facility, including the projected daily volumes and tonnage of solid waste being accepted for processing, storage and/or disposal. Said narrative shall address the type and classification of solid waste proposed to be accepted by the facility.

M. The applicant shall submit to the City Council a copy of their commercial policy of liability insurance covering third party claims for property damage and personal injury.

N. The owner and/or operator of a solid waste facility shall provide an emergency response plan to address potential hazards associated with its operations. Said plan shall be submitted for review and comment to the local fire companies which serve the City of Nanticoke.

O. All vehicular access for ingress, egress and regress to a solid waste facility shall be solely limited to private access roads, constructed in accordance with appropriate PennDOT Standards related to the anticipated type and volume of traffic.

2. **Excavation of Natural Resources.** Extraction, excavation, removal and/or surface mining of coal and/or coal by products and the extraction, excavation and/or removal of other natural resources including sand, gravel, rock, topsoil and peat moss shall be considered a temporary use. New excavations shall be permitted in only an I-1 Zoning District. In the case of coal mining, new extraction, excavation, removal and/or surface mining shall be defined as any area not physically engaged in such activities on the date this Chapter takes effect. Applications for the extraction, excavation, removal and/or surface mining of coal or coal by products shall not exceed 10 acres in area on any lot and shall be subject to the following requirements:

A. **Map.** Submission of a map which outlines the entire proposed area subject to the proposed extraction, excavation, removal and/or surface mining of coal or coal byproducts. Said map shall contain surface features showing the location of buildings, dwellings, places of worship, schools, railroads, highways and lot lines of public and semipublic uses within a distance of 1,000 feet from the perimeter of the proposed use. In addition, said map shall indicate the proposed maximum depth of any excavation.
B. **Bond, Backfilling and Fees.** The applicant shall provide documentation that all applicable State requirements relative to providing a bond which guarantees the restoration and backfilling any land proposed to be excavated or otherwise disturbed has been secured. A fee, in an amount as established from time to time by resolution of City Council, for the extraction, excavation, removal and/or surface mining of coal or coal by products is hereby imposed upon the party approved to be engaged in such activity. Said party shall submit monthly tonnage reports and monthly remittances to the Zoning Officer. Failure to comply with this provision shall result in an immediate revocation of the permit, with the Zoning Officer authorized to provide an immediate cease and desist order for all subject operations. Nothing contained within this provision shall prevent the City and the applicant from entering into a written agreement for the payment of a fee greater or less than as established from time to time by resolution of City Council. [Ord. 16-2004]

C. **Insurance.** That a certificate of insurance with limits of $100,000 per person and $300,000 per accident for personal injuries, and $300,000 for property damage, be filed with the City Council both for the benefit of all persons who might be injured or suffer property damage as a result of said mining operations, and to save the City of Nanticoke and its officials harmless from any and all claims, suits or demands caused by coal operation.

D. **Supervision of Blasting.** The use of explosives for the purpose of blasting in connection with coal operations shall be undertaken in accordance with regulations promulgated by and under the supervision of a representative of the Pennsylvania Department of Environmental Protection. [Ord. 16-2004]

E. **Distance Provisions.** The perimeter of any excavation under this Part shall not be nearer than 300 feet from any building, property line or street, except that owned by the excavator.

F. **Timing.** Blasting in any coal operation shall occur only between the hours of 9:00 a.m. and 4:00 p.m. local time. The applicant shall provide the City with not less than a 24 hour advance notice.

G. **Location of Processing Equipment.** To reduce airborne dust, dirt and noise, all structures for sorting, crushing, grinding, loading, weighing, washing and other operations shall be not less than 300 feet from the right-of-way of any street, and/or 500 feet from any residential building or the boundary of a residential zoning district.

H. **Drainage.** All excavations both during operations and after completion shall be adequately drained to prevent the formation of pools of water. Adequate measures shall be taken prior to any excavation and fully documented prior to approval of the coal operation.

I. **Compliance With State Requirements.** Final and/or unconditional approval under the provisions of this Chapter will not be issued until the
required license or permit has been properly secured from the Pennsylvania Department of Environmental Protection. [Ord. 16-2004]

3. **Adult Uses.** No adult use, as so defined in Part 2 of this Chapter, shall be located less than 1,000 feet from any of the following uses:

A. A residential dwelling.

B. A place of worship.

C. A public or quasi-public use or structure.

D. A zoning boundary of any residential zoning district.

Measurements of the required distance shall be made in a straight line, from the nearest portion of the structure or premises of any adult use, to the nearest property line of the above noted uses. The structure and/or premises of an adult use, including all off-street parking areas shall be completely enclosed by a fence, not less than 8 feet in height and screened by a variety of evergreen trees which shall be planted not more than 6 feet apart and being not less than 8 feet in height at the time of planting. The owner of the property shall be responsible to maintain such screening, including the replacement of any trees which are damaged, die, removed by whatever means or otherwise fail to grow.

4. **Planned Residential Development.**

A. **Purpose.** The purpose of this district, as stated in the Pennsylvania Municipalities Planning Code, Act 247 as amended, is to achieve the following:

(1) To insure that the provisions of this Chapter, which are concerned with the uniform treatment of dwelling type, bulk, density and open space within each zoning district, shall not be applied to the improvement of land by other than lot-by-lot development in a manner which would distort the objectives of this Chapter.

(2) To encourage innovations in residential development and renewal so that the growing demand for housing may be met by greater variety in type, design and layout of dwellings and by the conservation and more efficient use of open space ancillary to said dwellings.

(3) To provide greater opportunities for better housing and recreation for all who are or may become residents of the City.

(4) To encourage more efficient use of land and public services and to reflect changes in the technology of land development so that the economies so secured may insure the benefits of those who need housing.
(5) To encourage more flexible land development which will respect and conserve natural resources such as streams, floodplains, groundwater, wooded areas, areas of unusual attractiveness related to the topography of the land in the natural environment and in the aid of these purposes.

(6) To provide a procedure which can regulate the type, design and layout of a residential development to the particular site and particular demand for housing existing at the time of development in a manner consistent with the preservation of property values within existing residential areas. To assure that the increased flexibility of regulations over land development established hereby is carried out pursuant to sound, expeditious and fair administrative standards and procedures.

B. Use Regulations. The principal permitted uses shall include:

(1) Single-family detached dwellings.

(2) Two family dwellings.

(3) Multifamily dwellings.

(4) Townhouses.

(5) Accessory Uses. Customary accessory uses and buildings to the above shall be permitted in accordance with §27-304 of this Chapter.

C. Density Regulations. The density of a planned residential development, based upon the existing residential zoning district in which the planned residential development is proposed to be established, shall not exceed the minimum lot area per dwelling unit as provided for in Part 5 of this Chapter, along with the corresponding maximum lot coverage requirements and required common open space requirements as set forth in subsection (D)(5), below.

D. Dimensional Regulations. All planned residential developments shall be subject to the following:

(1) Minimum Lot Area. A planned residential development shall have an area of not less than 10 acres.

(2) Distance Between Buildings. No buildings or structure, including porches, decks or balconies shall be less than 30 feet to any other building or structure.

(3) Setback Requirements. The minimum front, side and rear setbacks for a planned residential development shall each be not less than 50 feet to the property lines of adjoining properties. A planting strip of not less than 20 feet in width shall be along all property lines at the periphery
of the development where necessary to preserve the privacy of neighboring residents.

(4) **Bodies of Water.** Land adjacent to a pond, stream, wetlands or watercourse shall remain as permanent open space for a distance of not less than 100 feet from the water’s edge, unless superseded by more restrictive standards.

(5) **Common Open Space.** Not less than 20% of the total area of a planned residential development, excluding streets and off-street parking areas, shall be designated, designed and devoted to common open space for the use and enjoyment of the residents therein.

E. **Development Regulations.** A planned residential development shall be subject to the following standards and regulations:

(1) **Requirements For Improvements and Design.** All improvements including, but not limited to, streets, curbing, sidewalks, stormwater detention facilities, drainage facilities, water supply facilities, sewage disposal, street lighting, tree lawns, etc., unless otherwise exempted, shall be designed and constructed in conformance with the standards and requirements of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22].

(2) **Sewage Disposal.** Disposal of sanitary sewage shall be by means of centralized sewers and shall conform to the design standards of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22]. The proposed sewage collection system and treatment facility shall require Department of Environmental Protection approval as a prerequisite and/or condition to tentative approval of a development plan. [Ord. 16-2004]

(3) **Water Supply.** The water supply shall be a centralized off-site system. Evidence shall be provided that the planned residential development is to be supplied by a certified 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 planned residential development in question shall be required. Whichever form is appropriate, shall be considered as acceptable evidence.

(4) **Environmental Considerations.** A proposed planned residential development shall be designed in relationship to environmental considerations addressed within the environmental impact statement requirements of §27-606 of this Part.
F. **Location/management of Common Open Space.** Common open space within a planned residential development shall be designed as a contiguous area which shall be easily accessible to the residents. A planned residential development must insure that the common open space shall remain as such and be properly maintained by the developer's compliance with the following:

1. Dedicate such land to public use, providing the City will accept such dedication.
2. Retain ownership and responsibility for maintenance of such land.
3. Provide for and establish an organization for the ownership and maintenance of such land, which includes provisions that such organization shall not be dissolved nor shall it dispose of such land, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space), without first offering to dedicate such land to the City.

The City shall utilize the appropriate procedures and remedies, as set forth in Article 7 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, should an organization established to own and maintain common open space fail to do so in a reasonable order and conditioned in accordance with the development plan.

G. **Phasing of Development.** A planned residential development may be constructed in phases subject to the following:

1. The application for tentative approval shall cover the entire area to be developed, which indicates the location of each phase, with the approximate start and completion date for each phase.
2. Not less than 20% of the total number of dwelling units to be constructed shall be included in the first phase.
3. The second and any subsequent phases shall be completed in accordance with the tentatively approved plan, with each phase containing not less than 15% of the total number of dwelling units.

H. **Enforcement and Modification of Provisions of The Plan.** To further the mutual interest of the residents of the planned residential development and of the public in the preservation of the integrity of the development plan, as finally approved, and to insure that modifications, if any, in the development plan shall not impair the reasonable reliance of said residents upon the provisions of the development plan, nor result in changes that would adversely affect the public interest, the enforcement and modifications of the provisions of the development as finally approved, whether those are recorded by plat, covenant, easement or otherwise, shall be subject to the following:
(1) Provisions of the development plan relating to the use, bulk and location of buildings and structures; the quantity and location of common open space, except as otherwise provided herein; and the intensity of use or the density of residential units shall run in favor of the City and shall be enforceable in law or in equity by the City, without limitation on any powers of regulation otherwise granted the City by law.

(2) All provisions of the development plan shall run in favor of the residents of the planned residential development, but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to that extent said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by said residents acting individually, jointly or through an organization designated in the development plan to act on their behalf; provided, however, that no provisions of the development plan shall be implied to exist in favor of residents of the planned residential development except as to those portions of the development plan which have been finally approved and have been recorded.

(3) All those provisions of the development plan authorized to be enforced by the City under this Section may be modified, removed or released by the City, except grants of easements relating to the service or equipment of a public utility, subject to the following conditions:

(a) No such modification, removal or release of the provisions of the development plan by the City shall affect the rights of the residents of the planned residential development to maintain and enforce those provisions, at law or in equity, as provided in this Section.

(b) No modification, removal or release of the provisions of the development plan by the City shall be permitted except upon a finding by the City Council, after a review by the Planning Commission, following a public hearing pursuant to public notice, called and held in accordance with the provisions of this Section, that the same is consistent with the efficient development and preservation of the entire planned residential development, does not adversely affect either the enjoyment of land abutting upon or across the street from the planned residential development or public interest, and is not granted solely to confer a special benefit upon any person.

(4) Residents of the planned residential development may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan, but no such action shall affect the right of the City to enforce the provisions of the development plan in accordance with the provisions of this Section.
I. **Application For Tentative Approval.** The application for approval, tentative and final, of a planned residential development prescribed in this Part shall be in lieu of all other procedures or approvals otherwise required by this Chapter and Subdivision and Land Development Ordinance [Chapter 22] of the City, except where specifically indicated. The procedures herein described for approval or disapproval of a development plan for a planned residential development and the continuing administration thereof are established in the public interests in order to provide an expeditious method for processing a development plan for a planned residential development and to avoid the delay and uncertainty which would arise if it were necessary to secure approval, by a multiplicity of local procedures, of a plat of subdivision as well as approval of a change in the zoning regulations otherwise applicable to the property. An application for tentative approval shall be consistent with the following:

1. **Informal Consultation.** The landowner, City Council and Planning Commission shall consult informally concerning the proposed planned residential development prior to the filing of an application for tentative approval, provided that no statement or representation by a member of the City Council or of the Planning Commission shall be binding upon the City Council or Planning Commission as a whole. The informal consultation is intended to allow the landowner and City officials to exchange comments and discuss issues which may be of particular significance to the site.

2. **Application.** An application for tentative approval shall be filed by or on behalf of the landowner with the Zoning Officer upon payment of the required application fee.

3. **Relationship to Planning, Zoning and Subdivisions.** All planning, zoning and subdivision matters relating to the platting, use and development of the planned residential development and subsequent modifications of the regulations relating thereto, to the extent such modification is vested in the City, shall be determined and established by the City Council after review by the Planning Commission.

4. **Required Documentation.** The application for tentative approval shall include documentation illustrating compliance with all of the standards for a planned residential development and, where necessary, the City shall order such documentation to aid them in their review. An original and five copies of the application along with 20 copies of the development plan shall be required. Required documentation shall include, but not be limited to, documents and information illustrating the following:

   (a) Any reports and/or studies which may be required by the City Council within the context of an "impact analysis." Council may
require such prior to or during the course of reviewing an application and development for tentative approval.

(b) An environmental impact statement shall be required by Council, unless the applicant requests and receives approval by Council for the exclusion of such. Any request by the applicant shall be in writing and shall include all information and the basis which supports the exclusion of such information.

c) The location, size and topography of the site and the legal nature of the landowner’s interest in the land proposed to be developed.

d) The density of land use to be allocated to parts and/or phases of the site to be developed.

e) The location and size of common open space and the form of organization proposed to own and maintain the common open space.

f) The use and approximated height, bulk and location of buildings and other structures.

g) The feasibility of proposals for the disposition of sanitary waste and stormwater.

h) The substance of covenants, grants or easement or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities.

(i) Provisions for parking of vehicles and the location and width of proposed streets and any other form of public right-of-ways, excluding common open space.

j) The required modifications in the City land use regulations otherwise applicable to the subject property.

k) The feasibility of proposals for energy conservation and the effective utilization of renewable energy sources.

l) In the case of development plans, which call for development over a period of years, a schedule showing the proposed timetable within which applications for final approval of all phases of the planned residential development are intended to be filed and this schedule must be updated annually, on the anniversary of its approval, until the development is completed and accepted.
(m) A plan map at a scale of not less than 1 inch equals 100 feet, with contours for each 5 foot change in elevation.

(5) **Statement of Landowner.** The application shall also include a written statement by the landowner setting forth the reasons why, in his opinion, the planned residential development would be in the public interest and consistent with the Comprehensive Plan of the City.

(6) **Application and Approval Procedures in Lieu of Others.** The application for tentative and final approval of a development plan for a planned residential development prescribed herein shall be in lieu of all other procedures and approvals required by this Chapter and Subdivision and Land Development Ordinance [Chapter 22] of the City, unless otherwise expressly stated.

(7) **Referrals and Review of Plan.** The application for tentative approval shall be filed with the Zoning Officer, who shall be authorized to accept such applications under this Chapter. Copies of the application and tentative plan shall be referred to the agencies and officials identified in the Subdivision and Land Development Ordinance [Chapter 22] of the City for their review and comment. The Planning Commission shall submit their report to the City Council for the public hearing.

**J. Public Hearings.**

(1) Within 60 days after the filing of an application for tentative approval of a planned residential development pursuant to this Part, a public hearing pursuant to public notice on said application shall be held by the City Council in the manner prescribed in this Chapter for the enactment of an amendment to this Chapter.

(2) The Chairman, or in his absence, the Acting Chairman of the City Council may administer oaths and compel the attendants of witnesses. All testimony by witnesses shall be given under oath and every party of record at a hearing shall have the right to cross-examine adverse witnesses.

(3) A verbatim record of the hearing shall be provided by the City Council whenever such records are requested by any party to the proceedings; but the cost of making and transcribing such a record shall be paid by those parties wishing to obtain such copies. All exhibits, accepted as evidence, shall be properly identified and the reason for any exclusion shall be clearly noted in the record.

(4) The City Council may continue the public hearing as required and may refer the plan and the application back to the Planning Commission for a report, provided that in any event, the public hearing or hearings shall
be concluded within 60 days following the date of the first public hearing.

K. Findings.

(1) The City Council, within 60 days following the conclusion of the public hearing, shall be official written communication to the landowner, either:

(a) Grant tentative approval to the development plan as submitted.

(b) Grant tentative approval subject to specified conditions not included in the development plan as submitted.

(c) Deny the tentative approval to the development plan.

(2) Failure to act within the prescribed time period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event that tentative approval is granted, subject to conditions, the landowner may, within 30 days after receiving a copy of the official written communication of the City Council, notify said Board of his/her refusal to accept all said conditions, in which case the City Council shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not notify the City Council of his refusal to accept all said conditions within 30 days after receiving a copy of the official written communication of the City Council, tentative approval of the development plan, with all said conditions, shall stand as granted.

(3) The grant or denial of tentative approval by official written communication shall include not only conclusions, but also findings of fact related to the specific proposal and shall set forth the reasons for the denial, and said communication shall set forth particulars in what respect the development plan would or would not be in the public interest including but not limited to findings of facts and conclusions based upon the following:

(a) Those respects in which the development plan is or is not consistent with the comprehensive plan for the development of the City.

(b) 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.

(c) The purpose, locations and amount of 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.

(d) The physical design of the development plan and the manner in which said design does or does not make adequate provisions for public services, provide adequate control for vehicular traffic and, further, the amenities of light and air, recreation and visual enjoyment.

(e) The relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood or area of the City in which it is proposed to be established.

(f) 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 planned residential development in the integrity of the development plan.

(4) In the event a development plan is granted tentative approval, with or without conditions, the City Council may set forth in the official written communication, the time within which an application for final approval of the development plan 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 or phase thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than 90 days. In the case of development plans which extend over a period of years, the time between applications for final approval of each part of the plan shall not be less than 1 year.

L. Status of Plan After Tentative Approval.

(1) The official written communication provided for in this Part shall be certified by the City Secretary and filed in his/her office; a certified copy shall be mailed to the landowner. Where tentative approval has been granted, it shall be deemed as an amendment to the Zoning Map, effective and so noted upon the Zoning Map upon final approval.

(2) Tentative approval of a development plan shall not qualify a plan of the planned residential development for recording nor authorize development or the issuance of any zoning permit. A development plan, which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the City pending the application or applications for final approval, without
the consent of the landowner, provided an application for final approval is filed or, in the case of development over a period of years, provided applications are filed within the periods of time specified in the official written communication granting tentative approval.

(3) In the event that a development plan is given tentative approval and thereafter, but prior to the final approval, the landowner shall elect to abandon said development plan and shall so notify the City Council in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development for which final approval has not been given shall be subject to those local ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the Zoning Map and in the records of the City Secretary.

M. Application For Final Approval.

(1) An application for final approval may be for all of the land included in a development plan or, to the extent set forth in the tentative approval, a section thereof. Said application shall be made through the Zoning Officer to the City Planning Commission and City Council within the time or times specified by the official written communication granting tentative approval. If the application for final approval is in compliance with the tentatively approved development plan, a public hearing is not required.

(2) The application shall include all drawings, specifications, covenants, easements, performance bond and such other requirements as specified in the Subdivision and Land Development Ordinance [Chapter 22] of the City as well as any conditions set forth in the official written communication granting tentative approval.

(3) In the event that the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by this Chapter and the official written communication of tentative approval, the City Council shall, within 45 days of such filing, grant such development plan final approval.

(4) In the event the development plan as submitted contains variations from the development plan given tentative approval, the City Council may refuse to grant final approval and shall, within 45 days from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or more said variations are not in the public interest.

(5) In the event of such refusal the landowner may either:
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(a) Refile his application for final approval without the variations to which the City Council deemed objectionable and not in the public interest.

(b) File a written request with the City Council that it hold a public hearing on his/her application for final approval.

(6) If the landowner wishes to take either of such alternate action, he/she may do so at any time within which he/she shall be entitled to apply for final approval, or within 30 additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance. In the event the landowner shall fail to take either of these alternate actions with said time, he/she shall be deemed to have abandoned the development plan.

(7) Any such public hearing shall be held pursuant to public notice within 30 days after the request for the hearing is made in writing by the landowner. The hearing shall be conducted in the manner prescribed in this Chapter for public hearings on applications for tentative approval. Within 30 days after the conclusion of the public hearing, the City Council shall, by official written communication, either grant final approval to the development plan or deny final approval.

(8) The grant or denial of final approval of the development plan shall, in cases arising under this Section, be in the form and contain findings required for an application for tentative approval as set forth in this Part.

(9) A development plan, or any part thereof, which has been given final approval, shall be so certified without delay by the City Council and shall be filed of record forthwith in the Office of the Recorder of Deeds of the County before any development shall take place in accordance therewith. Upon filing of record of the development plan, the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion within a reasonable time of said planned residential development or of that part or phase thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of landowner. Upon approval of a final plat the developer shall record the plat in accordance with Section and post a financial security in accordance with Section.

(10) In the event that a development plan, or section thereof, is given final approval and thereafter the landowner shall abandon such plan or section thereof that has been finally approved, and shall so notify the City Council in writing; or in the event the landowner shall fail to
commence and carry out the planned residential development within such reasonable period of time as may be fixed by ordinance after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is resubdivided and is reclassified by enactment of an amendment to this Chapter in the manner prescribed for such amendments by this Chapter.

N. Legal Proceedings and Enforcement Remedies. Any person, partnership or corporation, who or which has violated the provisions of this Part shall be prosecuted in accordance with §712.1 and §712.2 or the Pennsylvania Municipalities Planning Code, Act 247. as amended.

§27-701. Purpose.

The purpose of a use classified as a "special exception" is to provide expressed standards for regulating unique or special characteristics of certain uses which may otherwise allow such uses to be permitted by right within their respective zoning district, as provided in Part 5, “Zoning District Regulations.”

(Ord. 12-1993, 6/3/1993, §701)

§27-702 General Provisions.

The authority for approving or denying applications for uses permitted by special exception shall be vested in the Zoning Hearing Board in accordance with the provisions contained in Part 15. Decisions by the Zoning Hearing Board shall be made pursuant to the standards and criteria set forth in this Chapter, §27-1510(B), the respective zoning district in which the use is located, all other applicable regulations of this Chapter, other ordinances of the City and any applicable State and/or Federal regulations.


§27-703 Site Plan.

Uses classified as a special exception shall file, in addition to a zoning permit, a site plan at a scale of not greater than 1 inch equal 10 feet, which shall be submitted to the Zoning Officer. Such plan shall provide all information required for the Zoning Hearing Board to render a decision including, but not limited to the following:

A. The location and size of all buildings and structures, both principal and accessory.

B. The location of all off-street parking areas and/or loading areas.

C. The location of all open space areas, including buffer areas and fencing, if applicable.

D. Traffic access to the site and internal traffic circulation within the site.

E. All streets, both public and private, within 500 feet of the site.

F. When the proposed use includes new construction, contours of the site for each 5 feet of change in elevation, based upon a field survey of the site, with the
name of the person or firm who conducted the survey and the date of the survey.

G. The location, nature and terms of any existing or proposed easements on the site and any easements both onsite and off-site which are used or intended to be used for access to the site.

H. Streams, ponds, watercourses, wetlands or any other type bodies of water, including natural or manmade drainage swales, located on the site or within 500 feet of the site.

I. The location of any residential structure on adjoining properties of the subject site.

J. The map, block and lot number of the subject parcel.

(Ord. 12-1993, 6/3/1993, §703)

§27-704 General Standards.

In addition to any applicable supplemental regulations for a specified use as provided for in Part 8 of this Chapter, the general standards contained herein shall be utilized in the review of applications and plans for any use which is classified as a special exception:

A. The proposed use shall not jeopardize the objectives of the community development objectives of this Chapter.

B. Public services and facilities such as streets, sewage disposal, water, police and fire protection shall be adequate for the proposed use.

C. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.

D. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the location and size relative to the proposed use, and the nature and intensity of the operation involved.

E. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls and fences so that the use, development and value of adjacent property is not impaired.

F. The proposed use shall not be more objectionable in its operation in terms of noise, fumes, smoke, vapors, gases, odors, heat, glare, vibration, lighting or electrical disturbances than would be the operation of any permitted use in the
district nor shall it constitute a "general nuisance" as so defined in Part 2 of this Chapter.

G. Any other reasonable conditions and safeguards, in addition to those expressed in this Chapter, may be imposed by the Zoning Hearing Board in the interest of protecting the health, safety and welfare of the public.


§27-705 Impact Analysis.

In considering an application for a special exception, the Zoning Hearing Board shall have the authority to require the applicant to prepare an "impact analysis" on a particular aspect of the subject application in accordance with the definition of said term as provided within Part 2 of this Chapter. The landowner and/or applicant shall be responsible for all cost related to any and all studies and/or reports required by the Zoning Hearing Board under and within the context of the term "impact analysis."

§27-801 Purpose and Intent.

Certain uses of land and/or buildings, as specified herein, whether permitted by right, special exception and or conditional use, shall be subject to supplemental regulations in addition to those of the district in which the use is located.


§27-802 Use Regulations.

1. Animal Hospital. An animal hospital shall maintain all activities within a completely enclosed soundproof building, and not objectionable odors shall be vented outside the building. No animal hospital shall be located less than 25 feet from any property line.

2. Automobile Related Activities.

A. Automotive Repairs (Repair Garage). Activities including the repair of automobiles, trucks, snowmobiles and motorcycles shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize noise, vibrations, fumes and glare. Only vehicles to be repaired on the premises or picked up by the vehicle’s owner may be stored in the yard area. Where the operation abuts on the side or rear property line of a district having residences as a principal permitted use, a solid wall or substantial attractive fence 6 feet in height shall be constructed and maintained in good condition along such boundary. Outside lighting shall be directed away from adjacent properties.

B. Automotive Sales. The outdoor display of new or used automobiles, panel trucks or vans, trailers, recreational vehicles, all terrain vehicles, motorcycles, snowmobiles, mobile homes or boats shall meet the appropriate yard requirements for the zoning district in which such use is located. Uses which are normally accessory to such sale establishments (such as engine repairs, body repairs, painting, radiator repair and undercoating) shall be permitted, provided such uses are clearly incidental and subordinate to the principal use and further provided that such uses are conducted within a completely enclosed building designed and constructed to minimize noise, fumes, vibrations and glare. Where an automotive sales use abuts a rear or side lot line of any district having residences as a principal permitted use, a solid wall or substantial, attractive fence 6 feet in height shall be constructed and maintained in good condition along such boundary. Outside lighting shall be directed away from adjacent properties.
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C. **Car Wash.** Car wash operations abutting on the side or rear property lines of a district having residences as a principal permitted use shall provide a solid wall or substantial, attractive, tight fence being 6 feet in height and well maintained along such boundary. Outside lighting shall be directed away from adjacent activities. Appropriate drainage facilities for washing activities shall be provided. The site shall be sufficiently large to accommodate cars awaiting washing during peak periods so that lines along public streets are avoided. Such operations shall also comply with any applicable regulations of the Pennsylvania Department of Environmental Protection. [Ord. 16-2004]

D. **Gasoline Service Stations.** When a service station abuts on the rear or side lot line of a district having residences as a principal use, a solid wall or substantial attractive fence being 6 feet in height shall be constructed and maintained in good condition along such boundary. When a service station occupies a corner lot, the access driveways shall be located at least 60 feet from the intersection of the front and side street lines of the lot. All access driveways shall not exceed 25 feet in width. Gasoline pumps or other service appliances may be located in the required front yard not to exceed 15 feet. All repairs, service, storage or similar activities in connection with the use shall be conducted within the building where adequate measures shall be taken to minimize noise, fumes and glare. Outside lighting shall be directed away from adjacent properties.

3. **Banks.** Banks and other similar financial offices shall provide sufficient space to accommodate parking, vehicular circulation areas for drive-in tellers, access areas for parking lots separated from drive-in areas, and areas for pedestrian traffic separated from vehicular traffic for safety. Access driveways shall be no more than 12 feet in width. Canopies over drive-through areas shall meet all yard setback requirements.

4. **Boarding House.** The property shall maintain all yard areas for the zoning district in which it is located and shall be limited to providing lodging for not more than four persons, excluding the owner of the property. Off-street parking spaces shall be provided for each boarder.

5. **Contractors' Storage Yards.** Commercial or industrial uses utilizing outdoor storage space which exceeds an area of more than 2,000 square feet shall be located on a tract of land of not less than 25,000 square feet. Supplies stored outdoors shall be neatly arranged and no required yard areas shall be used for storage. There shall be a roadway 14 feet in width provided for in every 40 linear feet of stored materials. The roadway shall be kept passable for firefighting equipment. Where the operation abuts on the rear or side lot line of a district having residences as a principal permitted use, a solid wall or substantial fence being 6 feet in height shall be constructed and maintained in good condition along such boundary. Outside lighting shall be directed away from adjoining properties.

6. **Cemeteries.** A structure, grave or place of permanent burial shall be set back not less than 50 feet from the property line. The cemetery shall be enclosed by a fence,
wall or shrubbery at least 3 feet in height. The interior roads shall have a minimum width of 12 feet and shall be properly maintained with either gravel or paving.

7. **Convenience Store With Gasoline Pumps.** The property shall have a lot area of not less than 25,000 square feet. The principal structure as well as the canopy over gasoline pumps shall meet all the minimum setback requirements for all yards in the district in which it is located. Where the operation abuts on the rear or side lot line of a district having residences as a principal permitted use, a solid wall or substantial fence being 6 feet in height shall be constructed and maintained in good condition along such boundary. A parking area accommodating all spaces required by Part 11 shall be provided. Access driveways shall be no more than 25 feet wide at the street line, and in the case of a corner lot, access driveways shall be at least 60 feet from the intersection of the two streets, as measured from the right-of-way line. All lighting shall be directed away from adjoining property.

8. **Day Care Facilities.** All day care facilities, as so defined in Part 2 of this Chapter, shall comply with the following:

   A. The applicant or owner shall provide evidence of certification of compliance with all appropriate regulations of any designated State agency whose approval is required by the laws of the Commonwealth.

   B. Noise and all other possible disturbing aspects connected with such use shall be controlled to the extent that the operation of such use shall not unduly interfere with the use and enjoyment of properties in the surrounding area.

   C. All outdoor play areas shall be completely enclosed with a fence being 6 feet in height. Outdoor play activities shall be limited to the hours between 10:00 a.m. and 5:00 p.m., local time.

   D. The applicant shall provide evidence that vehicular traffic congestion will be avoided in "pick-up and drop-off points" utilized in transporting children to and from the facility.

9. **Dwelling Over or Attached to a Business Establishment.** Dwellings units may be permitted over or attached to business establishments in any zoning district. Such dwellings shall be designed as living quarters having adequate natural light and kitchen and bathroom facilities. Such dwellings shall also have private access and the required residence parking spaces in addition to commercial parking spaces as required by Part 11.

10. **Eating and Drinking Establishments (Night Clubs and Restaurants).** All eating and drinking establishments shall meet the parking requirements as set forth in Part 11 of this Chapter. Access drives shall not exceed 25 feet in width and for those establishments located on a corner lot, no access drive shall be located less than 60 feet of an intersection, as measured from the right-of-way lines, from the intersection of the two abutting streets. Outside lighting shall be directed away from adjacent properties.
11. **Entertainment Facilities.** Entertainment facilities as defined in Part 2 of this Chapter shall provide proper parking areas with vehicular circulation and access designed to minimize any potential traffic congestion. Such facilities shall not be closer than 20 feet from any boundary of a district having residences as principal permitted use, shall provide adequate screening from any residential district and shall be conducted entirely within an enclosed structure.

12. **Funeral Home.** Funeral homes shall accommodate all of the parking areas required as provided in Part 11 of this Chapter. In addition, sufficient area shall be provided for vehicular circulation on the lot and for the assembly area for the procession beyond the street right-of-way line. Points of vehicular access to the site shall not create traffic hazards on the street. Loading and unloading areas for ambulances and hearses shall be within an enclosed building or shall be screened from view from adjacent properties by a solid wall or substantial, attractive fence being 6 feet in height. Outside lighting shall be directed away from adjacent properties.

13. **Group Residence.** Any party wishing to establish and/or operate a "group residence," in addition to all other applicable zoning regulations and/or requirements, shall be subject to the following supplemental requirements:

   A. The maximum occupancy of a group residence shall not exceed eight persons, excluding staff.

   B. The group residence shall be under the jurisdictional and regulatory control of a governmental entity (County, State and/or Federal).

   C. The applicant and/or operator of group residence shall provide written documentation from the applicable governmental entity which certifies said group residence complies with the location, supervised services, operation, staffing and management of all applicable standards and regulations of the subject governing program.

   D. The applicable requirements and standards which govern off-street parking for a single-family dwelling shall also govern for a group residence.

   E. The group residence shall be operated and maintained in the character of a residential dwelling in harmony with and appropriate in appearance with the character of the general vicinity in which it is to be located.

14. **Home Occupations.** A home occupation which is conducted within a dwelling unit or a building accessory to the dwelling shall be subject to the following provisions:

   A. The occupation shall be carried on wholly indoors, within the principal building or within a building accessory thereto.

   B. There shall be permitted a sign, not to exceed 2 square feet in surface area, placed flat against the building as a wall sign, and shall not be permitted
above the first story level. No other exterior display or exterior storage or materials or any other exterior indication of the home occupation shall be permitted.

C. There shall be no maintenance of a stock in trade or show windows or displays or advertising visible outside the premises.

D. No articles shall be sold or offered for sale except those which are produced on the premises.

E. There shall be no repetitive servicing by truck.

F. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.

G. The occupation shall be carried on only by members of the immediate family residing in the dwelling unit, plus not more than one additional employee.

H. The floor area devoted to a home occupation, regardless of where located on a lot, shall be equivalent to not more than 20% of the floor area of the principal residential structure.

I. Each home occupation shall have off-street parking as indicated below, in addition to that required for the dwelling unit:

   (1) Four spaces for each physician, dentist or other licensed medical practitioner.

   (2) Two spaces for all other home occupations.

15. **Industrial Activities.** All industrial activities and uses permitted within that I-1 District shall comply with all regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, industrial waste, fire hazards and any other of the activities and uses which side effects are deemed injurious to the public health, safety and welfare by the Untied States Environmental Protection Agency (E.P.A.), the Pennsylvania Department of Environmental Protection, and the Pennsylvania Department of Labor and Industry. [Ord. 16-2004]

16. **Junkyards and Automotive Wrecking Yards.** All junkyards and automotive wrecking yards existing at the effective date of this Chapter shall comply within 1 year after the adoption thereof. All new junkyards and automotive wrecking yards shall comply with the following:

   A. Such premises shall at all times be maintained so as not to constitute a nuisance or menace to the health of the community or residents nearby or a place for the breeding of rodents and vermin.

   B. Burning of any materials shall be prohibited.
C. No oil, grease, tires or gasoline shall be burned at any time.

D. No garbage, organic waste, rubbish, toxic materials and hazardous materials shall be stored on such premises.

E. Whenever any motor vehicle shall be received on such premises as junk, all gasoline and oil shall be drained and removed therefrom.

F. The storage of any combustible materials, such as gasoline, oil or related items, shall be placed in fireproof containers and stored within fireproof sheds.

G. The manner of storage and arrangement of junk and the drainage facilities on the site shall be such as to prevent the accumulation of stagnant water upon the premises. A stormwater drainage plan shall be required.

H. There shall be no stockpiling of motor vehicles, nor shall there be any junk piled higher than 4 feet.

I. There shall be a roadway 14 feet in width provided for every 40 linear feet of junk. The roadway shall be kept open and unobstructed for proper access for fire fighting equipment and safety purposes.

J. Junk shall not be stored within 100 feet of any adjoining property line or nearer than 100 feet to any adjoining or abutting street.

K. All junkyards shall be completely screened from view on all sides by a solid wall or substantial fence being 6 feet in height and an evergreen hedge with such evergreens being a minimum height of at least 5 feet at the time of planting. Any fence or wall shall be no closer than 5 feet to the property lines.

L. Such premises may be open for business or any work in connection with the storage, processing and transportation or removal of junk only on Monday through Saturday from 8:00 a.m. to 4:00 p.m., local time.

17. **Motels and Hotels.** Motels and hotels shall meet the following requirements:

A. There shall be more than 10 sleeping rooms.

B. Fifty percent or more of the gross floor area shall be devoted to sleeping rooms.

C. Business may be conducted when accessory and incidental.

D. There may be club rooms, ballrooms, and common dining facilities.

18. **Nonprofit Social Halls, Clubs and Community Centers.** Buildings utilized for such purposes shall not be less than 25 feet from the property line, nor shall any designated parking area be within 10 feet from a property line.
19. **Outdoor Storage.** Outdoor storage, as defined in Part 2, when proposed as a principal use of land, shall be limited to an I-1 Zoning District and require a minimum lot size of 1 acre. The entire area to be utilized for storage shall be enclosed with a chain link fence being 6 feet in height. A storm drainage plan shall be required with the submission of a site plan, zoning application and a complete listing of all types of items to be stored therein.

20. **Place of Worship.** A parking area shall accommodate all parking spaces as required in Part 11 of this Chapter. Access driveways shall be not greater than 25 feet in width. In the case of a corner lot, access driveways shall be not less than 60 feet from the intersection of the two streets, as measured from the intersection of their right-of-way lines. Where the parking area abuts existing residences on the side or rear property line, a buffer area, consisting of shrubbery or evergreen trees, being not less than 4 feet in height at the time of planting, shall be provided.

21. **Public Uses.**

   A. **Municipal, Police and Fire Buildings.** Where the parking area abuts the side or rear property lines of an adjoining residential use, a fence being 6 feet in height and a buffer area consisting of shrubbery or evergreen trees shall be provided.

   B. **Public and Private Schools.** The size of a lot shall meet the minimum requirements as prescribed by the Pennsylvania Department of Education. Access to the site shall be from an arterial or collector street. Access driveways shall not exceed 25 feet in width. In the case of a corner lot, access driveways shall be not less than 60 feet from the intersection of the two streets, as measured from the intersection of their right-of-way. Loading and unloading areas, parking areas and circulation shall be provided in accordance with Part 11 of this Chapter.

22. **Public Utility Buildings and Structures.** Public utility facilities as defined in Part 2, shall conform to the following regulations for properties containing such uses:

   A. Access and parking shall be provided only for maintenance and servicing of such facilities.

   B. A chain-link fence and locked gate not less than 8 feet in height shall surround the building or structures of such facilities.

   C. A buffer area not less than 10 feet in depth and comprised of trees and/or shrubs designed to conceal such buildings or structures of such facilities.

   D. Outside lighting shall be directed away from adjacent properties.

   E. The location, design and operation of such facilities shall not adversely affect the character of any adjacent residential properties.
23. **Recreational Facilities; Outdoors.** All such facilities, whether public, private or commercial, shall conform to the following regulations:

A. No outdoor recreation activity shall be conducted closer than 50 feet to any property line.

B. A buffer area, at least 10 feet in depth and planted with trees, shrubs or other landscaping, shall surround the property except for access drives.

C. Access drives shall be not greater than 25 feet in width; parking areas shall not be located within buffer areas.

D. Storm drainage from the site shall be channeled to natural drainage courses and away from adjoining properties.

24. **Sewage Disposal and Sewage Treatment Plants.** The location and operation of a public or private sewage disposal and/or sewage treatment plant shall be in full compliance with the applicable regulations of the Pennsylvania Department of Environmental Protection. Written approval from D.E.P. shall be secured prior to the installation of such facilities. [Ord. 16-2004]

25. **Townhouses and Garden Apartments.**

A. Townhouses and/or garden apartments which are not being developed as part of a planned residential development, shall be subject to the following provisions and all applicable provisions of the City of Nanticoke Subdivision and Land Development Ordinance [Chapter 22]:

(1) Minimum lot width shall be 120 feet.

(2) Maximum percentage of building coverage on a lot per dwelling unit, exclusive of common or public open areas, shall be 40%.

(3) Minimum lot width per dwelling unit shall be 20%.

(4) Minimum lot depth per dwelling unit shall be 100 feet.

(5) Minimum lot area per dwelling unit shall be 2,000 square feet.

(6) Minimum front yard setback shall be 30 feet.

(7) Minimum side yard setbacks shall be 30 feet. Side yard setbacks shall be required only at the ends of rows of attached dwellings.

(8) Minimum rear yard setback shall be 30 feet.

(9) Maximum density shall be 1 unit per each 3,500 square feet of land area.
(10) Minimum width of each dwelling unit shall be 20 feet.

(11) Maximum building height shall be three stories or 35 feet.

(12) Minimum distance between principal structures shall be 30 feet.

(13) Minimum front yard setback for off-street parking areas shall be 10 feet.

(14) Minimum side yard setbacks for off-street parking areas shall be 15 feet.

(15) Minimum rear yard setbacks for off-street parking areas shall be 15 feet.

(16) Two off-street parking spaces shall be provided for each dwelling unit.

(17) Unattached accessory structures such as pools, garages, carports and sheds shall be prohibited in the front yard. Unattached accessory structures located in the side or rear yard shall have 5 feet side and rear yard setbacks. Attached accessory structures shall have the same setbacks as required for principal structures.

B. Townhouses and/or garden apartments, when permitted as a special exception use, shall provide a site plan in conformance with Part 7 of this Chapter and the following additional information:

(1) The location, use, plan dimensions and height of each building and the total gross floor area.

(2) The location, dimensions and arrangement of all open spaces, yards, access ways, entrances, exits, off-street parking areas, pedestrian ways, widths of streets and sidewalks.

(3) The capacity and design of all areas to be used for vehicular access and parking.

(4) The location, dimensions and arrangement of all areas devoted to planting, lawns, trees, shrubs and similar landscaping.

(5) A Soils Erosion and Sedimentation Control Plan.


(7) Stormwater drainage calculations for the site.

(8) The provisions and design features of paved areas, infrastructure and other required site utilities.

26. Warehouse and Distribution Facilities. All materials shall be stored within a completely enclosed building and yard areas shall be kept clear of junk, trash or
other types of debris. Access drives shall not exceed 25 feet in width; parking and loading areas shall conform with the regulations of Part 11 of this Chapter. No warehouse activities, including parking and/or loading areas, shall be allowed within 20 feet of any property line abutting a zoning district which allows residences as a principal permitted use.

27. **Warehouse (Self-Storage).** These facilities may be a building or group of buildings in a controlled-access and fenced compound, containing varying sizes of individual compartmentalized and controlled-access stalls or lockers for dead storage of customers’ goods and personal property, with storage space available for rental to the general public. All storage shall be contained within a completely enclosed building or buildings. There shall be a minimum spacing of 25 feet between buildings for traffic circulation, parking and fire lane purposes. No activities including off-street parking shall be allowed within 20 feet of a property line abutting a district having residences as a principal permitted use. All outside lighting shall be directed away from adjacent properties.

§27-901. Inten.  
Within the zoning districts established by this Chapter or subsequent amendments thereto, there may exist or will exist certain nonconforming uses of structures and/or land which if lawful before this Chapter was passed or amended, may be continued, subject to certain limitations, although such uses would be prohibited, regulated or restricted under the terms and provisions of this Chapter or subsequent amendments thereto.  

(Ord. 12-1993, 6/3/1993, §901)

§27-902. Nonconforming Lots of Record.  
1. In any zoning district, structures, both principal and accessory, may be erected on any single lot of record at the effective date of adoption or amendment of this Chapter, notwithstanding limitations imposed by other provisions or regulations of this Chapter, even though such lots fail to meet the requirements for the zoning district in which such lot is located. Variances from the aforementioned yard requirements may be obtained only through action of the Zoning Hearing Board.  

2. If two or more adjacent lots, with continuous frontage, in single ownership, are lots of record at the effective date of the adoption or amendment of this Chapter, and if such lots do not meet the required lot area and/or width requirements, such lots shall be considered to be an undivided parcel and no portions of such parcel shall be used or sold in a manner which further diminishes compliance with the required lot area and/or width requirement for the zoning district in which such lots are located.  


§27-903. Continuation of Nonconformity.  
Any lawful nonconforming use and/or nonconforming structure may be continued except as otherwise provided in this Part, but any nonconforming use and/or structure shall not be enlarged, reconstructed, structurally altered or chanted except as permitted by provisions of this Part.  

§27-904. Registration of Nonconforming Uses and Structures.

The Zoning Officer may prepare and maintain an accurate listing of all nonconforming uses and structures. The Zoning Officer or the property owner may initiate the process of certifying the nonconformity of a given property. The Zoning Officer shall issue a certificate of nonconformity where he finds the use or structure, although not in compliance with all applicable requirements of the zoning district in which it is located, to be a lawful nonconforming use or structure.

(Ord. 12-1993, 6/3/1993, §904)

§27-905. Changes of Nonconforming Uses.

The Zoning Hearing Board may grant a special exception to allow one nonconforming use to be changed to another nonconforming use, if the Board finds that the proposed change in use complies with the standards and criteria provided for in §27-1510(B) of this Chapter and all of the following provisions:

A. No structural alterations are to be made.

B. The proposed change shall be less objectionable in external effects than that of the previous or existing nonconforming use, and shall be more consistent with its physical surrounding.

C. There shall be no increase in traffic generation or congestion, including both vehicular and pedestrian traffic.

D. There shall be no increase in the danger of fire or explosion.

E. There shall be no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, lighting or electrical disturbances.

F. There shall be no increased threat to health by any reason, including that of rodent, vermin or otherwise.


The Zoning Hearing Board may grant a special exception for the enlargement of a nonconforming use and/or structure, if the Board finds the following standards will be met:

A. The enlargement will not replace a conforming use.

B. The nonconforming structure and/or use, after enlargement, shall comply with the yard and lot coverage requirements applicable to the zoning district in which it is located.
C. The use and/or structure, after enlargement, shall comply with all applicable off-street parking and/or loading requirements for said use and/or structure.

D. Not more than one enlargement or a nonconforming use and/or structure shall be permitted.

E. A nonconforming structure and/or use shall not be enlarged beyond the limits of the zoning lot on which it is located. Expansion to an adjoining lot shall be prohibited, even if such adjoining lot was in the same ownership at the effective date of the adoption of this Chapter.

F. The enlargement shall not exceed 25% of the floor area or land area as it existed at the time the structure or use first became nonconforming.

(Ord. 12-1993, 6/3/1993, §906)

§27-907. Restoration of Use.

1. A nonconforming use and/or structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar act or cause to the extent of more than 60% of its production value at the time of the damage shall not be restored except in conformity with the regulations of the zoning district in which it is located.

2. When damage is less than 60% of its reproduction value, a nonconforming building or other structure may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are completed within 2 years of the date of such damage.

3. A conforming residential use, which is constructed on a nonconforming lot with respect to lot area, lot width, and/or yard areas, may be reconstructed on the same lot subject to receiving approval from the Zoning Hearing Board for any necessary variances.


§27-908. Termination of Nonconforming Use And/or Structure.

1. Nonconforming Use And/or Structure. A nonconforming use and/or structure shall not be reconstructed when damaged to an extent greater than 60% of its reproduction value at the time of the damage and said nonconforming use and/or structure shall be deemed terminated.

2. Change of Nonconforming Use. Where a nonconforming use is changed into a conforming use, a nonconforming use shall not thereafter be resumed. A change of one nonconforming use, without approval by the Zoning Hearing Board, shall be considered an abandonment of the prior nonconforming use, which shall not thereafter be resumed.
3. **Abandonment of Nonconforming Use.** The right to a nonconforming use shall be terminated and a nonconforming use shall not be resumed if a nonconforming use is abandoned. A nonconforming use shall be deemed abandoned, if it is changed as set forth in subsection (2), above, or if it is discontinued for a continuous period of 1 year with not evidence or documentation which indicates the owner's intent to resume the nonconforming use.

4. **Unsafe Structures.** If a nonconforming structure, containing a nonconforming use, becomes physically unsafe due to lack of maintenance or repairs and has been legally condemned by action of the City of Nanticoke, it shall not thereafter be restored, repaired or rebuilt except in conformity with uses permitted within the zoning district in which such structure is located.

PART 10
SIGN REGULATIONS

§27-1001   Signs.

1. **Type and Use of Signs.** All signs shall be classified according to type and use as provided herein:

   A. **Identification Sign.** A sign which communicates the name and/or address of an occupant or a permitted home occupation upon the zoning lot on which the sign is located.

   B. **Business Sign.** A sign which communicates information concerning a business, profession, commodity, service, entertainment or development which is sold, offered, prepared, manufactured or conducted upon the zoning lot where the sign is located.

   C. **Billboard or off Premise Advertising Sign.** A sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the zoning lot where the sign is located.

   D. **Real Estate Sign.** A temporary sign, having an area not greater than 8 square feet in area which advertises the sale, rental or development of the premises upon which the sign is located.

   E. **Subdivision/Development Sign.** A temporary real estate sign, not greater than 60 square feet in area, which advertises the sale of property within an approved subdivision or planned residential development.

   F. **Institutional Sign.** A sign which identifies a use pertaining to a school, church, hospital or other institution of a similar public or semipublic nature.

   G. **On-site Directional And/or Informational Sign.** A sign commonly associated with, and limited to, information and directions necessary for visitors entering or exiting a property, including signs marking entrance and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas. Such signs shall contain no advertising material.


§27-1002.   Construction Types.

All signs shall be classified according to construction types as provided herein:
A. **Freestanding Sign.** A sign not attached or applied to a principal building but supported by another structure, including structures designed for the sign itself and accessory structures.

B. **Wall Sign.** A sign attached, painted or affixed to the wall of a principal structure or accessory structure, not projecting over any public right-of-way and not extending more than 2 feet from the building or structure.

C. **Projecting Sign.** A sign which projects outward or extends more than 2 feet from the building or structure.


§27-1003 Permitted Signs by Zoning District.

The establishment, erection or reconstruction of any sign shall be in accordance with the regulations as set forth herein:

A. **Identification Sign.** Such signs shall be permitted in all zoning districts.

B. **Business Signs.** Such signs shall be permitted in C-1, C-2, C-3, I-1 and S-1 Zoning Districts.

C. **Real Estate Signs.** Such signs shall be permitted in all zoning districts.

D. **Subdivision/Development Signs.** Such signs shall be permitted in all zoning districts and any PRD Zoning District, upon the creation of such.

E. **Institutional Signs.** Such signs shall be permitted in all zoning districts.

F. **Onsite Directional And/or Informational Sign.** Such signs shall be permitted in all zoning districts.

G. **Billboard Signs.** Such signs shall be permitted in a ______ Zoning District.


§27-1004 Area, Height and Setback Requirements.

The establishment, erection or reconstruction of permitted signs shall be governed by the following regulations:

A. **Identification Sign.** An identification sign shall not exceed 2 square feet in area. Such a sign shall be setback not less than 10 feet from the front lot line. The maximum height of an identification sign, if free standing, shall not
exceed 10 feet in height, or if attached to a building shall not be higher than the first story of the building to which it is attached.

B. Business Sign.

(1) A business sign shall not exceed 30 square feet in a C-1 Zone, sixty (60) square feet in a C-2 Zone or, four times the frontage a lot in an C-3, or any I Zone (calculated in square feet). In a shopping center or an integrated grouping of commercial or industrial uses which is classified as a "land development," in addition to permitting each individual business establishment to display a business sign, one sign shall be permitted on the lot, which indicates the name of the shopping center and/or the names of the business establishments located therein. Only one such sign shall be permitted on the lot and such sign shall not exceed one hundred 50 square feet in area.

(2) A business sign shall have a minimum front yard setback of not less than 50% of the required setback for a principal structure in the zoning district in which the sign is located. If any existing building has a front yard setback which is less than 10 feet, the sign shall be attached flat against the building as a wall sign.

(3) The maximum height of any business sign shall not exceed 18 feet.

C. Real Estate Sign. A temporary real estate sign shall not exceed 8 square feet in area and shall be located on the same lot on which the property is offered for sale or rental. The sign shall be setback not less than 10 feet from the front lot line and shall be removed from the premises within 30 days after the sale or rental of the property.

D. Subdivision/Development Sign. A subdivision/development sign shall be considered a temporary real estate sign and shall not exceed 60 square feet in area. The sign shall be located on the same property on which lots and/or homes in the subdivision are offered for sale. Not more than one sign shall be erected in any subdivision, and such signs shall be setback not less than 35 feet from the front lot line. The sign shall be removed from the premises within 30 days after the last lot and/or home is sold.

E. Institutional Sign. An institutional sign for public and semipublic facilities, such as schools, churches, hospitals, libraries, colleges or other institutions of a similar nature shall not exceed 40 square feet in area. The maximum height of such signs shall not exceed the maximum height restriction established for a principal structure in the district in which the sign is located. An institutional sign shall be not less than 10 feet from the front lot line.

F. Onsite Directional And/or Informational Sign. An onsite directional and/or informational sign shall bit exceed 6 square feet in area. A front, rear
or side yard setback of not less than 5 feet shall be required for such signs. The maximum height of such signs shall not exceed 6 feet.

G. **Billboard Sign or Off Premise Advertising Sign.** The following regulations shall apply to any billboard and/or off-premise advertising sign:

1. The advertising surface area of any panel shall not exceed 300 square feet and not more than one double-faced panel shall be permitted on the same structure or standard.

2. Such a sign shall not be located within 200 feet of any residential structure or residential zoning district.

3. There shall be a minimum spacing distance of 1,000 feet between all such signs.

4. Such signs shall be setback not less than 600 feet from the center line of any limited access highway and/or a State legislative route.

5. Such signs shall not be attached to a building nor shall such signs be permitted to project above the maximum height limitation for the zoning district in which it is located.

H. **Number of Signs.** Excluding onsite directional and/or informational signs, not more than two signs shall be permitted on any property located in any zoning district. In the case of a property located upon a corner lot, a total of three signs may be permitted.


**§27-1005 Setback for Freestanding Signs.**

The minimum side yard setback and rear yard setback for any freestanding sign shall be the same as the minimum side yard or rear yard setback for a principal structure in the zoning district in which the sign is located. The minimum front yard setback, with the exception of §27-1004(F), above, “Onsite Directional and/or Informational Sign” and §27-1004(G), “Billboard Sign or Off-Premises Advertising Sign,” shall be the more restrictive of 50% of the required setback for a principal structure in the zoning district in which the sign is located, or 10 feet.


**§27-1006 Signs Related to Nonconforming Uses.**

An existing sign related to a legally established nonconforming use shall be considered a nonconforming sign, which may be continued at its present dimensions and location, but
shall not be enlarged. Where a nonconforming use is lawfully changed to another nonconforming use, a new sign shall be permitted being the same type and size as the previous sign. The new sign shall be erected on the property at the same location as the previous sign. The sign may be erected at a different location provided it meets all applicable regulations within Part 5 and for the zoning district in which it is located.


§27-1007 Area Computation of Signs.

The area of a sign shall be construed to include all lettering, wording and accompanying design and symbols, together with the background including border and trim, whether open or enclosed on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself. Computation of the area for particular signs shall be in accordance with the following regulations:

A. Wall Sign. For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying design or symbols together with any backing associated with the sign.

B. Separate Symbols. Where the sign consists of individual letters or symbols attached to or painted on a surface; building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.

C. Double-Face Sign. With the exception of a billboard, when computing the area of a double-face sign, only one sign shall be considered, provided both faces are identical.

D. Cylindrical Sign. The area of a cylindrical sign shall be computed by multiplying .5 of the circumference by the height of the sign.


§27-1008 Vertical Clearance.

A freestanding sign and a projecting sign shall have a vertical distance of not less than 9 feet as measured from the lowest edge or point of the sign to the highest ground elevation located beneath the sign.


§27-1009 Prohibited Signs.

The following types of signs shall not be permitted in any zoning district:
A. Signs which are located in such a position which endangers vehicular and/or pedestrian traffic by obscuring the site distance.

B. Signs which by design and/or location may be confused with traffic signs or signals.

C. Any sign located in or extending into a public right-of-way, including sidewalk areas, except an official street sign or traffic control sign.

D. Any freestanding or projecting sign within an area bounded by the intersection of two public or private street for a distance of 20 feet along the centerline of the right-of-way of such streets from the point of their intersection.

E. Freestanding or projecting signs over any type of public right-of-way, including sidewalk areas.

F. Sequential, flashing or oscillating signs.

G. Signs which due to their construction and/or location would constitute a hazard or a potential danger to the community.


§27-1010 Permits Required

A zoning permit shall be required for the erection, alteration or relocation of any sign which exceeds 8 square feet in surface area. Real estate signs and subdivision/land development signs shall be exempt.

PART 11

OFF-STREET PARKING AND LOADING

§27-1101  Purpose

Off-street parking, loading and unloading facilities shall be provided to lessen traffic congestion in the streets. The facilities required by these provisions shall be available throughout the hours of operation for the particular business or use for which such facilities are provided. As uses herein, the term "parking space" includes covered garage or carport or uncovered parking lot space located off the public right-of-way.


§27-1102  Size of Off-street Parking Spaces.

Each off-street parking space shall have an area of not less than 162 square feet, being 9 feet in width and 18 feet in length, exclusive of access drives or aisles.

(Ord. 12-1993, 6/3/1993, §1102)

§27-1103  Size of Off-street Loading Spaces.

Each off-street loading space shall be not less than 50 feet in depth, 12 feet in width and provide an overhead clearance of not less than 14 feet. All loading areas shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out of the public right-of-way.


§27-1104  Existing Uses and Structures.

Uses of buildings, structures and/or land in existence at the date of adoption of this Chapter shall not be subject to the off-street parking or off-street loading requirements, so long as the use of the property is not changed, altered or expanded. Existing off-street parking or off-street loading facilities provided prior to the adoption of this Chapter shall not be reduced below the minimum requirements applicable to the particular use of the property.


§27-1105  Expansion of Existing Use.

When an existing use of a building, structure or land is expanded, off-street parking and/or loading facilities shall be provided in accordance with the applicable provisions of this
ZONING

Chapter for the net increase of expansion based upon land area and/or gross floor area of the subject use.


§27-1106 Change of Use.

Whenever an existing use of a building, structure or land is changed to a different use, off-street parking and/or loading facilities shall be provided in accordance with the applicable provisions of this Chapter based upon the proposed change in use.


§27-1107 Multiple Activities or Uses.

In any instance where a structure, building or use of land contains more than one defined use, the total amount of required off-street parking spaces shall equal or exceed the number of spaces required for each specific use.


§27-1108 Fractional Parking Space.

When required parking computation results in fractions, any fraction less than .50 shall be disregarded and any fraction equal to or greater than .50 shall be construed to require a full space.


§27-1109 Location of Off-street Parking.

Required off-street parking shall be located upon the same lot with the principal use to which it serves. The Zoning Hearing Board may grant a special exception approval to allow the required parking on another lot of record subject to the following criteria:

A. The lot to be used for off-street parking and the lot on which the principal use is located shall be in the same zoning district.

B. The lot to be used for off-street parking and the lot on which the principal use is located shall be held under the same ownership and/or the applicant shall provide written documentation that the required number of parking spaces shall be retained upon such other lot throughout the life of the principal use which it serves.

C. The lot to be utilized for the off-street parking shall not be greater than 400 feet from the lot on which the principal structure is located.

(Ord. 12-1993, 6/3/1993, §1109)
§27-1110  **Shared Parking.**

The Zoning Hearing Board may grant a special exception approval for the joint use of parking for two or more principal uses subject to the following criteria:

A. The total number of off-street parking spaces provided are not less than the number of the spaces required for each use individually.

B. When the sum of off-street parking spaces required for each principal use is greater than the total amount of provided spaces, the hours of operation for the subject uses shall not be conflicting.


§27-1111  **Setback Requirements for R Zones.**

The following setback distances for off-street parking areas shall apply in all residential zoning districts:

A. In any R Zone, there shall be no required front, rear or side yard setback for accessory residential off-street parking areas for four or less vehicles. Accessory residential off-street parking area for five or more vehicles shall provide front, rear and side yard setback of not less than 5 feet.

B. The development and/or expansion of any nonresidential off-street parking area in any R Zone shall provide a front yard, rear yard and side yard setback of not less than 10 feet.


§27-1112  **Setback Requirement for C Zones.**

The following setback distances for off-street parking areas shall apply in commercial zoning districts:

<table>
<thead>
<tr>
<th>ZONE</th>
<th>FRONT</th>
<th>REAR</th>
<th>SIDE YARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>C-1</td>
<td>10 Feet</td>
<td>5&lt;sup&gt;a&lt;/sup&gt; Feet</td>
<td>5&lt;sup&gt;a&lt;/sup&gt; Feet</td>
</tr>
<tr>
<td>C-2</td>
<td>5 Feet</td>
<td>5&lt;sup&gt;a&lt;/sup&gt; Feet</td>
<td>5&lt;sup&gt;a&lt;/sup&gt; Feet</td>
</tr>
<tr>
<td>C-3</td>
<td>5 Feet</td>
<td>5&lt;sup&gt;a&lt;/sup&gt; Feet</td>
<td>5&lt;sup&gt;a&lt;/sup&gt; Feet</td>
</tr>
</tbody>
</table>

<sup>a</sup>Ten feet required when abutting an R Zone.

§27-1113 Setback Requirements for S Zones.

The following setback distances shall apply for off-street parking areas in a special purpose district:

<table>
<thead>
<tr>
<th>ZONE</th>
<th>FRONT</th>
<th>REAR</th>
<th>SIDE YARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>S-1</td>
<td>10 Feet</td>
<td>10½ Feet</td>
<td>5½ Feet</td>
</tr>
</tbody>
</table>

* Fifteen feet required when abutting an R Zone.

(Ord. 12-1993, 6/3/1993, §1113)

§27-1114 Setback Requirements in I Zones.

The following setback distances shall apply to off-street parking areas in an industrial district:

<table>
<thead>
<tr>
<th>ZONE</th>
<th>FRONT</th>
<th>REAR</th>
<th>SIDE YARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-1</td>
<td>5 Feet</td>
<td>5½ Feet</td>
<td>5½ Feet</td>
</tr>
</tbody>
</table>

* Fifteen feet required when abutting an R Zone.

(Ord. 12-1993, 6/3/1993, §1114)

§27-1115 Grading, Pavement and Drainage.

Off-street parking areas shall be graded in a manner to preclude standing surface water and to prevent damage to abutting properties and/or streets. Off-street parking areas shall be surfaced with a pavement structure of bituminous asphalt material. The development and/or expansion of an off-street parking area which contain 10 or more parking spaces shall be subject to review by the City Engineer prior to receipt of zoning approval. The City Engineer shall provide the applicant with direction on the need of providing catch basin within the lot.


§27-1116 Dimensions and Design.

The dimension and design of off-street parking areas, including garages, shall comply with the following:
A. Stall width shall be not less than 9 feet.

B. Stall depth shall be not less than 18 feet.

C. The minimum width of aisles providing access to stalls, with one-way traffic, varying with the angle of parking, shall be:

<table>
<thead>
<tr>
<th>Angle of Parking</th>
<th>Minimum Aisle Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parallel</td>
<td>12 feet</td>
</tr>
<tr>
<td>30 degrees</td>
<td>11 feet</td>
</tr>
<tr>
<td>45 degrees</td>
<td>13 feet</td>
</tr>
<tr>
<td>60 degrees</td>
<td>18 feet</td>
</tr>
<tr>
<td>90 degrees</td>
<td>20 feet</td>
</tr>
</tbody>
</table>

D. The minimum width for aisles providing access to stalls with two-way traffic shall be 24 feet.

(Ord. 12-1993, 6/3/1993, §1116)

§27-1117  Width of Access Driveways.

The width of a driveway intended to provide access to or from a property shall comply with the following:

A. A minimum of 9 feet for all single-family dwellings.

B. A minimum for 12 feet for one way traffic for all uses other than single-family dwellings.

C. A minimum of 20 feet for two way traffic for all uses other than single-family dwellings.

D. A maximum of 20 feet at the street lines in residential district, and 30 feet in other districts.

(Ord. 12-1993, 6/3/1993, §1117)

§27-1118  Number and Location of Access Driveways.

For the purpose of providing access to a property, driveways crossing a street line shall be 40 feet apart and shall be limited to two along each front, rear or side lot line. On all corner properties, there shall be a minimum distance of 30 feet from any driveway to the
lot line fronting on the intersecting street. Any type access, including the expansion and/or relocation of an existing driveway, onto a State legislative route shall require the approval and issuance of a highway occupancy permit from the Pennsylvania Department of Transportation prior to the issuance of zoning permit.


§27-1119  Required Screening.

All yards required for off-street parking and loading areas for 10 or more vehicles shall be maintained according to the following subsections:

A.  Nature and Size. The required yard shall contain:

   (1) A strip at least 4 feet wide, planted with shrubs or trees which are at least 3 feet high at the time of planting and which are of a type that may be expected to form a year round dense screen at least 4 feet high within 3 years.

   (2) A wall, or fence of uniform appearance at least 4 feet high above finished grade. Such wall or fence may be opaque or may be perforated, provided that not more than 50% of the area of the area of the face is open. Screening may be interrupted by allowable entrances and exits.

B.  Parking Areas Abutting a Residential Use or District. Properties which contain off-street parking for ten or more vehicles and/or an off-street loading area along a side yard or rear yard which abuts a residential district or residential use, shall be screened by a fence not less than 6 feet in height and not a strip at least 4 feet wide, planted with shrubs or trees which are at least 3 feet high at the time of planting and which are of a type that may be expected to form a year round dense screen at least 4 feet high within 3 years.

C.  Maintenance. Screening, including shrubbery, shall be maintained in good condition at all times.

D.  Signs. Screening shall have no signs hung upon or attached thereto other than those expressly permitted by this Chapter.


§27-1120  Lighting.

Any lighting used to illuminate off-street parking or loading areas shall be arranged to reflect the light away from adjoining properties and the public right-of-way.

§27-1121 Off-Street Loading Areas.

Each off-street loading space shall be not less than 45 feet in depth, 12 feet in width and provide an overhead clearance of not less than 14 feet. All loading areas shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out of the public right-of-way.


§27-1122 Table of Off-street Parking Requirements.

Any structure, building or use of land hereafter erected, converted, enlarged or placed into use shall comply with the minimum off-street parking spaces as provided herein:

A. **Single-Family Detached Dwelling** Two spaces for each dwelling unit.

B. **Two Family Structure.** Two spaces for each dwelling unit.

C. **Multifamily Residential, (Townhouses and Garden Apartments).** Two spaces for each dwelling unit.

D. **Boarding/Rooming House.** One space for each guest room, plus all other off-street parking spaces required for any other use or uses located within the structure.

E. **Home Occupation.**
   
   (1) Four spaces for any medical practitioner.
   
   (2) Two spaces for all other home occupations.

F. **Residential Conversion.** Two spaces for each dwelling unit created through conversion.

G. **Churches and Similar Places of Worship.** One space for every four seats in the main assembly room or one space for each 12 feet of bench length; if fixed seating is not provided, one space for every 30 square feet of gross floor area.

H. **Places of Public or Private Assembly, including Auditorium or Meeting Halls.** One space for every four seats or one space for each 50 square feet of gross floor area when there is not fixed seating.

I. **Schools, Elementary and Secondary.** One space for each staff member, plus one space for every 20 classroom seats, based upon the maximum capacity.
J. **College, Commercial, Business or Vocational Trade Schools.** One space for each staff and/or faculty member, plus one space for every five classroom seats, based upon the maximum capacity.

K. **Nursery or Day Care Schools.** One space for each employee, plus one space for every five children, based upon the maximum number of children which the facility is licensed to serve.

L. **Nursing Homes/Convalescent Homes.** One space per each five beds, based upon the designed maximum capacity, plus one space for each employee.

M. **Medical or Dental Office or Clinics.** Five spaces for every doctor, dentist, chiropractor or other licensed medical practitioner.

N. **Social Halls, Clubs and Lodges.** One space for every 200 square feet of gross floor area.

O. **Public Uses.** One space for every 100 square feet of gross floor area.

P. **Public Utility Facilities.** Two spaces per facility; if the facility includes maintenance and/or storage yards then the required number of spaces shall be one for each employee assigned to work at such facility.

Q. **Outdoor Recreational Facilities.** In cases where such facilities include spectator seating, there shall be one space for every four seats; facilities which do not provide any spectator seating shall provide one space for every 3,000 square feet in the recreational site, plus an additional 10 spaces, if there is a swimming pool and an additional two spaces if there is playground equipment.

R. **Retail Businesses.** One space for every 300 square feet of gross floor area.

S. **Eating and Drinking Establishments.** One space for every three seats.

T. **Fast Food Restaurant.** One space for every 80 square feet of service or dining area, with a minimum of five spaces. A fast food restaurant with a drive-in window shall, in addition to the above requirements, provide eight stacking spaces for the drive-in window designated for the ordering station. Such spaces shall be designed in a manner not to impede pedestrian or vehicular circulation on the site or on any abutting street.

U. **Entertainment Facilities.** One space for every 100 square feet of gross floor area.

V. **Personal Services.** One space for every 300 square feet of gross floor area.

W. **Self-Service Coin Operated Laundries and Dry Cleaners.** Shall provide one space for every two washing or drying machines.
X. **Health Clubs.** Shall provide one space for every 200 square feet of gross floor area; any such club which also serves food and/or beverages shall also comply with the parking requirements of any eating or drinking establishment.

Y. **Animal Hospital.** Five spaces for every veterinarian.

Z. **Group Residence.** Two spaces shall be provided.

AA. **Funeral Homes and Crematories.** Twenty spaces for each viewing parlor.

BB. **Professional Offices.** One space for every 300 square feet of gross floor area.

CC. **Motels and Hotels.** One space for each unit for guest accommodations; any such facility which also serves food and/or beverages shall also comply with the parking requirements of an eating or drinking establishment.

DD. **Self Storage Warehouse.** One space for every 10 stalls or lockers available for rental, plus one for each employee on the maximum working shift.

EE. **Gasoline Service Stations.** Two exterior spaces for each service bay, one space for each pump, plus one space for every 200 square feet of gross floor area which is used for the sale of retail goods, including food and/or beverages.

FF. **Automobile Car Washes.** One space for each employee on the maximum working shift.

GG. **Automotive Sales.** One exterior space for every 60 square feet of gross interior floor space plus one additional space per each 5,000 square feet open sales or display area.

HH. **Automotive Repairs.** One exterior space for every 200 square feet of gross interior floor area.

II. **Equipment Sales and Repairs.** One exterior space for every 200 square feet of gross floor space.

JJ. **Shopping Center.** Five spaces for each 1,000 square feet of gross floor area.

KK. **Hospital.** One space for every four beds and one additional space for each 100 square feet of office space, including medical offices.

LL. **Industrial, Manufacturing, Wholesale and Warehouse Establishments, Truck Terminals, Research and Testing Facilities.** One space for every one 1,000 square feet of gross floor area; plus one space for every two employees on the maximum working shift; or a total parking area not less than 25% of the total gross square feet of the building, which ever represents the greater total.

§27-1123 Parking for Other Uses.

Any commercial use or nonresidential use of a structure, building or land, not specifically listed within §27-1124, below, shall provide one off-street parking space for every 300 square feet of gross floor area or lot area.


§27-1124 Off-street Loading Requirements.

The following standards shall apply for the provision of off-street loading area:

<table>
<thead>
<tr>
<th>Uses</th>
<th>Sq. Ft. of Floor Area</th>
<th>Required Off-Street Loading Berths</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Schools</td>
<td>15,000 or more</td>
<td>1</td>
</tr>
<tr>
<td>2. Hospitals (in addition to space for ambulance)</td>
<td>10,000 - 300,000</td>
<td>1 additional</td>
</tr>
<tr>
<td></td>
<td>For each additional 300,000, or fraction thereof</td>
<td></td>
</tr>
<tr>
<td>3. Hotels and Offices</td>
<td>10,000 or more</td>
<td>1</td>
</tr>
<tr>
<td>4. Commercial Wholesale</td>
<td>10,000 - 25,000</td>
<td>1</td>
</tr>
<tr>
<td>Manufacturing Storage</td>
<td>25,000 - 40,000</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>40,000 - 60,000</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>60,000 - 100,000</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>For each additional 50,000 or fraction thereof</td>
<td>1 additional</td>
</tr>
</tbody>
</table>


§27-1125 Provision of Handicapped Parking Spaces.

1. Any business, individual or corporation that owns, leases or operates a facility which includes the provision of public accommodations and/or commercial facilities shall be governed by the provision of this Section. A facility which provides public accommodations shall include, but may not be limited to the following:

   A. Places of lodging.
   
   B. Establishments serving food or drink.
C. Places of exhibition or entertainment.

D. Places of public gathering.

E. Sales or rental establishments.

F. Service establishments, stations used for specified public transportation.

G. Places or public display or collection.

H. Places of recreation.

I. Places of education.

J. Social service center establishments, and places of exercise or recreation.

2. A commercial facility shall include any business whose operations are open to the general public.


§27-1126 Design Features for Handicapped Parking Spaces.

1. In addition to complying with §27-1122, above, the following provisions shall apply:

   A. An area not less than 5 feet in width shall be provided between each handicapped parking space. Said area shall be marked and/or designed to prevent parking therein.

   B. An area not less than 8 feet in width shall be provided between each van accessible parking space. Said area shall be marked and/or designed to prevent parking therein.

   C. Vehicular access to handicapped parking areas shall have a minimum vertical clearance of not less than 9.5 feet.

   D. An off-street parking area shall be designed to provide accessible routes from the handicapped parking areas to an accessible building entrance and to public streets and sidewalks which adjourn the off-street parking area.

2. **Location.** Handicapped accessible spaces, serving a particular facility, shall be located on the shortest accessible route of travel from the parking area to an accessible entrance.


Handicapped accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Parking spaces designed for vans shall have an additional sign reading "Van-Accessible" mounted below the accessibility sign. Such signs shall be located in a manner so they cannot be obscured by a vehicle.

(Ord. 12-1993, 6/3/1993, §1127)

§27-1128 Minimum Number of Handicapped Accessible Spaces.

When parking spaces are provided for self-parking by employees or visitors, or both, within the total number of off-street parking spaces required under §27-1122, the following table shall be used to determine the required number of handicapped accessible spaces.

<table>
<thead>
<tr>
<th>TOTAL NUMBER OF SPACES</th>
<th>REQUIRED NUMBER OF ACCESSIBLE SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 To 25</td>
<td>1</td>
</tr>
<tr>
<td>26 To 50</td>
<td>2</td>
</tr>
<tr>
<td>51 To 75</td>
<td>3</td>
</tr>
<tr>
<td>76 To 100</td>
<td>4</td>
</tr>
<tr>
<td>101 To 150</td>
<td>5</td>
</tr>
<tr>
<td>151 To 200</td>
<td>6</td>
</tr>
<tr>
<td>201 To 300</td>
<td>7</td>
</tr>
<tr>
<td>301 To 400</td>
<td>8</td>
</tr>
<tr>
<td>401 To 500</td>
<td>9</td>
</tr>
<tr>
<td>501 To 1000</td>
<td>2 Percent of Total</td>
</tr>
</tbody>
</table>

PART 12

FLOODPLAIN MANAGEMENT

§27-1201 Intent.

The intent of the regulations set forth in this Part is to:

A. Promote the general welfare, health, 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 nature drainage.

D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.


§27-1202 Special Definitions.

The definitions of terms provided herein shall apply to the enforcement and administration of the regulations contained within this Part:

BASE FLOOD - a flood having a 1% chance of being equaled or exceeded in any given year and also referred to as a 100 year flood.

BASEMENT - the lowest level or story of a building which has its floor subgrade (below ground level) on all sides.

CONSTRUCTION - the construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of manufactured homes.

DEVELOPMENT - any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, storage of equipment or material and the subdivisions of land.


FLOOD MAPS - the most recent map prepared by FEMA which delineates the special hazard areas and risk premium zones applicable in the City of Nanticoke.
FLOOD - the temporary inundation of normally dry land.

FLOOD, 100 YEAR - see "base flood."

FLOOD INSURANCE STUDY - a study prepared by FEMA, for the City of Nanticoke which includes an examination, evaluation and determination of flood hazards, and if appropriate, corresponding water surface elevations.

FLOOD FRINGE - the portion of a 100 year floodplain which is beyond the delineated limits of the floodway, based upon the most current Flood Insurance Study and Flood Maps.

FLOODPLAIN, 100 YEAR - the areas specifically identified as being subject to inundation by the base flood and/or the 100 year flood, which is comprised of a flood fringe area and floodway as delineated upon the flood maps.

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

FLOODWAY - the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purpose of this Chapter, the floodway shall be capable of accommodating a flood of the 100 year magnitude.

FREEBOARD - a margin of safety, expressed in feet above the flood elevation of a 100 year flood.

LOWEST FLOOR - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of the building regulations of the City of Nanticoke [Chapter 5, Part 1].

MANUFACTURED HOME - a transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, 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 with or without a permanent foundation. 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 - a parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for nontransient use.
OBSTRUCTION - any structure or assembly of materials including fill above or below the surface of land or water, and any activity which might impede, retard or change flood flows.

RECREATIONAL VEHICLE - a vehicle which exhibits the following:

A. Is built upon a single chassis.
B. Is 400 square feet or less when measured at the largest horizontal projections.
C. Is designed to be self-propelled or permanently towable by a light duty truck.
D. Is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

SUBSTANTIAL IMPROVEMENTS - any repair, reconstruction, or improvement of a structure, the cost of which equals 50% of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either (A) any project for improvement of a structure to correct existing violations of State or municipal health, sanitary or safety code specifications which are identified by the municipal code enforcement official and which are the minimum necessary to assure safe living conditions; or, (B) any alteration of a "historic structure."


§27-1203. Abrogation and Greater Restrictions.

The provisions of this Part supersede 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 among any of the provisions of this Part and Chapter, or any other ordinance of the City of Nanticoke, the more restrictive shall apply.


§27-1204  Severability.

Should any section or provision contained within this Part be declared invalid by a court of competent jurisdiction, such decisions shall not affect validity of this Chapter as a whole, or any other part thereof.

§27-1205 Warning and Disclaimer of Liability.

1. The degree of flood protection sought by the provisions of this Part is considered reasonable for regulatory purposes and is based upon acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by manmade or natural causes such as ice jams and bridge openings restricted by debris. The Part does not imply that areas outside the various 100 year flood district(s), or that land uses permitted within such district(s) will be free from flooding or flood damages.

2. The provisions and regulations contained within this Part shall not create liability on the part of the City of Nanticoke or any officer or employee thereof for any flood damages that result from reliance on this Part or of any decision lawfully made thereunder.


§27-1206 Overlay of Floodplain Districts.

The various 100 year floodplain districts within a 100 year floodplain shall include all areas which are subject to inundation by waters of a 100 year flood. The source of delineating the boundaries of the various 100 year floodplain districts shall be based upon the most recent Flood Insurance Study and Flood Maps as prepared by FEMA. The various 100 year floodplain districts shall be deemed an overlay on any existing or hereafter established zones or districts upon the City of Nanticoke’s Official Zoning Map.


§27-1207 Identification of 100 Year Floodplain Districts.

1. The 100 year Floodway District (FW) is the portion of a 100 year floodplain subject to inundation and designated to carry and discharge the waters of the 100 year flood without any increase in the water surface elevation of that flood. The delineation of such district(s) shall be based upon the Flood Insurance Study and Flood Maps.

2. The 100 year Flood Fringe Districts (FF) is that portion of a 100 year floodplain subject to inundation which is outside of the delineated floodway. The delineation of such district(s) shall be based upon the Flood Insurance Study and Flood Maps.

3. A zoning permit and approval of the same shall be required for the use of any property located within any of the above noted flood districts which constitutes a "development" in accordance with the definition of said term as provided under §27-1202, the definition “development.”

§27-1208 Changes to Delineated Boundaries.

The delineation of a 100 year floodplain as provided for under §27-1207, above, may be modified by the City Council, subject to approval to FEMA, where studies and/or information documents the need for such revision. Any change shall be subject to compliance with the following:

A. The party supplying the required documentation shall be submitted under the signature of a registered professional engineer, who is qualified to perform hydrologic and hydraulic computations.

B. The party submitting such documentation shall confirm with FEMA that the methodology and data contained therein is consistent with that used in the preparation of the most recent Flood Insurance Study for the City of Nanticoke. Said confirmation form FEMA shall be secured in writing.

C. All information and documentation provided for under this Part for any proposed modification of the boundaries of a 100 year flood shall be submitted concurrently to both FEMA and to the Pennsylvania Department of Community and Economic Development. [Ord. 16-2004]

D. Prior to the City Council’s approval of any proposed modifications of the boundaries of a 100 year floodplain, written approval and concurrence of the subject modification from FEMA shall be secured.

E. Any proposed modification of a boundary of a 100 year floodplain, shall be governed by the provisions contained in §27-605, “Amendment Procedure” and §27-608, “Enactment of Amendments,” of this Chapter.


§27-1209 Initial Determination of Boundaries.

The Zoning Officer, in the course of reviewing proposed developments, shall be responsible for determining the applicable boundaries of a 100 year floodplain. Any party who wishes to dispute or challenge the determination of the Zoning Officer may appeal such decision to the Nanticoke Zoning Hearing Board. The burden of proof shall be on the appellant.

(Ord. 12-1993, 6/3/1993, §1209)

§27-1210 Alterations to Watercourses.

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 City of Nanticoke or the party proposing such, and until all required permits or approvals have been first obtained from the Pennsylvania
Department of Environmental Protection, Bureau of Dams and Waterway Management and FEMA. [Ord. 16-2004]

2. In addition, Pennsylvania Department of Community and Economic Development, Bureau of Community Planning, shall be notified prior to any alteration or relocation of any watercourse. [Ord. 16-2004]

3. Any party proposing an alteration to a watercourse must provide all necessary documentation to certify that the flood carrying capacity within the watercourse shall be maintained upon completion of the proposed alteration.


§27-1211 Floodway Restrictions.

1. Within an identified Floodway no encroachment shall be permitted, including fill, new construction, substantial improvements, and other type of development, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of a 100 year flood. Such analysis shall be performed by a registered professional engineer, who is qualified to perform hydrologic and hydraulic computations. The applicant’s engineer shall be required to:

A. Contact the FEMA Regional Office in Philadelphia to confirm that the proposed methodology and data are consistent with those used in the preparation of the applicable Flood Insurance Study for the City of Nanticoke. Said confirmation from FEMA shall be secured in writing.

B. Include with said analysis all necessary information including but not necessarily limited to valley cross sections, plan views, all assumptions and computations, and bridge, culvert, drainage basins and dam data, if applicable.

C. Provide written certification that the proposed encroachment will not result in any increased flood heights during the occurrence of a 100 year flood.

D. In the event that a proposed development or encroachment includes modifications or alterations to the channel of the watercourse, as a means to offset any anticipated rise in the elevation of a base flood, §27-1209, in addition to the provisions of this Part shall apply.

2. The above information shall be submitted to the Zoning Officer, the City Engineer, FEMA and D.E.P. for review and comment. In addition to receiving a positive review and approval from FEMA, the applicant shall be required to secure a Water Obstruction Permit from D.E.P. under Title 25, Chapter 105 of the Pennsylvania Code. No zoning permit shall be issued until the Zoning Officer finds that all applicable requirements are met. [Ord. 16-2004]

§27-1212  Onsite Replacement; Floodway.

When a structure, which is located within a floodway, is demolished or destroyed by fire or other casualty, a new development shall be permitted on the subject parcel of land, and shall be exempt from the provisions under §27-1210 when the following conditions are met:

A. The maximum permitted size of a new structure or development shall not exceed the linear dimensions and the total cubic feet of the previous development or structure.

B. The new structure or development shall not represent the replacement of a nonconforming use or a new use which is not permitted within the underlying district.

C. The new structure or development shall be floodproofed in accordance with the applicable provisions of the Building Regulations of the City of Nanticoke.


§27-1213  Floodproofing.

Zoning approval of any proposed use, development and/or substantial improvement, which is located within a 100 year floodplain shall be conditioned upon strict compliance with all applicable floodproofing provisions as contained within this Part and all other applicable codes and ordinances of the City of Nanticoke.

(Ord. 12-1993, 6/3/1993, §1113)

§27-1214  Prohibited Uses.

The development of the following uses, including their construction, expansion, enlargement, and/or substantial improvement, are hereby prohibited in any area of a designated 100 year floodplain:

A. Manufactured home.

B. Manufactured home park.

C. Nursing homes (public or private).

D. Hospitals and clinics (public or private).

E. Jails, prisons, or any similar detention facility.

The proposed use of any property for a nursing home, a manufactured home park, a hospital or clinic, or a jail, prisons, or any similar detention facility, if located partially or entirely within any identified floodplain district, shall be deemed to be a special exception use under the applicable provisions of this Chapter. In accordance with the Pennsylvania Floodplain Management Act, 166, as amended, any proposed use of property for a nursing home, a manufactured home park, a hospital or clinic or a jail, prisons or any similar detention facility, if located partially or entirely within any identified floodplain district, shall be subject to the following procedure:

A. A zoning permit application shall be submitted to the Zoning Officer for review and processing in accordance with the requirements of this Chapter and Ord. 5-1986, “Building Code Regulations in Floodplain Districts.”

B. A zoning permit application shall consist of five copies of the following items:

(1) Written request including a completed zoning application form.

(2) A plan of the entire site, clearly and legibly drawn at a scale of 1 inch being equal to 100 feet or less, showing the following:

(a) North arrow, scale and date.

(b) A map, which may be drawn at a smaller scale, of the general area of the City which provides enough information to enable a person who is unfamiliar with the City to accurately determine the location of the site or property involved.

(c) Topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of 2 feet.

(d) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet.

(e) The location of all existing streets, drives, other accessways and parking areas with information concerning widths, pavement types and construction and elevations.

(f) 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 manmade features affecting, or affected by, the proposed activity or development.

(g) The location of the floodplain boundary line, information and spot elevations concerning the 100 year flood elevations and informa-
tion concerning the flow of water including directions and velocities.

(h) A plan of the entire site accurately showing the location of all proposed buildings, structures, utilities and any other improvements including, but not necessarily limited to, sufficiently detailed architectural drawings or engineering drawings which include floor plans, sections, exterior building elevations and the elevation of the lowest floor (including basement) for any proposed building.

(i) Detailed information concerning any proposed flood-proofing measures.

(j) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and any other factors associated with a 100 year flood.

(k) Cross-sections drawings of any proposed streets, drives, other accessways and parking areas, showing all rights-of-way and pavement widths.

(l) Plans and profiles of all proposed sanitary and storm sewers, water supply systems and any other utilities and related facilities.

(m) Certification for a registered professional engineer or architect that the proposed construction has been adequately designed to protect against damage from a 100 year flood.

(n) A statement, certified by a registered professional engineer or architect which contains a complete statement and accurate description of the nature and extent of pollution which might result from the development during the course of a 100 year flood, including a statement concerning the effects of such pollution may have on human life and vegetation.

(o) A statement, certified by a registered professional engineer or architect which contains a complete and accurate description of the effects of the proposed development will have upon the base flood elevations and flows.

(p) A statement, certified by a registered professional engineer or architect which contains a complete and accurate description of the kinds and amounts of any loose buoyant material or debris may have on the base flood elevations and flows.

(q) An evacuation plan which fully explains the manner in which the site will be evacuated in the event of a flood.
(r) Any other information which the Zoning Officer considers necessary for adequate review of the application.

C. If an application is received that is incomplete, the Zoning Officer shall notify the applicant in which respects the application is deficient.

D. Upon receipt of a completed application, the Zoning Officer shall forward a complete copy of the application to the County Planning Commission for its review and comments, by registered or certified mail, within 3 working days following receipt of the complete application.

E. When the Zoning Officer denies the zoning permit application, he shall notify the applicant, in writing, of the reasons for the denial.

F. Prior to applying for a special exception from the Zoning Hearing Board, the applicant must first submit a complete copy of the application to the Nanticoke Planning Commission and the Department of Community and Economic Development for their review and comment. Upon applying for a special exception, the applicant shall provide the Zoning Officer and the Zoning Hearing Board with written notice of the Department of Community and Economic Development comments. [Ord. 16-2004]

G. If the Zoning Hearing Board grants the special exception the Zoning Hearing Board 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 5 working days after the date of approval. [Ord. 16-2004]

H. Before issuing a zoning permit, the Zoning Officer shall allow the Department of Community and Economic Development 30 days, after receipt of the notification, to review the application and the decision made by the Zoning Hearing Board. [Ord. 16-2004]

I. If the Zoning Officer does not receive any communication from the Department of Community and Economic Development during the 30 day review period, he may issue all necessary permits to the applicant. [Ord. 16-2004]

J. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify the Zoning Officer and the applicant, in writing, of the reasons for the disapproval and the Zoning Officer shall not issue any permits. [Ord. 16-2004]


1. Classification. For the purpose of administration the following materials and substances are hereby deemed and classified as potential hazards when located in a 100 year floodplain:
A. Acetone.
B. Ammonia.
C. Benzene.
D. Calcium carbide.
E. Carbon disulfide.
F. Celluloid.
G. Chlorine.
H. Hydrochloric acid.
I. Hydrocyanic acid.
J. Magnesium.
K. Nitric acid and oxides of nitrogen.
L. Petroleum products (gasoline, fuel oil, etc.).
M. Phosphorus.
N. Potassium.
O. Sodium.
P. Sulphur and sulphur products.
Q. Pesticides (including insecticides, fungicides and rodenticide).
R. Radioactive substances.
S. Polychlorinated biphenyl (PCB).
T. Dioxin.

2. **Prohibited Uses.** The use of any property for the production of or requiring the storage or maintenance of any quantities of radioactive substances, polychlorinated biphenyl (PBC) or dioxin shall be expressly prohibited anywhere within a 100 year floodplain.

3. **Restrictions if FF District.** With the exclusion of radioactive substances, polychlorinated biphenyl and dioxin, the use of any property which includes the storage, production or maintenance of a supply of more than 550 gallons or comparable volume of those materials and substances listed in subsection (1), above, may be located within a Flood Fringe District (FF) subject to the use being permitted in the underlying zoning district and further subject to compliance with the
applicable provisions contained in Ord. 5-1986, “Building Regulations in Floodplain Districts.”

4. **Restrictions for Floodway.** The use of any property which includes the storage, production or maintenance of material and substances listed in §27-1215(1) of this Part shall be prohibited in a designated Floodway.


**§27-1217 Substantial Improvements.**

Any modification, alteration, reconstruction or improvement of any kind to any existing structure which equals or exceeds 50% of its market value, shall constitute a substantial improvements and shall be permitted subject and conditioned upon full compliance with the provisions of Ord. 5-1986, “Building Regulations in Floodplain Districts.”


**§27-1218. Variances.**

In addition to the criteria contained in §27-1509 of this Chapter, the following standards and criteria shall apply for a request for a variance:

A. Compliance with the requirements of this Part would result in an exceptional hardship to the applicant.

B. No variance shall be granted for any construction, development, use or activity within a floodway that would cause any increase in the elevation of a 100 year flood.

C. Except for a possible modification of the 1-1/2 feet of freeboard requirement, no variance shall be granted for any other requirements pertaining specifically to development regulated under §27-1214 and §27-1215 of this Part.

D. A variance shall authorize the least reduction and/or modification necessary to provide relief.

E. Approval of the variance shall not result in any additional threat to public health and safety or result in any extraordinary public expense, or create any nuisance.

F. Approval of the variance shall not result in any conflict with other applicable laws or regulations of the City, County, State or Federal government.

G. Approval of the variance not cause fraud on, or victimize the public.

§27-1219  Modification of Freeboard Requirement; Administrative Procedures.

1. In the event of a variance request from the required 1-1/2 feet of freeboard, the Zoning Hearing Board shall notify the applicant in writing that approval of the request shall:

   A. Result in increased premium rates for flood insurance.
   
   B. Increase risks to the structure, its contents, and occupants.

2. The Zoning Hearing Board shall maintain a complete record of all requests which have been approved authorizing reductions in freeboard and the written notification as provided in subsection (1), above.

§27-1301 Zoning Officer.

1. **Appointment.** A Zoning Officer, who shall not hold any elected office within the City of Nanticoke, shall be appointed by the Mayor. The Zoning Officer shall meet qualifications established by the City of Nanticoke, which shall at minimum include a working knowledge of municipal zoning.

2. **Duties and Powers of the Zoning Officer.** It shall be the duty of the Zoning Officer to enforce the provisions of this Chapter in accordance with its literal terms and said Officer shall not have the power to permit any construction, alteration or any use or change of use to land or structure which does not conform to the applicable provisions within this Chapter. The Zoning Officer's duties shall include, but are not limited to, the following:

   A. Receive and review all applications for zoning permits and to approve and issue zoning permits, when warranted.

   B. Keep an official record of all business and activities, including all complaints of zoning violations of any of the provisions of this Chapter and the resulting action of said complaints.

   C. Conduct inspections of properties as required to fulfill his/her duties. In conducting such activities, the Zoning Officer may have access to any land, building or structure.

   D. Issue permits as authorized by the Zoning Hearing Board, or City Council pursuant to the requirements and applicable procedures of this Chapter or by written order of a court of proper jurisdiction.

   E. Issue certificates of zoning compliance in accordance with the terms and provisions of this Chapter.

   F. Issue certificates of nonconformity to nonconforming uses and/or structures and to maintain a listing of such as required.

   G. Maintain the Zoning Map, showing the current zoning districts of all land and the zoning text, including amendments thereto.

   H. Notify the Zoning Hearing Board of required and/or requested hearings based upon the completion of his review and processing of applications for a zoning permit. The submission of an application for a zoning permit to the Zoning Officer and his determination that a hearing before the Board is either
required or requested shall be a prerequisite for any application being forwarded to the Zoning Hearing Board for consideration.

(I) Participate in proceedings before the Zoning Hearing Board, the Planning Commission and Council, and at their request, furnish such facts, records and similar information which may assist them in rendering decisions.


§27-1302 Zoning Permit.

1. **Issuance Of Permit.** No building, structure or sign shall be erected, constructed, moved, added to or structurally altered, nor shall any land, structure or building be put to any use without first obtaining a zoning permit from the Zoning Officer. No application shall be submitted to or considered by the Zoning Hearing Board until the Zoning Officer has received an application for a zoning permit and has determined that an approval and/or review by the Zoning Hearing Board is required or requested by the applicant. No such permit shall be issued except in conformity with the provisions of this Chapter or upon written order from the Zoning Hearing Board in the form of a special exception, variance or as otherwise provided for by this Chapter or any court of proper jurisdiction. Normal and routine maintenance and repairs to a structure shall be exempt from obtaining a zoning permit. Interior remodeling of a structure shall also be exempt from obtaining a zoning permit provided that such remodeling does not include structural alterations or result in a change in the use of the structure.

2. **Form of Application.** All applications for permits shall be made in writing by the owner, his authorized agent or equitable owner and shall be filed with the Zoning Officer on forms prescribed by the same. All applications shall be accompanied by two sets of plans and information which includes but is not limited to the following:

   A. A plan drawn to scale, indicating the actual dimensions and shape of the lot to be built upon and a written statement that the applicant is the owner or authorized agent of the owner or equitable owner.

   B. The exact size and location on the lot of existing and/or proposed structures, buildings or signs, including proposed additions thereto.

   C. The number and type of dwelling units, if applicable.

   D. The amount and location of parking and/or loading facilities.

   E. The existing use and/or proposed use of the property.

   F. The height of the building, structure and/or sign.
G. A detailed scale drawing of all signs, existing and proposed, indicating their location and how they are and/or will be affixed to the property.

H. Existing and/or proposed access to the site, including all street right-of-ways which adjoin the property.

I. Any other information deemed necessary by the Zoning Officer to determine conformance with the provisions and regulations of this Chapter.

3. **Processing Applications.** The Zoning Officer shall return one copy of the plans and accompanying information to the applicant upon marking such copies approved or denied and attested to the same by his signature. One copy of the plans and accompanying information shall be retained by the Zoning Officer and kept on file.

4. **Time Period for Processing Application.** A zoning permit shall be approved or denied within 30 days from the date of receipt of a completed application and plans along with any additional information as required by the Zoning Officer. A zoning permit shall not be deemed complete, until all applicable and associated fees are paid in full. In cases of denial, the applicant shall be informed of his/her rights of appeal as prescribed within this Chapter. Such notice shall be in writing under the signature of the Zoning Officer.

5. **Expiration of Zoning Permit.** A zoning permit shall expire 1 year from the date of issuance, if the work described in said permit has not commenced, including permits authorized to be issued by the Zoning Hearing Board or City Council. If the work described within the zoning permit has commenced within the prescribed 1 year period, the permit shall expire 2 years from the date of issuance. An extension of time may be granted as a variance from the Zoning Hearing Board.

6. **Revocation of Permits.** The Zoning Officer may revoke a permit or approval issued in error under the provisions of this Chapter, or in the case of any false statements or misrepresentation of fact in the application or on the plans on which the permit or approval was based, or for any other just cause as set forth in this Chapter.


**§27-1303 Certificate of Zoning Compliance.**

A certificate of zoning compliance, issued by the Zoning Officer, shall be required prior to the occupation for the use or change of use of any building, structure or land. It shall be unlawful to use and/or occupy any structure, building and/or land or portions thereof in any manner until a certificate of zoning compliance has been issued and obtained from the Zoning Officer. Residential accessory structures uses shall be exempt from securing a certificate of zoning compliance.
A. **Applications.** All applications for a certificate of zoning compliance shall be made in writing on forms prescribed by the Zoning Officer and shall include all information necessary for the Zoning Officer to ascertain compliance with the subject zoning permit and this Chapter.

B. **Issuance of Certificate of Zoning Compliance.** A certificate of zoning compliance shall not be issued until the Zoning Officer has certified the proposed use complies with all provisions and regulations of this Chapter or upon written order from the Zoning Hearing Board or any court of proper jurisdiction.

C. **Time Limitation.** An application for a certificate of zoning compliance shall be approved or denied within 30 days after the Zoning Officer has been officially notified of either the completion of construction or the request to occupy and use land where no construction is involved.

(Ord. 12-1993, 6/3/1993, §1303)

§27-1304 **Enforcement Procedures.**

1. **Notice of Violation.** If in the judgment of the Zoning Officer, it appears that a violation of this Chapter has occurred, the Zoning Officer shall initiate enforcement proceedings by sending a violation notice to the owner of record of the parcel of land on which the violation has occurred, to any person who has filed a written request to receive violation notices regarding the parcel of land and to any other person requested in writing by the owner of record. The violation notice shall include, but may not be limited to the following:

   A. The name of the owner of record and any other person against whom the City of Nanticoke intends to take action.

   B. The location and/or address of the property in violation.

   C. The specific violations with a description of the requirements which have not been met, citing in each instance the applicable sections and provisions of this Chapter.

   D. The date by which the steps for compliance must be commenced and the date by which the steps for compliance must be completed.

   E. That the recipient of the notice has the right to appeal the violation notice and request a hearing on the same before the Zoning Hearing Board within 30 days from the issuance of the violation notice.

   F. Failure to comply with the notice within the specified time period, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation,
with a description of sanctions which shall result to correct or abate the violation.

2. **Causes of Action.** 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 Chapter, City Council or, with the approval of the City Council, an officer or agent of the City of Nanticoke, or any aggrieved owner or tenant of real property who show that his property or person will be substantially affect by the alleged violation, in addition to other remedies, may institute any appropriate action or proceedings 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 of this Chapter. When such action is instituted by a landowner or tenant, notice of that action shall be served upon the City of Nanticoke at least 30 days prior to the time the action is begun by serving a copy of the complaint to the City Council. No action may be taken until such notice has been given.

3. **Jurisdiction.** District justices shall have initial jurisdiction over proceedings brought under subsection (4), below.

4. **Enforcement Remedies.**

   A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefor in a civil enforcement proceedings commenced by the City of Nanticoke or the Zoning Officer, shall pay a judgment of not more than $500, plus all court costs, including reasonable attorney fees incurred by the City of Nanticoke as a result of said proceedings. 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 City of Nanticoke 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 has been a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation. In such cases, 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 Chapter shall be paid over to the City of Nanticoke.

   B. 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.
C. Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than the City of Nanticoke the right to commence any action for enforcement pursuant to this Section.


§27-1305 Schedule of Fees, Charges and Expenses.

The City Council shall establish by resolution a schedule of fees and collection procedures for zoning permits, certificates of zoning compliance, certificates of nonconformity, appeals to the Zoning Hearing Board, applications for conditional uses, amendments to this Chapter, Zoning Map and any other matters pertaining to the administration of this Chapter. The schedule of fees shall be available for public inspection and may be altered or amended by resolution of the City Council. No action shall be taken on any application, appeal or certificate until all related fees, charges and expenses have been paid in full. An application shall not be deemed as filed until completed and submitted with payment in full of appropriate fees. The payment of any fee shall represent a nonrefundable expense for administrative functions on the part of the City.

§27-1401 Amendment Procedure.

1. The provisions of this Chapter and the boundaries of the zoning districts as set forth upon the Zoning Map, may from time to time be amended by the City Council in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended. Prior to adopting any amendment to this Chapter or to the Zoning Map, the following procedures shall be met:

A. Any proposed amendment, not initiated by the Planning Commission, shall be referred to the Planning Commission at least 30 days prior to a public hearing before the City Council to provide the Planning Commission an opportunity to submit any comments or recommendations regarding the proposed amendment.

B. Prior to voting on the enactment of any proposed amendment, the City Council shall hold a public hearing pursuant to public notice. If, after any public hearing held upon a proposed amendment, said amendment is substantially changed, or is revised to include land not previously affected by the proposed amendment, the City Council shall hold another public hearing before proceeding to vote on the amendment.

C. Any recommendation of the Planning Commission shall be submitted to the City Council in writing.

D. At least 30 days prior to the public hearing, the City Council shall submit the proposed amendment to the Luzerne County Planning Commission for its comments and recommendation. In addition to the proposed amendment, the City Council shall submit the required fees charged by the Luzerne County Planning Commission for their review.

E. Proposed action shall not be taken until the Planning Commission and the Luzerne County Planning Commission comments and recommendations are submitted to the City Council. If either Commission fails to act within 30 days, from its receipt of the proposed amendment, the City Council may proceed without such recommendation.

F. If a proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the City of Nanticoke at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the public hearing.
2. In addition to posting the tract, written notice may be provided to the owners of all properties within a distance of 200 feet of any property boundary line of the property subject to the proposed zone change. It shall be the responsibility of the applicant to provide the City with the names and mailing addresses of the true and correct owners of record whose properties fall within the required distance of 200 feet. While it shall be the intent of the City of Nanticoke to provide written notice such owners, may be substantially interested in the proposed zone failure to do so, shall not invalidate an otherwise duly enacted ordinance which provides for a change in the zoning map.


§27-1402 Applications for Amendments to the Text or Map.

The application for a proposed amendment, which is not submitted as a curative amendment, to the text of this Chapter or to the Zoning Map, shall be submitted in writing to the Zoning Officer, who shall process said application in accordance with §27-1001 of this Chapter. An application shall contain the following information when applicable:

A. The applicant’s name and address and/or the name and address of his authorized agent or the equitable owner.

B. A signed statement by the owner of record attesting to the truth of the facts of all information contained within the application.

C. A scaled plan of the area proposed to be zoned, which indicates abutting streets, the zone classification of adjoining properties and the names and addresses of property owners within 200 feet of the area proposed to be rezoned.

D. Plans, drawings and explanatory material, which describes in detail the applicant’s proposed use and/or development of the property.

E. Specify those Sections of this Chapter or areas upon the Zoning Map which will be affected by the proposed amendment.


§27-1403 Curative Amendments.

1. Initiated by Landowner.

A. A landowner who desires to challenge on substantive grounds the validity of this Chapter or the Zoning Map, or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the City Council with a written request that
his challenge and proposed amendment to cure the alleged defect, be heard and decided by the City Council. In addition to the written request and proposed amendment, the landowner shall also submit plans, drawings and explanatory material, which describes in detail his proposed use or development. The City Council shall commence a public hearing pursuant to public notice within sixty days of the landowner's request. The 60 day period shall not commence until all required information and material is submitted, along with all related fees.

B. The curative amendment and supporting information shall be referred to the Planning Commission and the Luzerne County Planning Commission for their review and comment at least 30 days prior to the public hearing.

C. The public hearing before the City Council shall be conducted in accordance with the procedures contained in §27-1506 of this Chapter and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, be references to the City Council. Public notice of the required public hearing shall include notice of the validity of those particular provisions of this Chapter and/or the Zoning Map which are in question, along with the place where the proposed amendment, plans, drawings, explanatory material and any other pertinent information may be examined by the public.

D. If the City Council determines that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revisions, or it may adopt an alternative amendment which will cure the challenged defects. The City Council shall consider in addition to the proposed curative amendment, plans, drawings and explanatory material, the following items:

(1) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.

(2) 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 and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Chapter and/or Zoning Map.

(3) The suitability of the site for the intensity of use proposed in relationship to the site's soils, slopes, woodlands, floodplains, aquifers, natural resources and other natural features.

(4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features, in relationship to the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
(5) The impact of the proposal on the preservation of agriculture and any other land uses which are essential to the public health and welfare.

E. The proposed curative amendment shall be deemed denied in accordance with any of the following:

(1) When the City Council fails to commence a public hearing within 60 days from the date the curative amendment and request for a public hearing is filed.

(2) When the City Council notifies the landowner that it will not adopt the curative amendment.

(3) When the City Council adopts another curative amendment which is unacceptable to the landowner.

(4) When the City Council fails to act on the request within 45 days after the close of the last public hearing on the request, unless the time is extended by mutual consent by the landowner and the City Council.

2. Initiated by the City.

A. If the City Council determines this Chapter or the Official Zoning Map, or any portion thereof, to be substantially invalid, it shall declare such by a formal action and propose to prepare a curative amendment to overcome such invalidity. Within 30 days following said declaration, the City Council shall by resolution make specific findings setting forth the declared invalidity which may include:

(1) References to specific uses which are either not permitted or not permitted in sufficient quantity.

(2) Reference to a class of use or uses which require revision.

(3) Reference to the entire Chapter and/or map which requires revisions.

B. Within 180 days from the date of the declaration and proposal as set forth in this Section, the City Council shall enact a curative amendment to correct those portions deemed invalid or reaffirm the validity of those portions initially deemed to be invalid. Upon the initiation of procedures as set forth in this Section, the City Council shall not be required to entertain or consider any landowner’s curative amendment, nor shall the Zoning Hearing Board be required to give a report pursuant to §27-1208 of this Chapter, based upon grounds identical to or substantially similar to those specified in the City Council’s resolution.

C. The City Council, having utilized the procedures as set forth in this Section, may not again utilize said procedure for a 36 month period following the date
of the enactment of a curative amendment or reaffirmation of the validity of this Chapter and/or Zoning Map. However, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon the City of Nanticoke by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the City of Nanticoke may utilize the provisions of this Section to prepare a curative amendment to fulfill said duty or obligation.

(Ord. 12-1993, 6/3/1993, §1403)

§27-1404 Enactment of Amendments.

A proposed amendment to this Chapter or to the Zoning Map shall be enacted in conformance with the following:

A. The City Council shall conduct a public hearing pursuant to public notice and in accordance with the procedures as contained within §27-1401, above.

B. Public notice shall include the time, place and date of the meeting at which enactment will be considered and a place within the City of Nanticoke where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof.

C. Public notice shall include either the full text of the amendment or the title and a brief summary of the amendment as prepared by the City Solicitor. If the full text is not included, then a copy of such shall be supplied to the newspaper in which the public notice is published, and an attested copy to the County Law Library.

D. In the event substantial changes are made to the proposed amendment, before voting upon enactment, the City Council shall, at least 10 days prior to enactment, readvertise in one newspaper of general circulation in the City of Nanticoke, a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.


§27-1405 Notification to County.

Within 30 days after the enactment of an amendment to this Chapter or to the Zoning Map, a copy of the amendment shall be forwarded to the Luzerne County Planning Commission.

PART 15

ZONING HEARING BOARD

§27-1501 Membership of Board.

The membership of the Zoning Hearing Board shall consist of five residents of the City of Nanticoke nominated by the Mayor and approved by the City Council by resolution. The terms of office for Board members shall be 5 years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the City 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 City, including membership on the Planning Commission.


§27-1502 Alternates to Zoning Hearing Board.

One resident of the City of Nanticoke may serve as an alternate member of the Board when nominated by the Mayor and approved by City Council. When seated pursuant to the provisions of §27-1504 of this Part, 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 proceedings, and shall have all the powers and duties set forth in this Chapter and as otherwise provided by law. An alternate shall hold no other office in the City, including membership on the Planning Commission. An alternate may participate in any proceedings or discussions of the Board, but shall not be entitled to vote as a member of the Board unless designated as a voting alternate member pursuant to §27-1504 of this Part. The term of office for an alternate member of the Zoning Hearing Board shall be 1 year with appointment made by resolution.


§27-1503 Removal of Members.

Any Board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office, or for any other just cause by the City Council. Prior to any vote by the City Council, the member shall receive notice fifteen days in advance of the date at which it intends to take such a vote. A hearing before the City Council shall be held in connection with the vote, if the member requests a hearing in writing.

§27-1504 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. The Board, however, 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 §27-1506. If by any reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate the alternate member of the Board to be seated to establish a quorum. The alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case from which the alternate was initially appointed until the Board has made a final determination of the matter or case.

2. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the City of Nanticoke and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the City, and shall submit an annual report of its activities to the City Council.


§27-1505 Expenditures for Services.

Within the limits of appropriated funds, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and technical services which they may deem necessary to augment the Board in the performance of their duties.


§27-1506 Hearings.

The Zoning Hearing Board shall conduct hearings and render decisions in accordance with the following:

A. Notice of hearings before the Board shall be by public notice; a notice published once a week for 2 successive weeks in a newspaper of general circulation in the City. Such notice shall state the time and place of the hearing and the particular nature of matters to be considered at the hearing by the Board. 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.

B. Written notice shall be given to the applicant, to the owner of record of the subject property before the Board, if different than that of the applicant, the Zoning Officer, and to any party or person who has submitted a written request to receive notification on the subject property. Written notice of all
hearings before the Board shall also be conspicuously posted on the affected property at least 1 week prior to the hearing.

C. The City Council may prescribe reasonable fees with respect to hearings before the Board. Fees for said hearings may include compensation for the Secretary, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board or expenses for engineering, architectural or other technical consultants or expert witnesses.

D. The hearing shall be held within 60 days from the date of the applicant’s request, unless the applicant has agreed in writing to an extension of time. The sixty day time period shall not commence until the applicant has submitted the required application, properly completed, with all required signatures and the required fee.

E. Hearings shall be conducted by the Board or by any member appointed by the Board as a Hearing Officer. The decision, or where no decision is called for, the findings, shall be made by the Board, unless the appellant or applicant, as the case may be, in addition to the City, agree to waive any decision or findings by the Board and accept the decision or findings of the Hearing Officer as final. If the decision or findings of the Hearing Officer are to be accepted as final, all parties to the hearing must agree to such stipulation at the outset of the hearing.

F. The parties to the hearing shall be the City, any person affected by the application who has made a timely appearance of record before the Board, and any other person, including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties to the hearing enter appearances in writing on forms provided by the Board for such purposes.

G. The presiding Chairman, or Acting Chairman of the Board, or Hearing Officer shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties to the hearing. The parties to the hearing shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and arguments and to cross-examine adverse witnesses on all relevant issues.

H. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.

I. 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 person requesting such copies. In other cases the party requesting the original transcript shall bear the cost thereof.

J. The Board, collectively or individually, or the Hearing Officer, shall not communicate directly or indirectly with any party or his representatives in connection with any issue before the Board involved, except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from its solicitor, unless all parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

K. The Board or the Hearing Officer, as the case may be, shall render a written decision or, if 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 application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of this Chapter or any other ordinance, rule or regulation, shall contain a reference to the provisions relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found. 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 of record within 45 days. The parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, with the Board’s decision entered no later than 30 days after the report of the Hearing Officer. If the Board fails to hold the required hearing within sixty days from the date of the applicant’s request for hearing, 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. If a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision, in the same manner as provided unit subsection (A) of this Section. Nothing contained within this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.


§27-1507 Mediation Option.

1. Mediation may be utilized as an aid designed to supplement, as opposed to replacing, any proceedings before and under the jurisdiction of the Zoning Hearing Board. In no case, however, shall the Board or any member of the Board, initiate the use of
mediation. No member of the Board shall be allowed to participate as a mediating party or be present during any sessions of mediation. Nothing within this Section shall be interpreted as expanding or limiting municipal police powers or modifying any principles of substantive law.

2. Mediation shall be voluntary among all subject parties with the appropriateness of mediation determined by the particular issues of each case and the willingness among all the subject parties to negotiate. In order to supplement proceedings before the Zoning Hearing Board, the following information shall be submitted to the Board in written form and signed by all parties to the mediation, the selected mediator, and the Zoning Hearing Board.

A. Method and commitment of funding of mediation.

B. The mediator shall be an attorney, a planner with AICP certification or an individual who is certified by the American Arbitration Association, who shall possess a working knowledge of municipal zoning and subdivision practices and procedures.

C. A schedule which shall clearly prescribe the time limitations for both the start and completion of mediation. The completion date shall be adhered to even if the negotiations fail to result in a mediated agreement by said date.

D. Suspension of the appropriate time limitations which apply to the Zoning Hearing Board in convening a hearing and/or rendering a decision, once a hearing is convened, subject to executing a document of expressed written consent by the mediating parties, and by the Zoning Hearing Board.

E. Identification of all subject parties and affording them the opportunity to participate.

F. A determination of whether some or all of the mediation sessions shall be opened or closed to the public, subject to governing legal constraints.

G. An agreement among the mediating parties, that any mediated solution be in written form and subject to review and approval by the Zoning Hearing Board.

H. Any mediation which concludes within the prescribed time limits under subsection (C) of this Section, which does resolve in whole or in part, the issues subject to mediation, shall then proceed under the hearing process before the Zoning Hearing Board.

I. No offer or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

§27-1508 Jurisdiction of Zoning Hearing Board.

The Zoning Hearing Board, in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

A. Substantive challenges to the validity of any land use ordinance, except for those brought before the City Council under §27-1403(1) of this Part.

B. Challenges to the validity of any land use ordinance, based upon procedural questions or alleged defects in the process of enactment or adoption. Challenges based upon procedural questions or alleged defects shall be raised by an appeal to the Board within 30 days after the effective date of the ordinance subject to the appeal.

C. 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 therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure of lot.

D. Appeals from a determination by the Zoning Officer with reference to the administration of any floodplain provision or regulation within any land use ordinance.

E. Applications for variances, pursuant to §27-1509 of this Chapter.

F. Applications for special exceptions pursuant to §27-1510 of this Chapter.

G. Appeals from the determination of the Zoning Officer or City Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management not related to development which is classified as a subdivision, land development or a planned residential development.

(Ord. 12-1993, 6/3/1993, §1508)

§27-1509 Variances.

1. Initial Determination by Zoning Officer. An application for a variance shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

A. The applicant submits an application for a zoning permit to the Zoning Officer in accordance with §27-1302 of this Chapter.

B. The Zoning Officer in reviewing the subject application renders a determination that the proposed development and/or use of property fails to comply with any applicable provisions and/or regulations of this Chapter.
C. The Zoning Officer specifies the applicable Sections of this Chapter relative to the applicant's need to secure a variance(s) from the Zoning Hearing Board.


A. The Zoning Hearing Board shall hear requests for variances if it is alleged that the provisions of this Chapter 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 findings are made where relevant in a given case:

(1) That there are a 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 Chapter in the neighborhood or district in which the property is located.

(2) 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 Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) That such unnecessary hardship has not been created by the appellant.

(4) 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.

(5) 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.

B. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, Act 247, as amended.


§27-1510 Special Exceptions.

1. **Initial Determination by Zoning Officer.** An application for a special exception use shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:
A. The applicant submits an application for a zoning permit and a site plan to the Zoning Officer in accordance with §27-1302(2) of this Chapter.

B. The Zoning Officer shall initially review the site plan to determine its compliance with subsections (A) through (I) under §1302(2) of this Chapter.

C. The Zoning Officer shall also render a determination regarding whether the proposed development and/or use is required to secure any variances from the Zoning Hearing Board, in addition to securing a special exception approval.

2. **Provisions for Granting a Special Exception Approval.**

A. The Zoning Hearing Board shall hear and decide requests for uses and/or development which are permitted as special exception uses. Special exception uses shall be referred to the Planning Commission for its review, comments and recommendations prior to final action by the Board. The Board shall grant approval only upon the determination that the proposed use and/or development conforms with all applicable standards and provisions within this Chapter and the following expressed standards and criteria:

1. Public services and facilities such as streets, sewers, water, police and fire protection shall be adequate for the proposed use and/or development.

2. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.

3. The relationship of the proposed use and/or development to other uses and activities existing or planned in the vicinity shall be harmonious in terms of the location and site relative to the proposed operation, and the nature and intensity of the operation involved.

4. The relationship of the proposed use and/or development to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences, so that the use, development, and value of adjacent property is not impaired.

5. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration or lights than would be the operations of any permitted use in the district.

B. In granting approval, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

(Ord. 12-1993, 6/3/1993, §1510)
§27-1511 Parties Appellant Before the Board.

Appeal and or applications for hearings before the Zoning Hearing Board pursuant to those matters contained within §27-1509 of this Chapter, may be filed with the Board in writing by the affected landowner or by any aggrieved person or party. The Board shall not accept appeals or applications for hearings from any tenant or equitable owner of a property without the express written consent of the landowner. In such cases, the landowner’s signature shall be required upon all applicable forms, applications or documents which are to be submitted to the Board.


§27-1512 Time Limitations.

1. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after an application for the development, preliminary or final, has been approved by an appropriate municipal officer, agency or body, 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. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan for a planned residential development, pursuant to §709 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, or from an adverse decision by a Zoning Officer on a challenge to the validity of an ordinance or map based upon substantive grounds, pursuant to §916.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative approval.

2. Any landowner wishing to appeal a decision of the Zoning Hearing Board shall be required to file such appeal to a court of competent jurisdiction within 30 days after the notice of the Board’s determination is issued. Failure to do so within the prescribed thirty day time period shall preclude any further appeal of the Board’s decision.


§27-1513 Stay of Proceedings.

1. Upon filing of any proceeding referred to in §27-1508 of this Chapter, and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of 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

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or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When the application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post a bond as a condition to continuing the proceedings before the Board.

2. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all the evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

3. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

4. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond, and the appellate court sustains the order below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses, and attorney fees incurred by the petitioner.


§27-1514 Appeals to Court.

The procedures set forth in Article X-A of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall constitute the exclusive mode for securing judicial review of any decision rendered or deemed to have been made under this Chapter.

## PART 16

**ZONING MAP AMENDMENTS**

<table>
<thead>
<tr>
<th>Ordinance</th>
<th>Date</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>12-1999</td>
<td>3/3/1999</td>
<td>Changing the zoning district boundary for property located on the corner of East Main Street and Kosciuszko Street from an R-1, Single-Family Residential District to a C-1, Neighbor Commercial District.</td>
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