Charter

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TYRONE CODE

Chapter C

HOME RULE CHARTER

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 12-29-1982 by Ord. No. 858.[1] Amendments noted where applicable.]

1. **Editor's Note: This ordinance also provided as follows: "The Tyrone Borough Council hereby adopts and enacts the Home Rule Charter as drafted by the Home Rule Study Commission of the Borough of Tyrone, effective January 3, 1983. A copy of the Home Rule Charter is attached hereto and made a part hereof, the same as if it were set forth in its entirety. The Borough of Tyrone hereby reserves the right to supplement and amend said Home Rule Charter by the enactment of future ordinances which may be necessary to implement the provisions of the Home Rule Charter."**

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ARTICLE I
Name and Boundaries

§ C-1. Name.

The Borough of Tyrone shall continue to be a municipal corporation under its present name "Borough of Tyrone." As used in this Charter, the word "Borough" shall mean the Borough of Tyrone in Blair County, Pennsylvania.

§ C-2. Boundaries.

The boundaries of the Borough shall be the actual boundaries of the Borough at the time this Charter takes effect and as they may be lawfully changed thereafter.

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ARTICLE II
Powers of the Borough

§ C-3. Powers.

The Borough has and may exercise any power and may perform any function not denied by the Constitution of the United States, by the Constitution of Pennsylvania, by the General Assembly or by this Charter at any time.

§ C-4. Construction.

The powers of the Borough under this Charter shall be construed broadly in favor of the Borough, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power stated in this article. All possible powers of the Borough, except as limited in § C-3 above, are to be considered as if specifically and individually set forth in this article, whether such powers are presently available to the Borough or may hereafter, from time to time, become available.

§ C-5. Residual powers in the Borough Council.

All powers of the Borough, including any such power which may hereafter be conferred on the Borough by amendment of the Constitution of the United States or of the Constitution of Pennsylvania or by act of the General Assembly or by amendment of this Charter, unless otherwise specifically set forth in this Charter, shall be vested in the Borough Council. The Council shall be elected, shall organize and shall function as provided in this Charter.

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ARTICLE III
Borough Council

§ C-6. Composition.

There shall be a Borough Council of seven members elected by the qualified voters of the Borough at large plus a Mayor elected at large.

§ C-7. Qualifications of members of Council.

A member of Council shall be a citizen of the United States, and shall be a registered elector of the Borough at the time of his candidacy and during his term.

§ C-8. Prohibitions.

A member of Council shall not hold any other compensated Borough office or be employed by the Borough or act as a paid consultant to the Borough either during his term of office or until after the expiration of his term of office if, for any reason, he does not complete said term.

§ C-9. Election and procedure.

A. The election of members of Council shall be held on the general municipal election day, as established, from time to time, by the laws of the Commonwealth of Pennsylvania. The procedure for nomination and election of members of Council shall be as established by the general laws of the Commonwealth of Pennsylvania for municipal elections.

B. The first election of members of Council under this Charter shall be held on the date of the municipal election in the year 1983. Four members of Council shall be elected for a term beginning the first Monday of January 1984. The seven members of Council elected in 1981 under prior law shall remain in office for the full terms for which they were originally elected as provided in §§ C-116 and C-118 of this Charter. Three members of Council plus the Mayor shall then be elected in the year 1985 for a term beginning the first Monday of January 1986.

§ C-10. Terms.

The terms of all members of Council shall be four years, commencing at 8:00 p.m. on the first Monday of January following the year in which they are elected, except that a member of Council appointed to fill a vacancy shall serve only for the balance of the unexpired term. Members of Council shall serve successive staggered terms beginning with those set forth in § C-9.

§ C-11. Vacancies.

A. The office of a member of Council shall become vacant upon his death, resignation, removal from the Borough, removal from office in any manner authorized by law or this Charter or forfeiture of his office or for failure to assume such office after election thereto within 45 days after the commencement of the term thereof. A member of Council shall forfeit his office if he lacks, at any time during his term of office, any qualification for the office prescribed by this Charter or by law or is convicted of a felony or a crime involving moral turpitude or is absent from at least two consecutive regular meetings of the Council without reasonable cause.

B. In the case of forfeiture of office, Council shall declare that office vacant by a majority vote on a resolution duly made and seconded at a public meeting. Passage of a resolution of forfeiture shall

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authorize the President of Council to dispatch written notice of such resolution to the member at his Borough residence address. The member may request a public hearing by advising the President of Council, in writing, within 10 days after receipt of written notice. A hearing shall be held at the next regularly scheduled meeting and another vote taken on the resolution of forfeiture immediately after the hearing at the same meeting. After the hearing or upon failure of the member to respond within 20 days from dispatch of written notice, the office shall be declared vacant.

§ C-12. Filling of vacancies. [Amended 7-23-1991 by Ord. No. 1012]

If a vacancy shall occur in the office of a member of Council for any reason as set forth in this Charter, the Council shall fill said vacancy by observing the following procedure:

A. Notice of the vacancy shall be read aloud at the next regularly scheduled meeting of the Council following the occasion of the vacancy and, within 10 days of this meeting, shall be:

   (1) Posted in conspicuous places in the Borough offices.

   (2) Published in a newspaper of general circulation in the Borough.

B. Said notice shall contain a schedule of times and places Council will conduct public interviews of all qualified candidates and shall include an invitation to any qualified Borough resident who desires consideration to schedule a public interview with Council by informing the Borough Secretary or his representative within 10 days of publication of said notice. The Borough Secretary shall inform the President of Council or the Acting President of Council of all candidates to be interviewed.

C. At a regularly scheduled meeting, held within 60 days after publication of said notice, Council shall fill the vacancy by appointing from the candidates interviewed that candidate who receives the majority of votes of the Council members present and voting. In the event of a hopeless deadlock, the matter shall be presented to the Court of Common Pleas within 30 days after this meeting, and the Court shall fill the vacancy by appointing a qualified resident of the Borough.

D. Council members who have been appointed to fill vacancies must stand for reelection at the next general municipal election.

E. If an incumbent loses reelection in the last general election, he/she will not be eligible for appointment to a vacant Council position for four years.

§ C-13. Oath of office.

A member of Council, prior to assuming office, shall take and shall sign an oath of office as shall, from time to time, be prescribed by the laws of the Commonwealth of Pennsylvania. Such oath may be taken and signed before any Judge, District Magistrate or notary public of the Commonwealth of Pennsylvania, and no person shall be permitted to assume such office until the oath, in written form, is filed with the Borough.

§ C-14. Organization of Council.

A. The Council shall organize at 8:00 p.m. on the first Monday of January of each even-numbered year. If the first Monday is a legal holiday, the meeting and organization shall take place the first day following.

B. At this organizational meeting, the Council shall elect one of its members Vice President, who shall hold such office at the pleasure of Council. If either office of President or Vice President is vacated

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for any reason at any time, the vacancy shall be filled at the next monthly meeting. If the Vice President of Council is elected to fill a vacancy in the office of President of Council, the vacancy created in the office of Vice President may be filled at the same meeting.

C. Also, at this organizational meeting, the Council shall set the time and place of its regular monthly meetings and designate a newspaper of general circulation within the Borough for the publication of official notices.

D. The Council may transact any further business it deems necessary or appropriate at this organizational meeting.

§ C-15. Authority.

All councilmanic authority shall be asserted by the councilmanic body only. No individual member of Council shall have any authority whatsoever under this Charter, unless such authority is specifically delegated by the Charter or by the Council acting as a body.

§ C-16. Salary.

A. Each member of Council may receive a salary at the rate of $900 per annum, except the President who may receive $2,100 per annum or such other sum as the Council shall, from time to time, establish by ordinance. No ordinance increasing or decreasing salary shall become effective for at least four years after the effective date of this Charter. Any ordinance increasing or decreasing salary shall be adopted at least six months prior to a municipal election and shall not become effective before the commencement of terms of the members of Council elected.

B. Members of Council shall receive no other compensation, direct or indirect, for the performance of their duties; they shall receive no pensions, insurance or other forms of fringe benefits. However, they shall be entitled to their actual expenses incurred in the performance of their duties and shall be entitled to indemnification as provided in § C-69 of Article XII of this Charter.

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ARTICLE IV
Operation and Procedures of Borough Council

§ C-17. Meetings.

It shall be the duty of the Council to meet statedly at least once a month. Council may adjourn to a stated time for general business or for special business. If no quorum is present at a regular or adjourned meeting, a majority of those who do meet may agree upon another date for a meeting and may continue to so agree until the meeting is held. Special meetings may be called by the President of Council and must be called upon written request of at least three members thereof. Members shall have at least 24 hours' notice of such special meeting. The notice shall state whether it is for general or special purposes, and if it is for special purposes, the notice shall contain a statement of the nature of the business to be considered. Presence at a meeting constitutes waiver of notice. The dates of regular meetings of the Borough Council are to be published at least annually in a newspaper of wide circulation.

§ C-18. Records.

Council shall make and preserve minutes and records of its proceedings. These records shall be open for public inspection during reasonable hours and copies furnished to individuals upon payment of the estimated reasonable expense.

§ C-19. Public meetings.

A. All meetings and deliberations of the Council shall be open to the public, except that the Council may discuss matters pertaining to elected or appointed officials, individual employees, collective bargaining, matters of land acquisition and investigation and settlement of suits for claims in executive session. It is the intent of this Charter that all other matters affecting the public shall be discussed in meetings that are open to the public.

B. The agenda of business of the Council meetings shall be made available in the Borough offices at least 24 hours before the meeting and be published in a newspaper of wide circulation at least the day prior to the meeting.

§ C-20. Operating rules.

The Council shall, by ordinance, adopt rules of procedure for its meetings and may provide for the formation of committees and assignment of members thereto. Such rules shall be designed so as to assure full and equal participation in the deliberations of the Council by all of its members.

§ C-21. Quorum.

Five members of Council shall constitute a quorum. The Council shall conduct no business except in the presence of a quorum.

§ C-22. Majority action.

The action of a majority of the members of Council present and entitled to vote, unless otherwise stated in this Charter, shall be binding upon and constitute the action of the Council.

§ C-23. Form of action by Council.

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A. Official actions of Council may be taken by adoption of an ordinance, of a resolution or by motion. All ordinances and resolutions must be in written form. All actions of a legislative character shall be taken by ordinance. All other actions of Council may be by resolution or motion, unless otherwise required in this Charter or in the ordinance establishing the rules of councilmanic procedure. All official votes of the Council shall be taken openly and recorded.

B. All final action in adopting ordinances or resolutions shall be by roll call vote, and the vote of each member of Council shall be entered in the minutes of the meeting.

§ C-24. Citizens' right to be heard.

The Council shall provide reasonable opportunity for interested citizens and taxpayers to address the Council on matters of general or special concern. This opportunity may be afforded the public either at the regular monthly Council meeting or at another regular monthly meeting specially set for this purpose.

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ARTICLE V
Ordinances and Resolutions

§ C-25. Certain specific action requiring an ordinance.

In addition to any other actions required by law or by this Charter to be taken by ordinance, those actions of the Borough Council shall be by ordinance which:

A. Establish, alter or abolish any Borough department, office or agency and related regulatory procedures for each.

B. Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.

C. Levy taxes and assessments.

D. Grant, renew or extend a franchise.

E. Establish, alter or abolish rates charged for any utility or other service supplied by the Borough on a continuing basis, except for issuance of permits, the fees for which shall be as established by resolution of Council from time to time.

F. Adopt or amend a code establishing a personnel policy for the Borough.

G. Adopt an ordinance for the conveyance or sale of any lands of the Borough.

H. Amend or repeal any ordinance previously adopted.

I. Establish salaries or wages, hours or benefits of any employees or appointees of the Borough.

J. Hire or appoint any paid director of any administrative department, office or agency.

K. Adopt or amend an administrative code.

L. Adopt the Borough budget.

M. Borrow money when deemed necessary for the orderly administration of the business of the Borough.

N. Enact ordinances pertaining to any other matters not contrary to the laws of the commonwealth which may appear to Council to be proper.

§ C-26. Enacting clause.

The enacting clause of all ordinances shall be: "The Borough of Tyrone hereby ordains:."

§ C-27. General ordinance requirements.

Every ordinance shall contain the date of its enactment, and its enactment shall be verified by the signature of the presiding officer of the meeting where final action thereon was taken. The Official Seal of the municipality shall be affixed to the original copy of each ordinance. However, failure on the part of the presiding officer to sign an ordinance or affix the Official Seal shall not in any way invalidate an otherwise valid ordinance.

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§ C-28. Penalty.

The penalty for the violation of any ordinance shall not exceed $500 for each violation or 30 days imprisonment in default of payment of fine. However, any ordinance may provide that for continuing violations, each day that a violation exists may be regarded as a separate offense and punishable as such. The limit of fines may be increased by the Council to the extent of the maximum fine that may be levied by any noncharter municipality in the Commonwealth of Pennsylvania as that limit is, from time to time, established by the General Assembly. Council may, at its will, change the maximum fine for violations of ordinances.

§ C-29. Ordinances requiring prior public notice.

No final action shall be taken on the following types of ordinances and/or amendments thereto without public hearing thereon and after public notice as hereinafter set forth:

A. Zoning ordinance and amendment thereto.

B. Ordinance adopting a zoning map and amendments thereto.

C. Ordinance adopting subdivision regulations.

D. Ordinance adopting land development and land use regulations.

E. Ordinances imposing or levying new taxes or increasing the rate of existing taxes. However, no prior public notice shall be necessary for the reenactment of taxes levied annually at the same rate.

F. Ordinances vacating streets.

G. Ordinances providing for the annexation of territory.

H. Ordinances adopting codes of technical regulations, such as building code, housing code, fire prevention code and plumbing code and the like.

I. Ordinances providing for construction of sewers or of sewer treatment works outside of the Borough.

J. Proposed expenditures of revenue sharing funds and final adoption of revenue sharing budget.

§ C-30. Public notice.

There shall be notice published once each week for two successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days or less than 14 days from the date of the hearing.

§ C-31. Amendment after public hearing.

After public hearing on the proposed ordinance after public notice as required, the proposed ordinance may be revised or further revised, provided there are no substantial substantive changes therein and provided, in the case of the Zoning Ordinance or amendments thereto, the ordinance is also not revised or further revised to include the land previously not affected thereby. In the event of a substantial substantive change in any such ordinance or in the event that the Zoning Ordinance or amendment thereto is revised or further revised to include land previously not affected thereby, the governing body shall hold another public hearing, pursuant to public notice, before proceeding to finally vote on the proposed ordinance or

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amendment thereto.

§ C-32. Content of public notice.

Public notice of proposed ordinances or amendments to ordinances shall include either the full text of the matter to be considered or a brief summary setting forth the principal provisions in reasonable detail and with a reference to a place within the Borough where copies of proposed ordinances or amendments or other documents to be considered by the Council may be examined. In addition, there will be a reference to the time and place of hearing or meeting at which the matter will be considered by Council.

§ C-33. Publication and effective date of ordinance.

After adoption, all ordinances shall be published one time in a newspaper of general circulation in the Borough. The full text of the ordinance need not be published; instead, the title or a general summary of the substance of the ordinance will be sufficient to meet publication requirement. Publication shall occur within 30 days of the enactment of the ordinance. The effective date of the ordinance shall be the publication date, unless a later date is specified in the ordinance or required by the laws of the Commonwealth of Pennsylvania. Complaints as to the legality of any ordinance or resolution shall be made to the Court of Common Pleas of Blair County by an aggrieved party within 30 days after the enactment thereof.

§ C-34. Recording of ordinances and resolutions.

All ordinances and resolutions of the Borough shall be entered verbatim in permanent separate record books for ordinances and resolutions. No ordinance shall be considered in force until the same is recorded in the ordinance book. The ordinance book and the resolution book shall be open and available for public inspection at reasonable hours. These books shall be in the custody and control of the Borough Manager in the Borough office, and all entries made therein shall be at the direction of the Borough Manager. At the time any such ordinance is entered into the ordinance book, the same shall be codified; and a topical index shall be maintained by the Borough Manager for such purposes.

§ C-35. Administrative Code.

The Council shall, within one year after the effective date of this Charter, adopt an ordinance to be known as the "Administrative Code," defining the responsibilities of municipal departments, offices and agencies as the Council deems necessary for the proper and efficient conduct of municipal affairs to the extent that such matters are not inconsistent with the Charter and with existing applicable laws.

§ C-36. Emergency ordinances.

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, which may be adopted without prior notice and may be made effective immediately. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but his shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

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§ C-37. Codes of technical regulations.

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed in § C-29 of this Charter. A copy of each adopted code of technical regulations, as well as of the adopting ordinance, shall be authenticated and recorded.

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ARTICLE VI
Inquiries and Investigations by Council

§ C-38. Inquiries and investigations.

The Council shall have power, by resolution, to authorize inquiries and investigations to be conducted by the entire body or by any of its committees in aid of its powers and functions.

§ C-39. Witnesses and documents.

The Council may compel the attendance of witnesses and the production of books, papers or other evidence at any meeting of the Council and, for that purpose, may issue subpoenas, signed by the President of Council, and cause the same to be served in any part of the Commonwealth of Pennsylvania. In the event any witness, having been properly subpoenaed, fails or neglects to comply with the subpoena, Council is authorized to apply to the court of competent jurisdiction for enforcement of its subpoena.

§ C-40. Oaths of witnesses.

The presiding officer of the Council or of any of its committees shall have the power to administer oaths to witnesses.

§ C-41. Witness fees.

No person residing outside the Borough and subpoenaed, as aforesaid, shall be required to respond to the same until mileage and/or witness fees equal to those then established by the General Assembly for witnesses in the Court of Common Pleas shall have been first tendered to the witness.

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ARTICLE VII
The Mayor

§ C-42. Duties.

The Mayor shall be President of Council and, as such, shall preside at all Council meetings and shall be entitled to all privileges accorded to other Council members, including being entitled to cast the last vote. He may, by relinquishing the Chair, introduce motions, resolutions, ordinances, etc. The Mayor shall be recognized as head of Borough government.

§ C-43. Appointments.

The Mayor shall appoint members of city commissions, boards and authorities, subject to Council's advice and approval.

§ C-44. Emergency powers.

He shall have any emergency powers that the Council may establish by prior ordinance to suppress mobs, riots and tumultuous assemblies. Moreover, the Mayor may appoint special police with full police powers and jurisdiction for the duration of an emergency in which the safety and welfare of the Borough are endangered. The compensation of the special police shall be fixed by Council.

§ C-45. Deputy Mayor.

The Vice President of Council shall act as Mayor during the absence or disability of the Mayor.

§ C-46. Qualifications of the Mayor.

The Mayor shall be a citizen of the United States, shall have been a resident of the Borough for at least six months prior to the primary election in which he is a candidate, shall be a registered elector of the Borough at the time of his candidacy and during his term and shall be at least 18 years of age when elected or appointed to office.

§ C-47. Prohibitions.

The Mayor shall not hold any other compensated Borough office or be employed by the Borough or act as a paid consultant to the Borough either during his term of office or until after the expiration of his term of office if, for any reason, he does not complete said term.

§ C-48. Term. [Amended 7-23-1991 by Ord. No. 1012]

The Mayor shall be elected by the qualified electors of the Borough at large for a term of four years commencing at 8:00 p.m. on the first Monday of January following the year in which he is elected and ending when his successor is certified and assumes office, except that a Mayor appointed to fill a vacancy shall serve only until the next general municipal election.

§ C-49. Election and procedure.

A. The election of a Mayor shall be held on the general municipal election day as established, from time to time, by the laws of the Commonwealth of Pennsylvania. The procedure for nomination and election of the Mayor shall be established by the general laws of the Commonwealth of Pennsylvania

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for municipal elections.

B. The first election of a Mayor under this Charter shall be held on the date of the municipal election in the year 1985 for a term beginning the first Monday of January 1986. The Mayor elected in 1981 under prior law shall remain in office for the full term for which he was originally elected, as provided in § C-116 of this Charter.

§ C-50. Vacancies.

A. The office of Mayor shall become vacant upon his death, resignation, removal from the Borough, removal from office in any manner authorized by law or this Charter or forfeiture of his office or for failure to assume such office, after election thereto, within 45 days after the commencement of the term thereof. The Mayor shall forfeit his office if he lacks, at any time during his term of office, any qualification for the office prescribed by this Charter or by law or is convicted of a felony or a crime involving moral turpitude or is absent from at least two consecutive regular meetings of the Council without reasonable cause.

B. In the case of forfeiture of office, Council shall declare that office vacant by a majority vote on a resolution duly made and seconded at a public meeting. Passage of a resolution of forfeiture shall authorize the Vice President of Council to dispatch written notice of such resolution to the Mayor at his Borough residence address. The Mayor may request a public hearing by advising the Vice President of Council, in writing, within 10 days after receipt of written notice. A hearing shall be held at the next regularly scheduled meeting and another vote taken on the resolution of forfeiture immediately after the hearing at the same meeting. After the hearing or upon failure of the Mayor to respond within 20 days from dispatch of written notice, the office shall be declared vacant.

§ C-51. Filling of vacancies. [Amended 7-23-1991 by Ord. No. 1012]

If a vacancy shall occur in the office of the Mayor for any reason as set forth in this Charter, the Council shall fill said vacancy by observing the following procedure:

A. Notice of the vacancy shall be read aloud at the next regularly scheduled meeting of the Council following the occasion of the vacancy and, within 10 days of this meeting, shall be:

(1) Posted in conspicuous places in the Borough offices.

(2) Published in a newspaper of general circulation in the Borough.

B. Said notice shall contain a schedule of the times and places Council will conduct public interviews of all qualified candidates and shall include an invitation to any qualified Borough resident who desires consideration to schedule a public interview with Council by informing the Borough Manager or his representative within 10 days of publication of said notice. The Borough Manager shall inform the President of Council or the Acting President of Council of all candidates to be interviewed.

C. At a regularly scheduled meeting, held within 60 days after publication of said notice, Council shall fill the vacancy by appointing from the candidates interviewed that candidate who receives the majority of votes of the Council members present and voting. In the event of a hopeless deadlock, the matter shall be presented to the Court of Common Pleas within 30 days after this meeting, and the Court shall fill the vacancy by appointing a qualified resident of the Borough.

D. If an incumbent loses election in the last general election, he/she will not be eligible for appointment to fill a vacancy for a period of four years thereafter.

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§ C-52. Oath of office.

The Mayor, prior to assuming office, shall take and shall sign an oath of office as shall, from time to time, be prescribed by the laws of the Commonwealth of Pennsylvania. Such oath may be taken and signed before any Judge, District Magistrate or notary public of the Commonwealth of Pennsylvania, and no person shall be permitted to assume such office until the oath, in written form, is filed with the Borough.

§ C-53. Powers, duties and authority.

The Mayor shall have the following specific powers, duties and authority:

A. He shall preside at regular meeting of the Borough Council and may attend meetings of committees thereof and shall have an equal right with members of Council to participate in their deliberations, as previously stated in § C-42.

B. He shall have the duty to preserve order in the Borough.

C. He shall have the power to enforce those ordinances and regulations in the Borough which are those of a criminal, quasi-criminal, nuisance or traffic nature.

D. He shall have the duty to sign such papers, contracts, obligations and documents that are properly presented to him, as may be required by law.

E. He may report to the Council from time to time regarding the state of affairs of the Borough.

F. He shall have the authority to appoint and dissolve voluntary committees of interested citizens to assist and advise him on issues and matters pertaining to his office. The committee members shall serve without compensation.

G. In the event of an emergency in the absence of the Borough Manager, the Mayor may discharge all the duties of the Borough Manager.

H. The Borough shall provide the Mayor with a suitable office from which to conduct the Borough affairs, together with supplies, forms, utilities and stenographic services. The Mayor shall have authority to appoint, suspend and remove members of his own staff, as may be authorized in the budget.

I. He shall be one of the authorized signers of all Borough checking accounts.

J. He shall have the duty to administer oaths and affirmations in all Borough business, except as otherwise provided by this Charter or by law.

K. Council may assign such other rights and duties to the Mayor which are not contrary to any law now or hereafter enacted or contradictory of any other provision of this Charter.

§ C-54. Salary.

A. The Mayor may receive a salary at the rate of $2,100 per annum or such other sum as the Council shall, from time to time, establish by ordinance. No ordinance increasing or decreasing salary shall become effective for at least four years after the effective date of this Charter. Any ordinance increasing or decreasing salary shall be adopted at least six months prior to a municipal election and shall not become effective before the commencement of terms of the members of Council elected.

B. The Mayor shall receive no other compensation, direct or indirect, for the performance of his duties;

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he shall receive no pensions, insurance or other forms of fringe benefits. However, he shall be entitled to the actual expenses incurred in the performance of his duties and shall be entitled to indemnification as provided in § C-69 of Article XII of this Charter.

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ARTICLE VIII
Borough Manager

§ C-55. Appointment, qualifications and compensation.

The Council shall appoint a Borough Manager for an indefinite term and shall fix his compensation. The Borough Manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the Borough at the time of his appointment. He must become a Borough resident within one year.

§ C-56. Removal. [Amended 7-23-1991 by Ord. No. 1012]

The Council may remove the Borough Manager at any time with cause.

§ C-57. Acting Borough Manager.

During the period of any vacancy in the office of Borough Manager or during the period of his absence or incapacity, the Council may appoint any one of its own members or any other officer or employee of the Borough as Acting Borough Manager. The Acting Borough Manager shall then exercise the powers and perform the duties of the Borough Manager and receive compensation at a rate to be set by Council.

§ C-58. Powers and duties of Borough Manager.

The Borough Manager shall be the chief administrative officer of the Borough. He shall be responsible to the Council for the administration of all Borough affairs placed in his charge by order under this Charter.

A. He shall supervise and be responsible for the activities of all municipal departments.

B. He shall have full charge and control of the Police Department and all police activities both inside and outside the Borough.

C. He shall have the power to recommend for appointment, promotion or discharge all police officers of the Borough as well as all auxiliary, temporary police and school crossing guards.

D. He shall have the authority to suspend for cause any police officer subject to § C-73 of this Charter.

E. He shall have the authority to recommend for appointment the Chief of Police, but Council shall have sole authority to appoint the Chief of Police, who shall serve at the pleasure of Council.

F. He shall hire, suspend or discharge all other employees under his supervision, and he shall report at the next meeting of the Council any action taken by authority of this subsection.

G. He shall prepare and submit to the Council a budget for the next fiscal year and an explanatory budget message. In preparing the budget, the Borough Manager or an officer designated by him shall obtain from the head of each department, agency, board or officer estimates of revenues and expenditures and other supporting data as he requests. The Borough Manager shall review such estimates and may revise them before submitting the budget to the Council.

H. He shall be responsible for the administration of the budget after its adoption by the Council.

I. He shall perform the duties of the Secretary of the Borough in causing appropriate records to be made, preserved and certified, as required by law or action of the Council. He shall attest the execution of all documents and record all ordinances and resolutions, and he shall have custody of the Municipal

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and Corporate Seal. He shall, where required, acknowledge and execute documents as Secretary of the Borough.

J. He shall attend all meetings of the Council and may attend meetings of committees thereof. He shall have the right to take part in the discussions, but shall have no vote.

K. He shall prepare the agenda for each meeting of the Council and supply the facts pertinent thereto and shall see that the agenda is available in the Borough offices at least 24 hours before the meeting.

L. He shall keep the Council informed as to the conduct of the Borough affairs, submit periodic reports on the condition of the Borough finances and such other reports as the Council requests and make such recommendations to the Council as he deems necessary.

M. He shall submit to the Council, as soon as possible after the close of the fiscal year, a complete report on the financial and administrative activities of the Borough for the preceding year.

N. He shall see that the provisions of all franchises, leases, permits and privileges granted by the Borough are observed and report any violation thereof to the Council.

O. He may employ, by and with approval of the Council, experts and consultants to perform work and to advise in connection with any of the functions of the Borough.

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

Q. He shall see that all money owed the Borough is promptly paid and the proper proceedings are taken for the security and collection of all the Borough's claims.

R. He shall be the purchasing officer of the Borough, and he shall purchase all supplies and equipment for the various agencies, boards, departments and other offices of the Borough. He shall keep an account of all purchases and shall, from time to time or when directed by the Council, make a full written report thereof. He shall also issue rules and regulations, subject to the approval of the Council, governing the requisition and purchasing of all municipal supplies and equipment.

S. He shall be responsible for investigating and handling all complaints regarding services or personnel of the Borough and shall report thereon to the Council. All complaints concerning the Police Department shall be referred to the Chief of Police.

T. He may collect and shall receive, account for and deposit into the Borough account all taxes, fees, assessments or charges that are levied or established by the Borough for general or special purposes. Such deposits shall be made not later than the first business day following the day in which they are received. If a school district or any other taxing body empowered to collect taxes within the Borough enters into an agreement with the Borough for the collection of said taxes, he shall be responsible for collecting these taxes; however, all fees for such collection shall be paid to the Borough accounts.

U. He shall administer and enforce all laws and ordinances of the Borough, except as otherwise provided by this Charter or by law, and shall be responsible to the Council for carrying out all policies established by it for the proper administration of all affairs of the Borough within the jurisdiction of the Council.

V. He shall not be entitled to any compensation in addition to his stated compensation for exercising any power or duty conferred upon him by this Charter or by law.

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W. He shall perform such other duties as are specified in this Charter or may be required by the Council.

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ARTICLE IX
Borough Solicitor

§ C-59. Appointment, qualifications and compensation.

The Council shall appoint a Borough Solicitor for an indefinite term and shall fix his compensation. He shall be an official of the Borough and shall be appointed either on a full-time basis or a part-time basis or on a retainer basis and shall serve the Borough as needed and required. The Borough Solicitor shall be admitted to the Supreme Court of Pennsylvania and shall have at least five years' experience in active legal practice in the Commonwealth of Pennsylvania. He shall be a graduate of an accredited school of law.

§ C-60. Removal.

The Council may remove the Borough Solicitor at any time, with or without cause.

§ C-61. Delegation of authority.

The Borough Solicitor may, from time to time, perform his duties by delegation of authority to persons acting as his agents.

§ C-62. Powers and duties of the Borough Solicitor.

The Borough Solicitor shall be the chief legal officer of the Borough. He shall have the following powers and duties:

A. He shall furnish legal advice to the Mayor, to the Council, to the Borough Manager and to all other elected or appointed officers, boards and commissions concerning any matter or thing arising in connection with the exercise of their official powers or performance of their official duties and, except as otherwise expressly provided by the Council, shall supervise, direct and control all of the law work of the Borough.

B. The Borough Solicitor shall collect, by suit or otherwise, all debts, taxes and accounts due the Borough which shall be placed with him for collection by Council, any official, officer, department, board or commission and shall represent the Council and every official, officer, department, board or commission in all litigation arising from official duties, unless his representation of an official, officer, department, board or commission in litigation conflicts with his representation of the Borough.

C. He shall prepare or approve all contracts, bonds and other instruments in writing in which the Borough is concerned and shall approve all surety bonds required to be given for the protection of the Borough.

D. At the direction of the Mayor or the Council, he shall investigate any violation or alleged violation within the Borough of statutes of the Commonwealth of Pennsylvania or of the United States of America or of ordinances of the Borough or the county and shall take such steps and adopt such means as may be reasonably necessary or appropriate to enforce or cause the enforcement within the Borough of such statutes and ordinances.

E. Upon the request of the Council or of the chairman of any committee of Council or of the Mayor or of the Borough Manager, the Borough Solicitor shall prepare or assist in preparing any ordinance or resolution for presentation before the Council.

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F. At the direction of the Council, he shall appear for and represent the Borough, its officials, officers, employees and appointees or, if appropriate, the residents of the Borough as a class on matters before the courts or various regulatory agencies of other governmental bodies.

§ C-63. Access to records.

The Borough Solicitor shall have the right of access at all times to all records of the Borough, including those in possession of any official, officer, department, board, commission or authority.

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ARTICLE X
Borough Engineer

§ C-64. Appointment, qualification and compensation.

The Council may appoint a Borough Engineer for an indefinite term and shall fix his compensation. He may be an official of the Borough and shall be appointed either on a full-time basis or a part-time basis or on a retainer basis and shall serve the Borough as needed and required. The Borough Engineer shall have at least a bachelor of science in engineering from an accredited engineering school, shall have at least five years' experience as a registered engineer and shall be a currently registered engineer in the Commonwealth of Pennsylvania.

§ C-65. Removal.

The Council may remove the Borough Engineer at any time, with or without cause.

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ARTICLE XI
Authorities

§ C-66. Creation of authorities.

A municipal authority or other agency having power to incur indebtedness, power of condemnation or the power to assess or levy costs, charges or other liability against land or residents may be organized or formed by the Council.

§ C-67. Continuation of authorities.

All municipal authorities organized or formed prior to the time this Charter takes effect and actively functioning at the time this Charter takes effect shall not be affected hereby and shall continue in full force and effect.

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ARTICLE XII
Personnel

§ C-68. General provisions.

The Council shall establish a personnel system for the Borough based upon merit. The system so established shall not be inconsistent with any statute heretofore enacted by the commonwealth affecting the rights, benefits or working conditions of the employees of the Borough.

§ C-69. Indemnification.

A. The Council of the Borough shall reimburse or indemnify each elected official, officer, employee and appointee of the Borough for or against all liabilities and expenses reasonably incurred by or imposed upon him in connection with or resulting from any claim, action, suit or proceeding, civil, criminal, administrative or investigative, in which he may become involved as a party or otherwise by reason of his being or having been such elected official, officer, employee or appointee of the Borough or by reason of any action taken or not taken in such capacity, whether or not he continues to be such at the time such liabilities or expenses are incurred, provided that in respect of any action by or in the right of the Borough, he was not negligent or guilty of misconduct to the Borough and, in respect of all other actions, he acted in good faith in what he reasonably believed to be in the best interests of the Borough and, in addition to any criminal action, had no reasonable cause to believe that his conduct was unlawful.

B. Where he has wholly been successful on the merits in such action or where indemnification of him has been awarded by a court, he shall be entitled to indemnification as of right.

C. Otherwise, the Council of the Borough shall reimburse or indemnify him only if a majority of the members of Council or a court of competent jurisdiction determines that he has met the standards as set forth hereinabove.

D. Moreover, in this regard, Council of the Borough of Tyrone is hereby authorized and empowered to enter into contracts of insurance or to make other arrangements for the best interests of the Borough of Tyrone to provide for such reimbursement and/or indemnification.

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ARTICLE XIII
Police Department

§ C-70. Purpose.

The Police Department of the Borough of Tyrone, as heretofore established, shall be for the purpose of keeping peace and order and for the enforcement of law in the Borough of Tyrone.

§ C-71. Appointment, removal, promotion, suspension and reduction in rank.

Subject to the civil service provisions established before and after the effective date of this Charter, Borough Council may appoint and remove or promote or suspend or reduce in rank one or more suitable persons, citizens of the United States of America, as Borough policemen.

§ C-72. Powers and authority.

A. Police employed by the Borough, including full-time police, special police, special school police, part-time police and auxiliary police, shall have all the powers and protection conferred by statute and ordinance upon members of the police force of the Borough and upon Constables of the Commonwealth of Pennsylvania. They shall have the power to make lawful searches, seizures and arrests for violation of any statutes or ordinances or other laws enforced by the Borough, to serve subpoenas, when ordered to do so by their superior officers, and to do such other acts as may be required of them by statute or ordinance.

B. The police shall have the authority to serve and execute all criminal processes for the violation of municipal ordinances which may be issued and, when serving and executing such criminal process or subpoenas, shall charge the same fees and costs as Constables of the Borough, but such fees and costs shall be collected by the Borough Manager and paid into the Borough Treasury.

§ C-73. Control.

The Department shall be under the jurisdiction and supervised control of the Chief of Police, who is answerable to the Borough Manager. The Borough Manager may, for cause and without pay, suspend any policeman until the next succeeding regular meeting of the Council, at which time and thereafter the Council may, subject to the civil service provisions applicable to the police if they are in effect at that time, suspend, discharge, reduce in rank or reinstate with pay such policeman. In any case where the Council has reinstated a policeman after having been suspended by the Borough Manager, the Borough Manager shall not thereafter suspend any such policeman for reasons arising from the same act for which the first suspension was made or for the reasons that the Council, in reinstating such policeman, shall have determined not to be grounds for suspension.

§ C-74. Compensation.

The full-time police as well as any special police, special school police, part-time police and auxiliary police shall only receive such compensation as shall be fixed by the Borough Council. However, special police, special school police, part-time police and auxiliary police shall not come within the provisions of any civil service laws or regulations applicable to police and shall not be entitled to participate in any police pension plan or plans or other programs or plans affording benefits now in effect or hereafter effective, but shall be entitled to indemnification as provided in § C-69.

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§ C-75. Part-time police.

Borough Council may appoint qualified part-time police and fix their compensation as set forth in § C-74 above. While on duty, such part-time police shall be under and subject to the directions of the Borough Manager and superior officers.

§ C-76. Special school police.

A. The Council may, after consultation with the school district, appoint special school police who shall have the duty of controlling and directing traffic at or near schools, and they shall be in suitable and distinct uniform and display a badge or other sign of authority.

B. While on duty, special school police shall be under and subject to the direction of the Borough Manager or their superior officers.

C. Auxiliary policemen, special police and/or part-time policemen may be designated to serve a special school police.

§ C-77. Special police.

The Mayor may appoint special police with full police powers and jurisdiction for the duration of an emergency in which the safety and welfare of the municipality or the public is endangered. They shall serve at the pleasure of the Mayor and, while on duty, shall be under and subject to the direction of the Mayor and their superior officers.

§ C-78. Auxiliary police.

Auxiliary police may be appointed as provided by general law. While on duty, they shall be under and subject to the direction of the Borough Manager and their superior officers.

§ C-79. Civil service.

A. Provisions of all civil service laws heretofore or hereafter enacted by the General Assembly for the benefit of police shall be continued in full force and effect, and all full-time policemen appointed after the effective date of his Charter by the Borough Council shall, after the probationary period, be subject to the established civil service provisions.

B. The Civil Service Commission of the Borough of Tyrone shall continue in office and shall continue to function in accordance with applicable law, as amended from time to time.

C. No full-time policeman shall, after the effective date of this Charter, be suspended, removed or reduced in rank as a paid employee in the police force, except in accordance with the provisions of the applicable civil service laws. However, all other police, including but not limited to special police, special school police, part-time police, auxiliary police and including the Chief of Police, shall serve at the pleasure of the appointing authority and may be suspended, removed or reduced in rank with or without cause and without regard to the provisions of the civil service laws applicable to full-time police.

D. Moreover, nothing in this section shall apply to retirement nor shall anything herein prevent the Borough Council from adopting a compulsory retirement age for its police employees or for any class or classes thereof and from retiring all such employees automatically when they reach such age.

E. Notwithstanding the foregoing, the Chief of Police shall not be entitled to or covered by civil service

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provisions.

§ C-80. Manner of filling appointments.

Every position or employment in the Police Force as full-time police, except that of Chief of Police or the equivalent, shall be filled only in accordance with civil service provisions of existing law, its amendments and supplements thereto.

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ARTICLE XIV
Budget and Fiscal Matters

§ C-81. Fiscal year.

The fiscal year of the Borough shall begin on the first day of January and end on the last day of December of each year.

§ C-82. Submission of budget and budget messages.

On or before the 15th day of November of each year, the Borough Manager shall submit to the Council a proposed budget for the ensuing fiscal year and an accompanying budget message.

§ C-83. Budget.

The budget shall provide a complete financial plan of all Borough funds and activities for the ensuing fiscal year and, except as required by this Charter, shall be in such form as the Council may require. In organizing the budget, the Borough Manager shall utilize the most practical combination of expenditure classification by fund, organization unit, program, purpose of activity and object. The budget shall contain, inter alia, the following:

A. It shall begin with a general summary of its contents.

B. It shall show in detail all estimated income, indicating the existing and proposed tax levies, as well as other assessments, fees and charges.

C. It shall show all proposed expenditures, including debt service, for the ensuing fiscal year.

D. It shall show the number of proposed employees in every job classification.

E. It shall be so arranged as to show comparative figures for actual and estimated income and expenditures for the current fiscal year and actual income and expenditures of the preceding fiscal year.

F. It shall indicate proposed operating expenditures during ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs and the methods of financing such expenditures.

G. It shall indicate proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies, when practicable, and the proposed method of financing each such capital expenditure.

H. The total of proposed expenditures shall not exceed the total of estimated income.

§ C-84. Budget message.

The Borough Manager's message shall explain the budget both in fiscal terms and in terms of programs. It shall outline the proposed financial policies of the Borough for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the Borough's debt position and include such other materials as the Borough Manager deems desirable or as the Council requests.

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§ C-85. Public record.

The annual budget shall be a public record and shall be available for public inspection after submission and prior to adoption and after adoption.

§ C-86. Adoption of budget.

The annual budget shall be adopted by ordinance. Final adoption of the budget shall occur prior to the commencement of the year for which it is prepared but only after it has been available for public inspection, after due notice, for at least 10 days. If Council fails to adopt the budget on or before December 31, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year.

§ C-87. Modification of budget.

A. The Council may authorize or ratify modifications of the budget during the year for which it is prepared; provided, however, that where the aggregate of modifications results in an increase or decrease of a departmental appropriation by more than 15% of the originally approved budget, such modification shall be by ordinance only.

B. The revised budget shall show the original budgeted amounts in one column with a separate adjacent column listing the revised budgeted amounts.

C. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance, but such ordinances may not levy taxes, grant, renew or extend a franchise or authorize the borrowing of money, except to the extent that there are no available unappropriated revenues to meet such appropriations. The Council may by such emergency ordinance authorize the issuance of emergency notes which may be renewed from time to time.

§ C-88. Payment of funds.

No expenditure or payment of any funds of the Borough shall be made except upon approval of Council; provided, however, that payroll and utility expenditures may be made at the direction of the Borough Manager where based upon a prior ordinance or contract. Directives for payment, as approved by the Council, shall be certified by the Borough Manager to the authorized signers. All checks or drafts of the Borough shall be signed by:

A. The Mayor/President of Council or, in his absence, the Vice President of Council or, in their absence, one designated member of Council, and

B. The Borough Manager.

§ C-89. Independent audit.

The Council shall provide for an independent annual audit of all Borough accounts by a certified public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the Borough government or any of its elected or appointed officers. The Council may provide for more frequent audits, as well as special audits, as it deems necessary. The results of the annual audit and a financial statement of the fiscal affairs of the Borough shall be presented to the Council and published in a newspaper of general circulation in the Borough by April 1 of the year following the fiscal year audited.

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§ C-90. Appeals from audit.

The specific laws of the Commonwealth of Pennsylvania governing the auditing, adjusting and settlement of accounts of the officers of the Borough and the appeal therefrom shall continue to apply to all such matters.

§ C-91. Fidelity bonds.

Before entering upon the duties of their respective offices or positions, the Borough Manager and the Borough Mayor, as well as any other officer, agent or employee of the Borough, as the Council may determine, shall each execute and file with the Borough a surety bond with a corporate surety authorized to do business in the Commonwealth of Pennsylvania, conditioned for the honest and faithful performance of his respective duties, in such sums as shall be fixed by the Council. Any such bond and surety thereon, before being accepted by the Borough, shall be approved by the Borough Solicitor. The agency placing such bond shall be determined by the Council and premium therefor shall be paid by the Borough. Such bond may provide for one or more additional obligees in the event that the officer bonded is acting in a dual or similar capacity with other political subdivisions or governmental or quasi-governmental entities.

§ C-92. Municipal borrowing.

Council shall follow the provisions of the law as established by the General Assembly from time to time for the borrowing of money by municipalities.

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ARTICLE XV
Contracts

§ C-93. Requirements. [Amended 7-23-1991 by Ord. No. 1012]

All contracts of the Borough involving sums in excess of the recommended current state statutes and all contracts for the purchase, sale, leasing or use of real estate in any amount shall be in writing and shall be executed on behalf of the Borough by the President of Council or, in his absence, the Vice President of Council. Unless otherwise provided by ordinance, the Borough Manager may execute contracts on behalf of the Borough involving sums of less than the recommended current state statutes made pursuant to authorization contained in the budget. Authorization for contracts for the construction of public capital improvements shall be given by ordinance. Any official or officer required to execute a written contract may request the Borough Solicitor to approve the same as to form.

§ C-94. Competitive bids.

Except as otherwise provided in this Charter, no contract for supplies, material, labor, franchise or other valuable consideration to be furnished to or by the Borough shall be authorized on behalf of the Borough, except with the best responsible bidder after competitive bidding. In determining the best responsible bidder, Council may take into consideration such other factors as availability, cost, quality and previous experience of the Borough with the bidder.

§ C-95. Bidding procedure.

The Council shall, by ordinance, establish a system of competitive bidding, including such definitions, publication requirements, deposit and bond requirements, conditions, terms, rules, regulations, waivers and exceptions as it shall, from time to time, deem advisable.

§ C-96. Exceptions to competitive bidding.

Competitive bidding shall not be required under this Charter for:

A. Labor or services rendered by any Borough officer or employee.

B. Labor, material, supplies or services furnished by one Borough department to another Borough department.

C. Contracts for labor, material, supplies or services available from only one vendor.

D. State statutes will prevail in contracts for labor, material, supplies or services for the item in the year supplied. **[Amended 7-23-1991 by Ord. No. 1012]**

E. Contracts relating to the acquisition or use of real property.

F. Contracts for professional or unique services.

G. Contracts for insurance and surety company bonds.

H. Contracts for emergency repair of public works of the Borough.

I. Contracts with other governmental entities, authorities, agencies or political subdivisions.

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§ C-97. Maximum term of certain contracts. [Amended 7-23-1991 by Ord. No. 1012]

The term of contracts for the purchase of supplies shall not exceed two years, unless extenuating circumstances may indicate a longer term approved by vote of Council.

§ C-98. Eminent domain.

The Borough shall have no authority to grant to others, by franchise, contract or otherwise, its power and right of eminent domain.

§ C-99. Officials with personal interest in contracts.

No Mayor or member of Council nor any other Borough officer, appointee or employee shall solicit, benefit by or be financially interested in, to any appreciable degree, directly or indirectly, any contract with the Borough in excess of $500 in any one year, except the contract for the services for which he was specifically retained.

§ C-100. Unenforceable contracts.

A. No liability shall be enforceable against the Borough by any action at law, in equity or otherwise, upon any unauthorized or illegal contract;

B. Provided, however, that Council may, by ordinance, authorize payment for materials furnished or services rendered in reliance on contracts made by municipal officials, officers and agents without authority or in excess of authority when the contract is one which the Borough could have authorized.

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ARTICLE XVI
Land Use, Development, Planning and Zoning Regulations

§ C-101. Planning Code.

A. The details for the administration of land use, development, planning and zoning regulations in the Borough shall be set forth in a Planning Code which may be adopted by Council under this Charter. The details shall include but shall not be limited to provisions for the appointment compensations, duties and functions of a Planning Commission and a Zoning Hearing Board, the adoption or modification of a Comprehensive Development Plan for the physical development of the Borough and procedures for the implementation of a Comprehensive Development Plan by the Council. Council may adopt this proposed Planning Code by ordinance with an affirmative vote by at least five of its members following a public hearing according to § C-29 of this Charter. Council may not amend the Planning Code subsequent to the public hearing, unless approved by an affirmative vote by at least five of its members following a new public hearing according to § C-29 of this Charter.

B. Unless and until otherwise provided by ordinance, the Planning Code shall comprise the procedures specified in the laws of the Commonwealth of Pennsylvania and County of Blair that govern planning, zoning and land use, as amended from time to time.

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ARTICLE XVII
Recall

§ C-102. Officers subject to recall.

Any person holding an elective office of the Borough, whether by election or appointment to fill a vacancy, shall be subject to removal from office at a recall election in the manner provided in this article.

§ C-103. Recall procedure.

A. The recall of an incumbent of an elective office shall be initiated upon petition signed by the registered electors of the Borough at large in number not less then 30% of the electors registered to vote at the time of the last preceding general election. Every recall petition shall name the office and officer against whom it is directed and set forth the reason or reasons for the petition.

B. Each elector signing a recall petition shall add to his signature his occupation, his residence, his election district and the date of signing. Signatures on a recall petition may be on separate sheets, but each sheet shall have appended to the affidavit of some person, not necessarily a signer of the petition, that to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are registered electors of the Borough, that they signed with full knowledge of the contents of the petition and that their residences are correctly given.

C. A recall petition shall be tendered for filing to the Board of Elections having jurisdiction over elections in the Borough. No signature shall be counted as valid which is dated more than 60 days prior to the date the petition is tendered for filing. Upon tender to the Board of Elections, the petition shall be available for examination by any interested person. Within 15 days after tender of the petition, the Board of Elections shall pass upon the validity of the petition and the validity and sufficiency of signatures required thereon. The decision of the Board of Elections shall be subject to immediate review on appeal to the Court of Common Pleas.

§ C-104. Notice to incumbent.

As soon as the Board of Elections has determined the validity and sufficiency of the recall petition, the Chairman of the Board shall notify the incumbent named in the petition that the petition has been filed. Upon receipt of such notice, the incumbent may resign from his office, and thereupon the recall proceedings shall terminate.

§ C-105. Recall elections.

A. If the incumbent against whom a recall petition is directed does not resign from his office within 10 days after receipt of notice of the filing of such petition, the Board of Elections shall arrange a recall election to be held on the date of the next primary or general election, provided said election is at least 60 days from the date of filing of the recall petition. The incumbent against whom a recall petition is directed may resign at any time prior to the recall election, and thereupon the election shall not be held.

B. The following question shall be presented to each elector in a recall election:

"Shall (name of officer) be recalled and removed from the office of (name of office)?"

C. The above question shall appear separately for every officer whose recall is to be voted upon, and

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provision shall be made for the elector to vote "Yes" or "No" on each question.

D. If a majority of the registered electors who vote on the question at a recall election shall vote "Yes," the incumbent shall be deemed recalled and removed from office, but if a majority of such registered electors shall vote "No," he shall remain in office.

E. Should the result of such election be affirmative, the date of the removal and vacancy in the office shall be seven days subsequent to the date when the results of election are certified by the Board of Elections, unless such date is further postponed by order of court.

§ C-106. Disqualification for office.

No person who has been removed from an elective office by a recall election or who has resigned from such an elective office after a recall petition directed to him has been filed shall be eligible for election or appointment to any office of the Borough within two years after his removal or resignation.

§ C-107. Limitations.

No recall petition shall be filed against any incumbent of an elective office within the first year or the last nine months of the term of his office or within nine months after an unsuccessful recall election against him.

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ARTICLE XVIII
Initiative and Referendum

§ C-108. Authority.

A. Initiative. The qualified voters of the Borough shall have the right to propose an ordinance to Council. Upon Council's failure to adopt the ordinance without substantial change within 62 days after submission at a regular meeting of Council, said ordinance shall be submitted to the voters at the next election occurring at least 90 days thereafter.

B. Referendum. The qualified voters of the Borough shall have the right to require reconsideration by Council of an adopted ordinance. Upon Council's failure to repeal any ordinance so reconsidered within 62 days after the request, the voters shall have the opportunity to approve or reject it at the next election occurring at least 90 days from the adoption of said ordinance.

C. Limitations. The above powers of initiative and referendum shall not extend to the budget, capital improvements program or to any ordinance appropriating money, levying taxes or affecting the salaries of Borough officers or employees.

§ C-109. Procedure for filing.

Any five qualified voters wishing to begin an initiative or referendum proceeding shall join in filing an affidavit with the Borough Manager. This shall contain their names, addresses and the principal address to which any notice concerning the proceeding should be sent and should set forth in full the proposed initiative ordinance or the ordinance sought to be recalled. Upon the filing of this affidavit, the Borough Manager shall issue petition blanks.

§ C-110. Petitions.

A. Number of signatures. Initiative or referendum petitions must be signed by a number of qualified voters of the Borough equal to 10% of the number of registered voters entitled to vote in the preceding municipal election.

B. Form and content. All papers of the petition shall be of uniform size and shall be filed as a single document. Each signature shall be in ink or indelible pencil and shall show the address of the person signing. Throughout their circulation, each copy of the petition shall contain or have attached the text of the ordinance under consideration.

C. Affidavit of circulator. Each page of the petition containing signatures shall bear, in a designated place, the signature of the person who circulated that portion of the petition. Each person circulating the petition shall file with the petition an affidavit stating his name and address, the number of signatures he collected, a statement that he believes these to be genuine signatures of registered voters, that all such signatures were affixed in his presence and that each signer was given an opportunity to read the full text of the proposal before signing.

D. Time for filing referendum petitions. Referendum petitions must be filed within 90 days after adoption by Council of the ordinance sought to be reconsidered.

§ C-111. Procedure after filing.

A. Certification. Within 10 days after filing of petition, the Borough Manager shall prepare a certificate of sufficiency and shall send a copy thereof to Council and one by registered mail to the principal

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address given in the filing affidavit. In the event that the petition is certified as insufficient, the reasons for such insufficiency shall be clearly stated on the certificate. Petitioners shall have 10 days from receipt of this notice to correct the defect by filing a supplemental petition, which shall comply with §§ C-109 and C-110 above. The Borough Manager shall then have five days from receipt of the supplemental petition to prepare a certificate of sufficiency, and the Clerk shall again send copies of the certificate to Council and to the petitioners, as provided in this section. In the event this second certificate also declares the petition to be insufficient, petitioners shall have two working days from receipt thereof to file with the Borough Manager a request for Council review.

B. Council review. Upon request, Council shall review a petition declared insufficient in the manner prescribed above at its next regular meeting and, at that time, shall approve or disapprove the certificate. Council's determination shall be a final administrative determination on the sufficiency of the petition.

C. Court review. A final administrative determination of insufficiency shall be subject to court review. A ruling by the court sustaining a finding of insufficiency shall not prejudice the filing of a new petition.

§ C-112. Referendum petition; suspension of ordinance.

When a referendum petition has been filed with the Borough Manager, the ordinance sought to be reconsidered shall be suspended until:

A. A final determination of insufficiency of the petition; or

B. The withdrawal of the petition; or

C. Council's repeal of the ordinance; or until

D. Official certification of the vote of the Borough on the referendum; or

E. Unless upheld for execution by 3/4 vote of Council.

§ C-113. Action on petitions.

A. Action by Council. Upon receipt of a certificate of sufficiency, Council, at its next regularly scheduled meeting, must act to comply with the petition. Upon failure to do so within that time, it must act to place the question on the ballot.

B. Submission to voters. The Borough shall vote on the question of adoption or retention of the ordinance named in the petition not less than 60 days or more than one year from final Council action thereon.

C. Withdrawal of petitions. Up until the 75th day before the election, the petition may be withdrawn by written request of four of the original five petitioners. Upon the filing of such a request with the Borough Manager, the petition shall be without effect and all proceedings thereon shall be terminated.

§ C-114. Results of election.

A. Initiative. If a majority of voters voting upon the proposal shall vote in its favor, it shall take effect upon certification of the election results and shall have the force of a duly enacted ordinance. In the event conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail.

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B. An ordinance which has been enacted by initiative may not be repealed within two years of such voter action without a 3/4 vote of Council to repeal said ordinance.

C. Referendum. If a majority of voters voting upon the referred ordinance vote in favor of its repeal, it shall be considered repealed upon certification of the election results.

D. An ordinance which has been repealed by referendum may not be reenacted within two years of such voter action without a 3/4 vote of Council to reenact said ordinance.

E. Upon defeat of an initiative or referendum ballot question, the same subject matter may not be resubmitted for initiative or referendum within two years of said voter action.

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ARTICLE XIX
Transition and Continuation

§ C-115. Rights and liabilities of the Borough.

The Borough shall continue to own, possess and control all rights and property, of every kind and nature, owned, possessed or controlled by it when this Charter takes effect and shall be subject to all its debts, obligations, liabilities and duties.

§ C-116. Authority of existing elected officers.

The members of Council and the Mayor in office at the time this Charter becomes effective shall remain in office for the full terms for which they were originally elected. However, they shall have the responsibilities, duties, compensation and authority only as set forth in and in pursuance of this Charter. All other elected officials of the Borough in office at the time this Charter becomes effective shall remain in office for the full term for which they were elected, and they shall continue to perform the duties and receive the same compensation which they received prior to the adoption of this Charter. However, should any of such other offices become vacant for any reason, the vacancies shall not be filled; but the duties of the offices shall, instead, pass to the persons designated in this Charter.

§ C-117. Continuation of ordinances.

All ordinances, resolutions, rules and regulations or portions thereof in force when this Charter takes effect and not in conflict herewith are hereby continued in force and effect until amended, repealed, superseded or expired by their own terms. All ordinances and resolutions in continued effect as of the effective date of this Charter shall be construed as if enacted under this Charter but as of the dates of their original enactment.

§ C-118. Election of seven-member Council.

In the municipal election of 1983, four Council members shall be elected at large for four-year terms. Total Council will then be 11. In the election of 1985, three Council members plus a Mayor will be elected at large for four-year terms. This will then bring the total Council to seven members, plus the Mayor, as the Charter envisions. Any vacancies occurring among those elected in 1981 or 1983 will not be filled unless the total number of seats falls below seven.

§ C-119. Salary.

The salary to be paid to Borough Council members under this Charter shall not become effective until the Council is reduced to seven members. When that number is reached, Council members may be paid the stipulated salary beginning the following January 1, but in no case later than January 1, 1986.

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ARTICLE XX
General Provisions

§ C-120. Severability.

It is the intention of the electors of the Borough that if this Charter cannot take effect in its entirety because of the judgment of any court of competent jurisdiction holding invalid any part or parts hereof, the remaining provisions of the Charter shall be given full force and effect as completely as if the part or parts held invalid have not been included herein.

§ C-121. Charter amendment.

Amendments to this Charter may be proposed and adopted in accordance with the provisions of the laws of the Commonwealth of Pennsylvania governing home rule charters.

§ C-122. Effective date.

The Charter shall become effective and shall be deemed operative on the first Monday of January of the year following the year of its approval by the electors of the Borough.

§ C-123. Nondiscrimination and equality of opportunity.

A. The use of the personal pronoun "he" in this charter is not to be construed as barring any female person from holding any office or performing any of the duties as herein mentioned if otherwise qualified.

B. The Borough of Tyrone offers equal opportunity to all qualified persons to hold any office or perform any of the duties herein set forth regardless of age (if less than retirement age), sex, race or personal religious belief.

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The Code

Administrative Legislation

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Chapter 1

GENERAL PROVISIONS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

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ARTICLE I
Adoption of Code
[Adopted 12-10-2012 by Ord. No. 1338]

§ 1-1. Approval, adoption and enactment of Code.

Pursuant to 53 P.S. § 1-101 et seq.,[2] and the Home Rule Charter of the Borough of Tyrone, the codification of a complete body of legislation for the Borough of Tyrone, County of Blair, Commonwealth of Pennsylvania, as revised, codified and consolidated into chapters, articles and sections by General Code, and consisting of Chapters 1 through 205, together with an Appendix, is hereby approved, adopted, ordained and enacted as a single ordinance of the Borough of Tyrone, which shall be known and is hereby designated as the "Code of the Borough of Tyrone," hereinafter referred to as the "Code."

§ 1-2. Effect of Code on previous provisions.

The provisions of this Code, insofar as they are substantively the same as those of ordinances and resolutions in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Borough Council of the Borough of Tyrone, and it is the intention of said Borough Council that each such provision contained within the Code is hereby reenacted and reaffirmed as it appears in said Code. Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below, and only changed provisions, as described in § 1-6 below, shall be deemed to be enacted as of the adoption and publication of this ordinance, as provided in § C-33 of the Home Rule Charter.

§ 1-3. Inconsistent ordinances repealed.

Except as provided in § 1-4, Ordinances saved from repeal; matters not affected by repeal, below, all ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed as of the adoption and publication of this ordinance as set forth in § C-33 of the Home Rule Charter; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Borough of Tyrone which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

§ 1-4. Ordinances saved from repeal; matters not affected by repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-3 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal; provided, however, that the repeal of ordinances pursuant to § 1-3 or the saving from repeal of ordinances pursuant to this section shall not be construed so as to revive any ordinance previously repealed, superseded or no longer of any effect:

A. Any ordinance adopted subsequent to December 12, 2011.

B. Any right or liability established, accrued or incurred under any legislative provision of the Borough prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.

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2. Editor's Note: See now 53 Pa.C.S.A. § 2901 et seq.

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C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the Borough or any penalty, punishment or forfeiture which may result therefrom.

D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance, brought pursuant to any legislative provision of the Borough.

E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Borough or any lawful contract, obligation or agreement.

F. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Borough or other instruments or evidence of the Borough's indebtedness.

G. Any ordinance adopting an annual budget or establishing an annual tax rate.

H. Any ordinance providing for the levy, imposition or collection of special taxes, assessments or charges.

I. Any ordinance authorizing the purchase, sale, lease or transfer of property or acquiring property by acceptance of deed, condemnation or exercise of eminent domain.

J. Any ordinance annexing land to the Borough.

K. Any ordinance providing for or requiring the construction or reconstruction or opening of sidewalks, curbs and gutters.

L. Any ordinance or part of an ordinance providing for laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, sidewalk, park or other public place or property or designating various streets as public highways.

M. Any ordinance establishing water, sewer or other special purpose districts and designating the boundaries thereof; providing for a system of sewers or water supply lines; or providing for the construction, extension, dedication, acceptance or abandonment of any part of a system of sewers or water supply lines.

N. Any ordinance providing for the making of public improvements.

O. Any ordinance providing for the salaries and compensation of officers and employees of the Borough or setting the bond of any officer or employee.

P. Any ordinance concerning changes and amendments to the Zoning Map.

Q. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.

R. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the Borough.

S. Any legislation relating to garbage hauler rates.

T. Any legislation relating to Borough personnel policies.

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§ 1-5. Inclusion of new legislation prior to adoption of Code.

All ordinances of a general and permanent nature adopted subsequent to the date given in § 1-4A and/or prior to the date of adoption of this ordinance are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such ordinances shall be temporarily placed in the Code until printed supplements are included.

§ 1-6. Changes and revisions in previously adopted ordinances.

A. Nonsubstantive grammatical changes. In compiling and preparing the ordinances and resolutions of the Borough for adoption and revision as part of the Code, certain nonsubstantive grammatical and style changes were made in one or more of said ordinances. It is the intention of the Borough Council that all such changes be adopted as part of the Code as if the ordinances and resolutions so changed had been previously formally amended to read as such.

B. Substantive changes and revisions. In addition to the changes and revisions described above, changes and revisions of a substantive nature, as set forth in Schedule A[3] attached hereto and made a part hereof, are hereby made to various ordinances and resolutions included in the Code. These changes are enacted to bring provisions into conformity with the desired policies of the Borough Council, and it is the intent of the Borough Council that all such changes be adopted as part of the Code as if the ordinances and resolutions so changed had been previously formally amended to read as such. All such changes and revisions shall be deemed to be in effect as of the adoption and publication of this ordinance, as set forth in § C-33 of the Home Rule Charter.

C. Nomenclature. Throughout the Code, references to the following agencies or officials are updated as indicated:

(1) "Department of Environmental Resources" or "DER" to "Department of Environmental Protection" or "DEP."

(2) "Department of Community Affairs" or "DCA" to "Department of Community and Economic Development" or "DCED."

(3) "Justice of the Peace," "District Magistrate" and "District Justice" to "Magisterial District Judge."

(4) "Soil Conservation Service" or "SCS" to "Natural Resources Conservation Service" or "NRCS."

(5) "Burgess" to "Mayor."

(6) "Building Permit Officer" and "Building Inspector" to "Code Enforcement Officer."

(7) "Dog Control Officer" to "Animal Control Officer."

(8) In Chapter 165, Skateboards, "pedacycle" to "pedalcycle."

(9) In Chapter 172, Streets and Sidewalks, "Public Works Supervisor" to "Superintendent of Streets and Highways."

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3. Editor's Note: In accordance with § 1-6B, the chapters, parts and sections that were added, amended, adopted or repealed by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, repealed) 12-10-2012 by Ord. No. 1338." Schedule A, which contains a complete description of all changes, is on file in the Borough offices.

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§ 1-7. Interpretation of provisions.

In interpreting and applying the provisions of the Code, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of the Code impose greater restrictions or requirements than those of any statute, other ordinance, resolution or regulation, the provisions of the Code shall control. Where the provisions of any statute, other ordinance, resolution or regulation impose greater restrictions or requirements, the provisions of such statute, other ordinance, resolution or regulation shall control.

§ 1-8. Titles and headings; editor's notes.

A. Chapter and article titles, headings and titles of sections and other divisions in the Code or in supplements made to the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to other parts of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

§ 1-9. Filing of copy of Code.

At least one copy of the Code in a post-bound volume shall be filed with the Ordinance Book in the office of the Borough Secretary and shall remain there for use and examination by the public. Upon adoption, such copy or copies shall be certified to by the Borough Secretary, as provided by law, and such certified copy or copies shall remain on file in the office of the Borough Secretary, available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-10. Amendments to Code.

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

§ 1-11. Code books to be kept up-to-date.

It shall be the duty of the Borough Secretary or someone authorized and directed by him or her to keep up-to-date the certified copy or copies of the book containing the Code required to be filed in the office of the Borough Secretary for the use of the public. All changes in said Code and all ordinances and resolutions adopted by the Borough Council subsequent to the effective date of this codification which the Borough Council shall adopt specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances or resolutions are printed as supplements to said Code books, at which time such supplements shall be inserted therein.

§ 1-12. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, or to alter or tamper with the Code, or any part or portion thereof, in any manner whatsoever which will cause the law of the Borough to be misrepresented thereby. Anyone violating this section of this ordinance shall, upon

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conviction thereof, be punished by a fine not exceeding $600, plus costs of prosecution, and, in default of payment thereof, by imprisonment for a term not exceeding 30 days.

§ 1-13. Severability.

The provisions of this ordinance and of the Code adopted hereby are severable, and if any clause, sentence, subsection, section, article, chapter or part thereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation and application to the clause, sentence, subsection, section, article, chapter or part thereof rendered illegal, invalid or unconstitutional. It is hereby declared to be the intent of the Borough Council that this ordinance and the Code would have been adopted if such illegal, invalid or unconstitutional clause, sentence, subsection, section, article, chapter or part thereof had not been included therein.

§ 1-14. When effective.

This ordinance shall become effective upon publication in accordance with § C-33 of the Home Rule Charter.

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Chapter 3

ADMINISTRATION OF GOVERNMENT

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 6-8-1992 by Ord. No. 1029. Amendments noted where applicable.]

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ARTICLE I
Short Title and Definitions

§ 3-1. Short title.

This chapter shall be known and may be cited as the "Administrative Code of the Borough of Tyrone, 1992."

§ 3-2. Definitions.

The following words, when used in this chapter, shall, unless the context clearly indicates otherwise, mean or indicate as follows:

ADMINISTRATIVE MANUAL — Those documents specifying operational matters of municipal units, including but not necessarily limited to descriptions of the duties and responsibilities of subordinate units, rules and regulations and appropriate administrative procedures, records and reports.

ADMINISTRATIVE SERVICE — All personnel in those units of the municipality which are under the authority of the Chief Operating Officer.

CHARTER — The Home Rule Charter of the Borough of Tyrone, Pennsylvania.

CHIEF EXECUTIVE OFFICER — The Mayor of the Borough of Tyrone, Pennsylvania.

CHIEF OPERATING OFFICER or CHIEF ADMINISTRATIVE OFFICER — The Borough Manager of the Borough of Tyrone, Pennsylvania.

COUNCIL — The Municipal Council of the Borough of Tyrone, Pennsylvania.

LAW — All applicable laws of the United States of America and the Commonwealth of Pennsylvania.

MUNICIPALITY — The Borough of Tyrone, Pennsylvania.

ORDINANCE — All ordinances of the municipality, including this Administrative Code.

PERSON — Any individual, partnership, association or corporation.

PUBLISH — To print in a newspaper of general circulation in the Borough the entire document or a brief summary thereof with a listing of places where copies have been filed and times when they are available for inspection.

RESIDENCE — An abode in which an officer or employee permanently resides with the family.

UNIT — All governmental entities of the municipality.

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ARTICLE II
Council Organization and Procedure

§ 3-3. Charter provisions applicable.

The number of Council members, their terms, election and qualifications and the filling of the Council vacancies shall be as provided in the Charter.

§ 3-4. Organizational meeting; presiding officer.

A. The day, time and place of the organization meeting of the Council shall be as provided in the Charter.

B. The first order of business shall be the election of a Vice President of the Council and such other officers required by the Charter or as the Council may deem appropriate.

C. In the absence of the President, the Vice President shall exercise the duties of the President. In the absence of both the President and the Vice President at any meeting, the Council shall appoint a President Pro Tem who shall have all the powers of the President for that meeting.

§ 3-5. Council meetings.

A. Public notice. Provisions governing public notice of meetings shall be as provided by the Charter.

B. Regular meetings. It shall be the duty of the Council to meet statedly at least once a month at 7:30 p.m. on the second Monday of each month at the municipal building or at such other time and place as the Council may, from time to time, designate.

C. Special meetings. Special meetings may be called by the President of the Council at any time, and a meeting must be called upon the written request of at least three members of the Council. A written or telephone notice shall be delivered to each Council member at least 24 hours before a special meeting is held. Such notice shall specify the time and place of the special meeting and the business to be transacted.

D. Emergency meetings. The Council may hold and take action at an emergency meeting at any time. Such emergency meetings may be called by the Mayor, Borough Manager or by any member of Council, provided that a quorum five is present, as provided in the Charter, and that a majority of the Council five determines that the holding of such meeting and the taking of emergency action at that time is necessary to protect or promote the public health and safety.

E. Executive sessions. The Council may hold executive sessions, as permitted by § C-19 of the Charter. Executive sessions will always be in conjunction with a regular, special or emergency meeting. No official action shall be taken by the Council on any matter in executive session.

F. Workshops. The President of the Council or Borough Manager may call a workshop at any time to provide information or to review draft plans, ordinance codes, etc. No official action can be taken at these sessions.

G. Special provisions. At any regular, adjourned or special meeting of the Council at which a quorum is not present, those members present shall instruct the Borough Manager to notify, in writing, those members absent from said meeting and not previously excused of the time and place of the next scheduled meeting of the Council. Any member absent from said next scheduled meeting shall, unless excused by resolution enacted by those present, pay to the municipality the sum of $75, which shall be collected by the Borough by deduction from the next salary payment to said absent member. The

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Borough Manager shall notify the Payroll Section of such absence and instruct the Clerk to make such deduction.

§ 3-6. Meetings to be public.

All meetings of the Council shall be open to the public as provided by law.

§ 3-7. Agenda for meetings.

A. The proposed agenda for any meeting of the Council shall be prepared by the Borough Manager in consultation with the President.

B. The proposed agenda for any stated meeting shall be forwarded to all members of the Council and be available to the public at least 24 hours prior to the stated monthly meeting. In addition, the agenda for the stated monthly meetings, adjourned monthly meetings, special meetings and, where possible, emergency meetings shall be posted in the municipal building.

C. The title of any ordinance or resolution to be considered shall be published as part of the agenda.

D. The published agenda may be amended at the meeting by a majority of the members present, plus one. No matters other than those on the agenda as amended shall be acted upon by the Council.

E. Supporting materials, including the full text of any ordinances or resolutions to be considered, will be provided to members of the Council and will be available in the office of the Borough Manager to the public. The materials are to be available at least 24 hours prior to the regular meeting, and upon request, copies can be reproduced at a reasonable fee.

§ 3-8. Conduct of business.

A. At the time appointed for any meeting of the Council, the President shall take the Chair and call the meeting to order. If a quorum is present, as provided in the Charter, the President shall proceed with the order of business prescribed for the meeting. If, upon the call of the roll, a quorum is not present, the President shall order a recess for a period of 30 minutes, and if a quorum has not developed by that time, the President shall declare the meeting adjourned.

B. Unless a majority of the Council votes otherwise, the order of business for each regular meeting shall be as follows:

(1) Call to order.

(2) Roll call.

(3) Approval of the minutes of the previous meeting.

(4) Reports of municipal officials, committees or special advisory groups.

(5) Unfinished business.

(6) New business.

(7) Public participation.

(8) Adjournment.

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C. If the Mayor or the Borough Manager shall request to address the Council, this shall be permitted immediately following the approval of the minutes of the previous meeting. If a delegation of residents has given due notice, the President of the Council may invite them to present their business to the Council immediately following the roll call or the approval of the minutes. If there is an item of obvious controversy or of wide public concern that has brought an overflow crowd to the meeting, the presiding officer has the authority to enter that item as the first item of new business (or unfinished business) on the agenda.

§ 3-9. Rules of procedure.

A. The presiding officer shall be responsible for the orderly conduct of business at each Council meeting and shall preserve order and decorum at such meetings.

B. The Council, at its organization meeting, shall adopt rules governing its procedure. The presiding officer shall announce all decisions of the Council and shall decide all questions of order without debate; subject, however, to an appeal by any Council member. Any ruling by the presiding officer may be overruled by a majority of the members present.

C. Every member of the Council desiring to speak shall address the Chair and, upon recognition by the presiding officer, shall confine remarks to the question under debate, avoiding all indecorous language or reference to personalities. A member of the Council, once recognized, shall not be interrupted when speaking, unless it be for the purpose of calling such person to order. If a member of the Council, while speaking, is called to order, that person shall cease speaking until the question of order is determined. When two or more members request the floor at the same time, the presiding officer shall name that one entitled to the floor.

D. The roll of members shall be called by rotating the order, except that the President shall be called last.

E. No member of Council shall speak more than 10 minutes upon the same motion in the same meeting nor for more than five minutes at a time without the consent of the majority of the Council members present.

§ 3-10. Public participation.

A. Residents of the Borough of Tyrone desiring to place an item on the agenda at its stated meetings may do so by providing written notice to the Borough Manager on the subject matter to be discussed at least three days prior to the day of the meeting.

B. A resident shall be provided the opportunity to address the Council on any agenda item without written notice. The presiding officer shall limit the time each person shall speak, giving equal time to all. Such discussion shall occur prior to the vote on the agenda item.

C. When a group or person wishes to address the Council on the same subject matter, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Council and to limit the number of persons addressing the Council on the same matter so as to avoid unnecessary repetition.

D. Any citizen may provide comments to the Council during the allotted public participation segment of the meeting.

E. Any person who makes offensive, insulting, threatening, insolent, slanderous or obscene remarks or who becomes boisterous or who makes threats against any person or against public order and security

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while in the Council chamber shall be forthwith barred by the presiding officer from further audience at the meeting, unless permission to continue is granted by the majority vote of the Council members present.

§ 3-11. Council committees.

The Council may, at any time, provide for standing and ad hoc committees to assist with the carrying out of its function. The presiding officer shall appoint the Chairperson for each such committee. Each committee so designated by the Council shall provide for written rules governing its procedure. Any such committee appointed by the Council shall, thereafter, report to the Council at the regular stated meetings of that body.

§ 3-12. Official actions.

Official actions of the Council shall be taken by ordinance, resolution or motion, as provided in the Charter.

§ 3-13. Ordinances.

A. Action requiring an ordinance. Each of the 14 requirements provided in § C-25 of the Charter shall be by ordinance.

B. Ordinance form and procedure.

(1) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause of all ordinances shall be: "The Borough of Tyrone hereby ordains:." Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance, sections or subsections to be repealed or amended and shall indicate matter to be omitted by enclosing it in brackets or by strike-out type and shall indicate new matter by underscoring or by italics.

(2) An ordinance may be introduced by any member of the Council at any stated monthly or special meeting of the Council. Upon introduction of any ordinance, a copy shall be distributed to each Council member and to the Borough Manager, and a reasonable number of copies shall be filed in such other public places as the Council may designate.

C. Ordinance requiring prior public notice and hearing. No final action shall be taken on the types of ordinances and amendments set forth in § C-29 of the Charter without public hearing thereon and at least 14 days' published public notice.

D. Copies of ordinances. Copies of ordinances shall be available to all persons requesting them upon payment of a reasonable reproduction charge.

E. Emergency ordinances shall be as prescribed in § C-36 of the Charter.

F. Codes of technical regulations shall be as prescribed in § C-37 of the Charter.

G. Veto; authentication and recording.

(1) Veto. The Mayor may veto any ordinance passed by Council. To override a veto, the Council must have a 2/3 majority [five votes].

(2) Authentication. Ordinances duly approved and signed by the President of the Council shall be attested to by the Borough Manager.

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(3) Recording. Recording and indexing all ordinances and resolutions adopted by the Council shall be in accordance with § C-34 of the Charter.

§ 3-14. Independent audit.

A. The Council shall provide for an independent postaudit as provided for in § C-89 of the Charter. The Council may designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no longer than 30 days after the beginning of such fiscal year.

B. The Council shall, within 45 days after presentation of the audit at a Council meeting, publish a statement setting forth the municipality's financial condition and the date the independent auditor's report was filed with the Council.

§ 3-15. Compensation and expenses.

Provisions as to salary and expense reimbursement shall be as provided in the Charter and by ordinance. Members of the Council shall receive no other compensation, direct or indirect, for the performance of their duties. However, nothing in this section shall preclude the right of the municipality to provide accident or liability insurance coverage for members of the Council when on municipal business or when in the performance of their official duties, limited to the duration of their term. Members of the Council shall be entitled to reimbursement for actual expenses incurred, provided that the expenditure:

A. Is related to the performance of official duties;

B. Was authorized in advance by the Council at a public meeting; and/or

C. Is included in an itemized list presented prior to payment.

§ 3-16. Council staff.

The appointment, supervision, tenure and duties of the Borough Manager shall be as provided in the Charter and/or an appropriate employment agreement. Under special circumstances, to be determined by resolution, the Council may employ the services of legal counsel and such other staff as it deems appropriate.

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ARTICLE III
Chief Executive Officer

§ 3-17. Designation; powers and duties.

The Mayor, as head of government, shall be the Chief Executive Officer of the Borough and shall have those powers and duties prescribed by law, the Charter and by ordinance, including the power and duty to supervise and evaluate the Chief Operating Officer.

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ARTICLE IV
Chief Operating Officer

§ 3-18. Powers and duties.

The Borough Manager shall be the Chief Operating Officer (or Chief Administrative Officer) of the Borough and shall have those powers and duties prescribed by law, the Charter and by ordinance, including the power and duty to:

A. Authorize a department head or other officer responsible to the Borough Manager to appoint and remove subordinates serving under that department head or officer.

B. Designate an officer or employee to perform the duties of any office or position in the administrative service under the control of the Borough Manager which is vacant or which lacks administration due to the absence or disability of the incumbent.

C. Prescribe such rules and regulations as shall be deemed necessary or expedient for the conduct and operation of administrative departments and to revoke, suspend or amend any rule or regulation of the administrative service by whomever prescribed, unless contained in an ordinance or resolution adopted by the Council.

D. Investigate or inquire, either personally or through a person designated by the Borough Manager, into the operations of any department and, subject to the approval and authorization of the Council, to employ consultants and professional counsel to aid in such investigations or inquiries.

E. Overrule or set aside any action taken by a department head and to assume the duties of that department.

F. Establish committees within the administrative service and to appoint officers and employees as shall be necessary for the purpose of considering and resolving administrative problems.

G. Assign any employee of the administrative service to any department requiring the services of that employee; provided, however, that such assignment is appropriate to and consistent with the personnel system's classification of the employee and applicable personnel rule and regulations.

H. Appoint, within the limits of the annual budget, administrative and secretarial personnel to assist in the performance of the duties of the office.

I. Authorize payments of Borough monies through electronic funds transfers for the payments of Borough expenditures. In the event that the Borough Manager is unavailable, such transfers may be authorized by the Mayor or a designated member of Borough Council. **[Added 8-12-2019 by Ord. No. 1432]**

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ARTICLE V
Borough Solicitor

§ 3-19. Function.

The Borough Solicitor shall be responsible for advising the Council, its committees and the Borough Manager upon all legal questions arising in the conduct of municipal business.

§ 3-20. Duties.

Requests for Borough Solicitor services by individual Council or staff members must be submitted through the Borough Manager. The duties of the Solicitor shall be as prescribed in Article IX of the Charter and include the following:

A. Prepare and revise ordinances or resolutions when so requested by the Borough Manager, the Council or any committee thereof.

B. Provide legal opinions upon any legal matter or question submitted by the Council, its committees or the Borough Manager.

C. Attend all Council meetings.

D. Litigate all legal actions and claims brought by or against the municipality, except in those cases in which other legal counsel is retained.

E. Approve for legality all contracts, agreements or other legal documents executed by authorized municipal officials.

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ARTICLE VI
Borough Engineer

§ 3-21. Function.

The Council may appoint, based on a recommendation of the Borough Manager, a Borough Engineer. The Engineer would be responsible for advising the Council and Borough Manager upon all engineering matters rising in the conduct of municipal business.

§ 3-22. Applicable Charter provisions; requests for service.

In acquiring the services of an Engineer, the provisions of Article X of the Charter apply. All requests for Engineer services must be approved by the Borough Manager.

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ARTICLE VII
Departmental Organization

§ 3-23. Administrative organization.

The administrative service of the Borough shall be under the Borough Manager and organized as depicted on the chart at Figure 1,[4] comprising the following departments and heads thereof:

A. Department of Administration, Director. **[Amended 5-10-2004 by Ord. No. 1210; 5-13-2013 by Ord. No. 1342]**

B. Department of Police, Chief.

C. Department of Highways, Superintendent.

D. Department of Water, Superintendent.

E. Department of Waste Management, Superintendent.

F. Such other departments and heads as may be created by amendments to this chapter.

§ 3-24. Department heads.

All department heads, except the Chief of Police, shall be appointed by the Borough Manager's pleasure. The Chief of Police will be appointed by the Council based on the Borough Manager's recommendation. Department heads shall be chosen solely on the basis of executive, administrative and technical qualifications as are pertinent to the function, duties and operation of their respective departments and as are prescribed by law.

§ 3-25. Duties of department heads.

Department heads, under the direction of the Borough Manager, shall:

A. Direct, personally and through subordinates, the performance of all functions, duties and operations assigned to and required of the department and its subordinate units by law, the Charter or by ordinance and such other activities as may be required by the Borough Manager which are not in conflict with the law, the Charter or ordinance.

B. Develop and prescribe the internal organization of the department and its subordinate units, subject to the approval of the Borough Manager and in accordance with applicable provisions of the law, the Charter or ordinance.

C. Assign duties and responsibilities to subordinate employees within the department and modify those assignments consistent with and in response to the changing exigencies of service, subject to the approval of the Borough Manager.

D. Develop and prescribe, in written form, procedures for the department, subject to the approval of the Borough Manager.

E. Prepare and submit departmental budget requests in accordance with schedules, forms and policies, as prescribed by the Borough Manager.

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4. Editor's Note: Figure 1 is on file in the Borough offices.

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F. Prepare and submit reports prescribed by the Borough Manager.

G. Cooperate with and furnish to any department or unit of the Borough any information, service, labor, material and equipment that may be necessary to perform a municipal function.

H. Be aware of and coordinate the activities of the department with appropriate area-wide, regional and intergovernmental programs and make analyses and recommendations regarding such activities and policies when appropriate.

I. Administer and evaluate intergovernmental contracts and agreements as these relate to departmental functions.

J. Develop and maintain internal administrative and budgetary controls and productivity and performance standards to assure maximum levels of quality and quantity of service within budgetary limitations.

K. Keep abreast of developments in administrative policies, management techniques and technological advances and make recommendations concerning administrative regulations for the utilization of those policies, techniques and technologies deemed to be in the best interests of the department and the municipality.

L. Keep abreast of all laws and municipal ordinances and administrative regulations relating to the functions of the department.

M. Serve as a member of any committee or as a staff officer or provide staff services to any authority, board or commission to which the department head may be assigned by the Borough Manager.

N. Develop and implement appropriate training and education programs for the department.

O. Establish and enforce rules and regulations for the use of municipal facilities and services and issue such licenses and permits as may be required by ordinance.

P. Develop and recommend to the Borough Manager rate structures for those services for which user fees are charged.

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ARTICLE VIII
Department of Administration
[Added 5-13-2013 by Ord. No. 1342[5]]

§ 3-26. Function.

The Department of Administration shall be responsible for performing staff functions for the Borough Manager and assisting departments and other units of the municipality in carrying out their duties.

§ 3-27. Department head.

The Department of Administration shall be headed by a Director who shall be responsible to Borough Manager for the performance of the said Department.

§ 3-28. Duties.

The duties of the Director shall be to:

A. Provide assistance, as directed by the Manager of the Borough, to administer the personnel system of the municipality, subject to the provisions of law, the Charter or ordinance, including such matters as:

   (1) Recruiting and recommending selection of persons for municipal employment.

   (2) Developing and maintaining the position classification and pay plans.

   (3) Participating in and administering labor relations programs, including conducting contract negotiations, contract administration and related programs.

   (4) Developing and maintaining personnel rules and regulations.

   (5) Assisting departments in developing and conducting employee training and development programs.

   (6) Assisting departments in preparing personnel planning programs.

   (7) Developing and maintaining records reflecting all aspects of the service of municipal employees.

B. Provide assistance to the Borough Manager in the development of operating budgets, long-term fiscal programs, related budgetary and administrative analyses and short- and long-range planning, including:

   (1) Developing a budget calendar, forms and procedures, subject to the provisions of law, the Charter or ordinance.

   (2) Participating in budget analyses relative to budget requests, budget amendments and budget allocations.

   (3) Maintaining budget expenditure control during the course of the fiscal year and keeping the Borough Manager informed on the progress and developments of plans, policies and programs as they relate to the budget.

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5. Editor's Note: This ordinance also repealed former Art. VIII, Department of Finance, as amended.

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(4) Reviewing, analyzing and recommending improvements in the organization and procedures throughout the municipality.

(5) Assisting departments and other units of the municipality in all administrative matters and in providing administrative support, such as billing, secretarial support and budgeting.

(6) Performing such research, studies, analyses and required grant management as the Borough Manager may direct.

(7) Providing direction, technical assistance and support to the Planning Commission.

(8) Maintaining an administrative reference library, a public relations program, computer services and records management for all units of the municipal government.

C. Administer the financial activities pertaining to the receipt, expenditure, accounting, investment, custody and control of municipal funds and assets, including the following:

(1) Collecting and receiving all taxes and other moneys due or receivable by the municipality and implement and supervise any necessary systems to facilitate the receipt of such payments through electronic fund transfer. **[Amended 8-12-2019 by Ord. No. 1432]**

(2) Maintaining a uniform accounting system in accordance with generally accepted principles of governmental accounting.

(3) Disbursing all payments for authorized expenditures.

(4) Depositing moneys in the depositories, as authorized by ordinance.

(5) Providing for the prudent investment of moneys.

(6) Providing custody of fidelity bonds of officers and employees, except his or her own, which shall be in the custody of the Borough Manager, and providing custody of all deeds, mortgages, contracts, judgments, notes, debts, securities, bonds, insurance policies and other forms of negotiable instruments owned by the municipality.

(7) Supervising the lease, rental, sale or other use of property not used by other municipal units.

(8) Administering the purchasing system subject to the provisions of the law, the Charter or ordinance, including such matters as:

(a) Preparing and evaluating standards and specifications for materials, services and equipment.

(b) Purchasing materials, services and equipment for the municipality.

(c) Maintaining an inventory control system for all real and personal property.

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ARTICLE IX
Department of Police

§ 3-29. Function.

The Department of Police shall be responsible for the protection of persons and property within the municipality against crime. (See also Article XIII, Home Rule Charter.)

§ 3-30. Department head; duties.

The duties of the Chief shall be to:

A. Prevent crimes against persons and property.

B. Enforce all criminal laws and ordinances.

C. Detect and apprehend offenders and suspected persons.

D. Maintain records and files of crimes and criminals.

E. Operate facilities for the safekeeping of prisoners.

F. Develop and conduct community relations and education programs.

G. Operate and maintain the police radio and other municipal radio and emergency communication systems.

H. Maintain records and logs relating to radio and emergency communication systems as are required by law.

I. Direct and supervise the activities of the Code Enforcement Officer who will be responsible for:

(1) Enforcing zoning, subdivision, building, electrical, heating, plumbing, housing, demolition and such other related structural and land use codes as may be enacted by law or ordinance.

(2) Conducting all health and sanitation inspections and ensuring enforcement of all health, sanitation and safety ordinances.

(3) Issuing such licenses and permits as may be required by law or ordinance.

(4) Serving as staff person to the Zoning Hearing Board.

(5) Directing and supervising the activities of the Animal Control Officer.

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ARTICLE X
Department of Highways

§ 3-31. Function.

The Highway Department shall be responsible for the design, construction, operation and maintenance of those physical structures, highways and facilities (except water and sewer plants) that are owned and maintained by the municipality to house governmental functions and to provide transportation and similar operations and services.

§ 3-32. Department head; duties.

The duties of the Superintendent shall be to:

A. Construct and maintain the streets, bridges, curbs and gutters of the municipality, including the provision of street cleaning, snow removal and ice control services.

B. Construct and maintain storm sewer structures and facilities.

C. Install and maintain traffic control devices and directional signs and signals, street name signs and parking meters.

D. Plant and maintain trees and other vegetation along municipal rights-of-way and other property of the municipality.

E. Provide for inspection and related procedures to assure proper maintenance and repair of sidewalks in accordance with municipal ordinances.

F. Repair and maintain all municipal vehicles, except those vehicles whose repair and maintenance is specifically provided for elsewhere in this chapter.

G. Plan, develop, design and administer, in cooperation with other appropriate municipal departments, municipal park and recreation facilities owned, acquired or designated by the municipality.

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ARTICLE XI
Department of Water

§ 3-33. Function.

The Water Department shall be responsible for the design, construction, operation and maintenance of a water system to serve industrial, commercial and residential users of the municipality.

§ 3-34. Department head.

The Water Department shall be headed by a Superintendent who shall be responsible to the Borough Manager for the performance of the function of the Department.

§ 3-35. Duties of department head.

The duties of the Superintendent shall be to:

A. Construct, operate and maintain the reservoir and the purification plant and equipment.

B. Install, repair and replace all water mains and service lines.

C. Operate a complete water meter program, including repair, replacement, installation and reading of meters; also to collect delinquent bills and to terminate customer service as needed.

D. Manage the watershed and to conduct timbering operations on all municipality-owned forest lands.

E. Maintain the community swimming pool, to include startup, closedown and ongoing summer maintenance.

F. Mow grass at the reservoir, the diversion dam and other in-town areas.

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ARTICLE XII
Department of Waste Management

§ 3-36. Function. [Amended 5-10-2004 by Ord. No. 1210]

The Waste Management Department shall be responsible for the design, construction, operation and maintenance of the wastewater system for all designated users and for the management of the pretreatment program.

§ 3-37. Department head.

The Waste Management Department shall be headed by a Superintendent, who shall be responsible to the Borough Manager for the performance of the function of the Department.

§ 3-38. Duties of department head.

The duties of the Superintendent shall be to:

A. Construct, operate and maintain public wastewater collection, treatment and disposal structures, facilities and appurtenances and to maintain an EPA-approved pretreatment program.[6]

6. Editor's Note: Former Subsection B, regarding managing the muncipalities solid waste management program, was repealed 5-10-2004 by Ord. No. 1210.

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ARTICLE XIII
Boards and Commissions

§ 3-39. Creation.

A. The following boards and commissions are hereby created: **[Amended 10-10-1994 by Ord. No. 1070]**

(1) The Pension Board.

(2) The Zoning Hearing Board.[7]

(3) The Civil Service Commission.

B. Except where otherwise provided by law, the Charter or ordinance, all boards and commissions shall be advisory in nature and perform no administrative function.

§ 3-40. Membership.

A. The appointment of members of all boards and commissions shall be as provided in the Charter.

B. A member of any board or commission may be removed by the appointing authority for cause.

C. All boards and commissions shall consist of three to five members with terms of membership of four years in duration or as otherwise provided for in law, the Charter or ordinance.

D. The terms of no more than a simple majority of the membership shall expire during the same calendar year.

E. Any vacancy on a board or commission shall be filled by the appointing authority for the remainder of the unexpired term. Such members shall be appointed within 60 days from the date that the vacancy occurs.

F. The members of any board or commission shall serve without compensation, except as otherwise provided by law, the Charter or ordinance. Members may be reimbursed for any reasonable expenses incurred in the performance of their duties.

G. All members of boards and commissions shall be residents of the municipality.

§ 3-41. Organization.

A. Each board and commission shall provide for rules and regulations governing its operation. Such rules and regulations shall provide for the keeping of records pertaining to its duties, for the conduct of meetings and public hearings and for a periodic reporting to the residents of the municipality and the Borough Manager.

B. The Borough Manager shall attach each board or commission to an appropriate unit of the administrative service for necessary staff, liaison and administrative assistance.

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7. Editor's Note: Former Subsection A(2), The Planning Commission, was repealed 5-10-2004 by Ord. No. 1210.

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ARTICLE XIV
Pension Board

§ 3-42. Function.

The Pension Board shall be responsible for the administration of the municipal pension system and serve as the Trustee of the Pension Fund with exclusive control and management thereof.

§ 3-43. Membership and term. [Amended 5-10-2004 by Ord. No. 1210; 5-13-2013 by Ord. No. 1342]

The Pension Board shall consist of four municipal employees, each elected for a three-year term by all municipal employees participating in the pension system, one member of the Council, the Director of the Department of Administration and the Borough Manager. The Council shall determine the terms and method of election of the municipal employee members of the Pension Board.

§ 3-44. Duties.

The duties of the Pension Board shall be to:

A. Invest moneys of the pension system subject to the terms, conditions, limitations and restrictions provided by law for investments of trust funds by fiduciaries of Pennsylvania.

B. Keep records, file returns and make reports in accordance with 1972 P.L. 1383, No. 293.[8]

C. Execute and fulfill all duties and responsibilities vested in the Pension Board by law or by ordinance governing the pension system.

D. Make available to participants of the pension system records as may pertain to their individual accounts.

E. Act in accordance with all determinations or allocations made by the actuary of the pension system.

F. Review the periodic valuation report of the pension system prepared by the actuary and forward said report, with any recommendations concerning the status of the system, to the Chief Executive Officer and the Council.

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8. Editor's Note: See 53 P.S. § 730.1.

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ARTICLE XV
through XV. (Reserved)[9]

§ 3-45. through § 3-46. (Reserved)

9. Editor's Note: Former Art. XV, Planning Commission, which consisted of §§ 3-45, Function and 3-46, Duties, was repealed 5-10-2004 by Ord. No. 1210.

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ARTICLE XVI
Zoning Hearing Board

§ 3-47. Function.

The Zoning Hearing Board shall be responsible for hearing appeals on rulings by the Code Enforcement Officer.

§ 3-48. Duties.

The Zoning Hearing Board shall perform those duties prescribed by law, including the duties to:

A. Conduct hearings and to render decisions on appeals from the Code Enforcement Officer.

B. Hear challenges to the validity of any ordinance or map.

C. Hear requests for variances and to render decisions thereon, attaching such reasonable conditions and safeguards as it may deem necessary to implement the purposes of law, the Charter or ordinance.

D. Hear and decide upon requests for special exceptions pursuant to criteria and standards adopted by the Council.

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ARTICLE XVII
Board of Health

§ 3-49. (Reserved)[10]

§ 3-50. (Reserved)[11]

10. Editor's Note: Former § 3-49, Function, was repealed 10-10-1994 by Ord. No. 1070.

11. Editor's Note: Former § 3-50, Membership and term, was repealed 10-10-1994 by Ord. No. 1070.

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ARTICLE XVIII
Civil Service Commission

§ 3-51. Function.

The Civil Service Commission shall be responsible for:

A. Conducting civil service testing of all applicants for police office vacancies.

B. Interviewing the top 10 applicants and recommending the top three applicants to the Borough Manager.

C. Hearing appeals to disciplinary actions and dismissals of full-time police officers.

§ 3-52. Membership and term.

The Commission shall consist of three members, each appointed for a six-year term. The Commission shall adhere to the provisions of § C-79 of the Charter.

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ARTICLE XIX
Ad Hoc Boards and Commissions

§ 3-53. Creation.

The Council, Mayor and Borough Manager may appoint ad hoc boards or commissions to advise them on specific matters.

§ 3-54. Membership.

A. The term of membership on any ad hoc board or commission shall be for the duration of its existence.

B. Upon the completion of its responsibilities, any ad hoc board or commission shall dissolve, and the terms of its members may expire, unless the board or commission is recreated and its members reappointed for a period not to exceed three years.

C. The members of ad hoc boards or commissions need not be residents of the municipality.

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ARTICLE XX
General Provisions

§ 3-55. Oath of office.

All Council persons, the Borough Manager and the department heads, before commencing their official duties, shall take and sign an oath of office as shall, from time to time, be prescribed by law. Such oath shall be taken and signed before a Judge, Magisterial District Judge or notary public of the Commonwealth of Pennsylvania. This oath shall be filed in written form with the Municipal Clerk prior to assuming office.

§ 3-56. Code of Ethics.

A. All Council persons, the Borough Manager and the department heads in the administrative service, before commencing their official duties, shall affirm to a code of ethics as may be adopted by the municipality from time to time. The signed affirmation of such code of ethics by Council persons, the Borough Manager and the department heads shall be filed with the Administrative Secretary.

B. The code of ethics of the Borough of Tyrone shall read as follows:

"As an official of the Borough of Tyrone I believe:

(1) That the proper operation of a democratic government requires that officials be independent and impartial in their judgments and actions and government decisions and policies be made in the proper channels of the government structure, that office or position not be used for personal gain, and that the citizens have confidence in the integrity of their government and officials.

(2) That the realization of these ends is impaired wherever there exists or appears to exist an actual or potential conflict between the private interest of a municipal official and the duties of that official, and that the public interest requires ethical standards with respect to official duties.

(3) Therefore, as an official or department head of the municipality, I assert the solemn belief that the primary responsibility for maintaining a high level of ethics among municipal officials falls upon the elected officials and department heads in the administrative service.

(4) Consequently, as an official of the municipality, I believe it is my duty to:

(a) Respect the rule of law, the concepts of equal treatment for all, human dignity and ethical conduct in the performance of my duties.

(b) Represent and work for the common good of all the people of my municipality, and not for private interests."

§ 3-57. Disclosure of interests.

All elected officials of the municipality shall, on or before January 15 of every year during their terms of office, file a disclosure, as of January 1 of that year, with the Administrative Secretary, which shall be available for public inspection and shall contain the following information:

A. The names of all business or nonprofit corporations, associations, partnerships, joint ventures, estates, proprietorships, trusts, business activities and organizations, other than religious organizations:

(1) With which the official has any connection as an owner, officer, employee, consultant, contractor, creditor, shareholder, member, partner, joint venturer, trustee, beneficiary or

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participant.

(2) In which the official has any financial or property interest, in any form, whether a legal interest, equitable interest or otherwise.

(3) Stating, as to each name, the nature of the connection or interest.

B. A brief description of all legal and equitable interests of any degree in real property held by the officials.

C. A statement of the remaining amounts of any moneys and contributions related to the official's most recent nomination and election, by whom and how held.

D. The names of all creditors of the official and debts as to which the official is cosigner, surety or guarantor in excess of $1,000.

§ 3-58. Campaign contributions and expenses.

In connection with every election to municipal office, each candidate for nomination or election and every treasurer of a political committee or person acting as treasurer shall file with the Administrative Secretary a public preliminary account of receipts and expenses five days prior to the election. The preliminary account shall be in the same form and contain the same information as required by law to be filed following an election, except that the information shall be provided as of a time seven days prior to the election.

§ 3-59. Prohibited acts.

A. General.

(1) No candidate for election, appointment or promotion with respect to any municipal position shall directly or indirectly give or promise, render or pay any money or service or other valuable thing to any person for the purpose of influencing or obtaining the support, aid or vote for or in connection with the individual's election, appointment or promotion.

(2) No elected official or employee shall, in any manner, receive benefit from the profits or emoluments of any contract, job or service for the municipality or accept any service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally from any person dealing with the municipality.

(3) No elected official or employee shall solicit or receive any compensation, gratuity or other thing of value for any act done in the course of public service, except compensation for the position or employment held in the municipality.

(4) No elected official or employee shall compel another employee to contribute to any fund other than required by law or ordinance.

(5) No individual shall be appointed to or removed from or in any way favored or discriminated against with respect to any municipal employment or appointive office because of race, sex, political or religious opinions or affiliations.

(6) No individual shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of the municipality or, in any manner, commit any fraud preventing the impartial execution of such provisions.

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B. Elected officials. No elected official shall hold any other compensated position in the municipality or any other governmental unit, except as an officer or member of the Pennsylvania National Guard or branches of the Federal Military Reserve.

C. Employees. Employees are prohibited from engaging in partisan political activity during working hours and at all times in the municipal offices and facilities.

§ 3-60. Conviction of a crime.

Any person convicted of a felony or a crime or offense involving mortal turpitude shall for a period of two years be ineligible to assume any municipal elected office, position or employment and, upon conviction thereof while in office or employment shall forfeit such office or employment.

§ 3-61. Surcharges, unauthorized expenditures.

A. The amount of any balance or shortage or any expenditure of a fund, made in a manner prohibited or unauthorized by law, which causes financial loss to the municipality shall be a surcharge against any official or employee who, by malfeasance, misfeasance or nonfeasance, has permitted or approved such expenditure or shortage to occur.

B. Any shortage or illegal expenditure in any report filed by the independent auditor to the Council against any official or employee shall constitute a surcharge, and unless appeal is taken, the Council shall cause the same to be entered in the office of the Prothonatary of the County of Blair as a judgment against the one surcharged in favor of the municipality.

C. In those instances where the Council finds that the shortage or expenditure, as aforesaid, was not caused by malfeasance, misfeasance or nonfeasance of the official or employee responsible therefor but occurred despite the good faith of such person, the shortage shall not be entered as a surcharge but the Council shall issue a special report on the matter and shall hold a public hearing concerning the report within 60 days after public notice of the filing of the report.

D. It shall be lawful for the municipality or any resident thereof in its behalf or any official or employee whose account is settled or audited to appeal to the Court of Common Pleas of the County of Blair from settlement or audit, as shown on the report of the auditor to the Council, not later than 60 days after public notice of the filing of the report.

E. Judgments caused to be entered by the Council or by the Court after hearing on appeal shall be enforced by appropriate proceedings.

§ 3-62. Fidelity bonds.

A. The following municipal officials shall each, before entering upon the duties of their respective offices, give bond to the municipality, duly approved by the Borough Solicitor and conditioned upon the faithful performance and discharge of their respective duties and for proper application and payment of all money or property for which they are responsible by virtue of their offices, in the following amounts:

(1) Mayor: $1,500,000.

(2) Borough Manager: $1,500,000.

(3) Director, Department of Administration: $1,500,000. **[Amended 5-10-2004 by Ord. No. 1210; 5-13-2013 by Ord. No. 1342]**

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(4) Borough Solicitor: $1,000,000.

(5) Tax Collector: $600,000.

B. The Council shall prescribe bonds for other individuals for whom it deems that coverage is necessary.

C. The expense for fidelity bonds shall be borne by the municipality.

§ 3-63. Inquiries and investigations.

A. The Council and the Zoning Hearing Board shall each have the power to conduct inquiries and investigations in aid of the exercise of their powers and performance of their duties.

B. The Council and the Zoning Hearing Board shall have the power to compel the attendance of witnesses and the production of documents and other evidence at investigative hearings and, for that purpose, may issue or cause to be issued subpoenas signed by appropriate officials or commission members and served as provided by law.

C. The official presiding at any hearing shall have the power to administer oaths to witnesses.

D. If any person shall refuse or neglect to obey any subpoena, that person shall, upon conviction thereof at a summary proceeding, be sentenced to pay a fine as may be ordained and, in default of the payment of such fines and costs, shall be imprisoned for a period not to exceed three days.

E. If any person shall refuse or neglect to obey any subpoena, the official or board issuing the same may, by petition, apply to the Court of Common Pleas of the County of Blair for its subpoena to compel the attendance of such person before the official, the commission or the Court. Under failure to attend, the Borough Solicitor shall request that such person be held in contempt of court and be punished thereof.

F. No person subpoenaed, as aforesaid, shall be required to respond to the same until mileage and witness fees equal to those then established by law or ordinance shall have first been furnished to the witness.

§ 3-64. Police powers.

Police employed by the municipality shall be ex officio constables of the commonwealth and shall have the powers and prerogatives conferred on police officers by law. Police, when acting as constables, shall have the authority to serve and execute all criminal processes for the violation of municipal ordinances which may be issued, and the fees and costs collected in such capacity shall be paid into the Municipal Treasury.

§ 3-65. Sundays and holidays.

Whenever any time established by this chapter for the taking of any action expires on a Sunday or on a legal holiday, such time shall not expire on said day but shall expire on the next weekday.

§ 3-66. Equivalent functions.

Where law or ordinance prescribes certain functions to be performed by a designated department head under the former form of government, such function shall be performed by the equivalent department head to which the respective functions have been assigned by this Administrative Code.

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TYRONE CODE

Chapter 5

AUTHORITIES, MUNICIPAL

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Water — See Ch. 196.

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ARTICLE I
Tyrone Borough Authority
[Adopted 5-11-1998 by Ord. No. 1138]

§ 5-1. Intent to organize.

The Council of the Borough of Tyrone hereby signifies its intention to organize an Authority under the provisions of the Municipality Authorities Act of 1945 (the "Act").[12]

§ 5-2. Articles of Incorporation.

The name of the proposed Authority is "Tyrone Borough Authority." In pursuance of said intention, the Articles of Incorporation of the said Authority are hereby approved and adopted in the form attached hereto as Exhibit "A" and incorporated herein by this reference.[13]

§ 5-3. Board.

The first members of the Board of said Authority, named in the aforesaid Articles of Incorporation, are hereby specifically appointed members of said Board for the terms set after their respective names, commencing on the date of appointment and computed from the first Monday in January 1998. Said terms of office of all subsequent appointees shall be for a term of five years with the exception of the first members of said Board and those appointees filling unexpired terms.

§ 5-4. Authorization of officers.

The President or Vice President of the Council of the Borough of Tyrone is hereby authorized and directed to execute said Articles of Incorporation on its behalf, and the Manager/Secretary is hereby authorized and directed to affix thereto and attest the seal of the Borough. Said officers are further authorized and directed to cause a notice of intention to file said Articles of Incorporation to be published as required by law, and to file said Articles of Incorporation, together with a certified copy of this article and required proofs of publication, with the Secretary of the Commonwealth of Pennsylvania, and to take all such action as they may deem necessary or appropriate to organize said Authority.

§ 5-5. Purposes.

The purposes and projects of said Authority are as follows:

A. To provide for the waterworks, water supply works, and water distribution systems within the area of the Authority or portions thereof, by acquiring, holding, constructing, improving, maintaining and operating, by owning or by leasing either in the capacity of lessor or lessee, waterworks, water supply systems, and parts thereof, and by acquiring, holding, constructing, improving, maintaining or operating water treatment works and/or by entering into contracts with other municipalities or municipal authorities to accomplish the same.

B. To provide such other public works of whatever nature as may be necessary for the proper functioning of the Borough of Tyrone as the same may be requested by the Borough of Tyrone from time to time.

C. Undertake any other purpose which might require the joint cooperation and action of the said

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12. Editor's Note: See now 53 Pa.C.S.A. § 5601 et seq.

13. Editor's Note: The Articles of Incorporation are included at the end of this chapter.

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municipality to accomplish such purposes.

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TYRONE CODE

Chapter 8

CABLE TELEVISION RATES

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 4-12-1993 by Ord. No. 1041. Amendments noted where applicable.]

GENERAL REFERENCES

Cable television franchise — See Ch. A210.

§ 8-1. Intent.

The Borough of Tyrone hereby evidences its intent to adopt and administer rate regulations for cable television franchises in the Borough of Tyrone consistent with the Federal Communications Commission regulations which were promulgated April 1, 1993.

§ 8-2. Authority.

The Borough of Tyrone has the legal authority to adopt rate regulations for cable television within the Borough of Tyrone in accordance with the Cable Television Act of 1992.

§ 8-3. Administration.

The Borough of Tyrone will employ necessary personnel to administer the cable television regulations within the Borough of Tyrone.

§ 8-4. Interested parties.

In adopting cable television rate regulations for basic service within the Borough of Tyrone, the Borough of Tyrone will give full consideration to all interested parties.

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Chapter 10

CHARITABLE CONTRIBUTIONS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 8-12-1986 by Ord. No. 905. Amendments noted where applicable.]

§ 10-1. Definitions.

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

COMMUNITY-BASED ORGANIZATION — Must be a nonprofit corporation incorporated under the laws of the Commonwealth of Pennsylvania or an unincorporated association which has a duly elected president, vice president, secretary and treasurer and which meets on a periodic basis and keeps minutes and records of its business transactions, especially money collections and disbursements.

§ 10-2. Dates for submission of request; exceptions.

A. Requests for contributions, which may include either a grant or loan, from the Tyrone Borough general funds may be submitted between March 1 and June 30 of each year.

B. Under unusual circumstances and/or emergency situations, requests for assistance may be submitted for consideration at any time.

§ 10-3. Application for request; funding not a right.

A. Application requests will be in written form over the signature of the highest official of the organization at the local level. Justification of the need must be sufficient to permit evaluation by the Council.

B. Newly formed organizations will be considered after one full year of operation.

C. No organization shall consider it a right to be awarded public funds for its operation.

§ 10-4. Minimum requirements for applicant organizations.

The following items are the minimum criteria, and all must be met by the organization requesting funds:

A. The organization shall be a duly chartered and/or licensed public nonprofit organization.

B. Organization membership cannot exclude any individual because of race, color, creed or sex.

C. Age requirements for organization membership must be defensible.

D. The organization shall have no adverse impact on any select group or individual, which includes the handicapped. "Handicapped" means impairment physically, mentally or emotionally and an individual with physical attributes which tend to be a barrier.

E. Selection devices cannot be used by the organization which would tend to eliminate or limit the number of participants or to select only the best qualified or individuals with the most potential.

F. Organizations must provide a financial statement for the previous year's activities.

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§ 10-5. Disapproval of applications to be final.

Applications or requests for funds may be disapproved by the Borough Council without justification and without right of recourse of appeal.

§ 10-6. Sharing of funds.

A. Where a number of community leagues are organized to provide recreation through youth sports, such as baseball, football, soccer, etc., all will share proportionally.

B. Organizations determined to be providing the most valuable services to the community will receive the greatest contributions for monetary awards.

§ 10-7. Review committee.

The standing Recreation Committee of the Tyrone Borough Council will review all requests and make recommendations to the Tyrone Borough Council.[14]

14. Editor's Note: A proposal to the Borough regarding its policy for contributions, which originally followed this section, is on file in the Borough offices.

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Chapter 20

FIRE DEPARTMENT

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 7-7-1958 by Ord. No. 568 as part of Ch. 6 of the revised 1958 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Administration of government — See Ch. 3.

Personnel policies — See Ch. 39.

Open burning — See Ch. 70.

Fire prevention — See Ch. 95.

Conduct at fires — See Ch. 97.

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ARTICLE I
Organization and Rules
[Amended 2-1-1965 by Ord. No. 653]

§ 20-1. Companies forming Department. [Amended 6-16-2003 by Ord. No. 1197]

The several volunteer fire companies now in service in the Borough of Tyrone, namely, the Neptune Fire Company No. 1 and the Blazing Arrow Hook and Ladder Company and any additional fire companies located therein which may hereafter be recognized by ordinance of the Borough of Tyrone, shall together form the Fire Department of the Borough of Tyrone, Pennsylvania, hereinafter designated the "Fire Department."

§ 20-2. Fire Marshal. [Amended 1-4-1991 by Ord. No. 999]

A. The Borough Council shall appoint a Borough Fire Marshal, who shall serve during the pleasure of the Council. The Fire Marshal shall:

   (1) Be responsible for building inspection of fire-related matters only, other fire-prevention measures and the investigation into the cause of fires.

   (2) Advise the Borough Council and report to the Borough Council in all matters relating to fire prevention and causes of fires.

   (3) Render assistance to the Fire Chief when requested by the Fire Chief and when directed by Council.

B. The Fire Marshal may be given duties by the Council other than those above prescribed.

§ 20-3. Qualifications of Fire Marshal. [Added 1-4-1991 by Ord. No. 999; amended 4-10-2006 by Ord. No. 1242]

No person shall be eligible for the office of Fire Marshal who has not attained the age of 25 years, nor shall any person be eligible for any such office who is not a resident of the Tyrone Area School District, a member of the Tyrone Fire Department for at least five years, an active, experienced fire fighter in good standing in his or her company and does not have both basic and advanced firefighting on the state level and certification in recognition and identification of hazardous materials. In addition to any other required qualifications hereinabove set forth, a person appointed as Fire Marshal shall have: completed no less than 16 hours of fire and arson coursework at the state or federal level; and must meet all other criteria required to obtain State Police Fire Marshal Assistant certification.

§ 20-4. Records of Fire Marshal.

The Fire Marshal shall keep or cause to be kept complete records of all fires with information, as prescribed by the Borough Council, in order to ascertain the cause of fires.[15]

§ 20-5. Compensation of Fire Marshal.

The Fire Marshal shall receive such compensation payable from the Borough Treasury as may be determined, from time to time, by the Borough Council.

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15. Editor's Note: Original Section 4, which immediately followed this section, regarding duties of the Fire Marshal as Building Inspector, was repealed 12-10-2012 by Ord. No. 1338.

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§ 20-6. through § 20-12. (Reserved)[16]

§ 20-13. Establishment of Fire Committee. [Amended 1-5-2004 by Ord. No. 1207]

There is hereby established a Fire Committee consisting of one Council person, and the duly elected fire chief from each of the fire companies comprising the Fire Department. The terms of the Fire Committee members shall run from calendar year to year until and unless any such member is replaced by the entities making such appointment. The Fire Committee shall have the authority to determine all disputes between the fire companies; and discipline and/or suspend any member of the Fire Department for insubordination or misconduct at any time, which such discipline and/or suspension shall be honored by the Fire Company in which the disciplined and/or suspended individual is a member and upon request hold a hearing with regard to any such action and either reaffirm or modify its prior decision. Any individual aggrieved by any decision of the Fire Committee may, within 10 days of any such decision, appeal the same in writing to the Borough Council.

§ 20-14. Absence of Fire Marshal. [Added 1-4-1991 by Ord. No. 999]

In the absence of the Fire Marshal, the Fire Chief will assume the duties of the Fire Marshal.

§ 20-15. Fire Marshal to be assistant to state office. [Added 1-4-1991 by Ord. No. 999]

The Tyrone Borough Fire Marshal, immediately upon his selection as Tyrone Borough Fire Marshal, shall be an assistant to the Pennsylvania State Police Fire Marshal.

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16. Editor's Note: Former §§ 20-6, Fire Chief, amended 1-9-1972 by Ord. No. 734, 20-7, Assistant Fire Chief, 20-8, Qualifications of Fire Chief and Assistants, 20-9, Terms of office of Fire Chief and Assistants, 20-10, Oath of office of Fire Chief, 20-11, Removal of Fire Chief and 20-12, Control of fire apparatus, were repealed 1-5-2004 by Ord. No. 1207. Original Section 8, which was previously included in this article, was repealed 12-10-2012 by Ord. No. 1338.

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ARTICLE II
Fire Police
[Amended 11-6-1958 by Ord. No. 572; 1-6-1964 by Ord. No. 637; 3-10-1972 by Ord. No. 772; 4-9-2001 by Ord. No. 1180; 3-14-2011 by Ord. No. 1310; 9-17-2015 by Ord. No. 1364; 10-10-2016 by Ord. No. 1376]

§ 20-16. Nomination and membership.

The fire chiefs of the fire companies comprising the Tyrone Fire Department, namely, the Blazing Arrow Hook & Ladder Volunteer Fire Company and Neptune Volunteer Fire Company Number 1, or whatever such entity which may succeed them, jointly shall nominate from time to time active members of either of said fire companies and, when confirmed by the Borough Council and sworn by the Mayor as required by law, said individuals shall serve as special fire police officers pursuant to 35 Pa.C.S.A. § 7431, et seq. Every such special fire police officer shall serve at the pleasure of Borough Council and Council shall have the authority to remove any special fire police officer at any time for any reason including, but not limited to, conduct unbecoming a special fire police officer; failure to maintain any of the qualification set forth in § 20-17; and/or upon recommendation from the fire company of which the special fire police officer is a member. Special fire police officers shall be automatically terminated in the event that they cease to be members of one of the fire companies which comprise the Tyrone Fire Department for any reason. For all active public duty, as assigned by the Mayor or the Chief of Police, at the scenes of fires, parades, accidents, floods or other emergencies, each special fire police officer so serving may be compensated by the Borough as the Borough Council may determine from time to time.

§ 20-17. Qualifications.

A. No person shall be nominated for or appointed as a special fire police officer who has not attained the age of 21 years. All special fire police officers shall, at all times, be members in good standing of one of the above named fire companies which comprise the Tyrone Fire Department and must maintain a valid driver's license. All special fire police officers shall be required to confine their Fire Department activities to the performance of fire police duties. No special fire police officer may hold office as a Fire Chief, Assistant Fire Chief, driver or active firefighter or any other position which shall compromise the special fire police officer's availability or effectiveness to perform fire police duties.

B. All persons appointed as special fire police officers, including any formerly appointed special fire police officers who have not already previously done so, shall undergo criminal background checks (NCI and child abuse - at the expense of the Borough) and shall receive the following certifications:

   (1) Basic and advanced fire police training;

   (2) Highway safety training;

   (3) EMIS training; and/or

   (4) Any other such training required by the Borough from time to time, by resolution of the Borough Council.

C. All newly appointed special fire police officers shall have one year from the date of their appointment to complete the aforementioned certifications. Until all such certifications have been obtained, newly appointed special fire police officers shall only perform fire police duties while under the direct supervision of a fully trained special fire police officer who has obtained all of the aforementioned certifications.

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§ 20-18. Organization and supervision of special fire police officers.

A. There shall be no separate organization or entity, incorporated or unincorporated, created or maintained by those individuals confirmed as special fire police officers by Borough Council. All fire police duties and activities performed by the special fire police officers confirmed by Borough Council shall be conducted as part of, and under the direct supervision of, the above named fire companies which comprise the Tyrone Fire Department. Any vehicles utilized by the special fire police officers shall be the property of the aforementioned fire companies and shall be garaged in the fire companies' facilities.

B. Officers shall be appointed by the fire companies which comprise the Tyrone Fire Department to provide command and control of the special fire police officers while performing fire police duties. Such officers shall command and direct the fire police in the performance of their duties as assigned by the Mayor, the Chief of Police or the Fire Chief.

§ 20-19. Powers.

The special fire police officers confirmed by Borough Council shall have full police powers, as provided by law, when displaying a badge of authority, to regulate traffic, keep crowds under control and to prevent interference by the public at the scene of parades, accidents, floods or other emergencies. In addition, said special fire police officers shall properly rope off the scene of any conflagration immediately after their arrival at the scene. Together with the members of the Borough police force and other authorized law enforcement officers, said special fire police officers are authorized to exclude from interference with the function of the regularly organized Tyrone Fire Department all persons not members thereof and to exclude from the area within the fire lines all unauthorized persons. They shall take into custody any and all persons persisting in such unauthorized interference.

§ 20-20. Violations and penalties.

Any person who shall interfere with or fail to comply with any lawful order of any member of the fire police while on duty and displaying his lawful badge of authority shall, upon conviction thereof, be subject to a fine of not less than $20 nor more than $1,000 and costs of prosecution, and in default of payment thereof, to imprisonment for not more than 30 days.

§ 20-21. Official recognition by the Borough of Tyrone.

The special fire police officers confirmed by Borough Council shall be the only entity recognized by the Borough of Tyrone to perform fire police duties within the Borough. No other entity which purports to provide fire police services shall operate within the Borough unless it is the designated fire police entity for another municipality and is dispatched in support of a fire company which is designated to perform fire services in that municipality or whose assistance has been requested by the Borough.

§ 20-22. Fundraising of the special fire police officers.

The individuals confirmed as special fire police officers shall not conduct any fundraising activities separate or apart from those activities conducted by and for the fire companies which comprise the Tyrone Fire Department. They may, however, participate in the fundraising efforts of the fire company of which they are a member.

§ 20-23. (Reserved)

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ARTICLE III
Appropriations

§ 20-24. Annual appropriation.

There shall be appropriated and paid out of the proper funds of the Borough of Tyrone annually for the support and maintenance of the volunteer fire companies comprising the Fire Department of the Borough of Tyrone such sum or sums as the Borough Council may determine at the beginning of each and every year hereafter, such sum or sums, so appropriated, to be paid to the several fire companies in 12 equal monthly installments by proper order drawn upon the Borough Treasury.

§ 20-25. Terms of payment.

Said appropriation shall be made to said fire companies and each of them upon the terms and conditions following:

A. The pumping (engine) companies shall keep and maintain in the Borough of Tyrone in good working order the following: (1) Citizens Fire Company shall keep and maintain at least one motorized Class A pumping engine; (2) all other pumping companies shall keep and maintain at least two motorized Class A pumping engines. Each hook and ladder company shall keep and maintain in good working order at least one motorized ladder truck. **[Amended 2-9-1998 by Ord. No. 1129]**

B. Said volunteer fire companies shall at all times properly house and care for all hose and other fire equipment entrusted to them for their use by said Borough.

C. All fire apparatus of the Tyrone Fire Department shall be kept and maintained for the principal purpose of extinguishing fire within the limits of the Borough of Tyrone; any departure from said principal purpose or employment shall be strictly in conformance with the provisions for fire service outside municipal boundaries.[17] **[Amended 12-10-2012 by Ord. No. 1338]**

17. Editor's Note: Original Section 6.63, which immediately followed this section, regarding the amount of appropriation, was repealed 12-10-2012 by Ord. No. 1338.

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ARTICLE IV
Blue Lights

§ 20-26. Authority to install and display.

Active members of the fire companies comprising the Fire Department of the Borough of Tyrone are hereby authorized to install and maintain, at their own expense, on their private automobiles one conventional-type automobile spotlamp with a blue lens. Such firemen may display a blue lens in a spotlamp mounted on the driver's side of the vehicle where a spotlamp is normally operated under full control of the driver at all times; provided, however, that such blue light shall be no less than 42 inches above the ground. No blue light may be mounted on any bumper, grille or fender or on any other part of the vehicle other than that mentioned above.

§ 20-27. Power to rescind authority.

The Fire Committee of the Borough Council shall have authority at any time in its discretion to rescind the authorization granted to any member of the Fire Department to use such blue lamp on his automobile or truck and shall report any such change to the Fire Chief and the Police Chief, and such change shall thereupon become effective. The Fire Committee shall make such regulations as it deems necessary relative to the installation and operation of such blue lamps that are not inconsistent with the provisions of this article.

§ 20-28. Times of operation; violation of traffic laws not authorized.

Such blue lamps shall be operated on the private vehicles of authorized members of the Volunteer Fire Department only at such times that such members are actually engaged in answering fire or civil defense calls in their private vehicles, and shall not be operated by them at any other time. Borough Police and the Fire Police of the Borough of Tyrone shall permit such authorized members of the Fire Department to pass expeditiously through traffic and restricted areas as emergency vehicles and shall render all necessary assistance to enable such authorized members to reach the scene of a fire and park conveniently thereat; provided, however, that such authorized members of the Fire Department shall at all times be required to observe the traffic laws of the Commonwealth of Pennsylvania and of the Borough of Tyrone; and the authority granted in this article does not constitute authority to them to violate any such traffic laws.

§ 20-29. Violations and penalties. [Amended 12-10-2012 by Ord. No. 1338]

It shall be unlawful for any person other than such authorized members of the Fire Department of the Borough of Tyrone to operate any blue lamp on any vehicle within the Borough of Tyrone; and upon conviction thereof before the Magisterial District Judge, such person shall be sentenced to pay a fine of not less than $10 nor more than $1,000 and cost of prosecution for each offense and, in default of payment thereof, to be imprisoned for not more than 10 days.

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ARTICLE V
Fire Cost Recovery
[Added 8-9-2021 by Ord. No. 1453]

§ 20-30. Purpose.

The purpose of this article is to provide the authority, procedures and requirements to seek collection and reimbursement for the reasonable costs of responding to emergency incidents, either directly or in coordination with the Blair County Emergency Management Agency (EMA), the Borough of Tyrone Emergency Management Coordinator (EMC), and/or any recognized fire company serving the Borough of Tyrone. Fire service calls, false alarms, nuisance alarms, hazardous material incidents, environmental incidents, and safety and rescue incidents coordinated via Blair County EMA and 911 responses, and those that use hazardous material abatement equipment and materials, also are eligible for reimbursement.

§ 20-31. Definitions.

For purposes of this article, the following terms shall be defined as follows:

FIRE COMPANY or FIRE COMPANIES — The Blazing Arrow Hook and Ladder Fire Company, the Neptune Steam Fire Company No. 1, and/or any fire company hereafter recognized formally by Borough ordinance.

§ 20-32. Authority to recover emergency response costs.

The Borough of Tyrone Council by and through its authority and relationship with the fire companies, hereby authorizes the recovery of real and reasonable costs incurred by such volunteer emergency services organization involving any hazardous material incident, environmental incident or safety and rescue incident or operation, including, but not limited to, vehicular accidents and fires, that occur in the Borough of Tyrone.

§ 20-33. Policy for billing.

A. The Borough recognizes the need to bill for volunteer fire, rescue and hazmat services conducted within the Borough to aid in the provision of emergency services.

B. No person, firm, corporation requiring emergency services shall be denied services due to lack of insurance or ability to pay.

C. Any applicable charges for volunteer emergency services rendered shall be billed directly to the user's insurance company.

D. The Borough and/or any recognized fire company may, either directly or through any third-party billing agency with which it has contracted for billing and/or collections for volunteer fire, rescue, and hazmat services, make arrangements with users of such services and/or their financially responsible party for installment payments of bills.

§ 20-34. Procedure for billing.

A. The Borough of Tyrone, Fire Companies, and/or any recognized fire company, is hereby authorized to enter into a contract with a third-party billing agency and/or collection agency for performance of emergency, rescue and hazmat services billing and/or collection services, provided that the following standards for third-party billing contracts are met:

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(1) The third-party billing service is to be provided at a rate not to exceed 15% of fees collected or at an amount consistent with the fair-market value for services rendered.

(2) Neither the billing agency nor any of its employees are subject to exclusion from any user fee.

(3) The billing agency is bonded and/or insured in amounts satisfactory to the Borough of Tyrone.

B. The Borough of Tyrone and/or any recognized fire company may, in its discretion, bill additionally for material and vehicle costs in the case of any major, extraordinary, or unique incidents, including, but not limited to, hazardous materials spills, fire emergency and rescue incidents that destroy or severely damage emergency services equipment.

C. User fees.

(1) Volunteer fire and rescue services shall initiate user fees for the delivery of emergency services, supplies and equipment to the scene of any hazardous material incident, environmental incident or safety and rescue incident or operation, including vehicular accidents and fires that occur on the roadways in the Borough of Tyrone. The rate of the user fee shall be that which is usual, customary and reasonable in accordance with standard practice and industry standards.

(2) Every person and/or utility that is provided with volunteer emergency, rescue and hazmat services shall be billed a user fee in accordance with this article.

(3) The user fee for volunteer emergency services rendered shall be billed directly to the user of such services' insurance company. If the insurance company is not known, the user of services shall be billed directly, with instructions to forward the bill to his/her insurance provider.

(4) Any and all amounts collected as a result of this article shall be used for the replacement and maintenance of emergency services materials and equipment.

(5) The Borough of Tyrone may implement rules and/or regulations and/or revoke or amend existing rules and/or regulations as may be deemed necessary for the billing and/or collection of user fees pursuant to this article.

§ 20-35. Violations and penalties.

A. Any person who shall interfere with or fail to comply with any lawful order of any member of the fire police while on duty and displaying his lawful badge of authority shall, upon conviction thereof, be subject to a fine of not less than $100 nor more than $1,000 and costs of prosecution and, in default of payment thereof, to imprisonment for not more than 30 days.

B. Any person who violates or permits a violation of this article, upon being found liable thereof in a civil enforcement proceeding, shall pay a judgment of not more than $600, plus all court costs, including reasonable attorney's fees, incurred by the Borough. Such fines shall be determined by the officer of the Borough authorized to do so by the Council. No judgment shall be imposed until the date of the determination of the violation by the Magisterial District Judge and/or Court. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Borough are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

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Chapter 30

LOCAL GOVERNMENT INVESTMENT TRUST

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 9-14-1992 by Res. No. 423. Amendments noted where applicable.]

§ 30-1. Authority to join.

The Borough of Tyrone shall join with other local governmental units in accordance with the Intergovernmental Cooperation Act[18] and other similar acts by becoming a settlor of the Pennsylvania Local Government Investment Trust (the "trust") and entering into the declaration of trust, which is adopted by reference with the same effect as if it had been set out verbatim in this section and a copy of which shall be filed with the minutes of the meeting at which this resolution was adopted.

§ 30-2. Purchase of shares.

The Borough of Tyrone is authorized to purchase shares in the trust, from time to time, with available funds and to redeem some or all of those shares, from time to time, as funds are needed for other purposes, subject to the terms and restrictions of the declaration of trust referred to in § 30-1. These actions are to be taken by the officers designated for this purpose, the Borough Council.

§ 30-3. Trustees to have custody of funds.

The trustees of the trust are designated as having official custody of the Borough of Tyrone funds which are invested by the purchase of shares in the trust.

§ 30-4. Findings.

As required by the Intergovernmental Cooperation Act, the following matters are specifically found and determined:

A. The conditions of the agreement are set forth in the declaration of trust referred to in § 30-1.

B. The Borough of Tyrone's participation in the trust shall be terminable at any time, by resolution, subject to the terms and restrictions of the declaration of trust referred to in § 30-1.

C. The declaration of trust and the purpose of its shares are for the purpose of investing the Borough of Tyrone funds in obligations which are otherwise legal investments as part of a pooled arrangement with other local governmental units thereby achieving economic and other advantages of pooled investments, and the powers and scope of authority delegated are set forth in the declaration of trust referred to in § 30-1.

D. It is not necessary to finance the agreement authorized herein from funds of the Borough of Tyrone, except through the purchase of shares in the trust.

E. The trust shall be managed by a Board of Trustees set forth in the declaration of trust and by the bylaws provided for therein.

F. Shares may be repurchased and redeemed, from time to time, as the Borough of Tyrone may determine to be necessary or appropriate to meet its cash investment requirements in accordance with

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18. Editor's Note: See 53 Pa.C.S.A. § 2301 et seq.

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the terms and restrictions of the declaration of trust referred to in § 30-1.

G. The trust shall be empowered to enter into contracts for policies of group insurance and employee benefits, including social security, for its employees.

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Chapter 35

PARKING AUTHORITY

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 10-3-1960 by Ord. No. 590. Amendments noted where applicable.]

GENERAL REFERENCES

Designated parking — See Ch. 138.

Vehicles and traffic — See Ch. 190.

Abandoned and junked vehicles — See Ch. 188.

§ 35-1. Intent to organize.

The Borough Council of the Borough of Tyrone hereby signifies its intention and desire to organize an authority under the provisions of the Parking Authority Law of the Commonwealth of Pennsylvania of June 5, 1947, P.L. 458, as amended.[19]

§ 35-2. Authority to execute Articles of Incorporation.

The Mayor, the President of the Borough Council and the Secretary of the Borough Council are hereby authorized and directed to execute on behalf of the Borough of Tyrone Articles of Incorporation for said Authority in substantially the following form.[20]

§ 35-3. Terms.[21]

The members of the Board of the Tyrone Borough Parking Authority are hereby specifically appointed to be members of the Board of said Authority for the terms of office set after their respective names, as set forth in the Articles of Incorporation.[22]

§ 35-4. Notice.

The proper officers of the Borough are hereby directed to cause a notice of this chapter to be published one time in the Blair County Legal Bulletin and one time in a newspaper published and of general circulation in Blair County as required by the Parking Authority Law of June 5, 1947, P.L. 458, as amended.[23]

§ 35-5. Filing of Articles of Incorporation.

The Mayor, the President of the Borough Council and the Secretary of the Borough Council are directed to file said Articles of Incorporation, together with the required proofs on publication, with the Secretary of the Commonwealth and to do, execute and perform any and all acts and things and to pay all fees and costs necessary or appropriate to effect the incorporation of the Tyrone Borough Parking Authority.

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19. **Editor's Note: Said Act was repealed 6-19-2001 by P.L. 287, No. 22.**
20. **Editor's Note: The Articles of Incorporation are on file in the Borough offices.**
21. **Editor's Note: Amended at time of adoption of Code (see Chapter 1, General Provisions, Art. I).**
22. **Editor's Note: Said Articles are on file in the Borough offices.**
23. **Editor's Note: Said Act was repealed 6-19-2001 by P.L. 287, No. 22.**

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§ 35-6. Initial project.

The initial project which shall be undertaken by said Authority is to acquire, hold, construct, improve, maintain, operate, own or lease, either as lessor or as lessee, a municipal parking facility in and for the Borough of Tyrone on the parcel of land located on the easterly side of Logan Avenue between Herald Street and the property of the Tyrone Young Men's Christian Association and extending eastwardly from Logan Avenue of even width along the line of Herald Street to the line of Alley F; and it shall not undertake any other project without specific authority from the Borough Council of the Borough of Tyrone so to do.

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Chapter 37

PENSIONS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policies — See Ch. 39.

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ARTICLE I
Police Pensions
[Adopted 8-11-2008 by Ord. No. 1274][24]

§ 37-1. Amendment and restatement of Plan.

Effective January 1, 2008, the Plan now known as the "Borough of Tyrone Police Pension Plan" is hereby amended and restated in its entirety by substituting the attached amendment and restatement of the Borough of Tyrone Police Pension Plan in its place.[25]

24. Editor's Note: Ordinance No. 1316, adopted 11-14-2011, amended the Police Pension Plan to comply with the applicable terms of the Pension Protection Act of 2006 (PPA) and the Heroes Earnings Assistance Relief Tax Act (HEART Act). A complete copy of Ord. No. 1316 is on file in the Borough offices.

25. Editor's Note: The Police Pension Plan and all amendments thereto are on file in the Borough offices.

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ARTICLE II
Nonuniformed Employees Pension Plan
[Adopted 8-11-2008 by Ord. No. 1275][26]

§ 37-2. Effective Plan.

The attached Plan document[27] is effective for participants who terminate employment on or after January 1, 2008. The benefits of any participant who terminated employment prior to January 1, 2008 shall be determined by the Plan provisions in effect at the time of his termination of employment.

26. Editor's Note: Ordinance No. 1315, adopted 11-14-2011, amended the Nonuniformed Police Pension Plan to comply with the applicable terms of the Pension Protection Act of 2006 (PPA) and the Heroes Earnings Assistance Relief Tax Act (HEART Act). A complete copy of Ord. No. 1315 is on file in the Borough offices.

27. Editor's Note: The Nonuniformed Employees Pension Plan and all amendments thereto are on file in the Borough offices.

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Chapter 39

PERSONNEL POLICIES

[The personnel policies of the Borough of Tyrone are set forth in the Personnel Manual adopted 12-12-2011 by Ord. No. 1320, a copy of which is on file in the Borough offices. The personnel policies of the Police Department are set forth in the Police Department Personnel Policies and Procedures Manual, adopted 8-9-1993 by Ord. No. 1052, a copy of which is on file in the Police Department.]

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Chapter 41

PROJECTS COMMITTEE

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 8-21-2017 by Ord. No. 1400. Amendments noted where applicable.]

§ 41-1. Purpose; name.

A. Pursuant to the authority granted by § C-20 of the Tyrone Borough Charter and § 3-11 of the Tyrone Borough Code, there shall be created committees for the purpose of examining the need for and promoting the projects within the Borough of Tyrone.

B. The name of the committee established herein shall be the "Tyrone Borough Projects Committee" (hereinafter "Committee").

§ 41-2. Membership.

A. The membership of the Committee shall consist of a minimum of five members and a maximum of seven members, appointed by resolution passed by the Tyrone Borough Council.

B. Members shall be residents of the Borough of Tyrone and must maintain such residency throughout their tenure on the Committee.

C. At no time shall the membership of the Committee consist of no less than one or no more than four members of Borough Council.

D. The members of the Committee shall elect a chair from among the membership to conduct the meetings of the Committee and report to Borough Council.

E. The members of the Committee shall serve at the pleasure of Borough Council and shall not acquire a right to continued membership by virtue of their appointment.

§ 41-3. Duties.

It shall be the duty of the Committee to receive public input and propose the construction of projects in Tyrone Borough, including, but not limited to, the following:

A. Investigating and identifying the need for new infrastructure projects in the Borough and/or examining the feasibility of projects proposed by outside agencies.

B. Receiving public input on projects proposed by the Committee or assigned to it by Borough Council.

C. Recommending to Borough Council specific projects within the Borough, including, but not limited to:

(1) Construction of an anaerobic digester;

(2) Construction/reconstruction of water/sewer lines;

(3) Construction/reconstruction of streets and alleys; and

(4) Any other public improvement.

D. Meeting with consultants to hear proposals for the construction of infrastructure projects in the

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Borough and reporting the results of such meetings to Council.

E. To review annually the budget for the planning, development, operation, maintenance, and capital improvements of Borough-owned/ -operated infrastructure and facilities, and to make recommendations to the Borough Council concerning such budget.

F. To act as a research and fact-finding agency for the Borough Council, and in the conduct thereof to hold public meetings from time to time for the purpose of reviewing infrastructure projects, and to make such surveys, analyses, studies, and reports as may be necessary and appropriate.

G. To hear complaints and mediate disputes concerning infrastructure projects.

H. To report to Borough Council from time to time, or as requested by Council, on the activities of the Committee and the status of any projects initiated by the Committee or assigned to it by Council.

I. To maintain minutes of all meetings held by the Committee and provide a copy of the same to Borough Council.

§ 41-4. Rules and regulations.

All rules and regulations established by the Committee shall be approved by motion of Council.

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Chapter 42

PURCHASING POLICY

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 10-10-1983 by Ord. No. 866. Amendments noted where applicable.]

GENERAL REFERENCES

Administration of government — See Ch. 3.

§ 42-1. Procedure for acceptance of bids; bonding of bidders.

A. Bids must be publicly opened at the time and place established by the Borough; however, the acceptance and award of bids shall only be made by public announcement at the meeting (regular or special) of the Council of the Borough of Tyrone immediately following the bid opening. If for any reason the bids are not accepted and awarded at said meeting of the Council, the acceptance and award of the bids may be made at any subsequent meeting if the date and time of the meeting are announced at said regular or special meeting immediately following the bid opening, or if at least one days' notice of the date and time of the meeting is published in a newspaper of general circulation in the Borough of Tyrone. The Council may request that a certified check and/or other type of financial security acceptable to the Solicitor, in an amount determined by it, shall accompany a bid. **[Amended 10-10-1994 by Ord. No. 1074]**

B. The successful bidder, when advertising as required herein, may, at the discretion of the Council, be required to furnish a bond with suitable reasonable requirements guaranteeing the work to be done with sufficient surety in the amount of 50% of the amount of the liability under the contract, within 20 days after the contract has been awarded, unless the Council shall prescribe a shorter period of not fewer than 10 days; and upon failure to furnish such bond within such time, the previous award shall be void. Deliveries, accomplishment and guaranties may be required in all cases of expenditures.

§ 42-2. Separate bids for certain work.

In the preparation for the erection, construction or alteration of any public building, when the entire cost of such work shall exceed $4,000, the architect, engineer or other person preparing such specification may, if so requested by the Borough Council, prepare separate specifications for the plumbing, heating, ventilating and electrical work. The person or persons authorized to enter into contracts for the erection, construction or alteration of such public buildings may, if such separate specifications shall have been proposed, receive separate bids upon each of said branches of work and shall thereupon award the contract for the same to the lowest responsible bidder for each of said branches.

§ 42-3. Bonds for protection of labor and materialmen.

It shall be the duty of every Borough to require any person, copartnership, association or corporation entering into a contract with such Borough for the construction, erection, installation, completion, alteration or repair of or addition to any public work or improvement of any kind whatsoever, where the amount of such contract is in excess of $4,000, before commencing work under such contract to execute and deliver to such Borough, in addition to any other bond which may now or hereafter be required

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by law to be given in connection with such contract, an additional bond for the use of any and every person, copartnership, association or corporation interested, in a sum not less than 50% and not more than 100% of the contract price, as such Borough may prescribe, having as surety thereon one or more surety companies legally authorized to do business in this commonwealth, conditioned for the prompt payment of all material furnished and labor supplied or performed in the prosecution of the work, whether or not said material or labor enter into and become component parts of the work or improvement contemplated. Such additional bond shall be deposited with and held by the Borough for the use of any party interested thereon. Every such additional bond shall provide that every person, copartnership, association or corporation which, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in the prosecution of the work, as above provided, and which has not been paid therefor, may sue in assumpsit on said additional bond, in the name of the Borough, for his, their or its use and prosecute the same to final judgment for such sum or sums as may be justly due him, them or it and have execution thereof; provided, however, that the Borough shall not be liable for the payment of any costs or expense of any suit.

§ 42-4. Minimum wage specifications in contracts.

A. The specifications upon which contracts are entered into by any Borough for the construction, alteration or repair of any public work or improvement may, at the option of the Borough Council, contain the minimum wage or wages which may be paid by the contractor or his subcontractors for the work performed by laborers and mechanics employed on such public work or improvement; and such laborers and mechanics shall, in such cases, be paid not less than such minimum wage or wages.

B. Every contract for the construction, alteration or repair of any public work or improvement founded on specifications containing any such stipulation for minimum wage or wages shall stipulate a penalty of an amount equal to twice the difference between the minimum wage contained in said specifications and the wage actually paid to each laborer or mechanic for each day during which he shall have been employed at a wage less than that prescribed in said specifications.

C. Every officer or person designated as an inspector of or having supervision over the work to be performed under any such contract, in order to aid in enforcing the fulfillment thereof, shall, upon observation or investigation, report to the Borough Council or agency which let the contract all violations of minimum wage stipulations, together with the name of each laborer or mechanic who has been paid a wage less than prescribed by the specifications and the day or days of such violation.

D. All such penalties shall be withheld and deducted for the use of the Borough from any moneys due the contractor by the officer or person whose duty it shall be to authorize the payment of moneys due such contractor, whether the violation of the minimum stipulation of the specifications was by the contractor or by any of his subcontractors. If any such contractor or subcontractor subsequently pays to all laborers and mechanics the balance of the amounts stipulated in such contract, the Borough shall pay to the contractor the amounts so withheld as penalties.

§ 42-5. Discrimination in employment prohibited.

Every contract for or on behalf of any Borough for the construction, alteration or repair of any public building or public work may contain provisions by which the contractor agrees that:

A. In the hiring of employees for the performance of work under such contract or any subcontract hereunder, no contractor, subcontractor or any person acting on behalf of such contractor or subcontractor shall by reason of race, creed or color discriminate against any person who is qualified and available to perform the work to which the employment relates.

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B. No contractor, subcontractor or any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under his contract on account of race, creed or color.

C. There may be deducted from the amount payable to the contractor under such contract a penalty of $5 for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provision of the contract.

D. Such contract may be canceled or terminated by the Borough, and all money due or to become due thereunder may be forfeited for a second or any subsequent violation of the terms or conditions of this part of the contract.

§ 42-6. Acceptance of Workmen's Compensation Act required.

All contracts executed by any Borough or any officer thereof which involve the construction or doing of any work involving the employment of labor shall contain a provision that the contractor shall accept, insofar as the work covered by any such contract is concerned, the provisions of the Workmen's Compensation Act of the Commonwealth of Pennsylvania[28] and that the said contractor will insure his liability thereunder or file with the Borough with which the contract is made a certificate of exemption from insurance from the Bureau of Workmen's Compensation of the Department of Labor and Industry. Any contract executed in violation of this section shall be null and void.

28. Editor's Note: See 77 P.S. § 1 et seq.

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Chapter 43

RECREATION COMMITTEE

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 7-10-2017 by Ord. No. 1398. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation areas — See Ch. 140.

§ 43-1. Purpose; name.

A. Pursuant to the authority granted by § C-20 of the Tyrone Borough Charter and § 3-11 of the Tyrone Borough Code, there shall be created a committee for the purpose of promoting recreational activities within the Borough of Tyrone.

B. The name of the committee established herein shall be the "Tyrone Borough Recreation Committee" (hereinafter "Committee").

§ 43-2. Membership.

A. The membership of the Committee shall consist of a minimum of five members and a maximum of seven members appointed by resolution passed by the Tyrone Borough Council.

B. Members shall be residents of the Borough of Tyrone and must maintain such residency throughout their tenure on the Committee.

C. At no time shall the membership of the Committee consist of no less than one or no more than four members of Borough Council.

D. The members of the Committee shall elect a chair from among the membership to conduct the meetings of the Committee and report to Borough Council.

E. The members of the Committee shall serve at the pleasure of Borough Council and shall not acquire a right to continued membership by virtue of their appointment.

§ 43-3. Duties.

It shall be the duty of the Committee to receive public input and initiate the creation of recreational activities to take place in Tyrone Borough, including, but not limited to, the following:

A. The promotion, creation and operation of sports leagues, recreational tournaments and events and other similar activities.

B. The creation and adoption of rules and regulations applicable to events sponsored by the Committee.

C. Recommending to Borough Council the creation and equipping of recreational facilities within the Borough.

D. To make recommendations to the Borough Council with respect to the creation, implementation and

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modification of a comprehensive recreation plan.

E. To review annually the budget for the planning, development, operation, maintenance, and capital improvements of parks and recreation facilities, and to make recommendations to the Borough Council concerning such budget.

F. To act as a research and fact-finding agency for the Borough, and in the conduct thereof to hold public meetings from time to time for the purpose of reviewing recreation programs, and to make such surveys, analyses, studies, and reports as may be necessary and appropriate.

G. To hear complaints and mediate disputes concerning parks and recreation facilities.

H. To formulate a recreational program for the residents of the Borough for the utilization of available parks, playgrounds, and recreational facilities, and to review such program annually.

I. To report to Borough Council from time to time, or as requested by Council, on the activities of the Committee and the status of any projects initiated by the Committee or assigned to it by Council.

J. To maintain minutes of all meetings held by the Committee and provide a copy of the same to Borough Council.

§ 43-4. Rules and regulations.

All rules and regulations established by the Committee shall be approved by motion of Council.

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Chapter 44

RISK MANAGEMENT

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 8-11-2008 by Ord. No. 1273. Amendments noted where applicable.]

GENERAL REFERENCES

Administration of government — See Ch. 3.

§ 44-1. Authorization to execute documents.

The proper municipal officers are hereby authorized to execute and deliver the following documents:

A. The Municipal Risk Management Workers' Compensation Pooled Trust Agreement (hereafter "the Agreement").[29]

B. The Participant's Application, which documents are attached hereto and made part hereof and which may be inspected by an interested citizen at the office of the Municipal Secretary.

§ 44-2. Duration of Agreement.

The duration of the term of the Agreement is four years from the date of admission to the trust as a participant.

§ 44-3. Purpose.

The purpose and objectives of the Agreement are set forth in Article V of the Agreement.

§ 44-4. Powers and scope.

The powers and scope of authority delegated are set forth in Article II, Article V, Article VI, and Article VIII and Article IX of the Agreement.

§ 44-5. Funds for Agreement.

The funds for meeting the obligations of the political subdivision under the Agreement shall be appropriated from the general funds of the political subdivision.

§ 44-6. Organizational structure.

The organizational structure necessary to implement the Agreement consists of the trust, trustees, service agents and fiscal agents created by the Agreement.

§ 44-7. Property acquisition.

Property acquired for purposes of the trust shall be acquired, managed and disposed of under the terms of

29. Editor's Note: The full text of the Agreement is on file in the Borough offices.

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the attached Trust Agreement.

§ 44-8. Empowerment to enter into contracts.

The Trust shall be empowered to enter into contracts for policies of group insurance and employees benefits, including social security for its employees.

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Chapter 50

WARDS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 7-10-1972 by Ord. No. 732. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 205.

§ 50-1. Delineation of boundaries.[30]

The Borough of Tyrone hereby delineates the seven wards of the Borough as follows:[31]

A. First Ward. Beginning at a point where Seventh Street intersects the Snyder Township Borough line; thence along the Tyrone Borough line in a southwesterly direction to the easterly line of Love Street; thence along the easterly line of Love Street in a southerly direction to the Borough line; thence along the Borough line in a southwesterly direction to Third Street; thence following the Borough line along Third Street in a northwesterly direction to the northwest side of Route 220; thence following the Borough line along the northwest side of Route 220 in a southwesterly direction to a point at the southerly corner of land of Richard Pease, et ux; thence continuing along the Borough line in a northwesterly direction to a point on land of George C. Wilson, III, et al; thence continuing along the Borough line and along the line of land of George C. Wilson, III, et al, in a northeasterly direction to a point on Hoovers Lane; thence continuing along the Borough line in a northwesterly direction to a point on land of H.R. Sprankle; thence continuing along the Borough line in a northeast direction to a point on land now or formerly of Emma Hagg; thence continuing along the Borough line in a southeasterly direction to a point in the middle of Seventh Street; thence along the middle of Seventh Street in a southeasterly direction to the Borough line and the place of beginning.

B. Second Ward. Beginning at a point where the center line of Seventh Street intersects the Tyrone Borough Snyder Township line; thence along the Tyrone Borough Snyder Township line by various courses and distances to the center line of Pennsylvania Avenue; thence along the center line of Pennsylvania Avenue in a northerly direction to the center line of Eleventh Street; thence along the center line of Eleventh Street in a northwesterly direction to a point northwest of Belmont Avenue as more fully shown on the attached map or survey; thence along a line in a southwest direction to the Borough line; thence along the Borough line by various courses and distances to the center line of Ninth Street; thence along the center line of Ninth Street in a southeasterly direction to the Borough line; thence along the Borough line in a southwest direction to the center line of Ninth Street extended; thence along the center line of Seventh Street in a southeasterly direction to the Borough line and place of beginning.

C. Third Ward. Beginning at a point where the center line of Pennsylvania Avenue intersects the center line of Eleventh Street; thence along the center line of Pennsylvania Avenue in a northerly direction to the center line of Fourteenth Street; thence along the center line of Fourteenth Street in a westerly

30. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

31. Editor's Note: Original Sections 1 and 2, which immediately preceded this section, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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direction to the center line of Lincoln Avenue; thence along the center line of Lincoln Avenue in a northerly direction to a point; thence along a line as shown on the attached map or survey in a westerly direction to a point; thence along the line as shown on the attached map or survey in a southwest direction to a point at the center line of Eleventh Street extended; thence along the center line of Eleventh Street in an easterly direction to the center line of Pennsylvania Avenue and the place of beginning.

D. Fourth Ward. Beginning at a point where the center line of Pennsylvania Avenue intersects the center line of Fifteenth Street; thence along the center line of Fifteenth Street in a southeasterly direction to the Borough line; thence along the Borough line in a general southerly direction by various courses and distances to the center line of Pennsylvania Avenue; thence by the center line of Pennsylvania Avenue in a northerly direction to the center line of Fifteenth Street and the place of beginning.

E. Fifth Ward. Beginning at the intersection of the center lines of Pennsylvania Avenue and Fourteenth Street; thence along the center line of Pennsylvania Avenue in a northerly direction to the center line of Fifteenth Street; thence along the center line of Fifteenth Street in an easterly direction to the Borough line; thence along the Borough line by various courses and distances to the center line of Lincoln Avenue; thence along the center line of Twentieth Street extended in a northwesterly direction to the center line of Columbia Avenue in a southerly direction to West Eighteenth Street; thence along the center line of West Eighteenth Street in a westerly direction to the center line of Hamilton Avenue; thence along the center line of Hamilton Avenue in a southerly direction to the center line of Garfield Street; thence along the center line of Garfield Street in an easterly direction to the center line of Columbia Avenue; thence along the center line of Columbia Avenue in a southerly direction to Fifteenth Street and thence in a southwesterly direction in accordance with the attached maps or surveys to a point; thence along a line in a southeasterly direction to the center line of Lincoln Avenue; thence along the center line of Lincoln Avenue in a southerly direction to the center line of Fourteenth Street; thence by the center line of Fourteenth Street in an easterly direction to the center line of Pennsylvania Avenue and the place of beginning.

F. Sixth Ward. Beginning at the intersection of the center line of West Eighteenth Street and the center line of Hamilton Avenue; thence along the center line of Hamilton Avenue in a southerly direction to the center line of Garfield Street; thence along the center line of Garfield Street in an easterly direction to the center line of Columbia Avenue; thence along the center line of Columbia Avenue in a southerly direction to West Fifteenth Street; thence along a line as shown on the attached map or survey in a general southwest direction to the Borough line; thence along the Borough line by various courses and distances to Walnut Street; thence along the center line of Walnut Street in a northwest direction to the Borough line; thence along the Borough line in a northwest direction to the center line of West Thirteenth Street in an easterly direction to the center line of Clay Avenue; thence by the center line of Clay Avenue in a northerly direction to the Borough line; thence along the Borough line by various courses and distances to the center line of West Eighteenth Street; thence along the center line of West Eighteenth Street in an easterly direction to the center line of Hamilton Avenue and the place of beginning.

G. Seventh Ward. Beginning at the intersection of the center line of Hamilton Avenue and the center line of West Eighteenth Street; thence along the center line of West Eighteenth Street in an easterly direction to the center line of Columbia Avenue; thence by the center line of Columbia Avenue in a northerly direction to the center line of Twentieth Street; thence by the center line of Twentieth Street in an easterly direction to the Borough line; thence by the Borough line by various courses and distances to the center line of Glad Avenue; thence by the center line of Glad Avenue in a southerly direction to the Borough line; thence by the Borough line by various courses and distances to the center line of West Eighteenth Street in an easterly direction to the center line of Hamilton Avenue

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and the place of beginning.

§ 50-2. Map to control.

The descriptions of the seven wards are in accordance with the Tyrone Borough Ward Map as prepared by Gwin, Dobson & Foreman, Inc. A copy of said ward map is attached hereto and made a part hereof.[32] In the event of any discrepancies between the above ward descriptions and the attached map, the ward boundaries as shown on the attached map shall control.

§ 50-3. Copies of map available.

Copies of said ward maps are on file in the office of the Secretary of the Borough of Tyrone and can be inspected by the public.

§ 50-4. Previous delineations repealed.

It is the intention of the Tyrone Borough Council to repeal and invalidate any and all ordinances, resolutions and/or motions inconsistent with this chapter. Hereafter, the boundaries of the seven wards within the Borough of Tyrone shall be as above described.

§ 50-5. Filing of ordinance.

The Borough Solicitor is hereby authorized and directed to file a certified copy of this chapter with the Blair County Board of Elections, Commissioners Office, Blair County Courthouse, Hollidaysburg, Pennsylvania, and to file a copy of this chapter with the Clerk of Courts of Blair County.

General Legislation

32. Editor's Note: Said map is on file in the Borough offices.

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Chapter 58

ADULT ENTERTAINMENT

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 11-8-1999 by Ord. No. 1160. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 205.

§ 58-1. Purpose and intent.

It is the purpose of this chapter to regulate sexually oriented businesses to promote the health, safety, and general welfare of the citizens of the Borough, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Borough. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

§ 58-2. Word usage.

A. For the purposes of this chapter, certain terms and words used herein shall be interpreted or defined as follows:

(1) Words used in the present tense shall include the future.

(2) Words used in the singular shall include the plural. References to any gender shall, unless the context indicates otherwise, include all genders.

(3) The word "person" includes a corporation, company, partnership and association as well as an individual.

(4) The word "lot" includes the words parcel and plot.

(5) The term "shall" is always mandatory.

(6) The words "used or occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

(7) The word "building" includes the word "structure."

B. The particular shall control the general.

§ 58-3. Definitions.

The words and phrases set forth below shall have the meanings respectively ascribed to them:

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ADULT ARCADE — Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE or ADULT VIDEO STORE —

A. A commercial establishment which, as one of its principal business purposes, offers for sale or rental 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 or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or

   (2) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

B. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

ADULT CABARET — A nightclub, bar, restaurant or similar commercial establishment, regardless of whether such establishment sells or offers alcohol for sale, which regularly features:

A. Persons who appear in the state of nudity; or

B. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTEL — A hotel, motel or similar commercial establishment which:

A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible which advertises the availability of this adult type of photographic reproductions; or

B. Offers a sleeping room for rent for a time period that is less than 10 hours; or

C. Allows a tenant or occupant of a sleeping room to sublet for a period of time that is less than 10 hours.

ADULT MOTION-PICTURE THEATER — A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

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ADULT THEATER — A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities.

AUDIENCE — One or more persons who are permitted to view a performance for consideration of any type in or from a public place.

CHILD-ORIENTED BUSINESS — A commercial establishment which, as one of its principal business purposes, serves and/or sells to children and/or their families food, apparel, goods, services, play and/or entertainment.

ESCORT — A person who, for consideration, agrees or offers or advertises to act as a companion, guide, or date for another person or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY — A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

ESTABLISHMENT — Includes any of the following:

A. The opening or commencement of any sexually oriented business as a new business;

B. The conversion of any existing business, whether or not a sexually oriented business, to a sexually oriented business;

C. The addition of any sexually oriented business to any other existing sexually oriented business; or

D. The relocation of any sexually oriented business.

NUDE MODEL STUDIO — Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

NUDITY or A STATE OF NUDITY — The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.

PERMITTEE and/or LICENSEE — A person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

PERSON — An individual, sole proprietorship, partnership, corporation, association, or other entity.

PERFORMANCE — Any live or reproduced exhibition, including but not limited to any play, motion picture film, dance or appearance presented to or performed before an audience.

SEMINUDE — A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER —

A. A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

   (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

   (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.

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B. This term does not include the following types of commercial enterprises:

(1) An enterprise in which massage therapy that does not involve specified sexual activities is provided by a physician, chiropractor, registered nurse, or other medical practitioner licensed or certified by the Commonwealth of Pennsylvania for such area of practice.

(2) An enterprise in which massage therapy that does not involve specified sexual activities is provided by a professional massage therapist who is licensed or certified by a national massage therapist professional organization that has an explicit and enforced policy statement which fully deals with the concerns raised by this chapter and furthers the purposes of this chapter.

SEXUALLY ORIENTED BUSINESS — An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

SPECIFIED ANATOMICAL AREAS — The male genitals in a state of sexual arousal, the male buttocks and/or the vulva or more intimate parts of the female genitals, buttocks and female breasts.

SPECIFIED SEXUAL ACTIVITIES — Includes any of the following:

A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, and female breasts;

B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

C. Masturbation, actual or simulated; or

D. Excretory functions as part of or in connection with any of the activities set forth in Subsections A through C above.

SUBSTANTIAL ENLARGEMENT — Of a sexually oriented business means the increase in floor areas occupied by the business by more than 25%, as the floor area exists on the date of enactment of this chapter.

TRANSFER OF OWNERSHIP OR CONTROL — Of a sexually oriented business means and includes any of the following:

A. The sale, lease or sublease of the business;

B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

C. The establishment of a trust, gift, or other similar device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

§ 58-4. Classification.

Sexually oriented businesses are classified as follows:

A. Adult arcades;

B. Adult bookstores or adult video stores;

C. Adult cabarets;

D. Adult motels;

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E. Adult motion-picture theaters;

F. Adult theaters;

G. Escort agencies;

H. Nude model studios; and

I. Sexual encounter centers.

§ 58-5. Permit required.

A. Any person who operates a sexually oriented business without a valid permit issued by the Borough is guilty of a violation of this chapter.

B. An application for a permit to operate a sexually oriented business must be made on a form provided by the Zoning Officer. The application shall be filed in triplicate with and dated by the Zoning Officer.

C. The applicant must be qualified according to the provisions of this chapter, and the premises must be inspected and found to be in compliance with all applicable federal, state and local laws by the Zoning Officer.

D. If a person who wishes to operate a sexually oriented business is an individual, said person must sign the application for the permit as an applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten-percent or greater interest in the business must sign the application for the permit as an applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a direct or indirect interest in ten-percent or greater of the corporation must sign the application for a permit as an applicant.

E. The fact that a person possesses other types of Borough permits to operate a business within the Borough does not exempt the person from the requirement of obtaining a sexually oriented business permit.

§ 58-6. Issuance of permit.

A. The Zoning Officer shall approve the issuance of a permit to an applicant within 30 days after receipt of a completed application unless said Officer finds one or more of the following to be true:

(1) An applicant is under 18 years of age.

(2) An applicant or an applicant's spouse and/or agent is overdue in such person's payment to the Borough of taxes, fees, fines or penalties assessed against such person or imposed upon such person in relation to a sexually oriented business.

(3) An applicant has failed to provide information reasonably necessary for issuance of a permit or has falsely answered a question or request for information on the application form.

(4) An applicant is residing with a person who has been denied a permit by the Borough to operate a sexually oriented business within the preceding 12 months, or resides with a person whose license to operate a sexually oriented business has been revoked within the preceding 12 months.

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(5) The premises to be used for a sexually oriented business has been reviewed and has been disapproved by the Borough as not being in compliance with applicable laws and ordinances.

(6) The permit fee required by this chapter has not been paid.

(7) An applicant of the proposed establishment is in violation of or is not in compliance with a provision of this chapter.

(8) An individual applicant, individual holding a direct interest or more than 10% in a corporate applicant, officer or director of a corporate applicant, partner or limited partner if the applicant is a partnership, or manager or other person in charge of the operation of the applicant's business has or have been convicted of an offense involving sexual misconduct within the Commonwealth of Pennsylvania, including but not limited to prostitution, obscenity, rape, statutory rape, and possession of child pornography, or convicted of an offense in any jurisdiction other than the Commonwealth of Pennsylvania that would have constituted an offense involving sexual misconduct if committed within the Commonwealth of Pennsylvania. In order for approval to be denied pursuant to this subsection, the person's or persons' conviction in connection with the sexual misconduct offense must have occurred within two years of the date of application in the event of a misdemeanor and within five years of the date of application in the event of a felony.

B. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

C. The Zoning Officer shall complete the certification that the premises are in compliance or not in compliance within 30 days of receipt of the completed application by the Borough.

§ 58-7. Fees.

The permit fee for a sexually oriented business shall be determined by the Borough Council from time to time. The fee must be reasonably related to recoup the expenses from the application process. The Borough Council shall also determine an annual fee for renewal of the permit.

§ 58-8. Inspection.

A. An applicant, or permittee, shall permit the Police Department and/or the Zoning Officer to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time that the sexually oriented business is occupied or open for business.

B. A person who operates a sexually oriented business, or said person's agent or employee, violates this chapter if said person refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

§ 58-9. Expiration of permit.

A. Each permit shall expire one year from the date of issuance and may be renewed only by making application as provided in § 58-5. Application for renewal should be made at least 30 days before the expiration date and, when made fewer than 30 days before the expiration date, the pendency of the application will not prevent the expiration of the permit.

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B. If the Zoning Officer denies renewal of a license, the applicant shall not be issued a permit for one year from the date of denial, except that after 90 days have elapsed since the date of denial, the applicant may be granted a permit if the Zoning Officer finds that the basis for denial of the renewal permit has been corrected or abated.

§ 58-10. Suspension of permit.

The Zoning Officer shall suspend a permit for a period not to exceed 30 days if said Officer determines that a permittee or an employee of a permittee has:

A. Violated or is not in compliance with any section of this chapter;

B. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;

C. Engaged in excessive use of alcoholic beverages while on sexually oriented business premises;

D. Knowingly permitted gambling by any person on sexually oriented business premises;

E. Demonstrated an inability to manage or operate a sexually oriented business in a peaceful or lawful manner thus necessitating action by law enforcement officers.

§ 58-11. Revocation of permit.

A. The Zoning Officer shall revoke a permit if a cause of suspension set forth in § 58-10 occurs and the permit has been suspended within the preceding 12 months.

B. The Zoning Officer shall revoke a permit if said Officer determines that:

(1) A permittee, or any of the persons specified in § 58-6A(8), is or has been convicted of the offenses specified in § 58-6A(8);

(2) A permittee gave false or misleading information in the material submitted to the Borough during the application process;

(3) A permittee or an employee of a permittee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(4) A permittee or an employee of a permittee has knowingly allowed prostitution on the premises;

(5) A permittee or an employee of a permittee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended;

(6) A permittee or an employee of a permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other explicit sexual conduct to occur in or on the permitted premises;

(7) A permittee is delinquent in payment of the Borough or state of any taxes or fees relating to the involved sexually oriented businesses.

C. A transfer of ownership or control of a sexually oriented business and/or the permit involved and/or any interest in said permit shall automatically and immediately revoke the permit.

D. When a Zoning Officer revokes a permit, the revocation shall continue for one year, and the permittee

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shall not be issued a sexually oriented business permit for one year from the date the revocation became effective. If subsequent to the revocation, the Zoning Officer finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least 90 days have elapsed since the date the revocation became effective. If the revocation is pursuant to Subsection B(1) above, the revocation shall be effective for two years in the event of a misdemeanor or five years in the case of a felony.

E. After denial of an application, denial of renewal of a permit, or suspension or revocation of a permit, the Zoning Officer shall send to the applicant or permittee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. The written notice shall contain the specific reasons for denial of the permit or for the suspension or revocation of the permit. The applicant or permittee shall have the right to appeal said action and to seek prompt judicial review of such administrative action in any court of competent jurisdiction.

§ 58-12. Transfer of permit/site of operation.

A permittee shall not transfer said permittee's permit to any other person. A permittee shall not operate a sexually oriented business under the authority of a permit at any place and/or site other than the address designated in the application and approved by the Borough.

§ 58-13. Display of permit.

The permit shall be displayed in a conspicuous, public place in the sexually oriented business.

§ 58-14. Location of sexually oriented businesses.

A. A person is guilty of a violation of Chapter 205, Zoning, of the Code of the Borough of Tyrone and this chapter if said person operates or causes to be operated a sexually oriented business outside of the zoning district in which a sexually oriented business is allowed by Chapter 205, Zoning. Sexually oriented businesses as defined herein shall be permitted in the H-C Highway Commercial District as a special exception.

B. A person is guilty of a violation of Chapter 205, Zoning, and this chapter if said person operates or causes to be operated a sexually oriented business within 1,000 feet of:

(1) A church;

(2) A public or private pre-elementary, elementary or secondary school;

(3) A public library;

(4) A child-care facility or nursery school;

(5) A public park adjacent to any residential district;

(6) A child-oriented business;

(7) The boundary of any residential district as defined by Chapter 205, Zoning.

C. A person is guilty of a violation of Chapter 205, Zoning, and this chapter if such person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

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D. A person is guilty of a violation of this chapter if such person causes or permits: the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof; or the increase of floor areas of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.

E. For the purposes of this chapter and Chapter 205, Zoning, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, public or private pre-elementary, elementary, or secondary school, public library, child-care facility, child-oriented business, or nursery school, the nearest boundary of an affected public park; or to the nearest boundary of any residential district.

F. For purposes of Subsection C of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

G. A sexually oriented business that was lawfully operating on the date of the enactment of this chapter or the relevant amendments to Chapter 205, Zoning, (whichever applies) that is in violation of subsections A, B, C, or D of this section shall be deemed a nonconforming use. Such nonconforming use shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use.

H. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a church, public or private pre-elementary, elementary, or secondary school, public library, child-care facility, child-oriented business, nursery school, public park or residential district within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit, and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

§ 58-15. Hours of operation.

Operating hours of sexually oriented businesses which apply for an initial permit and/or any renewal permit after passage of this chapter shall be between the hours of 10:00 a.m. to 10:00 p.m., Mondays through Saturdays, and closure of such businesses on Sundays and holidays. This section is intended to reduce the adverse secondary effects of such businesses, including, particularly, but not limited to, late night noise levels, crime, sexually offensive materials and activities in public areas, and it promotes the public health, safety and welfare.

§ 58-16. Exemptions.

It is a defense to prosecution under §§ 58-5 and 58-13 that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school, licensed by the Commonwealth of Pennsylvania, or a college, junior college, or university supported entirely or partly by taxation;

B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

C. In a structure:

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(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(2) Where, in order to participate in a class, a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude model is on the premises at any one time.

§ 58-17. Injunction.

A person who operates or causes to be operated a sexually oriented business without a valid permit or in violation of this chapter is subject to an action in equity or a suit for injunction as well as citations for violations of this chapter.

§ 58-18. Violations and penalties.

In addition to any other remedies and/or penalties provided in this chapter, any person found guilty before a Magisterial District Judge of violating any provision of this chapter shall be sentenced to pay a fine of not less than $500 and not more than $1,000 plus costs and, in default of payment, undergo imprisonment for a period not to exceed 30 days. Each day a violation of this chapter continues shall be deemed a separate and distinct violation.

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Chapter 60

ALARM SYSTEMS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 3-8-1999 by Ord. No. 1151. Amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 20. **Fire prevention — See Ch. 95.**

§ 60-1. Title.

This chapter shall be known and cited as the "Borough of Tyrone False Alarm Ordinance."

§ 60-2. Definitions.

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

ALARM — A communication either directly or indirectly to a fire agency and/or police agency indicating that a crime, fire or other emergency situation warranting immediate action by such agency and/or agencies has occurred or is occurring.

CHIEF OF POLICE — Chief of the Borough of Tyrone Police Department.

EMERGENCY — A police, fire, hazard or medical emergency.

FALSE ALARM — An alarm activated in the absence of an emergency, whether willfully or by inadvertence, negligence, or unintentional act, including the malfunction of the alarm system; the intentional activation of a holdup alarm for other than a holdup in progress; the intentional activation of a medical alarm for other than a medical emergency; or the intentional activation of a fire alarm for other than a fire or hazard to which the police or fire agency responds. Exceptions are: an alarm caused by the testing or repairing of telephone or electrical lines or equipment outside the premises; acts of God, such as earthquake, flood, windstorm, thunder or lightning; an attempted illegal entry of which there is visible evidence; a crime in progress; or, in the case of an emergency medical alarm, an actual medical emergency requiring police, fire and/or medical personnel.

FIRE AGENCY — Any volunteer and/or paid fire-fighting entity responding to an alarm.

FIRE CHIEF — The Chief of the Fire Companies in the Borough of Tyrone or an authorized designee.

FIRE EMERGENCY — A fire, smoke or overheating.

HAZARD EMERGENCY — An explosion, leak of toxic gas, liquid or solid, or a potential explosion or leak.

MEDICAL EMERGENCY — An emergency involving the health of a person.

PERSON — An individual, corporation, partnership, incorporated association or similar entity.

POLICE AGENCY — The Borough of Tyrone Police Department.

POLICE EMERGENCY — An incident requiring prompt response by the police agency.

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§ 60-3. False alarms.

A. Any person owning a structure in the Borough of Tyrone shall be notified, in writing, by the Fire Chief and/or the Chief of Police, of each and every false alarm activated in the absence of an emergency, whether willfully or by inadvertence, negligence or unintentional act, including the malfunction of the alarm system to which the police or fire agency responds to such structure. Each such alarm shall constitute a separate offense as follows:

(1) First alarm: written warning.

(2) Second alarm: written warning.

(3) Third alarm: written warning.

(4) Fourth alarm: $100.

(5) Fifth alarm: $200.

(6) Each additional alarm: $300.

B. When the fourth and subsequent false alarm occurs, the Fire Chief and/or the Chief of Police shall notify the owner of the structure to which the police and/or fire agency responded that a false alarm charge is due and payable and the amount thereof.

C. A false alarm charge shall be due and payable at the Borough of Tyrone Municipal Building 25 days from the date of the mailing of the notice of assessment of the charge.

D. Failure of the owner of said structure to pay a false alarm charge on or before the due date shall constitute a violation of this chapter and shall subject said person to the penalties set forth in § 60-4 hereof.

E. If doubt exists as to the cause of the false alarm, the Chief of Police or Fire Chief, or their designee, shall make a decision regarding the circumstances of the activation.

F. Multiple alarms received before the system can be deactivated within a reasonable period of time shall be considered a single alarm as determined by the Fire Chief and/or Chief of Police.

§ 60-4. Violations and penalties.

A. Should any person fail to pay the false alarm charges, as required under § 60-3 of this chapter, such failure shall constitute a violation of this chapter, and such unpaid charges may be collected as fines by suit or summary proceeding brought in the name of the Borough of Tyrone before any Magisterial District Judge of this Commonwealth having jurisdiction. Such proceedings for such violations and for the collection of such fees imposed herein and unpaid may be commenced by warrant or by summons, at the discretion of the Magisterial District Judge before whom such proceedings are begun.

B. Any person who commits a violation shall be subject to prosecution in a summary proceeding brought before a Magisterial District Judge having jurisdiction and, upon conviction, shall be liable for a fine of not less than $100 nor more than $1,000, plus costs of prosecution, and, in default thereof, may be sentenced and committed to imprisonment for a period not exceeding 30 days. Each day during which failure to comply continues shall constitute a separate violation of the terms of this chapter.

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TYRONE CODE

Chapter 60A

ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation areas — See Ch. 140.

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ARTICLE I
Consumption and Possession
[Adopted 9-10-2012 by Ord. No. 1331]

§ 60A-1. Definitions.

Unless the context otherwise requires, the following words or phrases shall be construed according to the definitions set forth below:

ALCOHOLIC BEVERAGES — Any spirits, wine, beer, ale or other liquid containing more than 1/2% of alcohol volume which is fit for beverage purposes.

CONTAINER — Any bottle, can or other vessel in which alcoholic beverages are contained.

PUBLIC PLACE — Any way, area or place open to the use of the public or wherein the public has been invited, whether privately or publicly owned, operated or leased.

§ 60A-2. Public consumption.

No person shall consume any alcoholic beverage in any quantity upon any street, avenue, alley, sidewalk, stairway, thoroughfare, playground, park, parking lot, or other public place within the Borough of Tyrone, nor shall any person consume any alcoholic beverage within five feet of any public way or thoroughfare while on a private stairway, doorway, or other private property open to public view without the express or implied permission of the owner, his/her agent or other party in lawful possession thereof.

§ 60A-3. Possession of open containers.

No person shall possess any container of alcoholic beverage, whether wrapped or unwrapped, which has been opened or on which the seal has been broken in any manner, on any public street, avenue, alley, thoroughfare, playground, park, parking lot or other public place within the Borough of Tyrone, nor shall any person possess any container of alcoholic beverage within five feet of any public way or thoroughfare while on a private stairway, doorway, or other private property open to public view without the express or implied permission of the owner, his/her agent, or other person in lawful possession thereof.

§ 60A-4. Exceptions.

The provisions of §§ 60A-2 and 60A-3 above shall not apply to interior portions of any private dwelling, habitat or building, nor to the consumption or possession by persons in the areas herein designated of any duly prescribed and dispensed medication having alcoholic content as set forth in § 60A-1 hereof, and provided further that the provision of said §§ 60A-2 and 60A-3 above shall not apply to premises duly licensed by the Pennsylvania Liquor Control Board and to persons then and there patrons of said license. Furthermore, the provisions of §§ 60A-2 and 60A-3 above shall not apply to those public places whereby express permission has been granted by the owner, the owner's agent or other party in lawful possession of those areas, and all other necessary lawful requirements have been met, to hold or conduct fairs, bazaars, picnics, fund-raisers or other seasonal activities, provided that, in order to protect the public's health, safely and welfare, the said public places are cordoned or barricaded in such a manner as to define those specific areas within which such owner's express permission has been given.

§ 60A-5. Enforcement; violations and penalties.

A. Enforcement. Any police officer and/or other person authorized by the Borough Council may enforce the provisions of this article.

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B. Penalty. Any person who shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine of not less than $100 and not more than $1,000, plus the cost of prosecution, and/or be sentenced to imprisonment for a term not to exceed 90 days. Every day that a violation of this article continues shall constitute a separate and distinct offense which shall be subject to the aforesaid penalties.

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TYRONE CODE

Chapter 61

ANIMALS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. 133.

Parks and recreation areas — See Ch. 140.

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ARTICLE I
Cats
[Adopted 6-11-1984 by Ord. No. 878 (part of Ch. 6 of the 1958 Code); amended in its entirety 12-10-2018 by Ord. No. 1425]

§ 61-1. Prohibited acts.

It shall be unlawful for the owner, custodian or keeper of any cat(s) to allow such cat(s) to become a nuisance in any manner within the corporate limits of the Borough of Tyrone.

§ 61-2. Declaration of nuisance.

A "nuisance" shall be construed to mean any cat(s) running at large, at any time, upon property other than the owner's or upon the streets, alleys or public grounds of the Borough of Tyrone, whereby said cat(s) creates a disturbance, defaces property or deposits excretions or animal wastes upon said property.

§ 61-3. Definitions.

The following definitions shall apply to this article:

ANIMAL — Any dog, cat, domesticated animal or nondomesticated animal.

BOROUGH — Borough of Tyrone.

FEEDING — The act of giving food to an animal to sustain its ability to live. This includes placing food in bowls or receptacles outside a home or structure for the purpose of consumption such that animals are able to access it without further human intervention.

FERAL CAT — An unowned free-roaming cat that is partially socialized or unsocialized to humans and tends to resist contact with humans.

NUISANCE — An animal shall be considered a nuisance if it habitually trespasses upon or damages either private or public property or annoys or harms lawful users or occupants thereof.

OWNER — Any person having a right of property in, having custody of or who harbors or permits a dog, cat, domestic animal or any nondomesticated animal to remain on or around his or her property.

PERSON — A natural person, firm, partnership, association or corporation.

RUNNING AT LARGE — Being upon any public highway, street, alley, park or any other public land or upon property of another person other than the owner and not being firmly secured by means of a collar and chain or other device so that it cannot stray or not being accompanied by or under the reasonable contact of some person.

SPONSOR — An eligible animal welfare organization appointed by the Borough of Tyrone to run a TNR program in the Borough.

STRAY CAT — Any cat whose owner or keeper from time to time allows the cat to run free off the property of the owner or keeper.

TRAP, NEUTER AND RETURN (TNR) — A nonlethal approach to feral cat population control where feral cats are humanely trapped, sterilized, vaccinated, ear-tipped and then returned to the location where they were originally trapped.

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§ 61-4. Disturbing or loud noise.

No person shall allow any animal confined on that person's premises to make any loud or harsh noise or disturbance which shall interfere with or deprive the peace, quiet, rest or sleep of any person within the Borough.

§ 61-5. Running at large.

A. No person shall permit any animal owned by him or under his supervision or control to run at large at any time upon the public streets, alleys, highways, or public grounds of the Borough or upon the private property of any other person or upon any property other than property belonging to the owner of such animal or to a person under whose supervision or control of such animal is being kept.

B. The provisions of this section shall apply to all animals found running at large in violation of this section, irrespective of payment for or issuance of any license in respect to the animal involved.

C. The Borough Council is hereby empowered and authorized to engage the services of a qualified and suitable person to enforce the provisions of this section.

§ 61-6. Impounding.

Any police officer or law enforcement officer of the Borough is hereby authorized to seize and detain any animal running at large in violation of § 61-5 or any animal concerning which information has been received that such animal had been running at large. Any animal so seized may be held by the Borough for up to 48 hours or immediately turned over to an appropriate shelter or animal rescue organization, provided that such shelter or organization has the ability to detain it. Immediate notice of such seizure, either personally by certified mail or email, with return receipt requested, shall be given to the person in whose name the license, if any, was issued, or his agent, to claim such animal within 48 hours after receipt thereof. In the event that the animal does not bear a proper license tag, immediate notice, either personally or by certified mail or email, return receipt requested, shall be given to the person, or his agent, known to be the owner of such animal.

§ 61-7. Disposition of any unclaimed animal.

If, after 48 hours of such notice as set forth in § 61-6, such animal has not been claimed, the police officer or law enforcement officer shall convey the animal to a shelter, animal rescue or foster care. No licensed animal shall be adopted or sold unless said licensed animal remains unclaimed five days after notification, evidenced by obtaining a return receipt if notified by certified mail or email. Where the owner or agent of an unlicensed animal is not known, the police officer or law enforcement officer shall convey such animal to a shelter, animal rescue, or foster care. No animal shall be sold for the purpose of vivisection or research or be conveyed in any manner for such purposes.

§ 61-8. Responsibility of cat owners regarding stray cats.

It shall be unlawful for any owner of any cat to permit such cat to run free or feed outside the residence of its owner or keeper.

§ 61-9. Feeding of stray or feral cats.

It shall be unlawful for any person to continue to feed stray or feral cats, where such feeding causes a nuisance to neighbors or creates a condition contrary to the health, safety, and welfare of the community.

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§ 61-10. Responsibilities of TNR program sponsors.

Animal welfare organizations may make application to the Borough to serve as a sponsor of a TNR program. Sponsors appointed by the Borough shall have the following responsibilities:

A. Register each feral cat colony they are managing with the Borough. Information submitted to the Borough shall include general location (neighborhood), number of cats in the colony, and number of caretakers working with the colony.

B. Record and report to the Borough, on an annual basis, the intake and disposition of each feral cat brought to the facility.

C. Record and report to the Borough, on an annual basis, the total number of members and the number of sterilized members of each feral cat colony within the Borough for which they have implemented a TNR program.

D. Record and report to the Borough, on an annual basis, the number of kittens born into each feral cat colony within the Borough for which they have implemented a TNR program.

E. Address complaints received by the Borough and passed along to the sponsor regarding caretaker behavior and serve as an intermediary to address and, where possible, remediate the behavior within a reasonable time, based on the matters at issue and utilizing Borough resources when necessary.

§ 61-11. Violations and penalties.

A. Any person violating any provisions of this article, in a summary proceeding before any Magisterial District Judge, upon conviction, shall be sentenced to pay a fine of not less than $50 and not more than $600, plus costs of prosecution, and, in default of payment of such fines and costs, to be imprisoned for not more than 30 days. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

B. The provisions of this article shall be enforced by the Police Department of the Borough of Tyrone or other person designated by the Borough of Tyrone.

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ARTICLE II
Disposal of Pet Wastes
[Adopted 5-11-1998 by Ord. No. 1136; amended in its entirety 12-10-2018 by Ord. No. 1425]

§ 61-12. Animal defecation on public and private property restricted.

No person, having ownership, possession, custody or control of any dog, cat or other animal, shall knowingly or negligently permit any dog, cat or other animal to commit any nuisance, i.e., defecation, upon any gutter, street, alley, curb or sidewalk in the Borough, or upon the grounds of any public park, playground, recreation area or other public area, or upon any private property.

§ 61-13. Right to file private criminal complaint.

Any owner of private property upon which any animal commits defecation shall have the right to file a private criminal complaint against the person having ownership, possession, custody or control of said animal with the Magisterial District Judge.

§ 61-14. Disposal of animal feces.

Any person having possession, custody or control of any dog, cat or other animal which commits a nuisance, i.e., defecation, in any area as prohibited in § 61-12 hereof shall be required to immediately remove any feces from such surface and either:

A. Carry same away for disposal in a toilet.

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

§ 61-15. Dogs accompanying blind or handicapped persons exempted.

The provisions of §§ 61-12 and 61-14 hereof shall not apply to a guide dog accompanying any blind persons or to a dog used to assist any other physically handicapped person.

§ 61-16. Violations and penalties.

A. Any person violating any provisions of this article, in a summary proceeding before any Magisterial District Judge, upon conviction, shall be sentenced to pay a fine of not less than $50 or not more than $600, plus costs of prosecution, and, in default of payment of such fines and costs, to be imprisoned for not more than 30 days. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

B. The provisions of this article shall be enforced by the Police Department of the Borough of Tyrone.

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ARTICLE III
Feeding of Wild Animals
[Adopted 2-8-2016 by Ord. No. 1372; amended in its entirety 12-10-2018 by Ord. No. 1425]

§ 61-17. Definitions.

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

WILD ANIMAL — That which is not of a species customarily used or kept as an ordinary household pet.

A. One which ordinarily would be confined to a zoo, or one which would ordinarily be found in the wilderness of this country;

B. Specifically, and not limited to, geese and ducks or other wild waterfowl at the public park known as Reservoir Park and the waterways known as the Little Juniata River and Bald Eagle Creek, all of which are found within the confines of the Borough; and

C. Includes any animals prohibited from being owned as domestic pets under the laws of the Commonwealth of Pennsylvania and the Code of the Borough of Tyrone.

§ 61-18. Feeding wild animals prohibited.

No person shall feed food or any other type of edible substance to any wild animal on property owned, leased, maintained or managed by the Borough of Tyrone, specifically but not limited to, geese and ducks or other wild waterfowl at the public park known as Reservoir Park and the waterways known as Little Juniata River and Bald Eagle Creek. Leaving refuse on Borough property while awaiting routine pickup shall not constitute feeding wild animals. If, however, the same constitutes littering under the laws of the Commonwealth of Pennsylvania, anyone so leaving such refuse may be subject to fines as set forth in the laws of the Commonwealth of Pennsylvania and the Borough of Tyrone.

§ 61-19. Violations and penalties; enforcement.

A. Any person violating any provisions of this article, in a summary proceeding before any Magisterial District Judge, upon conviction, shall be sentenced to pay a fine of not more than $300, plus costs of prosecution, and, in default of payment of such fines and costs, to be imprisoned for not more than 30 days. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

B. The provisions of this article shall be enforced by the Police Department of the Borough of Tyrone.

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ARTICLE IV
Chickens and Ducks
[Adopted 8-10-2020 by Ord. No. 1442; amended 1-10-2022 by Ord. No. 1458]

§ 61-20. Keeping of chickens and ducks.

It shall be unlawful to keep chickens and ducks in the Borough of Tyrone except as provided by this article.

§ 61-21. Unlawful to allow chickens and ducks to run at large.

It shall be unlawful for the owner or owners of any chickens and ducks to allow the same to run at large upon any of the common thoroughfares, sidewalks, passageways, play areas, parks, streets, alleys, or public highways or any place where people congregate or walk, or upon any public or private property without an approved coop and run in the Borough. Any chicken or duck not contained within an approved coop or run shall be deemed "at large." Any owner of a chicken or duck found to be running at large shall be guilty of a nuisance in the same manner as declared by § 61-2 of this chapter.

§ 61-22. Permit required.

Any property owner who wishes to keep chickens or ducks at their property shall obtain a permit from the Borough of Tyrone and pay a fee as established by Borough Council from time to time. Applications submitted by tenants of rental properties must submit a letter from the property owner indicating their consent to the keeping of chickens at the property.

§ 61-23. Limitation on the number and gender of chickens and ducks.

No owner of property shall keep more than six chickens or ducks on their property, all of which shall be of the female gender. No roosters or drakes shall be permitted to be kept in the Borough of Tyrone. Property owners may only keep either chickens or ducks on their property, but not both chickens and ducks at the same time.

§ 61-24. Housing of chickens and ducks.

All owner or owners of chickens or ducks within the limits of the Borough are hereby required to house the same at all times under sanitary conditions so that the keeping of chickens or ducks shall not become either a public or private nuisance. The following provisions apply:

A. Chickens and ducks shall be housed in a coop no larger than 100 square feet and must allow for at least four square feet per chicken or duck.

B. Chicken or duck feces on private property shall not be allowed to accumulate to the degree that it becomes a public health nuisance or hazard. In cases where chicken or duck feces does accumulate on private property, the owner shall be in violation of this article.

§ 61-25. Violations and penalties; enforcement.

A. Any person violating any provisions of this article, in a summary proceeding before any Magisterial District Judge, upon conviction, shall be sentenced to pay a fine of not more than $100, plus costs of prosecution, and, in default of payment of such fines and costs, to be imprisoned for not more than 30 days. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

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B. The provisions of this article shall be enforced by the Code Enforcement Officer, the Police Department of the Borough of Tyrone or other individual as designated by Council.

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Chapter 66

BRUSH, GRASS AND WEEDS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 5-13-1968 by Ord. No. 690 (part of Ch. 6 of the revised 1958 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Open burning — See Ch. 70. **Property maintenance — See Ch. 146.**

§ 66-1. Prohibited acts.

No person, firm or corporation owning or occupying any property within the Borough of Tyrone shall permit any grass or weeds or vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises so as to exceed a height of six inches or to throw off any unpleasant or noxious odor or to conceal any filthy deposit or to create or produce pollen. Any grass, weeds or other vegetation growing upon any premises in the Borough in violation of any of the provisions of this section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Borough.

§ 66-2. Removal of growth.

The owner of any premises, as to vacant premises or premises occupied by the owner, and the occupant thereof, in case of premises occupied by other than the owner thereof, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such premises in violation of the provisions of § 66-1 of this chapter.

§ 66-3. Notice to remove; Borough removal and costs.

The Borough Secretary or any officer or employee of the Borough designated thereby for the purpose is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any premises whereon grass, weeds or other vegetation is growing or remaining in violation of the provisions of § 66-1 of this chapter directing and requiring such occupant to remove, trim or cut such grass, weeds or vegetation so as to conform to the requirements of this chapter within five days after issuance of such notice. In case any person, firm or corporation shall neglect, fail or refuse to comply with such notice within the period of time stated therein, the Borough authorities may remove, trim or cut such trees, weeds or vegetation, and the cost thereof, together with an additional penalty authorized by the law, may be collected by the Borough from such person, firm or corporation in the manner provided by law.

§ 66-4. Violations and penalties.[33]

Any person, firm or corporation who or which shall fail, neglect or refuse to comply with any of the provisions of this chapter within five days after receiving the notice as provided for in § 66-3 of this chapter shall, upon conviction before a Magisterial District Judge, be sentenced to pay a fine of not more than $600

33. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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and costs of prosecution and, in default of the payment thereof, shall undergo imprisonment for not more than five days.

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Chapter 70

BURNING, OPEN

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 12-4-2000 by Ord. No. 1176.[34] Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 66.

Fire prevention — See Ch. 95.

Outdoor furnaces — See Ch. 100.

Solid waste — See Ch. 170.

§ 70-1. Open burning prohibited.

No person shall cause, suffer, or permit the open burning, as defined herein, of any material in any area within the Borough of Tyrone. The term "open burning" shall mean the burning of any materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For the purpose of this definition, a chamber shall be regarded as enclosed, when during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

§ 70-2. Exceptions. [Amended 8-11-2008 by Ord. No. 1270]

The prohibition on open burning set forth in § 70-1 shall not apply where the open burning operation results from:

A. Any fire set solely for recreational or ceremonial purposes, provided that the material to be burned is nonrecyclable material, and provided that such burning is in compliance with the regulations set forth in § 70-3, entitled "Regulations for permitted burning"; and

B. Any fire set solely for cooking food, provided that the material to be burned is nonrecyclable material, and provided that such burning is in compliance with the regulations set forth in § 70-3, entitled "Regulations for permitted burning."

§ 70-3. Regulations for permitted burning. [Added 8-11-2008 by Ord. No. 1270]

Any and all open burning of any material permitted by the exceptions herein set forth shall be accomplished in an approved container such as a concrete enclosure, fire pit and/or chiminea (collectively referred to as "container") and shall comply with the following:

A. Said container must have a screen of sufficient strength to prevent ash or unburned material from being released from said container during or after burning has occurred.

B. Said container shall be within reach of an operating water faucet and/or operating garden hose and shall be placed on privately owned property, but in no event shall said container be placed closer than 10 feet from the property line of the person burning.

34. Editor's Note: This ordinance also specifically repealed Ord. Nos. 997 and 1044. Copies of said ordinances are on file in the Borough office.

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C. Said container shall not be placed on or near any combustible material nor on the surface of any public street.

D. Any and all open permitted burning shall be completely extinguished by 11:00 p.m. Any and all open permitted burning shall be done under the consent and direct supervision of an adult of 18 years of age or older and shall not be done when a strong breeze or wind is active.

E. Any and all open permitted burning must be carried out in a manner to prevent the emission of noxious or offensive smoke and/or odors.

F. No open burning shall cause emissions which interfere with the reasonable enjoyment of life or property.

G. It shall be unlawful for any person to burn those materials which are prohibited under any and all local, commonwealth and/or federal law, including but not limited to the following materials:

(1) Leaves, leaf waste and grass clippings (dried or otherwise).

(2) Clear glass, colored glass, aluminum, steel and bimetallic cans, high-grade office paper, newsprint (newspaper), plastic and any and all other source-separated recyclable material.

(3) Garbage.

(4) Hazardous waste.

(5) Any substance which interferes with the reasonable enjoyment of life or property or is harmful to human or animal health.

§ 70-4. Definitions. [Added 8-11-2008 by Ord. No. 1270]

For the purpose of this chapter, the following definitions shall apply:

CHIMINEA — A fireplace that has a chimney to efficiently fuel fire with fresh air.

FIRE PIT — A bowl or three-hundred-sixty-degree open fireplace.

FIREPLACE — Any area wherein a fire has been ignited other than a completely enclosed container such as a furnace.

§ 70-5. Violations and penalties.

Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof before any court of law, be subject to a fine or penalty of not less than $50 and not more than $600, plus the costs of prosecution, and, in default of payment thereof, to imprisonment for not more than 30 days in prison. Each day a violation continues shall constitute a separate offense.

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Chapter 71

CONSTRUCTION CODES, UNIFORM

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 5-10-2004 by Ord. No. 1209. Amendments noted where applicable.]

GENERAL REFERENCES

Fees — See Ch. 92.

Fire prevention — See Ch. 95.

Floodplain regulations — See Ch. 99.

Outdoor furnaces — See Ch. 100.

Property maintenance — See Ch. 146.

Subdivision of land — See Ch. 174.

Zoning — See Ch. 205.

§ 71-1. Election to administer and enforce.

Tyrone Borough hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§ 7210.101 through 7210.1103, as amended from time to time, and its regulations.

§ 71-2. Adoption of Uniform Construction Code. [Amended 1-10-2005 by Ord. No. 1209]

The Uniform Construction Code, contained in 34 Pa. Code Chapters401 through 405, as amended from time to time, is hereby adopted and incorporated herein by reference as the Municipal Building Code of Tyrone Borough with the exception of the following residential construction which shall require permits: roof replacement; exterior siding; porches and decks; railings and steps; public sidewalks; retaining walls over four feet in height; and fences. The following residential construction/remolding shall now be governed by the UCC and, therefore, do not require a permit are as follows: interior repairs and replacements; floor replacement and coverings; hot water tanks; plumbing and electrical work; exterior and interior painting; window and door replacements that do not increase the size of the same; driveways (so long as the portion that may encompass the sidewalk is not black topped); and private property sidewalks that are not adjacent to public streets. All other construction not specifically set forth herein, including but not limited to new residential construction and commercial construction, both new and remodeling, shall be governed by UCC regulations.

§ 71-3. Administration and enforcement.

Administration and enforcement of the code within Tyrone Borough shall be undertaken in any of the following ways as determined by the Borough Council of Tyrone Borough from time to time by resolution:

A. By the designation of an employee of Tyrone Borough to serve as the municipal code official to act on behalf of Tyrone Borough;

B. By the retention of one or more construction code officials or third-party agencies to act on behalf of Tyrone Borough;

C. By agreement with one or more other municipalities for the joint administration and enforcement of the Act through an intermunicipal agreement;

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D. By entering into a contract with another municipality for the administration and enforcement of the Act on behalf of Tyrone Borough;

E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

§ 71-4. Authorization for Board of Appeals.

A Board of Appeals shall be established by resolution of the Borough Council of Tyrone Borough in conformity with the requirements of the relevant provisions of the code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

§ 71-5. Prior building code regulations.

A. All building code ordinances or portions of ordinances which were adopted by Tyrone Borough on or before July 1, 1999, and which equal or exceed the requirements of the code shall continue in full force and effect until such time as such provisions fail to equal or exceed the minimum requirements of the code, as amended from time to time.

B. All building code ordinances or portions of ordinances which are in effect as of the effective date of this chapter and whose requirements are less than the minimum requirements of the code are hereby amended to conform with the comparable provisions of the code.

C. All relevant ordinances, regulations and policies of Tyrone Borough not governed by the code shall remain in full force and effect.

§ 71-6. Fees.

Fees assessable by the Borough of Tyrone for the administration and enforcement undertaken pursuant to this chapter and the code shall be established by the governing body by resolution from time to time.[35]

§ 71-7. Effective date.

This chapter shall become effective on July 1, 2004.

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35. Editor's Note: See Ch. 92, Fees.

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Chapter 74

CURFEW

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 5-1-2000 by Ord. No. 1168.[36] Amendments noted where applicable.]

GENERAL REFERENCES

Disorderly conduct — See Ch. 78. **Loitering — See Ch. 115.**

§ 74-1. Definitions.

As used in this chapter, the terms hereinafter stated shall have the following meaning unless otherwise noted:

BOROUGH — The Borough of Tyrone.

CURFEW HOURS —

A. 10:00 p.m. until 6:00 a.m., prevailing time, everyday for minors under 16 years of age; and

B. 11:00 p.m. until 6:00 a.m., prevailing time, everyday for minors aged 16 and older.

CUSTODIAN — A person who is at least 18 years of age and who is authorized, in writing, by a parent or guardian to have the care and custody of a minor. For purposes of this chapter, said custodian must have such written authorization at all times when exercising care and custody over the minor.

EMERGENCY — An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

ESTABLISHMENT — Any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

GUARDIAN —

A. A person who, under court order, is the guardian of the person of a minor;

B. A public or private agency with whom a minor has been placed by a court.

MINOR — Any person under 18 years of age.

OPERATOR — Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes, but is not limited to, the members or partners of an association or partnership and the officers of a corporation.

PARENT — A person who is a natural parent, adoptive parent, or stepparent of another person.

PUBLIC PLACE — Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment

36. Editor's Note: This ordinance also specifically repealed Ord. Nos. 733 and 806. Copies of said ordinances are on file in the Borough office.

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houses, office buildings, transport facilities, shops, malls, eating establishments and parks.

REMAIN — To:

A. Linger or stay; or

B. Fail to leave an establishment and/or public place when requested to do so by a police officer or the owner, operator, or other person in control of the establishment and/or public place.

SERIOUS BODILY INJURY — Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

§ 74-2. Offenses.

A. A minor commits an offense if the minor remains (whether in or out of any vehicle) in any public place or on the premises of any establishment within the Borough during curfew hours.

B. A parent or guardian of a minor commits an offense if said individual knowingly permits, or by insufficient control allows, a minor to remain (whether in or out of any vehicle) in any public place or on the premises of any establishment within the Borough during curfew hours after having received notice, verbal and/or written, from the Borough Police Department of a prior violation. A conviction before a Magisterial District Judge shall not be required to constitute notice of a prior violation for purposes of this chapter.

C. The owner, operator, or any employee of an establishment commits an offense if said individual knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

§ 74-3. Defenses.

A. It is a defense to prosecution under § 74-2 that the minor was:

(1) Accompanied by the minor's parent, guardian or custodian;

(2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(5) Involved in an emergency;

(6) On the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor permitted the minor's presence;

(7) Attending and/or going to and from, without any detour or stop, an official Borough, school, religious, or other activity supervised by adults and sponsored by such organization, or another similar entity that takes responsibility for the minor.

(8) Exercising rights protected by the United States and/or Pennsylvania Constitution and not otherwise prohibited by law, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(9) Married or had been married or had disabilities of minority removed in accordance with

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Pennsylvania law.

B. It is a defense to prosecution under § 74-2 that the owner, operator, or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

§ 74-4. Violations and penalties.

A. Any person who violates this chapter shall, upon conviction before a Magisterial District Judge, be guilty of a summary offense punishable by a fine of not less than $250 and not to exceed $600 and, upon failure to pay said fine and costs, be subject to imprisonment up to 30 days. Each time that a violation is committed shall constitute a separate offense.

B. When required by the Juvenile Act of the Commonwealth of Pennsylvania,[37] the Magisterial Court shall refer the matter to the Juvenile Court.

C. All fines imposed and collected shall be paid to the Borough.

§ 74-5. Title.

This chapter shall be cited as the "Borough of Tyrone Curfew Ordinance."

37. **Editor's Note: See 42 Pa.C.S.A. § 6301**

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Chapter 78

DISORDERLY CONDUCT

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 10-14-1985 by Ord. No. 894.[38] Amendments noted where applicable.]

GENERAL REFERENCES

Adult entertainment — See Ch. 58.

Curfew — See Ch. 74.

Conduct at fires — See Ch. 97.

Loitering — See Ch. 115.

Noise — See Ch. 129.

Property maintenance — See Ch. 146.

§ 78-1. Prohibited acts.

Disorderly conduct, as defined in the Pennsylvania Crimes Code, 18 Pa.C.S.A. § 5503, is hereby prohibited within the Borough of Tyrone. A person is guilty of disorderly conduct if he or she:

A. Engages in fighting or in threatening, violent or tumultuous behavior;

B. Makes unreasonable noise;

C. Uses obscene language or makes an obscene gesture; or

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

§ 78-2. Public places defined.

As used in this chapter, the word "public" means affecting or likely to affect persons in a place to which the public or a substantial group has access. Among the places included are streets, alleys and sidewalks, transport facilities, schools, prisons, apartment house, places of business or amusement, any neighborhood or any premises which are open to the public.

§ 78-3. Disorderly premises.

It shall be unlawful for any person to keep or maintain a disorderly premises or to become an inmate or inhabitant thereof or to frequent the same or to permit any disorderly conduct on premises occupied by him or her. For purposes of this chapter, disorderly premises shall include, in addition to the activities possessing the elements of disorderly conduct set forth above, the conduct of a house of prostitution or gambling or the conduct of any illegal activity on the premises.

§ 78-4. Violations and penalties.[39]

Any person who shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to

38. Editor's Note: Former Art. I, Nuisances, adopted 10-13-1975 by Ord. No. 779, was repealed 11-14-2005 by Ord. No. 1236. See now Ch. 133, Nuisances.

39. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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pay a fine of not more than $1,000 and/or to imprisonment for a term not to exceed 90 days.

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TYRONE CODE

Chapter 86

ENERGY CONSERVATION

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 6-11-1990 by Ord. No. 989; amended in its entirety 7-12-1993 by Ord. No. 1049. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 71.

§ 86-1. Adoption of standards.

A certain document, one copy of which is on file in the office of the Tyrone Borough Manager, 1100 Logan Avenue, Tyrone, Blair County, Pennsylvania, being marked and designated as the "BOCA National Energy Conservation Code, Seventh Edition, 1993," as published by the Building Officials and Code Administrators International, Inc., be and is hereby adopted as the Energy Conservation Code of the Borough of Tyrone, Blair County, Pennsylvania, for the control of buildings and structures as provided herein; and each and all of the regulations, provisions, penalties, conditions and terms of said BOCA National Energy Conservation Code are hereby referred to, adopted and made a part hereof as if fully set out in this chapter.

§ 86-2. Violations and penalties.

Any individual, firm or corporation violating any of the terms or conditions of the National Energy Conservation Code, 1993, shall be subject, upon conviction thereof before the Magisterial District Judge, to a fine in the amount of not less than $25 nor more than $1,000, with each day upon which a violation of this chapter exists to be considered a separate offense.

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Chapter 90

FAIR HOUSING

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 6-10-1991 by Res. No. 399. Amendments noted where applicable.]

GENERAL REFERENCES

Housing rehabilitation program — See Ch. 103.

§ 90-1. Borough policy.

Discrimination in the sale, rental, leasing, financing of housing or land to be used for construction of housing or in the provision of brokerage services because of race, color, religion, ancestry, sex, national origin, handicap or disability is prohibited by Title VIII of the Civil Rights Act of 1968 (Federal Fair Housing Law) and the Pennsylvania Human Rights Act. It is the policy of the Borough of Tyrone to implement programs to ensure equal opportunity in housing for all persons regardless of race, color, religion, ancestry, sex, national origin, handicap or disability or familial status (families with children). Therefore, the Borough of Tyrone does hereby pass this chapter.

§ 90-2. Assistance for equity.

Within available resources, the Borough of Tyrone will assist all persons who feel they have been discriminated against because of race, color, religion, ancestry, sex, national origin, handicap or disability of familial status (families with children) to seek equity under federal and state laws by filing a complaint with the Pennsylvania Human Relations Commission and the United States Department of Housing and Urban Development.

§ 90-3. Publicizing of policy.

A. The Borough of Tyrone shall publicize this chapter and, through this publicity, shall cause owners of real estate, developers and builders to become aware of their respective responsibilities and rights under the Federal Fair Housing Law, the Pennsylvania Human Relations Act[40] and any local laws or ordinances.

B. Further publicity will, at a minimum, include but not be limited to the printing and publicizing of this chapter and other applicable fair housing information through local media and community contacts, distribution of posters and flyers and any other means which will bring to the attention of those affected the knowledge of their respective responsibilities and rights concerning equal opportunity in housing.

40. Editor's Note: See 43 P.S. § 951 et seq.

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Chapter 92

FEES

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 12-8-2025 by Ord. No. 1494.[41] Amendments noted where applicable.]

§ 92-1. Taxes.

A. Real estate: 4.725.

B. Real estate tax - late payment penalty: 10%.

C. Earned income - resident: 1.25%.

D. Earned income - non-resident: 1%.

E. Local services tax (LST): $52.

F. Realty transfer: 1%.

§ 92-2. Miscellaneous fees.

A. Lamination:

(1) Wallet size: $0.50.

(2) 8 1/2 x 11: $1.

B. Notary: $5/seal.

C. Maps:

(1) Borough: $2.

(2) Color: $5.

D. Copies:

(1) Black & White: $0.25/page.

(2) Color: $0.50/page.

E. Returned check fee: $35.

F. Credit card processing fee (non-utility payments): $2 + 2.35%.

§ 92-3. Licenses; permits; certifications; appeals.

A. Skill/mechanical amusement devices (gambling/paying): $100/year per device.

B. Building permits: $20/$1,000.

(1) (Every $1,000 after initial $1,000): $5 each.

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41. Editor's Note: This ordinance also superseded former Ch. 92, Fees, adopted 12-11-2023 by Ord. No. 1472.

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C. Annual building permit-commercial only: $75.

D. Refundable commercial permit deposit: $500.

E. Demolition permit - residential & commercial: 2% of job cost + $4.50.

F. Demolition permit - garages & sheds (under 1,000 sq ft): $25.

G. Tax certifications/duplicate receipt & bill fee: $5.

H. Chicken permit: $30.

I. Fire Marshal reports: $30.

J. Fire insurance certification fee: $40.

K. Sign permit: $50.

L. Street opening permit: $50.

M. Certificate of occupancy: $50.

N. Tattoo parlor borough license/renewal: $500/$250.

O. Zoning Hearing application fee: $400 plus any additional costs incurred including compensation for the members and secretary (or court stenographer), notice, advertising costs and administrative costs.

P. Property maintenance appeals to Borough Council: $250.

Q. Appeals to Blair Region UCC Board: $500.

R. Sexually oriented business:

(1) Application fee: $2,500.

(2) Annual renewal fee: $1,800.

S. Transfer of liquor license: $750.

T. Sidewalk obstruction permit: $50.

U. Refundable dumpster/roll off permit deposit: $100.

V. Dumpster/roll off permit fine for use without permit: $100.

W. Auction fee: $50.

§ 92-4. Soliciting; auction.

A. Soliciting - daily permit: $75.

B. Soliciting - weekly permit: $125.

C. Soliciting - monthly permit: $200.

D. Soliciting - yearly permit: $1,750.

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§ 92-5. Mobile homes.

A. Mobile home park - initial license: $500.

B. Mobile home park - annual renewal: $300.

C. Mobile home (tax) removal permit: $35.

§ 92-6. Storage of junked vehicles.

A. Permit fee - first six months: $200.

B. Permit fee - second six months: $300.

C. Permit fee - every six months thereafter: $400.

§ 92-7. Lot consolidation; subdivision; land development.

A. Residential activity.

(1) Lot consolidation plan: $100.

(2) Residential subdivision or land development: $250 plus Borough review and inspection costs.

B. Non-residential activity.

(1) No build commercial, industrial or institutional subdivision: $275 (plus Borough review and inspection costs).

(2) Commercial, industrial, institutional development up to 50,000 square feet of building construction: $500 plus Borough review and inspection costs.

(3) Commercial, Industrial, Institutional Development over 50,000 square feet of building construction with an additional $25 for each 5,000 square feet of building construction, maximum fee of $1,500: $750 (plus Borough review and inspection costs).

(4) Blair County planning review (fee based on plans and set by BCPC).

§ 92-8. Parks.

A. Park - electric (all tables): $25/day.

B. Park - reservation (Table #1): $75/day.

C. Park - reservation (Table #2): $60/day.

D. Park - reservation (Table Nos. 3-12): $50/day.

E. Amphitheater rental: $100/day.

F. Recreational rental (organized athletic event): $15/hour.

G. Electric for other Borough facilities: $25/day.

§ 92-9. Community pool.

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A. Pool - family resident*: $100/year.

B. Pool - adult resident (18 and over): $65/year.

C. Pool - senior (62 and over)/disabled resident: $55/year.

D. Pool - child resident (6-17): $55/year.

E. Pool - family non-resident: $200/year.

F. Pool - adult non-resident (18 and over): $90/year.

G. Pool - senior (62 and over)/disabled non-resident: $80/year.

H. Pool - child non-resident (6-17): $80/year.

I. Pool - daily admission adults (18 and over): $6/day.

J. Pool - daily admission adults (18 and over) after 5pm: $3/day.

K. Pool - daily admission child (6-17): $5/day.

L. Pool - daily admission child (6-17) after 5pm: $2/day.

(1) Child 5 and under free with paid adult.

M. Pool parties ($50 non-refundable deposit): $250.

N. Private pool rental without lifeguard staffing: $100/hour.

O. Swim lessons: $50.

P. Pool pass passes/gift certificates purchased during the entire month of December and May 10% discount.

Q. Pool passes for 501(c)(3) for group events: $1 per daily pass.

*A family consists of two adults and children ages 6-17 residing in the household.

§ 92-10. Parking space rental.

A. Parking meter bags: $10/day.

B. Parking spaces municipal lots: $30/month.

C. Business parking permits (one per business): $50/month.

D. Lost or stolen parking permits: $20.

§ 92-11. Police.

A. Police accident and incident reports: $15.

B. Police offense reports: $15.

C. Private handicapped parking space - installation fee: $90.

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D. Annual renewal fee for private handicapped parking space: $25.

E. Relocation of handicapped parking sign: $50.

F. Police body camera footage disk fee: $100.

G. Annual towing license fee: $200.

§ 92-12. Parking fines (per violation).

A. Meter violation (1/2 off in 1st 1/2 hour): $10.

B. Backing into meter stall: $10.

C. Bus zone: $20.

D. No parking zone: $20.

E. Double parking: $20.

F. Sidewalk: $20.

G. More than six inches from curb: $20.

H. Less than 25 feet from intersection: $20.

I. Parked overtime - two hr. zone: $20.

J. Against traffic: $50.

K. Handicap only: $100.

L. Blocking driveway or garage: $20.

M. Fire hydrant: $100.

N. Repairs of vehicle on roadway: $30.

§ 92-13. Building Inspection Fee Schedule.

A. Residential fees (does not include plumbing, electrical, mechanical, fire or energy inspection fees).

(1) Industrialized housing (mobile home, modular and manufactured): $156.

(2) Single-family dwelling.

(a) Not over 3,500 s.f.* or over 3 bedrooms**: $246.

(b) Over 3,500 s.f.*: $246 + $0.14 each s.f. over 3,500.

(3) Townhouse: $180.

**Each additional bedroom, per dwelling unit: $48.

(4) Decks, porches, carports: $90.

(5) Attached garages, additions, and non-exempt detached accessory structures, alterations,

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renovations to 500 square feet: $144.

(a) Over 500 s.f.*: $144 + $0.14 each s.f. over 500.

B. Commercial fees (includes multifamily) (does not include plumbing, electrical, mechanical, fire or energy inspection fees).

(1) New construction (per s.f.*): $0.15.

(2) Alterations and renovations (per s.f.*): $0.09.

(3) Accessibility (flat fee): $180.

C. Miscellaneous fees.

(1) Swimming pool/spa (public or commercial): $288.

(2) Swimming pool/spa (single-family):

(a) Above-ground: $78.

(b) In-ground: $144.

(3) Reinspection fee, each: $78.

(4) Locked or not ready for inspection: $78.

D. Conditions not provided for in this schedule, apply for fee.

E. Minimum fee: $78.

*Square footage is defined as gross floor area of all floors within the perimeter of the outside walls, including basements, cellars, garages, roofed patios, breezeways, covered walkways, and attics with floor-to-ceiling of 6' 6" or more.

§ 92-14. Electrical inspection fee schedule.

A. Fee schedule (other than residential).

(1) All switches, lighting and receptacles to be counted as outlets.

(2) Rough wiring inspection.

(a) One to 25 outlets: $36.

(b) For each additional 10 outlets or fraction thereof: $7.20.

(3) Finish inspection.

(a) One to 25 outlets: $36.

(b) For each additional 10 outlets or fraction thereof: $7.20.

(4) Equipment; appliances.

(a) Outlet for single unit of 15 K.W. or less: $32.40.

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(b) Each additional outlet of 15 K.W. or less: $10.80.

(5) Motors, generators, transformers central heating, duct heaters, air conditioning, electric furnaces and welders.

(a) Fractional HP, KW or KVA to 1 HP, KW or KVA, each: $20.40.

(b) 1 HP, KW or KVA to 3 HP, KW or KVA, each: $22.80.

(c) 4 HP, KW or KVA to 7 HP, KW or KVA, each: $32.40.

(d) 7 1/2 HP, KW or KVA to 29 HP, KW or KVA, each: $37.20.

(e) 30 HP, KW or KVA to 49 HP, KW or KVA, each: $56.40.

(f) 50 HP, KW or KVA to 74 HP, KW or KVA, each: $69.60.

(g) 75 HP, KW or KVA to 199 HP, KW or KVA, each: $135.60.

(h) 200 HP, KW or KVA to 500 HP, KW or KVA, each: $265.20.

(i) Over 500 HP, KW or KVA, each: $333.60.

(j) Over 600 volts: add $103 per category.

(6) Feeders or sub-panels.

(a) Not over 200 Amp: $33.60.

(b) Over 200 Amp to 400 Amp: $48.

(c) Over 400 Amp to 600 Amp: $60.

(d) Over 600 Amp to 1,600 Amp: $129.60.

(e) Over 1,600 Amp: $177.60.

(f) Over 600 volts: add $103 per category.

(7) Modular and mobile homes.

(a) Modular homes - service and outlets: $105.60.

(b) Mobile homes - service including one feeder or one receptacle: $90.

(c) Feeder or power cord only (single visit only): $69.60.

(d) Additional trip: $33.60.

(8) Service metter equipment up to 600 volts.

(a) Not over 200 Amp: $72.

(b) Over 200 Amp to 400 Amp: $96.

(c) Over 400 Amp to 600 Amp: $120.

(d) Over 600 Amp to 1,200 Amp: $270.

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(e) Over 1,200 Amp to 1,600 Amp: $276.

(f) Over 1,600 Amp to 2,000 Amp: $342.

(g) Over 2,000 Amp to 3,000 Amp: $402.

(h) Over 3,000 Amp: $510.

(i) Ground fault protected services: add $96.

(j) Over 600 volts: add $132 per category.

(k) Services exceeding one meter: $15.60 for each additional meter.

(l) Service reconnect: add $18.

(9) Primary transformers, vaults, enclosures, sub-stations.

(a) Not over 200 KVA: $243.60.

(b) Over 200 KVA to 500 KVA: $303.60.

(c) Over 500 KVA to 1,000 KVA: $363.60.

(d) Over 1,000 KVA: $423.60.

(10) Signaling systems.

(a) Burglar alarms, fire alarms, fire suppression alarms smoke detectors, telemetering (telephones or CATV outlets are each separate systems).

[1] For the system and first 15 devices: $72.

[2] Each additional 10 devices or fraction thereof: $7.20.

(11) Signs (incandescent, fluorescent and neon).

(a) First sign (per occupancy): $72.

(b) Each additional sign (per occupancy): $10.80.

(12) Outline lighting.

(a) First transformer: $72.

(b) Each additional transformer: $10.80.

(13) Swimming pools.

(a) Bonding (each trip): $78.

(b) Equipment/Wriring (residential only): $90.

(c) Commercial by fee schedule.

B. Residential fees: flat rate schedule. One application for each new or existing building.

(1) Single-family dwelling, not over 200 Amp. service: $138.

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(2) Two-family dwelling units, not over 200 Amp. service: $186.

(3) Over two-family dwelling, first two units each: $90.

(a) Add service equipment.

[1] Single-family dwellings with over 200 Amp. service apply flat rate schedule plus equipment, appliances, and motor schedule.

[2] Dwelling with a spa, hot tub, hydromassage tub, sauna, etc. apply flat rate schedule plus $33.60 for each item.

(4) Each additional unit: $60.

(5) Townhouses, each: $90.

(6) Alterations and additions (service and 25 outlets or less): $105.60.

C. Special service and/or conditions not provided for in this schedule: apply for fee.

(1) Minimum charge: $72.

§ 92-15. Plumbing inspection fee schedule.

A. Residential fees.

(1) Industrialized housing (mobile home, modular and manufactured) one sewer and water connection: $78.

(2) Additions and alterations (one sewer and water connection): $78.

(3) All other per dwelling or unit.

(a) Not over three full (or partial) baths*: $120.

(b) *4th and 5th full (or partial) baths, each: $30.

B. Commercial fees.

(1) Piping under slab (waste and supply):

(a) Not over five fixtures: $60.

(b) Each additional fixture: $6.

(2) Piping rough-in (waste and supply):

(a) Not over five fixtures: $60.

(b) Each additional fixture: $6.

(3) Piping final inspection:

(a) Not over five fixtures: $60.

(b) Each additional fixture: $6.

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C. Miscellaneous fees.

(1) Sewer lateral (from house to curb: $78.

(2) Water lateral (from house to curb): $78.

(3) Sewer and water lateral at same time: $120.

(4) Master backflow prevention device: $78.

(5) Reinspection fee, each: $78.

D. Special service and/or conditions not provided for in this schedule, apply for fee.

E. Minimum charge: $78.

F. Fixture definitions for the above fee schedule. The word "fixture" shall mean each water closet, urinal, wash basin, bathtub, house trap, floor drain or downspout area drain, laundry tray, hot water heater or opening provided for any of the aforementioned or any plumbing or drainage appliance trap connected, either directly or indirectly, to the plumbing or drainage system, whether water-supplied or not, installed in the building or on the lot within the property lines.

§ 92-16. Mechanical inspection fee schedule.

A. Commercial.

(1) Total value of mechanical bid x 0.0075.

(2) Individual systems (not to be combined with above multiplier).

(a) Water heaters (100 gallons or more): $84.

(b) Air handling units/chillers: $84.

(c) Circulating pumps, condensate pumps, exhaust fans return air fans, water heaters less than 100 gallons, heat exchangers and incinerators: $24.

(d) Underground snow melt systems: $84.

(e) Kitchen exhaust equipment (per hood unit): $84.

(f) Gas piping system: $72.

(g) Fuel oil piping system: $72.

(h) Chimney's and vents: $72.

(i) Solar heating and cooling system: $84.

(j) Flammable and combustible liquid storage, dust collectors: Apply for fee.

B. Residential.

(1) Single-family dwelling:

(a) Up to 3,500 s.f.: $96.

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(b) Over 3,500 s. f.: $132.

C. Minimum charge: $72.

§ 92-17. Fire protection inspection fee schedule.

A. Fire alarm systems (panel and 10 devices): $72.

(1) Each additional 20 devices or fraction thereof: $12.

B. Sprinkler system up to 50 sprinkler heads: $132.

(1) Each additional 50 heads or fraction thereof: $90.

C. Commercial cooking hoods: $84.

D. Stand pipe system: $108.

E. Dry chemical extinguishing system: $108.

F. Condition not provided, please apply for fee.

G. Minimum charge: $72.

*Devices shall include all annunciating and initiating devices, panels, etc.

§ 92-18. Plan review fee schedule.

A. Commercial fees (includes multifamily):

(1) To $1,000,000: 0.0015 x construction valuation.

(2) $1,000,000 to $5,000,000: $1,560 + 0.0005 x const. valuation.

(3) Over $5,000,000: $3,960 + 0.00041 x const. valuation.

(4) Individual disciplines: 25% of building plan review.

(5) Accessibility: $150.

(6) Minimum fee: $156.

B. Residential fees.

(1) Single-family dwelling not over 3,500 s.f.*: $93.60.

(2) Single-family dwelling and additions 3,500 s.f.* to 5,000 s.f.*: $153.60.

(3) Single-family dwelling and additions over 5,000 s.f.*: $300.

(4) Decks, porches, carports: $30.

(5) Attached garages, additions, and nonexempt detached accessory structures, alterations, renovations to 500 square feet: $72.

(a) Over 500 sq. ft.: $93.60.

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(6) Minimum fee: $30.

*Square footage is defined as gross floor area of all floors within the perimeter of the outside walls, including basements, cellars, garages, roofed patios, breezeways, covered walkways, etc.

§ 92-19. Energy conservation inspection fee schedule.

A. Residential fee.

(1) Flat fee: $72.

B. Non-residential fee.

(1) New construction (per s.f.): $0.03.

C. Minimum charge: $72.

§ 92-20. Refundable deposits.

Any deposits listed herein as refundable must be claimed within 180 days from the date of issuance. After that time the deposit is forfeited and transferred to the General Fund.

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TYRONE CODE

Chapter 93

FIREARMS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 7-7-1958 by Ord. No. 568 as part of Ch. 6 of the 1958 Code; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

§ 93-1. Prohibitions and restrictions.

It shall be unlawful for any person or persons to set off, fire or make use of for any purpose any firearms, squibs, pellet guns, air rifles, rockets, pistols or hollow canes or any toy used for exhibition purposes within the Borough of Tyrone, provided that this chapter shall not apply to the sale of blank cartridges to a military or semimilitary organization and the use thereof in firing salutes. Indoor small-bore range rifle ranges shall be permitted for instructional or competitive purposes when the same are operated and supervised by a responsible organization.

§ 93-2. Violations and penalties.

Any person who shall violate any of the provisions of this chapter shall, upon conviction, be subject to a fine or penalty of not more than $1,000, plus the costs of prosecution, and, in default of payment thereof, to imprisonment for not more than 30 days in jail. Each day's continuance of violation shall constitute a separate offense.

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Chapter 95

FIRE PREVENTION

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 20.

Alarm systems — See Ch. 60.

Open burning — See Ch. 70.

Uniform construction codes — See Ch. 71.

Conduct at fires — See Ch. 97.

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ARTICLE I
Adoption of Standards
[Adopted 3-24-1969 by Ord. No. 702 (part of Ch. 6 of the revised 1958 Code)]

§ 95-1. Standards adopted. [Amended 5-8-1972 by Ord. No. 727; 7-9-1990 by Ord. No. 991; 7-12-1993 by Ord. No. 1050]

A certain document, one copy of which is on file in the office of the Tyrone Borough Manager, 1100 Logan Avenue, Tyrone, Blair County, Pennsylvania, being marked and designated as the "BOCA National Fire Prevention Code Ninth Edition, 1993," as published by the Building Officials and Code Administrators International, Inc., is hereby adopted as the Fire Prevention Code of the Borough of Tyrone, Blair County, 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 Fire Prevention Code are hereby referred to, adopted and made a part hereof as if fully set out in this article.

§ 95-2. Precedence of state law.

Where the laws of the Commonwealth of Pennsylvania are more restrictive than any provision of this code, the laws of the Commonwealth of Pennsylvania shall take precedence.

§ 95-3. Conflict with other provisions.

Where the rules and regulations of the Fire Prevention Code, as herein adopted, are more restrictive than the Tyrone Borough Fire Code, the provisions of the Fire Prevention Code shall take precedence.

§ 95-4. Violations and penalties. [Amended 7-9-1990 by Ord. No. 991; 7-12-1993 by Ord. No. 1050]

Any individual, firm or corporation violating any of the terms or conditions of the National Fire Prevention Code, 1993, shall be subject, upon conviction thereof before the Magisterial District Judge, to a fine in the amount of not less than $25 nor more than $1,000, with each day upon which a violation of this article exists to be considered a separate offense.

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ARTICLE II
Smoke Detectors
[Adopted 8-9-1982 by Ord. No. 849 (part of Ch. 6 of the revised 1958 Code)]

§ 95-5. Certain structures required to have smoke detectors.

The following are classifications of structures which shall be required to have smoke detectors:

A. R-1: Those structures shall include all hotel buildings, nursing homes, lodging houses, boardinghouses and dormitory buildings arranged for shelter and sleeping accommodations. These R-1 structures shall be required to have an approved smoke detector in every sleeping room in said structure.

B. R-2: These structures shall include all multiple-family dwellings having more than one dwelling unit. These structures shall be equipped with a minimum of one approved smoke detector for every 800 square feet of occupied floor space per floor.

C. R-3: These structures shall include all buildings arranged for the use of one- or two-family dwelling units containing one or more lodgers or boarders. These R-3 structures shall be equipped with a minimum of one approved smoke detector for every 800 square feet of occupied floor space per floor.

D. R-4: These structures shall include all residential dwelling units, including but not limited to R-1, R-2 and R-3 structures which are now leased or rented or are to be rented or leased after the effective date of this article. These R-4 structures shall be equipped with a minimum of one approved smoke detector for every 800 square feet of occupied floor space per floor.

E. P-1: In addition to the above-mandated requirements for the installation of the approved smoke detectors required by said provision, there shall be installed in all public buildings in which there is mixed occupancy, that is, where one or more occupants of the units contained therein are residential in nature as defined by the terms of this article, smoke detectors in approved places in the nonresidential portion of said building, structure and/or dwelling in order to provide protection to the occupants of said residential dwelling unit; and said smoke detectors are to be placed in stairways or on the ceiling where there is a free flow of air in order to protect sleeping residents in said dwelling units contained therein, and said installation of detectors in areas other than the aforesaid shall be as approved and designated by the Fire Marshal of the Borough of Tyrone.

§ 95-6. Residential dwelling units in housing rehabilitation programs.

All residential dwelling units, including but not limited to R-1, R-2 and R-3 residential dwelling units aforesaid, which participate in a housing rehabilitation program which is funded, either in whole or in part, by federal, state or city moneys shall be required to install one approved smoke detector sensing visible or invisible particles of combustion for every 800 square feet of occupied floor space per floor.

§ 95-7. Installation requirements; approval.

A. The location and installation of the aforesaid smoke detecting device shall be in the manner and location approved by the Fire Marshal according to the above requirements.

B. The word "approved" shall mean a smoke detector approved by the Underwriters' Laboratories, Inc., or Factory Mutual Systems, Inc. The minimum requirement for the smoke detector is that it is UL-approved and that it requires at least a nine-volt battery.

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§ 95-8. Tampering prohibited.

Any person who tampers or who is caught after having tampered with a smoke detector installed under the provisions of this article, or who shall have removed the same from the premises or area from which it had been installed shall be prosecuted under the terms and conditions of all statutes of the Commonwealth of Pennsylvania and/or ordinances of the Borough providing for malicious mischief under the pertinent provisions of this article and other ordinances, as amended, of the Borough providing for offenses of this nature.

§ 95-9. Responsibility of owner, tenant or lessee.

It shall be the duty and responsibility of the owner of the residential dwelling unit covered by the terms of this article to install the smoke detector device required herein, and it shall be the duty and responsibility of the tenant or lessee to maintain the smoke detector in proper working order subsequent to the installation by the owner.

§ 95-10. Compliance period; certificate required.

All existing residential dwelling and P-1 units covered by the provisions of this article shall fully comply with the terms and conditions of this article within six months from the effective date of this article. Every owner of said structure herein covered shall obtain a certificate of compliance from the Borough Secretary's office within the above prescribed time; otherwise, he shall be subject to the provisions for violations of this article.

§ 95-11. Violations and penalties.[42]

Any individual, person, corporation or other entity who shall violate any section of this article shall be subject to a fine of not less than $25 nor more than $1,000 and/or imprisoned for 30 days in jail, and the same shall constitute a violation. Every successive date of noncompliance for violation of any section of this article shall constitute a separate offense, and the violator thereof shall be subject to the above penalties in a successive fashion.

§ 95-12. Enforcement. [Amended 2-9-1987 by Ord. No. 915; 1-10-2000 by Ord. No. 1167]

The Fire Marshal is hereby authorized to enforce this article and to file whatever complaints or other papers shall be necessary to enforce this article. The Fire Marshal may, as the Fire Marshal deems appropriate for the public health, safety, and welfare, make inspection of any structure to verify compliance with the requirements of this article.

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42. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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ARTICLE III
Outside Fire Service
[Adopted 7-7-1958 by Ord. No. 568 as part of Ch. 6 of the revised 1958 Code]

§ 95-13. Authority.

The Borough of Tyrone by its firemen and with its apparatus may render fire service outside the limits of said Borough in the manner and upon the conditions hereinafter provided.

§ 95-14. Rules and regulations.

Fire service in the townships and boroughs adjoining and surrounding the Borough of Tyrone shall consist of the following mentioned services and shall be governed by the following rules:

A. No fire service shall be extended to any property in any township or borough unless and until the proper authorities of such township or borough shall enter into a contract with the Borough of Tyrone for such service and shall pay the charges therefore as hereinafter provided.

B. The ladder truck of the Blazing Arrow Hook and Ladder Company shall render only such rural fire service as is specified by this article and no other. Nor shall said ladder truck be dispatched beyond the limits of the Borough of Tyrone for any other reason or purpose without the express consent of the Fire Chief and/or the Fire Committee of the Borough Council. Nor shall any of the pumping equipment of the various engine companies comprising the Fire Department be dispatched from the Borough for any reason or purpose inconsistent with the terms and conditions of this article without the express consent of the Fire Chief and/or the Fire Committee of the Borough Council.

C. Normal general alarm response with all pumping and service equipment of the companies comprising the Tyrone Fire Department, including the ladder truck, will be restricted to the following one-mile limits: south to the Grazierville Bridge, north to the Vail Bridge, east to the Village of Nealmont and west to the lower reservoir of the Tyrone watershed.

D. All other rural township fires, regardless of size or extent, shall receive no more than three pieces of pumping or service equipment from the Tyrone Fire Department. One piece of equipment from each of the companies comprising the Fire Department shall be designated the rural service truck, and such designation shall be made by the Fire Chief; provided, however, that if the Borough of Birmingham and/or the Village of Ironsville contract for fire service with the Borough of Tyrone, as required by this article, the ladder truck of the Blazing Arrow Hook and Ladder Company may be included in the response to fire in those communities.

E. In the event of a major disaster in any of the townships or boroughs which shall contract for fire service with the Borough of Tyrone as herein aforementioned, the Chief of the Tyrone Fire Department shall have the authority to detail additional men and equipment to attend any fire in said townships or boroughs when, in his opinion, such additional help is required.

F. This fire service shall not be extended to any sections of any of said townships or boroughs which are not reached by highways in a good passable condition for the passage of fire apparatus. The officer in charge of responding apparatus shall make every reasonable effort to reach the fire, and his judgment shall be final as to when and where the roads are passable for such apparatus.

G. In rendering said fire service, the Borough of Tyrone shall furnish all apparatus, hose and fire equipment, and all apparatus shall be properly covered by necessary insurance to relieve contracting.

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§ 95-15. Annual charges.

The annual charges to be paid by adjoining or surrounding townships and boroughs for service by the Tyrone Fire Department outside the Borough limits shall be determined by the Borough Council and may, from time to time, be changed by the Borough Council; but in all cases charges for such service shall be based upon the relative total assessed valuation of real estate in such contracting townships and boroughs.

§ 95-16. Reciprocal agreements.

Fire service shall be rendered without charges to any city or Borough which maintains an organized Fire Department and which enters into a reciprocal agreement with the Borough of Tyrone for mutual fire service.

§ 95-17. Approval of contract.

No contract for rural fire service shall be entered into under the provisions of this article until such is approved by the Borough Council of the Borough of Tyrone.

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Chapter 97

FIRES, CONDUCT AT

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 7-7-1958 by Ord. No. 568 as part of Ch. 6 of the revised 1958 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 20. **Fire prevention — See Ch. 95.**

§ 97-1. Apparatus use restrictions.[43]

Without the consent of the Fire Chief or the person acting as such or of the Fire Committee of the Borough Council, no person not an active member of the Tyrone Fire Department shall at any time ride upon any of the fire apparatus of the Borough or of any of the companies belonging to such Fire Department. Nor shall any person make use of any fire apparatus, hose or other equipment of the Fire Department, other than for the purpose for which the same is intended, without such consent.

§ 97-2. Consent of owner.

No person shall actually engage in the extinguishment of a fire or the saving of property endangered thereby or shall enter any building in which a fire is being fought by the Fire Department, either during or after such fire, without the consent of the owner or occupant of such building.

§ 97-3. Establishment of fire lines.

No person not an active member of the Tyrone Fire Department shall at any time enter within the fire lines, being the roped-off areas around or in the vicinity of any fire, or interfere with or attempt to operate any of the apparatus or equipment of such Fire Department or any fire hydrant or interfere by giving orders, unless requested to do so by the Fire Chief or the person acting as such with proper authority; provided, however, that the Mayor or any member of the Borough Council, any policeman or fire policeman or any other law enforcement officer or the owner or occupant of any property within the fire lines and such other persons as may specifically be passed by the Fire Chief or the person acting as such may enter within such fire lines.

§ 97-4. Power to order dispersal.

The Mayor and any policemen of the Borough, including any member of the fire police, shall have the power in case of fire to disperse all collections of idle, disorderly and suspicious persons and of persons hindering the fighting of fire by their presence or by commission of offenses on such occasions. Any person interfering with or refusing to obey any such officer in the discharge of such duty shall be guilty of a violation of this chapter.

43. Editor's Note: Original Sec. 6.31, which immediately preceded this section, regarding fire hydrants, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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§ 97-5. Protection of hose.

It shall be unlawful for any person or persons to drive any automobile, truck, wagon or any vehicle whatsoever over, upon or across any hose of any of the fire companies of the Borough of Tyrone when such hose is laid in or upon any of the streets or alleys of this Borough for the purpose of extinguishing fire.

§ 97-6. Violations and penalties.[44]

Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not less than $20 nor more than $600 and costs of prosecution and, in default of payment of such fine and costs, to imprisonment for not more than 30 days.

44. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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Chapter 98

FIREWORKS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 5-1-2000 by Ord. No. 1169; amended in its entirety 8-13-2018 by Ord. No. 1418. Subsequent amendments noted where applicable.]

§ 98-1. Permit required for fireworks display.

No person, amusement park, municipality, fair association, corporation, partnership, or other organization or group of individuals shall conduct or attempt to conduct any public display of display fireworks within the boundaries of the Borough of Tyrone or within such distance of a boundary of the Borough of Tyrone such that such display may affect the health, safety, welfare, or property of person or entities in the Borough of Tyrone, unless the person, amusement park, municipality, fair association, corporation, partnership, or other organization or group of individuals first applies and secures approval from the Borough of Tyrone for a permit authorizing such display.

§ 98-2. Definitions.

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

ACT — Act 43 of 2017.[45]

CONSUMER FIREWORKS — Shall be as set forth in the Act which includes:

A. Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and complies with the provision for "consumer fireworks" as defined in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted at all times throughout the Commonwealth of Pennsylvania.

B. The term does not include devices listed as "ground and hand-held sparkling devices," "novelties" or "toy caps" in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted at all times throughout the Commonwealth of Pennsylvania.

C. The Act allows any person at least 18 years of age to purchase, possess and use consumer fireworks but such person may not intentionally ignite or discharge:

   (1) Consumer fireworks on public or private property without the express permission of the owner.

   (2) Consumer fireworks or sparkling devices within, or throw consumer fireworks or sparkling devices from a motor vehicle or building.

   (3) Consumer fireworks or sparkling devices into or at a motor vehicle or building or at another person.

   (4) Consumer fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance or another drug.

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45. Editor's Note: See 72 P.S. § 9401 et seq.

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(5) Consumer fireworks within 150 feet of an occupied structure.

DISPLAY FIREWORKS — Large fireworks to be used solely by professional pyrotechnicians and designed primarily to produce visible or audible effects by combustion, deflagration or detonation. The term includes, but is not limited to:

A. Salutes that contain more than two grains or 130 milligrams of explosive materials;

B. Aerial shells containing more than 60 grams of pyrotechnic compositions; and

C. Other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334 or UN0335 under 49 CFR 172.101 (relating to purpose and use of hazardous materials table).

TEMPORARY STRUCTURE — A structure, other than a permanent facility with fixed utility connections, which is in use or in place for a period of 20 consecutive calendar days or less and is dedicated to the storage and sale of consumer fireworks and related items. The term includes temporary retail sales stands, tents, canopies and membrane structures meeting the specifications of NFPA 1124. The term shall not include a facility that is not licensed to sell consumer fireworks by the Commonwealth of Pennsylvania.

§ 98-3. Applications for permit.

Applications for permitting approval for a public display of display fireworks must be made, in writing, at the Borough offices at least 30 days in advance of the display date and shall indicate the name, address, and telephone number of the person or entity applying for the permit along with the other information as set forth below.

§ 98-4. Authority of Borough Council.

The Borough Council shall determine, in its discretion and in accordance with the provisions of this chapter, whether the permit shall be granted.

§ 98-5. Approval of applicant.

For the application to be approved and a permit issued, the applicant must furnish satisfactory documentation that the public display of display fireworks shall be handled by a competent operator.

§ 98-6. Determination of competent operator.

Any person who shall handle any public display of display fireworks, in addition to any other requirement set forth herein, shall be at least 21 years of age and have experiences deemed satisfactory by the Chief of Police of the Borough in handling such displays which have complied with all regulations required at the location in which such displays have been held. To facilitate the decision of the Borough Council as to whether the operator is competent, the applicant shall submit the following in its application:

A. The name, address, age and telephone number of said proposed operator.

B. The experience of said operator in the public display of display fireworks, including the number of displays conducted by said proposed operator, educational degrees, courses, or other training with respect to the handling and display of display fireworks and/or explosives, and any license held by the operator.

C. Whether the operator has been licensed by any governmental or private unit in the past with respect

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to the public display of display fireworks.

D. The names and addresses of at least two references for which the proposed operator has conducted a public display of display fireworks.

E. A statement as to whether at any previous public display of display fireworks conducted and/or supervised by said operator there occurred any injury to persons and/or property as a result of the public display of display fireworks.

F. The application shall also set forth the proposed date, time and length of the display, and the proposed location for said display. Such application shall also include an alternate date, time, place and location in the event such original display of display fireworks does not take place due to unforeseeable weather or other factors.

G. The application should be signed by both the applicant and the proposed operator and shall state that all information contained in the application is true to the best of the signer's knowledge, information and belief.

§ 98-7. Display location.

Before approval of any application for a permit, the Borough Council shall inquire of the Chief of Police of the Borough of Tyrone and the Borough Fire Chief as to whether the proposed display of display fireworks will be hazardous to property, or endanger any person or persons. Thereafter, and in the event that the Borough Council is of the opinion that the proposed operator is competent, and the Borough Council is otherwise satisfied that the issuance of said permit will not endanger the health, safety, welfare of any person or property, then the Borough Council in its discretion may authorize the issuance of said permit. Pursuant to the Act, in no event shall display fireworks be ignited within 300 feet of:

A. Any stand-alone permanent location licensed by the Pennsylvania Department of Agriculture to sell consumer fireworks; and

B. Any temporary structure licensed by the Department of Agriculture to sell consumer fireworks.

§ 98-8. Permit conditions.

Said permit, if issued, shall only authorize the applicant to conduct a public display of display fireworks with the proposed operator present to operate said display at the date or alternate date, time and location as set forth in the application.

§ 98-9. Extension for unfavorable weather.

Pursuant to the Act, if by reason of unfavorable weather the display for which a permit has been granted does not take place at the time or alternate time so authorized, the person or other entity to whom such permit was issued may within 24 hours apply to the Borough Council, setting forth under oath that such display was not made, giving the reason therefor, and requesting a continuance of such permit for a day designated therein not later than one week after the day fixed originally in said permit. Upon receiving such application for a continuance, the Borough Council may extend the provision of said permit to the day fixed in said application, and such extension of time shall be granted without the payment of any additional fee and without requiring any bond other than the one given for the original permit, the provisions of which shall extend to and cover all damages which may be caused by reason of said display taking place at such extended date in the same manner and to the same extent as if such display had taken place at the date originally fixed in the permit.

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§ 98-10. Bond required.

Pursuant to the Act, the Borough of Tyrone, before a permit is issued, shall require a bond from the applicant in an amount of not less than $1,000,000 for the payment of any and all liability, claims, causes of action, damages, costs, demands whatsoever, in law or equity to any person or persons or to property by reason of the permitted display, or arising from or in any way connected with said display or any acts of the permittee, permittee's agents, employees or subcontractors. The applicant's liability for any damages arising by reason of the permitted display shall not be limited to the amount of the bond.

§ 98-11. Permit permissible purposes and requirements.

A. Permissible purposes. Pursuant to the Act, display fireworks may be possessed and used by a person holding a permit from the Borough at the display covered by the permit or when used as authorized by a permit for any of the following:

   (1) For agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.

   (2) By railroads or other transportation agencies for signal purposes or illumination.

   (3) In quarrying or for blasting or other industrial use.

   (4) In the sale or use of blank cartridges for a show or theater.

   (5) For signal or ceremonial purposes in athletics or sports.

   (6) By military organizations or organizations composed of veterans of the armed forces of the United States.

B. Permit requirements. A permit issued pursuant to this chapter shall set forth the name of the applicant, the name of the proposed operator, the date, time and location of said display, and a clause whereby in consideration of the granting of the permit, the applicant agrees to defend and indemnify and save harmless the Borough of Tyrone and all its officers, agents and employees from any and all liability, claims, causes of action, damages, costs, demands whatsoever, in law or equity, against the Borough of Tyrone and all its officers, agents and employees, as a result or in any way connected with the public fireworks display.

§ 98-12. Enforcement; violations and penalties.

A. Enforcement. Any police officer and/or other person authorized by the Borough Council may enforce the provisions of this chapter.

B. Penalty. Any person who shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not less than $500 and not more than $1,000 plus the cost of prosecution, and/or be sentenced to imprisonment for a term not to exceed 90 days. Every day that a violation of this chapter continues shall constitute a separate and distinct offense which shall be subject to the aforesaid penalties.

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TYRONE CODE

Chapter 99

FLOODPLAIN REGULATIONS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 11-14-2011 by Ord. No. 1313[46]; amended in its entirety 3-12-2018 by Ord. No. 1411. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 71.

Mobile homes and mobile home parks — See Ch. 125.

Subdivision of land — See Ch. 174.

Zoning — See Ch. 205.

46. Editor's Note: This ordinance also specifically repealed Ord. No. 859. A copy of said ordinance is on file in the Borough office.

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ARTICLE I
Statutory Authorization

§ 99-1. Authorization.

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978,[47] delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Council of the Borough of Tyrone does hereby order as follows.

47. Editor's Note: See 32 P.S. § 679.101 et seq.

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ARTICLE II
General Provisions

§ 99-2. Intent.

The intent of this chapter is to:

A. Promote the general health, welfare, and safety of the community.

B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.

C. Minimize danger to public health by protecting water supply and natural drainage.

D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

E. Comply with federal and state floodplain management requirements.

§ 99-3. Applicability.

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

§ 99-4. Abrogation and greater restrictions.

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

§ 99-5. Severability.

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

§ 99-6. Warning and disclaimer of liability.

A. The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas, will be free from flooding or flood damages.

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

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ARTICLE III
Administration

§ 99-7. Designation of the Floodplain Administrator.

A. The Code Enforcement Officer is hereby appointed to administer and enforce this chapter and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may: fulfill the duties and responsibilities set forth in these regulations; delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees; or enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 CFR § 59.22.

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

§ 99-8. Permits required.

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

§ 99-9. Duties and responsibilities of the Floodplain Administrator.

A. The Floodplain Administrator shall issue a permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33 U.S.C. § 1344. No permit shall be issued until this determination has been made.

C. In the case of existing structures, prior to the issuance of any development/permit, the Floodplain Administrator shall review the proposed cost of improvements or repairs and the pre-improvement market value of the structure, so that a substantial improvement/substantial damage determination can be made, in accordance with FEMA's Substantial Improvement/Substantial Damage Desk Reference.

D. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.

E. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this chapter.

F. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or

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misrepresentation by any applicant, the Floodplain Administrator shall revoke the permit and report such fact to the Council for whatever action it considers necessary.

G. The Floodplain Administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this chapter including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.

H. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program as requested.

I. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the Floodplain Administrator/Manager.

J. The Floodplain Administrator shall consider the requirements of Title34 of the Pa. Code and the 2009 IBC and the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.

§ 99-10. Application procedures and requirements.

A. Application for such a permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Borough of Tyrone. Such application shall contain the following:

(1) Name and address of applicant.

(2) Name and address of owner of land on which proposed construction is to occur.

(3) Name and address of contractor.

(4) Site location including address.

(5) Listing of other permits required.

(6) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.

(7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:

(1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;

(2) All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;

(3) Adequate drainage is provided so as to reduce exposure to flood hazards;

(4) Structures will be anchored to prevent flotation, collapse, or lateral movement;

(5) Building materials are flood-resistant;

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(6) Appropriate practices that minimize flood damage have been used; and

(7) Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.

C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:

(1) A completed permit application form.

(2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:

(a) North arrow, scale, and date;

(b) Topographic contour lines, if available;

(c) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;

(d) The location of all existing streets, drives, and other accessways; and

(e) The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water, including direction and velocities.

(3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:

(a) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;

(b) The elevation of the base flood;

(c) Supplemental information as may be necessary under 34 Pa. Code, the 2009 IBC or the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.

(4) The following data and documentation:

(a) Detailed information concerning any proposed floodproofing measures and corresponding elevations.

(b) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.

(c) Documentation, certified by a registered professional engineer or architect, to show that the effect of any proposed development within a Floodway Area (See § 99-19A) will not increase the base flood elevation at any point.

(d) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (See § 99-19B), when combined with all other existing and anticipated development, will not increase the base flood elevation more than one foot at any point within the community.

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(e) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.

(f) Detailed information needed to determine compliance with § 99-25F Storage, and § 99-26 Development which may endanger human life, including:

[1] The amount, location and purpose of any materials or substances referred to in §§ 99-25F and 99-26 which are intended to be used, produced, stored or otherwise maintained on site.

[2] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in § 99-26 during a base flood.

(g) The appropriate component of the Department of Environmental Protection's Planning Module for Land Development.

(h) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

D. Applications for permits shall be accompanied by a fee, as established by Chapter 92 of the Borough of Tyrone Code.

§ 99-11. Review by County Conservation District.

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

§ 99-12. Review of application by others.

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

§ 99-13. Changes.

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

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§ 99-14. Placards.

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

§ 99-15. Start of construction.

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

B. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

§ 99-16. Enforcement.

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

(1) Be in writing;

(2) Include a statement of the reasons for its issuance;

(3) Allow a reasonable time not to exceed a period of 30 days for the performance of any act it requires;

(4) Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this state;

(5) Contain an outline of remedial actions which, if taken, will affect compliance with the provisions of this chapter.

B. Penalties. Any person who fails to comply with any or all of the requirements or provisions of this chapter or who fails or refuses to comply with any notice, order or direction of the Floodplain

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Administrator or any other authorized employee of the municipality shall be guilty of a summary offense and upon conviction shall pay a fine to Borough of Tyrone, of not less than $25 nor more than $600, plus costs of prosecution. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed 10 days. Each day during which any violation of this chapter continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of, or noncompliance with, this chapter shall not excuse the violation or noncompliance or permit it to continue. All such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this chapter may be declared by the Council to be a public nuisance and abatable as such.

§ 99-17. Appeals.

A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this chapter may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the Floodplain Administrator.

B. Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the Municipalities Planning Code and any other local ordinance.

C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this state including the Pennsylvania Flood Plain Management Act.[48]

48. Editor's Note: See 32 P.S. § 679.101 et seq.

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ARTICLE IV
Identification of Floodplain Areas

§ 99-18. Identification.

A. The identified floodplain area shall be any areas of Borough of Tyrone classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated May 2, 2018, issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

B. The above-referenced FIS and FIRMs and any subsequent revisions and amendments are hereby adopted by Borough of Tyrone and declared to be a part of this chapter.

§ 99-19. Description and special requirements of identified floodplain areas.

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

A. The floodway area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those special flood hazard areas where no floodway has been identified in the FIS and FIRM.

   (1) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

   (2) Within any floodway area, no new construction or development shall be allowed unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

B. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.

   (1) The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.

   (2) The AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.

      (a) No encroachments, including fill, new construction, substantial improvements, or other development shall be permitted in an AE Zone without floodway unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development, together with all other existing and anticipated development would not result in an increase in flood levels of more than one foot within the entire community during the occurrence of the base flood

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discharge.

(b) No new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

C. A Area/District.

(1) The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other federal, state, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.

(2) In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality. In the absence of any of the above data or documentation, the community may require elevation of the lowest floor to be at least three feet above the highest adjacent grade.

D. The AO and AH Area/District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by one-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

§ 99-20. Changes in identification of area.

The identified floodplain area may be revised or modified by the Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the special flood hazard area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six months after the date such information becomes available, a community shall notify FEMA of the changes to the special flood hazard area by submitting technical or scientific data. See § 99-23B for situations where FEMA notification is required.

§ 99-21. Boundary disputes.

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

§ 99-22. Jurisdictional boundary changes.

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in 44 CFR 60.3.

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ARTICLE V
Technical Provisions

§ 99-23. General.

A. Alteration or relocation of watercourse.

(1) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.

(2) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood-carrying capacity of the watercourse in any way.

(3) In addition, FEMA and the Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse.

B. When the Borough of Tyrone proposes to permit the following encroachments: any development that causes a rise in the base flood elevations within the floodway; or any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or alteration or relocation of a stream (including but not limited to installing culverts and bridges), the applicant shall (as per 44 CFR 65.12):

(1) Apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.

(2) Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and/or revised floodway reflecting the post-project condition.

(3) Upon completion of the proposed encroachments, the applicant shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR 67.

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

§ 99-24. Elevation and floodproofing requirements.

A. Residential structures.

(1) In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.

(2) In A Zones, where there are no base flood elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation determined in accordance with § 99-19C of this chapter.

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(3) In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.

(4) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 Pa. Code (Chapters 401 through 405, as amended) shall be utilized, where they are more restrictive.

B. Nonresidential structures.

(1) In AE, A1-30 and AH Zones, any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:

(a) Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and

(b) Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:

(2) In A Zones, where no base flood elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with § 99-19C of this chapter.

(3) In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.

(4) Any nonresidential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above-referenced standards. There should be a statement submitted with the permit application and a statement submitted with the as-built floodproofing certificate prior to the issuance of the certificate of occupancy.

(5) Any nonresidential structure that will be floodproofed must submit the following to the Floodplain Administrator along with the nonresidential floodproofing certificate and prior to the issuance of the certificate of occupancy:

(a) An inspection and maintenance plan detailing the annual maintenance of floodproofed components ensuring that all components will operate properly under flood conditions. Components that must be inspected include at a minimum:

[1] Mechanical equipment such as sump pumps and generators;

[2] Flood shields and closures;

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[3] Walls and wall penetrations; and

[4] Levees and berms (as applicable).

(b) Flood emergency operation plan detailing the procedures to be followed during a flooding event, and must include information pertaining to how all components will operate properly under all conditions, including power failures. The design professional must produce the plan. An adequate plan must include the following:

[1] An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.

[2] A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the building should have a planned and safe means of ingress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.

[3] A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.

[4] An evacuation plan for all personnel or occupants; those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.

[5] A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.

(6) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest revision thereof as adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 Pa. Code (Chapters 401 through 405, as amended) shall be utilized, where they are more restrictive.

C. Space below the lowest floor.

(1) Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.

(2) Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

(a) A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space installed on two separate walls

(b) The bottom of all openings shall be no higher than one foot above grade.

(c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

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D. Historic structures. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement, as defined in this chapter, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

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

(1) The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.

(2) Floor area cannot exceed 200 square feet.

(3) The structure will have a low damage potential.

(4) The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.

(5) Power lines, wiring, and outlets will be elevated to the regulatory flood elevation.

(6) Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.

(7) Sanitary facilities are prohibited.

(8) The structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

(a) A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.

(b) The bottom of all openings shall be no higher than one foot above grade.

(c) Openings may be equipped with screens; louvers, etc. or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

§ 99-25. Design and construction standards.

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

A. Fill.

(1) If fill is used, it shall:

(a) Extend laterally at least 15 feet beyond the building line from all points;

(b) Consist of soil or small rock materials only; sanitary landfills shall not be permitted;

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(c) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;

(d) Be no steeper than one vertical to two horizontal feet unless substantiated data justifying steeper slopes are submitted to and approved by the Floodplain Administrator; and

(e) Be used to the extent to which it does not adversely affect adjacent properties.

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

C. Water and sanitary sewer facilities and systems.

(1) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.

(2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.

(3) No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

(4) The design and construction provisions of the UCC and FEMA No. 348, Protecting Building Utilities From Flood Damages, and the International Private Sewage Disposal Code shall be utilized.

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

E. Streets. The finished elevation of all new streets shall be no more than one foot below the regulatory flood elevation.

F. Storage. All materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal, or plant life, and not listed in § 99-26, Development which may endanger human life, shall be stored at or above the regulatory flood elevation or floodproofed to the maximum extent possible.

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

H. Anchoring.

(1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

(2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

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I. Floors, walls and ceilings.

(1) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring perpendicular to the flooring grain without causing structural damage to the building.

(2) Plywood used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.

(3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.

(4) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.

J. Paints and adhesives.

(1) Paints and other finishes used at or below the regulatory flood elevation shall be of marine or water-resistant quality.

(2) Adhesives used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.

(3) All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a marine or water-resistant paint or other finishing material.

K. Electrical components.

(1) Electrical distribution panels shall be at least three feet above the base flood elevation.

(2) Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment.

(1) Water heaters, furnaces, air-conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation and shall be anchored to resist flotation, collapse, and lateral movement.

(2) Ductwork shall be elevated to or above the regulatory flood elevation or floodproofed to remain water resistant.

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

N. Uniform Construction Code coordination. The standards and specifications contained in 34 Pa. Code (Chapters 401 through 405, as amended) and not limited to the following provisions shall apply to the above and other sections and subsections of this chapter, to the extent that they are more restrictive and supplement the requirements of this chapter.

(1) International Building Code (IBC) 2009 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania: §§ 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

(2) International Residential Building Code (IRC) 2009 or the latest revision thereof as adopted by

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the Commonwealth of Pennsylvania: §§ R104, R105, R109, R322, Appendix E, and Appendix J.

§ 99-26. Development which may endanger human life.

Within any identified floodplain area, any structure of the kind described in Subsection A below shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply: Subsections B, C, and D.

A. In accordance with the Pennsylvania Flood Plain Management Act[49] and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which: will be used for the production or storage of any of the following dangerous materials or substances; or will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or will involve the production, storage, or use of any amount of radioactive substances; shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

(1) Acetone.

(2) Ammonia.

(3) Benzene.

(4) Calcium carbide.

(5) Carbon disulfide.

(6) Celluloid.

(7) Chlorine.

(8) Hydrochloric acid.

(9) Hydrocyanic acid.

(10) Magnesium.

(11) Nitric acid and oxides of nitrogen.

(12) Petroleum products (gasoline, fuel oil, etc.).

(13) Phosphorus.

(14) Potassium.

(15) Sodium.

(16) Sulphur and sulphur products.

(17) Pesticides (including insecticides, fungicides, and rodenticides).

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49. Editor's Note: See 32 P.S. § 679.101 et seq.

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(18) Radioactive substances, insofar as such substances are not otherwise regulated.

B. Within any floodway area, any structure of the kind described in Subsection A above shall be prohibited. Where permitted within any identified floodplain area, any new or substantially improved residential structure of the kind described in Subsection A above shall be elevated to remain completely dry up to at least 1 1/2 feet above base flood elevation and built in accordance with §§ 99-23, 99-24 and 99-25.

C. Where permitted within any identified floodplain area, any new or substantially improved nonresidential structure of the kind described in Subsection A above shall be built in accordance with §§ 99-223, 99-24 and 99-25, including:

(1) Elevated, or designed and constructed to remain completely dry up to at least 1 1/2 feet above base flood elevation; and

(2) Designed to prevent pollution from the structure or activity during the course of a base flood.

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

§ 99-27. Special requirements for subdivisions and development.

All subdivision proposals and development proposals containing at least 50 lots or at least five acres, whichever is the lesser in identified floodplain areas where base flood elevation data are not available shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a conditional letter of map revision (CLOMR) and letter of map revision (LOMR). Submittal requirements and processing fees shall be the responsibility of the applicant.

§ 99-28. Special requirements for manufactured homes.

A. Within any floodway area/district, manufactured homes shall be prohibited.

B. Where permitted within any identified floodplain area, all manufactured homes, and any improvements thereto, shall be:

(1) Placed on a permanent foundation;

(2) Elevated so that the lowest floor of the manufactured home is at least 1 1/2 feet above base flood elevation; and

(3) Anchored to resist flotation, collapse, or lateral movement.

C. Equipment requirement.

(1) Water heaters, furnaces, air-conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation and shall be anchored to resist flotation, collapse, and lateral improvement.

(2) Ductwork shall be elevated to or above the regulatory flood elevation or floodproofed to remain water-resistant.

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D. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 International Residential Building Code or the U.S. Department of Housing and Urban Development's "Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 Pa. Code Chapters 401 through 405 shall apply.

E. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC, or the latest revision thereto, as adopted by the Commonwealth of Pennsylvania, and 34 Pa. Code, as amended, where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

§ 99-29. Special requirements for recreational vehicles.

Within any identified floodplain area recreational vehicles shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply:

A. Recreational vehicles in Zones A, A1-30, AH and AE must either:

(1) Be on the site for fewer than 180 consecutive days; and

(2) Be fully licensed and ready for highway use; or

(3) Meet the permit requirements for manufactured homes in § 99-28.

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ARTICLE VI
Activities Requiring Special Permits

§ 99-30. General.

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act,[50] the following activities shall be prohibited within any identified floodplain area unless a special permit has been issued by the Borough of Tyrone:

A. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:

   (1) Hospitals.

   (2) Nursing homes.

   (3) Jails or prisons.

B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

§ 99-31. Application requirements for special permits.

Applicants for special permits shall provide five copies of the following items:

A. A written request including a completed permit application form.

B. A small-scale map showing the vicinity in which the proposed site is located.

C. A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:

   (1) North arrow, scale and date;

   (2) Topography based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of two feet;

   (3) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet;

   (4) The location of all existing streets, drives, other accessways, and parking areas, with information concerning widths, pavement types and construction, and elevations;

   (5) The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and manmade features affecting, or affected by, the proposed activity or development;

   (6) The location of the floodplain boundary line, information and spot elevations concerning the base flood elevation, and information concerning the flow of water including direction and velocities;

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50. Editor's Note: See 32 P.S. § 679.101 et seq.

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(7) The location of all proposed buildings, structures, utilities, and any other improvements; and

(8) Any other information which the municipality considers necessary for adequate review of the application.

D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

(1) Sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;

(2) For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;

(3) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood;

(4) Detailed information concerning any proposed floodproofing measures, including the flood emergency operation plan and the inspection and maintenance plan;

(5) Cross-section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;

(6) Profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and

(7) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

(1) Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;

(2) Certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the base flood;

(3) A statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood, including a statement concerning the effects such pollution may have on human life;

(4) A statement certified by a registered professional engineer, architect, or landscape architect which contains a complete and accurate description of the effects the proposed development will have on base flood elevation and flows;

(5) A statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects such materials and debris may have on base flood elevation and flows;

(6) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development;"

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(7) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control;

(8) Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and

(9) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.

§ 99-32. Application review procedures.

Upon receipt of an application for a special permit by the Borough of Tyrone, the following procedures shall apply in addition to those of Article III:

A. Within three working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Borough of Tyrone Planning Commission and Borough of Tyrone engineer for review and comment.

B. If an application is received that is incomplete, the Borough of Tyrone shall notify the applicant in writing, stating in what respect the application is deficient.

C. If the Borough of Tyrone decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.

D. If the Borough of Tyrone approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within five working days after the date of approval.

E. Before issuing the special permit, the Borough of Tyrone shall allow the Department of Community and Economic Development 30 days, after receipt of the notification by the Department, to review the application and decision made by the Borough of Tyrone.

F. If the Borough of Tyrone does not receive any communication from the Department of Community and Economic Development during the thirty-day review period, it may issue a special permit to the applicant.

G. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify the Borough of Tyrone and the applicant, in writing, of the reasons for the disapproval, and the Borough of Tyrone shall not issue the special permit.

§ 99-33. Special technical requirements.

A. In addition to the requirements of Article V of this chapter, the following minimum requirements shall also apply to any proposed development requiring a special permit. If there is any conflict between any of the following requirements and those in Article V of this chapter or in any other code, ordinance, or regulation, the more restrictive provision shall apply.

B. No application for a special permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:

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(1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:

(a) The structure will survive inundation by waters of the base flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE.

(b) The lowest floor (including basement) will be elevated to at least 1 1/2 feet above base flood elevation.

(c) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood.

(2) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

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

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ARTICLE VII
Existing Structures in Identified Floodplain Areas

§ 99-34. Existing structures.

The provisions of this chapter do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of § 99-35 shall apply.

§ 99-35. Improvements.

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

A. No expansion or enlargement of an existing structure shall be allowed within any floodway area/ district that would cause any increase in BFE.

B. No expansion or enlargement of an existing structure shall be allowed within the AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one foot at any point.

C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of 50% or more of its market value shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this chapter.

D. The above activity shall also address the requirements of the 34 Pa. Code, as amended, and the 2009 IBC and the 2009 IRC or most recent revision thereof as adopted by the Commonwealth of Pennsylvania.

E. Within any floodway area/district (See § 99-19A), no new construction or development shall be allowed unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

F. Within any AE Area/District without floodway (See Section § 99-19B), no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

G. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of "cumulative substantial damage" shall be undertaken only in full compliance with the provisions of this chapter.

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ARTICLE VIII
Variances

§ 99-36. General.

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

§ 99-37. Variance procedures and conditions.

A. Requests for variances shall be considered by the Borough of Tyrone Zoning Hearing Board in accordance with the procedures contained in § 99-17 and the following:

(1) No variance shall be granted for any construction, development, use, or activity within any floodway area/district that would cause any increase in the BFE.

(2) No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one foot at any point.

(3) No variances shall be granted for development which may endanger human life (§ 99-26).

(4) Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by special permit.

(5) If granted, a variance shall involve only the least modification necessary to provide relief.

(6) In granting any variance, the Borough of Tyrone Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this chapter.

(7) Whenever a variance is granted, the Borough of Tyrone Zoning Hearing Board shall notify the applicant in writing that:

(a) The granting of the variance may result in increased premium rates for flood insurance.

(b) Such variances may increase the risks to life and property.

(8) In reviewing any request for a variance, the Borough of Tyrone Zoning Hearing Board shall consider, at a minimum, the following:

(a) That there is good and sufficient cause.

(b) That failure to grant the variance would result in exceptional hardship to the applicant.

(c) That the granting of the variance will:

[1] Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense; nor

[2] Create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

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(9) A complete record of all variance requests and related actions shall be maintained by the Borough of Tyrone Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

B. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent-annual-chance flood.

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ARTICLE IX
Definitions

§ 99-38. General.

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

§ 99-39. Specific definitions.

ACCESSORY USE OR STRUCTURE — A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

BASE FLOOD — A flood which has a one-percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood" or "one-percent-annual-chance flood").

BASE FLOOD DISCHARGE — The volume of water resulting from a base flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

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

BASEMENT — Any area of the building having its floor below ground level on all sides.

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

DECLARATION OF LAND RESTRICTION (NONCONVERSION AGREEMENT) — A form signed by the property owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

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

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

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD — A temporary inundation of normally dry land areas.

FLOOD INSURANCE RATE MAP (FIRM) — The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

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

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

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

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

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURES — Any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:

   (1) By an approved state program as determined by the Secretary of the Interior; or

   (2) Directly by the Secretary of the Interior in states without approved programs.

IDENTIFIED FLOODPLAIN AREA — This term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the special flood hazard area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the community. See §§ 99-18 and 99-19 for the specifics on what areas the community has included in the identified floodplain area.

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

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

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MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective start date of this floodplain management ordinance and includes any subsequent improvements to such structures. Any construction started after May 2, 1983, and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

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

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

POST-FIRM STRUCTURE — Is a structure for which construction or substantial improvement occurred after December 31, 1974, or on or after the community's initial Flood Insurance Rate Map (FIRM) dated May 2, 1983, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

PRE-FIRM STRUCTURE — Is a structure for which construction or substantial improvement occurred on or before December 31, 1974, or before the community's initial Flood Insurance Rate Map (FIRM) dated May 2, 1983, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

RECREATIONAL VEHICLE — A vehicle which is:

A. Built on a single chassis;

B. Not more than 400 square feet, measured at the largest horizontal projections;

C. Designed to be self-propelled or permanently towable by a light-duty truck;

D. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOOD ELEVATION — The base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of 1 1/2 feet. The freeboard safety factor also applies to utilities and ductwork.

SPECIAL FLOOD HAZARD AREA (SFHA) — An area in the floodplain subject to a one-percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.

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

START OF CONSTRUCTION — Includes substantial improvement and other proposed new development and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within 12 months after the date of issuance of the permit unless a time extension

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is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

SUBDIVISION — The division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

SUBSTANTIAL DAMAGE — Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% or more of the market value of the structure before the damage occurred.

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

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

VARIANCE — A grant of relief by a community from the terms of a floodplain management regulation.

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

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ARTICLE X
Enactment

§ 99-40. Adoption.

This chapter shall be effective upon signing and shall remain in force until modified, amended or rescinded by Borough of Tyrone, Blair County, Pennsylvania.

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Chapter 100

FURNACES, OUTDOOR

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 8-11-2008 by Ord. No. 1269. Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 71.

Fire prevention — See Ch. 95.

Nuisances — See Ch. 133.

Solid waste — See Ch. 170.

Zoning — See Ch. 205.

§ 100-1. Authority.

This chapter is enacted pursuant to the powers granted to the Borough in the Borough Charter.

§ 100-2. Purpose.

It is the purpose of this chapter to establish and impose restrictions upon the construction and operation of outdoor furnaces within the limits of the Borough of Tyrone for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the Borough and its inhabitants. It is generally recognized that the types of fuel used and the scale and duration of the burning by such furnaces create noxious and hazardous smoke, soot, fumes, odor, air pollution, particles and other products of combustion that can be detrimental to citizens' health and can deprive neighboring residents of the enjoyment of their property or premises.

§ 100-3. Findings.

Smoke emitted from outdoor furnaces, chimneys, smokestacks and/or other sources of smoke as part of building heating systems not meeting the regulations of this chapter shall constitute a nuisance and shall be a danger to the health and general welfare of the citizens of the Borough due to the noxious fumes, reduction in breathable air, and risk to asthmatics and those with allergies.

§ 100-4. Definitions.

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

ACCEPTABLE FUEL — All natural wood products (dried and without additives), coal, No. 2 heating oil, agricultural seeds in their natural state and without additives.

BUILDING HEATING SYSTEMS — Includes, but is not limited to, an outdoor furnace.

OUTDOOR FURNACE — Any equipment, device, apparatus or structure or any part thereof which is installed (excluding preexisting flues for in-home heating systems), affixed or situated outdoors for the purpose of combustion of any type of fuel to produce heat or energy used as a component of a heating system providing heat for an interior space and/or water source.

UNACCEPTABLE FUEL — The following types of materials:

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A. Wood that is wet and/or has been painted, varnished or coated with similar material, pressure treated lumber, wood containing preservatives, resins, glue as in plywood, particle board or other composite wood, railroad ties.

B. Garbage, municipal waste (both as may be defined in applicable ordinances of the Borough[51]) or rubbish, including, but not limited to, food waste, food packaging, food wraps.

C. Any recycling materials (as defined in applicable ordinances of the Borough[52]), such as plastic materials, including but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.

D. Rubber, including tires or other synthetic rubber-like products, linoleum, asphalt or tarry products (roofing paper or shingles).

E. Newspaper, cardboard, leaves or any paper with ink or dye and any other items not specifically allowed by the manufacturer or this section.

§ 100-5. Regulations.

A. Outdoor furnaces shall not be placed less than 100 feet from the nearest point of intersection of any other adjacent property owner's structure and shall have a chimney stack, smokestack and/or other source of smoke utilized for the purposes of emitting smoke from a building heating system of a size required pursuant to the manufacturer's specifications. Said chimney stack shall also have a spark arrestor installed on top.

B. Outdoor furnaces shall not be placed less than 20 feet from the nearest point of intersection of the property line of another property owner.

C. An area of 20 feet around the outdoor furnace structure shall be free of combustible material, including vegetation, except grass not exceeding four inches in height.

D. The minimum required lot size for an outdoor furnace is 40,000 square feet.

E. Outdoor furnaces shall burn only acceptable fuel and shall not burn unacceptable fuel.

F. Outdoor furnaces and associated installation shall be subject to inspection by the Borough Code Enforcement Officer at any reasonable time to assure compliance with the terms hereof.

G. Outdoor furnace installation is subject to the permit provisions of the other Borough ordinances including, but not limited to, building code ordinances,[53] including furnishing the following information:

(1) A drawing providing and identifying all of the information necessary to assure compliance herewith, including property lines, location of neighboring properties and structures, height of nearby buildings, etc.

(2) Manufacturer's specifications for the outdoor furnace.

(3) Compliance with all applicable state and federal statutes, including the Pennsylvania Department of Environmental Protection and the United States Environmental Protection

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51. Editor's Note: See Ch. 170, Solid Waste.

52. Editor's Note: See Ch. 170, Solid Waste.

53. Editor's Note: See Ch. 71, Construction Codes, Uniform.

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Agency (EPA) and the Underwriter's Laboratory (UL) listing.

H. Nothing contained herein shall authorize any installation that is a public or private nuisance, regardless of compliance herewith.

I. This chapter shall not be a defense to any civil claims.

§ 100-6. Enforcement.

A. If noncompliance with the provisions of this chapter constitutes a nuisance, or if any condition poses a threat to the health, safety, or welfare of the public, the Police Department or Code Enforcement Officer shall issue a written notice to be served by registered or certified mail upon the owner of said premises, or, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.

B. Said notice shall specify the condition complained of and shall require the owner to commence to remove or otherwise rectify the condition as set forth therein within 30 days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

§ 100-7. Violations and penalties.

Any person who shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than $1,000 and, in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this chapter continues shall constitute a separate offense.

§ 100-8. Status of existing outdoor furnaces.

This chapter shall not be construed to be retroactive and shall not require the removal of any outdoor furnace or component thereof in existence within the Borough at the effective date of this chapter and not compliant with the setback provisions of this chapter. All outdoor furnaces in existence at the effective date of this chapter shall comply with all other regulations set forth herein within 90 days of the date of enactment of this chapter, including, but not limited to, the erection of a flue or chimney stack of a size required pursuant to the manufacturer's specifications. If an outdoor furnace is more than 50% dismantled, damaged, deteriorated or otherwise reduced to 50% of its original design, any rebuilding or restoration of said outdoor furnace shall comply with the provisions of this chapter.

§ 100-9. Variances.

The Borough Council may grant variances based upon a presentation of unique factors rendering restrictions set forth herein to be both unnecessary for the protection of the public health safety and welfare and impractical or not feasible with which to comply. Such variances, if granted, shall have a term of one year and be automatically renewed in the absence of complaints or other problems. Any such variance granted may contain such provisions as the Borough Council may deem necessary to protect the health, safety and welfare of Borough residents and to prevent a nuisance. Any person granted a variance shall indemnify, defend and hold harmless the Borough from any liability that may arise wholly or partially out of the granting of the variance.

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TYRONE CODE

Chapter 103

HOUSING REHABILITATION PROGRAM

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Fair housing — See Ch. 90.

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ARTICLE I
Participation
[Adopted 12-23-1991 by Res. No. 410]

§ 103-1. Welfare liens.

After the adoption of this article by the Tyrone Borough Council, under the Housing Rehabilitation Program which the Borough of Tyrone is participating in known as "CDBG," an individual shall no longer be ineligible to participate in said program in the event that there is a welfare lien against his or her property.

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Chapter 106

INSURANCE

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

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ARTICLE I
Fire Insurance Claims
[Adopted 10-10-1994 by Ord. No. 1072]

§ 106-1. Enforcement responsibilities.

The Borough of Tyrone Code Enforcement Officer or such official's designee is hereby appointed as the designated officer authorized to carry out all responsibilities and duties set forth herein.

§ 106-2. Issuance of certificate. [Amended 1-31-1995 by Ord. No. 1085]

No insurance company, association or exchange (hereinafter the "insuring agent") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Borough of Tyrone (hereinafter the "municipality") where the amount recoverable for a fire loss to the structure under all policies exceeds $7,500, unless the named insured or insuring agent is furnished by the Municipal Treasurer with a municipal certificate pursuant to Section 508(b) of Act 98 of 1992, as it may be amended from time to time, and unless there is compliance with Section 508(c) and (d) of Act 98 of 1992, as it may be amended from time to time,[54] and the provisions of this article.

§ 106-3. Payment of insurance proceeds. [Amended 1-31-1995 by Ord. No. 1085]

Where, pursuant to Section 508(b)(1)(i) of Act 98 of 1992, as amended,[55] the Municipal Treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the insuring agent shall pay the claim of the named insured; provided, however, that if the loss agreed upon by the named insured and the insuring agent equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

A. The insuring agent shall transfer from the insurance proceeds to the designated officer of the municipality in the aggregate of $2,000 for each $15,000 of a claim for each fraction of that amount of a claim, this section to be applied such that if the claim is $15,000 or less, the amount transferred to the municipality shall be $2,000; or

B. If at the time of a proof of loss agreed to between the named insured and the insuring agent, the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, the insuring agent shall transfer to the municipality from the insurance proceeds the amount specified in the estimate.

C. The transfer of proceeds shall be on pro rata basis by all companies, associations or exchanges insuring the building or other structure.

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

E. Upon receipt of proceeds under this section, the municipality shall do the following:

   (1) The designated officer shall place the proceeds in the separate fund to be used solely as security against the total costs of removing, repairing, or securing the building or structure which are

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54. Editor's Note: See 40 P.S. § 638.

55. Editor's Note: See 40 P.S. § 638.

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incurred by the municipality. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the municipality in connection with such removal, repair or securing of the building or any proceedings related thereto; and

(2) It is the obligation of the insuring agent when transferring the proceeds to provide the municipality with the name and address of the named insured. Upon receipt of the transferred funds and the name and address of the named insured, the designated officer shall contact the named insured, certify that the proceeds have been received by the municipality and notify the named insured that the procedures under this subsection shall be followed; and

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

(4) To the extent that interest is earned on proceeds held by the municipality pursuant to this section, such interest shall belong to the municipality.

F. Nothing in this section shall be construed to limit the ability of the municipality to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the municipality 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.

§ 106-4. Fees.

The Tyrone Borough Council may adopt procedures and regulations to implement Act 98 of 1992 and this article and may fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992 and this article, including, but not limited to, issuance of certificates and bills, performance of inspections and opening separate fund accounts.

§ 106-5. Violations and penalties.

Any owner of property, any named insured or any insuring agency who violates this article shall, upon conviction thereof, be subject to a penalty of not less than $100 and not more than $1,000 per violation.

§ 106-6. Amendments. [Added 1-31-1995 by Ord. No. 1085]

The provisions of this article regarding dollar amounts shall be automatically amended so as to reflect and duplicate any subsequent amendments to Act 98 of 1992.

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Chapter 111

LICENSES

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Fees — See Ch. 92.

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ARTICLE I
Transient Retail Merchants
[Adopted 9-12-2016 by Ord. No. 1375[56]]

§ 111-1. Title.

This chapter shall be known and may be cited as "The Regulation and Licensing of Transient Retail Merchants."

§ 111-2. Definitions.

The following words and phrases when used in this chapter shall have the meanings ascribed to them in this § 111-2, except where the context clearly indicates a different meaning:

BACKGROUND CHECK — Applicants must furnish results of a background check obtained from PATCH system and submit with a completed Borough solicitation application.**[Added 5-8-2017 by Ord. No. 1392]**

BOROUGH — The Borough of Tyrone, Blair County, Pennsylvania.

CANVASSER — Includes any person, whether a resident of the Borough or not, who goes from house to house, from place to place or from street to street, soliciting or taking or attempting to take orders from individuals for sale of goods, wares or merchandise, including magazines, books, periodicals or for services to be performed at that time or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he or she is collecting advance payments on such orders.

LESSOR — Any person who or which leases by either an oral and/or written lease any real estate, room, apartment, store, shop, building, railway car, and/or other place or structure to a transient retail merchant and/or any person engaged or intending to engage in a transient retail business.

LICENSE — The written authorization by the Borough of Tyrone conferring the right to operate a transient retail business within the Borough.

PERSON — Any association, firm, partnership, corporation or any other entity, as well as, a natural person male or female. The singular shall include the plural.

TRANSIENT RETAIL BUSINESS — Any business conducted in the Borough for the sale of goods, wares or merchandise whatsoever which is temporary in location and/or in time.

TRANSIENT RETAIL MERCHANT OR PEDDLER — Every person, whether principal or agent, entering into, beginning, or desiring to begin, a transient retail business in the Borough for the sale of any goods, wares, or merchandise whatsoever, and who hires, leases, occupies, or uses any room, apartment, store, shop, building, railway car, or other place or structure for the exhibition and sale of such goods, wares, or merchandise or who sells such goods, wares or merchandise door to door. Said terms shall include a participant as a vendor in a flea market and a door to door peddler. Nothing contained herein shall apply to farmers selling their own produce, or to any sale of goods, wares, or merchandise, the proceeds of which are to be applied to any charitable or philanthropic purpose and/or newspaper carriers.

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56. Editor's Note: This ordinance also superseded former Ch. 111, Licenses, adopted 7-7-1958 by Ord. No. 568 as Ch. 3 of the revised 1958 Code.

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§ 111-3. Registration and license required.

No person, including, but not limited to, a transient retail merchant and/or canvasser, shall engage in a transient retail business in the Borough without first having obtained a license, as herein provided.

§ 111-4. License requirements.

A. General requirements.

(1) Every person desiring to engage in a transient retail business as a transient retail merchant in the Borough shall first make application to the Chief of Police for a license together with a license fee as set forth in Borough of Tyrone Code of Ordinances, Chapter 92, Fees. Said application shall be on a blank form provided by the Borough Code Enforcement Officer and shall contain at least the following information, verified by oath or affirmation.

(a) Full name and physical description of the applicant and local address, if any.

(b) Name and address of employer, together with credentials therefrom establishing the exact relationship or a statement that such applicant is self-employed.

(c) Permanent address and telephone number.

(d) The nature of the business and goods, wares, or merchandise offered or intended to be offered for sale.

(e) A statement as to whether or not the applicant has ever been convicted of any felony and/or misdemeanor and/or any crime of theft, theft by deception, and/or any municipal ordinance, other than traffic violations, and if the answer is in the affirmative, the nature of the offense or offenses and the punishment or punishments imposed.

(f) The type of vehicle to be used, if any, by the applicant and the registration number.

(g) If a vehicle is being used, the name of the driver, the driver's license, vehicle registration number and certificate of current automobile liability coverage.

(h) The source of supply of the goods or property to be sold or orders taken for the sale thereof and the proposed method of delivery.

(2) Said application shall be accompanied by a copy of a completed report showing the results of a background check performed using the PATCH system. If the applicant intends to sell any goods, wares or merchandise whatsoever door to door in the Borough then the applicant shall furnish a photograph of him or herself to and acceptable by said Police Department. **[Amended 5-8-2017 by Ord. No. 1392]**

B. Lessor requirements. It shall be the duty of every person, including a Lessor, who leases property of any type, by either an oral and/or written lease to any person, including a transient retail merchant conducting or intending to conduct a transient retail business on or at said property, to secure a license and/or licenses from the Borough for each such person and/or transient retail merchant. The person so leasing, including a lessor, shall submit to the Borough the information required in § 111-4A hereof for each person, including a transient retail merchant, conducting or intending to conduct a transient retail business on or at said property, together with a license fee as established by the Borough from time to time. Failure to comply with this § 111-4B shall entitle the Borough to prosecute either the Lessor or the person, including a transient retail merchant, or both, for non-

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compliance.

C. Time of application. All license fees and information required in § 111-4A and B hereof shall be received by the Borough as follows:

(1) As to any application for one license, a period of at least 48 hours.

(2) As to any application for two or more licenses, a period of at least seven days.

D. Renewal of License. Each person, including a transient retail merchant who or which receives a license from the Borough to conduct a transient retail business shall be required to renew such license with the Borough Code Enforcement Officer on the first day of each successive month that the person, including a transient retail merchant, intends to continue the operation of a transient retail business and shall pay the monthly fee upon each such renewal of the license.

§ 111-5. Investigation authorized.

At the discretion of the Borough Code Enforcement Officer and/or Chief of Police, no license may be issued under this Part until a period of at least 24 hours has elapsed from the time the application has been filed with the Borough, in order to give the Borough sufficient time to make any investigation deemed necessary by the Borough Chief of Police before issuing a license. The Borough, during the twenty-four hour period following the application, may investigate the applicant and the applicant's business and reputation of said business and any other information deemed necessary to protect the public safety and health. In the event that such investigation should indicate that the granting of such permit would or might be injurious to the public interest, safety or health, the Borough Code Enforcement Officer in concurrence with the Chief of Police shall have the power and authority to refuse to issue a license.

§ 111-6. Issuance of license card.

Upon the approval of license application and payment of fee as set forth in the preceding section, the Borough Chief of Police or Borough Code Enforcement Officer shall issue a license card, containing the date of issuance and the date of expiration, as well as the name of the transient retail merchant, the transient retail merchant's address, the location where the transient retail merchant intends to set up a transient retail business, and as follows:

A. If the transient retail merchant is an individual, one card to the person making such application;

B. If a partnership, firm, or corporation, one card each to such employee upon submission by the transient retail merchant of their names.

§ 111-7. Denial, suspension and revocation of license; appeal.

The Borough Code Enforcement Officer in concurrence with the Chief of Police is hereby authorized to deny, suspend or revoke any license issued under this Part when he/she deems such denial, suspension or revocation to be beneficial to the public health, safety or morals, including but not limited to, providing false information on an application for license and/or having been convicted of a felony involving physical harm and/or for violation of any provision of this Part. Appeals from any suspension, revocation or denial of a license may be made to the Borough Manager at any time within 10 days after such suspension, revocation or denial, and a meeting 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.

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§ 111-8. Noncompliance.

It shall be unlawful for any person including a transient retail merchant to permit and/or to enter into or begin a transient retail business within the limits of Borough without having complied with this chapter and without having in his or her possession the license card as hereinbefore mentioned.

§ 111-9. Religious and charitable organization fee exemption.

A. Any organization, society, association or corporation desiring to solicit, or have solicited in its name, money, donations of money or property or financial assistance of any kind or desiring to sell or distribute any item of literature, various types of tokens or merchandise for which a fee is charged or solicited from persons other than members of such organizations upon the streets, in office buildings, by house-to-house canvass or in public places for a charitable, religious, patriotic, and/or philanthropic purpose, shall be exempt from the fee provisions of § 111-4 of this Part, provided that there is filed a sworn application, in writing, on a form furnished by the Police Department, which will give the following information:

(1) The name and purpose of the cause for which the license is sought.

(2) The name and address of the officers and directors of the organization.

(3) A period during which solicitation is to be conducted.

(4) Whether or not any commission, fees or wages are to be expended in connection with such solicitation and the estimated amount thereof.

B. Upon being satisfied that such organization, association or corporation is a religious, charitable, patriotic or philanthropic organization, the Borough Code Enforcement Officer in concurrence with the Chief of Police shall issue a license without charge.

§ 111-10. Noise limitations.

No licensee, nor any person in his or her behalf, shall make any noise in violation of the Borough's nuisance ordinance.[57]

§ 111-11. Use of streets and time restrictions.

A. No licensee shall have any exclusive right to any location in the public streets, nor shall any licensee be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operations might impede or inconvenience the public use of such streets or sidewalks. Licensees shall be required to continue to move about or to move to a new location every 30 minutes.

B. No licensee or permit holder shall be permitted to solicit on Sundays or legal holidays, nor before 9:00 a.m., nor after 5:00 p.m. prevailing time, on weekdays and Saturdays.

§ 111-12. Exhibition of licenses; uninvited soliciting prohibited.

A. Licensees are required to exhibit their license and a form of identification approved by the Borough at all times while engaging in business activities within the Borough. No license shall be transferable.

B. It is declared to be the policy of this Borough that the occupants of residences within the Borough

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57. Editor's Note: See Ch. 133, Nuisances.

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shall determine whether peddlers, canvassers or transient merchants shall or shall not be invited to their respective residences. Notice of the determination not to invite said solicitors may be given by notice posted on the premises. Such written notice shall constitute sufficient notice to any peddlers, canvassers or transient merchants of the determination of the occupant.

C. Any peddlers, canvassers or transient merchants who have gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

D. It is hereby declared to be unlawful and shall constitute a nuisance for any peddlers, canvassers or transient merchants to go upon any premises and ring the doorbell upon or near any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of this part.

§ 111-13. Violations and penalties.

Any person, firm or corporation that shall violate any of the provisions of this Part shall forfeit and pay the Borough for each and every separate offense a sum of not less than $100 or more than $600, to be used for and recovered as other fines and penalties are now by law recoverable and, in default of payment of the fines and costs of prosecution, shall be imprisoned for a period not exceeding 30 days. Each day during which a violation occurs shall constitute a separate offense.

§ 111-14. Exceptions.

This Ordinance shall not apply to farmers selling produce grown on their own property or by their own hand, nor to sale of any goods, wares or merchandise, the proceeds of which are to be applied to any charitable or philanthropic purpose, nor to any individuals who are under 18 years of age who take orders for and deliver newspapers, greeting cards, candy, cookies and other fundraising items, and the like or who represent the Boy Scouts, Girl Scouts, schools, churches or similar organizations.

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Chapter 113

LITTERING

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 2-8-1999 by Ord. No. 1150. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation areas — See Ch. 140.

Property maintenance — See Ch. 146.

Solid waste — See Ch. 170.

Vehicles and traffic — See Ch. 190.

§ 113-1. Definitions.

The following terms, phrases, words and their derivations shall have the following meanings unless the context clearly indicates otherwise.

BOROUGH — The Borough of Tyrone in the County of Blair, Commonwealth of Pennsylvania.

GARBAGE — Animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

LITTER — Garbage, refuse and/or rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare or create unsightliness.

PARK — A park, reservation, playground, beach, recreation center or any other public area in the Borough owned or used by the Borough in both active or passive recreation.

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

PRIVATE PREMISES — Any dwelling, house, building or other structure designed or used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, ground, walk, driveway, porch, steps, vestibule or mailbox belonging or pertinent to such dwelling house, building or other structure and/or any store or building or group thereof, including shopping centers, shopping plazas and other similar places, wherein mercantile activities and services are offered to the public and includes all parking areas thereto and/or any premises used for industrial purposes.

PUBLIC PLACE — Any and all streets, sidewalks, boulevards, alleys or other public ways, and any and all public parks, squares, spaces, grounds and buildings.

REFUSE — All putrescible and nonputrescible solid waste (except body waste), including paper, plastic, garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid municipal and industrial waste.

RUBBISH — Nonputrescible solid waste consisting of both combustible and noncombustible waste, such as yard clippings, leaves, wood, glass, bedding, crockery, roof shingles, other construction/demolition debris and similar materials.

VEHICLE — Every device in, upon or which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

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§ 113-2. Prohibition of littering.

It shall be unlawful for any person to:

A. Litter in public places. No person shall deposit or throw litter in or upon any street, sidewalk or other public places within the Borough except in public or private receptacles specifically designated for the collection of litter.

B. Litter in gutters. No person shall sweep or deposit in any gutter, street or other public place within the Borough the accumulation of litter from any building or litter from any public place or private premises.

C. Litter from vehicles. No person while a driver or a passenger in a vehicle shall throw or deposit litter upon any street or public place within the Borough or upon private premises.

D. Vehicles causing litter. No person shall drive or move any vehicle within the Borough unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place; nor shall any person drive or move any vehicle within the Borough, the wheels or tires which carry onto or deposit on any street, alley or other public place any mud, dirt, sticky substance, litter or matter of any kind.

E. Litter on public waters. No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere in the Borough.

F. Litter on private premises. No person shall throw or deposit litter on any private premises within the Borough, whether owned by such persons or not, except that the owner or person in control of the private premises may maintain authorized private receptacles for collection in such a manner that the litter be prevented from carrying or deposited by the elements upon any street or other public place or upon any private premises.

G. Litter on vacant lots. No person shall throw or deposit litter on any open or vacant private premises within the Borough, whether owned by such person or not.

§ 113-3. Placing litter in receptacles to prevent scattering.

Persons placing litter in public receptacles or in private receptacles shall do so in such a manner to prevent the litter from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private premises.

§ 113-4. Violations and penalties.

Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine of at least $25 and not more than $600, or imprisonment for a term not to exceed 30 days.

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Chapter 115

LOITERING

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 7-14-1986 by Ord. No. 903. Amendments noted where applicable.]

GENERAL REFERENCES

Curfew — See Ch. 74. **Disorderly conduct — See Ch. 78.**

§ 115-1. Definitions.

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

LOITER — Includes any of the following types of conduct: loafing, lingering, hanging around, idly spending time, prowling, wandering, standing or remaining idle and sauntering or moving slowly about where the conduct is not due to physical condition or defects, but irrespective of whether the conduct is on foot or in, on or by way of parked or moving vehicle.

§ 115-2. Prohibited acts.

In order to protect the safety of the public and the safety of property, it shall be unlawful to loiter, either alone or with others, on any public street, public alley, public mall, public common, public municipal parking lot or other public ground within the Borough of Tyrone or in or about any building or structure used, in whole or in part, for dwelling or rooming or boarding purposes or for business, amusement, commercial, mercantile, manufacturing, industrial, storage, educational or recreational purposes, as follows:

A. So as to hinder or obstruct or to tend to hinder or obstruct the free passage of pedestrians or vehicles or the free passage of persons or property to or from any entrance or exit of a building, structure or vehicle and to fail or refuse to move or disperse when asked to do so by a police officer.

B. So as to warrant concern for the safety of persons or the security of property in the vicinity and:

   (1) To fail or refuse to identify himself and explain his presence or conduct when asked to do so by a police officer.

   (2) To fail to dispel the concern.

§ 115-3. Determination of concern.

A. Among the circumstances which are to be considered under this chapter in determining whether there is warrant for the concern for the safety of persons or the security of property are:

   (1) The time of day when or the place where the loitering occurs.

   (2) The systematic checking by the actor of doors, windows or other means of ingress or egress to a building, structure or vehicle.

   (3) Recurrent activity by the actor which outwardly manifests in no useful purpose or reasonably

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explicable purpose and is not usual for a law-abiding or peace-abiding person.

(4) The continuous or repeated presence of the actor in close proximity to a building, structure, vehicle or other property or in close proximity to another person for a period of time not usual under the circumstances then existing.

B. Among the circumstances which are to be considered in determining whether the actor has failed to dispel the concern are whether:

(1) The actor takes flight upon the appearance of a police officer.

(2) The actor attempts to conceal himself or any object.

(3) The actor's explanation to the police officer of his presence or conduct is untrue or is such as would not at the time be reasonably sufficient to dispel the concern in the minds of ordinary men of common intelligence.

§ 115-4. Intent of provisions.

A. It is not intended that this chapter be used by a particular complainant as a catchall against persons whose ideas, dress, lifestyle or physical appearance is annoying to the sensibility of the complainant, nor is it intended that this chapter be used as a form of preventive detention or as an excuse for search and seizure.

B. It is the intent of this chapter, however, to recognize that there are conditions and circumstances which warrant a police officer making a judgment in the field or on the spot that the time has arrived when, giving due consideration to the delicate balance of the right of free assembly, free association, free speech or free movement, some action is called for in order to ensure that the safety of the public and the safety of property are protected.

§ 115-5. Reason for nonconviction.

No person shall be convicted of the offense of loitering under this chapter if it appears at trial that the actor's explanation of his presence and conduct is in fact true and, had it been made to the police officer at the time and had it been believed by the police officer at the time, it would have dispelled the concern.

§ 115-6. Violations and penalties.[58]

Any person who shall loiter shall, upon conviction of that offense, be sentenced to pay a fine of not more than $600 and costs of prosecution or be sentenced to imprisonment for not more than 90 days, or both.

58. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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TYRONE CODE

Chapter 121

MECHANICAL STANDARDS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 6-11-1990 by Ord. No. 987; amended in its entirety 7-12-1993 by Ord. No. 1047. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 71.

§ 121-1. Adoption of standards.

A certain document, a copy of which is on file in the office of the Tyrone Borough Manager at 1100 Logan Avenue, Tyrone, Blair County, Pennsylvania, being marked and designated as the "BOCA National Mechanical Code, Eighth Edition, 1993," as published by the Building Officials and Code Administrators International, Inc., be and is hereby adopted as the mechanical code of the Borough of Tyrone, Blair County, 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 Mechanical Code are hereby referred to, adopted and made a part hereof as if fully set out in this chapter.

§ 121-2. Violations and penalties.

Any individual, firm or corporation violating any of the terms or conditions of the National Mechanical Code, 1993, shall be subject, upon conviction thereof before the Magisterial District Judge, to a fine of not less than $25 nor more than $1,000, with each day upon which a violation of this chapter exists to be considered a separate offense.

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Chapter 125

MOBILE HOMES AND MOBILE HOME PARKS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 11-12-1973 by Ord. No. 747 (part of Ch. 3 of the revised 1958 Code.) Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 71.

Open burning — See Ch. 70.

Fees — See Ch. 92.

Fire prevention — See Ch. 95.

Sewers — See Ch. 162.

Solid waste — See Ch. 170.

Subdivision and land development — See Ch. 174.

Trailers and motor homes — See Ch. 185.

Water — See Ch. 196.

Zoning — See Ch. 205.

§ 125-1. Definitions and word usage.

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

MOBILE HOME — A transportable, single-family dwelling which may be towed on its own running gear and which may be temporarily or permanently affixed to real estate, used for nontransient residential purposes and constructed with the same similar electrical, plumbing and sanitary facilities as immobile housing. A "mobile home" shall not be considered a building regardless of the manner in which it is placed on the lot.

MOBILE HOME PARK — Any premises designated or used as a parking space for more than one mobile home. "Mobile home park" shall not include an automobile or mobile home showroom or any open spaces on the same lot therewith where fewer than three unused mobile homes are displayed; nor shall "mobile home park" mean any motor vehicle parking lot on which any trailer shall remain for 12 hours or less.[59]

PERSON — Any natural person, partnership, firm, association or corporation.

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

§ 125-2. Location restrictions.

No person shall park or locate any mobile home or allow it to stand upon any street, alley or other public place or upon any tract of land, occupied or unoccupied, within the Borough of Tyrone, except as provided in this chapter.

§ 125-3. Street parking restrictions.

No person shall allow any mobile home to stand upon any of the streets or alleys of the Borough of Tyrone without being attached to a motor vehicle.

59. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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§ 125-4. Parking time restrictions.

No person shall park any mobile home attached to a motor vehicle on any street or alley in the Borough of Tyrone for a period of time longer than that allowed for the parking of vehicles upon such street or alley by the applicable state laws and the ordinances of the Borough of Tyrone applicable to traffic and parking but, in any event, for no longer than 12 hours. Any person who shall violate this section shall be subject to the penalties specifically provided in such laws and ordinances as the case may be.

§ 125-5. Parking and storage on private premises.

The parking or storing of no more than one unoccupied mobile home in a private garage or in a rear yard shall be permitted on condition that no person uses such mobile home for living or sleeping purposes while such trailer is so parked or stored.

§ 125-6. Compliance required.

No person shall operate or occupy any mobile home park within the Borough of Tyrone, except as provided in this chapter.

§ 125-7. Permit required.

A. No person shall establish or operate any mobile home park within the Borough of Tyrone until the proposed location of said park has been approved by the Borough Council and a permit has been secured from the Mayor. Any person desiring to establish or to operate a mobile home park shall make application for a permit to the Mayor. With every application, there shall be submitted a plan of such mobile home park or proposed mobile home park showing the following:

   (1) The name and the address of the applicant.

   (2) The extent and area to be used for mobile home park purposes.

   (3) The location of all roadways and driveways.

   (4) The location of all lots intended for the parking of mobile homes, each lot to contain a concrete slab of sufficient size and strength to accommodate the homes anticipated.

   (5) The method and plan of sewage disposal.

   (6) The method and plan of garbage and refuse disposal.

   (7) The plan for water supply.

   (8) The plan for electric lighting facilities for the mobile home park and for trailers parked there.

   (9) A statement that the premises proposed to be occupied by such mobile home park in the case of a mobile home park not established prior to the adoption of Chapter 205, Zoning, of the Code of the Borough of Tyrone are entirely located in a district in which the establishment of mobile home parks is permitted by Chapter 205, Zoning, such statements to bear the signature of the Zoning Officer of the Borough of Tyrone.

B. Such applications shall be accompanied by a fee as set forth in the current Fee Ordinance as contained in Chapter 92, Fees, to cover the cost of the services of Borough officers and employees in making the necessary studies and investigations in connection with such application.[60]

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§ 125-8. Inspection.

Following receipt of the application for a permit as provided above, the Mayor shall cause an investigation to be made of the premises to which such application relates in order to assure himself that all requirements of this chapter applicable to mobile home parks are complied with. In connection with such investigation, the Code Enforcement Officer, the Health Officer and any other Borough officer or employee requested to do so by the Mayor shall visit the premises in order to determine whether requirements as to which they have particular knowledge and understanding are adhered to.

§ 125-9. Issuance of permit.

Immediately following the investigation required under § 125-8 of this chapter, when the Mayor shall be satisfied that all of the applicable requirements of this chapter have been adhered to or are to be adhered to according to the plans for a proposed mobile home park, the Mayor shall so inform the Borough Council. Upon approval of the location of the proposed mobile home park by the Borough Council at its next regular meeting, the Mayor shall issue a permit to establish and operate such mobile home park for a period of one year after the issuance thereof. Such permit shall be subject to suspension whenever the holder thereof shall be convicted of any violation of this chapter. A suspended permit may be reinstated by the Mayor, for the balance of the year for which it was issued, upon compliance of the holder thereof with all of the provisions of this chapter. No person shall operate a mobile home park in the Borough of Tyrone during the time when the permit therefor shall have been suspended.

§ 125-10. Change of ownership.

Whenever ownership or management of any mobile home park shall have been changed, the new owner or manager thereof shall forthwith notify the Mayor, who shall amend the permit for such mobile home park, as well as the pertinent records of the Borough, to indicate such change.

§ 125-11. Nontransferability; modifications.

No permit issued under this chapter shall be transferable to a different location. No person holding a permit under this chapter shall extend or reduce the area of any mobile home park, add any new facility or structure or eliminate any existing facility or structure until notice of such proposed change shall have been given to the Mayor and the Mayor shall have ascertained, after investigation as in the case of an original application for a permit, that such proposed change is in accordance with all the requirements of this chapter and shall have signified that fact by his approval.

§ 125-12. Renewal; fee.[61]

Prior to this date of expiration of any permit issued under the authority of this chapter, the holder thereof may apply to the Mayor for renewal thereof, such application to be accompanied by a fee as set forth in the current Fee Ordinance as contained in Chapter 92, Fees. Following any investigation deemed necessary by the Mayor to ascertain whether all the requirements of this chapter continue to be adhered to, the Mayor shall renew such permit for a further period of one year.

§ 125-13. Drainage and grading.

Every mobile home park shall be located in a well-drained area, and the premises shall be properly graded

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60. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

61. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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so as to prevent the accumulation of stormwater or other water. Streets are to have a bituminous surface within one year of final installation of any utilities in any one area.

§ 125-14. Lot requirements.

Lots for individual mobile homes in a mobile home park shall be indicated by corner markers, and no individual lot shall have an area of less than 1,800 square feet. Each lot shall abut upon a roadway or driveway not less than 40 feet wide. Every such roadway or driveway shall be well-drained, clearly marked, adequately lighted at night and easily accessible to a public street. In no case shall the lot for an individual mobile home be less than 45 feet wide by 40 feet long, and in the case of mobile homes more than 10 feet wide and 40 feet long, the lot must be enlarged to meet the minimum requirements herein prescribed. Lots for individual mobile homes shall be so located and arranged that, when mobile homes are located thereon, the setback will be 15 feet, and each lot is to have a concrete pad so arranged to leave space to park a car on a uniform side of the lot.

§ 125-15. Sewer and water facilities.

Each mobile home lot or location shall be served by Borough sewer and water facilities, the charges thereof to be paid by the owner of the mobile home park according to the current established rates for such service.

§ 125-16. Utilities and construction codes.

All plumbing, electrical, building and other work in the premises of any mobile home park located in the Borough of Tyrone shall be in accordance with any other ordinances of the Borough regulating such matters; provided, however, that if there is any conflict between any such ordinance and any of the provisions of this chapter, the provisions of this chapter shall control as to mobile home parks only.

§ 125-17. Garbage and refuse.

All ordinances of the Borough of Tyrone applicable to the accumulation, collection and disposal of garbage and refuse[62] shall be applicable to mobile home parks located in the Borough and shall be adhered to strictly by persons owning and operating mobile home parks and by persons occupying mobile homes therein.

§ 125-18. Records availability.

The owner or operator of each mobile home park shall maintain an office or residence within the Borough of Tyrone where records and other pertinent information, as follows, are available to the Borough Officers at all times:

A. The lot number upon which such mobile home is parked or located.

B. The names and the addresses of all persons using such mobile home for living or sleeping purposes.

C. The state license number of such mobile home and of the vehicle towing the same.

D. The date of arrival of such mobile home at such mobile home park and the date of departure therefrom.

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62. Editor's Note: See Ch. 170, Solid Waste.

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§ 125-19. Responsibility of permit holder.

Each person holding a permit under the provisions of this chapter shall adhere to the following additional regulations at all times:

A. He shall maintain such mobile home park in a clean, orderly and sanitary condition.

B. He shall see that no disorderly conduct or violation of any law or ordinance is committed upon the premises and shall immediately report to the proper authorities any violation which may come to his attention.

C. He shall report to the Board of Health all cases of persons or animals affected or suspected of being affected with any communicable disease, where he shall have reason to believe that medical attention has not been sought.

§ 125-20. Portable fire extinguishers to be available.

Portable fire extinguishers of a type approved by the fire prevention authority (fire code or Fire Marshal) shall be kept in public service buildings under park control, and a sufficient number shall be maintained throughout the park in readily accessible and well-marked positions.

§ 125-21. Fire hydrants.

Fire hydrants are to be placed and maintained by the operator of the mobile home park to meet all requirements of the middle department of the fire underwriters so that all homes can be protected for insurance purposes and general safety.

§ 125-22. Base enclosure.

An enclosure of compatible design and material shall be erected around the entire base of each mobile home. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the structure.

§ 125-23. Construction standards.

Any garage, utility shed or other outbuilding constructed on the lot shall conform to the standards applicable to such structure as contained in the Tyrone Building Code[63] or Chapter 205, Zoning.

§ 125-24. Open fires prohibited.

The operator of any mobile home park or any tenant or their respective agents or employees shall not be permitted to maintain open fires upon said premises, and any fires upon said premises shall be in accordance with the ordinances of the Borough of Tyrone pertaining to the same.[64]

§ 125-25. Removal permit required.[65]

No mobile home installed in the mobile home park shall be removed from the Tyrone Borough without first obtaining a permit from the Tyrone Borough Tax Collector, as required by Act No. 54, 1969, of the Pennsylvania General Assembly. Such permit shall be issued upon payment of a fee as set forth in the

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63. Editor's Note: See Ch. 71, Construction Code, Uniform.

64. Editor's Note: See Ch. 70, Burning, Open.

65. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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current Fee Ordinance as contained in Chapter 92, Fees, and any real estate taxes due against the mobile home and unpaid at the time the permit is requested.

§ 125-26. Minimum stay required.

The minimum stay in any mobile home park shall be 30 days. Any person violating this section shall be subject to the penalties as set forth in § 125-28 of this chapter.

§ 125-27. Enforcement.

It shall be the duty of the Mayor to enforce the provisions of this chapter and to that end, he shall, from time to time, make or cause to be made, by the police or any other Borough officer or employee, an inspection to ascertain whether any mobile home park continues to operate strictly under the provisions of this chapter.

§ 125-28. Violations and penalties.[66]

Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than $600 and costs of prosecution and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. Each day's continuance of a violation shall constitute a separate offense.[67]

§ 125-29. Recreation area. [Added 6-10-1974 by Ord. No. 758]

There shall be a recreation area consisting of one trailer lot for each 40 trailers with a minimum of two lots, and the lots are to be adjacent with proper drainage, grade and other characteristics comparable to average play areas. Each lot shall be developed to contain ample play lot equipment.

§ 125-30. Access roads. [Added 6-10-1974 by Ord. No. 758]

There are to be adequate well-drained access roads for each mobile home park.

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66. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**

67. **Editor's Note: Original Sec. 3.81, Tie down, which immediately followed this section, was repealed at time of adoption of Code (see Chapter 1, General Provisions, Art. I).**

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Chapter 129

NOISE

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. 133.

Vehicles and traffic — See Ch. 190.

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ARTICLE I
Engine Brakes
[Adopted 3-11-1996 by Ord. No. 1103]

§ 129-1. Engine brakes.

A. The operation of an engine brake on a gasoline-powered or diesel-powered motor vehicle not equipped with exhaust mufflers, or equipped with defective or modified exhaust mufflers, so as to create excessive noise through the use of such engine brake, adversely affects the health, safety and welfare of the residents of the Borough of Tyrone and, therefore, is hereby declared to be a nuisance in fact.

B. No person shall operate a gasoline-powered or diesel-powered motor vehicle on the streets or alleys located within the Borough of Tyrone, utilizing, in such operation, an engine brake, without exhaust mufflers, permitting excessive noise to be created by such motor vehicle.

C. This section shall not apply to emergency driving situations requiring the utilization of an engine brake to protect the safety and property of the residents of the Borough of Tyrone, other motor vehicles and operators, pedestrians, and operators and passengers of the motor vehicle involved in such emergency situation.

§ 129-2. Violations and penalties.

Any person violating this section shall be fined not less than $75 and not more than $600 plus costs and, in default of the payment thereof, shall be imprisoned in the county jail for not more than 30 days.

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TYRONE CODE

Chapter 133

NUISANCES

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 61.

Brush, grass and weeds — See Ch. 66.

Open burning — See Ch. 70.

Fireworks — See Ch. 98.

Outdoor furnaces — See Ch. 100.

Disorderly conduct — See Ch. 78.

Littering — See Ch. 113.

Noise — See Ch. 129.

Property maintenance — See Ch. 146.

Solid waste — See Ch. 170.

Streets and sidewalks — See Ch. 172.

Abandoned and junked vehicles — See Ch. 188.

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ARTICLE I
General Provisions
[Adopted 11-14-2005 by Ord. No. 1236.[68]]

§ 133-1. Definitions.

For the purpose of this article the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, and the word "shall" is always mandatory and not merely directory.

BOROUGH — The Borough of Tyrone.

COUNCIL — The governing body of the Borough of Tyrone.

DISORDERLY GATHERING — A gathering at which any public disturbance occurs.**[Added 7-11-2016 by Ord. No. 1374]**

DISORDERLY HOUSE — Any house, room or premises where frequent requests for police services for noise, assaults, batteries, drinking of intoxicating beverages, illegal drug usage and/or sale, loitering, gaming or other misbehavior or public disturbances can be documented.**[Added 7-11-2016 by Ord. No. 1374]**

FINE FOR POLICE SERVICE — The cost to the Borough for police services rendered in responding to a call at a disorderly gathering or otherwise maintaining order and public peace and safety and stopping public disturbances at a disorderly gathering, including, but not limited to, the salaries and other compensation of police officers, appropriate administrative costs allocable thereto, prorated costs of equipment, the cost of repairing damaged Borough equipment and property, and the cost of any medical treatment of injured police officers. This cost shall be recouped via a fine of not more than $1,000 for each offense imposed on the violator of this chapter, and be fixed from time to time by Borough Supervisors of the Borough, based upon the average cost for a typical police response.**[Added 7-11-2016 by Ord. No. 1374]**

GATHERING — A party or event involving a group of persons who have assembled or are assembling for a social occasion or activity on private property.**[Added 7-11-2016 by Ord. No. 1374]**

HOST — The person who owns, leases or is otherwise in possession and control of the private property where the gathering takes place and/or who organized, sponsored, conducted, hosted or permitted such gathering, invited persons to attend such gathering or was otherwise in charge of such gathering.**[Added 7-11-2016 by Ord. No. 1374]**

NUISANCE — The unreasonable, unwarrantable, or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to any person or resident in the legitimate enjoyment of his reasonable rights of a person or property.

OWNER(S) — The person, persons, corporation or other entity who holds record title to the private property.**[Amended 7-11-2016 by Ord. No. 1374]**

PERSON — Any individual, corporation, partnership, association, firm, or other legal entity.**[Amended 7-11-2016 by Ord. No. 1374]**

PRIVATE PROPERTY — Any land, building or other structure, including single- and multifamily dwellings and commercial and industrial buildings not owned by a public entity.**[Added 7-11-2016 by**

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68. Editor's Note: This ordinance also specifically repealed Ord. No. 779. A copy of the ordinance is on file in the Borough office.

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Ord. No. 1374]

PUBLIC DISTURBANCE(S) — Any act by a host, owner of property or those persons attending a gathering involving public drunkenness, consumption of an alcoholic beverage in public, the serving of alcoholic beverages to minors, public urination or defecation, the unlawful deposit of trash or litter on public or private property, damage to or destruction of public or private property, the obstruction of public roads, streets, highways or sidewalks, interference with emergency or police services, unreasonable noise, use of profane or obscene language or gestures, indecent exposure, fighting or quarreling, or any other act defined as disruptive conduct by the Borough's Code of Ordinances and/or state and/or federal law or any other conduct which otherwise disturbs, annoys, injures or endangers the health, safety or welfare of the residents of the Borough residing in the neighborhood or vicinity of the gathering.**[Added 7-11-2016 by Ord. No. 1374]**

PUBLIC ENTITY — Any federal, state or local government, school district or agency, or authority created or organized thereby.**[Added 7-11-2016 by Ord. No. 1374]**

PUBLIC PROPERTY — Any land, building or other structure owned by a public entity.**[Added 7-11-2016 by Ord. No. 1374]**

VEHICLE — Any and all motorized vehicles designed or redesigned (whether or not required to be licensed by the Commonwealth) to be used on surfaces other than paved or unpaved public or private streets, including but not limited to all-terrain vehicles, cars, trucks, motorcycles, trail bikes, dirt bikes, minibikes, go-carts, dune buggies, snowmobiles, quads and the like, regardless of the number of wheels or lack of wheels. Vehicles shall not include farm equipment or equipment manufactured for home lawn/garden work or maintenance. Vehicles shall also not include any vehicles which are powered exclusively by electricity (i.e., those with non-internal combustion engines).**[Added 2-8-2016 by Ord. No. 1371]**

§ 133-2. Nuisances declared unlawful.

Nuisances, including, but not limited to, the following, are hereby declared to be unlawful:

A. Draining or flowing, or allowing to drain or flow, by pipe or other channel, whether natural or artificial, any foul or offensive water or drainage from sinks, bathtubs, washstands, lavatories, water closets, swimming pools, privies, or cesspools of any kind or nature whatsoever, or any foul or offensive water or foul or offensive drainage of any kind, from property along any public highway, road, street, avenue, lane or alley, or from any property into or upon any adjoining property.

B. Draining or flowing, or allowing to drain or flow, any water or drainage from within dwelling situate upon property along public highway, road, street, avenue, lane, or alley in the Borough into or upon the cartway or traveled portion for said drainage by means of a drainage ditch or otherwise.

C. Obstructing streets, etc. For any person to permit any mud, dirt, coal, wood, brick, stone, gravel, clay, sand, rubbish or any other matter to remain upon the streets or in the gutter in front of his premises more than 24 hours after it has been deposited there except by special permission of the Council. It shall also be a violation to deposit grass clippings, leaves, branches or to shovel, blow or otherwise deposit snow or ice into the Borough's right-of-way. **[Amended 11-13-2018 by Ord. No. 1421]**

D. Allowing or permitting any excavation, material excavated or obstruction on or adjoining any highway, street, or road, to remain opened or exposed without the same being secured by a barricade, temporary fence, or other protective materials.

E. Interfering with the flow of a stream, creek or other waterway, by means of dam construction or otherwise, or removing the embankment of a stream so as to alter the natural flow of the stream.

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F. Defacing public and private property. It shall be unlawful for any person, partnership, corporation or agent acting independently or under the direction of the principal to deface any private or public buildings, structures, signs, banners, or vehicles within the Borough. Examples of defacing shall include, but not be limited to, the following examples: application of paint, inks and dyes; affixing of any printed materials such as signs or posters; destruction or removal; defacing in any manner.

G. Disturbance. It shall be unlawful for any person(s) to make, or cause to be made, a disturbance within the limits of the Borough that endangers or injures the safety or health of humans or animals; or is unusual for the time of day or location where it is produced or heard or jeopardizes the value of property or erodes the integrity of the environment; or materially disturbs or annoys persons in the neighborhood who are of normal sensibilities.

(1) Waste collection. Any person collecting, removing and/or transporting municipal, construction and/or demolition waste and/or recyclables, as the same are defined pursuant to the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act,[69] from any commercial and/or any other nonresidential site, shall be permitted to do so only between the hours 6:00 a.m. and 9:00 p.m.

(2) Dogs and animals, etc. For any person owning, keeping, or permitting any dog, bitch or animal on or about his premises to disturb the peace and quiet of the night by barking, howling, crying or otherwise making a noise for a continuous period of 1/2 hour in any one hour period and which can be heard a distance of 150 feet from that person's property line.

(3) No person shall use and/or explode any firework as that term is defined under Pennsylvania law, unless said person is a competent operator who has been authorized by the Borough to do so.[70] The use and/or explosion of such fireworks shall take place only on the day before, day of and day after the 4th of July of any year, during the hours of 9:00 a.m. to 12:00 p.m. unless otherwise authorized by the Borough. Use and/or explosion during any other dates and/or times shall be prohibited.

(4) Operation of vehicles. It shall be unlawful to use private property in such manner as to unreasonably interfere with the reasonable enjoyment of property by occupants of property in the vicinity by creating unsightly conditions and appearances in said premises, such as but not limited to the following: **[Added 2-8-2016 by Ord. No. 1371]**

(a) No vehicles as herein defined shall be operated beyond the defined streets, roads, highways and driveways within the Borough without the express approval of the owners or occupiers of said private property.

(b) No vehicle subject to this article shall be operated on any public property within the Borough except in such areas within which said vehicles may be operated, but in no event shall such designated areas be deemed to include sidewalks, walkways, bike paths, parks or paved rights-of-way which are otherwise primarily used for pedestrian or other vehicle traffic.

(c) Nothing contained in this article shall authorize the operation of vehicles on the public or private streets, roadways or highways within the Borough in such instances where said vehicles could not otherwise be lawfully operated under the provisions of the Pennsylvania Motor Vehicle Code, as amended from time to time.

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69. Editor's Note: See 53 P.S. § 4000.101 et seq.

70. Editor's Note: See Ch. 98, Fireworks.

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(d) No person shall operate a vehicle such that the operation of said vehicle emits loud noise which is determined to be objectionable because of the volume or frequency shall be muffled or otherwise controlled, except for fire sirens and related apparatus used solely for public safety purposes.

(e) No vehicle shall be operated in such a manner that is unreasonably dangerous to the safety and well being of any person or real or personal property in its immediate vicinity.

(f) To further implement and foster the content of this article, it shall be unlawful for any person to operate, cause to be operated or to participate in the operation of any vehicle off road on any single property within a distance of 50 feet of any property line without first obtaining the prior written consent of the owner(s) or lessee(s) of such property.

(g) No vehicle shall be operated in such a manner as to create an unreasonable amount of dust or dirt. An "unreasonable amount" of dirt or dust shall mean suspended particle matter visible to the unaided or naked eye from a distance of 35 or more feet.

(h) Nothing contained herein shall be construed to prohibit the use of a vehicle(s) when such is incidental to farm, home lawn/garden work, snow removal or maintenance.

§ 133-3. Written notice to violators.

A. Whenever a condition constituting a nuisance is permitted or maintained, Council shall cause written notice to be served upon the owner in one of the following manners:

(1) By making personal delivery of the notice to the owners; or

(2) By handing a copy of the notice at the residence of the owner to an adult member of the family with which he resides, but if no adult member of the family is found, then to an adult person in charge of such residence; or

(3) By fixing a copy of the notice to the door at the entrance of the premises in violation; or

(4) By mailing a copy of the notice to the last known address of the owner by certified mail; or

(5) By publishing a copy of the notice in a local newspaper of general circulation within Blair County, Pennsylvania, once a week for three successive weeks. Such notice shall set forth in what respect such condition constitutes a nuisance, whether removal is necessary and required by the Borough, or whether the situation can be corrected by repairs, alterations or by fencing or boarding, or in some way confining and limiting the nuisance.

B. Such notice shall require the owner to-commence action in accordance with the terms thereof within 20 days and, thereafter, to comply fully with its terms with reasonable dispatch, with all material to be supplied and work to be done at the owner's expense; provided, however, if any of the provisions of § 133-2B, F, I, J, or K is violated, and if the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

C. In the case of violations occurring under § 133-2G(4) of this article, prior written notice shall not be required to be given to anyone apprehended while engaged in an act which constitutes a violation of that section and a citation may be issued at the time of apprehension. **[Added 2-8-2016 by Ord. No. 1371]**

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§ 133-4. Violations and penalties.

This article regulates building, housing, property, maintenance, health, fire, public safety, air or noise pollution, and shall be enforced pursuant to 53 P.S. § 66601(c.1)(2).

A. Enforcement thereof shall be by an action before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Civil Procedure. The Borough Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa.R.Crim.P. No. 83(c) (relating to trial and summary cases). The Council hereby sets a criminal fine in the amount of not less than $100 and not more than $1,000 per violation and the costs of prosecution and, in default of payment of such fine and costs of prosecution, to undergo imprisonment of not more than 10 days, provided, further, that each day's continuance of a violation shall constitute a separate event.

B. The Borough Council may direct the removal, repair, or alterations, as the case may be, to be done by the Borough and to certify the costs thereof to the Borough Solicitor, the cost of such removal, repairs or alterations shall be a lien upon such premises from the time of such removal, cutting, repairs and alterations which date shall be determined by the certificate of the person doing such work, and filed with the Borough Secretary.

C. The Borough, by means of a complaint in equity, may compel the owner of the premises to comply with the terms of any notice of violation or seek any such other relief as any such court of competent jurisdiction is empowered to afford.

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ARTICLE II
Disorderly Gatherings
[Adopted 7-11-2016 by Ord. No. 1374]

§ 133-5. Purpose and intent.

The Borough of Tyrone finds and determines as follows:

A. That certain private properties require a disproportionate amount of police service, with many calls requiring response to maintain order and public peace and safety and to stop public disturbances at parties or other social events so that there are less police personnel and resources available for other locations, emergencies and duties within the Borough, thereby placing a disproportionate and unfair burden upon the residents of the Borough.

B. That the host of a disorderly party or other social event, the owner of property where such events occur and those persons attending such party or event should be held criminally responsible for any public disturbances or other acts of disorderly conduct thereat.

C. That owners of private properties derive a benefit from the aforesaid police service.

D. That owners of private properties have a responsibility to manage their properties to minimize required police responses to maintain order and public peace and safety and to stop public disturbances, to minimize the burden upon the residents of the Borough and to promote the health, safety and welfare of the public in general.

E. That owners of private properties can minimize required police responses to maintain order and public peace and safety and to stop public disturbances by diligent and strict management and regulations of their properties.

F. That assessment of fines for successive police responses as provided in this section is reasonable and will have a deterrent effect and encourage more responsible management of private properties.

G. That it is not the intent of this article to discourage or suppress calls or requests for police service, but rather to encourage and stimulate diligent and strict management and regulation of private properties by the owner thereof and to promote the health, safety and welfare of the residents of the Borough.

§ 133-6. Declaration of public nuisance.

Any such disorderly gathering, house, room or other premises that shall be disruptive to the peace and well-being of the surrounding and greater community is declared to be a public nuisance.

§ 133-7. Public disturbance prohibited.

No host, owner of property or person attending a gathering shall commit any act of public disturbance. No host shall hold, conduct or have a gathering where any act of public disturbance occurs or continue a gathering where any act of public disturbance has occurred or is occurring.

§ 133-8. Arrest of violators.

In addition to the right to file a citation against violators under and pursuant to the Pennsylvania Rules of Criminal Procedure, police officers may also arrest a host, owner of property or person attending a gathering who commits a violation, provided that the police officer views the public disturbance and, in the

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case of the host, the host is in attendance at the gathering at the time of such public disturbance, although nothing herein shall prevent a host from being cited for a violation, whether or not any person attending the gathering is arrested or cited for a violation.

§ 133-9. Violation by owners required to pay fine for police service.

No owner who, after receiving the notice set forth in this article shall permit, cause, encourage and/or be complicit in any disorderly gathering in excess of one such disorderly gathering during any ninety-day period of time occurring on said owner's private property.

§ 133-10. Notice to owners.

Whenever the police are called to respond to a disorderly gathering for the purpose of maintaining order and public peace and safety and stopping public disturbances, the Chief of Police or the Chief's duly authorized designee shall notify the owner of the private property where the disorderly gathering took place, and/or also the agent of such property by regular mail at the last known address of such owner and operator, that the police were called to respond to a disorderly gathering at the owner's property for the purpose of maintaining order and public peace and safety and stopping public disturbances and that if the police are again called to respond to a disorderly gathering at such property within 90 days after their initial response, such owner shall be in violation of this section and may be required to pay a fine of not more than $1,000 for each violation of this section.

§ 133-11. Violations and penalties.

Any host, owner of property or person who violates § 133-7 shall be guilty of the offense of disorderly gathering and, upon conviction thereof in a summary proceeding, shall be sentenced to pay a fine of not more than $1,000 and/or be imprisoned for a period not to exceed 90 days.

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Chapter 134

NUMBERING OF BUILDINGS AND NAMING OF STREETS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 11-13-2006 by Ord. No. 1248. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 172. **Subdivision of land — See Ch. 174.**

§ 134-1. Adoption of guidelines. [Amended 9-9-2019 by Ord. No. 1433]

The guidelines promulgated by the Blair County Department of Emergency Services, attached hereto as Exhibit A[71] and incorporated herein, are hereby adopted by the Borough and will dictate any action involving all matters included in said guidelines, including, but not limited to, street naming, renaming and addressing. The procedure for naming or renaming a street shall be in accordance with the ordinance entitled "Borough of Tyrone Approval of an Intergovernmental Cooperation Agreement for Street Addressing" and the terms of said intergovernmental cooperation agreement.[72]

§ 134-2. Unlawful actions.

It shall be unlawful to cover, conceal, obstruct, destroy, remove, deface or vandalize any street number or road/street name sign or placard and any post containing the same, installed or displayed pursuant to and in accordance with the requirements of the guidelines attached hereto, as Exhibit A.

§ 134-3. Enforcement.

Upon determining that a building or property owner has not complied with the street numbering or road name sign regulations of this chapter, the Borough, through the Code Enforcement Officer, or such other person as may be designated by the Borough Manager from time to time, may pursue any of the following enforcement remedies:

A. Provide written notice to the owners, occupants and other persons in possession of buildings or property which has not been numbered in accordance with these regulations of the violation, the need to comply, and the time within which compliance must be accomplished.

B. In the event that persons persist in refusing to comply with these regulations despite notices to do so, the Borough Code Enforcement Officer may issue a written order directing the owners, occupants or others in possession of the buildings or property in violation of this chapter to comply with the applicable requirements of this chapter. Any person who is aggrieved by any order issued pursuant to this chapter may appeal to the Borough Council by filing a written notice of appeal with the office of the Borough Manager within 10 days of the date of the subject order. The Borough Council shall, within 45 days of the receipt of the written notice, schedule a time, during a public meeting of the Council, to consider the said written appeal and any other comments offered by said person and, at said public meeting, or such later date established by the Council not later than 14 days thereafter,

71. Editor's Note: Exhibit A is included as an attachment to this chapter.

72. Editor's Note: Said agreement is on file in the Borough offices.

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either affirm, reverse and/or modify the order of the Code Enforcement Officer. Notice of the public meeting date and time shall be given to the person filing the appeal at least 10 days in advance of said meeting.

C. In the event the property owners or occupants or possessors fail or refuse to take action in accordance with the notice and an order issued pursuant to this chapter, the Borough may provide the sign, as necessary, in order to bring the property owner(s) into compliance with the standards promulgated in this chapter. The Borough may recover the cost of materials and labor for the purchase and installation of sign from the property owners, occupants or possessors and reasonable administrative fees, interest or other charges allowed by law. In the event the owners, occupants or possessors of the subject property fail to pay the cost of such installation as determined and approved, then the Borough may institute proceedings at law to collect the full costs together with all penalties, interest, fees, and other charges which are authorized by applicable law, or may take action to assess these costs and charges against the premises and the owners thereof and collect same as a municipal lien or may take other action to collect these sums as may be permitted by law. The Borough may pursue any, all or a combination of any of the said remedies, as the Borough may decide.

§ 134-4. Violations and penalties.

Any person who shall be found to have engaged in the prohibited unlawful conduct as set forth in this chapter shall be guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of no less than $100 and no more than $600, together with court costs, and, upon default in payment of the fine, shall be sentenced to imprisonment for not more than 10 days.

§ 134-5. Authorization of officers.

The proper officers of the Borough are hereby authorized to take necessary and proper action to establish, implement and enforce the standardized system of property address numbering and street/road name sign placement as provided for in this chapter and to comply with the requirements of the automatic location information needs of the Blair County 9-1-1 system.

§ 134-6. When effective.

The provisions of this chapter shall become effective upon the United States Postal Service approval of street names and numbering for Tyrone Borough.

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Chapter 138

PARKING, DESIGNATED

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 3-9-1987 by Ord. No. 919. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 190.

§ 138-1. Reserved spaces for doctors.[73]

One reserved parking space is hereby established at the following addresses for the use by the resident doctor:

A. Dr. Lee Dippery, 1212 Logan Avenue, Tyrone, Pennsylvania.

B. Dr. Adam M. Kruczay, 1213 Logan Avenue, Tyrone, Pennsylvania.

§ 138-2. Reserved spaces for ministers.

One reserved parking space is hereby established at the following addresses for the use by the resident minister:

A. First Lutheran Church, Logan Avenue and Thirteenth Street, Tyrone, Pennsylvania.

B. Wesley United Methodist Church, 1200 Logan Avenue, Tyrone, Pennsylvania.

C. Grace Baptist Church, 1553 Columbia Avenue, Tyrone, Pennsylvania.

D. Free Methodist Church, 1703 Columbia Avenue, Tyrone, Pennsylvania.

E. Trinity Episcopal Church, 800 Block of Washington Avenue, Tyrone, Pennsylvania.

F. First Presbyterian Church, 102 West 13th Street, Tyrone, Pennsylvania.[74]

§ 138-3. Installation of signs.[75]

A. The following signs are hereby directed to be installed. "No Parking, Doctor Only":

   (1) Dr. Lee Dippery, 1212 Logan Avenue, Tyrone, Pennsylvania.

   (2) Dr. Adam M. Kruczay, 1213 Logan Avenue, Tyrone, Pennsylvania.

B. The following signs are hereby directed to be installed. "No Parking, Minister Only" at the following churches:

73. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

74. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

75. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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(1) First Lutheran Church, Logan Avenue and Thirteenth Street, Tyrone, Pennsylvania.

(2) Wesley United Methodist Church, 1200 Logan Avenue, Tyrone, Pennsylvania.

(3) Grace Baptist Church, 1553 Columbia Avenue, Tyrone, Pennsylvania.

(4) Free Methodist Church, 1703 Columbia Avenue, Tyrone, Pennsylvania.

(5) Trinity Episcopal Church, 800 Block of Washington Avenue, Tyrone, Pennsylvania.

(6) First Presbyterian Church, 102 West 13th Street, Tyrone, Pennsylvania.

§ 138-4. Unlawful parking.

It shall be unlawful for any person other than the designated doctor or minister to use the above-reserved parking spaces.

§ 138-5. Violations and penalties.[76]

Any person, firm or corporation violating any provision of this chapter shall, upon conviction before the Magisterial District Judge, pay a fine not to exceed $10 and the cost of prosecution.

76. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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Chapter 140

PARKS AND RECREATION AREAS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 61.

Disorderly conduct — See Ch. 78.

Firearms — See Ch. 93.

Fireworks — See Ch. 98.

Littering — See Ch. 113.

Skateboards — See Ch. 165.

Vehicles and traffic — See Ch. 190.

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ARTICLE I
Rules and Regulations
[Adopted 8-11-2008 by Ord. No. 1272[77]]

§ 140-1. Adoption of rules and regulations.

Exhibit A attached hereto is hereby adopted as the rules and regulations for all Tyrone Borough parks, playgrounds and facilities.[78]

§ 140-2. Authorization to erect signs.

The Borough is hereby authorized to erect signs, where appropriate, setting forth, in abbreviated form if desired, the rules and regulations adopted hereby.

§ 140-3. Violations and penalties.

Any person, partnership, corporation and/or other entity who or which shall violate any of the provisions of this article shall, upon conviction thereof, be sentenced to pay a fine of not less than $25 nor more than $600 plus costs of prosecution or, in default of payment of such fine and costs, to undergo imprisonment for not more than 90 days; provided, however, that each violation of any provision of this article and each day the same is continued shall be a separate offense.

77. Editor's Note: This ordinance also specifically repealed Ord. Nos. 1190 and 1191. Copies of said ordinances are on file in the Borough office.

78. Editor's Note: Exhibit A is included at the end of this chapter.

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TYRONE CODE

Chapter 142

PAWNBROKERS, JUNK DEALERS AND SECONDHAND DEALERS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 9-10-2012 by Ord. No. 1330. Amendments noted where applicable.]

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ARTICLE I
General Provisions

§ 142-1. Short title.

This chapter shall be known as the "Pawnbrokers, Junk Dealers and Secondhand Dealers Business Licensing Ordinance of the Borough of Tyrone."

§ 142-2. Conflict with other provisions.

It is not intended by this chapter to repeal, abrogate, annul or in any other way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter. Where this chapter imposes a greater restriction upon persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

§ 142-3. Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and words of the masculine gender shall include the feminine. The word "shall" is always mandatory and not merely directory.

BOROUGH — The Borough of Tyrone, Pennsylvania.

BOROUGH COUNCIL — The Borough Council of the Borough of Tyrone.

BOROUGH LICENSE OFFICER or LICENSE OFFICER — The Chief of Police of the Borough of Tyrone, his/her designee, or such other persons or inspectors as may be appointed by the Chief of Police.

BUSINESS — Includes all kinds of vocations, occupations, professions, enterprises, establishment, and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, which are conducted for profit or benefit, directly or indirectly, on any premises in the Borough of Tyrone.

HEARING OFFICER — A hearing officer selected by Borough Council as provided under § 142-13 of this chapter.

LICENSE OR LICENSEE — As used generally herein, shall include, respectively, the words "permit" or "permittee" or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this chapter or other law or ordinance.

PERSON — Includes individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, corporations or other limited-liability entities; or any officers, agents, employees, factors or any kind of personal representatives of any of the above, in any capacity, acting either for themselves or for any other person, under either personal appointment or pursuant to law.

POLICE — The Police Department of the Borough of Tyrone.

PREMISES — Includes all lands, structures and places, and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to or otherwise used in connection with any such business conducted on such premises.

§ 142-4. License required.

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A. Compliance required. It shall be unlawful for any person, either directly or indirectly, to conduct any business or to use in connection therewith any vehicle, premises, machine or device, in whole or in part, for which a license or permit is required by this chapter, without a license or permit therefor being first procured and kept in effect at all such times as required by this chapter or other law or ordinance of the Borough. A person conducting any business which involves either wholly or in part a combination of one or more of the types of business activities regulated hereunder shall be required to obtain separate licenses for each type of business conducted, and shall comply with all requirements and regulations for each type of business conducted, and shall comply with all requirements and regulations for each type of business; provided, however, that such person shall pay only one license fee, which shall be the license fee for the business having the highest fee.

B. Agents responsible for obtaining license. The agents or other representatives of non-Borough residents who are doing business in this Borough shall be personally responsible for the compliance with this chapter of their principals and of the business they represent.

§ 142-5. Powers and duties of License Officer.

A. Issuance of licenses. The Police Department, through the License Officer, shall collect all license fees imposed hereunder and shall issue licenses in the name of the Borough to all persons qualified under the provisions of this chapter.

B. In addition, the License Officer shall:

(1) Recommend rules: Recommend the adoption of all reasonable rules and regulations necessary to the operation and enforcement of this chapter. Borough Council shall be responsible for the adoption, by resolution, of all rules and regulations necessary to the operation and enforcement of this chapter.

(2) Adopt forms: Adopt all forms and prescribe the information to be given therein.

(3) Require affidavits: Require applicants to submit all affidavits and oaths necessary to the administration of this chapter.

(4) Obtain endorsements: Submit all applications, in a proper case, to appropriate Borough officials for their endorsements thereon as to compliance by the applicant with all Borough regulations which they have the duty of enforcing.

(5) Investigate: Investigate and determine the eligibility of any applicant for a license.

(6) Examine records: Examine the books and records related to information required to be kept or maintained by this chapter of any applicant or licensee when reasonably necessary to the administration and enforcement of this chapter.

(7) Give notice: Notify any applicant of the acceptance or rejection of the applicant's application and, upon refusal of any license or permit applied for, at the applicant's request, state, in writing, the reasons therefor and deliver them to the applicant.

(8) Enforce: Take all actions necessary to carry out the provisions of this chapter, including, but not limited to, institution of summary criminal proceedings, filing civil or equitable actions, revocation of licenses, and any other appropriate legal actions necessary for enforcement.

C. Confidentiality duty. The License Officer shall keep all information furnished or secured under the authority of this chapter in strict confidence, excepting names and addresses of licensees. Such

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information shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known except to the persons charged with the administration of this chapter or to judicial officers having the power to resolve appeals of actions taken by the Borough under this chapter.

§ 142-6. Qualifications of applicants; general standards to be applied.

The general standards herein set forth relative to the qualifications of every applicant for a Borough license shall be considered and applied by the License Officer in determining whether to grant or refuse to grant a license to any applicant.

A. Good moral character. Each applicant shall be of good moral character. In determining whether an applicant is of good moral character, the License Officer shall consider only:

   (1) Penal history: all convictions for crimes of moral turpitude.

B. License history: the license history of the applicant; whether such person, in previously operating in this or another state under a license regulating a business, has had such a license revoked or suspended and the reasons therefor.

C. No obligations to the Borough. Each applicant shall be in default under the provisions of this chapter, and ineligible to obtain a license, if past due with respect to any debt or obligation incurred in any manner to the Borough, including taxes.

D. Compliance with building and zoning laws. Each applicant shall certify that to the applicant's knowledge the applicant is not in violation of the building or zoning laws of the Borough of Tyrone. Any applicant found to have made a false certification in this respect shall be ineligible to obtain a license.

§ 142-7. Procedure for issuance of license.

A. Formal application required. Every person required to procure a license under the provisions of this chapter shall submit an application to the Police Department which shall comply with the following:

   (1) The form of the application shall be a written statement upon forms provided by the License Officer, such forms shall include a sworn affidavit that the information furnished is true and correct. Furnishing false certifications or false or intentionally misleading information shall be grounds for denial or revocation of the license or other legal action hereunder by the License Officer.

   (2) Contents of application. The application shall contain the disclosure of all information necessary for compliance with § 142-6 above and of any other information which the Borough License Officer shall find to be reasonably necessary for the fair administration of this chapter.

   (3) Payment of fees. The application shall be accompanied by the full amount of the fees chargeable for such license.

B. Issuance of receipts. Whenever a license cannot be issued at the time that the application for the same is made, the Borough License Officer shall issue a receipt to the applicant for the money paid in advance, subject to the condition that such receipt shall not be construed as the approval of the Borough License Officer for the issuance of a license, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this chapter.

C. Duplicate license procedure. A duplicate license shall be issued by the License Officer to replace any

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license previously issued, which has been lost, stolen, defaced, or destroyed, without any willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit sworn to before a notary public of this state attesting to such fact and the paying to the License Officer of a fee as may be established by Borough Council from time to time.

D. Issuance of license. If the License Officer shall be satisfied that the applicant has met all requirements of this chapter, the license shall be issued to the applicant. If the License Officer determines that the requirements of this chapter have not been met, the License Officer shall disapprove the application and refund all fees paid in advance, from which disapproval the applicant shall have the right to appeal to a hearing officer appointed by Borough Council pursuant to § 142-13 of this chapter.

§ 142-8. License fee.

A. Fee established. License fees shall be in amounts established by Borough Council from time to time.

B. Rebate of fee. No rebate or refund of any license fee or part thereof shall be made for any reason except if such license fee was collected through an error.

§ 142-9. Information required on license.

Each license issued hereunder shall state upon its face:

A. The name of the licensee and any other name under which such business is to be conducted.

B. The kind and address of each business so licensed.

C. The amount of the license fee therefor.

D. The dates of issuance and expiration thereof.

E. Such other information as the License Officer shall determine.

§ 142-10. Duties of licensee.

A. General standards of conduct. Every licensee under this chapter shall:

(1) Permit inspection: Permit all reasonable inspections of the said licensee's business and examinations of the licensee's books containing information required to be kept or maintained by this chapter by public authorities so authorized by law.

(2) Comply with governing law: Ascertain and at all times comply with all laws and regulations applicable to such licensed business.

(3) Operate properly: Avoid all forbidden, improper or unnecessary practices or conditions which do or may affect the public health, morals or welfare.

(4) Cease business: Refrain from operating the licensed businesses on premises after expiration of the licensee's license and during any period said license is revoked or suspended.

B. Display of license. Every licensee under this chapter shall comply with the following:

(1) Licenses.

(a) Premises: Post and maintain such license upon the licensed premises in a place where it

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may be seen at all times.

(b) Persons: Carry such license on the licensee's person when the licensee has no licensed business premises.

(c) Vehicles: Post and maintain such license in a conspicuous place when business is being conducted from a vehicle.

(2) Inoperative licenses: Do not allow any license or insignia to remain posted, or displayed, or used, after the period for which it was issued has expired; or when it has been suspended or revoked or for any reason become ineffective. The licensee shall promptly return such inoperative license to the License Officer.

(3) Unlawful possession: Do not loan, sell, give or assign to any other person, or allow any other person to use or display, or to destroy, damage or remove, or to have in such person's possession, except as authorized by the License Officer or by law, any license which has been issued to said licensee.

C. New location desired. A licensee shall have the right to change the location of the licensed business, provided said licensee shall comply with the following:

(1) Approval of license officer: Obtain written permission from the License Officer for such change of location.

(2) Payment of fee: Pay a removal fee in an amount as may be determined by Borough Council from time to time to the License Officer.

D. Keep records: Keep all records and books to provide the information required by this chapter and necessary for the enforcement of this chapter.

§ 142-11. Transfer of license.

A licensee shall not transfer the licensee's license to another person.

§ 142-12. Refusal to issue license; suspension or revocation of license.

A. A hearing officer appointed by Borough Council pursuant to § 142-13 of this chapter shall hear all appeals from the decision of the License Officer disapproving an application for a license. The hearing officer may, upon recommendation of the License Officer, and following written notice to the licensee, and, if requested by the licensee, after a hearing as provided for in § 142-12B of this chapter, refuse to renew, suspend or revoke a license of any applicant or licensee. All decisions of the hearing officer in support of any action or recommendation of the License Officer shall be based upon one or more of the following reasons:

(1) The practice of any fraud, deceit, misrepresentation or furnishing false information in obtaining or attempting to obtain a license.

(2) The practice of fraud, deceit, misrepresentation or furnishing false information in the course of carrying on the licensed business.

(3) The conviction of any of the enumerated crimes set forth in subsequent articles of this chapter for the particular business license involved.

(4) Violation of or noncompliance with the provisions of this chapter or orders of the License

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Officer issued under the authority of this chapter.

(5) Loaning, borrowing or using a license of another, or knowingly aiding or abetting in any way the granting of improper licenses.

(6) The doing of any act or engaging in any conduct in the course of the business which demonstrates incompetency, bad faith or dishonesty or substantially adversely affects the health, safety, or general welfare of the public.

B. Before the hearing officer acts upon any recommendation of the License Officer to refuse to renew, suspend or revoke any license, the License Officer shall notify the applicant or licensee of the charges against the licensee and shall accord the applicant or licensee ample opportunity to be heard thereon in person or by counsel. The notice shall be in writing and be served by certified mail, addressed to the applicant or licensee at the address appearing in the application for the license or on the issued license, and shall notify the applicant or licensee of the right to a hearing before the hearing officer. The applicant or licensee shall have a period of 10 days from the date of the service of the notice (which shall be the date of the mailing) to request a hearing before the hearing officer, which hearing shall, if requested, be conducted after not less than 30 days' written notice to the applicant or licensee. If no hearing before the hearing officer is requested, it shall be conclusively presumed that the applicant or licensee concurs with the recommendation of the License Officer, and the hearing officer shall take the action recommended by the License Officer without necessity for any further proceedings.

§ 142-13. Hearing officer.

The hearing officer, for purposes of this chapter, in any particular case, shall be a person appointed by Borough Council who is capable of conducting an administrative hearing in a thorough, fair and impartial manner, examining and weighing evidence, applying applicable law to the facts of a case, and writing a decision setting forth findings of fact and conclusions of law in support of such decision. A hearing officer may be an employee of the Borough, so long as he/she is not a subordinate of the License Officer. A hearing officer shall have full authority and power to carry out the duties of the hearing officer as set forth in this chapter. In addition to his/her duty to take actions upon the recommendation of the License Officer in refusing, suspending or revoking any license, a hearing officer shall hear and decide all appeals from persons aggrieved by any decision or order of the License Officer (except a decision to file summary enforcement proceedings with a Magisterial District Judge) when it is alleged that the decision or order complained of is not authorized by this chapter or directs a method of compliance which imposes an unreasonable burden upon the licensee without good cause. In such cases, a hearing officer shall have the authority, in a proper case, to change, modify or rescind any decision or order of the License Officer or to extend the time for compliance. All appeals to a hearing officer from decisions or orders of the License Officer shall be filed with the License Officer within 10 days of the date of the decision or order complained of. The appeal shall be in writing, shall specify the grounds therefor and the relief requested and shall be accompanied by an appeal fee as determined by Borough Council from time to time. Upon receipt of an appeal, a hearing shall be held after not less than 30 days' written notice to the licensee.

§ 142-14. Enforcement.

A. Inspections.

(1) Persons authorized. The following persons are authorized to conduct inspections in the manner prescribed herein:

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(a) License Officer and police. The License Officer and/or the police shall make all investigations reasonably necessary for the enforcement of this chapter.

(b) Officials having duties. The License Officer shall have the authority to order the inspection of licensees, their businesses and premises by the police and all Borough officials having duties to perform with reference to such licensees or businesses.

(2) Authority of inspectors. All inspectors shall have the authority to enter premises to inspect for violation of any provision of this chapter. Persons inspecting licensees, their businesses, or premises as herein authorized shall report all violations of this chapter or of other laws or ordinances to the License Officer and shall submit such other reports as the License Officer shall order.

B. Enforcement duties of License Officer. When the License Officer determines that there exists any violation of this chapter, the License Officer shall have the option to:

(1) Issue and serve upon the violator a notice of violation, which notice shall be in writing, shall specify the violation and shall contain an order directing correction of the violation within a specified time to be not less than 10 days from the date of the notice. (Any person aggrieved by such notice shall have the right to appeal as set forth in § 142-13 of this chapter); and/or

(2) Institute and prosecute summary enforcement proceedings before a Magisterial District Judge; and/or

(3) Initiate before the hearing officer, in the manner specified in § 142-12B of this chapter, proceedings to suspend or revoke the license of the violator.

C. The License Officer shall be authorized to take any or all of the above enforcement actions in any given case as are deemed necessary in the License Officer's opinion for proper administration and enforcement of this chapter, and the right to take any particular enforcement action shall not be limited by reason of the fact that the License Officer has also taken a different action in the same case.

§ 142-15. Unlawful use of premises.

Where a person allows another person who has not procured a license to use said person's premises for an activity requiring a license under this chapter, such person who permits the same, in addition to any other applicable penalty, shall be held liable for any applicable license fees required herein.

§ 142-16. Violations and penalties.

Any person who violates any provision of this chapter or any final order of the License Officer or hearing officer issued pursuant to the authority of this chapter shall, upon conviction therefor in a summary proceeding, be fined not less than $150 nor more than $600 and shall pay the costs of prosecution or, in default of payment, undergo imprisonment for not more than 30 days. Each day during which a violation continues shall constitute a separate offense. As used in this section, the term "person" shall have the meaning set forth in § 142-3 of this chapter.

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ARTICLE II
Businesses Required To Obtain Licenses

§ 142-17. Pawnbrokers.

A. License required to be a pawnbroker. No person shall use, exercise or carry on the trade or business of pawnbroker within the Borough without first obtaining a license from the License Officer. A pawnbroker's license runs from January 1 to December 31 of each year.

B. Definition of terms. As used in this chapter, unless the context indicates otherwise:

PAWNBROKER — Includes any person who:

(1) Engages in the business of lending money on the deposit or pledge of personal property other than choses in action, securities, or written evidence of indebtedness; or

(2) Purchases personal property with an express or implied agreement or understanding to sell it back at a subsequent time at a stipulated price; or

(3) Lends money upon goods, wares or merchandise pledge, stored or deposited as collateral security.

PLEDGE — An article or articles deposited with a pawnbroker as security for a loan in the course of the pawnbroker's business as defined in the preceding definition. "Pledgor" means the person who obtains a loan from a pawnbroker and delivers a pledge into the possession of a pawnbroker, unless such person discloses that such person is or was acting for another, in which case a "pledgor" means the disclosed principal.

C. Records to be kept. Each and every pawnbroker shall keep a book, legibly written in the English language, in which shall be recorded:

(1) A full and accurate description of all articles purchased or left in pawn with said pawnbroker.

(2) The date and time of pledging, pawning or purchasing the same.

(3) The date and time within which such pawned or pledged article is to be redeemed.

(4) The amount of money lent or paid therefor.

(5) The description of the person or persons, including such person's name, age and address, making a pledge.

D. Report to police. Every pawnbroker shall, before 12:00 noon of every Tuesday, deliver to the Department of Police a written description of all articles received in the course of said pawnbroker's business during the business week immediately previous, together with the numbers of any tickets or receipts associated with the articles received and a description of the person or persons pawning the articles, including such person's name, age and address. This information may be submitted on forms which may be obtained from the Department of Police or by providing copies or summaries of the pawnbroker's own records. However, if the pawnbroker chooses to submit copies or summaries of said pawnbroker's records, the records must contain all of the information specified above in this subsection.

E. Information pawnbroker shall give to pledgor. Every pawnbroker shall, at the time of making or receiving any article in pawn, deliver to the pledgor a memorandum signed by him containing:

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(1) The date.

(2) The amount of the loan.

(3) The rate of interest and storage charges.

(4) The time within which the article is to be redeemed.

(5) A description of the article pledged.

F. Forbidden transactions. A pawnbroker shall not accept a pledge from a person under the age of 18 years. A pawnbroker shall require any person who appears to be under 30 years of age to verify that he/she is at least 18 years old by presentation of a photo identification card listing his/her date of birth or age (such as a driver's license, passport, student identification card, employee identification card, or alien resident card). If a person fails or refuses to present photo and age verification upon request of the pawnbroker, the pawnbroker shall not accept a pledge from that person.

G. Conviction of certain crimes. If any pawnbroker is convicted of robbery, burglary, theft, receiving stolen goods or any other crime involving the unlawful obtaining of personal property, a hearing officer shall, after notice and hearing, revoke said pawnbroker's license.

H. Fee. The fee of issuance of a pawnbroker's license shall be established by Borough Council from time to time.

§ 142-18. Junk dealers.

A. License required to be a junk dealer. No person shall use, exercise or carry on the trade or business of junk dealer within the Borough without first obtaining a license from the License Officer. A junk dealer's license runs from January 1 to December 31 of each year.

B. Definition of terms. As used in this chapter, unless the context indicates otherwise:

JUNK DEALER — Includes any person who shall carry on the business of buying or selling and dealing in junk and/or scrap metals, including but not limited to iron, brass, lead, copper, aluminum and other metals or alloys, or other materials commonly referred to as "junk."

C. Records to be kept. Every junk dealer shall keep a book, legibly written in English, at the time of acquiring any article in the course of his business, which book shall contain:

(1) A full and accurate description of the article purchased.

(2) The name and address of the person selling the same.

D. Report to police. Every junk dealer shall, before 12:00 noon of every Tuesday, deliver to the Department of Police a written description of all articles of scrap brass, lead, copper or aluminum received in the course of his business during the business week immediately previous, together with the numbers of any tickets or receipts associated with the articles received and a description of the person or persons selling the articles to the junk dealer, including such person's name, age and address. This information may be submitted on forms which may be obtained from the Department of Police or by providing copies or summaries of the junk dealer's own records. However, if the junk dealer chooses to submit copies or summaries of his own records, the records must contain all of the information specified above in this subsection.

E. Period of retention of purchased articles. All persons, firms or corporations licensed under the

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provisions of this chapter shall keep and retain on their premises such scrap brass, lead, copper or aluminum, in the original form, shape or condition in which they received such goods, for a minimum period of seven days after their purchase of the same.

F. Forbidden transactions. No person licensed under this section shall receive or purchase articles from individuals under 18 years old. A junk dealer shall require any person who appears to be under 30 years of age to verify that he or she is at least 18 years old by presentation of a photo identification card listing his/her date of birth or age (such as a driver's license, passport, student identification card, employee identification card, or alien resident card). If a person fails or refuses to present photo and age verification upon request of the junk dealer, the junk dealer shall not buy any articles from that person.

G. Conviction of certain crimes. If any junk dealer is convicted of robbery, burglary, theft, receiving stolen goods or any other crime involving the taking of personal property, a hearing officer shall, after notice and hearing, revoke said junk dealer's license.

H. Fee. The fee for issuance of a junk dealer's license shall be determined by Borough Council from time to time.

§ 142-19. Secondhand dealers.

A. License required to be a secondhand dealer. Except as otherwise provided in this section, no person shall engage in the business of being a secondhand dealer, as defined in this section, without procuring a license from the License Officer. A secondhand dealer's license runs from January 1 to December 31 of each year.

(1) No individual shall be required to obtain a license under this section who engages in isolated or occasional purchases or sales of those items set forth in Subsection B of this section, provided such person maintains no place of business within the Borough, engages in no promotion or advertising and can prove by appropriate records that total sales of the previous year did not exceed $1,500.

B. Definition of a "secondhand dealer." Except as provided otherwise in this section:

SECONDHAND DEALER — Includes any person who either wholly or in part engages in or operates the trade or business of buying and/or selling used goods such as precious stones, metals, jewelry, any tools, any electrical devices, fixtures, appliances, household goods, firearms and bric-a-brac. The foregoing enumeration of articles, goods and property shall not be deemed to be exclusive or all-inclusive. Secondhand articles or goods, for the purpose of this chapter, are any articles or goods that are purchased, salvaged, or received from any person, association, copartnership, or cooperation.

(1) "Secondhand dealer," for purposes of this chapter, does not include antique stores or dealers, which are defined as businesses which are exclusively engaged in the sale of objects or items which have special value because of their age.

(2) "Secondhand dealer," for purposes of this chapter, shall not be deemed to include:

(a) Judicial sale or sales by executors or administrators.

(b) Sales of unredeemed pledges by or on behalf of licensed pawnbrokers in the manner prescribed by law.

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(c) Occasional or auction sales of household goods sold from private homes.

(d) Auctions of real estate.

C. Records to be kept. Each and every secondhand dealer shall keep a book, legibly written in the English language, at the time of acquiring articles in the course of business, which book shall give:

(1) An accurate description, including brand names, model numbers, serial numbers, inscribed initials, dates, names and any other forms of identification of the article purchased, salvaged or received.

(2) The name, age, description and address of the person selling, transferring or trading in same.

D. Reports to police. Every secondhand dealer shall, before 12:00 noon of every Tuesday, deliver to the Department of Police a written description of all articles received in the course of said secondhand dealer's business during the business week immediately previous, together with the numbers of any tickets or receipts associated with the articles received and a description of the person or persons selling the articles to the secondhand dealer, including such person's name, age and address. This information may be submitted on forms which may be obtained from the Department of Police or by providing copies or summaries of the secondhand dealer's own records. However, if the secondhand dealer chooses to submit copies or summaries of his own records, the records must contain all of the information specified above in this subsection.

E. Retention of purchased articles. No secondhand dealer shall sell or dispose of any secondhand articles or goods until seven days have elapsed after the purchase of the same. However, it shall be an affirmative defense to any prosecution or administrative proceeding brought for a violation of this section that, in the case of precious metals, retention for the time period required would have resulted in serious and substantial economic losses to the dealer, or the probability of such losses was significant, due to rapid and highly fluctuating market conditions, provided the persons so charged shall prove the existence of the market conditions giving rise to the aforesaid defense by preponderance of the evidence. Market conditions, in order to be a defense hereunder, must be such that financial analysts would characterize trading as at or approaching a level or occurrence in an atmosphere of panic so as to clearly distinguish trading conditions from normal variations in market movement in response to economic news or other events.

F. Forbidden transactions. No secondhand dealer shall purchase any article from any person under the age of 18. A secondhand dealer shall require any person who appears to be under 30 years of age to verify that he or she is at least 18 years old by presentation of a photo identification card listing his/her date of birth or age (such as a driver's license, passport, student identification card, employee identification card, or alien resident card). If a person fails or refuses to present photo and age verification upon request of the secondhand dealer, the secondhand dealer shall not buy any articles from that person.

G. Conviction of certain crimes. If any secondhand dealer shall be convicted of robbery, burglary, theft, receiving stolen goods or any other crime involving the unlawful obtaining of personal property, a hearing officer shall, after notice and hearing, revoke said secondhand dealer's license.

H. Fee. The fee for the issuance of a secondhand dealer's license shall be established by Borough Council from time to time.

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§ 142-20. Licensing of existing businesses.

All existing businesses required to be licensed hereunder shall apply for a license within three months from the passage of this chapter, and all such applicants shall be charged a fee as established by Borough Council from time to time, which license shall thereafter be renewed in accordance with this chapter upon payment of the specified fee and fulfillment of all other requirements hereunder.

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TYRONE CODE

Chapter 143

PLUMBING

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 9-14-1992 by Ord. No. 1033. Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 71.

Water — See Ch. 198.

Sewers — See Ch. 162.

§ 143-1. Adoption of standards.

A certain document, three copies of which are on file in the office of the Borough Secretary of the Borough of Tyrone, being marked and designated as "The BOCA National Plumbing Code, Eighth Edition, 1990," as published by the Building Officials and Code Administrators International, Inc., be and is hereby adopted as the Plumbing Code of the Borough of Tyrone, Blair County, 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 a part hereof as if fully set out in this chapter, with the additions, insertions and changes, if any, prescribed in § 143-2 of this chapter.

§ 143-2. Amendments to standards.

The following sections are hereby revised as follows:

A. Section P-100.1 (page 1, second line). Insert: Borough of Tyrone.

B. Section P-104.1 (page 2, second line). Insert: September 14, 1992.

C. Section P-114.2 (page 8, third line). Insert: $25.

D. Section P-117.4 (page 9, fourth, fifth and sixth lines). Insert: Each violation of this ordinance shall be subject to a fine of at least $25 and not more than $1,000, and/or 10 days in jail.[79]

E. Section P-118.2 (page 10, first and second lines). Insert $25 and $300.

F. Section P-303.2 (page 26, third line). Insert: As long as property owner is in agreement to pick up cost of lateral and cost of main extension if needed.

G. Section P-308.3 (page 27, second line). Insert: three feet.

H. Section P-308.4 (page 27, second and fourth lines). Insert: 30 inches minimum.

79. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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Chapter 146

PROPERTY MAINTENANCE

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 1-13-2025 by Ord. No. 1482[80]. Amendments noted where applicable.]

§ 146-1. Adoption of Property Maintenance Code.

A certain document on file in the Office of the Executive Assistant of the Borough of Tyrone, being marked and designated as the "International Property Maintenance Code of 2024" be and is hereby adopted as the Property Maintenance Code of the Borough of Tyrone, 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 International Property Maintenance Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, as set forth in § 146-3 of this chapter.

§ 146-2. Inconsistent ordinances repealed.

Ordinance No. 1216, attached hereto, of the Borough of Tyrone and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

§ 146-3. Additions, insertions and changes.

The International Property Maintenance Code is amended and revised in the following respects:

A. Section PM-101.1 is hereby amended to read as follows:

PM-101.1 Title: These regulations shall be known as the Property Maintenance Code of the Borough of Tyrone hereinafter referred to as "this code."

PM-104.1 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the fee schedule adopted from time to time by the Borough.

B. Sections PM-106.1 is hereby deleted in its entirety and in its place shall appear the following:

PM-111.1 General: Any person affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Borough Manager provided a written application is filed in the Office of Borough Manager within 20 days after the decision, notice or order of the said official code was served. The appeal to the Borough Manager shall be an informal proceeding in which the Borough Manager shall be entitled to review such evidence as said Manager deems necessary and appropriate. The Borough Manager shall render a written decision within 30 days of the date of filing said appeal with a copy thereof to be furnished to the appellant and to the code official. Any person wishing to appeal the decision of the Borough Manager shall have such right to appeal to the Council of the Borough of Tyrone provided a written application is filed in the Office of the Borough Manager within 20 days after the day the decision by the Borough Manager was served. All applications for any appeal permitted herein shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. Appeals

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80. Editor's Note: This ordinance also repealed former Ch. 146, Property Maintenance, adopted 9-13-2004 by Ord. No. 1216.

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to the Council of the Borough of Tyrone shall in all cases be accompanied by a fee as determined by Council from time to time.

C. Section PM-106.2, PM-106.3 and PM-106.4 are hereby deleted in their entirety and in their place shall appear the following:

PM-106.2 Notice of meeting: The Council shall meet within 60 days of the filing of an appeal to Council.

PM-106.3 Open hearing: All hearings before the Council shall be open to the public. The appellant, the appellant's representative, the code official, and any person whose interests are affected shall be given an opportunity to be heard.

PM-106.3.1 Procedure: All procedures, in any appeal, before Council shall be conducted pursuant to Local Agency Law of Pennsylvania.

PM-106.4 Council decision: The Council may modify or reverse the decision of the code official and/or the Borough Manager only by a concurring vote of a majority of the Council members voting at which a quorum is present.

PM-106.4.1 Written Decision: The decision of the Council shall be in writing. Copies shall be furnished to the appellant and to the code official.

PM-106.5. Administration: The code official shall take action in accordance with the decision of the Council.

D. Section PM-107.4 is hereby deleted in its entirety and in its place shall appear the following:

PM-107.4 Violation penalties: Any person who shall violate a provision of this code shall, upon conviction thereof, be subject to a fine of not less than $100 nor more than $1,000 or imprisonment for a term not to exceed 30 days, or both, at the discretion of the court. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

E. Section PM-202.0 is hereby amended by deleting the definition of "Code Official" and in its place shall appear the following:

PM-202 - General Definitions- Code Official: The official who is charged with the administration and enforcement of this code, or any duly authorized representative, including the Borough of Tyrone Code Enforcement Officer.

F. Section PM-302 is hereby amended to add a new subsection 302.1.1 as follows:

PM-302.1.1: No person shall place or permit to remain any stuffed furniture or upholstered or fabric covered furniture, not constructed for outdoor use on any unenclosed porch, sidewalk, or yard.

G. Section PM-302.4 is hereby amended as follows:

PM-302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 10 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. [The second Paragraph of PM- 302.4 remains as written.]

H. Section PM-302.8 is hereby deleted in its entirety and in its place shall appear the following:

PM-302.8 Motor vehicles: Abandoned and junked vehicles shall be governed by the applicable

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Ordinance of the Borough of Tyrone.

I. Section PM-303, subsections 303.1 and 303.2 are hereby deleted in their entirety and in their place shall appear the following:

PM-303.1: Swimming pools, spas and hot tubs shall be regulated by other laws enacted by the Borough of Tyrone applicable to the same.

J. Section PM-304.14 is hereby amended to read as follows:

PM-304.14 Insect screens: During the period from April 1 to September 30 every door, window and other outside opening utilized or required for ventilation purposes serving any structure containing habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

Exception: Screen doors shall not be required for out-swinging doors or other types of openings which make screening impractical, provided other approved means, such as air curtains or insect repellent fans are employed.

K. Section PM-602.3 is hereby deleted in its entirety and in its place shall appear the following:

PM-602.3 Heat supply: Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either express or implied, shall furnish heat to the occupants thereof at a reasonable level of heat.

L. Section PM-602.4 is hereby deleted in its entirety and in its place shall appear the following:

PM-602.4 Nonresidential structures: Every enclosed occupied workspace shall be supplied with sufficient heat during the period from October 1 to April 30 to maintain a temperature of not less than 65 degrees F. (18 degrees C.) during all working hours.

Exceptions

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

M. Section PM-604.2 is hereby deleted in its entirety and in its place shall appear the following:

PM-604.2 Service: The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the ICC Electrical Code listed in Chapter 8. Every dwelling shall be served by a main service that is not less than 60 amperes, three wires. Upon the change and/or upgrade of the main electrical service of any dwelling, the main service shall not be less than 100 amperes, three wires.

N. Section PM-605.2 is hereby deleted in its entirety and in its place shall appear the following:

PM-605.2 Receptacles: Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded type receptacle. Every bathroom shall contain at least one receptacle. At least one GFI protected receptacle shall be installed during the upgrade of electrical service of a bathroom and/or laundry area. Whenever

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possible, GFI protected receptacles should be on a separate circuit.

§ 146-4. Saving clause.

Nothing in this chapter or in the International Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in § 146-2 of this chapter nor shall any just or legal right or remedy of any character be lost, impaired or affected by this chapter.

§ 146-5. Severability.

If any sentence, clause, section or part of this chapter is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this chapter. It is hereby declared as the intent of the Borough Council of the Borough of Tyrone that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§ 146-6. Effective date.

This chapter shall become effective at the earliest possible date provided by law.

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Chapter 159

SALES

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

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ARTICLE I
Yard Sales
[Adopted by 8-14-2006 by Ord. No. 1245]

§ 159-1. Definitions.

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

BOROUGH — Refers to this Borough.

YARD SALE — Any public sale of goods on residential property, including, but not limited to, the residential properties, porches, garage, home, lawn, or yard.

§ 159-2. Display and sign regulations.

A. Any and all goods that were to be or have been displayed for sale or other disposition at any yard sale shall be removed from any area open to public view on the property on which the yard sale took place and/or was to take place within 24 hours of cessation of the sale. The covering of goods with tarps, blankets, plastic coverings (or anything of like material) shall not be deemed as removed from public view.

B. No sign or other display advertising the sale shall be placed on the public right-of-way. No lighted or illuminated signs shall be used. No signs shall be permitted that are pasted, stapled, nailed or otherwise temporarily attached to public utility poles, street signs or trees within the right-of-way of any street.

§ 159-3. Duration limitations.

The maximum duration of any yard sale shall be two consecutive calendar days.

§ 159-4. Violations and penalties.

Any person who shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine of $50 and prosecution costs for the first offense; $100 plus prosecution costs for the second offense; $300 for the third offense and any offense thereafter.

§ 159-5. Enforcement.

The Code Enforcement Department and Police Department are hereby authorized to act on behalf of the Borough.

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TYRONE CODE

Chapter 162

SEWERS

[The sewer legislation of the Borough of Tyrone is currently under review. Upon adoption by the Borough Council, such legislation will be included here.]

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Chapter 163

SIGNS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 7-12-2021 by Ord. No. 1452. Amendments noted where applicable.]

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ARTICLE I
Signs on Borough Property

§ 163-1. Definitions.

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

SIGN — Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

§ 163-2. Unlawful activities.

It shall be unlawful for any person or persons, firm or corporation to post, tack, paste or hang any signs and/or posters or any other form of advertising on Borough-owned property and/or rights-of-way in the Borough of Tyrone, Pennsylvania.

§ 163-3. Violations and penalties.

Any person or persons, firm or corporation who violates the provisions of this article shall, upon conviction thereof before any Magisterial District Judge, pay a fine of not less than $100 nor more than $1,000 or be imprisoned for a period not to exceed 90 days, or both.

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Chapter 165

SKATEBOARDS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 11-14-1988 by Ord. No. 952. Amendments noted where applicable.]

§ 165-1. Definitions. [Amended 11-10-2025 by Ord. No. 1490]

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

BUSINESS DISTRICT — On Tenth Street from Washington Avenue to Bald Eagle Avenue; Pennsylvania Avenue from the Conrail branch line leading from Tyrone to Bellefonte to Fourteenth Street; South Logan Avenue from Tenth Street to Ninth Street; Logan Avenue from Tenth Street to Twelfth Street; Blair Avenue from Tenth Street to Twelfth Street; Fourteenth Street from Pennsylvania Avenue to Logan Avenue; Thirteenth Street from Pennsylvania Avenue to Logan Avenue; Twelfth Street from Pennsylvania Avenue to Logan Avenue; and Eleventh Street from Pennsylvania Avenue to Logan Avenue.

ELECTRIC BICYCLE (E-BIKE) — An electric bicycle (e-bike) is a bicycle equipped with an electric motor that assists the rider when they are pedaling.

PEDALCYCLE — A vehicle propelled solely by human-powered pedals.

TRAFFICWAY — The entire width between property lines or other boundary lines of every way or place of which any part is open to the public for purposes of vehicular travel as a matter of right or custom.

§ 165-2. Prohibited acts. [Amended 11-10-2025 by Ord. No. 1490]

A. No person shall ride upon or utilize in any manner upon the streets, alleys and trafficways in the Borough of Tyrone, Blair County, Pennsylvania, any skateboard, roller skates, scooter or any other human-powered device other than pedalcycles or electric bicycles (e-bikes).

B. No person shall ride upon or utilize any skateboard, roller skates, scooters or any other human-powered device upon a sidewalk in a business district in the Borough of Tyrone.

C. Riding of electric bicycles (e-bikes) shall be prohibited at all times on all sidewalks in the Borough of Tyrone. This prohibition shall not apply to the Borough parking enforcement officer while the officer is engaged in the performance of official duties.

D. Any person riding upon or utilizing any skateboard, roller skates, scooter, electric bicycle (e-bike) or any other human-powered device, other than pedalcycles, upon a sidewalk other than in a business district, in a playground or in any other places open to pedestrian traffic shall yield the right-of-way to any pedestrian and shall utilize any such devices with all due regard to the safety of pedestrians and property.

E. No person shall erect or place any type of ramp designed for use with skateboards, roller skates, scooters, electric bicycles (e-bikes), pedalcycles or any other human-powered vehicles on the streets, alleys, sidewalks and trafficways in the Borough of Tyrone.

F. Repeated violations of this chapter or refusal to comply shall be cause for seizure of the device or devices being used in violation of this chapter.

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§ 165-3. Enforcement.

It shall be the duty of the Tyrone Borough Police Department to enforce the provisions of this chapter.

§ 165-4. Violations and penalties.[81]

Whosoever violates any of the provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not less than $25 nor more than $600.

81. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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TYRONE CODE

Chapter 168

SMOKING AND TOBACCO PRODUCTS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

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ARTICLE I
Municipal Building
[Adopted 4-12-1999 by Ord. No. 1154[82]]

§ 168-1. Prohibition.

It shall be unlawful for any person employed by the Borough of Tyrone or any member of the general public who comes to the Municipal Building on Borough business or to attend Borough meetings to smoke or use tobacco products on any floor of the Municipal Building.

§ 168-2. Authorization to erect signs.

The Borough of Tyrone may erect signs on all floors of the Municipal Building to advise employees of the Borough of Tyrone and members of the general public entering the Municipal Building of the provisions provided herein.

§ 168-3. Violations and penalties.

Any person who shall violate any provisions of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than $25.

82. Editor's Note: This ordinance also specifically repealed Ord. Nos. 1021 and 1024. Copies of said ordinances are on file in the Borough office.

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ARTICLE II
Borough Buildings and Vehicles
[Adopted 3-12-2001 by Ord. No. 1177]

§ 168-4. Prohibition.

It shall be unlawful for any person employed by the Borough of Tyrone or any member of the general public who is in any building (excluding pavilions and/or other open structures) owned by the Borough of Tyrone and/or who is in any vehicle owned by the Borough of Tyrone to smoke or use tobacco products within said building and/or vehicle.

§ 168-5. Authorization to erect signs.

The Borough of Tyrone may erect signs as necessary to advise employees of the Borough of Tyrone and members of the general public entering said buildings and/or vehicles of the provisions provided herein.

§ 168-6. Violations and penalties.

Any person who shall violate any provisions of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than $25.

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TYRONE CODE

Chapter 170

SOLID WASTE

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Open burning — See Ch. 70.

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ARTICLE I
Collection and Disposal
[Adopted 3-30-1987 by Ord. No. 929]

§ 170-1. Declaration of policy. [Amended 12-10-2012 by Ord. No. 1338]

The Borough Council of the Borough of Tyrone, recognizing its responsibilities under the Pennsylvania Solid Waste Management Act, 35 P.S. § 6018.101 et seq., and in the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. § 4000.101 et seq., and pursuant as well to the powers given it under the Borough Code, particularly 53 P.S. § 46202(11), hereby determines, declares and finds as follows:

A. The closure of all municipal waste disposal sites in Blair County and the closure or pending closure of disposal sites in neighboring counties have created an increasingly difficult disposal problem for Tyrone.

B. Tyrone's waste haulers must travel increasingly greater distances at increasing cost to Tyrone residents for proper disposal.

C. The continuation of these conditions indicates that the Borough of Tyrone will face a crisis of waste accumulation that threatens the sanitation, health and safety of Tyrone residents.

D. Improper and inadequate solid waste practices would create public health hazards, environmental pollution and economic loss and would cause irreparable harm to the public health, safety and welfare.

E. The provisions of this article set forth hereinafter will promote the public health, safety and welfare and eliminate or reduce the public health hazards, environmental pollution and economic losses caused by inadequate and improper solid waste practices.

F. The actions hereafter prescribed are in furtherance of the goals and policies of the Pennsylvania Solid Waste Management Act.[83]

G. Accordingly, it is the purpose of this article to accomplish the following:

(1) To provide for the effective implementation of the Pennsylvania Solid Waste Management Act, 35 P.S. § 6018.101 et seq.

(2) To provide for the effective collection, transportation, processing and interim and final disposal of municipal waste which is generated or present within the Borough of Tyrone.

(3) To require licenses for municipal waste collection and transportation.

(4) To provide for the collection of municipal waste in an appropriate, sanitary fashion so as to protect the public health, safety and welfare.

§ 170-2. Definitions and word usage.

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

BOROUGH — The Borough of Tyrone.

BULKY WASTE — Large items of refuse, including, but not limited to, appliances, furniture, large auto

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83. Editor's Note: See 35 P.S. § 6018.101 et seq.

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parts, trees, and stumps.**[Amended 6-10-2019 by Ord. No. 1429]**

CARTWAY — The paved area of a street, avenue, alleys, etc.

GARBAGE — Municipal waste resulting from animal, grain, fruit or vegetable matter.

HAULER — Any person, firm, copartnership, association or corporation who has been licensed by the Borough to collect, transport and dispose of refuse for a fee as herein prescribed.

HAZARDOUS WASTE — Any garbage, refuse, sludge from an industrial or other wastewater treatment plant, sludge from a water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining or agricultural operations and from community activities, or any combination of the above, but does not include solid or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear or by-product material, as defined by the United States Atomic Energy Act of 1954, as amended (68 Stat. 923), which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. The term "hazardous waste" shall not include coal refuse, as defined in the Act of September 24, 1968 (P.L. 1040, No. 318), known as the "Coal Refuse Disposal Control Act."[84] "Hazardous waste" shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the Act of June 22, 1937 (P.L. 1987, No. 394), known as the "Clean Streams Law."[85]

MUNICIPAL WASTE — Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste hereunder from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility.

NUISANCE — Any condition, structure or improvement which shall constitute a threat to the health, safety or welfare of the citizens of the Borough of Tyrone.

PERSON — Any individual, partnership, corporation, association, institution, cooperative enterprise or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In any provisions of this article prescribing a fine, imprisonment or penalty or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

RESIDUAL WASTE — Any garbage, refuse, other discarded material or other waste, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, mining and agricultural operations and any sludge from any industrial, mining or agricultural operations and any sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility or air pollution control facility, provided that it is not hazardous. The term "residual waste" shall not include coal refuse as defined in the Coal Refuse Disposal Control Act[86] "Residual waste" shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the Clean Streams Law.[87]

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84. Editor's Note: See 52 P.S. § 30.51 et seq.

85. Editor's Note: See 35 P.S. § 691.1 et seq.

86. Editor's Note: See 52 P.S. § 30.51 et seq.

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REFUSE — All municipal waste, except garbage and other decomposable matter. This category includes, but is not limited to, ashes, bedding, and crockery.**[Amended 6-10-2019 by Ord. No. 1429]**

A. In this article, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

B. Other words not defined herein shall have the meanings set forth in Section 103 of the Pennsylvania Solid Waste Management Act.[88]

§ 170-3. through § 170-7. (Reserved)[89]

§ 170-8. Collections; vehicle specifications.

A. All municipal waste, upon collection by the hauler, will be deemed to be the property of the hauler.

B. Residential collections shall be made at least once every week.

C. Collections from commercial establishments must be made at least once every week and shall be made more often if necessary to control health hazards, flies, odors and unsightly appearances.

D. No vehicle used in collecting, transporting, disposing or removing municipal waste shall scatter any of the contents on the streets, highways or alleys of the Borough of Tyrone. Vehicles used to haul municipal waste must be maintained in a clean and sanitary conditions so as to present a satisfactory outward appearance and shall meet all the requirements of the Borough and the Department of Environmental Protection. The trucks may be inspected at any time by the Code Enforcement Officer of the Borough of Tyrone for purposes of ensuring compliance with this article. Any deficiency must be corrected promptly by the hauler. The hauler shall maintain its equipment in such a condition as to be able to maintain the collection schedule.

E. Trucks and other vehicles used for collecting, transporting, disposing or removing any municipal waste shall meet the following requirements:

(1) Packers. All municipal waste shall be enclosed within the confines of the cargo area, which area shall be watertight.

(2) Dump trucks. If constructed with completely metal beds and lacking additional wooden sideboards, such trucks shall be covered with a waterproof tarp.

(3) Dump trucks or pickup trucks on which additional wooden sideboards have been installed shall not have the sideboards extending above the legal height and shall be covered with a waterproof tarp.

(4) Passenger vehicles used for transporting municipal waste shall keep the waste within the confines of the vehicle at all times. Access in the vehicle to the cargo area shall be kept closed at all times without the use of additional aids such as ropes, tiedowns and other similar mechanisms.

(5) All tarps as required in this section shall be made of a waterproof material. Tarps shall be

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87. Editor's Note: See 35 P.S. § 691.1 et seq.

88. Editor's Note: See 35 P.S. § 6018.101 et seq.

89. Editor's Note: Former § § 170-3 through 170-7, License required to haul waste, Issuance of license; fee, Requirements for granting license, Rate schedule of haulers, and Revocation of license, respectively, were repealed 6-10-2019 by Ord. No. 1429.

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secured on all four sides at all times, except during actual loading and unloading.

§ 170-9. Delivery of waste to approved site.

All municipal waste collected as aforesaid shall be delivered to a site approved by the Pennsylvania Department of Environmental Protection (DEP) and as directed by the Borough of Tyrone.

§ 170-10. Vehicles to be emptied as necessary.

All vehicles shall be emptied at a DEP-approved site as often as deemed necessary by the designated inspector so as to avoid creating a public nuisance as hereinafter described.

§ 170-11. Site fees to be prorated.

The fees charged to haulers by the DEP-approved site operator shall be added on a pro rata basis to the rates charged by the haulers to the persons whose municipal waste is being collected and hauled.

§ 170-12. Liability for disposal of nonconforming waste.

If a hauler knowingly brings nonconforming waste to the DEP-approved disposal site and such nonconforming waste is accepted for disposal, the hauler who delivered such nonconforming waste to the DEP-approved disposal site shall be and remain liable for all fines, penalties, costs, expenses and other damages, environmental or otherwise, caused by the temporary or permanent disposal of such nonconforming waste at the disposal facility, including any costs associated with removal, transportation, storage and disposal of such wastes in compliance with applicable laws and regulations.

§ 170-13. Preparation of waste for collection.

Each person who contracts with a licensed hauler to collect municipal waste shall prepare the waste as follows:

A. All waste shall be drained of liquid insofar as practical and shall be placed in sanitary sealed containers and/or cans made of nonabsorbent material.

B. Containers shall not exceed 30 gallons in size; cans shall be of a rust-resistant material and shall be furnished and kept clean by the customer and shall be replaced by such customer when no longer in satisfactory condition.

C. All refuse which cannot be disposed of in containers shall be assembled, boxed or bundled separately in such a way that it can be handled conveniently and will not be disseminated by wind or otherwise while awaiting collection.

D. All refuse, except bulky waste, shall be of units which can be handled by one person and shall be placed in containers or piled and assembled in such a way as to facilitate collection.

E. All containers shall be kept on the customer's property until the night before scheduled pickup, at which time it may be placed on the edge of the cartway.

§ 170-14. Private disposal sites prohibited.

No person, firm or corporation shall use or permit to be used any spot or place within the Borough as a disposal site for municipal waste material.

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§ 170-15. Accumulations of waste prohibited.

No person shall accumulate or permit to accumulate municipal waste materials upon private property in the Borough, except in such limited quantities and for such limited periods of time as shall ensure that no annoyance, nuisance, health or fire hazard shall be created thereby; and any unauthorized accumulation of municipal waste on any premises is hereby declared to be a nuisance and is prohibited.

§ 170-16. Violations and penalties. [Amended 12-10-2012 by Ord. No. 1338]

Any violation or failure to comply with any of the provisions of this article or the rules and regulations promulgated hereunder is declared to be a nuisance. Said violation shall constitute an offense, and any person convicted thereof in a proceeding before a Magisterial District Judge shall be sentenced to pay a fine of not less than $75 or more than $600, plus the costs of prosecution. In default of payment of such fines and costs, the person shall be committed to the county jail for a period not exceeding 30 days. Each day's continuance of such a violation shall constitute a separate violation. The Borough is authorized to obtain injunctive relief mandating compliance with the requirements set forth herein.

§ 170-17. Moneys to be used for enforcement.

All moneys collected pertaining to this article, whether by fees, fines or royalties, shall be used for the enforcement of this article.

§ 170-18. Borough authority.

The Borough is hereby authorized to promulgate rules and regulations and to issue forms and to set fee schedules as necessary to implement this article.

§ 170-19. Actions subject to local agency law.

Actions taken pursuant to this article are subject to the Local Agency Law to the extent required by law.

§ 170-20. Responsibility of Code Enforcement Officer.

Inspections, notices and issuance of citations pursuant to this article shall be the responsibility of the Code Enforcement Officer of the Borough of Tyrone.

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ARTICLE II
Waste Management and Recycling
[Adopted 9-9-1991 by Ord. No. 1018]

§ 170-21. Title.

The short title of this article shall be the "Tyrone Borough Municipal Waste Management and Recycling Ordinance," and the same may be cited in that manner.

§ 170-22. Purpose.

The purpose of this article is to provide for the health, safety and welfare of the residents of the Borough of Tyrone by regulating the collection, storage, transportation, removal, disposal and recycling of municipal solid waste by instituting a comprehensive solid waste management program and establishing a mandatory municipal waste management and recycling program pursuant to the requirements of Act 101, the Municipal Waste Planning, Recycling and Waste Reduction Act,[90] and amendments thereto.

§ 170-23. Definitions.

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

ALUMINUM CAN — Empty all-aluminum beverage and food containers.

BOROUGH — The Borough of Tyrone, Blair County, Pennsylvania; the Borough Council and the Borough Manager of the Borough of Tyrone.

BOROUGH COLLECTION SERVICE — A service for the collection of solid waste, recyclables and bulky waste or white goods which is provided by the Borough collector.

BULKY WASTE/WHITE GOODS — Large items of waste, including but not limited to appliances, furniture, large auto parts, trees, and stumps.**[Amended 6-10-2019 by Ord. No. 1429]**

COMMERCIAL ESTABLISHMENT — Those properties used primarily for commercial or industrial purposes and those multiple-dwelling residential buildings containing more than four dwelling unit.

COMMUNITY ACTIVITIES — Church, social, school, civic, service group and municipal functions and all other such functions.

DWELLING UNIT — One or more rooms in a residential building, which room or rooms have fixed cooking facilities arranged for occupancy by one or more persons living together or one family.

EXCLUSIVE CONTRACT — An agreement entered into by Tyrone Borough with a private person or corporation for the collection and disposal of all municipal solid waste and/or recyclables within the Borough to the extent provided by this article and the contract agreement.

GARBAGE — Putrescible animal, fish, fowl fruit or vegetable waste incident to and resulting from the use, preparation, cooking and consumption of food.**[Added 2-10-2014 by Ord. No. 1348]**

GLASS CONTAINERS — Bottles and jars made of clear, green or brown glass. Excluded are plate glass, automotive glass, blue glass and porcelain and ceramic products.

HAZARDOUS WASTE — Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or the appropriate agency of the state as "hazardous," as that term is defined by or pursuant to federal or state law.

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90. Editor's Note: See 53 P.S. § 4000.101 et seq.

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HIGH-GRADE OFFICE PAPER — Computer paper and white paper generated in offices and homes.

INSTITUTIONAL ESTABLISHMENT — Those facilities that house or serve groups of people, such as hospitals, schools, day-care centers and nursing homes.

LEAD ACID BATTERIES — Include but are not limited to automotive, truck and industrial batteries that contain lead.

LEAF WASTE — Leaves from trees, bushes and other plants, garden residue, chipped shrubbery and tree trimmings, but not including grass clippings.

MULTIFAMILY HOUSING — Any properties having four or more dwelling units per structure.

MUNICIPAL SOLID WASTE — Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act[91] from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. This term does not include source-separated recyclable materials.

NEWSPAPERS — Paper of the type commonly referred to as "newsprint" and distributed at fixed intervals, having printed thereon news and opinions and containing advertisements and other matters of public interest. Expressly excluded are glossy advertising inserts often included with newspapers.

PERSON — Owners, lessees and occupants of residences or commercial or institutional establishments.

PLASTIC CONTAINER — Empty plastic containers. Due to the large variety of types of plastics, the recycling regulations may stipulate specific types of plastic which may be recycled.

PROCESSING CENTER — Any facility maintained for the purpose of sorting, preparing and/or consolidating recyclables (as defined herein) for sale.

PUBLIC NUISANCE — Any premises which is capable of being a fire, health or safety hazard due to but not limited to accumulations of any flammable materials, solid waste, recyclables or hazardous waste; or any premises which contains unauthorized accumulations of solid waste and/or recyclables.

RECYCLABLE MATERIALS — Those materials separated at the point of origin for the purpose of being recycled, including those materials listed in Act 101 and by the Borough to be recycled.

RECYCLING AWARENESS PROGRAM — The program provided by the Borough in conjunction with programs developed by the county to inform and to encourage residents to use the recycling collection services.

RECYCLING COLLECTION SERVICES — Recycling services performed by the Borough collector which include the collection of recyclable materials from locations specifically designated by the Borough, processing of recyclable materials as applicable and marketing of the recyclable materials.

RESIDENTIAL DWELLINGS — Any occupied single or multifamily dwelling having up to four dwelling units per structure for which the Borough or Borough collector provides municipal waste collection service.

RESIDENTIAL MUNICIPAL SOLID WASTE — Municipal solid waste, as herein defined, that is generated at a dwelling unit.

SOLID WASTE COLLECTION SERVICE — Those services to be performed by the Borough collector which include the collection of solid waste from locations specifically designated by the Borough, transportation of solid waste in trucks and disposal of solid waste at a facility licensed by the Pennsylvania

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91. Editor's Note: See 35 P.S. § 6018.101 et seq.

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Department of Environmental Protection (PADEP).

TRUCK(S) — Vehicle(s) used for the collection of solid waste and recyclables which have mounted thereon an approved-type, watertight sanitary body or which has a standard truck body made wastetight and equipped with means of covering to prevent loss of material by wind. Vehicle(s) must conform to all rules and regulations stipulated by PADEP.

WASTE DUMPSTER and/or ROLL-OFF CONTAINER and/or WASTE CONTAINER — Any nonmotorized and/or nonpropelled receptacle designed to hold and/or receive municipal waste and/or other refuse material, capable of being lowered and lifted by motor vehicle or truck for the purpose of municipal waste and/or other refuse material storage and/or collection.**[Added 2-10-2014 by Ord. No. 1348]**

§ 170-24. Mandatory waste disposal.

It shall be the mandatory duty of every owner of property and every person occupying a dwelling unit or premises within the Borough where municipal waste is generated and accumulated, by his/her own exposure and cost, except as otherwise specified in this article, to provide and keep at all times a sufficient number of containers to hold all municipal waste accumulated between weekly intervals of collection of such waste by the Borough collector and to ensure the mandatory sanitary and legal disposal of such waste in accordance with this article and all other applicable Borough, state and federal laws and regulations.

§ 170-25. Storage on residential property.

A. Containers. All municipal waste generated and accumulated by owners of residential property and/or occupants of residential properties shall be placed in containers for collection by the Borough collector. The containers shall be durable plastic or rust-resistant metal or hefty plastic bags. Containers shall not exceed 35 gallons. All garbage and rubbish shall be drained of liquids before being deposited for collection.

B. Location of containers. Each municipal waste container shall be placed for collection so as to be accessible to the Borough collector at ground level and at a point immediately adjacent to the curbside or alleyway from which the collection with a vehicle is made or at a location mutually agreeable between the resident and collector. Failure to place containers at such locations may result in missed pickup or delayed pickup of waste.

§ 170-26. Storage on commercial, institutional and industrial properties.

A. Containers. Storage of municipal waste on commercial, institutional or industrial properties shall be done in a manner that does not threaten the public health, safety or welfare of the residents of Tyrone Borough. Containers shall be durable plastic or rust-resistant metal bulk containers (if needed). Municipal solid waste generated at commercial, institutional and industrial properties is the sole responsibility of the property owner and/or the occupants of the property for collection by vendors that meet state municipal waste hauling regulations. The cost of disposal of all municipal waste generated at commercial, institutional and industrial properties is the responsibility of the property owner and/or occupant.

B. Location of containers. Containers for collection at commercial, institutional and industrial properties shall be located on the owner's or occupant's premises at a place mutually agreeable to the owner or occupant and the waste collector.

§ 170-26.1. Waste dumpsters, roll-off containers and waste containers in public places. [Added 2-10-2014 by Ord. No. 1348]

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A. Permit required. No person shall park or place any waste dumpster and/or roll-off container and/or waste container on any street, alley, highway, sidewalk or right-of-way within the Borough without having first obtained a permit from the Borough. The permit will not be valid unless the waste dumpster and/or roll-off container and/or waste container complies with all specifications required by this article.

B. Placement of containers. At no time shall a waste dumpster and/or roll-off container and/or waste container be placed onto any running lane of the roadway restricting the flow of traffic. The Borough reserves the right to prohibit the placement of a waste dumpster and/or roll-off container and/or waste container if it is determined to be a safety problem. Waste containers are also prohibited from being placed where they obstruct access to public utilities. The placement of said containers should be in front of or adjacent to the front or rear of the permit holder's property if at all possible.

C. Duration of time. The licensed hauler responsible for the placement, emptying or removal of a waste dumpster and/or roll-off container and/or waste container, under this section, shall remove the same within 30 days of the issuance of a permit by the Borough or when the same is full, whichever is first to occur. A thirty-day extension may be granted by the Code Enforcement Officer upon justification of such an extension.

D. Removal by Borough. If the waste dumpster and/or roll-off container and/or waste container has not been removed as required by Subsection C, and the licensed hauler responsible for the placement, emptying or removal of the same has not given cause for a time extension, the Borough may move or cause to be moved, at the expense of the licensed hauler, said equipment in violation to a facility where it may be reclaimed by the said licensed hauler upon payment of costs.

E. Safety/illumination. Any waste dumpster and/or roll-off container and/or waste container shall be illuminated with light reflectors, which shall be displayed on all corners and be visible to oncoming traffic for a distance of not less than 300 feet, between the hours of sunset and sunrise.

F. Cover. Any waste dumpster and/or roll-off container and/or waste container shall be equipped with a cover so that when not in use, material will not blow from the container, nor will significant amounts of water accumulate in the waste dumpster and/or roll-off container and/or waste container so as to cause leakage.

G. Leakage. Liquids shall not leak from any waste dumpster and/or waste container onto any street, sidewalk or public right-of-way.

H. Nonrecyclable waste. Only permitted, nonrecyclable municipal waste shall be placed in such containers, in compliance with all applicable ordinances and/or guidelines. The disposal of garbage, as defined in § 170-23, is strictly prohibited.

I. Hauler identification. The name, address, and telephone number of the licensed hauler responsible for the placement, emptying or removal of the waste dumpster and/or roll-off container and/or waste container must prominently be displayed thereon.

J. Permit fees. The waste dumpster and/or roll-off container and/or waste container permit fee under this section shall be established from time to time by the Borough and shall be in addition to all other license fees or taxes required to be paid by the laws of the Commonwealth of Pennsylvania, or the ordinances of the Borough.

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§ 170-27. Authority of collector; exclusive contract.

It shall be unlawful for any person or corporation other than persons or corporations authorized by contract with the Borough to collect and/or transport municipal solid waste of any nature collected from residential dwelling units as a regular hauling business from the Borough. If the Borough decides to enter into an exclusive contract for the collection, transportation and disposal of residential municipal solid waste in the Borough, said contractor shall be required to collect municipal waste in the Borough exclusive of other private haulers and collectors subject to exceptions to the exclusive Borough contract. This exclusive contract does not include commercial, institutional or industrial establishments within the Borough. If the Borough decides to enter into such an exclusive contract, the Borough shall not issue a license to any private hauler or collector for the collection of residential municipal solid waste other than to the hauler or collector having the exclusive contract with the Borough. Authorization to collect, transport and dispose of municipal waste for persons other than oneself may be given only by the Borough through issuance of a contract. All applicants for collection, transportation and disposal of residential municipal waste shall be reviewed by the Borough and shall be approved in accordance with reasonable standards therefor and public bidding requirements developed therefor by Tyrone Borough Council members.

§ 170-28. Transportation of solid waste.

Any person(s) or corporation(s) transporting solid waste within the Borough shall prevent or remedy any spillage from the vehicles or containers used in the transport of such solid waste. The vehicles used to transport or convey solid waste shall be leakproof and enclosed to the extent necessary to ensure no loss or spilling of waste from the vehicles. The Borough shall have the authority to inspect any and all vehicles used for the transport of municipal solid waste from the Borough as it deems necessary.

§ 170-29. Disposal of solid waste.

All municipal solid waste generated, collected and transported from within the jurisdictional limits of the Borough shall be disposed of at the facility(ies) stipulated in the Blair County Municipal Solid Waste Management Plan, as approved and permitted by the Pennsylvania Department of Environmental Protection, as required by Act 101.[92] The Borough reserves the right to make inspections of authorized collectors to ensure that residential municipal waste generated within the Borough is being disposed of in an authorized or designated facility. Any authorized collector found to be in violation of this section shall have appropriate action taken against him by the Borough as stipulated in the contract agreement.

§ 170-30. Unlawful deposit for collection.

It shall be unlawful for any person to deposit for collection any solid waste including bulky items not generated at the address from which collection is made or to bring any solid waste into the Borough or from one address to another in the Borough for the purpose of taking advantage of the collection service or to avoid the cost of collection.

§ 170-31. Bulky waste/white goods. [Amended 7-12-2010 by Ord. No. 1297]

Bulky wastes/white goods will be collected by the collector pursuant to the contract agreement with the Borough. It shall be unlawful for any person to place bulky waste/white goods on any property other than on the property at which it was generated or not directly associated. Bulky waste generated within the Borough shall be disposed of at a state-permitted disposal facility stipulated in the Blair County Municipal Solid Waste Management Plan or at a legitimate salvage dealer that is in the business of disposing of or

92. Editor's Note: See 53 P.S. § 4000.101 et seq.

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recycling such items.

§ 170-32. Exclusions.

A. Nothing contained herein shall be deemed to prohibit any person not regularly engaged in the business of collecting municipal waste from hauling his own municipal waste on an irregular or unscheduled basis to a state-permitted processing or disposal facility stipulated in the Blair County Solid Waste Management Plan or to the disposal facility stipulated by the Borough in accordance with the regulations of the disposal contract or disposal facility. However, nothing contained herein shall relieve any such person from utilizing the services and paying the fee for such services of the Borough's designated municipal waste hauler, regardless of whether such hauler actually collects municipal waste at such person's residence. **[Amended 6-4-2007 by Ord. No. 1257]**

B. Nothing contained herein shall prohibit a farmer from carrying out normal farming operations, including composting or spreading of manure or other farm-produced agricultural waste, not otherwise prohibited or regulated for land application.

C. The provisions of this article do not apply to anything but the recycling of materials and the storage, collection, transportation, and disposal of municipal solid waste and do not apply therefore to nonrecyclable residual or hazardous waste defined by the Pennsylvania Solid Waste Management Act (Act 97), Act 101[93] or any federal laws and regulations and their amendments. All hazardous or residual waste must be disposed of in compliance with applicable state and federal laws and regulations. **[Amended 7-12-2010 by Ord. No. 1297]**

§ 170-33. Establishment of recycling program.

There is hereby established a recycling program for the mandatory separation of recyclable materials from municipal solid waste by persons residing in residential dwellings for which solid waste is collected by or on behalf of Tyrone Borough.

§ 170-34. Separation of recyclables and placement for collection by residential dwelling. [Amended 7-12-2010 by Ord. No. 1297; 6-10-2019 by Ord. No. 1429]

Recyclable materials, including leaf waste, from residential dwellings shall be placed pursuant to the provisions of the contract agreement and the Borough's rules and regulations. This shall be on the same day as regular garbage collection for that week at the curb or alleyway or other designated place, commingled in a container provided by the Borough of Tyrone, separate from solid waste for collection or taken to dropoff sites at such times, dates, and places as may be herein established by regulation. Materials shall be defined in the Borough rules and regulations. The Borough reserves the right to negotiate with the Borough collector a change in recyclable items during any contract period depending on the marketability of recyclable materials and requirements of Pennsylvania State law, rule or regulation.

§ 170-35. Separation of recyclables by commercial, municipal and institutional establishments and at community activities. [Amended 7-12-2010 by Ord. No. 1297; 6-10-2019 by Ord. No 1429]

A. Commercial, municipal and institutional establishments shall separate and store, until collection, high-grade office paper, corrugated paper, aluminum, leaf waste and any other materials deemed appropriate by the establishment or as detailed in the Borough's rules and regulations. These establishments must arrange for the transfer of the materials to a recycling facility or system. The

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93. Editor's Note: See 35 P.S. § 6018.101 et seq. and 53 P.S. § 4000.101 et seq., respectively.

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establishments shall annually provide to the Borough evidence of such arrangement and documentation of the total number of tons recycled if that information is not secured through other means.

B. Recyclable materials designated by the Borough must be separated until collection at community activities, to include aluminum, high grade office paper and corrugated paper. Sponsoring organizations must arrange for the transfer of the materials to a recycling facility or system.

§ 170-36. Separation of recyclables by multifamily housing properties and placement for disposal. [Amended 7-12-2010 by Ord. No. 1297; 6-10-2019 by Ord. No. 1429]

The owner, landlord, or an agent of an owner or landlord of multifamily housing properties of four or more units shall establish a collection system for recyclables, including leaf wastes, at each property. Materials to be separated shall be defined by the Borough's rules and regulations. Any additional recyclable materials contained in Act 101[94] can be added at the owner's discretion. The collection system must contain suitable containers for collecting and sorting materials, easily accessible locations for the containers and written instructions to the occupants concerning the use and availability of the collection system. Owners, landlords and agents of owners or landlords shall not be liable for noncompliance of the occupants of their building.

§ 170-37. Lead acid batteries.

No person may place a used lead acid battery in mixed municipal solid waste or discard or otherwise dispose of a lead acid battery, except by delivery to an automotive battery retailer or wholesaler, to a secondary lead smelter permitted by the Environmental Protection Agency or to a collection or recycling facility authorized under the laws of the commonwealth to accept used lead acid batteries.

§ 170-38. Collection of recyclables by unauthorized persons.

It shall be a violation of this article for any person(s) not authorized by the Borough 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.

§ 170-39. Alternative collection or disposal of recyclables.

Any person may donate or sell recyclable materials to individuals or organizations. These materials must be delivered to the individual's or organization's site.

§ 170-40. Delivery of recyclables to landfills or incinerators prohibited.

It shall be a violation of this article for the authorized collector of recyclable materials to deliver such materials to a landfill or incinerator for the purpose of disposal unless the markets for such materials no longer exist. The authorized collector will provide to the Borough the weight receipts of the recyclable materials.

§ 170-41. Authority of Borough to enter into agreements.

The Borough may enter into agreement(s) with public or private agencies or firms to authorize them to collect all or part of the recyclable material from curbside or from dropoff collection points.

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94. Editor's Note: See 53 P.S. § 4000.101 et seq.

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§ 170-42. Recycling awareness program.

The Borough shall establish a comprehensive and sustained public information and education program concerning the recycling program feature and requirements in accordance with Act 101.[95]

§ 170-43. Service fees authorized. [Amended 6-4-2007 by Ord. No. 1257]

It shall be the duty and responsibility of every property owner and/or every person occupying a residential dwelling unit or premises within the Borough where municipal waste is produced and is accumulated to pay a service fee for the collection and disposal of municipal solid waste and recyclable materials, except as otherwise provided in this article, to the exclusive contractor of the Borough. It shall be the duty of every property owner to pay any such service fee for said collection at the residential dwelling unit or premises regardless of any obligation, oral and/or written, placed upon the person occupying the same.

§ 170-44. Establishment and collection of service fees. [Amended 7-12-2010 by Ord. No. 1297]

All service fees shall be established under an exclusive contract for the collection of municipal waste and recyclable materials in the Borough and shall be established and adjusted by contract awarded by the Tyrone Borough Council pursuant to public bidding. Collection of service fees will be the responsibility of the Borough collector from each individual residence on a monthly or quarterly basis, unless specifically noted otherwise in the contracted agreement between the Borough and collector.

§ 170-45. Violations and penalties. [Amended 12-10-2012 by Ord. No. 1338; 2-10-2014 by Ord. No. 1348]

Any action by any person, firm, corporation or other entity which violates any section of this article or any regulations thereof shall be punishable by a fine of no less than $100 and not more than $1,000, plus court costs. Each day a violation continues shall be considered a separate offense, and in default of payment of fines and costs, the person shall be imprisoned not more than 30 days. Any violation of this article will be reviewed for any state or federal violation of existing laws and rules and regulations, as amended.

§ 170-46. Remedies.

In addition to the foregoing penalty, the Borough may also exercise any other remedies available to it under any existing municipal codes or other applicable laws to carry out its responsibilities under Act 101,[96] this article and other pertinent ordinances of the Borough.

§ 170-47. Amendment.

This article shall not be amended or modified except by a written instrument signed by Tyrone Borough and any involved contractor.

§ 170-48. Applicability.

This article shall be subject to all applicable federal, state and local laws and ordinances as well as rules and regulations set forth by the Department of Environmental Protection, Commonwealth of Pennsylvania.

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95. Editor's Note: See 53 P.S. § 4000.101 et seq.

96. Editor's Note: See 53 P.S. § 4000.101 et seq.

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§ 170-49. Enforcement and administration.

The Borough Manager or his/her designee is authorized and directed to enforce this article. The Borough Manager shall have authority to make rules and regulations relating to the administration of the provisions of this article in addition to any other powers herein conferred upon him/her, provided that such rules and regulations are not pertaining to the provisions of this article. An aggrieved person shall have the right of appeal against any rule or regulation made by the Borough Manager to the Tyrone Borough Council, which may confirm, modify or revoke any such rule or regulation.

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TYRONE CODE

Chapter 172

STREETS AND SIDEWALKS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 174.

On-road repair of vehicles — See Ch. 192.

Vehicles and traffic — See Ch. 190.

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ARTICLE I
Vacation of Streets
[Adopted 5-9-1983 by Ord. No. 861 (part of Ch. 7 of the revised 1958 Code)]

§ 172-1. Authority.[97]

The Borough of Tyrone shall have authority, by ordinance, to vacate or close any street or portion thereof previously opened or laid out, in accordance with the procedure established in § C-29 of the Charter.

§ 172-2. Petition to vacate; procedure.

Any person or persons constituting a majority in number and interest of the owners of the real estate abutting upon any street or portion thereof may petition the Council to vacate such street or portion thereof. The Council shall hold a hearing upon such petition following at least 15 days' personal notice to all owners of abutting real estate not joining in such petition and following at least 15 days' notice thereof in a newspaper of general circulation in the Borough. Following such hearing, the Council shall either, by motion, deny such petition or, by ordinance, vacate such street or portion thereof. All provisions of § 172-1 hereof applicable to ordinances enacted by authority of that section shall apply to ordinances enacted by authority of this section; provided, however, that any petition for the vacation of any street or portion thereof may release the Borough from all damages sustained as a result of such vacation if such petition is signed by the owners of all the property abutting upon such street or portion thereof, and where any such release shall have been included in such petition, no proceedings for any award of damages shall be had and no damages as a result of such vacation shall, under any conditions, be awarded to any abutting property owner.

§ 172-3. Assessment of damages.

If the parties cannot agree upon the damages sustained by reason of the vacation of any street or portion thereof, such damages shall be assessed by a jury of view under the law governing eminent domain.

§ 172-4. Effect of vacation.

When a street or portion thereof shall have been vacated, all public right in or to such street or portion thereof shall cease, but such vacation shall not affect any private rights acquired by any of the owners of abutting property.

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97. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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ARTICLE II
Street Openings
[Adopted 2-9-2026 by Ord. No. 1496[98]]

§ 172-5. Street openings regulated; definitions.

A. Street openings regulated. Any opening in the right-of-way of the Borough of Tyrone may not be made or the surface damaged, excavated or removed by any person, company, utility, or other for any purpose whatsoever, except as herein provided. This article establishes rules and regulations for excavating and restoring streets in the right-of-way of the Borough which are under the jurisdiction of the Highway Department.

B. Definitions. As used in this Article II, the following terms shall have the meanings indicated:

ADA — Americans with Disabilities Act.

APPLICANT — The person or entity making a request to open a street.

APPROPRIATE METHOD — An approved industry standard or approved method.

BOROUGH — The Borough of Tyrone.

DEPARTMENT — The Highway Department of the Borough.

EMERGENCY — Any condition constituting a clear and present danger to life or property, including but not limited to, escaping gas, exposed wires or other breaks or defects in the applicant's line.

EXISTING FACILITIES — Any utility structure (i.e., vault, duct, manhole, valve, etc.)

IMPROVED STREET — A street consisting of a stone or asphalt base with an asphalt or surface treated wearing course.

PA DOT RIGHT-OF-WAY — Pennsylvania Department of Transportation (PA DOT) right-of-way.

PENNDOT — The Pennsylvania Department of Transportation.

PERMANENT RIGHT-OF-WAY — Same as "permanent street."

PERMANENT STREET — A street with a brick and/or concrete base which may or may not include asphalt binder and/or wearing course.

PERMIT HOLDER — The person or entity issued a permit to open a Borough Street.

PERSON — Shall include any individual, corporation, partnership, association, firm, or other legal entity.

STREET — Any Borough owned and/or maintained right-of-way, including alleys.

TEMPORARY RESTORATION — Placement of three inches of cold patch material until final restoration is performed.

UNIMPROVED STREET — A street consisting of dirt or stone without a permanent wearing course.

§ 172-6. Application, permit fee.

A. Application. Any person desiring to disturb, open, excavate, cut, dig, trench or bore into or under any street in the right-of-way of the Borough shall make application and receive a permit from the

98. Editor's Note: This ordinance also repealed former Art. II, Excavations and Street Openings, adopted 9-12-1988 by Ord. No. 950.

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Borough for that purpose. The application shall set forth the name of the applicant, the exact location of the proposed opening or disturbance of the surface in the right-of-way, and the approximate size of the opening or area of the surface proposed to be removed, excavated, or disturbed. Upon payment of the application fee and approval of the application by the Department, a permit shall be issued for the street opening. Applications shall be filed and permits shall be obtained before the commencement of work, except in the case of emergency work performed by a public utility. The public utility may proceed with the work necessary but shall, within the first regular business day, apply for and obtain a permit. The permit shall include the purpose of said opening or removal, with the covenant on the part of the applicant that the work shall be done and executed in full compliance with all the requirements of the ordinances of the Borough relating thereto, and that the applicant will well and sufficiently save, defend and keep harmless and indemnify the said Borough of and from all actions, suits, payments, costs, charges and damages resulting to person or property, or demands therefor, for or by reason of the proposed opening in or removal or disturbance of the surface of the right-of-way or in the prosecution of the work in connection therewith or in any matter or thing in relation thereto.

B. Application fee. Application fees shall be established by resolution of Borough Council from time to time to cover the cost of restoration and administrative costs. This fee shall be paid by all persons making application.

§ 172-7. Unimproved streets.

If the proposed opening is to be made in an unimproved right-of-way (stone or dirt), the permit holder will restore the trench or opening in such a manner and with such material as will restore the right-of-way to original if not better condition. All work shall be subject to these regulations and the inspection and approval of the Department. All backfill within the right-of-way shall be 2A stone, fully compacted. All work shall be subject to the inspection and approval of the Department, and if the permit holder fails to restore the right-of-way to original if not better condition, the Borough may do so at its discretion, and the permit holder will pay the Borough an amount equal to the cost of restoration. Before a permit may be issued for opening in an unimproved right-of-way (stone or dirt), the applicant shall make application with the Borough, and pay the sum established by resolution of Borough Council and as amended from time to time, the same to cover the cost of administrative costs and inspection.

§ 172-8. Improved and permanent streets.

A. Improved right-of-way. If the application is for an opening or disturbance of the surface in an improved Borough right-of-way, the application for the permit shall contain a stipulation that the applicant will refill the opening, below grade, with 2A stone, fully compacted. Restoration and paving material will be per this article and/or as directed by the Department. A permit must be issued for any opening in or for the removal of any part of the surface of an improved right-of-way. The applicant shall pay, the Borough, the sum established by resolution of Borough Council as amended from time to time for each square yard (S.Y.) estimated to be removed or disturbed for the restoration of the surface of the right-of-way. All street cuts will be calculated and charged to the nearest 1/2 yard. As soon as practicable after the completion of the work, but in no case longer than 24 hours, the permit holder shall place cold patch in the cut to a depth of 3". The Borough shall do final repairs to the street removed by the permit holder with the same kind of materials as were removed therefrom. If the S.Y. of such repairs is less than the amount of the estimate made by the applicant, as soon as the repairs are completed, the Borough shall refund to the permit holder the amount of the deposit in excess of the actual cost of making such repairs, but in no instance shall the Borough charge less than the actual amount of the repairs or a minimum of four square yards, whichever is greater. If the cost of the said repairs exceeds the amount of the estimate, the applicant, upon completion of said repairs,

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shall pay to the Borough the amount of the cost in excess of the estimate. Final restoration of an improved street opening will include a minimum of six inches base, 1 1/2" wearing course, as well as tack coat and AC Joint sealant of the cut. Prior to final restoration a 12" cutback shall be made on all sides of the cut. Cutback to include saw cutting and removal of material to the subbase. The Borough at its discretion may allow or direct the permit holder to restore the street opening or to pave the street or portions thereof if so directed. All work will be completed as per this article, and these regulations as well as the specifications and orders of the Department.

B. Permanent right-of-way. If the application is for an opening or disturbance of the surface in a permanent Borough right-of-way, the application for the permit shall contain a stipulation that the applicant will refill the opening, below grade, with 2A stone, fully compacted. Restoration and paving material will be per this article and/or as directed by the Department. A permit must be issued for an opening in or the removal of a part of the surface of a permanent right-of-way; the applicant shall pay the Borough of Tyrone, Pennsylvania, the sum established by resolution of Borough Council and as amended from time to time for each S.Y. removed or disturbed for the restoration of the surface of the right-of-way. All street cuts will be calculated and charged to the nearest 1/2 yard. As soon as practicable after the completion of the work, but in no case longer than 24 hours, the permit holder shall place cold patch in the cut to a depth of 3". The Borough shall do final repairs to the street removed by the permit holder with the same kind of materials as were removed therefrom. If the S.Y. of such repairs is less than the amount of the estimate made by the applicant, as soon as the repairs are completed, the Borough shall refund to the permit holder the amount of the deposit in excess of the actual cost of making such repairs, but in no instance shall the Borough charge less than the actual amount of the repairs or a minimum of four square yards, whichever is greater. If the cost of the said repairs exceeds the amount of the estimate, the applicant, upon completion of said repairs, shall pay to the Borough the amount of the cost in excess of the estimate. Final restoration of an improved street opening will include a minimum of eight inches concrete base (PennDOT Class A) or bituminous base course, two inches bituminous binder course, 1 1/2" bituminous wearing course, including tack coat and AC Joint sealant of the cut. Prior to final restoration a 12" cutback shall be made on all sides of the cut. Cutback to include saw cutting and removal of material to the subbase. The Borough at its discretion may allow or direct the permit holder to restore the street opening or to pave the street or portions thereof if so directed. All work will be completed as per this article, and these regulations as well as the specifications and orders of the Department.

C. PA DOT right-of-way. If the opening, removal, or disturbance is in a permanent state right-of-way or any part of the state right-of-way, the applicant shall acquire the required highway occupancy permit (HOP) from PennDOT. The permit holder or their contractor will repair the opening in the state right-of-way with the material and in accordance with the HOP and PennDOT.

D. Alleys. For any opening in an alley right-of-way, all of the above provisions shall apply with reference to unimproved, improved, and permanent rights-of-way.

E. Newly-paved streets. New paving shall not be opened for a period seven years after completion thereof except in case of an emergency; the necessity thereof to be determined by the Department. If new paving is opened, the Department reserves the right to require the milling and repaving of the entire street or any portion(s) thereof, at its sole discretion, in order to return the roadway to its prior integrity.

F. Permit holder to restore or pave. The Borough at its discretion may require, direct or allow the permit holder to restore any street opening. In the case of recently paved streets or large street openings, the Borough may direct the permit holder to mill and repave the entire street or portions thereof. Refer to the Appendix for details on requirements for repaving streets or portions thereof.

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G. Separate agreements. The Borough may entertain a request to enter into a cooperative agreement with one or more utilities with regard to cost sharing for the milling and/or paving of an entire street in lieu of trench restoration.

H. Settlement of disturbed area and maintenance of pavements. The permit holder is responsible for any settlement of the disturbed area (cut), or other defect within two years from the date of completion. The permit holder is responsible for rectifying the same within 24 hours following written notice from the Borough to do so. All restored pavements shall be maintained to the Department's satisfaction as required by this Article, but in no case for a period of less than 18 months, the performance of same shall be secured by a maintenance bond approved by the Department. Permit holders shall make any required repairs to pavements within 30 days of receipt of the Department's notice.

I. Timing of restoration by department. Between October 31 and April 15 of each year, permanent restoration of all street openings by the Department will cease. All permit holders or utilities making cuts during this period will be responsible for temporary restoration and for maintaining these cuts during this period or time frame. If directed by the Department the permit holder shall make repairs to any cut as soon as possible, but in no case longer than 24 hours after receipt of the Department's notice.

J. Interference with existing facilities. New facilities shall not interfere with existing facilities, or their connections, except where absolutely necessary, and then only with the previously written consent of the affected facility (utility).

K. PA One Call. The permit holder shall contact the PA One Call system requesting that any facility owner having facilities within the proposed excavation area provide information regarding the location of existing facilities. In accordance with PA Act 287 as amended, a facility owner must respond to all requests.

L. Accessibility of right-of-ways. All walkways, gutters, inlets, or any portion of streets adjoining the work or in its vicinity shall be kept free of obstructions and debris to the greatest extent possible. Lawns or grass plots shall not be used for storage purposes. On improved and permanent streets, the materials, tools, and equipment required in connection with the work shall be neatly and properly stored and any sidewalk shall, at all times, be maintained in such a manner as to have a pathway safe for pedestrian traffic which shall be at least five feet in width.

M. Inspection and inspection fees. The Borough reserves the right to inspect all or any portion of the proposed work performed within the right-of-way. The Borough shall charge for inspection per the rate established by resolution of Borough Council and revised from time to time to cover the cost of inspection of all work performed in accordance with this article.

N. Related restorations items.

(1) Appendix. Refer to the appendix[99] for illustrations and details which depict the limits required for restoration and repaving of streets based on cut location, size, and amount of excavation.

(2) Saw cutting and cutback. All street openings and excavations shall be saw cut cleanly and in straight lines perpendicular and parallel to the curb. A one-foot 12" minimum cutback is required on all sides of the cut. The cutback will be required to be trimmed to the widest part of the trench and include any broken part of an edge.

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99. Editor's Note: The Appendix is included as an attachment at the end of this chapter.

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(3) Repair or replacement of traffic signal loops. The permit holder is responsible for any damage or disruption to any traffic signal loop(s) and is responsible for the replacement of same.

(4) Damage to utilities. The permit holder is responsible for any damage caused, including but not limited to, all utilities encountered during excavation, boring, or any other construction method.

(5) Drill holes, test pits, etc. Drill holes, test pits, or other small openings must be repaired in accordance with the appropriate method and in a timely manner.

(6) Crosswalks and pavement markings. Any crosswalk or street marking that was disturbed must be replaced in-kind by the permit holder. This includes, but is not limited to, stop bars, center lines, edge lines, lane lines, arrows, crosswalks and parking stalls.

(7) Restoration of disturbed shoulder area. Reconstruct shoulder to a four-foot width with a nine inch depth of PennDOT 2A aggregate at a cross slope of one inch per foot.

(8) Street closure. Prior to the closure of any right-of-way, street, avenue, or alley, the permit holder must notify the Blair County 911 center (non-emergency number) and the Borough Police Department. If so directed by the Department, a street closing permit shall be obtained from the Tyrone Police Department.

(9) Special pavement material. Any pavement made of special material shall be replaced in kind, including but not limited to brick pavers, colored concrete or asphalt, and stamped concrete or asphalt.

(10) Asphalt in lieu of concrete. On permanent streets, the Borough, at its discretion, may allow or direct the use of asphalt base course in lieu of Class A concrete.

(11) Tack coat and joint sealant. The permit holder is required to apply a tack coat between asphalt material types (i.e., base and wearing courses), as well as on the vertical edges of the cut prior to asphalt patching. Following the completion of asphalt restoration, a 12"-wide coating of joint sealant shall be placed around the perimeter of the cut.

(12) Sidewalks and ADA ramps. The permit holder will be required to replace in-kind and depth any sidewalk that is disturbed to an equal or better condition. In the case of ADA ramps, or any portion thereof that is removed, the permit holder will be responsible for replacing the ramp in its entirety to the current ADA standards.

(13) Use of metal plates. The use of metal plates to cover excavation openings are allowable with the following conditions: Plates must extend at least 12 feet beyond the edge of the excavation in all directions. For short-term a plate may be placed on the road to cover an excavation opening for a period of 24 hours or less. For long-term, greater than 24 hours, plates must be attached or secured to the roadway by a Department approved method. Asphalt or cold patch must be placed around the perimeter to ensure smooth riding and safe conditions. The use of plates is not permitted between October 15 and April 1 without written permission from the Department.

(14) Pictures and/or video. For projects greater than 300 L.F., the permit holder will be required to take pictures or a video of all existing conditions within the project limits. This would include, but not be limited to, roadways, curbing, driveways, shoulders, and any other features that would or could be impacted by the proposed work.

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§ 172-9. Trenches.

All trenches or openings in the right-of-way of the Borough shall be filled with 2A stone, fully compacted. If in the judgment of the Superintendent of the Department any unsuitable material was or is employed in the filling of any trench or trenches, the rejected material shall be removed and the trench or trenches refilled with material approved by the Department.

§ 172-10. Laying of mains or conduit.

A. Continuous opening. If the application is for the laying of any main or conduit in any right-of-way, and the line of said main or conduit be continuous, a permit may be granted for the continuous opening if the applicant pays to the Borough such sum as may be determined by the Department to be sufficient to cover the costs of inspection and of the repairs to and replacing of the surface of the right-of-way with the same kind of materials as were removed therefrom.

B. Mains or conduit in the shoulder or sidewalk. Any opening for a main or conduit running approximately parallel with the centerline or longitudinal with the street and located in the shoulder, sidewalk, or sidewalk area within the right-of-way will require a street opening permit. If the proposed opening is to be made in the right-of-way (shoulder or sidewalk), the permit holder will restore the trench or opening in such a manner and with such material as will restore the right-of-way to a condition equal to or better than the existing condition. All backfills within the right-of-way will be 2A stone. The permit holder will be responsible for replacement-in-kind of the right-of-way surface, i.e., stone shoulder to be 2A stone, grass to be grass, concrete sidewalk to be Class A concrete, etc. If the permit holder fails to restore the right-of-way to a condition, equal to or better than the existing, the Borough may do so at its discretion, and the permit holder shall pay the Borough an amount equal to the cost of restoration. Before a permit may be issued for the opening, the applicant shall make application to the Borough and pay the sum established by resolution of Borough Council and as amended from time to time, the same to cover administrative costs and inspection.

§ 172-11. Backfilling.

An opening in a street measured from the curb line or edge of cartway shall not extend in the cartway a distance greater than one foot beyond the center line of said street before being backfilled and the surface of the highway restored to a condition safe and convenient for travel. When an opening is made upon one side of a street, the said opening shall be refilled and the surface of the street restored to a condition safe and convenient for travel before an opening may be made opposite thereto or within 50 feet on the opposite side of the same street. Not more than 300 feet longitudinally shall be opened in any street at any one time.

§ 172-12. Barricades required.

A. Signs and barriers. Work zone traffic control must be in accordance with the Manual for Uniform Traffic Control Devices (MUTCD) as well as PennDOT publications 212 and 213. If qualified flaggers are required or utilized, they shall be provided by the permit holder. When and during the period that a right-of-way or part thereof is so closed to traffic, no person shall ride, drive upon or otherwise use the same, and the signs, barriers or lights indicating the closing of the right-of-way to traffic shall not be removed, destroyed, defaced, damaged or in any manner interfered with.

B. Safeguarding excavation and obstructions on Borough streets. No person making any excavation in or placing any obstruction upon any street or other public way of the Borough shall fail to safely guard such excavation or obstruction by signs and barriers, in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) and PennDOT Publications 212 and 213.

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§ 172-13. Restoration materials.

All materials shall be in accordance with PennDOT Bulletin 15 and PennDOT Specifications 408.

§ 172-14. Validity of permit.

Unless waived by prior agreement with the Department, a permit issued under the provisions of this article shall not be valid until the applicant pays to the Borough the amount herein specified and the Borough issues its receipt of said amount.

§ 172-15. Notice.

A. Notice of work. The permit holder, utility, or contractor performing work involving one block or more shall give timely notice to all persons owning property abutting on any right-of-way where work will occur.

§ 172-16. Permits for other Borough departments not required.

Other departments of the Borough shall not be required to apply for or take out permits to make openings in the rights-of-way. However, no opening shall be made by any department of the Borough without the approval of the director of the Department and until a statement in writing shall be filed with the Department setting forth the department of the Borough to make the proposed opening and the location and purpose thereof.

§ 172-17. Violations and penalties.

A. Violations. Any person, firm or corporation who violates any provision of this article shall be, upon conviction thereof, sentenced to 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 article continues shall constitute a separate offense.

B. Repeated violations. The Borough may refuse to issue permits to any applicant who has violated these regulations and after notification by the Department has failed to comply with its regulations. The Department may also refuse to issue permits to applicants who have not completed past work, caused damages, or who owe money for damages corrected by the Borough.

§ 172-18. Utility poles.

The provision of this article shall not apply to the opening of the surface of any alley for the erection or location of any telephone, electric, light, or other pole or poles, unless the locating or relocating of any pole or poles requires trenching, in which case a permit must be procured as herein required.

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ARTICLE III
Reconstruction and Resurfacing
[Adopted 9-12-1988 by Ord. No. 951]

§ 172-19. Curb reconstruction costs to be borne by Borough.

In the event that the Borough of Tyrone deems it necessary to reconstruct any street within the Borough or to resurface any street within the Borough and the reconstruction or resurfacing of any street affects any individual property owner's driveway by changing the elevation thereof in relation to the reconstructed or resurfaced street, the Borough will assume the cost of properly reconstructing the curb, if necessary, by making any curb cuts or by replacing the entire curb if, in the opinion of the Borough, it is necessary.

§ 172-20. Sidewalk or driveway apron costs to be borne by Borough. [Amended 3-12-1990 by Ord. No. 978]

The Borough of Tyrone will also assume the cost of any sidewalk or driveway apron work necessary to provide access from the Borough street to the property by motor vehicle.

§ 172-21. Other costs. [Added 3-13-1989 by Ord. No. 959]

In the event that the Borough of Tyrone reconstructs any street, the Borough will assume the cost of properly reconstructing the curb if necessary, in the opinion of the Borough, by making any curb cuts or by replacing the entire curb in compliance with handicapped-access specifications. In the event that this reconstruction affects an individual property owner by necessitating a change in the elevation of his sidewalk relative to the reconstructed curbing, the Borough will assume responsibility for any sidewalk repair/replacement work required to provide transition from the existing sidewalk.

§ 172-22. Tree removal. [Added 3-12-1990 by Ord. No. 977]

In the event that the Borough of Tyrone reconstructs any street, the Borough will assume the cost of removing any trees if, in the opinion of the Borough, the trees interfere with the safe use of said street. After any tree is removed by the Borough of Tyrone, the Borough will provide an area approximately three feet square where a new tree may be planted by the property owner if he so desires.

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ARTICLE IV
Street, Curb and Sidewalk Specifications[100]
[Adopted 8-8-1994 by Ord. No. 1067]

§ 172-23. Adoption of specifications and manuals.

A. The Street, Curb and Sidewalk Specifications, dated August 1994, attached hereto as Exhibit A and incorporated herein, are hereby adopted as the specifications for street, curb and sidewalk construction and/or reconstruction to which, from and after the effective date of this article, occurs in the Borough of Tyrone.[101]

B. The Manual For Water Line Construction, dated August 1994, attached hereto as Exhibit B and incorporated herein, is hereby adopted for any and all water line construction and/or reconstruction which, from and after the effective date of this article, occurs in the Borough of Tyrone.[102]

C. The Manual For Sewer Extension Construction, dated August 1994, attached hereto as Exhibit C and incorporated herein, is hereby adopted for any and all sewer extension construction and reconstruction which, from and after the effective date of this article, occurs in the Borough of Tyrone.[103]

§ 172-24. Violations and penalties.

Any person who shall violate any provision of this article shall, unless such violation is also a violation of Chapter 174, Subdivision of Land, of the Code of the Borough of Tyrone in which event the enforcement provisions of said Chapter 174, Subdivision of Land, will apply, upon conviction thereof, be sentenced to pay a fine of not less than $100 and not more than $600 plus costs and, in default of such payment, such person shall undergo a term of imprisonment not to exceed 30 days. Each day that a violation exists shall constitute a separate offense and shall be punishable as such.

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100. Editor's Note: Former Art. IV, Snow and Ice Emergencies, adopted 4-8-1991 by Ord. No. 1004, was repealed 12-12-1994 by Ord. No. 1078. See now Ch. 190, Vehicles and Traffic, Art. VI, Snow and Ice Emergencies.

101. Editor's Note: Exhibit A is on file in the Borough offices.

102. Editor's Note: Exhibit B is on file in the Borough offices.

103. Editor's Note: Exhibit C is on file in the Borough offices.

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ARTICLE V
Snow and Ice Removal
[Adopted 11-14-1994 by Ord. No. 1075]

§ 172-25. Title.

This article shall be known and cited as "Borough of Tyrone Snow Removal Ordinance."

§ 172-26. Definitions.

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

CARTWAY — Portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder and sidewalk area.

PERSON — Natural individual, partnership, corporation, association, or any other legal entity.

SIDEWALK — Portion of a street between the curblines, or the lateral lines of a cartway, and the adjacent property lines, intended for use by pedestrians. "Sidewalk" shall include any paved or improved footway or unpaved grass area intended for pedestrian use.

STREET or HIGHWAY — The entire width between the boundary lines of a way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

§ 172-27. Responsibility for removal from sidewalks.

Every person in charge or control of any building or lot of land fronting or abutting on a sidewalk, whether as owner, tenant, occupant, lessee, or otherwise, shall remove and clear away or cause to be removed or cleared away snow and/or ice from a path of at least 32 inches in width from so much of said sidewalk as is in front of or abuts on said building or lot of land.

A. Except as provided in Subsection B hereof, snow and ice shall be removed from sidewalk within 24 hours after the cessation of any fall of snow, sleet or freezing rain.

B. In the event snow and/or ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person charged with its removal shall, within the time mentioned in Subsection A hereof, cause enough sand or other abrasive to be put on the sidewalk to make travel reasonably safe and shall, as soon thereafter as weather permits, cause to be cleared a path in said sidewalk of at least 32 inches in width.

§ 172-28. Responsibility for removal from buildings.

Every person in charge or control of any building or other structure, whether as owner, tenant, occupant, lessee, or otherwise, shall remove and clear away or cause to be removed and cleared away any accumulation of snow and ice on said building or other structure which is liable to fall on any sidewalk, cartway, or other public way. Such work shall be completed within a reasonable time, but not later than 24 hours after the cessation of any fall of snow, sleet, or freezing rain.

§ 172-29. Depositing of snow and ice restricted.

No person shall deposit or cause to be deposited any snow or ice on or immediately next to a fire hydrant or on any sidewalk, cartway, or loading and unloading areas of a public transportation system, except that

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snow and ice may be mounded by the Borough of Tyrone on public cartways incident to the clearing thereof.

§ 172-30. Violations and penalties.

Any person who shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine not less than $25 and not more than $600 and, in default of payment, to imprisonment for a term not to exceed 30 days. Each day that a violation continues shall constitute a separate offense.

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ARTICLE VI
Sidewalk Obstructions
[Adopted 6-16-2003 by Ord. No. 1198]

§ 172-31. Restrictions on sidewalks; permit requirement.

Unless hereinafter excepted, it shall be unlawful for any person to store, display, exhibit or sell wares on sidewalks abutting any street or alleyway, or any portion thereof, or to make use of any sidewalk or in any way to obstruct the sidewalk, or any portion thereof, within the Business District of the Borough, as hereinafter defined, without first having obtained from the Borough a permit, for which no fee shall be charged, as hereinafter set forth. "Business District" shall mean those sidewalks located on either side of Pennsylvania Avenue from the Railroad Park to 12th Street; and 10th Street from the underpass to the VFW/Bald Eagle Avenue; and Logan Avenue from the 9th Street underpass to 12th Street.

§ 172-32. Exceptions.

A. Sidewalks may be used temporarily for the purpose of loading or unloading items by any owner or lessee of a premises so long as such use would not cause injury to any person and such use is limited to the minimum time necessary to accomplish such loading or unloading.

B. The terms of this article shall not apply to portable displays and/or portable obstructions protruding not more than three feet from the merchant's building into the sidewalk and so long as at least four feet of unobstructed sidewalk is available for pedestrian traffic. For purposes of this article, the term "portable" shall mean capable of being easily moved (such as by one person) so as to permit the display and/or obstruction to be carried from the sidewalk, if necessary.

C. The terms of this article shall not apply to obstructions in violation of this article which exist as of the date of enactment of this article, however, should the business relocate and/or should the control and/or ownership of the business change, then any and all such registered obstructions (as hereinafter set forth) located on the sidewalk at that premises must comply with the provisions of this article.

§ 172-33. Registration of nonconforming obstruction.

In order to determine obstructions and/or displays existing as of the date of enactment of this article, the Borough shall register any and all such obstructions and/or displays.

§ 172-34. Permit application.

Every person desiring a permit under this article shall first make application to and on forms provided by the Borough for such permit. Said application shall indicate the location of the sidewalk, its width, the width of the sidewalk able to be used by the traveling public with the partial obstruction in place, the purpose of the obstruction, the length of time the obstruction shall exist and such other pertinent information as may be necessary to process the application. In no event shall any permit be issued under any circumstance where the obstruction would be detrimental to the health, safety and/or welfare of the public traversing said sidewalk, nor shall any permit be issued under any circumstance where the sidewalk would be completely obstructed, without the applicant providing for an alternate means of travel by the public, as may be approved by the Borough. The Borough retains the right to limit permits for obstructions to any sidewalk, where such obstructions are repetitive in nature and/or detract from the character of the particular area where the sidewalk may be located.

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§ 172-35. Violations and penalties.

Any person, firm or corporation who shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine not less than $25 and not more than $600 and, in default of payment, to imprisonment for a term not to exceed 30 days. Each day that a violation of this article continues shall constitute a separate offense. Nothing herein shall prevent the Borough from removing any obstruction from any sidewalk where such obstruction is not licensed or such obstruction is or becomes a public nuisance, charging the cost of such removal to the person causing and/or permitting the same as may be permitted by law, including, but not limited to, the filing of a municipal lien against the owner of any such property.

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TYRONE CODE

Chapter 174

SUBDIVISION OF LAND

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 8-8-1994 by Ord. No. 1119. Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 71.

Floodplain regulations — See Ch. 99.

Mobile homes and mobile home parks — See Ch. 125.

Streets and sidewalks — See Ch. 172.

Zoning — See Ch. 205.

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ARTICLE I
Repeal, Title, Short Title and Purpose

§ 174-1. Repeal of ordinances.

The Borough Planning and Zoning Commission was created by Ordinance No. 606, adopted by Borough Council on August 31, 1961. Said Ordinance No. 606 contravened the Municipalities Planning Code, 53 P.S. § 10101 et seq. (hereinafter "MPC") (which was enacted approximately eight years later) and was repealed by Ordinance No. 1062, with Ordinance No. 606 remaining repealed. Ordinance No. 1062 established the Borough of Tyrone Planning Commission. Ordinance No. 1062 was repealed by Ordinance No. 1118, thereby dissolving the Borough of Tyrone Planning Commission and merging its duties and functions into the Council of the Borough of Tyrone. Ordinance No. 864 enacted on October 10, 1983, created the "Subdivision Land Development Regulations of the Borough of Tyrone" with said Ordinance No. 864 being repealed in its entirety as to each provision, term and word set forth therein by Ordinance No. 1063 with the same remaining repealed. Ordinance No. 1063 is hereby repealed in its entirety and, for the sole purpose of satisfying Section 3-13(B)(1) of the Administrative Code of the Borough of Tyrone of 1992, Ordinance No. 1063 is attached hereto as "Exhibit A" and incorporated herein as if fully set forth at length, to permit the entire repeal thereof.[104]

§ 174-2. Title.

This is a chapter establishing rules, regulations and standards governing the subdivision of land and/or land development within the Borough of Tyrone (hereinafter "Borough" or "Municipality"), Blair County, Pennsylvania, pursuant to the authority set forth in Article V of the Pennsylvania Municipalities Planning Code, as amended,[105] and setting forth procedures to be followed by the Borough Council of Tyrone (hereinafter "Borough Council" or "governing body") in applying, administering, and amending these rules, regulations, and standards and prescribing penalties for the violation thereof.

§ 174-3. Short title.

This chapter shall be known, and may be cited as, the "Borough of Tyrone Subdivision and Land Development Ordinance of 1997."

§ 174-4. Purpose.

These regulations are adopted to protect, promote and create conditions favorable to the health, safety, morals, and general welfare of the citizens by:

A. Assuring sites suitable for building purposes and human habitation.

B. Providing for the harmonious, orderly and efficient development of the municipality.

C. Providing for the coordination of existing streets and highways with proposed streets, parks, and other public facilities.

D. To provide for adequate open spaces for traffic, recreation, light and air.

E. Assuring equitable and just processing of subdivision plans by providing uniform procedures and standards for observance by the subdivider and municipal officials.

104.Editor's Note: Exhibit A is on file in the Borough offices.

105.Editor's Note: See 53 P.S. § 10501 et seq.

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F. Providing for design standards and appropriate improvements and assuring prompt installation of said improvements.

§ 174-5. Application.

A. After the effective date of this chapter, no subdivision or land development of any lot, tract or parcel of land shall be made and no sewer, water main, or other improvements in connection therewith shall be laid out, constructed, opened, or dedicated for public use or travel or for the common use of occupants of buildings abutting thereon except in accordance with the provisions of this chapter.

B. In the case of a preliminary or final plan approved without conditions or approved by the applicant's acceptance of conditions prior to the date this chapter became enforceable, this chapter shall not be applied to adversely affect the right of the applicant to commence and complete any aspect of the approved subdivision or land development in accordance with the terms of the approval and the governing ordinances and plans at the time that the plan was approved within the time periods established within the Pennsylvania Municipalities Planning Code, as amended.[106] After the expiration of such time periods, the Borough shall enforce the provisions of this chapter with regard to the subdivision or land development.

C. Any replatting or resubdivision of land, including a change of a recorded plan, shall comply with the provisions of this chapter.

§ 174-6. Revision of official plan for sewage disposal.

A. In accordance with the rules and regulations of the Pennsylvania Department of Environmental Protection (DEP), municipalities shall revise their official plan for sewage disposal whenever a new subdivision is proposed, unless DEP determines that the proposal is for the use of individual on-lot sewage systems serving detached single-family dwelling units in a subdivision of 10 lots or less and certain criteria set forth in the rules and regulations of DEP are met.

B. An official plan revision of new land development shall be submitted to DEP in the form of a completed sewage facilities planning module provided by DEP and including all information required by DEP.

C. The subdivider or developer or developer's agent shall complete the DEP sewage facilities planning module and submit it to the municipality for action.

D. No plan revision for new land development will be considered complete unless it includes all information specified within DEP's rules and regulations.

E. The municipality shall not adopt a proposed revision to the official plan, conditionally or otherwise, until it determines that the proposal complies with applicable municipal zoning, land use or other municipal comprehensive plans. If changes to the proposed revision or the applicable plan, regulation or ordinance are necessary, the changes shall be completed prior to adoption of the revision by the municipality.

F. Upon adoption of the proposed revision to the official plan, or refusal to adopt such a proposed revision, the municipality shall forward the proposed revision or statement refusing to adopt to DEP. DEP may approve or disapprove a proposed plan revision for new land development.

106.Editor's Note: See 53 P.S. § 10101 et seq.

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G. The time limits for actions by municipal and county agencies and DEP are set forth in the rules and regulations of DEP.

H. Subdividers and developers are advised that no subdivision or land development plan will be finally approved and released for recording by the municipality until all necessary approvals of the official plan revision or requests for exceptions to the requirement to revise the official plan, have been secured from the municipality and DEP. This fact and time limits for action should be considered by subdividers and developers when submitting the DEP sewage facilities planning module to the municipality.

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ARTICLE II
Terminology

§ 174-7. Tense, gender and number.

Words in the singular include the plural and those in the plural include the singular; words in the present tense include the future tense, words used in the masculine gender include the feminine and neuter.

§ 174-8. Word usage.

The words "person," "subdivider" and "owner" include a corporation, unincorporated association and a partnership, or other legal entity, as well as an individual. The word "street" includes thoroughfare, avenue, alley, boulevard, court, expressway, highway, lane, arterial, and road. The word "building" includes structures and shall be construed as if followed by the phrase "or part thereof." The word "watercourse" includes channel, creek, ditch, drain, dry run, spring and stream. The words "should" and "may" are permissive; the words "shall," "must" and "will" are mandatory and directive.

§ 174-9. Terms or words not defined.

Where terms and words are not defined, they shall have their ordinarily accepted meanings or such as the context may imply.

§ 174-10. Definitions.

Terms or words used herein, unless otherwise expressly stated, shall have the following meanings:

ALLEY — See "service street."

APPLICANT — A landowner or developer, as hereinafter defined, who has filed an application for development.

APPLICATION FOR DEVELOPMENT — An application required to be filed and approved prior to start of construction or development, including but not limited to an application for approval of a preliminary or final subdivision or land development plan.

ARCHITECT — A licensed architect in the Commonwealth of Pennsylvania.

BLOCK — A tract of land, a lot, or group of lots, bounded by streets, public parks, railroad rights-of-way, watercourses, boundary lines of the municipality, unsubdivided land or by any combination of the above.

BOROUGH — Tyrone Borough, Blair County, Pennsylvania.

BUILDING — Any combination of materials forming any structure which is erected on the ground and permanently affixed thereto, designed, intended, or arranged for the housing, sheltering, enclosure or structural support of persons, animals, or property of any kind.

BUILDING RESERVE (SETBACK) LINE — The line within a property defining the minimum required distance between any building to be erected and an adjacent right-of-way. Such line shall be measured at right angles from the front street right-of-way line which abuts the property upon which said building is located and shall be parallel to said right-of-way line.

CARTWAY (ROADWAY) — The portion of a street right-of-way paved or unpaved, intended for vehicular use.

CLEAR SIGHT TRIANGLE — Any area of unobstructed vision at the street intersection defined by lines of sight between points at a given distance from the intersection of street center lines.

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COUNTY — The County of Blair, Commonwealth of Pennsylvania.

COUNTY PLANNING COMMISSION — The Blair County Planning Commission.

CROSSWALK (INTERIOR WALK) — A publicly or privately owned right-of-way for pedestrian use extending from a street into a block or across a block to another street.

DEDICATION — The deliberate appropriation of land by its owner for any general and public use, reserving to himself no other rights than those that are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

DEVELOPER — Any landowner, agent of such landowner or tenant with the permission of such landowner, who makes or causes to make a subdivision of land or a land development.

DWELLING UNIT — Any structure, or part thereof, designed to be occupied as living quarters for a single housekeeping unit not including hotel or motel rooms designed for transient use.

EASEMENT — A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose, and within which the lessee or owner of the property shall not erect any permanent structure, but shall have the right to make any other use of the land which is not inconsistent with the rights of the grantee.

ENDORSEMENT — The application of the reviewing and/or approving authority's stamp and the signatures of the appropriate authority on the record plan.

ENGINEER — A licensed professional engineer registered in the Commonwealth of Pennsylvania.

GOVERNING BODY — The Borough Council, Borough of Tyrone, Blair County, Pennsylvania.

IMPROVEMENTS — Those physical additions and changes to the land that may be necessary to provide usable and desirable lots.

LAND DEVELOPMENT —

A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

   (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots, regardless of the number of occupants or tenure; or

   (2) 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.

B. A subdivision of land. The addition of a residential accessory boundary on a lot or lots subordinate to an existing principal building is excluded from the definition of "land development."

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 proprietary interest in land, shall be deemed to be a landowner for the purposes of this chapter.

LANDSCAPE ARCHITECT — A licensed landscape architect in the Commonwealth of Pennsylvania.

LOT — A designated tract, parcel or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

LOT AREA — The area contained within the property lines of a lot excluding space within all streets and

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within all permanent drainage easements, but including the area of all other easements.

LOT, FLAG — A lot of irregular shape that has a narrow access trip (not meeting the minimum lot widths requirements of Chapter 205, Zoning, and thus too narrow for the construction of a principal building) leading from a street to a wider portion of the lot which is intended for construction or a principal building and which wider portion complies with the minimum lot width requirements of Chapter 205, Zoning.

MARKER — A metal pipe or pin of at least 1/2 inch in diameter and at least 24 inches in length which is fully inserted vertically into the ground.

MOBILE HOME — A transportable, single-family dwelling intended for permanent occupancy contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

MONUMENT — A stone or concrete monument with a flat top at least four inches diameter or square end at least 30 inches in length. Stone monument shall contain an indented cross or 1/4 inch drill hole. Concrete monuments shall contain a copper or brass dowel (plug). The bottom sides or radius shall be at least two inches greater than the top, to minimize movements caused by frost.

MUNICIPAL AUTHORITY — An Authority created by the governing body, or an Authority of which the municipality is a member, responsible for but not limited to the construction, operation and maintenance of water purification, storage, and distribution, or sewage collection and treatment facilities.

MUNICIPAL ENGINEER — A professional engineer licensed as such in the Commonwealth of Pennsylvania employed by the municipality, or engaged as a consultant thereto, or his duly authorized representative.

MUNICIPAL SOLICITOR — The attorney appointed by the governing body or his duly authorized representative.

MUNICIPAL ZONING OFFICER — The agent or official designated by the municipality to administer and enforce Chapter 205, Zoning.

MUNICIPALITY — Borough of Tyrone, Blair County, Pennsylvania.

OFFICIAL PLANS — The Comprehensive Development Plan and/or Official Map and/or Topographical Survey and/or such other plans, or portions thereof, as may have been adopted by the municipality pursuant to statute, for the area in which the subdivision or land development is located.

PLAN, FINAL — A complete and exact subdivision plan (and including all required supplementary data), prepared for official recording as required by statute, to define property rights and proposed streets and other improvements prepared by a registered engineer, surveyor, architect or landscape architect.

PLAN, PRELIMINARY — A subdivision plan (and including all required supplementary data), showing proposed street, lot and utility layout as a basis for consideration prior to preparation of a final plan, prepared by a registered engineer, surveyor, architect or landscape architect.

PLAN, RECORD — The copy of the Final Plan which contains the original endorsements of the County Planning Commission and the municipality(ies) and which is intended to be recorded with the County Recorder of Deeds and prepared by a registered engineer, surveyor, architect or landscape architect.

PLAN, SKETCH — A tentative plan drawn to exact scale, indicating salient existing features of the tract and showing approximate street and lot layout as a basis for consideration, prior to preparation of a preliminary plan.

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PLAT — A map or plan of a subdivision, whether preliminary or final.

PUBLIC GROUNDS — Includes:

A. Parks, playgrounds, trails, paths and other recreational and other public areas; and

B. Sites for publicly owned buildings and facilities.

PUBLIC HEARING — A formal meeting held pursuant to public notice by the governing body, intended to inform and obtain public comment, prior to taking action in accordance with this chapter.

PUBLIC NOTICE — Notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

RECORD PLAN — The instrument intended for recording with the Blair County Recorder for all subdivision or land developments.

RESERVE STRIP — A parcel of ground in separate ownership separating a street from other adjacent properties, or from another street.

RESUBDIVISION — Any replatting or resubdivision of land, limited to changes in lot lines on the approval final plan or recorded plan as specified in § 174-20. Other replattings shall be considered as constituting a new subdivision of land. See "subdivision."

REVERSE FRONTAGE LOT — A lot extending between and having frontage on two generally parallel streets (excluding service streets), with vehicular access solely from one street.

RIGHT-OF-WAY — The total width of any land reserved or dedicated as a street, alley, crosswalk, or for other public or semipublic purposes.

ROADWAY — See "cartway."

SANITARY SEWAGE DISPOSAL, ON-SITE — Any structure designed to biochemically treat sanitary sewage within the boundaries of an individual lot.

SANITARY SEWAGE DISPOSAL, PUBLIC — A sanitary sewage system in which sewage is carried from individual lots by a system of pipes to a central treatment and disposal plant.

SIGHT DISTANCE — The required length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic, sight distance measurements shall be made from a point 3.5 feet above the center line of the road surface to a point 0.5 foot above the center line of road surface.

SOIL PERCOLATION TEST — A field test conducted to determine the suitability of the soil for on-site sanitary sewage disposal facilities by measuring the absorptive capacity of the soil at a given location and depth.

STREET — A strip of land, including the entire right-of-way (i.e., not limited to the cartway) to provide access to more than one lot. The word "street" includes a street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and other ways used or intended to be used by vehicular traffic or pedestrians, whether public or private. Streets are further classified according to the function they perform.

A. MINOR STREET — A street used primarily to provide access to abutting properties.

B. CUL-DE-SAC STREET — A minor street intersecting another street at one end and terminated at the other end by permanent vehicular turnaround.

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C. HALF STREET — A street, generally parallel and adjacent to a property line, having a lesser right-of-way width than normally required for improvement and use of the street.

D. MARGINAL ACCESS STREET — A minor street, parallel and adjacent to a major street (but separated from it by a reserve strip) which provides access to abutting properties and controls intersections with the major street.

E. COLLECTOR STREET — A street which, in addition to providing access to abutting properties, intercepts minor streets to provide a route and gives access to community facilities and/or other collector and major streets. (Streets in industrial, multifamily, and commercial subdivisions shall generally be considered collector streets.)

F. MAJOR STREET — A street serving a large volume of comparatively high-speed and long-distance traffic, including all streets classified as main and secondary highways by the Pennsylvania Department of Transportation.

G. INTERNAL STREET — A minor street on private property used for circulation and access within a development project involving multiple-family or nonresidential uses.

H. SERVICE STREET — A minor public right-of-way providing secondary vehicular access to the side or rear of two or more properties.

STRUCTURE — Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

SUBDIVIDER — See "developer."

SUBDIVISION — The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres not involving any new street or easement of access or any residential dwelling, shall be exempted. The term subdivision shall refer, as appropriate in this chapter, to the process of subdividing land or to the land proposed to be subdivided. The term subdivision includes resubdivision.

SURVEYOR — A licensed surveyor registered in the Commonwealth of Pennsylvania.

WATER SYSTEM, ON-SITE — A system for supplying water to a single dwelling or other building from a source located on the same lot.

WATER SYSTEM, PUBLIC — A system for supplying and distributing water from a common source to dwellings and other buildings, but generally not confined to one neighborhood.

ZONING MAP — The Official Zoning Map of the Borough of Tyrone, Blair County, Pennsylvania.

ZONING ORDINANCE — The Borough of Tyrone Zoning Ordinance, as amended.[107]

107.Editor's Note: See Ch. 205, Zoning.

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ARTICLE III
Submission and Review Procedures

§ 174-11. Review by Council and other officials.

From the effective date of this chapter, all plans for the subdivision or development of land within the corporate limits of the municipality shall be reviewed by the Borough Council or governing body and other municipal, state, or county officials as deemed necessary and shall be approved or disapproved by the governing body in accordance with procedures specified in this chapter. When action on a plan by the Borough Council is required, the Borough Council shall render its decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the Borough Council next following the date the application is filed, provided that should said next regular meeting occur more than 30 days following the filing of the application, said ninety-day period shall be measured from the 30th day following the day the application has been filed.

§ 174-12. Submission of sketch plan.

It is recommended that subdividers submit a sketch plan for informal discussion between the subdivider and the municipality. Submission of a sketch plan shall not constitute official submission of a plan to the municipality.

A. Plan to be filed with the municipality. Copies of the sketch plan for all proposed subdivisions and land developments and all required supporting data shall be submitted to the Municipal Manager (or his representative) by the subdivider (or his or her representative authorized in writing to submit the plan).

B. Number of copies. Four legible black-line or blue-line paper prints of the sketch plan shall be required. Plans shall fully comply with requirements of § 174-23 of this chapter or, in the case of a sketch plan for record, § 174-24 of this chapter.

C. Distribution of sketch plans. The Municipal Secretary (or his or her representative) shall refer the sketch plans to the following:

   (1) One copy to the Municipal Engineer.

   (2) One copy to the County Planning Commission in the case of a sketch plan for record. The plans and supplementary data shall be accompanied by the County's referral form and required filing fee.

D. Review of sketch plan by Borough Council.

   (1) The sketch plan shall be reviewed by the Borough Council at one or more regularly scheduled or special meetings. The Council may request the Borough Zoning Officer or the Borough Engineer to review the sketch plan and submit comments thereon to the Council.

   (2) Within 15 calendar days after the final meeting at which the sketch plan is reviewed by the Borough Council, the Council Secretary will send the comments of the Council regarding the plan to the developer.

E. Review of sketch plan for record by Borough Council.

   (1) In the case of a sketch plan for record submitted under § 174-22B of this chapter, the sketch plan shall be reviewed by the Borough Council at one or more regularly scheduled or special

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meetings and either approved or disapproved by the Council.

(2) Borough Council shall render its decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the Borough Council next following the date the application is filed, provided that should said next regular meeting occur more than 30 days following the filing of the application, said ninety-day period shall be measured from the 30th day following the day the application has been filed. The decision of the Borough Council shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than 15 days following the decision. When the application is not approved in terms as filed, the decision shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite the provisions of the ordinance relied upon.

(3) In the case of a sketch plan for record submitted to the County Planning Commission for review, no official action shall be taken by the Borough Council until the Council has received the written report of the County Planning Commission, provided that the report is received within 30 days from the date the plan was forwarded to the County Planning Commission for review. If such report is not received within 30 days, the Borough Council may proceed to take action on the plan without consideration of comments from the County Planning Commission.

§ 174-13. Official submission of preliminary plan.

A. Plan to be filed with the municipality. Copies of the preliminary plan for all proposed subdivisions and land developments and all required supporting data shall be officially submitted to the Municipal Manager (or his or her representative) by the subdivider/developer (or his representative authorized in writing to submit the plan). Action by the Borough Council on the preliminary plan will be taken within the time limits indicated in § 174-14E(4) below.

B. Official submission of the preliminary plan shall not be deemed to have been made until receipt of all of the following by the Municipal Manager or his representative.

(1) Three completed copies of the Application for Review of Preliminary Subdivision Plan/Land Development Plan.

(2) Seven legible black-line or blue-line paper prints of the preliminary plan which shall fully comply with the requirements of § 174-25 of this chapter.

(3) Five completed copies of the Subdivision Sewage Disposal Report whenever soil percolation tests are required.

(4) Four copies of all required information including the proposed Erosion and Sediment Control Plan.

(5) If a proposed subdivision or land development abuts or its traversed by a state highway, the developer/subdivider shall submit a copy of the preliminary plan to PennDOT for its review and comments. If a developer/subdivider desires ingress/egress onto a state highway, the developer/subdivider shall apply for a Highway Occupancy Permit from PennDOT. Copies of the developer's/subdivider's cover letter and permit application (if applicable) to PennDOT shall be submitted to the Municipal Manager or his representative at the time of the official submission of the preliminary plan. Approval of this preliminary plan by PennDOT shall not constitute a recommendation nor approval by Borough Council.

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C. Filing fee. The Municipal Manager (or his or her representative) shall collect a filing fee for the preliminary plan established by the governing body for all subdivisions or land developments. Fees shall be charged in order to cover the costs of examining plans and other expenses incidental to the review of subdivisions or land developments including, but not limited to, engineering and legal fees. The subdivider or developer shall pay the fee at the time of official submission of a preliminary plan and/or at such other times as may be set by the Borough.

D. Distribution of preliminary plan. The Municipal Manager (or his or her representative) shall refer the preliminary plan, after all required fees have been collected, to the following:

(1) One copy of the plan to the County Planning Commission, one copy of all required supporting documents, the County's referral form and required filing fee.

(2) Two copies to the Borough Council, including one copy of the application form and other required reports.

(3) One copy to the Municipal Engineer.

(4) One copy to the Municipal Zoning Officer.

§ 174-14. Review of preliminary plan.

A. Review by Municipal Engineer. The Municipal Engineer shall review the preliminary plan to determine its conformance to this chapter. The Engineer may recommend changes, alterations or modifications, as he may deem necessary. The report of the Engineer shall be submitted to the Borough Council prior to the regularly scheduled or special meeting at which the preliminary plan is to be considered by the Borough Council.

B. Review by the Municipal Zoning Officer. The Municipal Zoning Officer shall review the preliminary plan to determine its conformance to Chapter 205, Zoning. The Zoning Officer shall check all zoning data as required to be shown under § 174-25, to determine if information shown is in accordance with the latest amendments to Chapter 205, Zoning. The report from the Zoning Officer shall be submitted to the Borough Council prior to the regularly scheduled or special meeting at which the preliminary plan is to be considered by the Borough Council.

C. Review by Pennsylvania Department of Transportation. Review and comments by PennDOT shall be submitted to the Municipal Manager (or his or her representative) prior to or at the regularly scheduled or special meeting, at which time the preliminary plan is to be considered by the Borough Council.

D. No approval shall be given by the Borough Council with respect to the preliminary plan until the municipality has received the report of the County Planning Commission; provided, however, that if the report is not received within 30 days after transmittal to the agency, then the Borough Council may officially act without having received and considered such report.

E. Review by the governing body.

(1) When a preliminary plan has been officially submitted to the governing body, such plan shall be reviewed at a regularly scheduled meeting or at the discretion of the governing body at a special meeting.

(2) The governing body shall review the preliminary plan and the reports and recommendations thereon of the County Planning Commission (if same has been received within the prescribed

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time limits), the Municipal Engineer, and by any other officials and official boards of the municipality, to determine the preliminary plan conformance to the standards contained in this chapter. The governing body may require or recommend such changes and modifications as they shall deem necessary or advisable in the public interest.

(3) The action of the governing body either approving or disapproving the preliminary plan shall be noted with the date of such action. The findings and reasons upon which the action is based and the provisions of the statute or ordinance relied upon shall also be stated in the minutes in writing. Subject to the requirements of Subsection E(4), within 15 days after the meeting at which the preliminary plan is reviewed and an approval or rejection decision is rendered, the Manager of the municipality shall send written notice of the findings, action taken, and reasons thereof to the subdivider or his or her agent. The Borough Council may approve a preliminary plan subject to conditions acceptable to the applicant, provided that the applicant indicates his written acceptance of those conditions to the Borough Council within 10 days of the date of the written notification from the Borough Council. Approval of a plan shall be rescinded automatically upon the applicant's failure to accept such conditions within 10 days.

(4) In any event, the governing body shall render its decision and communicate it to the applicant no later than 90 days following the date of the regular meeting of the Borough Council next following the date the application is filed, provided that should said next regular meeting occur more than 30 days following the filing of the application, said ninety-day period shall be measured from the 30th day following the day the application has been filed. The applicant may agree, in writing, to an extension of time within which the governing body may render a decision.

(5) Approval of preliminary plan shall not constitute acceptance of a subdivision or land development for recording. Approval is only an expression of approval of a general plan to be used in preparing the final subdivision or land development plan for final approval and recording upon fulfillment of all requirements of this chapter.

§ 174-15. Submission of final plan.

A. Within one year of governing body's approval of the preliminary plan, a final plan shall be officially submitted to the municipality. However, an extension of time may be granted by the governing body upon written request. Final plans submitted after this expiration of time for which no time extension has been granted may be considered as a new preliminary plan.

B. The final plan shall conform in all important respects to the preliminary plan as previously reviewed and approved by the governing body and shall incorporate all modifications required by the municipality in its review of the preliminary plan.

C. The municipality may permit submission of the final plan in sections. 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 Borough Council in its discretion.

D. Plans to be filed with the municipality. Copies of the final plan and all required supporting data shall be officially submitted to the Municipal Manager (or his or her representative) by the subdivider (or his or her representative authorized in writing to submit the plan). Action by the Borough Council on the preliminary plan will be taken within the time limits indicated in § 174-14E(3) and (4) of this chapter.

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E. Official submission of final plan shall not be deemed to have been made until receipt of all of the following by the Municipal Manager or his or her representative:

(1) Three completed copies of the Application for Review of Final Subdivision/Land Development Plan.

(2) Seven legible black-line or blue-line paper prints of the final plan which shall fully comply with § 174-26 of this chapter.

(3) Two copies of all other required information, including the following, if applicable:

(a) All offers of dedication and covenants governing the reservation and maintenance of undedicated open space, streets, storm drainage facilities, and sanitary sewer and water facilities, which shall be approved by the Municipal Solicitor as to their legal sufficiency.

(b) Such private deed restrictions, including building reserve lines, as may be imposed upon the property as a condition of sale together with a statement of any restrictions previously imposed which may affect the title to the land being subdivided.

(c) Whenever a subdivider proposes to establish a street which is not offered for dedication to public use, the governing body may require the subdivider to submit and also to record with the plan, a copy of an agreement made with the municipality on behalf of his or her heirs, successors, and assigns and approved by the Municipal Solicitor and which shall establish the conditions under which the street may later be offered for dedication and shall stipulate, among other things, the following:

[1] The street shall conform to municipal specifications or that the owners of the abutting lots shall include with the offer of dedication sufficient money, as estimated by the Municipal Engineer, to restore the street to conformance with the municipal specifications.

[2] An offer to dedicate the street shall be made only for the street as a whole.

[3] The method of assessing repair costs be stipulated.

[4] Agreement by the owners of 60% of the front footage thereon shall be binding on the owners of the remaining lots.

(d) When approval by the Pennsylvania Department of Environmental Protection is required for the water supply or sanitary sewage system(s) for a proposed subdivision, two copies of such certification of approval must be submitted with the final plan to the Municipal Manager.

(e) When required under the rules and regulations of the Department of Environmental Protection, a copy of the approved erosion and sediment control plan or permit must be submitted with the final plan to the Municipal Manager.

(f) Any proposed intersection of a new street or driveway with a state legislative route must receive an "Occupancy Permit" from the Pennsylvania Department of Transportation (PennDOT). Such permit must be submitted with the final plan to the Municipal Manager.

(g) When approval is required for water supply or sanitary sewage disposal from a municipal authority or private water company, two copies of such approvals must be submitted with the final plan to the Municipal Manager.

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(h) Letters from utility companies for electric, gas, telephone, and cable TV, indicating that they have received final plans, must be submitted with final plans to the Municipal Secretary.

F. Filing fee. The Municipal Manager (or his or her representative) shall collect a filing fee for the final plan as established by the governing body for all subdivisions or land developments. Fees shall be charged in order to cover the costs of examining plans and other expenses incidental to the review and approval of subdivisions or land developments including, but not limited to, municipal engineering and legal fees. The subdivider or developer shall pay the fee at the time of official submission of a final plan or at such other time as required by the Borough. Any other such fees must be paid in full by the developer prior to final approval of the final plan.

G. Distribution of final plan. The final plan shall be distributed in accordance with the requirements of § 174-13D for preliminary plan, except that if the preliminary plan was submitted to the County Planning Commission, the final plan does not have to be submitted to that agency.

§ 174-16. Review of final plan.

A. Review by the Municipal Engineer. The final plan shall be reviewed and a report submitted as required under § 174-14A for preliminary plans.

B. Review by the Municipal Zoning Officer. The final plan shall be reviewed and a report submitted by the Municipal Zoning Officer as required under § 174-14B for preliminary plans.

C. Review by governing body. The final plan shall be reviewed in accordance with the procedures as required under § 174-14E of this chapter for preliminary plan. In addition:

(1) Before acting on any subdivision or land development plan, the governing body may hold a public hearing thereon after public notice.

(2) Prior to granting final approval to any final plan, the developer must execute a developer's agreement, as prepared by the Municipal Solicitor, with the governing body setting forth the rights and obligations of the parties with regard to the subdivision or land development.

(3) If the governing body approves the final plan, the record plan shall be signed by the President, Vice President or Assistant Vice President of Council and the Manager, together with the date of action.

(4) A performance guarantee or a certificate of satisfactory installation, as required under § 174-18 or 174-19, respectively, shall be required before plans are released for recording.

§ 174-17. Recording of final plan.

A. After approval by the governing body, and with such endorsement(s) indicated on the record plan, the subdivider or developer shall record his or her plan. No subdivision or land development plan may be legally recorded unless it bears the governing body's approval and seal.

B. The subdivider shall file the record plan with the County Recorder of Deeds within 90 days of the date of final approval by the governing body. The subdivider shall contact the Blair County Recorder of Deeds Office to determine all applicable requirements for recording. The Recorder's Certificate that the approval plan has been recorded with Deed Book and page numbers indicated shall be submitted to the municipality within 10 days of recording the record plan. If the subdivider fails to record within such period, the action of the governing body shall be null and void unless and

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extension of time has been granted in writing by the governing body.

§ 174-18. Completion of improvements or guarantee thereof.

A. No plan shall be finally approved unless all improvements have been installed in accordance with this chapter.

B. In lieu of completing the improvements, prior to final approval, the subdivider shall guarantee the installation of all required improvements as follows:

(1) The developer shall deposit with the Borough a financial security in an amount sufficient to cover the costs of such improvements or common amenities.

(2) When requested by the developer, in order to facilitate financing, the Borough Council shall furnish the developer with a signed copy of a resolution indicating approval of the final plan contingent upon the developer obtaining a satisfactory financial security. The final plan or record plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days unless a written extension is granted by the Borough Council; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.

(3) Without limitation as to other types of financial security which the Borough may approve, which approval shall not be unreasonably withheld, federal- or commonwealth-chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security, such financial security shall be posted with a bonding company or federal- or commonwealth-chartered lending institution chosen by the party posting the financial security, provided said bonding company or lending institution is authorized to conduct such business within the commonwealth.

(4) Such bond or other security shall provide for, and secure to the public, the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements. The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, the Borough may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the Borough may require the developer to post additional security in order to assure that the financial security equals said 110%. Any additional security shall be posted by the developer in accordance with this subsection.

(5) The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by an applicant or developer and prepared by a professional engineer licensed as such in the Commonwealth of Pennsylvania and certified by such engineer to be a fair and reasonable estimate of such cost. The Borough, upon the recommendation of the Borough engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the Borough are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in the Commonwealth of Pennsylvania and chosen mutually by the Borough and the

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applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable, and shall be the final estimate. In the event that the third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Borough and the applicant or developer.

(6) If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above procedure.

(7) If required improvements are to be installed under the jurisdiction of a public utility or municipal authority, financial security shall be posted in accordance with the regulations of said public utility or municipal authority.

(8) The governing body shall not condition the issuance of permits upon actual completion of improvements if financial security has been provided. Occupancy permits shall not be withheld, provided the following conditions have been met:

(a) The streets have been improved to a permanently passable condition as determined by the municipality; and

(b) All other required improvements necessary for reasonable use and occupancy have been completed.

§ 174-19. Release of performance guarantees.

All performance guarantees shall be released in whole or in part upon compliance with the following procedure:

A. When the subdivider has completed all or a portion of those required improvements, the subdivider or developer shall notify the governing body in writing, by certified mail return receipt requested by registered mail. A copy shall be sent to the Municipal Engineer. The governing body shall, within 10 days after receipt of such notice, direct and authorize the Municipal Engineer to inspect these improvements.

B. The Municipal Engineer, within 30 days after receipt of the aforesaid authorization from the governing body, shall file a written report with the governing body and mail a copy of this report to the subdivider by certified mail return receipt requested or by registered mail. This report shall recommend approval or rejection, either in whole or in part. If these improvements, or any portion thereof, shall not be approved by the Municipal Engineer, said report shall contain a statement of reasons for such rejection.

C. Upon receipt of the Municipal Engineer's report, the governing body shall review these recommendations. After review, and within 15 days of receipt of the engineer's report, the governing body shall notify the subdivider in writing by certified mail, return receipt requested, or by registered mail, of its action. If a whole or partial release is approved, the governing body shall authorize release of an amount estimated by the Municipal Engineer that fairly represents completed improvements.

D. The governing body shall have 45 days from the receipt of requests to take final action. If the governing body fails to comply with this time limitation, all improvements will be deemed approved

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and shall be released in the amount requested.

E. If any portion of these required improvements shall not be approved by the governing body, these shall be completed or correct. Upon completion or correction, the above procedure shall be followed for the approval of any release in whole or in part.

§ 174-20. As-built plans.

As-built plants for all improvements within the subdivision or land development listed in the Subdivision Improvements Agreement shall be submitted to the Borough within 30 days after inspection and approval of the improvements by the Borough and prior to the release of the performance guarantee and acceptance of any such improvements by the Borough. Plans shall be in accordance with the requirements of § 174-26 of this chapter, be Mylar in reproducible form, and certified by the developer to be in accordance with actual construction. The location and elevation of all sewer laterals and water services shall also be indicated. The developer is responsible for the preparation and cost of such plans.

§ 174-21. Dedication and maintenance guarantee.

A. All improvements shown on the subdivision plan, recorded or otherwise, shall be deemed to be private until such time as these have been accepted by dedication to the governing body.

B. Before acceptance by dedication of any improvements, the governing body shall require the subdivider to file a maintenance guarantee by posting financial security. This financial security shall be posted for no longer than 18 months from the date of acceptance by dedication and shall not exceed 15% of the actual cost of these dedicated improvements.

C. The owner/developer will continue to be liable for all latent defects with respect to improvements intended to be dedicated for public use; however, the owner/developer will be liable only until the maintenance guarantee is released. The Borough Engineer will determine when a defect is a latent defect. Satisfactory repair or correction of latent defects will be made at the owner/developer's expense and subject to Borough review and approval. The owner/developer will also be responsible for any damage to Borough facilities, utilities and/or other public improvements because of such defects.

§ 174-22. Plans exempted from standard procedures.

A. Revision to plan of record. Any revision to a recorded plan shall be considered a new subdivision or land development and shall comply with all regulations of this chapter, except that:

(1) Lot lines may be changed from those shown on a recorded plan, provided that in making such changes:

(a) No lot or tract of land shall be created or sold that is smaller than the minimum requirements of Chapter 205, Zoning.

(b) Easements or rights-of-way reserved for drainage shall not be changed.

(c) Street locations and block sizes shall not be changed.

(d) No lot shall be created which does not abut an existing or a proposed street.

(2) In every case wherein lot lines are changed as permitted by the above, the subdivider or developer shall prepare a new final plan and shall submit the final plan in accordance with

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§ 174-15 of this chapter to the municipality for review by the governing body in accordance with § 174-16 of this chapter. The new final plan shall specifically identify the previously recorded plan superseded and contain the record reference. The subdivider or developer shall record the new plan in accordance with § 174-17 of this chapter if the final plan is approved.

B. Sketch plan for record. In the case of a proposed residential subdivision where the intent of the subdivider, so expressed in writing, will create two and only two parcels, lots, or tracts of land of the original tract fronting on an existing improved state or municipal road or street, or the case of a proposed land development where the intent is to construct two residences fronting on an existing improved state or municipal road or street, or the conveyance, sale, or transfer of land from one parcel to an adjacent parcel is proposed for the sole purpose of increasing lot size, the Borough may allow the subdivider to prepare a sketch plan for record, showing the single subdivision or land development accompanied by the required data set forth in § 174-24 and the submission of the results of soil percolation tests as described in this chapter, if applicable. Further subdivisions or land development from a tract recorded under this subsection will require submission of plans in full accordance with the provisions of this chapter.

C. Abbreviated subdivision. In the case of any proposed residential subdivision containing more than two lots or a nonresidential subdivision, where there will not be any new street or right-of-way for access and the tract of land cannot be developed beyond the depth of one lot (i.e., one in which all proposed lots will have frontage on an existing public street or road), the following procedures may be followed:

(1) The subdivider shall prepare a sketch plan of the proposed subdivision in accordance with § 174-23 of this chapter.

(2) If lots in the proposed subdivision will utilize on-site sanitary sewage disposal systems, the subdivider shall perform soil percolation tests in accordance with all applicable local, state, and federal laws, and shall indicate the location of such test holes on the sketch plan.

(3) The subdivider shall submit eight copies of the sketch plan and five copies of the soil percolation test data plus four copies of any required additional data. The distribution and review shall be the same as for preliminary plans.

(4) If the plan is approved by the governing body, the subdivider may then prepare a final plan in full accord with § 174-26 of this chapter. The final plan shall be submitted and reviewed in accordance with §§ 174-15 and 174-16.

D. Abbreviated land development for lots previously approved under this chapter. In the case of a land development consisting of a single nonresidential building on a lot or lots, which lot or lots were previously approved under this chapter, the developer may submit only a final plan to the Borough. The final plan shall contain all information required by § 174-26 of this chapter and shall be submitted and reviewed in accordance with §§ 174-15 and 174-16. The final plan shall be submitted to the County Planning Commission for review. Submissions to and reviews from the County Conservation District and the Pennsylvania Department of Transportation may be required by the Borough.

E. Abbreviated land development for lots not previously approved under this chapter. In the case of a land development consisting of a single nonresidential building on a lot or lots which lot or lots were not previously approved under this chapter, the following procedures may be followed:

(1) The developer shall prepare a sketch plan of the proposed land development in accordance with § 174-23 of this chapter.

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(2) The developer shall submit eight copies of the sketch plan plus four copies of any required additional data. The distribution and review shall be the same as for preliminary plans.

(3) If the plan is approved by the governing body, the developer may then prepare a final plan in full accord with § 174-26 of this chapter. The final plan shall be submitted and reviewed in accordance with §§ 174-15 and 174-16.

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ARTICLE IV
Plan Requirements

§ 174-23. Sketch plan.

A. The sketch plan of a proposed subdivision or land development shall be clearly and legibly drawn to a scale of one inch equals 50 feet, except that:

(1) If the average size of the proposed lots in the subdivision is 10 acres or larger, the plan should be drawn to a scale of one inch equals 100 feet.

(2) If the subdivision proposed lots which an average frontage of less than 50 feet, the plan should be drawn to a scale of one inch equals 20 feet.

B. Sketch plan and all submitted prints thereof should be made on sheets either:

(1) Eighteen inches by 24 inches;

(2) Twenty-four inches by 36 inches; or

(3) Thirty-six inches by 48 inches.

C. If the sketch plan requires more than one sheet, a key diagram showing relative location of the several sections should be drawn on each sheet.

D. If submitted, the sketch plan shall contain at least the following information but not necessarily showing precise dimensions:

(1) Tract boundaries clearly labeled and a statement of the total acreage of the tract.

(2) Name of the municipality in which the subdivision or land development is located.

(3) North point, scale (written and graphic), date, and labeled as being a sketch plan.

(4) Unique name of proposed subdivision or land development.

(5) Name and address of the subdivider or developer and record owner as recorded in the Office of the County Recorder of Deeds.

(6) A location map with sufficient information to enable the location of the property. This map shall also show all existing roads within or adjacent to the tract, proposed roads within the subdivision, and proposed roads within adjacent recorded subdivisions.

(7) Significant topographical and physical features (i.e., watercourses, water bodies, natural drainage channels, quarries, railroad tracks, one-hundred-year floodplains [including special flood hazard areas established by FEMA], wetlands, tree masses, rock outcroppings, existing buildings, etc.) on the tract.

(8) Contour lines, with source of data.

(9) Proposed general street and lot layout and proposed land uses. Approximate lot sizes and proposed street cartway and right-of-way widths shall be indicated. When apartments and/or townhouses are proposed, the general building, street, recreation and parking layout shall be shown. When commercial or industrial buildings are proposed, the general building, street, parking and loading layout shall be shown.

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(10) Where a sketch plan shows the proposed subdivision of only a part of the subdivider's total property, the plan shall include a drawing showing the entire contiguous land holdings of the subdivider and indicating the area of ultimate proposed subdivision. The proposed street system for the remainder of the property proposed for ultimate subdivision shall be shown so that the street system in the submitted portion can be considered in relation to future connections with the unsubmitted portion. In the case of extremely large properties, the Borough may delimit the area for which a prospective street system on adjacent property must be shown. The subdivider shall also include a statement indicating proposed future land use for the unsubmitted portion of his property.

§ 174-24. Sketch plan for record.

A. The sketch plan for record of a proposed subdivision shall be clearly and legibly drawn to a scale of one inch equals 50 feet, except that:

(1) If the average size of the proposed lots in the subdivision is 10 acres or larger, the plan should be drawn to a scale of one inch equals 100 feet.

(2) If the subdivision proposes lots with an average frontage of less than 50 feet, the plan should be drawn to a scale of one inch equals 20 feet.

B. Sketch plan for record and all submitted prints thereof shall be made on sheets either:

(1) Eighteen inches by 24 inches;

(2) Twenty-four inches by 36 inches; or

(3) Thirty-six inches by 48 inches.

C. If the sketch plan for record requires more than one sheet, a key diagram showing relative location of the several sections shall be drawn on each sheet.

D. The sketch plan for record shall contain at least the following information:

(1) Tract boundaries clearly labeled and a statement of the total acreage of the tract.

(2) Name of the municipality in which the subdivision is located.

(3) North point, scale (written and graphic), date, and labeled as being a sketch plan.

(4) Unique name of proposed subdivision.

(5) Name and address of the subdivider or developer and record owner as recorded in the Office of the County Recorder of Deeds.

(6) A location map with sufficient information to enable the location of the property. This map shall also show all existing roads within or adjacent to the tract, proposed roads within the subdivision, and proposed roads within adjacent recorded subdivisions.

(7) Significant topographical and physical features (i.e., watercourses, water bodies, natural drainage channels, quarries, railroad tracks, one-hundred-year floodplains [including special flood hazard areas established by FEMA], wetlands, tree masses, rock outcroppings, existing buildings, etc.) on the tract.

(8) Contour lines, with source of data.

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(9) Proposed general street and lot layout and proposed land uses. Approximate lot sizes and proposed street cartway and right-of-way widths shall be indicated. When apartments and/or townhouses are proposed, the general building, street, recreation and parking layout shall be shown. When commercial or industrial buildings are proposed, the general building, street, parking and loading layout shall be shown.

(10) Where a sketch plan for record shows the proposed subdivision of only a part of the subdivider's total property, the plan shall include a drawing showing the entire contiguous land holdings of the subdivider and indicating the area of ultimate proposed subdivision. The proposed street system for the remainder of the property proposed for ultimate subdivision shall be shown so that the street system in the submitted portion can be considered in relation to future connections with the unsubmitted portion. In the case of extremely large properties, the Borough may delimit the area for which a prospective street system on adjacent property must be shown. The subdivider shall also include a statement indicating proposed future land use for the unsubmitted portion of his property.

(11) A signed and notarized certification of ownership and acknowledgement of plan.

(12) Certificate for approval by the Borough Council.

(13) The source of title to the land being subdivided as shown in the records of the County Recorder of Deeds.

(14) The seal of the surveyor or engineer responsible for the plan.

(15) Certification of accuracy by the surveyor.

(16) Precise building and distances for all parcels to be conveyed (which shall be field surveyed).

(17) Base flood elevations for the one-hundred-year storm.

(18) Building setback lines.

(19) Existing street cartway and right-of-way lines (including right-of-way width).

(20) An erosion and sediment control plan.

(21) Plan notes referencing recording requirements, plan requirements for residue, improvements agreement, and stormwater study as applicable.

§ 174-25. Preliminary plan.

A. The preliminary plan shall be drawn to the same scale and presented on the same sheet size as listed for the sketch plan in § 174-23A and B. The following information shall be shown:

(1) Name of the municipality in which the subdivision or land development is located.

(2) North point, scale (written and graphic), date, and labeled as being a preliminary plan.

(3) Unique name of proposed subdivision or land development.

(4) Date, including the month, day, and year that the preliminary plan was completed and the month, day and year that the preliminary plan was revised, for each revision.

(5) Name and address of recorded owner and subdivider or developer.

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(6) Name, address, license number, and seal of the registered engineer, architect, landscape architect or surveyor responsible for the subdivision or land development plan.

(7) Names of all owners of all abutting unplatted land and the names and all abutting subdivisions, if any, with the book and page number where recorded.

(8) A key map for the purpose of locating the property being subdivided drawn at a scale not less than one inch equals 800 feet and showing the relation of the property, differential by tone or pattern, to adjoining property and to all streets, roads, municipal boundaries, zoning districts, watercourses, any areas subject to flooding, and recorded subdivision plans existing within 1,000 feet of any part of the property. This map shall show all existing roads within or adjacent to the tract, proposed roads within the subdivision, and proposed roads within adjacent recorded subdivisions.

(9) Total tract boundaries of the property being subdivided showing bearings and distances and a statement of total acreage of the property.

(10) Zoning data including all of the following, if applicable:

(a) Existing municipal zoning regulations, including district designations, requirements for lot sizes and front yards, and any zoning district boundary lines traversing the proposed subdivision or land development.

(b) Any changes in the existing zoning to be requested by the subdivider or developer.

(11) Contour lines at vertical intervals of not more than two feet from aerial or field survey reflecting current conditions. Contour lines at vertical intervals of not more than five feet are permitted for land with average natural slope exceeding 5%.

(12) Locations and elevation of the data to which contour elevations refer, an established bench mark approved by the Municipal Engineer.

(13) All existing sewer lines, water lines, fire hydrants, electric and telephone utility lines, culverts, bridges, railroads, quarries, watercourses, water bodies, tree masses, natural drainage channels, rock outcroppings, wetlands, floodplain areas based on a one-hundred-year storm frequency (including all one-hundred-year floodplains established by FEMA and one-hundred-year flood elevations), and other significant man-made or natural features within the proposed subdivision and 50 feet beyond the boundaries of the proposed subdivision.

(14) All existing buildings or other structures within the proposed subdivision or land development.

(15) All existing streets on the Official Plan or Plans of the municipality (including unpaved streets), including streets of record (recorded but not constructed) easements and rights-of-way, including names, right-of-way widths, cartway (pavement) widths and approximate grades within and adjoining the subdivision/land development.

(16) The full plan of proposed development, including:

(a) Location and width of all streets, easements and rights-of-way, with a statement of any conditions governing their use, and suggested types i.e., collector, etc.

(b) Suggested street names and utility easement locations.

(c) Building reserve (setback) lines along each street.

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(d) Lot lines with approximate dimensions and approximate lot areas.

(e) Lot numbers and statement of number of lots, parcels and dwelling units.

(f) A statement of the intended use of all lots and parcels.

(g) Water supply, sanitary and/or storm sewers (and other drainage facilities) with the size and material of each indicated, and any proposed connections with existing facilities. Cross-sections shall be shown for all drainage swales.

(h) In the case of multiple-family and nonresidential developments, the location of all buildings, the location of all common parking areas and access drives to the parking areas, the size and number of parking stalls, width of aisles and access drives, and tentative grades of parking areas and access drives. The location, number and dimension of off-street loading areas shall also be indicated.

(i) Parks, playgrounds, and other areas proposed to be dedicated or reserved for public or common use with any conditions pertaining thereto.

(17) Location of all required soil percolation test holes, if required.

(18) Whenever required under the rules and regulations of the Pennsylvania Department of Environmental Protection, the proposed erosion and sediment plan shall be shown on the preliminary plan or submitted as a separate plan. If a separate plan, four copies will be required.

B. The preliminary plan shall be accompanied by the following supplementary data, as applicable:

(1) Typical street cross-section drawing(s) for all proposed streets, with construction details of streets, curbs, and sidewalks. Cross-section drawings may be shown on either the preliminary plan or on separate profile sheets. Tentative profiles along the top of cartway (pavement) edge or along the top of curb for both sides of each proposed street shall be shown. Such profiles shall show existing and proposed grades at one of the following sets of scales:

(a) One inch equals 10 feet horizontal, and one inch equals one foot vertical.

(b) One inch equals 20 feet horizontal, and one inch equals two feet vertical.

(c) One inch equals 40 feet horizontal, and one inch equals four feet vertical.

(d) One inch equals 50 feet horizontal, and one inch equals five feet vertical.

(2) In lieu of the separate profile sheets, the tentative finished cartway (pavement) edge or top of curb grades for both sides of each street may be labeled on the preliminary plan.

(3) A plan for the surface drainage of the tract to be subdivided or developed shall be shown. Such plan shall include stormwater runoff calculations for the entire property being subdivided as well as anticipated runoff from areas at a higher elevation in the same watershed and shall show the proposed method, subject to municipal approval, of accommodating the anticipated runoff.

(4) Preliminary designs of any bridges or culverts which may be required. Such designs shall meet all applicable requirements of the Pennsylvania Department of Environmental Protection and the Pennsylvania Department of Transportation. Calculations for waterway opening shall be included. All designs shall be subject to approval by the municipality.

(5) Where the subdivider proposes to locate a street, driveway, or other improvement within a

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portion of a utility right-of-way, or to relocate an existing utility line, a letter from the appropriate utility company giving permission to locate within the right-of-way or relocate the existing line.

(6) In the case of a preliminary plan calling for the installation of improvements beyond a five-year period, a schedule shall be filed by the landowner delineating all proposed sections as well as deadlines within which applications for final plan 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 plan approval, until final plan approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of the Borough in its discretion. Staging of sanitary sewer, water, storm drainage, and erosion and sediment control facilities shall also be indicated.

(7) The proposed method of traffic control at each proposed street intersection shall be shown on the plan.

(8) When required by the Borough, a preliminary center line stakeout of proposed roads so that an on-site road alignment evaluation may be conducted.

(9) When required by the Borough, a study indicating that adjacent roads which will receive traffic from and distribute traffic to the subdivision or land development shall be adequate in construction, grade, width and capacity to accommodate traffic generated by the subdivision or land development.

(10) Where a preliminary plan shows the proposed subdivision of only a part of the subdivider's total property, the plan shall include a drawing showing the entire contiguous land holdings of the subdivider and indicating the area of ultimate proposed subdivision. The proposed street system for the remainder of the property proposed for ultimate subdivision shall be shown so that the street system in the submitted portion can be considered in relation to future connections with the unsubmitted portion. In the case of extremely large properties, the Borough may delimit the area for which a prospective street system on adjacent property must be shown. The subdivider shall also include a statement indicating proposed future land use for the unsubmitted portion of his property.

§ 174-26. Final plan.

A. The final plan shall be of a size and scale as listed for a sketch plan under § 174-23A and B. The final plan shall show the following:

(1) Name of the municipality in which the subdivision or land development is located.

(2) North point, scale (written and graphic), date, and labeled as being a final plan.

(3) Unique name of proposed subdivision or land development.

(4) Date, including the month, day, and year that the final plan was completed and the month, day and year that the final plan was revised, for each revision.

(5) Name and address of recorded owner and subdivider or developer.

(6) Name, address, license number, and seal of the registered engineer, architect, landscape architect or surveyor responsible for the subdivision or land development plan.

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(7) Names of all owners of all abutting unplatted land and the names of all abutting subdivision, if any, with the book and page number where recorded.

(8) A key map for the purpose of locating the property being subdivided drawn at a scale not less than one inch equals 800 feet and showing the relation of the property, differentiated by tone or pattern, to adjoining property and to all streets, roads, municipal boundaries, zoning districts, watercourses, any areas subject to flooding, and recorded subdivision plans existing within 1,000 feet of any part of the property. This map shall show all existing roads within or adjacent to the tract, proposed roads within the subdivision, and proposed roads within adjacent recorded subdivisions.

(9) Zoning data including all of the following, if applicable:

(a) Existing municipal zoning regulations, including district designations, requirements for lot sizes and front yards, and any zoning district boundary lines traversing the proposed subdivision or land development.

(b) Any changes in the existing zoning to be requested by the subdivider or developer.

(10) Contour lines at vertical intervals of not more than two feet from aerial or field survey reflecting current conditions. Contour lines at vertical intervals of not more than five feet are permitted for land with average natural slope exceeding 5%.

(11) Locations and elevation of the data to which contour elevations refer, an established bench mark approved by the Municipal Engineer.

(12) All existing sewer lines, water lines, fire hydrants, electric and telephone utility lines, culverts, bridges, railroads, quarries, watercourses, water bodies, tree masses, natural drainage channels, rock outcroppings, wetlands, flood pain areas based on a one-hundred-year storm frequency (including all one-hundred-year floodplains established by FEMA and one-hundred-year flood elevations), and other significant man-made or natural features within the proposed subdivision and 50 feet beyond the boundaries of the proposed subdivision.

(13) All existing buildings and other structures within the proposed subdivision or land development.

(14) All existing streets on the Official Plan or Plans of the municipality (including unpaved streets), including streets of record (recorded but not constructed) easements and rights-of-way, including names, right-of-way widths, cartway (pavement) widths and approximate grades within and adjoining the subdivision/land development.

(15) The source(s) of title to the land being subdivided or developed, as shown by the records of the County Recorder of Deeds.

(16) The total tract boundary lines of the area being subdivided or developed with accurate distances to hundredths of a foot and bearings to the nearest second. These boundaries shall be determined by accurate survey in the field, which shall be balanced and close with an error of closure not to exceed one foot in 10,000 feet; provided, however, that the boundary(ies) adjoining additional unplatted land of the subdivider (for example, between separately submitted final plan sections) are not required to the based upon field survey, and may be calculated. The location and elevation of all boundary line (perimeter) monuments shall be indicated, along with a statement of the total area of the property being subdivided. In addition, the engineer or surveyor shall certify, using the form specified in the appendix, to the accuracy of the survey, the drawn plan, and the placement of the monuments. Plans and surveys shall be prepared in accordance with

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the Professional Engineers Registration Law.[108]

(17) The name (and number) and right-of-way and cartway width and lines of all roads within the property, with a statement of any conditions governing their use, and suggested types (i.e., collector, etc.).

(18) The following data shall be shown for the cartway edges and right-of-way lines and, if required, the ultimate right-of-way, for all existing, recorded (except those to be vacated), and/or proposed streets within or abutting the property to be subdivided or developed: the length (in feet to the nearest hundredths of a foot) and bearing of all straight lines and of the radii, the length of all arcs (in feet, to the nearest hundredth of a foot), and the central angle (in degrees, minutes, and seconds) of all curved lines.

(19) All straight lot lines shall be dimensioned (in feet, to the nearest hundredth of a foot) and all internal angles within lot lines shall be designated (in degrees, minutes and seconds) or by magnetic bearings (in degrees, minutes and seconds). Curved lot lines shall show length of arc (in feet, to the nearest hundredth of a foot) and the central angle (in degrees, minutes and seconds) and the radius (in feet to the nearest hundredths of a foot). Gross and net lot areas shall be indicated.

(20) A statement of the intended use of all lots, with reference to restrictions of any type which exist or will exist as covenants in the deed for the lots contained in the subdivision and, if covenants are recorded, including the book and page number. Lot number and a statement of the number of lots, parcels and dwelling units shall be provided.

(21) The proposed building reserve (setback) line for each lot, and the proposed placement of each multiple-family or nonresidential building.

(22) The location (and elevation, if established) of all existing and required street monuments.

(23) All easements or rights-of-way where provided for or owned by public services and any limitations on such easements or rights-of-way. Rights-of-way shall be shown and accurately identified on the plan, and easements shall either be shown or specifically described on the plan. Easements should be located in cooperation with the appropriate public utilities.

(24) Location, size, material, pipe length and invert elevation of all sanitary and storm sewers, the location and construction details of all manholes, inlets, endwalls, headwalls, culverts and junction boxes, the location and design and cross-sections of all drainage swales, detention facilities, and other drainage facilities including the slope and maximum depth of all swales and velocities in all swales, the location, size and material of all water mains, and the location of all fire hydrants, blowoffs, and valves on water mains.

(25) Parks, playgrounds, and other areas proposed to be dedicated or reserved for public or common use with any conditions pertaining thereto.

(26) Location of all required soil percolation test holes, if required.

(27) If the subdivision or land development proposes a new intersection with a State Legislative Route, a Highway Occupancy Permit from the Pennsylvania Department of Transportation shall be submitted.

108.Editor's Note: See 63 P.S. § 151 et seq.

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(28) A clear sight triangle shall be clearly shown for all street intersections.

(29) A Certification of Ownership, Acknowledgement of Plan and Offer of Dedication shall be lettered on the plan, using the form in the appendix, and shall be duly acknowledged and signed by the owner(s) of the property and notarized.

(30) A certificate for approval of the plan by the governing body shall be lettered on the plan, using the form in the appendix.

(31) A blank space measuring three inches square shall be left on the plan, preferably adjacent to the municipal certification, in order that the Borough of Tyrone's corporate seal may be applied.

(32) A blank space measuring 3 1/2 inches by six inches shall be left, preferably adjacent to the municipal certification, in which the endorsement stamp of the County Planning Commission may be applied.

(33) A blank space measuring three inches square shall be left along the lower edge of the sheet, in order that the Recorder of Deeds may acknowledge receipt of the plan when it is presented.

(34) A plan for the surface drainage of the tract to be subdivided or developed shall be shown. Such plan shall include stormwater runoff calculations for the entire property being subdivided as well as anticipated runoff from areas at a higher elevation in the same watershed and shall show the proposed method, subject to municipal approval, of accommodating the anticipated runoff.

(35) Designs of any bridges or culverts which may be required. Such designs shall meet all applicable requirements of the Pennsylvania Department of Environmental Protection and the Pennsylvania Department of Transportation. Calculations for waterway opening shall be included. All designs shall be subject to approval by the municipality.

(36) Typical street cross-section drawing(s) for all proposed streets, with construction details of streets, curbs and sidewalks. Cross-section drawings may be shown on either the final plan or on separate profile sheets.

(37) Where the subdivider proposes to locate a street, driveway, or other improvement within a portion of a utility right-of-way, or to relocate an existing utility line, a letter from the appropriate utility company giving permission to locate within the right-of-way or relocate the existing line.

(38) The proposed method of traffic control at each proposed street intersection shall be shown on the plan.

B. Whenever required under the rules and regulations of DEP, a copy of the approved erosion and sediment plan shall accompany final plan submission. Permits, when required, shall be submitted with the final plan.

C. Profile sheets for all proposed streets within the tract shall be provided. Such profiles shall show at least the following information, properly labeled:

(1) Existing (natural) profiles along the center line of each street and if slope within cartway area exceeds 5%, along both cartway edges.

(2) Proposed finished grade of the center line, and proposed finished grades at the top of both curbs, or proposed finished grade at both cartway pavement edges.

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(3) The length of all vertical curves.

(4) Existing and proposed sanitary sewer mains and manholes, storm sewer mains, inlets, manholes, and culverts and existing or proposed water mains. Such profiles shall be drawn at one of the following sets of scales:

(a) One inch equals 10 feet horizontal, and one inch equals one foot vertical.

(b) One inch equals 20 feet horizontal, and one inch equals two feet vertical.

(c) One inch equals 40 feet horizontal, and one inch equals four feet vertical.

(d) One inch equals 50 feet horizontal, and one inch equals five feet vertical.

D. A copy of all permits required from the DEP for affecting watercourses, bodies of water, or water obstructions, or written indication from DEP that a permit will not be required shall be submitted to the Borough.

E. In the case of developments containing apartments and townhouses and commercial and industrial developments, the location of refuse collection areas and provisions to be made for refuse collection shall be indicated.

F. When required by the Borough, a separate landscape plan showing the number, location, size and species of all trees and shrubs that will be planted shall be submitted with the final plan.

G. When required by the Borough, a final grading plan shall be submitted with the final plan.

H. When required by the Borough, a lighting plan showing the location of poles, the type and height of poles, and the type and brightness of lighting fixtures shall be submitted with the final plan.

I. When required by the Borough, the proposed location and design of guide rails shall be indicated on the final plan.

J. As applicable, the plan shall contain notes referencing recording requirements for the plan, plan submittal requirements for residue land of the subdivider, the improvements agreement for the subdivision, maintenance responsibility for stormwater detention and retention ponds, responsibility for placement of curbing and sidewalk within the subdivision, and references to erosion and sediment control plans and stormwater studies with plan and study dates and plan numbers.

K. In the case of land development plans, the following additional information shall be shown:

(1) The location and use of all buildings.

(2) Location and grade of all parking areas and access drives, the size and number of parking spaces, and the width of aisles and access drives.

(3) The location, number, and dimensions of off-street loading areas.

(4) Provisions for landscaping of the tract.

(5) Provisions for lighting of the tract.

(6) Provisions for traffic control.

(7) The location of refuse collection areas and provisions to be made for refuse collection.

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(8) A table showing extent of compliance with the Area, Yard, and Height Regulations of Chapter 205, Zoning.

(9) A grading plan for the tract showing existing and proposed contour lines at the interval required by § 174-25A(8).

(10) Lowest floor elevations for each proposed building.

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ARTICLE V
Design Standards

§ 174-27. General intent.

In all subdivisions or developments developed after the effective date of these regulations, certain improvements shall be installed in accordance with design specifications set forth herein.

§ 174-28. General standards.

The following general standards shall apply to all types of development. The Borough Council will study the following factors affecting the suitability of a proposed subdivision or development:

A. Land subject to flooding and land deemed by the Borough Council to be uninhabitable for other reasons shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, aggravate the flood hazard; but such land within a plan shall be set aside for such uses as will not be endangered by periodic or occasional inundation, or as will not endanger life or property or further aggravate or increase the existing menace.

B. Areas characterized by steep slopes, rock formations, or other such features which restrict the usability of the land shall not be subdivided or developed.

C. In determining the suitability of land for subdivision or development, the Borough Council shall refer to applicable studies by the County Planning Commission, state and federal agencies, including the Soil Survey prepared by the U.S. Department of Agriculture, Natural Resources Conservation Service.

D. The layout or arrangement of the subdivision or development shall conform to the Borough Comprehensive Plan and to any regulations or maps adopted in furtherance thereof; in addition, the layout or arrangement of the subdivision or development shall conform to any and all applicable ordinances which may exist.

E. Where evidence indicates that the minimum lot size requirements specified in other sections of these regulations or in any applicable zoning ordinance are not adequate to permit the installation of individual on-lot water supply and/or sewage disposal facilities, the Borough Council may require that the Blair County Sanitary Administrative Committee Inspector or the DEP make such tests as are necessary to determine the adequacy of the proposed facilities in relation to the provisions of the Pennsylvania Sewage Facilities Act, Act 537, plus other applicable state or local regulations. The Borough shall review and shall make a final determination of the adequacy of the proposed facility.

F. No subdivision or development showing reserve strips controlling the access to public ways will be approved, except where the control and disposal of the land comprising such strips are definitely placed within the jurisdiction of the Borough under agreement meeting the approval of the Borough.

G. Lot lines shall, where possible, following the Borough boundary lines rather than cross them.

H. The developer must show compliance with all requirements of Act 287, as amended.

§ 174-29. Streets.

A. The following general standards shall apply to all streets within a subdivision:

(1) The locations and width of all streets shall conform to the Borough Comprehensive Plan or to

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such parts thereof as may have been adopted by the Borough.

(2) The proposed street system shall extend existing or recorded streets at the same width or larger but in no case at less than the required minimum width.

(3) Where, in the opinion of the Borough, it is desirable to provide for street access to adjoining property, street stubs shall be extended by dedication to the boundary of such property.

(4) New minor streets shall be so designed as to discourage through traffic, but the subdivider or developer shall give adequate consideration to provision for the extension and continuation of major and collector streets into and from adjoining properties.

(5) Where a subdivision or development abuts or contains an existing street of improper width or alignment, the Borough may require the dedication of land sufficient to widen the street or correct the alignment.

(6) Private streets (streets not to be offered for dedication) are discouraged. They will be approved only if they meet the design standards of these regulations.

B. Width. Minimum street right-of-way and pavement widths, if not specified in the Borough Comprehensive Plan, shall be as follows:

Street Type	Width (feet)
Marginal access and cul-de-sac	
Right-of-way	40
Cartway	30
Turnaround of cul-de-sac	
Right-of-way (diameter)	100
Cartway (diameter to outside curb)	80
Length (maximum)	600
Local (minor)	
Right-of-way	50
Cartway	34
Collector	
Right-of-way	70
Cartway	36
Arterial (major)	
Right-of-way	100
Cartway	48

C. Alignment. Minimum street alignment standards shall be as follows:

(1) The minimum radius at the center line for horizontal curves on arterial streets shall be 700 feet; for collector streets, 400 feet; for minor streets, 200 feet. Proper superelevation shall be provided

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for curves on arterial streets.

(2) Between reverse curves, a tangent of not less than the following dimensions shall be provided:

(a) Arterial streets: 200 feet;

(b) Collector streets: 100 feet;

(c) Minor streets: 50 feet.

(3) Proper sight distance shall be provided with respect to both horizontal and vertical alignment. Measured along the center line, 4 1/2 feet above grade, the minimum sight distance shall be:

(a) Arterial streets: 400 feet.

(b) Collector streets: 200 feet.

(c) Minor streets: 150 feet.

D. Grades. Minimum street grade standards shall be as follows:

(1) The minimum grade on all streets shall be 0.5%.

(2) The maximum permitted grades shall be:

(a) Arterial streets: 5%.

(b) Collector streets: 8%.

(c) Minor streets: 12%, for a maximum distance of 1,200 feet.

(3) Intersections shall be approached on all sides by leveling areas. Where the grade exceeds 5%, such leveling areas shall have a minimum length of 75 feet (measured from the intersection of the center lines), within which no grade shall exceed a maximum of 3%.

E. Horizontal curves. Minimum horizontal curves shall be as follows:

(1) Whenever street lines are deflected in excess of 5°, connection shall be made by horizontal curves.

(2) To ensure adequate sight distance, minimum center line radii for horizontal curves shall be as follows:

(a) Minor streets: 150 feet.

(b) Collector streets: 300 feet.

(c) Major streets: 500 feet.

(3) A tangent of at least 100 feet shall be introduced between all horizontal curves on collector and major streets.

(4) To the greatest extent possible, combinations of the minimum radius and maximum grade shall be avoided.

F. Vertical curves. When all changes of street grades occur where the algebraic difference exceeds 1%, vertical curves shall be provided to permit the following minimum sight distances:

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(1) Minor streets: 200 feet.

(2) Collector streets: 300 feet.

(3) Major streets: 400 feet.

G. Intersections. The following standards shall apply to all street intersections:

(1) Streets shall intersect as nearly as possible at right angles, and no street shall intersect another at an angle less than 75° or more than 105°.

(2) No more than two streets shall intersect at the same point.

(3) Streets intersecting another street shall either intersect directly opposite to each other or shall be separated by at least 125 feet between center lines measured along the center line of the street being intersected.

(4) Intersections with major streets from subdivision or development shall be subject to review and determination by the Borough.

(5) Street curb intersections shall be rounded by a tangential arc with a minimum radius of:

(a) Twenty feet for intersections involving only minor streets.

(b) Thirty feet for all intersections involving a collector street.

(c) Forty feet for all intersections involving a major street.

(6) Street right-of-way lines shall be parallel to (concentric with) curb arcs at intersections.

H. Alleys. Alleys shall not be permitted in residential subdivisions. In other types of development, where permitted, their design standards shall be determined by the Borough.

I. Names. The subdivider or developer may choose street names, subject to the approval of the Borough. Proposed streets which are in alignment with others already existing and named, shall be assigned the names of the existing streets. In no case shall the name of a proposed street duplicate or confuse an existing street name in the Borough, irrespective of the use of the suffix street, road, avenue, boulevard, driveway, place, court, lane, etc.

§ 174-30. Blocks.

A. The length, width and shape of blocks shall be determined by the Borough with due regard to the following:

(1) Provision of adequate sites for building of the type proposed;

(2) Zoning requirements;

(3) Topography;

(4) Requirements for safe and convenient vehicular and pedestrian circulation.

B. Width, length of blocks and crosswalks. The width and length of blocks and crosswalks shall be determined by the Borough. Crosswalks shall have a width of not less than 10 feet and a paved walk of not less than five feet.

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§ 174-31. Lots.

Within the area of jurisdiction of these regulations, the width and area of lots shall be no less than provided in these regulations or Chapter 205, Zoning. Insofar as practical, side lot lines should be at right angles to straight street lines or radial to curved street lines. Lot lines should tend to follow municipal boundaries rather than cross them in order to avoid interjurisdictional problems.

A. Frontage. All lots shall meet the following frontage requirements:

(1) All lots shall have direct access to a public street, existing or proposed;

(2) Double or reverse-frontage lots shall be avoided except where required to provide separation of residential development from major streets or to overcome specific topographic problems.

B. Size. All lots shall meet the minimum requirements of Chapter 205, Zoning.

§ 174-32. Easements.

The following shall apply to easements within all subdivisions or developments:

A. Easements with a minimum width of 15 feet shall be provided for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains and/or other utility lines intended to serve abutting lots. No structures or trees shall be placed within such easements.

B. Emphasis shall be placed upon the location of easements centered on or adjacent to side and rear lot lines.

C. Where a subdivision or development is traversed by a watercourse, drainageway, channel or stream and of such widths as will be necessary to preserve the unimpeded flow of natural drainage, or for the purpose of widening, deepening, improving, or protecting such drainage facilities or for the purpose of installing a stormwater system.

D. There shall be a minimum distance of 100 feet, measured in the shortest distance between each proposed dwelling unit and any petroleum products or natural gas transmission line, high pressure line, or high tension electric line which may traverse the subdivision or development.

§ 174-33. Community facilities.

In reviewing subdivision or development plans, the Borough will consider the adequacy of existing or proposed community facilities to serve the additional dwelling units proposed by the subdivision or development. The reservation of land for community facilities will be required when appropriate; therefore, the subdivider or developer shall give earnest consideration to reserving land for parks, playgrounds, churches, schools, and other community facilities. If a facility of this type has been planned by any group or agency in an area that is to be subdivided or developed, the subdivider or developer shall ascertain from such organization whether or not it plans to use the site.

§ 174-34. Public utilities.

The following public utilities, when required, shall meet the indicated standards below:

A. Water.

(1) Where public water lines are required in a new subdivision or development, they shall be in

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conformity with the requirements of the Borough and any applicable water plans developed for the Borough. The design specifications of all water lines installed in new subdivisions or developments shall meet the minimum standards set forth by the Borough.

(2) In determining the acceptability of design standards, a decision by the Borough will prevail.

B. Sanitary sewer.

(1) Where public sewer lines are required in a new subdivision or development, they shall be in conformity with the "Areawide Sewer Plan" for the Borough and any applicable sewer plans developed for the municipality in which the proposed subdivision or development is located. The design specifications of all sewer lines installed in new subdivisions or developments shall meet the minimum standards set forth by the Borough.

(2) In determining the acceptability of design standards, a decision by the Borough shall prevail.

(3) Public sewer lines shall be located as near to the center line of any street right-of-way and/or utility easements as is reasonably possible, and all such sewer lines shall provide sewage connectors to the property lines of each and every lot — said sewage collection lines being proper capped. Manholes shall be provided at all changes in grades and direction and in no instance shall the distance between manholes exceed 400 feet. All sewer pipelines must be at least eight inches in diameter and any sewer lateral must be at least six inches in diameter. Storm sewers or foundation underdrainage systems shall not be connected with the sanitary sewer system.

C. On-lot sewage disposal. Where it is found necessary and feasible to rely upon on-lot systems for sewage disposal, the on-lot sewage disposal systems shall meet the minimum requirements and standards of the Pennsylvania Sewage Facilities Act 537.[109]

D. Storm sewers. Where storm sewers are required in a new subdivision or development, they shall be in conformity with the Areawide Sewer Plan for the Borough and any applicable sewer plans developed for the municipality in which the proposed subdivision or development is located. All storm sewer lines shall meet the minimum standards set forth by the Borough.

109.Editor's Note: See 35 P.S. § 750.1 et seq.

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ARTICLE VI
Improvements

§ 174-35. Purpose; completion of improvements.

A. It is the purpose of this article to set forth the required improvements in all subdivisions or developments and the construction standards required. Alternate improvement standards may be permitted if the Borough deems them equal or superior in performance characteristics to the standards specified herein. Addition of higher-type improvements may be required in specific cases where the Borough believes it necessary to create conditions essential to the health, safety, morals and general welfare of the citizenry of the Borough.

B. Any or all of the improvements as may be required by the Borough, pursuant to the authority granted in the Municipal Code, considering the needs of the area in which the proposed subdivision or development is located, shall be completed in accordance with the requirements established by these regulations as well as in accordance with the requirements of the municipality affected, public officials or municipal engineer for that portion included in the final plat. If the improvements are not completed, then satisfactory arrangements shall be made with the Borough Council and the municipality affected regarding proper completion of such improvements prior to the consideration of a final plat.

§ 174-36. Required improvements.

A. Monuments. At least one monument shall be set, preferably at an angle, in the perimeter of the subdivision or development. The monument shall meet the following specifications:

(1) Monuments shall be of concrete or stone with a minimum size of four inches by four inches by 30 inches and shall be marked on the top with a copper or brass dowel;

(2) Monuments shall be placed so that the scored or marked point will coincide exactly with the lines to be marked and will be set so that the top of the monument is level with the top of the surrounding ground;

(3) Monument locations must be shown on the "final plan." Any monuments that are removed shall be replaced by an engineer or land surveyor at the expense of the person removing it.

B. Markers. Markers shall consist of iron pipes, iron, steel bars, or copperweld markers, at least 15 inches long and not less than 1/2 inch in diameter. Markers shall be set:

(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 the perimeter of a subdivision or development and in the property lines of lots;

(4) At all other lot corners;

(5) Markers shall be placed so that the scored or marked point will coincide exactly with the lines to be marked and will be set so that the top of the marker is level with the top of the surrounding ground.

C. Streets. All streets shall be graded to the full width of the right-of-way surfaced and improved to grades and dimensions shown on the plans, profiles, and cross-sections submitted by the subdivider

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and developer and approved by the Borough Engineer, as set forth by the Borough. In subdivisions or developments where sidewalks are not required, the sidewalk areas shall be graded in the same manner as if sidewalks were to be constructed.

(1) Streets shall be graded, surfaced and improved to the dimensions required by the cross-sections. Pavement base and wearing surface shall be constructed according to the specifications of the Pennsylvania Department of Highways and/or the specifications as set forth by the Borough.

(2) Prior to placing street surface, adequate subsurface drainage for the streets and all utilities under the streets shall be provided by the subdivider or developer under the completion of the street improvements. Respective plans and profiles as built shall be filed with the Borough.

D. Curbs. Curbs shall be required on new streets in subdivisions and developments. Curbs shall be constructed in accordance with Borough specifications.

E. Sidewalks. Sidewalks shall be provided when considered necessary by the Borough for the protection of the public or whenever it is determined that the potential volume of pedestrian traffic or safety conditions creates the need for them. Sidewalks shall be provided where streets of a proposed subdivision or development are extensions or existing streets having a sidewalk on one or both sides. When sidewalks are required, they shall meet the following standards:

(1) Sidewalks shall be located within the street right-of-way, not less than one foot from the street right-of-way line, and shall be a minimum of four feet wide, except along collector and arterial streets, and in the vicinity of shopping centers, schools, recreation areas and other community facilities, where they shall be a minimum of five feet wide.

(2) Generally, a grass planting strip should be provided between the curb and sidewalk.

(3) Sidewalks shall be constructed of concrete and be at least four inches thick, underlain by three inches of compacted cinder, gravel or crushed stone.

(4) Sidewalks, if not required, shall be seeded and maintained by property owner.

(5) Where unusual or peculiar conditions prevail with respect to prospective traffic and/or safety of pedestrians, the Borough may require different standards or improvements than those set forth in the previous subsections. Crosswalks may be required when deemed necessary by the Borough.

(6) In all respects in which standards for required improvements are not set forth herein or specified by the Borough hereunder, the applicable standard requirements of the Pennsylvania Department of Highways shall govern, and all work shall be performed in a manner prescribed in the standard specifications for road construction of said department for the type of construction under consideration.

(7) Maximum slope of banks measured perpendicular to the center line of the street should be three to one for fills, and two to one for cuts.

F. Sanitary sewers.

(1) The method of sanitary waste disposal in a proposed subdivision or development shall be determined by the Borough. Generally, where a public sanitary sewer system is within 1,000 feet of, or where plans approved by the Borough Council provide for the installation of such public sanitary sewer facilities to within 1,000 feet of the proposed subdivision or developer,

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the subdivider or developer shall provide the subdivision or development with a complete sanitary sewerage system to be connected to the existing or proposed sanitary sewerage system at the expense of the subdivider or developer and under the supervision of the Borough. The system shall be designed by a registered engineer and meet the requirements of the DEP.

(2) To aid the Borough in making its decision upon the best method of sanitary waste disposal within a proposed subdivision or development, the subdivider or developer shall submit, accompanying the preliminary plan application, two copies of an engineering feasibility report. The submission of the water and sewerage feasibility report may be waived by the Borough when such report is not deemed necessary by the Borough.

G. Water.

(1) Where the municipal water supply system is within 1,000 feet of, or where plans approved by the Borough Council provide for the installation of municipal water supply facilities to within 1,000 feet of the proposed subdivision or development, the subdivision or development shall be provided with a complete water main supply system which shall be connected to the Borough water supply. The tap fee to be paid by the subdivider or developer. The system shall be designed by a registered engineer and approved by the Borough Engineer and DEP.

(2) The plans for the installation of the mains of a water supply system shall be prepared for the subdivision or development with the cooperation of the applicable Borough officials and approved by the Borough Engineer. A statement of approval from the Borough Engineer to which the subdivision or development will be connected shall be submitted to the Borough. Upon the completion of the water supply system, one copy of the plans for such system shall be filed with the Borough.

H. Storm drainage.

(1) An adequate storm sewer system consisting of inlets and other underground drainage structures with approved outlets shall be constructed where the runoff of stormwater and prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. Outlets shall be approved by the owners of the properties affected and by the Borough.

(2) Under no circumstances shall storm sewers be connected with sanitary sewers.

I. Off-street parking. Off-street parking shall meet the following standards:

(1) Each proposed dwelling unit in a subdivision or development shall be provided with off-street parking space. Such off-street parking space may be provided as an individual garage, carport, or driveway, preferably located behind the building line, or in a parking compound adjacent to or near the dwelling unit it serves. Driveway and parking compounds shall provide not less than 1 1/2 usable parking spaces of at least 400 square feet for each dwelling unit.

(2) In addition, paved truck loading areas shall be provided such that all truck loading, unloading, maneuvering can be accommodated within the property lines. All other off-street parking shall be as set forth in Chapter 205, Zoning.

(3) Industrial developments within the scope of these regulations shall provide a minimum of paved off-street parking in the ratio of two parking spaces for every three employees anticipated during the main work shift. In addition, paved truck loading areas shall be provided such that all truck loading, unloading and maneuvering can be accommodated within the property lines.

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J. Street signs. Street name signs shall be placed at all intersections in conformance with the specifications of the Borough.

§ 174-37. Recommended improvements.

The following improvements are recommended as valuable to safety, convenience and attractiveness of a subdivision or development. They, therefore, are a great asset not only to the Borough as a whole, but also to the potential buyer and future residents of the area.

A. Streetlights. In accordance with the conditions to be agreed upon by the subdivider or developer, the Borough and the appropriate public utility, streetlights are recommended to be installed in all subdivisions or developments. The subdivider or developer shall be responsible for making the necessary arrangements with the applicable agencies, and whether or not streetlights are initially installed, the subdivider or developer shall be responsible for providing utility easements for future streetlighting installations.

B. Shade trees. All possible efforts should be made by the subdivider or developer to preserve existing shade trees. When provided, shade trees or deciduous hardwood type with a minimum caliper of 1 1/2 inches shall be planted between the sidewalk and the building line at least five feet from the sidewalk or between the curb and sidewalk, provided the planting strip is a minimum of six feet wide.

C. Fire hydrants. Fire hydrants must be provided as an integral part of any water supply system and shall be in accordance with the specifications set forth by the National Fire Prevention Association. The fire hydrants shall be placed at intervals of not more than 1,000 feet and shall contain a minimum of two two-and-one-half-inch outlets and one four-and-one-half-inch bumper inlet.

D. Underground wiring. It is strongly recommended that all electric, telephone and television cable lines be placed underground. Trench arrangements should conform to accepted standards for safety and maintenance purposes.

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ARTICLE VII
Administration; Amendment; Severability

§ 174-38. Revision and amendment.

A. The governing body may, from time to time on its own motion, revise, modify, or amend this chapter in order to increase its effectiveness or to expedite the approval of land subdivision and/or land development plans.

B. Any revisions, modifications, or amendments of this chapter shall be made in accordance with the procedures established by law, after a public hearing on the proposed revisions, modifications, or amendments, held pursuant to public notice in accordance with the provisions of Act 247, as amended.[110]

C. In addition, the governing body shall submit each amendment to the County Planning Commission for recommendations at least 30 days prior to the date fixed for the public hearing on such proposed amendment.

§ 174-39. Modifications.

A. The Borough Council may grant a modification of the requirements of one or more provisions of this chapter, if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modifications will not be contrary to the public interest and that the purpose and intent of this chapter is observed. Hardship shall not be construed to include circumstances in which the alternate is merely less costly than that provided for within this chapter. All requests for a modification shall be in writing to the Borough and shall accompany and be a part of the application for development. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of this chapter involved and the minimum modification necessary. The Borough Council shall keep a written record of all action on all requests for modifications.

B. In granting modifications, the Borough Council may impose such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so modified.

§ 174-40. Appeals and challenges.

All appeals and challenges shall conform to the requirements and procedures as outlined in the Pennsylvania Municipalities Planning Code, as amended.[111]

§ 174-41. Fees.

A. The governing body shall establish, by resolution, a collection procedure and Schedule of Fees to be paid by the subdivider or developer for review of plans.

B. The Schedule of Fees shall be available in the municipal office, upon request.

C. The applicant shall reimburse the Borough for expenses incurred for the inspection of improvements.

§ 174-42. Preventive and enforcement remedies.

110.Editor's Note: See 53 P.S. § 10101 et seq.

111.Editor's Note: See 53 P.S. § 10101 et seq.

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A. Preventive remedies.

(1) In addition to other remedies, the Borough may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

(2) The Borough may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of this chapter. This authority to deny such a permit or approval shall apply to any of the following applicants:

(a) The owner of record at the time of such violation.

(b) The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

(c) The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.

(d) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or construction knowledge of the violation.

(3) As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Borough may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

B. Enforcement remedies.

(1) Any person, partnership or corporation who or which has violated the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the Magisterial District Judge, determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the Magisterial District Judge 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.

(3) Nothing contained in this section shall be construed or interpreted to grant to any person or

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entity other than the Borough the right to commence any action for enforcement pursuant to this section.

§ 174-43. Keeping of records.

The governing body shall keep a record of their findings, decisions, and recommendations relative to all subdivision or land development plans filed for review. Such records shall be made available to the public for review.

§ 174-44. Responsibility.

The subdivider shall be responsible for observing the procedures established in this chapter and for submitting all plans and documents as may be required.

§ 174-45. Conflicts.

A. Whenever there is a difference between the minimum standards specified herein and those included in other municipal ordinances or regulations, the more stringent requirements shall apply.

B. All existing ordinances or regulations or parts thereof which are contrary to the provisions of this chapter are hereby repealed to the extent necessary to give this chapter full force and effect.

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Chapter 176

SWIMMING POOLS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 5-8-1972 by Ord. No. 730 (part of Ch. 6 of the revised 1958 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 71.

Fees — See Ch. 92.

Property maintenance — See Ch. 146.

Zoning — See Ch. 205.

§ 176-1. Permit required; application; fee; exemptions.

A. Permits must be obtained for all swimming pools at the time they are first erected.

B. For pools already in use, permits must be obtained or applied for within two weeks of the effective date of this chapter.

(1) In-ground pools already in use do not need additional permits since they are covered by their original building permit.

(2) All aboveground pools need permits.

C. The permit fee for all aboveground pools shall be as set forth in the current Fee Ordinance as contained in Chapter 92, Fees.[112]

D. The permit fee for new in-ground pools is based on the building permit fee schedule.

E. Pools less than 18 inches deep are exempt.

F. Plastic wading pools that are emptied when not in use are exempt.

§ 176-2. Location and other requirements.

A. Pools must be located:

(1) Not less than six feet from any property line.

(2) Not less than 10 feet back from the rear building line.

(3) Not less than 15 feet back from the front building line.

(4) At least 10 feet from any overhead electric power lines (telephone lines are excluded).[113]

B. If pools are connected to any utility line, a separate valve must be installed.

C. All pools must have approved filtration systems and circulators.

112. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

113. Editor's Note: Original Sec. 6.232(b), regarding electrical work, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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D. Generally.

(1) Outdoor lighting shall be shielded from neighbors' property.

(2) Pools shall not be drained into adjoining land.

(3) Location shall be such as to minimize any nuisance.

§ 176-3. Safety requirements.

A. Fencing.

(1) For below-ground pools, fences shall be five feet high.

(2) For aboveground pools, fences shall be four feet high.

(3) Acceptable fences are chain link, stockade, solid wood or pickets not exceeding one-and-one-half-inch spacing.

(4) Any other type fence, including living fences, must be inspected and certified by the Code Enforcement Officer.

(5) Fences erected prior to the effective date of this chapter must be inspected and certified by the Code Enforcement Officer. Any fence already erected, but not in conformity, can be accepted at the discretion of the Code Enforcement Officer.

(6) All fences must be located at least six feet from the water's edge.

(7) All gates must be provided with a lock located at the top of the gate.

(8) One side of the fence, preferably the street side, shall be of an open-type fence.

(9) During excavation, the pool area must be fenced in a manner approved by the Code Enforcement Officer.

(10) Pools of new design having self-contained fences shall be inspected by the Code Enforcement Officer, who shall have the right to waive any of these regulations which he or she feels are not applicable.

B. Pool safety.

(1) First aid lifesaving equipment, such as ring buoys, grab poles, etc., must be available.

(2) The depth of the pool must be marked.

(3) Ladders on aboveground pools must be removed when not in use.

(4) A record of pool sanitation activities must be kept.

(5) A safety net or pool cover must be used during the off-season if the pool is not emptied.

§ 176-4. Violations and penalties.[114]

Any person who shall violate any of the provisions of this chapter shall, upon conviction, be subject to a

114.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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fine or penalty of not more than $600, plus the costs of prosecution, and, in default of payment thereof, to imprisonment for not more than 30 days in jail. Each day's continuance of violation shall constitute a separate offense.

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Chapter 178

TATTOO AND BODY ART ESTABLISHMENTS

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 12-1-2003 by Ord. No. 1202. Amendments noted where applicable.]

§ 178-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BODY PIERCING — Perforating the skin for the express intention of insertion of any object, including, but not limited to, jewelry; provided, however, that the piercing of the ears shall be specifically excluded from the purview of this chapter.

BRANDING — The process whereby heat is intentionally applied to the flesh of a person such that it burns the skin and forms a permanent scar. This includes, but is not limited to, hot metal, electric current, and chemicals. For the purposes of this chapter, this term shall only apply to people and not to animals.

ESTABLISHMENT — Any place where an operator performs or practices the art of tattooing and/or body piercing and/or branding.

HEALTH OFFICER — The Health Officer of the Borough of Tyrone, or representative.

OPERATOR — Any individual, firm, company, corporation or association that owns or operates an establishment where tattooing and/or body piercing is performed and any individual who performs or practices the art of tattooing and/or body piercing on another person.

TATTOO, TATTOOED, TATTOOING — Refers to any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of a human with ink or any other substance, resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin. This definition shall not apply to medical doctors or doctors of veterinary medicine in performance of their professional duties.

§ 178-2. License.

A. Required. It shall be unlawful for any person to engage in the business of operating a tattoo, branding, and/or body piercing establishment without first obtaining a license to engage in such business, in accordance with the provisions of this chapter and unless abiding by the provisions hereof.

B. Application for. Applicants for a license under this chapter shall submit to the Department a written application containing such data as required by the Tyrone Borough Health Officer.

C. Fee; expiration. Each applicant, before being granted a license, shall pay a fee of $50 per year, or portion thereof. Each license shall expire on December 31 of the year in which such license is issued.

D. Display of. The license provided for in this chapter shall be posted conspicuously at the location where the applicant conducts the tattooing.

E. Transferability. If the licensee moves his or her tattooing and/or body piercing business to another location within the Borough of Tyrone, the license may be transferred to such new location upon application to the Health Officer giving the street and number of the new location. The new location shall first be approved by the Health Officer in the same manner as provided in § 178-4 of this chapter. However, a license is not transferable to any operator other than the applicant.

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§ 178-3. Inspections.

The Health Officer may conduct periodic inspections of any tattooing and/or body piercing establishment for the purpose of determining whether or not said establishment and the persons performing tattooing and/or body piercing therein are in compliance with all applicable health provisions contained within this chapter. It shall be unlawful for any person or operator of a tattooing and/or body piercing establishment to willfully prevent or restrain the Health Officer from entering any licensed establishment where tattooing and/or body piercing is being performed for the purpose of inspecting said premises after proper identification is presented to the operator.

§ 178-4. Health and sanitary requirements.

A. Facilities and equipment.

(1) The room in which tattooing is done shall have an area of not less than 100 square feet. The walls, floors, and ceilings shall have an impervious, smooth, washable surface and shall be painted or finished in a light color. Carpeting is prohibited in tattooing area(s) and toilet room(s).

(2) A toilet shall be located in the establishment and shall be accessible at all times when the tattooing and/or body piercing establishment is open for business. The lavatories shall be supplied with hot and cold running water, soap, and single-use towels provided in approved dispensers, and shall be located in all toilet rooms and in each room where tattooing and/or body piercing is performed.

(3) The entire premises and equipment shall be maintained in a clean, sanitary condition and in good repair.

(4) The telephone numbers of local emergency medical services and local police shall be prominently posted at the main telephone. A standard first-aid kit shall be available at all times and shall be restocked within 24 hours of use.

(5) All pigments, dyes, colors, etc., used in tattooing shall be sterile and free from bacteria, virus particles, noxious agents, and substances. All bandages and surgical dressings used in connection with the tattooing and/or body piercing and/or branding of a person shall be sterile.

(6) All tables and other equipment shall be constructed of easily cleanable material, shall be painted or finished in a light color, with a smooth, washable finish and shall be separated from waiting customers or observers by a panel at least four feet high.

(7) Safety razors with a new, single-service blade for each customer or patron, or a straight-edge razor may be used and shall be thoroughly cleaned and sterilized, as required by the Health Officer, before use on each customer or patron. All other sharps, including needles, shall be either sterile single-use or sterilized in an approved manner as required by the Health Officer before use on each customer or patron.

(8) The needles and instruments required to be sterilized shall be so used, handled, and temporarily placed during tattooing and/or body piercing and/or branding so that they not be contaminated.

(9) All clean and ready-to-use needles and instruments shall be kept in a closed glass, metal case, or storage cabinet while not in use. Such cabinet shall be maintained in a sanitary manner at all times.

(10) Single-service or individual containers of dye or ink shall be used for each patron, and the

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container therefore shall be discarded immediately after completing work on a patron. Any dye in which the needles were dipped shall not be used on another person. Excess dye or ink shall be removed from the skin with an individual, sterile sponge or a disposable paper tissue, which shall be used on one person and then immediately discarded. After completing work on any person, the tattooed or body pierced area shall be washed with sterile gauze, saturated with an antiseptic soap solution approved by the Health Officer, or a seventy-percent alcohol solution. The tattooed area shall be allowed to dry.

(11) A steam sterilizer (autoclave) shall be provided for sterilizing reusable needles and similar instruments before use on any customer, person or patron. Sterilization of equipment shall be accomplished by exposure to live steam for at least 30 minutes at a minimum pressure of 15 pounds per square inch, temperature of 240° F. The autoclave shall be provided with a thermometer reading +2° accuracy, and an accurate steam pressure gauge. Alternate sterilizing procedures may only be used when specifically instructed by the manufacturer of the sterilizing equipment and approved by the Health Officer. A copy of the instructions from the manufacturer shall be maintained on site at all times.

(12) All instruments that are processed by sterilization must first be cleaned.

(13) All body piercing jewelry shall be made of high quality stainless steel, gold, inert plastics, or other approved materials found to be safe for use in body piercing. Jewelry to be inserted shall be sterilized or disinfected prior to insertion to the piercing site.

(14) Needles and all other sharp instruments along with gloves, gauze and other materials contaminated with blood shall be discarded as per the directions of the Health Officer.

B. Operations and establishment personnel.

(1) The operator shall scrub his/her hands thoroughly with soap and water before starting to tattoo, brand, and/or body pierce; the hands shall be dried with individual, single-use towels. Sterile surgical gloves (or the equivalent) shall be worn by the operator when tattooing, branding, and/or body piercing. Gloves shall be used only once and then disposed of in a manner as prescribed by the Department.

(2) No establishment employees with skin infections, open sore, and/or weeping dermatological lesions shall work in a tattoo, branding, and/or body piercing establishment until documentation is provided from a licensed physician indicating that the condition is no longer communicable or transmissible.

(3) Establishment employees are prohibited from providing services or working in a facility while having an acute respiratory infection or other disease or condition which has been diagnosed to be a communicable or transmissible condition. Documentation from a licensed physician indicating that the condition is no longer communicable or transmissible is required before returning to work.

(4) The area to be tattooed, branded, and/or body pierced (external) shall be thoroughly scrubbed with an antiseptic soap for a minimum of two minutes and an approved sterilizing preparation used. Any oral skin piercing procedure shall be preceded by the client performing not less than one minute, vigorous application of an antiseptic mouthwash. Waste materials shall be deposited in an easily cleanable, covered waste container provided in the work area.

(5) In addition to surgical gloves, personnel shall wear protective eye wear and a fluid-resistant

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mask when performing services. When branding, a smoke evacuator shall be used to remove any aerosolized particles.

(6) Only petroleum jelly in collapsible metal or plastic tubes (or its equivalent), as approved by the Health Officer, shall be used on the area to be tattooed and/or body pierced, and it shall be applied with sterile gauze.

(7) The use of styptic pencils, alum blocks, or other solid styptics to check the flow of blood is prohibited.

(8) No establishment licensed under this chapter shall attempt to remove a tattoo from any person or allow such a procedure to take place on its premises.

(9) Animals shall not be permitted in the tattooing establishment, except where permitted by law. Animals are not to be tattooed in tattooing establishments.

(10) Ear piercing guns may not be used for body piercing but may only be used for piercing ear lobes.

(11) Operators of tattoo, branding and/or body piercing establishments shall complete an approved course on the control of and prevention of blood-borne diseases prior to opening for business. Existing licensed tattoo and/or body piercing establishments shall have three months after the effective date of this chapter to comply.

C. Clients.

(1) No holder of a license hereunder, or the employee of such holder, shall tattoo any person under the age of 18 years without first obtaining a written parental authorization. All parental authorizations shall be maintained on file and be available for inspection for a period of three years.

(2) No tattooing, branding, and/or body piercing shall be done on a skin surface that has a rash, pimples, boils, infections, or manifests any evidence of unhealthy conditions.

(3) Licensed establishment personnel shall refuse service to any person who is under the influence of alcohol or drugs.

(4) After-care instructions shall be provided to each client following any procedure. After-care shall consist of both verbal and written instructions concerning the proper care of the body area involved and instruction to consult a physician if infection occurs.

(5) Each client shall complete an application prior to any procedure. The application shall include, at a minimum, the client's name, date of birth, proof of age, address, telephone number, procedure performed, date of procedure, name of employee providing service, and, if a minor, then proof of parental or guardian consent and client's signature. All applications shall be retained for a minimum of three years and made available upon request to the Health Officer.

D. Administration. In order to carry out the intent of this chapter, the Tyrone Borough Health Officer may promulgate, from time to time, rules and regulations pertaining to the requirements of sanitation, cleanliness, adequacy of facilities, equipment and operation of a tattooing, branding and/or body piercing establishment consistent with this chapter.

§ 178-5. Suspension and revocation of tattoo establishment license.

A. A tattoo and/or body piercing establishment license may be suspended or revoked by the Health

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Officer upon the occurrence of any of the following events:

(1) The application for such license contained a false statement(s);

(2) The operator has violated the provisions of this chapter; and/or

(3) The operator is convicted and pleads guilty or nolo contendere to an offense listed under the Pennsylvania Crimes Code relating to the conduct of business in the tattoo establishment.

B. The Health Officer shall serve the tattoo and/or body piercing establishment with written notice of said suspension or revocation, specifying the reasons therefor, before said suspension or revocation shall become effective. Service of said notice shall be deemed effective if delivered to the person in apparent charge of the tattoo and/or body piercing establishment.

C. The tattoo establishment shall have the right to a hearing on said suspension or revocation, which hearing shall be held before the Tyrone Borough Board of Health within 10 days after the service of the notice of such suspension or revocation, whether or not the suspension or revocation was effective immediately. The Board of Health shall uphold, reverse or modify such suspension or revocation.

§ 178-6. Violations and penalties.

In addition to the revocation and suspension of any license, as provided in this chapter, any operator or other person who shall violate any provision of this chapter shall, upon conviction, be subject to a fine of not less that $100 nor more than $600 and costs of the action. In default of payment of such fine and costs, such person may be sentenced and committed to the Blair County Prison for a period not exceeding 30 days. Each day that a violation exists shall constitute a separate violation.

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Chapter 180

TAXATION

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

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ARTICLE I
Amusement Device Tax[115]
[Adopted 11-13-1967 by Ord. No. 683 (part of Ch. 2 of the revised 1958 Code)]

§ 180-1. Definitions.

A. As used in this article, the following terms shall have the meanings indicated:

DEVICE — Any jukebox or mechanical or electrical amusement device for the use of which there is profit, a tax is levied under this article.

JUKEBOX — Any music vending machine, contrivance or device which, upon the insertion of a coin, slug, token, plate, disc or key into any slot, device or other opening, operates or may be operated for the emission of song, music or similar amusement.

MECHANICAL AMUSEMENT DEVICE — Any device, other than a jukebox, which, upon the insertion of a coin, slug, token, plate or disc, may be operated mechanically or electrically or manually for use as a game, entertainment or amusement whether or not registering a score and whether or not a prize is offered; provided, however, that such term shall not include any gambling device or any mechanism which has been judicially determined to be a gambling device.

PERSON — Any natural person, association, copartnership, firm or corporation.

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

§ 180-2. Authorization; amount. [Amended 12-10-2012 by Ord. No. 1338]

There is hereby imposed a tax for general Borough purposes under the authority of Act No. 511, The Local Tax Enabling Act of 1966,[116] and its amendments upon the privilege of using for profit within the Borough of Tyrone any jukebox or mechanical amusement device, as herein defined. Such tax shall be payable by the person owning and/or operating the establishment in which such device is installed for use at the following rates:

A. On each mechanical amusement device: $20 for each calendar year or any portion thereof.

B. On each jukebox: $15 for each calendar year or any portion thereof.

§ 180-3. When payable.[117]

On any device installed after January 15, 1968, the tax shall be paid immediately upon installation. No deduction or refund of any tax payable under this article shall be granted in the case of any tax payable for less than the full calendar year or in case of any device destroyed, stolen or sold or otherwise disposed of or transferred after the payment of such tax; provided, however, that in the case of the substitution of any device for another device in the same class, the use of which is taxable under this article, no additional tax shall be paid, provided that the total number of devices then of the same class in use upon the premises remains no greater than that upon which such tax was paid.

§ 180-4. Certificate of payment.

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115. **Editor's Note: Former Art. I, Per Capita Tax, adopted 11-13-1967 by Ord. No. 682, as amended, was repealed 12-18-1995 by Ord. No. 1098.**

116. **Editor's Note: See 53 P.S. § 6924.101 et seq.**

117. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**

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A. The Borough Secretary shall procure, at the expense of the Borough, a sufficient number of certificates, upon each of which the following information shall be printed or inserted in ink or by typewriter:

(1) The name of the Borough.

(2) The number of the certificate.

(3) The name and address of the person paying the tax.

(4) The year for which the tax shall have been paid.

(5) The date on which such tax shall have been paid.

(6) The type of device for which the tax shall have been paid.

(7) The amount of tax paid.

B. Whenever any tax shall have been paid under this article, the Borough Secretary shall prepare, in duplicate, a certificate as herein prescribed. The original of such certificates, to which the Borough Seal shall be affixed, shall be given to the person paying such tax, and the Secretary shall also procure and give to each person paying such tax a seal to be affixed to each device for the use of which such tax shall have been paid. Such seal shall indicate the year for which such tax shall have been paid, the type of device and the certificate number.

C. In case of the loss, defacement or destruction of any original certificate or seal, the person to whom such certificate or seal was issued shall apply to the Borough Secretary who may issue a new certificate or seal in replacement thereof, upon payment of a fee as set forth in the current Fee Ordinance as contained in Chapter 92, Fees, and who shall amend the duplicate of the certificate first issued in case that a new certificate has been issued.[118]

D. In case of the removal of any establishment in which any device for the use of which a tax shall have been paid under this article to another location in the Borough or in case of a change in the identity of such establishment, the taxpayer shall report such fact within five days of such change in location or personnel, and the Secretary shall immediately amend the certificate and duplicate certificate.

E. Before the removal of any device from any establishment, the person operating such establishment shall remove the seal issued under this article from such device.

§ 180-5. Overdue penalty.

If any tax levied in pursuance of this article shall not be paid when due, a penalty of 10% of the amount of tax due and unpaid shall be added thereto.

§ 180-6. Confidentiality.[119]

Any information gained by the Borough Secretary or any other official or agent of the Borough as a result of any applications, reports, investigations or verifications required or authorized under this article shall be confidential except as permitted with proper judicial order or as otherwise provided by law. Any disclosure of any information contrary to the provisions of this section shall constitute a violation of this article.

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118. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

119. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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§ 180-7. Recoverability.

All taxes imposed by this article, together with all penalties, interest and costs, shall be recoverable by the Borough Solicitor as debts of like amount are by law recoverable.

§ 180-8. Disposition of income.

All taxes, interests and penalties collected or recovered by the Borough Secretary or any other Borough officer or person for and in behalf of the Borough shall be paid into the Borough treasury as general revenue to be used for general revenue purposes.

§ 180-9. Payment of administrative expenses.

All expenses incurred in the administration of this article shall be paid by the Borough.

§ 180-10. Applicability.

This article shall not apply to any person or property to whom or which it is beyond the legal power of the Borough Council to impose the tax or duties herein provided.

§ 180-11. Violations and penalties.[120]

Any person who shall be convicted before any Magisterial District Judge for violating or failing to carry out any of the provisions or requirements of this article or of neglecting, failing or refusing to furnish complete and correct information or to pay over any tax levied by this article at the time required or of knowingly making any incomplete figures on fraudulent statements in connection therewith or of doing or attempting to do anything whatever to avoid the payment of the whole or any part of the tax imposed under this article shall be liable to a fine or penalty not exceeding $600 for each and every offense and the cost of prosecution thereof and, in default of payment of any such fine or cost, to imprisonment in the county jail for not more than 30 days, provided that such fine or penalty shall be in addition to any other penalty imposed by any other section of this article.

120.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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ARTICLE II
Local Services Tax[121]
[Adopted 11-9-1990 by Ord. No. 715 (part of Ch. 2 of the revised 1958 Code)]

§ 180-12. Authority.[122]

Pursuant to the authority granted by The Local Tax Enabling Act (53 P.S. § 6924.101 et seq.), the Borough Council of the Borough of Tyrone hereby imposes a local services tax for general revenue purposes to be levied and assessed as hereinafter provided.

§ 180-13. Definitions.

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

BOROUGH OF TYRONE — The area within the corporate limits of the Borough of Tyrone.

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.

FISCAL YEAR — The twelve-month period beginning January 1 and ending December 31 of any year.**[Amended 12-11-2006 by Ord. No. 1250]**

HE, HIS or HIM — Indicates the singular and plural number as well as male, female and neuter gender.

INDIVIDUAL — Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Borough of Tyrone.

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 Borough of Tyrone for which compensation is charged or received, whether by means of salary, wages, commissions or fees for services rendered.

RECEIVER OF TAXES — Such person as the Council of the Borough of Tyrone, by resolution, may appoint to collect and receive the taxes imposed by this article.

SECRETARY — The individual under whose direction this tax shall be enforced.

TAX — The local services tax in the amount of $52 levied by this article.**[Amended 12-11-2006 by Ord. No. 1250; 12-10-2007 by Ord. No. 1263]**

§ 180-14. Levy of tax; exemptions. [Amended 12-11-2006 by Ord. No. 1250; 12-10-2007 by Ord. No. 1263]

The Borough of Tyrone hereby levies and imposes on each occupation engaged in by individuals within its corporate limits during the fiscal year a local services tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough of Tyrone. The purpose and exemptions from said tax are as follows:

A. Purpose of tax. Subject to Subsection B, a tax for funding emergency services which shall include emergency medical services, police services and/or fire services; road construction and/or

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121. Editor's Note: Ordinance No. 1263, adopted 12-10-2007, retitled this article from "Occupational Privilege Tax" to "Local Services Tax."

122. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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maintenance; reduction of property taxes; and property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S.A. Ch. 85, Subch. F (relating to homestead property exclusion) (as may be determined in the discretion of the Borough of Tyrone), in the amount of $52 is hereby imposed on total earned income and/or net profits from all sources made by all persons within the Borough of Tyrone in the year 2007 after the effective date of this section,[123] and in each following calendar year. The amount of the said tax imposed hereby shall take into consideration any such similar tax amount imposed by a school district. Each natural person who exercises such privilege for any length of time in any calendar year beginning with the year 2008, after the effective date of this section,[124] shall pay the tax in accordance with the provisions hereof. The Borough of Tyrone shall use no less than 25% of the funds derived from the local services tax for emergency services.

B. Exemptions from payment of tax.

(1) The following persons shall be exempt from the payment of a local services tax:

(a) Any person whose total earned income and/or net profits from all sources within the Borough of Tyrone is less than $12,000 for the calendar year in which the local services tax is levied.

(b) Any person who served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veteran's Administration or its successor to be a total one-hundred-percent permanent disability.

(c) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For purposes of this subsection, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

(2) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the Borough of Tyrone and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Borough of Tyrone of less than $12,000 in the calendar year for which the exemption certificate is filed. The exemption certificate shall have attached to it a copy of all of the employee's last pay stubs or W-2 forms from employment within the Borough of Tyrone for the year prior to the fiscal year for which the employee is requesting to be exempted from the local services tax. Upon receipt of the exemption certificate and until otherwise instructed by the Borough of Tyrone or except as required by Subsection B(5) hereof, the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form, as prepared and provided by the Pennsylvania Department of Community and Economic Development, at the time of hiring.

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123. Editor's Note: Ordinance No. 1263 provided for an effective date of 1-1-2008.

124. Editor's Note: Ordinance No. 1263 provided for an effective date of 1-1-2008.

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(3) With respect to a person who claimed an exemption for a given calendar year from the local services tax, upon notification to an employer by the person or by the Borough of Tyrone that the person has received earned income and net profits from all sources within the Borough of Tyrone equal to or in excess of $12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within that political subdivision in an amount equal to or in excess of $12,000 in that calendar year, an employer shall withhold the local service tax from the person pursuant to Subsection B(4).

(4) If a person who claimed an exemption for a given calendar year from the local services tax becomes subject to the tax for the calendar year under Subsection B(3), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under Subsection B(3), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this Subsection B, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this subsection is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due and the Borough of Tyrone may pursue collection pursuant to applicable law.

§ 180-15. Amount of tax. [Amended 12-11-2006 by Ord. No. 1250]

Beginning with the first day of January 2007, and each occupation, as hereinbefore defined, engaged in within the corporate limits of the Borough of Tyrone shall be subject to an local services tax in the amount of $52 per annum, said tax to be paid by the individual so engaged.

§ 180-16. Duty of employers. [Amended 12-11-2006 by Ord. No. 1250]

A. Each employer within the Borough of Tyrone as well as those employers situated outside the Borough of Tyrone, but who engage in business within the Borough of Tyrone, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Borough of Tyrone the said tax of $52 per annum and making a return payment thereof to the Receiver of Taxes. Further, each employer is hereby authorized to deduct this tax from each employee in said employer's employ, whether said employee is paid by salary, wages or commission and whether or not part or all such services are performed within the Borough of Tyrone. **[Amended 12-10-2007 by Ord. No. 1263]**

B. Each employer shall pro rate and deduct the tax from each payroll period in which the taxpayer is engaging in an occupation in the manner hereinafter set forth. The pro rata share of the tax assessed on the taxpayer for a payroll period shall be determined by dividing the combined rate of the local services tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest 1/100 of a dollar. Collection of the local services tax levied hereunder shall be made on a payroll-period basis for each payroll period in which the person is engaging in an occupation, except a provided in Subsection C. For each taxpayer for whom no prior deduction has been made, who is employed after the effective date of this subsection,[125] but for less than a calendar year, each employer shall deduct the full amount of the local services tax on a pro rata basis from the payroll periods remaining in the calendar year as required

125.Editor's Note: Ordinance No. 1263 provided for an effective date of 1-1-2008.

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herein, from compensation payable to the taxpayer, file a return on a form prescribed by the Receiver of Tax, and pay said Collector the full amount of all taxes deducted, within 30 days after the end of each quarter of the calendar year during which the taxpayer is employed. **[Amended 12-10-2007 by Ord. No. 1263]**

C. In the case of concurrent employment, an employer shall refrain from withholding the local services tax, if the taxpayer provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the local services tax withheld and a statement from the taxpayer that the pay statement is from the employee's principal employer and the taxpayer will notify other employers of a change in principal place of employment within two weeks of its occurrence.

D. Each employer required to withhold the local services tax from a taxpayer shall file a return or a form prescribed by the Receiver of Tax, and pay to said Receiver of Tax the full said pro rated taxes deducted within 30 days after the end of each quarter of a calendar year.

§ 180-17. Filing of returns. [Amended 12-11-2006 by Ord. No. 1250]

Each employer shall prepare and file a return within 30 days after the end of each quarter of a calendar year, showing a computation of the tax on forms to be supplied to him by the Receiver of Tax. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to said employee, the employer shall be responsible for the payment of the tax in full as though the tax had originally been levied against him.

§ 180-18. (Reserved)[126]

§ 180-19. Individuals engaged in more than one occupation.

Each individual who shall have more than one occupation within the Borough of Tyrone 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 Borough of Tyrone, 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.

§ 180-20. Self-employed individuals.[127]

All self-employed individuals who perform services of any type or kind or engage in any occupation or profession within the Borough of Tyrone shall be required to comply with this article and to pay the tax to the Receiver of Taxes on June 15 or as soon thereafter as they engage in an occupation.

§ 180-21. Provisions for residence outside of Borough.

All employers and self-employed individuals residing or having their places of business outside of the Borough of Tyrone but who perform services of any type or kind or engage in any occupation or profession within the Borough of Tyrone do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as

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126.Editor's Note: Original Sec. 6 of Ord. No. 715, Dates for determining taxes, was repealed 12-11-2006 by Ord. No. 1250.

127.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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though they were residents of the Borough of Tyrone. Further, any individual engaged in an occupation within the Borough of Tyrone and an employee of a nonresident employer may, for the purpose of this article, be considered a self-employed person and in the event that this tax is not paid, the Borough shall have the option of proceeding against either the employer or the employee for the collection of this tax, as hereinafter provided.

§ 180-22. Administration of tax.

A. It shall be the duty of the Receiver of Taxes 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.

B. The Secretary is hereby charged with the administration and enforcement of this article and is hereby charged and empowered to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of the payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Secretary shall have the right to appeal to the Court of Common Pleas of Blair County, as in other cases provided.

C. The Secretary 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 Secretary the means, facilities and opportunity for such examination.

D. The Borough of Tyrone is hereby authorized to, and the Tax Receiver shall, adopt regulations for the processing of refund claims for the local services tax paid by any person who is eligible for the exemption, consistent with 53 Pa.C.S.A. § 8425 (relating to refunds of overpayments) and § 8426 (relating to interest on overpayment). Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the local services tax for the last quarter of the calendar year pursuant to this article, which ever is later, shall not be subject to interest imposed under 53 Pa.C.S.A. § 8426. Refunds shall only be made for amounts overpaid in a calendar year that exceed $1. **[Added 12-11-2006 by Ord. No. 1250; amended 12-10-2007 by Ord. No. 1263]**

§ 180-23. Suits for collection.

A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Receiver of Taxes may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.

B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of 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 liable therefore shall, in addition, be responsible and liable for the costs of collection.

§ 180-24. Violations and penalties. [Amended 12-11-2006 by Ord. No. 1250]

Whoever makes any false or untrue statement on any return required by this article, 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 whoever fails or refuses to file any return

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required by this article, shall, upon conviction before the Magisterial District Judge, be sentenced to pay a fine of not more than $600 for each offense and, in default of payment of said fine and costs, be imprisoned in Blair County Prison for a period not exceeding 30 days for each offense. 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 article.

§ 180-25. Continuation of provisions. [Added 12-10-2012 by Ord. No. 1338]

The local services tax imposed by this article and all the provisions of this article shall continue in full force and effect without annual reenactment.

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ARTICLE III
Earned Income Tax[128]
[Adopted 12-20-1989 by Ord. No. 971; amended in its entirety 12-12-2011 by Ord. No. 1321]

§ 180-26. Definitions.

All terms defined in the Local Tax Enabling Act[129] shall have the meanings set forth therein. The following terms shall have the meanings set forth herein:

COLLECTOR — The person or entity appointed as tax officer pursuant to the Local Tax Enabling Act to collect the tax.

EFFECTIVE DATE — January 1, 2012.

ENACTMENT — This article.

GOVERNING BODY — The Borough Council of the Borough of Tyrone.

LOCAL TAX ENABLING ACT — The Local Tax Enabling Act, as set forth in 53 P.S. § 6901 et seq., while such numbering and provisions remain in effect under Act 32 of 2008, and as set forth in 53 P.S. § 6924.101 et seq., when such numbering and provisions become effective under Act 32, and as amended in the future.

TAX — The tax imposed by this enactment.

TAXING AUTHORITY — The Borough of Tyrone.

TAX RETURN — A form prescribed by the Collector for reporting the amount of tax or other amount owed or required to be withheld, remitted, or reported under this enactment or the Local Tax Enabling Act.

TAX YEAR — The period from January 1 to December 31.

TCC — The tax collection committee established to govern and oversee the collection of earned income tax within the TCD under the Local Tax Enabling Act.

TCD — Any tax collection district to which the taxing authority or any part of the taxing authority is assigned under the Local Tax Enabling Act.

§ 180-27. Imposition of tax.

A. General purpose taxes.

(1) General purpose resident tax. The taxing authority hereby imposes a tax for general revenue purposes at the rate of 1.25% on earned income and net profits of individual residents of the taxing authority.

(2) General purpose municipal nonresident tax. The taxing authority also imposes a tax for general revenue purposes at the rate of 1% on earned income and net profits derived by an individual who is not a resident of the taxing authority from any work, business, profession, or activity of any kind engaged in within the boundaries of the taxing authority.

B. Ongoing tax. The tax shall continue at the above rates during the current tax year and each tax year thereafter, without annual reenactment, until this enactment is repealed or the rate is changed.

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128. Editor's Note: Former Art. III, Realty Transfer Tax, adopted 11-13-1967 by Ord. No. 684, was repealed 11-6-2006 by Ord. No. 1247. See now Art. V, Realty Transfer Tax.

129. Editor's Note: See 53 P.S. § 6924.101 et seq.

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C. Combined tax rate applicable to residents. Currently, the total rate applicable to residents of the taxing authority, including the tax imposed by the school district and municipality in which the individual resides, is 1.90%.

D. Municipal tax rate applicable to nonresidents. Currently, the total rate applicable to nonresidents working within the taxing authority based on the municipal nonresident tax rate is 1%.

E. Local Tax Enabling Act applicable. The tax is imposed under authority of the Local Tax Enabling Act, and all provisions thereof that relate to a tax on earned income or net profits, are incorporated into this enactment. Any future amendments to the Local Tax Enabling Act that are required to be applied to a tax on earned income or net profits will automatically become part of this enactment upon the effective date of such amendment, without the need for formal amendment of this enactment, to the maximum extent allowed by 1 Pa.C.S.A. § 1937.

F. Applicable laws, regulations, policies, and procedures. The tax shall be collected and administered in accordance with: 1) all applicable laws and regulations; and 2) regulations, policies and procedures adopted by the TCC or by the Collector. This includes any regulations, policies, and procedures adopted in the future to the maximum extent allowed by 1 Pa.C.S.A. § 1937.

§ 180-28. Exemption from tax.

Although credits and deductions against the tax are permitted under certain circumstances as provided in applicable law and regulations, no individuals are exempt from tax based on age, income, or other factors.

§ 180-29. Individual tax returns and payments.

Every individual receiving earned income or earning net profits in any tax year shall file tax returns and pay the tax in accordance with the Local Tax Enabling Act.

§ 180-30. Employer withholding, remittance and tax returns.

Every employer shall register, withhold, and remit the tax, and file tax returns in accordance with the Local Tax Enabling Act.

§ 180-31. Tax Collector.

The tax will be collected from individuals and employers by the Collector.

§ 180-32. Interest, penalties, costs and fines.

Individuals and employers are subject to interest, penalties, costs, and fines in accordance with the Local Tax Enabling Act, including costs imposed by the Collector in accordance with the Local Tax Enabling Act.

§ 180-33. Severability.

The provisions of this enactment are severable, and if any of its provisions are ruled by a court invalid or unconstitutional, such decision shall not affect or impair any of the remaining provisions of this enactment. It is declared to be the intention of the governing body that this enactment would have been adopted if such invalid or unconstitutional provision had not been included.

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§ 180-33.1. Purpose; amendment and restatement; effect on prior provisions.

The primary purpose of this enactment is to conform the earned income and net profits tax currently imposed to the Local Tax Enabling Act, as amended and restated by Act 32 of 2008, and to do so within the time frame required by Act 32. Any prior enactment imposing a tax on earned income or net profits of individuals is amended and restated in its entirety to read as stated in this enactment. Any other prior enactment or part of any prior enactment conflicting with the provisions of this enactment is rescinded insofar as the conflict exists. To the extent the same as any enactment in force immediately prior to adoption of this enactment, the provisions of this enactment are intended as a continuation of such prior enactment and not as a new enactment. If this enactment is declared invalid, any prior enactment levying a similar tax shall remain in full force and effect and shall not be affected by adoption of this enactment. If any part of this enactment is declared invalid, the similar part of any prior enactment levying a similar tax shall remain in effect and shall not be affected by adoption of this enactment. The provisions of this enactment shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish offenses under the authority of any enactment in force prior to adoption of this enactment. Subject to the foregoing provisions of this section, this enactment shall amend and restate on the effective date any enactment levying a tax on earned income or net profits in force immediately prior to the effective date.

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ARTICLE IV
Local Taxpayer's Bill of Rights
[Adopted 3-8-1999 by Ord. No. 1152]

§ 180-34. Rules and regulations.

The rules and regulations, attached hereto as Exhibit 1 and incorporated herein, are hereby approved and adopted.[130]

§ 180-35. Disclosure statement.

The disclosure statement, substantially in the form set forth in Exhibit 2 attached hereto and incorporated herein, is hereby approved and adopted.[131]

§ 180-36. Petition for appeal and refund.

The form of petition for appeal and refund, substantially in the form set forth in Exhibit 3 attached hereto and incorporated herein, is hereby approved and adopted.[132]

§ 180-37. Appeals undertaken by hearing officer.

The Council of the Borough of Tyrone hereby determines that administrative appeal procedures relating to petitions for appeal and refund submitted by taxpayers in connection with the assessment, determination or refund of an eligible tax under the LTBR shall be undertaken by a hearing officer.

§ 180-38. Appointment of hearing officer.

The Council of the Borough of Tyrone hereby appoints the Borough Manager/Secretary as hearing officer.

§ 180-39. Appeal procedures.

The administrative appeal procedures set forth in the rules and regulations and substantially in the form set forth in Exhibit 4, attached hereto and incorporated herein, are hereby approved and adopted.[133]

§ 180-40. Effective date.

This article shall become effective in accordance with the provisions of law and shall be applicable to eligible taxes as of January 1, 1999.

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130. Editor's Note: Exhibit 1 is on file in the Borough offices.

131. Editor's Note: Exhibit 2 is on file in the Borough offices.

132. Editor's Note: Exhibit 3 is on file in the Borough offices.

133. Editor's Note: Exhibit 4 is on file in the Borough offices.

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ARTICLE V
Realty Transfer Tax
[Adopted 11-6-2006 by Ord. No. 1247]

§ 180-41. Short title.

This article shall be known as the "Realty Transfer Tax Ordinance of Tyrone Borough."

§ 180-42. 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 Tyrone Borough, 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.

§ 180-43. Definitions.

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

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.

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 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 this article.

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:

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; or

E. Manufacturing or processing operations of any kind.

MEMBERS OF THE SAME FAMILY — Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the

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foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood.

PERSON — Every natural person, association, or corporation. Whenever used in any clause 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 —

(1) All lands, tenements or hereditaments within the Borough of Tyrone, 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.

(2) A condominium unit.

(3) A tenant-stockholder's interest in any 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:

(1) Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or

(2) 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.

TAX COLLECTOR — The various tax collectors designated by the Council of the Borough of Tyrone to collect the taxes and enforce the provisions of this article.

TITLE TO REAL ESTATE —

(1) 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; or

(2) 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 approximating those of an estate in fee simple, life estate or perpetual leasehold, including, without limitation, a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

TRANSACTION — The making, executing, delivering, accepting, or presenting for recording of a document.

VALUE —

(1) 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

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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;

(2) In the case of a gift, sale by execution upon a judgment 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 real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations;

(3) In the case of an easement or other interest in real estate, the value of which is not determinable under Subsection (1) or (2) of this definition, the actual monetary worth of such interest; or

(4) 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 principal of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

§ 180-44. Imposition of tax; interest.

A. 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 30 days of acceptance of such document or within 30 days of becoming an acquired company.

B. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Recorder whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.

C. It is the intent of this article 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 P.S. § 6901 et seq.,[134] so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer, then the tax levied by the Borough of Tyrone under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be 1/2 of the rate and such 1/2 rate shall become effective without any action on the part of the Borough of Tyrone; provided, however, that the Borough of Tyrone and any other political subdivision which imposes such tax on the same person or transfer may agree that, instead of limiting their respective rates to 1/2 of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the minimum rate permitted under the Local Tax Enabling Act.

D. If for any reason the tax is not paid when due, interest shall accrue as prescribed for interest on

134. Editor's Note: See now 53 P.S. § 6924.101 et seq.

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delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P.S. § 7101 et seq.), as amended, known as "The Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the interest rate imposed upon delinquent commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176) (72 P.S. § 806), as amended, known as "The Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

§ 180-45. 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 article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

§ 180-46. Excluded transactions.

A. The tax imposed by § 180-44 shall not be imposed upon:

(1) 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 line adjustments, provided said reconveyance is made within one year from the date of condemnation.

(2) A document which the Borough of Tyrone is prohibited from taxing under the Constitution or statutes of the United States.

(3) A conveyance to a municipality, Borough, school district or county pursuant to acquisition by the municipality, Borough, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.

(4) 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.

(5) 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 than their undivided interest, tax is due on the excess.

(6) 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 and 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 of the 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 one year shall be subject to tax as if the grantor were making such transfer.

(7) 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 devisee or heir.

(8) 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

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to all of the possible beneficiaries, whether or not such 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.

(9) A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.

(10) A transfer for no or nominal actual consideration from trustee to successor trustee.

(11) A transfer for no or nominal actual consideration between principal and agent or straw party, or 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 article. 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 grantee claims an exemption from taxation under this subsection.

(12) 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 article.

(13) 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 two years.

(14) A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt or the grantee or a transfer to a nonprofit industrial development agency or authority.

(15) A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:

(a) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conservation, energy production, pollution control, warehousing or agriculture; and

(b) The agency or authority has the full ownership interest in the real estate transferred.

(16) 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.

(17) 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.

(18) 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

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primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.

(19) 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.

(20) A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.

(21) A transaction wherein the tax due is $1 or less.

(22) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

B. 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 this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this article.

§ 180-47. Documents relating to associations or corporations and members, partners, stockholders or shareholders thereof.

Except as otherwise provided herein, 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 purpose of this article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

§ 180-48. Acquired company.

A. A real estate company is an acquired company under 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 three years.

B. 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 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 article.

C. 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 county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

§ 180-49. Credits against tax.

A. 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 purpose 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

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toward the amount of the tax due upon the transfer.

B. Where there is a transfer by a builder of residential property which was transferred to the builder 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.

C. 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.

D. 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.

E. 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.

§ 180-50. Extension of lease.

In determining the term of a lease, it shall be presumed 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.

§ 180-51. Proceeds of judicial sale.

The tax herein imposed shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made, except the state realty transfer tax, and the Sheriff or other officer conducting 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.

§ 180-52. Administration.

A. As provided in 16 P.S. § 11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax, provided that if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Borough of Tyrone, pursuant to Section 1102-D of the Tax Reform Code of 1971 (72 P.S. § 8102-D), as amended from time to time, authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties.

B. 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.

C. On or before the 10th of each month, the Recorder shall pay over to the Borough of Tyrone 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 two-percent commission shall be paid to the county.

D. 72 P.S. § 8105-C, covering documentary stamps, is hereby incorporated herein by reference thereto;

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provided, however, "ordinance" shall be substituted for "article" and "Borough of Tyrone" shall be substituted for "Department."

E. 72 P.S. § 8106-C, Furnishing stamps, is hereby incorporated herein by reference thereto except Subsections (b) and (c) are deleted in their entirety. Furthermore, "ordinance" shall be substituted for "article" and "Borough of Tyrone" shall be substituted for "Department."

F. 72 P.S. § 8108-C, Failure to affix stamps, is hereby incorporated herein by reference thereto; provided, however, "ordinance" shall be substituted for "article."

§ 180-53. Statement of value.

Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by 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 reasons, if any, why such document is not subject to tax under this article. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this subsection 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 article.

§ 180-54. Civil penalties.

A. If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.

B. In the case of failure to record a declaration required under this article on 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 such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

§ 180-55. Lien.

The tax imposed by this article shall become a lien upon the lands, tenements, or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Borough of Tyrone, 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 article, said lien to begin at the time when the tax under this article is due and payable, and continue until discharged by payments, 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 Blair 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.

§ 180-56. Refunds.

A. Whenever the amount due upon determination, redetermination or review is less than the amount paid to the Borough of Tyrone on account thereof, the Borough of Tyrone shall enter a credit in the amount of such difference to the account of the person who paid the tax.

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B. Where there has been no determination of unpaid tax, the Borough of Tyrone shall have the power, and its duty shall be, to hear and decide any application for refund and, upon the allowance of such application, to enter a credit in the amount of the overpayment to the account of the person who paid the tax. Such application must be filed within two years after the date of payment.

§ 180-57. Enforcement.

All taxes imposed by this article, together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

§ 180-58. Regulations.

The Tax Collector of the Borough of Tyrone is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of 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 part of this article.

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Chapter 182

TOWING

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 2-9-2009 by Ord. No. 1282. Amendments noted where applicable.]

GENERAL REFERENCES

Fees — See Ch. 92.

Designated parking — See Ch. 138.

Abandoned and junked vehicles — See Ch. 188.

Vehicles and traffic — See Ch. 190.

On-road repair of vehicles — See Ch. 192.

§ 182-1. Purpose.

The Borough Council of the Borough of Tyrone believes that it is necessary for the health and safety of Borough residents to provide for a convenient and equitable towing system for the timely removal of motor vehicles damaged, abandoned, immobilized, illegally parked or disabled on public right-of-way or public property within the Borough of Tyrone.

§ 182-2. Definitions.

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

BOROUGH OF TYRONE and/or TYRONE BOROUGH — The Borough of Tyrone, County of Blair, and State of Pennsylvania.

CHIEF OF POLICE — The Chief of Police of the Borough of Tyrone or the said Chief's designee.

STORAGE FACILITY — A secured area for the storage of towed vehicles.

TOWING COMPANY — Any business engaged in the towing, removing or storing of motor vehicles at the request of Tyrone Borough. This includes the towing company owner and its employees.

TOWING LIST — The list of licensed towing companies maintained by the Chief of Police.

VEHICLE — For the purposes of this chapter, all automobiles, trucks, truck-tractors, trailers and other vehicles of any kind shall hereafter be referred to as "vehicle(s)."

WRECKER — A vehicle designed and used for removing and transporting motor vehicles. This term shall also include a rollback truck, tow truck or other vehicle commonly used to perform towing services.

§ 182-3. Authority to remove and impound.

The Chief of Police and any police officer and or authorized employee of the Tyrone Borough Police Department designated by the Chief of Police shall be authorized to:

A. Order to be removed, cause to be removed, or remove and/or impound vehicles parked illegally and otherwise in accordance with the appropriate sections of the Pennsylvania Vehicle Code, as amended from time to time.[135]

B. Order to be removed, cause to be removed, or remove and impound any vehicle parked on any

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Borough street, highway, or public property of the Borough in violation of any other provision of the Pennsylvania Motor Vehicle Code, Borough ordinance or traffic rule.

§ 182-4. Annual license required.

Any towing company engaged in the business of towing vehicles at the request of Tyrone Borough from highways, public rights-of-way, or other public property in Tyrone Borough shall be licensed annually in accordance with the provisions of this section.

A. Applications for license. Applications for license shall be submitted to the Chief of Police upon forms prepared and made available by Tyrone Borough. The application form shall be properly completed, signed and accompanied by the license fee. The Chief of Police shall review and inspect the required storage facility and towing equipment and all applications for compliance with the terms of this chapter.

B. Application/license fee. The nonrefundable application/license fee shall be in the amount as established by Tyrone Borough and adopted as part of Chapter 92, Fees, of the Code of the Borough of Tyrone. This fee is imposed to cover the cost of wrecker/storage facility inspection and license documentation processing.

C. Issuance of license. A towing license shall be issued only to towing companies that comply with the provisions of this chapter. The issuance of a towing license shall not create a property right for the towing company.

D. License renewal. All licenses, except those terminated for just cause as provided herein, are subject to an annual renewal fee, as established by Tyrone Borough from time to time, to be paid to Tyrone Borough each January. This fee is imposed to cover the cost of reinspection and license renewal document processing.

§ 182-5. Minimum qualifications.

To be licensed to tow vehicles at the request of Tyrone Borough, towing companies shall maintain the following:

A. At least one wrecker that is in safe mechanical condition, and properly titled and registered.

B. The wrecker shall be owned or leased by the towing company and shall not be used or operated by any other towing company.

C. All wreckers shall be clearly marked with the towing company's name and telephone number on each side of the vehicle.

D. All wreckers shall be equipped with appropriate safety equipment (fire extinguisher, warning devices, etc.) and any other equipment necessary to perform the function and comply with the PA Vehicle Code regarding removal of debris.[136]

E. Towing companies shall provide its employees training on the proper clean up of accident debris from the roadways.

F. Established place of business and storage facility.

135.Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

136.Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

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(1) The towing company shall be directly accessible 24 hours a day, by no more than one phone number. The employment of answering machines or other such devices is not considered as making the company directly accessible.

(2) All towing companies and storage facilities used for impoundment of vehicles towed at the request of the Borough shall be located within 10 road miles of the Tyrone Borough Municipal Building, 1100 Logan Avenue, Tyrone, PA. **[Amended 9-14-2009 by Ord. No. 1285]**

(3) The storage facility shall be owned or leased by the towing company owner.

(4) The storage facility shall be capable of storing no less than three standard-sized vehicles and of being locked preventing general access to vehicles therein by means of a barrier at least six feet high. The towing company owner shall be responsible for the security of the stored vehicles.

(5) The storage facility shall be regularly open for the conduct of business, receiving of payments due, release of vehicles, etc., a minimum of 40 hours, Monday through Friday, between 7:00 a.m. and 5:00 p.m.

G. Insurance. Towing companies shall be required to carry insurance at the minimum policy limits as set forth below. Towing companies shall also be required to provide the Borough of Tyrone with a copy of said insurance policy.

(1) Automobile liability insurance in an amount not less than $500,000, combined single limits.

(2) Workers' compensation insurance, as required by Pennsylvania law.

(3) Garage keepers' liability insurance in an amount not less than $50,000 per single limit.

(4) Garage liability insurance in an amount not less than $500,000 combined single limit.

(5) Miscellaneous coverage to provide complete protection to the Borough against any and all risks of loss or liability, including comprehensive general liability.

(6) Collision coverage for vehicles in tow.

(7) The Borough shall be listed as an additional insured party on all policies, and such policies shall contain a provision requiring notification to the Borough prior to any policy revision or termination.

(8) Towing companies shall provide Tyrone Borough with a letter of bonding indicating coverage in the minimum of $50,000.

(9) Each insurance policy covering a towing company shall indicate that Tyrone Borough shall be held harmless once a vehicle has been hooked to the towing company's wrecker in preparation to be towed from a roadway.

§ 182-6. Towing rotation.

A. The Chief of Police shall maintain the list of licensed towing companies, listed alphabetically, which may be requested to tow by authorized Tyrone Borough employees on a rotating basis.

B. "Rotating basis" means the towing company appearing on top of the list shall be requested first to do the tow. Once the towing company on the top of the list is requested, that name shall be placed on the bottom of the list. Thereafter, for each subsequent request, the process shall be repeated. However, in

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the event that the owner and/or operator of a vehicle needing a tow requests a specific towing company, that request shall not affect the requested towing company's placement on the rotation list.

C. If a towing company refuses, is not available, does not answer the phone or can't meet the required response time, said towing company shall be replaced by the next towing company. Any towing company that refuses a call or is unavailable three times within a two-month period shall be placed on review with the Chief of Police with the possibility of removal from the rotation list and nonrenewal of license.

D. This rotation may be waived when removal of a vehicle is critical to public safety, as determined by the investigating police officer at the incident scene. However, nothing herein shall be intended to permit or encourage towing companies to respond to accident/incident scenes without being summoned in accordance with the requirements of herein.

§ 182-7. General regulations.

A. The towing company requested shall respond to the tow location within 20 minutes of the request, unless there are circumstances, such as adverse road conditions, that are beyond the towing companies control that would prohibit them from doing so.

B. Nothing in this chapter is intended to permit or encourage the towing company to violate any provision of the PA Vehicle Code[137] or to operate a vehicle in an unsafe manner.

C. Towing companies licensed by the Borough shall be available to tow vehicles 24 hours a day, seven days a week.

D. All vehicles removed, transported or conveyed at the request of the Borough shall be stored at the towing company's storage facility, or at a property owned or controlled by the Borough, or at a location specified by the vehicle owner or operator.

E. Towing company owners shall comply with all local, state and federal laws and regulations and are responsible for insuring that all of their employees adhere to them.

F. Towing companies shall be responsible for the conduct of all drivers and employees. The driver's license of persons towing for a towing company is subject to inspection by the Chief of Police.

§ 182-8. Prohibited acts.

It shall be a prohibited act for any towing company to:

A. Subcontract towing services requested by the Borough.

B. Respond, tow or move a vehicle from or within public property without the consent of the owner or operator, or without being summoned by the Borough pursuant to § 182-6.

C. Use the "Borough of Tyrone" and/or "Tyrone Borough" in the name of the towing company.

D. Arriving at the scene of any incident/accident without being requested to do so by the Borough of Tyrone or the Blair County 911 Center and/or the owner/operator of a vehicle to be towed. "Responding/arriving at the scene of any incident/accident" shall mean by wrecker or by any other means of transportation, including private vehicle.

137.Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

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E. It shall be unlawful for any owner and/or employee of any towing company to approach any vehicle operator or passenger at the scene of any incident/accident to solicit a towing job.

§ 182-9. Record of vehicles towed or stored.

Every licensed towing company shall make a written record of each vehicle towed or stored and maintain such records for a period of two years which shall be subject to inspection by the Chief of Police. The records shall contain the following information:

A. Registration plate number and state.

B. Make and color of vehicle.

C. Time call for service was received.

D. Time wrecker arrived at scene.

E. Date the vehicle was returned to owner/custodian.

F. Towing and storage charges for each towed vehicle.

G. Name of wrecker driver.

H. Each location to which the vehicle was towed.

I. Person authorizing the tow (owner/operator, Police Department, etc.).

§ 182-10. Restrictions upon removal of vehicles.

No vehicle shall be removed under the authority of this chapter if, at the time of the intended removal thereof, the owner or person for the time being in charge of such vehicle is present and expresses a willingness and intention to remove such vehicle immediately.

§ 182-11. Owner/operator liability for fine/penalty.

The payment of towing and storage charges authorized by this chapter shall not operate to relieve the owner or operator of any vehicle from liability for any fine or penalty for violation of any law or ordinance on account of which such vehicle was removed and impounded.

§ 182-12. Effect of payment of towing and storage charges without protest/reports and disposition of unclaimed vehicles.

A. The payment of any towing and storage charges authorized by this chapter shall, unless made "under protest," be final and conclusive and shall constitute a waiver of any right to recover the fees paid.

B. In the event that towing and impounding charges are paid "under protest," the offender shall be entitled to a hearing before a Magisterial District Judge having jurisdiction, in which case the offender shall be proceeded against as is provided for by the Pennsylvania Motor Vehicle Code[138] in other cases of summary offenses.

C. The payment of towing and storage charges shall not relieve the owner or driver of any vehicle or other person found in violation of this chapter from liability for any fine or penalty for the violation

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138.Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

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of the provision of this chapter for which the vehicle was removed or impounded.

D. 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 Pennsylvania Motor Vehicle Code,[139] 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 the 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 from time to time).

§ 182-13. Violations and penalties.

Upon conviction for violation of any provision of this chapter, in addition to the penalty in § 182-14, a towing company may be fined not less than $100 nor more than $300.

§ 182-14. Termination of license; appeals.

A. Any towing company or its employee who violates any provision of this chapter shall be issued a written warning for the first violation. Any subsequent violation may cause the termination of the towing company's license. The towing company is not entitled to a warning for any violation of § 182-8 of this chapter and may have their license terminated for the first violation.

B. The towing company shall be notified, in writing, by registered mail, no less than five calendar days prior to the termination of their license. The notice of termination shall state the reason(s) for termination and the effective date of termination. The towing company shall have 14 calendar days to appeal the termination, in writing, to the Borough Manager. The Borough Manager or designee shall hold a hearing within 10 calendar days of written receipt of the towing company's request for appeal. The towing company may appeal the Borough Manager's decision, in writing, to the Blair County Court of Common Pleas within 10 calendar days of the receipt of the Borough Manager's decision.

§ 182-15. 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 Borough parking regulations:

Street	Side	In Front Of
Pennsylvania Avenue	West	961 Pennsylvania Avenue (Fink's Hardware)

Parking Lot(s)

(Reserved)

139.Editor's Note: See 75 Pa.C.S.A. § 7311.

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Chapter 183

TREES

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 66.

Property maintenance — See Ch. 146.

Streets and sidewalks — See Ch. 172.

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ARTICLE I
Tree Trimming
[Adopted 10-2-2006 by Ord. No. 1246]

§ 183-1. Definitions and word usage.

A. As used in this article, the following terms shall have the meanings indicated:

PERSON — Includes any natural person, partnership, association, firm or corporation.

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

§ 183-2. Clearance above street and sidewalk.

A. Every owner of property in the Borough shall be required to keep the limbs and branches of all trees growing upon such property or along the Borough right-of-way, street, sidewalk, curb or alley abutting upon such property trimmed so that no part of such limbs or branches or of the foliage growing thereupon shall have a clearance of less than eight feet above the surface of the sidewalk or of less than 14 feet above the surface of the roadway of any street or alley below such limbs or branches.

B. No branches or foliage may extend from the trunk of any tree over any street (curb to curb), alley, or any Borough right-of-way a distance of 1/2 the width of said street, alley or right-of-way. In the event the person who or which is responsible for the tree in violation of this article believes that said tree is not a danger to the public, then said owner may employ, at the sole cost and expense of such owner, a certified arborist approved in advance by the Borough to evaluate the tree. In the event such approved certified arborist is consulted, the owner shall submit a written report to the Borough from the certified arborist that shall set forth, in detail, the action to be taken regarding such tree, which action the said owner, at said owner's sole cost and expense, shall have completed within 30 days from the date of notice to the owner from the Borough that the said tree is in violation of this article. Every written report prepared by an approved certified arborist and submitted to the Borough shall contain a recommendation as to how often the tree in violation of this article must be revaluated, and the owner of such tree shall be responsible for having such evaluations completed following the procedure hereinabove set forth in this § 183-2B.

§ 183-3. Removal and trimming of trees.

It shall be the responsibility of the owners of real estate in the Borough to conform to the requirements of this article as to trees upon real estate owned by them or along streets, alleys and sidewalks abutting upon such real estate, and, upon notice from the Borough Council, to remove any tree or trees growing in violation of the restrictions above, and to trim or cut the branches or limbs of trees as required above. Any person failing to comply with any such notice, within the time limit stated therein, shall be guilty of a violation of this article and, following the expiration of such time limit, the Borough Council shall have the authority to cause the work required by such notice to be done by the Borough or under contract therewith, and to collect the cost of such work, with an additional amount of 10%, from such property owner in default.

§ 183-4. Violations and penalties.

Any person who shall violate any provision of this article shall, upon conviction thereof, be sentenced to

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pay a fine of not less than $100 and not more than $300 and costs of prosecution, or in default thereof, to undergo imprisonment for a term not to exceed 30 days.

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Chapter 185

TRAILERS AND MOTOR HOMES

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 6-3-1963 by Ord. No. 629. Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 71.

Mobile homes and mobile home parks — See Ch. 125.

Plumbing — See Ch. 143.

Sewers — See Ch. 162.

Solid waste — See Ch. 170.

Water — See Ch. 196.

Zoning — See Ch. 205.

§ 185-1. Definitions. [Amended 6-8-1998 by Ord. No. 1139; 2-11-2019 by Ord. No. 1427]

The following words and terms, as used in this chapter, shall have the meanings respectively ascribed to them in this section unless the context clearly indicates a different meaning:

BOX PANEL TRUCK — A windowless cargo van usually built on a truck chassis frequently used as a delivery vehicle and also often used by construction and maintenance contractors.

BUS — A motor vehicle designed to transport 16 or more passengers, including the driver; or a motor vehicle, other than a taxi cab or limousine, designed to transport not more than 15 passengers, including the driver, and used for the transportation of persons for or not for compensation.

FULL TRAILER — A trailer so constructed that no part of its weight rests upon the towing vehicle. A semi-trailer attached to a towing vehicle by means of an auxiliary front axle or dolly shall be deemed to be a full trailer.

HOUSE TRAILER — A vehicle, whether or not self-propelled, which is designed, constructed and equipped as a dwelling place, living abode or sleeping place (either permanently or temporarily) and is equipped for use as a conveyance on streets and highways; or a trailer containing a chassis and exterior shell designed and constructed for use as a house trailer but which is used permanently or temporarily for advertising sales, display or promotion of merchandise or services for any other commercial purposes except for the transportation of property.

LOW BOY TRUCK — A type of trailer for hauling construction equipment with reduced ground clearance that facilitates loading of machinery with or without an auxiliary ramp.

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 until capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. Permanent parking of a mobile home and location of mobile home parks is regulated by other Borough ordinances including subdivision and zoning.

MOTOR HOME — A motor vehicle designed or adapted for use as a mobile dwelling or office.

PARKING — The halting of a vehicle, whether occupied or not, except momentarily for the purpose of

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and while actually engaged in the loading or unloading property or passengers.

PERSON — Any natural person, partnership, film, association or corporation.

SCHOOL BUS — A motor vehicle which:

A. Is designed to carry 11 passengers or more, including the driver; and

B. Is used for the transportation of preprimary, primary or secondary school students to or from public, private or parochial schools or events related to such schools or school-related activities.

SEMI-TRAILER — A trailer so construed that some part of its weight rests upon or is carried by the towing vehicle.

STAND — The halting of a vehicle, whether occupied or not, except momentarily for the purpose of and while actually engaged in receiving or discharging passengers.

TOW TRUCK — A motor vehicle equipped for towing away other wrecked or disabled motor vehicles. A tow truck shall include, but not be limited to, a truck having a flatbed tilt tray.

TRAILER — A vehicle designed to be towed by a motor vehicle.

TRAILER CAMP — Any premises designed or used as a parking space for more than one house trailer. "Trailer camp" shall not include an automobile or trailer showroom or any open spaces on the same lot therewith where less than three unused house trailers are displayed. Nor shall "trailer camp" mean any motor vehicle parking lot on which any trailer shall remain for 12 hours or less. The term "trailer camp" shall mean "trailer park" and "trailer court" interchanged as those terms are commonly used.

TRUCK TRAILER — A motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

§ 185-2. Parking restrictions. [Amended 6-8-1998 by Ord. No. 1139; 2-11-2019 by Ord. No. 1427]

No person shall park or locate any box panel truck, tow truck, low boy truck, bus, mobile home, house trailer, motor home, school bus, full trailer, trailer, semi-trailer or truck trailer, or allow it to stand, upon any street, alley or other public place, or upon any tract of land, occupied or unoccupied, within the Borough of Tyrone, except as provided in this chapter.

§ 185-3. Standing restrictions. [Amended 6-8-1998 by Ord. No. 1139]

No person shall allow any house trailer, full trailer, semi-trailer or trailer to stand upon the streets or alleys of the Borough of Tyrone without being attached to a motor vehicle.

§ 185-4. Parking on streets prohibited. [Amended 6-8-1998 by Ord. No. 1139; 3-8-2010 by Ord. No. 1291; 8-16-2010 by Ord. No. 1301; 2-11-2019 by Ord. No. 1427]

No person shall park any box panel truck, tow truck, low boy truck, bus, motor home, school bus, full trailer, semi-trailer or house trailer attached to a motor vehicle, truck trailer or alone on any street or alley in the Borough of Tyrone at any time. Any person who shall violate this section shall be subject to the penalties specifically provided in such laws and ordinances as the case may be. Exception: It shall not be a violation of this section for a contractor to park any of the aforementioned vehicles, whether connected to a towing vehicle or not, on the public street while actively engaged in construction or remodeling work at a property adjacent to the parking location provided that such vehicle is removed by them at the end of each day during the job.

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§ 185-5. Parking and storing on private property. [Amended 6-8-1998 by Ord. No. 1139; 2-11-2019 by Ord. No. 1427]

The parking and storing of no more than one unoccupied mobile home, bus, motor home, school bus, full trailer, semi-trailer or truck trailer in a private garage, or in a rear yard, shall be permitted, on the condition that no person uses such trailer for living or sleeping purposes while such trailer is so parked or stored and/or so long as the same is not causing a sight distance problem for the travelling public and/or so long as the same is not in violation of any other applicable law, including nuisance laws.

§ 185-6. Operation and occupancy of trailer camp.

No person shall operate or occupy any trailer camp within the Borough of Tyrone except as provided in this chapter.

§ 185-7. Permit required for trailer camp. [Amended 2-11-2019 by Ord. No. 1427]

A. No person shall establish or operate any trailer camp within the Borough of Tyrone until the proposed location of said camp has been approved by Borough Council. Any person desiring to establish or to operate a trailer camp shall make application for a permit to the Code Enforcement Officer. With every application there shall be submitted a plan of such trailer camp or proposed trailer camp showing the following:

   (1) The name and address of the applicant.

   (2) The extent and area to be used for trailer camp purposes.

   (3) The location of all roadways and driveways.

   (4) The location of all lots intended for the parking of trailers, each lot to contain a concrete slab of sufficient size and strength to accommodate the trailers anticipated.

   (5) The method and plan of sewage disposal.

   (6) The method and plan of garbage and refuse disposal.

   (7) The plan for water supply.

   (8) The plan for electric lighting facilities for the trailer camp and for trailers parked there.

   (9) A statement that the premises proposed to be occupied by such trailer camp, in the case of a trailer camp not established prior to the adoption of Chapter 205, Zoning, of the Code of the Borough of Tyrone, are entirely located in a district in which the establishment of trailer camps is permitted by such Chapter 205, Zoning, such statements to bear the signature of the Zoning Officer of the Borough of Tyrone.

B. Such application shall be accompanied by a fee of $20 to cover the cost of the services of Borough officers and employees in making the necessary studies and investigations in connection with such application.

§ 185-8. Investigation of premises. [Amended 2-11-2019 by Ord. No. 1427]

Following receipt of the application for a permit as provided above, the Borough Council shall cause an investigation to be made of the premises to which such application relates in order to assure that

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all requirements of this chapter applicable to trailer camps are complied with. In connection with such investigation, the Code Enforcement Officer, the Health Officer and any other Borough officer or employee requested to do so by the Borough Council shall visit the premises in order to determine whether requirements as to which they have particular knowledge and understanding are adhered to.

§ 185-9. Issuance of permit; suspension of permit. [Amended 2-11-2019 by Ord. No. 1427]

Immediately following the investigation required under § 185-8 of this chapter, when the Borough Council shall be satisfied that all of the applicable requirements of this chapter have been adhered to, or are to be adhered to according to the plans for a proposed trailer camp, the Code Enforcement Officer shall so inform the Borough Council. Upon approval of the location of the proposed trailer camp by the Borough Council at its next regular meeting, the Code Enforcement Officer shall issue a permit to establish and operate such trailer camp for a period of one year after the issuance thereof. Such permit shall be subject to suspension whenever the holder thereof shall be convicted of any violation of this chapter. A suspended permit may be reinstated by the Code Enforcement Officer, for the balance of the year for which it was issued, upon compliance of the holder thereof with all of the provisions of this chapter. No person shall operate a trailer camp in the Borough of Tyrone during the time when the permit therefor shall have been suspended.

§ 185-10. Change of ownership or management. [Amended 2-11-2019 by Ord. No. 1427]

Whenever ownership or management of any trailer camp shall have been changed, the new owner or manager thereof shall forthwith notify the Code Enforcement Officer, who shall amend the permit for such trailer camp, as well as the pertinent records of the Borough, to indicate such change.

§ 185-11. Nontransferability; modifications. [Amended 2-11-2019 by Ord. No. 1427]

No permit issued under this chapter shall be transferable to a different location. No person holding a permit under this chapter shall extend or reduce the area of any trailer camp, add any new facility or structure, or eliminate any existing facility or structure until notice of such proposed change shall have been given to the Code Enforcement Officer, and the Code Enforcement Officer shall have ascertained, after investigation as in the case of an original application for a permit, that such proposed change is in accordance with all the requirements of this chapter, and shall have signified that fact by approval of the permit.

§ 185-12. Permit renewal; fee. [Amended 2-11-2019 by Ord. No. 1427]

Prior to the date of expiration of any permit issued under the authority of this chapter, the holder thereof may apply to the Code Enforcement Officer for renewal thereof, such application to be accompanied by a fee of $5. Following any investigation deemed necessary by the Borough Council to ascertain whether all the requirements of this chapter continue to be adhered to, the Code Enforcement Officer shall renew such permit for a further period of one year.

§ 185-13. Drainage and grading.

Every trailer camp shall be located in a well drained area, and the premises shall be properly graded so as to prevent the accumulation of storm or other water.

§ 185-14. Lot requirements.

Lots for individual trailers in a trailer camp shall be indicated by corner markers, and no individual lot shall have an area of less than 1800 square feet. Each lot shall abut upon a roadway or driveway not less than 20 feet wide. Every such roadway or driveway shall be well drained, shall be clearly marked, adequately

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lighted at night, and easily accessible to a public street. In no case shall the lot for an individual trailer be less than 30 feet wide by 60 feet long, and, in the case of trailers more than 10 feet wide and 40 feet long, the lot must be enlarged to meet the minimum requirements herein prescribed. Lots for individual trailers shall be so located and arranged that when trailers are located thereon, the setback regulations of Chapter 205, Zoning, are adhered to.

§ 185-15. Sewer and water facilities.

Each trailer lot or location shall be served by Borough sewer and water facilities, the charges thereof to be paid by the owner of the trailer camp, according to the current established rates for such service.

§ 185-16. Utilities and construction codes.

All plumbing, electrical, building and other work in the premises of any trailer camp located in the Borough of Tyrone shall be in accordance with any other ordinances of the Borough regulating such matters; provided, however, if there is any conflict between any such ordinance and any of the provisions of this chapter, the provisions of this chapter shall control as to trailer camps only.

§ 185-17. Solid waste.

All ordinances of the Borough of Tyrone applicable to the accumulation, collection and disposal of garbage and refuse[140] shall be applicable to trailer camps located in the Borough and shall be adhered to strictly by persons owning and operating trailer camps and by persons occupying trailers therein.

§ 185-18. Availability of records.

The owner or operator of each trailer camp shall maintain an office or residence within the Borough of Tyrone where records and other pertinent information is available to the Borough officers at all times.

§ 185-19. Register.

Every person holding a permit under this chapter shall keep, or cause to be kept, a register, which shall at all times be open for the inspection of any official of the Borough. Such register shall show, for each trailer accommodated in such trailer camp, the following information:

A. The lot number upon which such trailer is parked or located.

B. The names and addresses of all persons using such trailer for living or sleeping purposes.

C. The state license number of such trailer and of the vehicle towing the same.

D. The date of arrival of such trailer at such trailer camp and the date of departure therefrom.

§ 185-20. Additional regulations.

Each person holding a permit under the provisions of this chapter shall adhere to the following additional regulations at all times:

A. He shall maintain such trailer camp in a clean, orderly and sanitary condition.

B. He shall see that no disorderly conduct or violation of any law or ordinance is committed upon the

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140.Editor's Note: See Ch. 170, Solid waste.

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premises and shall immediately report to the proper authorities any violation which may come to his attention.

C. He shall report to the Board of Health all cases of persons or animals affected or suspected of being affected with any communicable disease, where he shall have reason to believe that medical attention has not been sought.

§ 185-21. Enforcement. [Amended 2-11-2019 by Ord. No. 1427]

It shall be the duty of the Code Enforcement Officer, Tyrone Police Department or other authorized person to enforce the provisions of this chapter, and, to that end, the Code Enforcement Officer shall, from time to time, make or cause to be made, by the police or any other Borough officer or employee, an inspection to ascertain whether any trailer camp continues to operate strictly under the provisions of this chapter.

§ 185-22. Violations and penalties. [Amended 2-11-2019 by Ord. No. 1427]

Any person, firm or corporation who shall violate any of the provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine of at least $100 and not more than $600 and costs of prosecution and, in default of payment of such fine and costs, to imprisonment for not more than 30 days; provided, that each day's continuance of a violation shall constitute a separate offense.

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Chapter 188

VEHICLES, ABANDONED AND JUNKED

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 11-8-2004 by Ord. No. 1218; amended in its entirety 8-13-2012 by Ord. No. 1329. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Solid waste — See Ch. 170.

Streets and sidewalks — See Ch. 172.

Vehicles and traffic — See Ch. 190.

On-road repair of vehicles — See Ch. 192.

§ 188-1. Definitions.

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

ABANDONED VEHICLE — Any vehicle which is parked or permitted to stand on any public street or alley for a continuous period exceeding 48 hours unattended and not bearing one of the following: a valid registration plate, a certificate of inspection and an ascertainable vehicle identification number; and any vehicle which shall stand or be parked on a public street or alley for a period of 48 hours without the consent of the owner or person in control.

JUNKED AUTOMOBILE — Any vehicle which has no valid registration or certificate of inspection and/or has been stripped or partially disassembled so that it is inoperable or immovable and is parked or permitted to stand on a public street or alley for 48 hours and/or on an unenclosed location on private property for a continuous period in excess of 30 days.

§ 188-2. Junked vehicles.

It shall be unlawful for any person or persons, firm, company, partnership or corporation, whether by principal or agent, to park, store or permit to be parked or stored any junked vehicle on public property, including, but not limited to, any streets and alleyways, within the Borough of Tyrone. Not more than one junked vehicle may be parked or stored on private property, and any such junked vehicle shall be kept or stored only on the premises at which the owner of the junked vehicle resides, provided the following conditions are met:

A. Permit required. An owner having or permitting a junked vehicle on the owner's premises shall obtain, on a semiannual basis, a permit (the cost of which shall be established by the Borough from time to time) from the Borough indicating whether said junked vehicle is being restored or is a vehicle intended for use off of public streets.

B. Junked vehicle cover required. Any junked vehicle which is under permit for storage on private property must be constantly covered by an automobile/motor vehicle cover specifically sold for such purposes. If a cover is not manufactured for a certain type of automobile/motor vehicle, the Police Department or the Code Enforcement Officer shall have the discretion to determine the appropriateness of the cover required for said vehicle. Plastic tarps, cloth tarps, and other like materials are not permitted to be used as automobile/motor vehicle covers unless approved as previously set forth.

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§ 188-3. Abandoned vehicles.

It shall be unlawful for any person or persons, firm, company, partnership or corporation, whether by principal or agent, to park, store or permit to be parked or stored any abandoned vehicle on the public streets or alleys of the Borough of Tyrone and/or any other public property.

§ 188-4. Enforcement.

Any police officer of the Borough of Tyrone Police Department and/or the Borough of Tyrone Code Enforcement Officer and/or the Parking Enforcement Officer is hereby designated to complete and process the necessary documentation on forms prescribed by the Commonwealth of Pennsylvania on each vehicle declared abandoned pursuant to the Pennsylvania Vehicle Code. In compliance with the said Vehicle Code, the Borough Manager is hereby designated to hear objections as to whether a vehicle was abandoned.

§ 188-5. Investigation; violations and penalties.

A. Upon the presence of abandoned or junked vehicles within the Borough, an investigation shall be made by the Borough regarding said vehicles. If the investigation reveals the presence of vehicles in violation of this chapter, the Borough shall immediately transmit written notice to the owner in person or by certified mail. Such written notice shall contain a description of the vehicle, its location, notice of violation of this chapter and directions to remove the vehicle from the street or private property within 10 days.

B. Any person or persons, firm, company, partnership, or corporation violating any of the provisions of this chapter shall, upon conviction before the Magisterial District Judge, pay a fine of not less than $50 and not more than $600 for each offense and cost of prosecution and when default in payment thereof shall be imprisoned in the county jail for a period not to exceed 30 days.

§ 188-6. Continuation of violation.

Each day that a violation is permitted to exist after notice, in writing, shall have been served shall constitute a separate offense.

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Chapter 190

VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreational facilities — See Ch. 140.

Streets and sidewalks — See Ch. 172.

Abandoned and junked vehicles — See Ch. 188.

On-road repair of vehicles — See Ch. 192.

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ARTICLE I
General Provisions

§ 190-1. Definitions and interpretation.

A. Words and phrases, when used in this chapter, except for sections or articles to which different or additional definitions apply, shall have the meanings ascribed to them in the Vehicle Code, 75 Pa.C.S.A. § 101 et seq. (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.

B. 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.

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

§ 190-2. Manner of adopting permanent traffic and parking regulations.

All traffic and parking regulations of a permanent nature shall be enacted as ordinances or as parts of ordinances or as amendments to ordinances of the Borough of Tyrone.

§ 190-3. Temporary and emergency regulations.

A. The Police Department shall have the following powers to regulate traffic and parking temporarily and in time of emergency:

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

(2) In the case of emergency public works or public events of limited scope or duration, to restrict or prohibit traffic and/or parking in limited areas for periods of not more than 72 hours.

B. These temporary and emergency regulations shall be enforced by the Police Department in the same manner as permanent regulations. Any person who drives or parks a vehicle in violation of any such regulation or who shall move, remove, destroy, injure or deface any sign or marking erected, posted or made to give notice of any such regulation shall, upon conviction thereof, be liable to the penalty set forth in the law or elsewhere in this chapter for a violation of such nature.

§ 190-4. Experimental regulations.

A. The Borough Council may, from time to time, designate places upon and along the streets in the Borough 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 those locations by proper signs and markings. Such regulations, prohibitions and restrictions shall be effective just as if they had been specified in this chapter. No person shall drive or park a vehicle in violation of any such regulation, prohibition or restriction, and no person shall move, remove, destroy or deface any sign or marking erected, posted or made by authority of this section. Any person who violates any provision of this section shall, upon conviction, be liable to the penalty set out in the law or elsewhere in this chapter for a violation of such nature.

B. The purpose of this section is to allow for test and experimental determination of the feasibility and

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desirability of permanent changes in the ordinances of the Borough relative to traffic and parking.

§ 190-5. Streets closed or restricted for construction, maintenance or special events.

A. The Borough 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 underway 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.

B. The Borough 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.

§ 190-6. Authority of police officers.

The police shall have authority to direct traffic on the streets in the Borough, at intersections in public and in other places where the Vehicle Code or this chapter applies.

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ARTICLE II
Traffic Regulations

§ 190-7. Speed limits.

The speed limit along all streets and alleys is hereby set at 25 miles per hour, with the exception of those streets or parts thereof described in Schedule I (§ 190-53), attached to and made a part of this chapter. It shall be unlawful for any person to drive a vehicle at a higher speed than the maximum prescribed for that street or part of a street.

§ 190-8. Traffic control signals.

Traffic control signals shall be installed and operated at the intersection of those streets described in Schedule II (§ 190-54), attached to and made a part of this chapter.

§ 190-9. Prohibited turns at intersections.

It shall be unlawful for the driver of any vehicle to make a turn of the kind designated (left, right, all) at any of the intersections described in Schedule III (§ 190-55), attached to and made a part of this chapter.

§ 190-10. U-turns.

It shall be unlawful for the driver of any vehicle to make a U-turn on any of the streets or parts of streets described in Schedule IV (§ 190-56), attached to and made a part of this chapter.

§ 190-11. One-way streets.

The streets or parts of streets described in Schedule V (§ 190-57), attached to and made a part of this chapter, are hereby designated as one-way streets in the direction indicated, 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.

§ 190-12. No-passing zones.

No-passing zones are hereby established along those streets or parts of streets described in Schedule VI (§ 190-58), attached to and made a part of this chapter, 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 described in said schedule.

§ 190-13. Through streets.

The streets or parts of streets described in Schedule VII (§ 190-59), attached to and made a part of this chapter, are hereby established as through streets; and the driver of any vehicle, upon approaching any such street at any intersection thereof (except for such intersections where there are now or shall hereafter be located official traffic signals), shall come to a full stop or yield the right-of-way, as the case may be, before entering any such through street.

§ 190-14. Stop intersections.

The intersections described in Schedule VIII (§ 190-60), attached to and made a part of this chapter (in addition to intersections with the through streets established by this chapter), are hereby established as stop

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intersections, and official stop signs shall be erected in such a position upon the first-named street as to face traffic approaching the second-named street in the direction or directions indicated in said schedule. Every driver of a vehicle approaching any such intersection upon the first-named street in the direction or directions indicated in each case shall come to a full stop before entering any such intersection.

§ 190-15. Yield intersections.

The intersections described in Schedule IX (§ 190-61), attached to and made a part of this chapter (in addition to intersections with the through streets established by this chapter), are hereby established as yield intersections, and official yield signs shall be erected in such a position upon the first-named street as to face traffic approaching the second-named street in the direction or directions indicated. Every driver of a vehicle approaching any such intersection upon the first-named street in the direction or directions indicated in each case shall slow down or stop the vehicle and then yield the right-of-way to any vehicle in the intersection or approaching on the second-named street so closely as to constitute a hazard during the time that the driver is moving across or within such intersection.

§ 190-16. Closing of certain streets to certain vehicles.

It shall be unlawful for any person to drive any vehicle except a passenger vehicle (but not including any passenger vehicle drawing any trailer or towing any other vehicle) upon any of the streets or parts of streets described in Schedule X (§ 190-62), attached to and made a part of this chapter.

§ 190-17. Covering of vehicles; penalty.

A. No vehicle carrying inanimate contents which are subject to being blown therefrom shall be driven or moved upon any of the streets or highways of the Borough unless the exposed contents of such vehicle are enclosed with a protective cover to prevent the contents from escaping therefrom.

B. Any person, partnership or corporation who or which shall violate any of the provisions of this section shall, upon conviction thereof, be sentenced to pay a fine of not more than $25 and costs of prosecution or, in default of payment of such fine and costs, to undergo imprisonment for not more than five days; provided, however, that each violation of any provision of this section and each day the same is continued shall be a separate offense.

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ARTICLE III
Parking Regulations

§ 190-18. 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 article for any person to park a vehicle or allow it to remain parked otherwise.

§ 190-19. Parking of trucks, trailers and semitrailers.

It shall be unlawful for any person to allow, permit or suffer any truck, tractor of Classes 6 through 20, inclusive, classification or any trailers or semitrailers registered in his name or operated by him to be parked on any public street or alley in the Borough of Tyrone, including state highways.

§ 190-20. Parking prohibited at all times. [Amended 5-12-2014 by Ord. No. 1351]

No person shall park a vehicle or allow the same to remain parked upon any of the streets or parts thereof:

A. That are described in Schedule XI (§ 190-63), attached to and made a part of this chapter.

B. That are designated with yellow painted curbing or, in the absence of a curb, a yellow painted edge of the shoulder of said street.

C. That would have said vehicle parked on a two-way street facing the opposite direction of authorized traffic movement with its left-hand wheels against the left-hand curb or, in the absence of a curb, against the left edge of the left-hand shoulder of said street. This restriction shall not apply on Jefferson Avenue, south of Eleventh Street to the cemetery, and on Belmont Avenue, south of Herald Street to the cemetery, upon which streets vehicles shall park on the west side of the street facing north with the left side of the vehicles to the curb. **[Amended 11-10-2014 by Ord. No. 1357]**

D. That would have said vehicle parked on a one-way street facing the opposite direction of authorized traffic movement.

E. That are within 20 feet of a crosswalk at an intersection.

F. That are within 30 feet upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the site of a roadway.

G. That are within 20 feet of the driveway entrance to any fire station or, when properly sign-posted, on the side of a street opposite the entrance to any fire station within 75 feet of the entrance.

H. On a limited access highway (as defined under the Pennsylvania Vehicle Code[141]) unless authorized by official traffic-control devices.

I. Within 50 feet of the nearest rail of a railroad crossing.

J. At any place where official signs prohibit parking.

141.Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

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§ 190-21. Time-limit parking.

No person shall park a vehicle or allow the same to remain parked upon any of the streets or parts of streets described in Schedule XII (§ 190-64), attached to and made a part of this chapter, between the hours specified for longer than the time indicated in said schedule.

§ 190-22. Special purpose parking zones.

It shall be unlawful for any person to park any vehicle or to allow the same to remain parked in any special purpose parking zone established in Schedule XIII (§ 190-65), attached to and made a part of this chapter, except as specifically provided for such zone.

§ 190-23. Angle parking.

No person shall park a vehicle upon any of the streets or parts thereof described in Schedule XIV (§ 190-66), attached to and made a part of this chapter, except at the angle designated and only within the painted white stall lines.

§ 190-24. Loading zones.

The locations described in Schedule XV (§ 190-67), attached to and made a part of this chapter, are hereby designated as loading zones.

§ 190-25. Penalties for parking violations.

Any person who violates any provision of this article shall, upon conviction, be sentenced to pay a fine as set forth from time to time by ordinance of the Borough Council and costs; provided, however, that it shall be the duty of the police officers and of parking enforcement personnel of the Borough to report all violations of any provision of this article, 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 article. 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 required within the specified number of hours after the time of the notice or if he will place the sum required, enclosed within the envelope provided, in any of the special parking fine boxes installed at various locations within the Borough, that act will save the violator from prosecution and from payment of the fine and costs prescribed in the first sentence of this section.

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ARTICLE IV
Handicapped Parking

§ 190-26. Definitions.

As used in this article, all words, terms and phrases shall have the meaning ascribed to them in the Pennsylvania Vehicle Code, 75 Pa.C.S.A. § 101 et seq., as amended (hereinafter "Vehicle Code").

§ 190-27. Handicapped and/or disabled veteran parking spaces established.

In accordance with the authority vested in the Borough of Tyrone by § 3354 of the Vehicle Code, there are hereby established the following handicapped and/or disabled veteran parking spaces:

Name of Street	Side	Use by Person (Public or Private) Located at
Bald Eagle Avenue	East	1352 Bald Eagle Avenue (private)
Bald Eagle Avenue **[Added 9-8-2014 by Ord. No. 1355]**	East	1404 Bald Eagle Avenue (private)
Bald Eagle Avenue	East	1458 Bald Eagle Avenue (private)
Bald Eagle Avenue	West	1359 Bald Eagle Avenue (private)
Blair Avenue	East	1410 Blair Avenue (private)
Blair Avenue	East	First Assembly of God Church, 1202 Blair Avenue (public)
Cameron Avenue	East	1212 Cameron Avenue (private)
Eighteenth Street (parking lot)	North	Church of the Brethren, 500 Eighteenth Street (public)
Eighth Street	North	800 Washington Avenue (private)
Eighth Street	North	Eighth Street at Washington Avenue (private)
Eleventh Avenue	North	1102 Logan Avenue First floor apartment (private)
Eleventh Street	South	Eleventh Street Municipal Building (public)
Fourteenth Street	South	Christ United Methodist Church, Fourteenth Street (public)
Lincoln Avenue	East	1354 Lincoln Avenue (private)

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Name of Street	Side	Use by Person (Public or Private) Located at
Logan Avenue	5 spaces	Community Parking Lot (public)
Logan Avenue **[Added 4-14-2014 by Ord. No. 1350]**	East	Herald Street (public)
Logan Avenue	East	1102 Logan Avenue (private)
Logan Avenue	East	1104 Logan Avenue (private)
Logan Avenue	East	1454 Logan Avenue (private)
Logan Avenue	West	1103 Logan Avenue (private)
Logan Avenue	West	1213 Logan Avenue (private)
Logan Avenue	South	Wesley United Methodist Church, Logan Avenue (public)
Ninth Street	South	113 Ninth Street (private)
Pennsylvania Avenue	East	1308 Pennsylvania Avenue (private)
Pennsylvania Avenue	East	1366 Pennsylvania Avenue (private)
Pennsylvania Avenue	East	1462 Pennsylvania Avenue (private)
Pennsylvania Avenue	West	1263 Pennsylvania Avenue (private)
Pennsylvania Avenue	West	1315 Pennsylvania Avenue (private)
Pennsylvania Avenue	West	1553 Pennsylvania Avenue (private)
Pennsylvania Avenue (parking lot)	1 space	Villa Restaurant, 1,000 Pennsylvania Avenue (public)
Seventeenth Street and Columbia Avenue	North	Seventeenth Street and Columbia Avenue (private)
Sixth and Seventh Street (alley)	North	Pine Alley (between Sixth and Seventh Street) (private)
Sixth Street	North	106 Sixth Street (private)
Sixth Street	South	201 Sixth Street (private)

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Name of Street	Side	Use by Person (Public or Private) Located at
Sixth Street	South	303 Sixth Street (private)
Tenth Street **[Repealed 4-14-2014 by Ord. No. 1350]**		
Tenth Street **[Added 4-14-2014 by Ord. No. 1350]**	South	Hunter Avenue, Tenth Street (public)
Thirteenth Street	North	First Presbyterian Church, Thirteenth Street (public)
Thirteenth Street	South	103 West Thirteenth Street (private)
Thirteenth Street	South	First English Lutheran Church, Thirteenth Street (public)
Twelfth Street	North	112 West Twelfth Street (private)
Twelfth Street	South	109 West Twelfth Street (private)
Twelfth Street	South	211 West Twelfth Street (private)
Washington Avenue	West	1315 Washington Avenue (private)
Washington Avenue	West	1363 Washington Avenue (private)
West Twelfth Street	North	12 West Twelfth Street (private)

§ 190-28. Term of existence.

A. Requirements for receiving handicapped and/or disabled veteran parking space. Any person requesting establishment of a handicapped and/or disabled veteran parking space shall file a Borough-approved application with the Borough of Tyrone Police Department together with proof that said person has received from the Commonwealth of Pennsylvania a license plate indicating thereon that said person is handicapped and/or is a disabled veteran. No such request shall be granted without proof of the receipt of such license plate with proof of the same being required to continue the existence of such parking space as set forth in Subsection B, Term of existence. The Chief of Police shall have the discretion to limit the number of said parking spaces on any given block within the Borough of Tyrone when the said Chief of Police deems the same to be for the protection of the safety of the residents of the Borough. The Chief of Police shall be empowered to grant and/or rescind handicapped and/or disabled veteran parking spaces in accordance with this article on a temporary basis.

B. Term of existence. The handicapped and/or disabled veteran spaces authorized by this article shall remain in existence until otherwise determined by the Borough. On or before the 31st day of January every year, all private persons, or any person acting on his or her behalf, granted a handicapped parking space, shall verify in writing, to the Chief of Police, that said person continues to require a

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handicapped and/or disabled veteran parking space. In the event such space is no longer required, or the Chief of Police does not receive such verification of continuing need, the Borough may terminate the existence of such handicapped and/or disabled veteran parking space.

§ 190-29. Signage.

The Chief of Police of the Borough of Tyrone, or designee of the Chief, is hereby authorized to install the appropriate sign or other indicia at all handicapped and/or disabled veteran spaces established by the Borough of Tyrone in accordance with the regulations established by the Vehicle Code. Cost of the same shall be established by the Borough of Tyrone from time to time and shall be borne by the person requesting establishment of a handicapped and/or disabled veteran parking space prior to installation of any signage or other indicia denoting said parking space.

§ 190-30. Violations and penalties.

Any person who shall unlawfully park any vehicle in any handicapped and/or disabled veteran parking space herein established shall upon conviction thereof be guilty of a summary offense and shall be sentenced to pay a fine of not less than $50 nor more than the greater of $200 or the maximum amount allowed under the Vehicle Code.

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ARTICLE V
Cruising

§ 190-31. Purpose.

A general public nuisance and threat to the public safety results from the repetitive, unnecessary driving of motor vehicles, also known as cruising, in designated areas of the Borough of Tyrone. The purpose of this article is to reduce the noise of loud radios and screeching tires, air pollution and congestion resulting from cruising and to insure access for safety vehicles to and through said designated areas by restricting repetitive driving of motor vehicles in said designated areas.

§ 190-32. Definitions.

For the purpose of this article, the following definitions shall apply:

CRUISING — Driving a motor vehicle on a street past a traffic control point, designated by a police officer, in a designated area three or more times within any one-hour period from 8:00 p.m. until 4:00 a.m., or six or more times within any three-hour period from 8:00 p.m. to 4:00 a.m., prevailing time. Passing the control point a third or sixth time, as set forth herein, shall constitute cruising and, therefore, constitute a violation of this article.

DESIGNATED AREAS — The following areas of the Borough of Tyrone:

A. Logan Avenue bounded by Thirteenth Street and Fourteenth Street.

B. Thirteenth Street bounded by Logan Avenue and Pennsylvania Avenue.

C. Tenth Street from Lincoln Avenue to Pennsylvania Avenue.

D. Pennsylvania Avenue from Fourteenth Street to the railroad crossing near the IGA Market.

E. Clay Avenue from Fifteenth Street to Third Street.

F. Fifteenth Street from Lincoln Avenue to Clay Avenue.

G. Lincoln Avenue from Fourteenth Street to Tenth Street.

H. Washington Avenue from Tenth Street to Third Street.

I. Park Avenue from Ninth Street to Third Street.

J. Columbia Avenue from Fifteenth Street to Twentieth Street.

K. Such other areas as may be clearly marked by the Tyrone Borough Police Department.

TRAFFIC CONTROL POINT — A clearly identified reference point on a street in the designated areas selected by a police officer for the purpose of enforcing this article.

§ 190-33. Cruising prohibited.

No person shall engage in unnecessary repetitive driving, also known for purposes of this article as "cruising." For purposes of this article, the person having control and/or ownership of a motor vehicle shall be considered the person cruising, without regard as to whether that person was actually driving the motor vehicle each time it passed the traffic control point. Having control or ownership of a motor vehicle means either the owner of the vehicle, as stated on the vehicle registration, if said owner is present in the vehicle

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at the time of the violation, or if the owner is not present in the vehicle, the person operating the vehicle at the time of the violation of this article.

§ 190-34. Exclusions.

This article shall not apply to any municipal, emergency, police, fire, ambulance or other governmental vehicle when the same is being operated in an official capacity. In addition, this article shall not apply to any duly licensed public transportation vehicle.

§ 190-35. Violations and penalties.

Any person who shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine of not less than $100 and not more than $1,000 plus the cost of prosecution, and/or in default of payment of the fine be sentenced to imprisonment for a term not to exceed 30 days. Each violation of this article shall constitute a separate and distinct offense which shall be subject to the aforesaid penalties.

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ARTICLE VI
Snow and Ice Emergencies

§ 190-36. 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 § 190-39 of this article, the Mayor, in his or her discretion, may declare a snow and ice emergency (designated in this article as a "snow emergency"). Information on the existence of a snow emergency may be given by the Borough through radio, newspaper or other available media, and information on the termination of the emergency may be given by use of the same media.

§ 190-37. Accumulation of three inches or more requires no parking on snow emergency routes.

A. During a snow emergency which is hereby defined as being a snowfall of three inches in depth or more, occurring between the first day of November and the first day of May of the following year, parking of vehicles on any snow emergency routes named in § 190-39 of this article shall be prohibited. The parking regulations are for the purpose of traffic movement and snow plowing and shall remain in full force after each snow until public notice is given through press and radio release. It shall be unlawful for any person to deposit snow in the street area.

B. Any vehicle parked on any snow emergency route named in § 190-39 of this article shall be towed, at the owner's expense, to a compound and such vehicle will not be released to the owner until the cost of towing, fine and storage have been paid and, in addition the same shall be subject to the penalty set forth in § 190-40 of this article.

§ 190-38. Parking prohibited, driving motor vehicles restricted on snow and ice emergency routes during emergency.

After any snow emergency is declared pursuant to § 190-36 and/or as defined in § 190-37 of this article, 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 § 190-37 of this article; or

B. To drive any motor vehicle on any such snow emergency route, unless that vehicle is equipped with snow tires or chains.

§ 190-39. Snow emergency routes designated.

The following are designated as snow emergency routes:

Street
Pennsylvania Avenue (SR 4027) from the railroad to Twelfth Street
Logan Avenue from the Moose to Twelfth Street
Eleventh Street from Pennsylvania Avenue to Logan Avenue
Twelfth Street from Pennsylvania Avenue to Logan Avenue
Tenth Street from Bald Eagle Avenue to Washington Avenue
Pennsylvania Avenue (SR 4027) from Tenth Street to Eleventh Street

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Street
Pennsylvania Avenue (SR 4027) from Eleventh Street to Fourteenth Street
Pennsylvania Avenue (SR 4027) from Fourteenth Street to Sixteenth Street
Fourteenth Street (SR 451) from Pennsylvania Avenue to Lincoln Avenue
Lincoln Avenue (SR 453) from Fourteenth Street to Fifteenth Street
Fifteenth Street (SR 453) from Lincoln Avenue to the reservoir
Clay Avenue (SR 4059) from Fifth Street to Fifteenth Street
Clay Avenue (SR 4059) from Fifteenth Street to Alley P
Columbia Avenue (SR 4031) from Fifteenth Street to Twentieth Street
Twentieth Street (SR 4031) from Columbia Avenue to Adams Avenue
Adams Avenue (SR 4031) from Oak Street to Twenty-Third Street
East Tenth Street (SR 1012) from Bald Eagle Avenue to Pennsylvania Avenue
West Tenth Street (SR 4027) from Pennsylvania Avenue to Washington Avenue
Washington Avenue (SR 4027) from Tenth Street to Third Street

§ 190-40. Violations and penalties.

A. If at any time during a period of snow emergency declared under § 190-36 and/or a snow accumulation of three or more inches as set forth under § 190-37 of this article, a person shall park a motor vehicle or allow a motor vehicle to remain parked anywhere upon a snow emergency route, and/or is in violation of § 190-37, that person shall be guilty of a violation of this article, and, upon conviction, shall be sentenced to pay a fine of not less than $50 nor more than $100 plus costs.

B. If, at any time during a period of snow emergency declared under § 190-36 of this article, 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 article, and, upon conviction, shall be sentenced to pay a fine of not less than $50, nor more than $100, plus costs.

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ARTICLE VII
Metered Parking

§ 190-41. Parking meter zones and time limits established and parking charges authorized.

A. Parking zones established. Parking meter zones are established upon and along certain streets in the Borough of Tyrone described as follows:

ZONE 1: Two-Hour Parking Zone

Street	Side	Location
Tenth Street	North and south	From Blair Avenue to Pennsylvania Avenue
Tenth Street **[Amended 2-10-2020 by Ord. No. 1439]**	North	From Pennsylvania Avenue to Logan Avenue
Tenth Street **[Amended 2-10-2020 by Ord. No. 1439]**	South	From Hunter Avenue to Logan Avenue
Pennsylvania Avenue	East and west	From Eleventh Street to Railroad Park turnaround
Pennsylvania Avenue	West	From Twelfth Street to Eleventh Street
Logan Avenue	East	From Alley K to Tenth Street
Logan Avenue **[Amended 2-10-2020 by Ord. No. 1439]**	East	From Tenth Street to Herald Street
Logan Avenue **[Added 2-10-2020 by Ord. No. 1439]**	East	From Herald Street to Eleventh Street
Logan Avenue **[Amended 2-10-2020 by Ord. No. 1439]**	East	One parking meter in front of Ace Hardware
Eleventh Street	South	From Alley F to Pennsylvania Avenue
Twelfth Street **[Amended 2-10-2020 by Ord. No. 1439]**	North	Two parking meters beside Nino's Pizza
Twelfth Street **[Amended 2-10-2020 by Ord. No. 1439]**	South	From Logan Avenue to Pennsylvania Avenue
Municipal Parking Lot	–	At Logan Avenue and Herald Street

B. Such meters shall be operative from 8:00 a.m. to 5:00 p.m., Monday through Saturday, except on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Nothing herein shall authorize the installation of meters or parking for any length of time in any location within a parking meter zone where parking is specifically prohibited by law or by any

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ordinance of the Borough.

§ 190-42. Metered parking facilities established.

Parking in metered parking facilities shall be unlawful, except in individual metered parking spaces. Such parking facilities are for the use of passenger vehicles and pickup trucks only, and it shall be unlawful for any person to park in any such facility any bus, tractor, trailer, tractor-trailer or large truck which could not, with safety, be parked in an individual parking space marked off.

A. Lots. The following are hereby established as metered parking lots in the Borough:

Lot	Location
Logan Avenue Lot	At the intersection of Logan Avenue and Herald Street

B. Parking meters in such lots shall be operative from 8:00 a.m. to 5:00 p.m., Monday through Saturday, except on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

§ 190-43. Parking time limit.

A. On-street parking. In the parking meter zones established by § 190-41 of this article, during the time when parking meters shall be operative, parking time shall be limited to two hours as indicated by the maximum time limit on the face of the meter.

B. Parking facilities. In the metered parking facilities, parking shall be limited to two hours as indicated by the maximum time limit on the face of the meter.

§ 190-44. Installation and maintenance of meters.

The Municipal Manager is hereby directed to provide for the installation, regulation, control, operation and use of the parking meters provided for by this article and to maintain such meters in good condition, and is hereby invested with the power and authority to enter into one or more contracts, after approval of the terms and conditions thereof by Council, for the purchase and installation of parking meters, and for such protection and maintenance of parking meters as may be necessary to maintain the same in good operating condition. The payment of all money required from the Borough under any and all such contracts may be made from general municipal funds.

§ 190-45. Placement and characteristics.

Parking meters installed in parking meter zones and in parking facilities, as specified in §§ 190-41 and 190-42 of this article, shall be placed and located under the direction of the Manager. Where possible, meters in the parking meter zones along the highways shall be placed on the curb. In every instance, the parking meter shall be immediately adjacent to the individual parking space to which such meter pertains. Each parking meter shall be placed or set in such manner as to show or display, by a signal, that the parking space adjacent to such meter is or is not legally in use. Each parking meter installed shall indicate, by a proper legend, the legal parking time established by the municipality for such parking space and, when operated, shall indicate on and by its dial and pointer the duration of such period and, upon the expiration of such period, shall indicate illegal or overtime parking.

§ 190-46. Individual parking spaces; manner of.

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A. The Municipal Manager shall cause lines and/or markings to be painted or placed upon the curb and/or upon the street and in the parking facilities adjacent to each parking meter for the purpose of designating the parking space for which such meter is to be used.

B. Each vehicle parked adjacent to any parking meter shall be parked wholly within the lines or markings so placed and applicable to such meter. It shall be unlawful and a violation of this section to park any vehicle across any such line or marking, or to park any vehicle in such a position that such vehicle shall not be wholly within the area so designated by such lines or markings.

C. When such individual parking space in any parking meter zone is parallel, perpendicular or diagonal to the adjacent curb, sidewalk or other raised structure containing the parking meter, any vehicle parked in such individual parking space shall be parked so that the front of such vehicle shall be nearest to the parking meter, except on streets providing parking parallel to the curb, and where two meters are installed on one standard so that certain meters are designed to be at the rear of the vehicle.

D. On approval, by motion of Council, certain parking spaces, reduced in size, shall be provided within the metered parking facilities of the Borough for compact vehicles (whose length from bumper to bumper is 15 feet or less) and marked accordingly. When so designated and marked, no person shall park any vehicle other than a compact vehicle in such spaces.

§ 190-47. Coin deposit; overtime parking.

A. Whenever any vehicle is to be parked in any space adjacent to which a parking meter shall have been placed at any time during the period of limited parking, as herein prescribed, the operator of such vehicle shall, upon entering such parking space, immediately deposit or cause to be deposited in such parking meter, one or more proper coins of the United States, as shall be specified in the legend upon such parking meter. Upon the deposit of such coin or coins and placing the meter in operation, such parking space may be lawfully occupied, as follows:

(1) On-street parking rates: six minutes for $0.05; 12 minutes for $0.10; and 30 minutes for $0.25. Meters supplied with appropriate slots for coin used.

(2) Metered parking facilities: 30 minutes for $0.25. Meters supplied with appropriate slots for coin used.

B. Meter bag rental. The Borough will provide meter bags (or caps) indicating No Parking: **[Added 7-10-2023 by Ord. No. 1467]**

(1) Anytime to contractors working on properties adjacent to the meter(s), to vans of moving companies engaged in moving, to media vehicles for on-site broadcasts, to service clubs and social service agencies for the provision of special-event public services, and to churches and other organizations for weddings, celebrations, or funerals.

(2) Rental rates for meter bags (or caps) shall be set by the Borough from time to time in its duly adopted fee schedule. Meter bags may be used from 6:00 a.m. until 10:00 p.m. No charge shall be made for service clubs or social service agencies providing special-event public services approved by Council or the Manager or for funerals.

(3) Rental of a meter bag shall not exempt the parker from complying with overnight parking limitations or parking restrictions due to snowfall.

C. Business owner placard. The Borough will make available for purchase by owners of businesses located in metered parking areas a placard which shall permit the owner to park in metered spaces

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without the deposit of coins into the meter. **[Added 7-10-2023 by Ord. No. 1467]**

(1) The placard shall be valid for one year from the date of purchase. Business owners may purchase only one placard per year.

(2) The purchaser shall provide proof of business ownership in the Borough at the time of purchase.

(3) Purchase price for business owner placards shall be set by the Borough from time to time in its duly adopted fee schedule.

§ 190-48. Unlawful to deposit coin to extend parking time beyond.

It shall be unlawful and a violation of this article for any person to deposit or cause to be deposited, in any parking meter, any coin for the purpose of increasing or extending the parking time of any vehicle beyond the total legal parking time in the space occupied by such vehicle, as prescribed in §§ 190-41 and 190-42 herein.

§ 190-49. Unlawful to remain at meter showing.

A. Initial violation. It shall be unlawful and a violation of this article for any person to permit a vehicle to remain in any parking space adjacent to a parking meter when such meter shall display a signal indicating that such vehicle shall already have been parked beyond the period of time prescribed for such parking purpose. The continuation of the violation, referred to herein, of a period of more than one hour shall constitute a new and separate offense for each successive one-hour period.

B. Separate and subsequent violations. If an individual parks a vehicle in violation of Subsection A of this section, each hour of continued violation within a twenty-four-hour period shall constitute a separate and subsequent violation. The reoccurrence of a violation of Subsection A at the same metered space in the same twenty-four-hour period shall also constitute a separate and subsequent violation.

§ 190-50. Tampering unlawful.

It shall be unlawful and a violation of this article 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 article. Nothing herein shall apply to the servicing or opening of parking meters by parking meter enforcement officers, employees and/or police officers of the Borough under the direction of the Municipal Manager or Council.

§ 190-51. Report and notice of violation.

A. It shall be the duty of the parking meter enforcement officers of the Borough, acting in accordance with instructions by the Manager, or of other designated municipal employees, as the case may be, and finding any vehicle parked in violation of any provision of this article to report:

(1) The state, provincial or other license number of such vehicle;

(2) The location and nature of the parking violation;

(3) The time at which such vehicle was noted to be parked in violation of this article; and

(4) Any other facts, a knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.

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B. Every parking meter enforcement officer or municipal employee, as the case may be, shall also attach to such vehicle, where possible, a notice to the owner thereof, that such vehicle was parked in violation of a provision of this article, and instructing such owner to report at the payment office of the municipality in regard to such violation.

C. Every such owner may, within 72 hours of the time when such notice was attached to such vehicle, pay to such payment office, as a penalty and in full satisfaction of such violation, the sum of:

(1) Five dollars for violations of § 190-47A(1) and (2) and § 190-49A of this article, except that when such owner presents payment for fines of violations of these sections during the office hours of such payment office and such presentation of payment is within 30 minutes of the issuance of such notice of violation, the fine for violations of these sections will be discounted by 50%;

(2) Five dollars for violations of §§ 190-46 and 190-48 of this article;

(3) Ten dollars for violations of §§ 190-47A(3) and 190-49B of this article;

(4) Twenty five dollars for violations of § 190-50 of this article; and

(5) Fifteen dollars for violations of any other section of this article.

D. The failure of such owner to make such payment to the payment office within such seventy-two-hour period shall render such owner subject to the penalties hereinafter provided for violation of the provisions of this article.

E. If such owner shall, in fact, make payment after such seventy-two-hour period but before 30 days has elapsed from the date of such violation or before the filing of a complaint with the Magisterial District Judge on account of such violation, the following payments shall be accepted in full satisfaction of violations of this article:

(1) Ten dollars for violations of § 190-47A(1) and (2) and 190-49A of this article;

(2) Seven dollars for violations of §§ 190-46 and 190-48 of this article;

(3) Fifteen dollars for violations of §§ 190-47A(3) and 190-49B of this article;

(4) Thirty-five dollars plus cost of repair, if any, for violations of § 190-50 of this article; and

(5) Twenty dollars for violations of any other section of this article.

F. If such owner shall make payment after 30 days from the date of such violation, but before the filing of a complaint with the Magisterial District Judge on account of such violation, the sum of $20 shall be accepted for any violation of §§ 190-46, 190-47A(1) and (3), 190-48, 190-49A and B of this article, and $35, plus the cost of repair shall be accepted for any violation of § 190-50 of this article, and $20 shall be accepted in full satisfaction of any other violations of this article.

§ 190-52. Violations and penalties.

A. Any person who shall violate any provision of this article (except for §§ 190-46, 190-47, 190-48, 190-49, and 190-50 of this article) shall, for each and every such violation, upon conviction thereof, be sentenced to pay a fine of not less than $20 nor more than $25 and costs of prosecution and, in default of payment of such fine and costs, to undergo imprisonment for not more than five days.

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B. Any person who shall violate any provision of § 190-46, 190-47A(1) or (2), 190-48, or 190-48 of this article shall, for each and every such violation, upon conviction thereof, be sentenced to pay a fine of not less than $15 nor more than $25 and costs of prosecution and, in default of payment of such fine and costs, to undergo imprisonment for not more than five days.

C. Any person who shall violate any provision of § 190-47A(3) or 190-50 of this article shall, for each and every violation, upon conviction thereof, be sentenced to pay a fine of not less than $35 nor more than $50 and costs of prosecution and, in default of payment of such fine and costs, to undergo imprisonment for not more than 10 days. In addition, any person violating any provision of § 190-50 shall also pay the cost of repair of the meter, if any.

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ARTICLE VIII
Schedules

§ 190-53. Schedule I: Speed Limits.

In accordance with the provisions of § 190-7, speed limits are hereby established upon the following described streets or parts thereof:

Name of Street	Speed Limit (mph)	Location
Adams Avenue	35	From Twenty-First Street north to the Borough line
Clay Avenue **[Added 8-12-2019 by Ord. No. 1431]**	25	From Alley P to Flower Street (formerly known as Cemetery Alley)
Clay Avenue **[Amended 8-12-2019 by Ord. No. 1431]**	35	From Flower Street to Third Street
Pennsylvania Avenue	35	From Fourteenth Street north to the Borough line
Third Street	35	From Clay Avenue to Washington Avenue
Twenty-Sixth Street	35	From Adams Avenue west to the Borough line
Washington Avenue **[Amended 1-12-2015 by Ord. No. 1361]**	25	From Third Street to Eighth Street
West Fifteenth Street	35	From Columbia Avenue to Madison Avenue

§ 190-54. Schedule II: Traffic Control Signals.

In accordance with the provisions of § 190-8, traffic control signals shall be installed and operated at the following described intersections:

Intersection

(Reserved)

§ 190-55. Schedule III: Prohibited Turns at Intersections.

In accordance with the provisions of § 190-9, no driver of any vehicle shall make a turn of the kind designated below at any of the following intersections:

Name of Street	Direction of Travel	Prohibited Turn	Hours	At Intersection of
(Reserved)				

§ 190-56. Schedule IV: U-Turns.

In accordance with the provisions of § 190-10, no driver of any vehicle shall make a U-turn on any of the streets or parts thereof described below:

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Name of Street	Location
(Reserved)	

§ 190-57. Schedule V: One-Way Streets.

In accordance with the provisions of § 190-11, the following described streets or parts thereof are hereby designated as one-way streets in the direction indicated:

Name of Street	Direction of Travel	Limits
Alley F	North	From Tenth Street to Herald Street
Burley Avenue	North	From Fourteenth Street to Fifteenth Street
Cottage Street	East	From Lincoln Avenue to Washington Avenue
Cottage Street	West	From Pennsylvania Avenue to Logan Avenue
Eighth Street	East	From Washington Avenue to Park Avenue
Eleventh Street	East	From Alley F to Pennsylvania Avenue
Eleventh Street	East	From Lincoln Avenue to Washington Avenue
Herald Street	East	From Pennsylvania Avenue to Blair Avenue
Herald Street	West	From Pennsylvania Avenue to Alley F
Lanners Street	West	From Logan Avenue to Burley Avenue
North Avenue	North	From Fifteenth Street to Sixteenth Street
Seventh Street	South	From Washington Avenue to Park Avenue
Waring Street	East	From South Lincoln Avenue to Washington Avenue
Washington Avenue	Both	From Tenth Street to Fourteenth Street

§ 190-58. Schedule VI: No-Passing Zones.

In accordance with the provisions of § 190-12, no-passing zones are hereby established upon the following described streets or parts thereof:

Name of Street	Direction of Travel	Limits
(Reserved)		

§ 190-59. Schedule VII: Through Streets.

In accordance with the provisions of § 190-13, the following described streets or parts thereof are hereby established as through streets:

Name of Street	Limits
(Reserved)	

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§ 190-60. Schedule VIII: Stop Intersections.

In accordance with the provisions of § 190-14, the following described intersections are hereby established as stop intersections, and stop signs shall be installed as provided therein:

Stop Sign on	Direction of Travel	At Intersection of
Adams Avenue	North	Twentieth Street
Adams Avenue	South	Sixteenth Street
Alley A	West	Pennsylvania Avenue
Alley A **[Added 5-9-2022 by Ord. No. 1461]**	East and West	Alley F
Alley B **[Added 4-14-2014 by Ord. No. 1350]**	East and west	Cameron Avenue
Alley B **[Added 4-14-2014 by Ord. No. 1350]**	East and west	South Lincoln Avenue
Alley F	North and south	Alley A
Alley F	North and south	Alley J
Alley F	North	Cottage Street
Alley F	North and south	Eleventh Street
Alley F	North	Herald Street
Alley F	North and south	Thirteenth Street
Alley F	North and south	Twelfth Street
Alley J **[Added 9-9-2019 by Ord. No. 1434]**	East	Alley F
Alley J	East	Pennsylvania Avenue
Alley J **[Added 9-9-2019 by Ord. No. 1434]**	West	Alley F
Alley J	West	Burley Avenue
Bald Eagle Avenue	North	Fifteenth Street
Bald Eagle Avenue	North	Twelfth Street
Bald Eagle Avenue	South	Tenth Street
Ball Field	North	Third Street
Berlin Street	South	South Logan Avenue
Blair Avenue	North and south	Fifteenth Street
Blair Avenue	South	Tenth Street
Burley Avenue	North and south	Eleventh Street
Burley Avenue	North and south	Fifteenth Street
Burley Avenue	North and south	Herald Street

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Stop Sign on	Direction of Travel	At Intersection of
Burley Avenue	North and south	Twelfth Street
Burley Avenue	South	Tenth Street
Burley Avenue	South	Thirteenth Street
Cameron Avenue	North and south	Eleventh Street
Cameron Avenue	North	Thirteenth Street
Cameron Avenue **[Added 4-9-2018 by Ord. No. 1415]**	North	West Thirteenth Street
Cameron Avenue	North and south	Twelfth Street
Cemetery Alley	West	Clay Avenue
Clay Avenue	North and south	Fifteenth Street
Clay Avenue	North and touh	Sixteenth Street
Clay Avenue	South	Third Street
Columbia Avenue	South	Fifteenth Street
Columbia Avenue	South	Twentieth Street
Cottage Street	East	Bald Eagle Avenue
Cottage Street	East and west	Burley Avenue
Cottage Street	East	Lincoln Avenue
Cottage Street	East	Washington Avenue
Cottage Street	West	Alley F
Eighteenth Street	East	Lincoln Avenue
Eighteenth Street	East and west	Adams Avenue
Eighteenth Street	East and west	Columbia Avenue
Eighteenth Street	East and west	Hamilton Avenue
Eighteenth Street	West	Madison Avenue
Eighth Street **[Added 4-9-2018 by Ord. No. 1415]**	East	Park Avenue
Eleventh Street	East	Lincoln Avenue
Eleventh Street	East and west	Logan Avenue
Engelman Drive	East and west	Clay Avenue
Fifteenth Street	East	Bald Eagle Avenue
Fifteenth Street	East and west	Blair Avenue
Fifteenth Street	East and west	Logan Avenue
Fifteenth Street	East and west	Pennsylvania Avenue
Fifteenth Street Except Right Turn	East	Lincoln Avenue
Fifth Street	East and west	Clay Avenue

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Stop Sign on	Direction of Travel	At Intersection of
Fifth Street	East	Washington Avenue
Fifth Street	North and south	Park Avenue
Fifth Street	West	Madison Avenue
Fourteenth Street	East and west	Bald Eagle Avenue
Fourteenth Street	East and west	Blair Avenue
Fourteenth Street/Highland Drive	East and west	Clay Avenue
Fourteenth Street	East and west	Hamilton Avenue
Fourteenth Street	East	North Avenue
Fourteenth Street Except Right Turn	West	Lincoln Avenue
Fourth Street	East and west	Clay Avenue
Fourth Street	East and west	Jefferson Avenue
Fourth Street	West	Madison Avenue
Garden Alley	North and south	Eighth Street
Garden Alley	North and south	Oakwood Alley
Garden Alley	North and south	Pine Alley
Garfield Street	East and west	Columbia Avenue
General Jones Drive	East	Hoover's Lane
Glad Avenue	South	Twenty-first Street
Hamilton Avenue	North and south	Eighteenth Street
Hamilton Avenue	North and south	Fifteenth Street
Hamilton Avenue	North and south	Sixteenth Street
Hamilton Avenue	South	Eighteenth Street
Herald Street	East	Blair Avenue
Herald Street	East	Jefferson Avenue
Herald Street	West	Alley F
Herald Street	West	Logan Avenue
Hospital Road	East	Clay Avenue
Jefferson Avenue	North	Eleventh Street
Jefferson Avenue	North	Fifth Street
Jefferson Avenue	South	Third Street
Lanners Street	West	Burley Avenue
Lincoln Avenue	North and south	Eleventh Street
Lincoln Avenue	North	Fourteenth Street
Lincoln Avenue	North and south	Ninth Street

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Stop Sign on	Direction of Travel	At Intersection of
Lincoln Avenue	North and south	Thirteenth Street
Lincoln Avenue	North and south	Twelfth Street
Lincoln Avenue	North and south	Twenty-first Street
Lincoln Avenue	South	Fifteenth Street
Lincoln Avenue	South	Sixth Street
Lincoln Avenue	South	Tenth Street
Logan Avenue	North and south	Eleventh Street
Logan Avenue	North	Sixteenth Street
Logan Avenue	North and south	Tenth Street
Logan Avenue	North and south	Thirteenth Street
Logan Avenue	North and south	Twelfth Street
Lund Avenue **[Added 12-14-2015 by Ord. No. 1369]**	West	Both Park Avenue and Third Street
Madison Avenue	North and south	Eighteenth Street
Madison Avenue	North and south	Sixteenth Street
Madison Avenue	South	Fifteenth Street
Madison Avenue	South	Twenty-first Street
Meadow Street (private road) **[Added 4-9-2018 by Ord. No. 1415]**	West	Park Avenue
Meadow Street	West	Washington Avenue
Morrison Street	East	Lincoln Avenue
Nineteenth Street	East and west	Adams Avenue
Nineteenth Street	East	Columbia Avenue
Ninth Street	East and west	Washington Avenue
North Avenue	North and south	Fifteenth Street
North Avenue	North and south	Sixteenth Street
Oak Street	East and west	Adams Avenue
Oak Street	East and west	Hillside Alley
Oakwood Alley	West	Washington Avenue
Park Avenue	East and west	Fifth Street
Park Avenue	North	Eighth Street
Park Avenue	North and south	Seventh Street
Park Avenue	South	Ninth Street
Park Avenue (except right turn)	South	Third Street

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Stop Sign on	Direction of Travel	At Intersection of
Perry Avenue	South	Fifteenth Street
Pine Alley	East	Park Avenue
Pine Alley	West	Washington Avenue
Reservoir Drive	East	Fifteenth Street
Riddle Avenue	North and south	Twenty-first Street
Riddle Avenue	North	Twenty-second Avenue
Riddle Avenue	South	Twentieth Street
River Road	South	Thirteenth Street
Route 220, North Exit	South	Tenth Street
Route 220, South Exit	South	Eleventh Street
Seventeenth Street	East and west	Adams Avenue
Seventeenth Street	East and west	Columbia Avenue
Seventeenth Street	East	Lincoln Avenue
Seventeenth Street	West	Hamilton Avenue
Seventh Street	East	Park Avenue
Seventh Street	West	Washington Avenue
Shippen Street	East	Washington Avenue
Short Street **[Added 7-12-2021 by Ord. No. 1451]**	North	Fifth Street
Short Street	East	Washington Avenue
Sixteenth Street	East and west	Columbia Avenue
Sixteenth Street	East and west	Hamilton Avenue
Sixteenth Street	East	Lincoln Avenue
Sixteenth Street	East	Madison Avenue
Sixteenth Street	West	Pennsylvania Avenue
Sixth Street	East	Washington Avenue
South Lincoln Avenue **[Added 12-14-2015 by Ord. No. 1369]**	North and south	Shippen Street
Stoney Point	North	Twentieth Street
Tacoma Road	West	Clay Avenue
Tenth Street	East	Washington Avenue
Tenth Street Extension	East	Eleventh Street Extension
Third Street	East and west	Washington Avenue
Third Street	West	Clay Avenue
Third Street/Hoover's Lane	East	Clay Avenue

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Stop Sign on	Direction of Travel	At Intersection of
Thirteenth Street	East and west	Bald Eagle Avenue
Thirteenth Street	East and west	Blair Avenue
Thirteenth Street	East and west	Clay Avenue
Thirteenth Street	East and west	Hamilton Avenue
Thirteenth Street	East and west	Lincoln Avenue
Thirteenth Street	East and west	Logan Avenue
Thirteenth Street	East and west	Pennsylvania Avenue
Twelfth Street	East and west	Blair Avenue
Twelfth Street	East and west	Lincoln Avenue
Twelfth Street	East and west	Logan Avenue
Twelfth Street	East and west	Pennsylvania Avenue
Twentieth Street	East	Adams Avenue
Twentieth Street (except right turn)	East	Columbia Avenue
Twentieth Street (except right turn)	West	Adams Avenue
Twenty-first Street	East and west	Adams Avenue
Twenty-first Street	East and west	Columbia Avenue
Twenty-second Street	East	Columbia Avenue
Twenty-second Street	East	Lincoln Avenue
Waring Street	East	Lincoln Avenue
Waring Street	East	Washington Avenue
Washington Avenue	North and south	Eleventh Street
Washington Avenue	North	Fourteenth Street
Washington Avenue	North	Thirteenth Street
Washington Avenue	North and south	Twelfth Street
Washington Avenue (except right turn)	North	Tenth Street
Washington Avenue	South	Tenth Street
Wertz Street **[Added 4-14-2014 by Ord. No. 1350]**	East and west	Hamilton Avenue
West Cottage Street **[Added 9-9-2019 by Ord. No. 1434]**	East	Logan Avenue
West Cottage Street **[Added 9-9-2019 by Ord. No. 1434]**	West	Logan Avenue
West Nineteenth Street **[Added 5-9-2016 by Ord. No. 1373]**	East	Hamlin Avenue

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§ 190-61. Schedule IX: Yield Intersections.

In accordance with the provisions of § 190-15, the following described intersections are hereby established as yield intersections, and yield signs shall be installed as follows:

Yield Sign on	Direction of Travel	At Intersection of
(Reserved)		

§ 190-62. Schedule X: Closing of Certain Streets to Certain Vehicles.

In accordance with the provisions of § 190-16, it shall be unlawful for any person to drive any vehicle, except a passenger vehicle (but not including any passenger vehicle drawing any trailer or towing any other vehicle), upon any of the streets or parts thereof described below:

Name of Street	Limits
Adams Avenue	From Twentieth Street north to Borough line
Columbia Avenue	From Fifteenth Street to Sixteenth Street
Fifteenth Street	From Lincoln Avenue to western Borough line
Fourteenth Street	From Pennsylvania Avenue to Lincoln Avenue
Lincoln Avenue **[Amended 7-10-2023 by Ord. No. 1467]**	From Fourteenth Street to Twenty-Third Street
Pennsylvania Avenue	From Tenth Street to northern Borough line
Tenth Street	From easterly Borough line to Washington Avenue
Twentieth Street	From Columbia Avenue to Adams Avenue
Washington Avenue	From Third Street to Tenth Street

§ 190-63. Schedule XI: Parking Prohibited at All Times.

In accordance with the provisions of § 190-20, no person shall park a vehicle at any time upon any of the following described streets or parts thereof:

Name of Street	Side	Location
Alley E	West	From Tenth Street to the Bayer Bros. Warehouse
Alley F **[Added 3-14-2022 by Ord. No. 1459]**	Both	From Eleventh Street to Twelfth Street
Belmont Avenue	East	To Herald Street
Berlin Street	Both	From Tenth Street to Juniata River
Blair Avenue	West	From Tenth Street to Fourteenth Street
Cameron Avenue	East	From Tenth Street to Eleventh Street
Cameron Avenue	East	South of Eleventh Street
Eleventh Street	North	From Lincoln Avenue to Jefferson Avenue

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Name of Street	Side	Location
Eleventh Street	North	From Pennsylvania Avenue to Washington Avenue
Fifth Street	North	From the center point of the intersection with Short Street extending 45 feet east and from the center point of the intersection of Fifth Street and Short Street extending west 45 feet
Hamlin Avenue	East	From Eighteenth Street to Oak Street
Herald Street	Both	From Logan Avenue to Blair Avenue
Jefferson Avenue	East	South of Eleventh Street to end
Lanners Street	Both	From Logan Avenue to Burley Avenue
Lanners Street **[Added 2-13-2023 by Ord. No. 1466]**	Both	From Bald Eagle Avenue to Riverside Avenue
Lincoln Avenue	Both	From Fifteenth Street to Sixteenth Street
Lincoln Avenue	East	From Twenty-first Street to western Borough line
Lincoln Avenue **[Added 1-13-2025 by Ord. No. 1481]**	West	From Hunter Avenue to a point 120 feet from the intersection of Logan Avenue and Hunter Avenue
Ninth Street	North	From Washington Avenue to South Logan Avenue
Oak Street	North	From Adams Avenue to western Borough line
Oak Street	South	From Adams Avenue to Madison Avenue
Park Avenue	Both	From northerly terminus of the ramp which passes over Schell Run between Shippen Street and Fifth Street to the southern terminus of said ramp
Park Avenue	East	From Third Street to Seventh Street
Park Avenue	West	From Seventh Street to Ninth Street
Pennsylvania Avenue	Both	From Sixteenth Street north to Borough line
Pennsylvania Avenue	West	Sixteenth Street to Alley J
Shippen Street	North	From South Lincoln Avenue to the end of Shippen Street
Shippen Street	South	From Washington Avenue west to South Lincoln Avenue
Sixth Street	Both	On the inside and outside radius of the two curves existing thereon on that area of Sixth Street from Lincoln Avenue to the western terminus of the street as delineated by the Borough
Sixth Street	North	From Washington Avenue to South Lincoln Avenue
South Lincoln Avenue	East	From Ninth Street to Tenth Street
South Lincoln Avenue	West	From Ninth Street to 1/2 way to Tenth Street
Tenth Street	South	From Washington Avenue to Logan Avenue

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Name of Street	Side	Location
Washington Avenue	Both	From Third Street to Tenth Street; provided, however, that parking shall be permitted on Sundays on the easterly side between Ninth Street south to a point where Washington Avenue narrows
West Fifteenth Street **[Added 11-10-2014 by Ord. No. 1356]**	Both	200 feet from center of Clay Avenue (east and west)
West Fifteenth Street **[Added 11-10-2014 by Ord. No. 1356]**	North	200 feet from center of Columbia Avenue (east and west)
West Fifteenth Street **[Added 11-10-2014 by Ord. No. 1356]**	North	200 feet from center of Lincoln Avenue (east and west)

§ 190-64. Schedule XII: Time Limit Parking.

In accordance with the provisions of § 190-21, no person shall park a vehicle or allow the same to remain parked upon any of the streets or parts thereof described below, between the hours specified for longer than the time indicated below:

(Reserved)

§ 190-65. Schedule XIII: Special Purpose Parking Zones.

In accordance with the provisions of § 190-22, the following are hereby established as special purpose parking zones:

Name of Street	Side	Authorized Purpose or Vehicle	Location
Washington Avenue	East	Vehicles associated with weddings or funerals at Trinity Episcopal Church	From Ninth Street to that point where Washington Avenue narrows to a smaller cartway as Washington Avenue approaches Eighth Street

§ 190-66. Schedule XIV: Angle Parking.

In accordance with the provisions of § 190-23, no person shall park a vehicle upon any of the streets or parts thereof described below, except at the angle designated:

Name of Street	Side	Angle (degrees)	Location

(Reserved)

§ 190-67. Schedule XV: Loading Zones.

In accordance with the provisions of § 190-24, the following described locations are hereby designated as loading zones:

A. Passenger loading and unloading zones. The following areas are hereby established for the loading of

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persons and/or luggage, and it shall be unlawful for any person to park a vehicle in any such zone or to allow it to remain stopped in any such zone or longer than necessary to permit the expeditious loading or unloading of persons and/or luggage then in readiness at the curb or within the vehicle so as to be promptly loaded and unloaded:

Street	Side	Location
Pennsylvania Avenue **[Added 5-8-2017 by Ord. No. 1390]**	South	810 Pennsylvania Avenue (at the sidewalk along the cul-de-sac near the former railroad station)
West Tenth Street **[Repealed 5-8-2017 by Ord. No. 1390]**		

B. Non-passenger loading and unloading zones. The following areas are hereby established for the loading and unloading of merchandise, and it shall be unlawful for any person to park a vehicle in any such zone or to allow it to remain stopped in any such zone or longer than necessary to permit the expeditious loading or unloading of merchandise then in readiness at the curb or within the vehicle so as to be promptly loaded and unloaded:

Street	Side	Location
Pennsylvania Avenue	West	961 Pennsylvania Avenue (currently Finks Hardware)

§ 190-68. Schedule XVI: Parking Meter Zones. [Amended 3-10-2025 by Ord. No. 1483; 3-9-2026 by Ord. No. 1497]

A. On-street parking meter zones. In accordance with the provisions of § 190-34, parking or standing a vehicle in a parking meter space in the on-street parking meter zones described below shall be lawful during the hours specified only upon the deposit of such amount as is indicated for each specified period of time:

Name of Street	Side	Hours/Days	Time Limit/ Rate	Location
Eleventh Street	South	9:00 a.m. to 5:00 p.m./Fridays; 9:00 a.m. to 9:00 p.m./all other days, except Sundays and holidays	2 hrs./$0.05 per 1/2 hour	From Logan Avenue to Pennsylvania Avenue
Logan Avenue	Both	9:00 a.m. to 5:00 p.m./Fridays; 9:00 a.m. to 9:00 p.m./all other days, except Sundays and holidays	2 hrs./$0.05 per 1/2 hour	From Ninth Street to Twelfth Street

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Name of Street	Side	Hours/Days	Time Limit/ Rate	Location
Pennsylvania Avenue	Both	9:00 a.m. to 5:00 p.m./Fridays; 9:00 a.m. to 9:00 p.m./all other days, except Sundays and holidays	2 hrs./$0.05 per 1/2 hour	From Alley A to Thirteenth Street
Pennsylvania Avenue	East	9:00 a.m. to 5:00 p.m./Fridays; 9:00 a.m. to 9:00 p.m./all other days, except Sundays and holidays	2 hrs./$0.05 per 1/2 hour	From the Pennsylvania Railroad Station to Alley B
Tenth Street	North	9:00 a.m. to 5:00 p.m./Fridays; 9:00 a.m. to 9:00 p.m./all other days, except Sundays and holidays	2 hrs./$0.05 per 1/2 hour	From Blair Avenue to Alley E
Tenth Street	South	9:00 a.m. to 5:00 p.m./Fridays; 9:00 a.m. to 9:00 p.m./all other days, except Sundays and holidays	2 hrs./$0.05 per 1/2 hour	From Blair Avenue to Pennsylvania Avenue
Twelfth Street	Both	9:00 a.m. to 5:00 p.m./Fridays; 9:00 a.m. to 9:00 p.m./all other days, except Sundays and holidays	2 hrs./$0.05 per 1/2 hour	From Pennsylvania Avenue to Blair Avenue

B. Off-street parking meter zones. Parking or standing a vehicle in a parking meter space in the off-street parking meter zones described below shall be lawful only when not in excess of the maximum parking time indicated during the hours of operation specified, on all days except Sundays and holidays, and only upon the deposit of such amount as is indicated for each specified period of time:

Name of Lot (Location)	Hours/Days	Time Limit/Rate
Parking Lot No. 1 (northeast corner of Logan Avenue and Herald Street) **[Amended 5-12-2025 by Ord. No. 1487]**	12 hrs./all, except Sundays and holidays	12 hrs./$0.25 per 1/2 hour

Council shall have the discretion to suspend parking enforcement at Parking Lot No. 1 by majority vote at a public meeting.

§ 190-69. Parking prohibited during certain hours.

No person shall park a vehicle or allow the same to remain parked upon any of the streets or parts of streets

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described below, between the hours specified as indicated below.

Name of Street	Side	Location	Prohibited Hours	Dates
Alley Z **[Added 8-21-2017 by Ord. No. 1402]**	Both	Between Madison Avenue and Hamilton Avenue	During Tyrone Area School District events at Gray Veterans Memorial Field	During all athletic seasons
Tenth Street **[Added 2-11-2013 by Ord. No. 1339]**	North	From Alley F to Logan Avenue	15-minute parking allowed only from 6:00 a.m. to 8:00 a.m.	Year round
Tenth Street	North	From Logan Avenue to Pennsylvania Avenue	6:00 a.m. to 8:00 a.m.	November 15 through March 15, every day March 16 through November 14, Wednesdays and Fridays
Tenth Street **[Repealed 2-11-2013 by Ord. No. 1339]**				

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Chapter 192

VEHICLES, ON-ROAD REPAIR OF

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 7-8-1991 by Ord. No. 1011. Amendments noted where applicable.]

GENERAL REFERENCES

Abandoned and junked vehicles — See Ch. 188. **Vehicles and traffic — See Ch. 190.**

§ 192-1. Prohibited acts.

No person shall stand or park a vehicle upon any roadway for the principal purpose of greasing, repairing or maintaining any such vehicle.

§ 192-2. Violations and penalties.[142]

Any person, firm or corporation violating the terms of this chapter shall, upon conviction before the Magisterial District Judge, be sentenced to pay a fine of not more than $600 and costs of prosecution.

142.Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

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TYRONE CODE

Chapter 196

WATER

[The water legislation of the Borough of Tyrone is currently under review. Upon adoption by the Borough Council, such legislation will be included here.]

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Chapter 205

ZONING

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 10-8-2007 by Ord. No. 1260. Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 71.

Floodplain regulations — See Ch. 99.

Mobile homes and mobile home parks — See Ch. 125.

Subdivision of land — See Ch. 174.

Swimming pools — See Ch. 176.

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ARTICLE I
General Provisions

§ 205-1. Short title.

This chapter shall be known and may be cited as the "Tyrone Borough Zoning Ordinance." The accompanying map is hereby declared to be part of this chapter and shall be known and may be cited as the "Tyrone Borough Zoning Map" hereinafter referred to as the "Zoning Map."[143]

§ 205-2. Ordaining clause.

This chapter shall become effective on _____, 2007.[144] Enactment by the Council of the Borough of Tyrone, County of Blair, is by the authority of and pursuant to the provisions of Articles VI through X-A of Act No. 247 of 1968, P.L. 805, as reenacted and amended by the Pennsylvania General Assembly, known and cited as the Pennsylvania Municipalities Planning Code.[145]

§ 205-3. Purpose.

This chapter is designed, adopted and enacted to achieve the following purposes:

A. To promote, protect and facilitate any or all of the following: the public health, safety, morals, and the general welfare; coordinated and well-planned community development and proper density of population; emergency management preparedness and operations, 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, sewerage, 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 resources in the environment and preservation of critical components of the area heritage.

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 advance the purposes and goals of the Borough as set forth in the Tyrone Borough Comprehensive Plan Update: 2006-07.

D. To provide for the use of land within the Borough for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements; provided, however, that no zoning ordinance shall be deemed invalid for the failure to provide for any other specific dwelling type.

E. To accommodate reasonable overall community growth and redevelopment, including population and employment growth, and opportunities for development of a variety of residential dwelling types, commercial development and industrial development.

§ 205-4. Establishment of controls.

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143. Editor's Note: The Zoning Map is included at the end of this chapter.

144. Editor's Note: So in original. Zoning Ordinance adopted 10-8-2007.

145. Editor's Note: See 53 P.S. § 10101 et seq.

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A. Minimum and uniform regulations. The regulations set forth in this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structures or land.

B. Proposed uses and structures. In all zoning districts, after the effective date of this chapter, any new building or other structure or any tract of land shall be constructed, developed, and used only in accordance with the regulations specified herein, except where a variance has been authorized by the Zoning Hearing Board in accordance with Article VI of this chapter.

C. Existing uses and structures. In all districts, after the effective date of this chapter, any existing building or other structure or any tract of land which is not in conformity with the regulations of the district in which it is located shall be deemed to be nonconforming and subject to the regulations of Article VI of this chapter.

D. Floodplain regulations. All structures, land areas and/or premises which are located in areas identified as floodplain by the National Flood Insurance Program are subject to the regulations of Chapter 99, Floodplain Regulations, as amended.

§ 205-5. Interpretation.

For the purpose of the interpretation and application of this chapter, the provisions contained herein shall be held to be the minimum requirements for the promotion of public health, safety, comfort, convenience, and general welfare.

A. Whenever any regulations made under authority of this chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under any other statute, the provisions of the regulations made under authority of this chapter shall govern.

B. Whenever the provisions of any other statute require a greater width or size of yards, courts or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by any regulations made under authority of this chapter, the provisions of such statute shall govern.

C. Whenever any regulations pertaining to a specific use or activity under authority of this chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required for the zoning district or generally required under this chapter, the greater or higher standards shall govern.

D. In interpreting the language of this chapter to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the Borough Council, in favor of the property owner and against any implied extension of the restriction.

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ARTICLE II
Community Development Objectives

§ 205-6. Objectives identified.

The Tyrone Borough Council identifies the following legislative finding with respect to land use, density of population, location and function of roads, and other community facilities and utilities, and other factors that Council believes relevant in establishing community development objectives for the future development of the Borough. It is the purpose of this chapter to reflect the objectives of the Borough, to establish such other objectives as may be deemed necessary, and to provide the means and regulations whereby these objectives may be attained. The overall approach of this chapter is to ensure orderly, appropriate and compatible growth that will result in well-planned and efficient development and redevelopment of Tyrone Borough.

A. Provide for an adequate supply and location of land uses appropriate for the natural resource profile, infrastructure and community needs of the Borough but flexible enough to sustain orderly development.

B. Encourage and reinforce renewal and downtown redevelopment activities, mixed uses and traditional neighborhood development, preservation and reuse of historic structures and in-fill development while preserving certain community physical, environmental, floodplain and historic assets.

C. Encourage development within and adjacent to existing development on a clustered basis that avoids linear development, thereby enabling the most efficient and economic provision of basic community facilities and public utilities; in-fill development of industrial areas and the downtown; reuse and rehabilitation of presently vacant structures; and prioritize the reuse of existing vacant land served by existing infrastructure.

D. Encourage the reuse of historic structures and contributing structures in the identified and approved National Register Historic District and assure that residential and nonresidential development is carried out in a way that preserves and enhances the stately and historic residential, public and commercial structures.

E. Encourage innovative and creative approaches to residential and nonresidential development, including the "cluster" concept; traditional mixed-use neighborhood development; the incorporation of public open spaces, plazas and commons; aesthetic design and location of parking areas; pedestrian walkways, trails and passages; and attention to vistas and viewsheds in future development.

F. Preserve environmentally sensitive land such as floodplains, wetlands and steeply sloping areas, while encouraging new development and expansion in level areas outside and/or above floodplains.

G. Maintain and enhance recreational opportunities and preserve open space for use by existing and future residents.

H. Encourage development of Tyrone as a "growth center," with mixed-use, clustered and nonlinear development at a critical node on the I-99 corridor linking I-80, State College, Altoona and the Pennsylvania Turnpike, focusing on industrial development, health care, nature- and heritage-tourism and commercial development.

I. Focus local economic development efforts in areas with the most potential, including the full development of the Tyrone Industrial Park, the revitalization of the downtown business district, infill development of vacant parcels and economic reuse of vacant buildings.

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J. Preserve critical natural resources and local physiography, including floodplains, steeply sloping areas, critical viewsheds and water resources.

K. Provide adequate community facilities and community infrastructure, ensuring a safe, sanitary and attractive environment for community life and growth.

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ARTICLE III
Terminology

§ 205-7. Application; word usage.

A. It is not intended that these definitions include only words used or referred to in this chapter. The words are included in order to aid in the interpretation of this chapter for administrative purposes and in the carrying out of duties by appropriate officers and by the Zoning Hearing Board.

B. Unless otherwise expressly stated, the following shall, for the purpose of this chapter, have the meaning indicated as follows:

(1) Words used in the present tense include the future tense.

(2) The word "person" includes a profit or nonprofit corporation, company, partnership or individual.

(3) The words "used" or "occupied" as applied to any land or building include the words "intended," "arranged," or "designed" to be used or occupied.

(4) The word "building" includes structure.

(5) The word "lot" includes plot or parcel.

(6) The word "shall" is always mandatory.

§ 205-8. Definitions.

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

ABANDONMENT — The relinquishment of property, or a cessation of the use of the property, by the owner or lessee without any evidence of transferring the rights to the property to another owner or of resuming the use of the property.

ABUTTING — Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

ACCESSORY BUILDING — A subordinate building, structure or portion of the main building on the same lot, the use of which is customarily incidental to that of the main or principal building, including but not limited to detached garages, noncommercial greenhouses in residential districts, storage sheds, swimming pools, children's playhouses, decks, carports and private animal pens and dog houses, located in the required side or rear yards.

ACCESSORY USE — A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use of building, gardening as an avocation on a residential lot, keeping of domestic pets, off-street parking or loading, storage of merchandise normally carried in stock on the same lot with a commercial use unless such storage is excluded in the district regulations.

ALTERATIONS — As applied to building or structure, means a change or rearrangement in structural parts or in the existing facilities or an enlargement, whether by extending on side, front or back or by increasing height or the moving from one location or position to another.

AMENDMENT — Revisions to the zoning text and/or the Official Zoning Map; the authority for any amendment lies solely with the Borough Council and is pursuant to the Pennsylvania Municipalities Planning Code.

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ANIMAL OR VETERINARY HOSPITAL — A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

APPLICATION — An application, required to be filed and approved by the Borough of Tyrone prior to start of construction or development.

AREA, BUILDING — The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory building.

AUTOMOTIVE REPAIR — A building used primarily for making major repairs to motor vehicles, including overhauling, body work, refinishing, and upholstering and incidental servicing.

BED-AND-BREAKFAST INN — A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in abutting premises.

BILLBOARD — A surface whereon advertising matter is set in view conspicuously and which advertising does not apply to premises wherein it is displayed or posted.

BOROUGH — The Borough of Tyrone, Blair County Pennsylvania.

BOROUGH COUNCIL — The Borough Council of the Borough of Tyrone, Blair County, Pennsylvania.

BROADCAST TRANSMISSION FACILITY — Any structure designed or intended for use to transmit or relay any digital, electronic, radio, television or microwave signal via the atmosphere, excluding satellite receivers less than 18 inches in diameter and transmission facilities required for public safety.

BUILDING — A structure having a roof supported by columns or walls and intended for use for shelter or storage of any individual, animal, process, equipment, goods or materials.

CERTIFICATION OF COMPLIANCE — A statement, based on an inspection, signed by the Zoning Officer, setting forth either that a building, structure or use of a parcel of land complies with this Zoning Ordinance or that a building, structure or parcel of land may lawfully be employed for specified use or both.

CHURCH or HOUSE OF WORSHIP — An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

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 ESTABLISHMENT — An establishment housing an occupation, employment or enterprise that is carried on for profit by the owner, lessee, or licensee, involving a sale of goods or services.

CONDITIONAL USE — A specific use identified as allowable in a particular zoning district pending review and approval by the Borough Council.

CONVENIENCE STORE — A commercial establishment offering gasoline, prepared food primarily for off-premises consumption, packaged food and dairy products, beverages and related items, typically over extended hours or open for 24 hours.

CONVERSION APARTMENTS — The renovation and portioning of a single-family residential structure into no more than two apartments, each having a minimum of 800 square feet of gross floor area.

COVERAGE, BUILDING — The ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot to the total lot area.

DAY-CARE FACILITIES — A facility in which part-time care is provided for children or adults, having

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the necessary licenses and permits required by the Commonwealth of Pennsylvania.

DECK — An open, unroofed platform structure having a vertical elevation above the ground extending from a principal building.

DENSITY — A ratio of the number of dwelling units per acre that occupy or may occupy an area of land.

DEVELOPMENT PLAN — The provisions for development of a planned residential development, including a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase "provisions of the development plan," when used in this chapter, shall mean the written and graphic materials referred to in this definition.

DISTRICT or ZONING DISTRICT — An area constituted by or pursuant to this chapter and delineated by text and map as to location, extent, nature and contents.

DRINKING ESTABLISHMENT — Any premises licensed by the Pennsylvania Liquor Control Board wherein alcoholic beverages are sold at retail for consumption on the premises.

DWELLING — A building or portion thereof that provides living facilities for one or more families.

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.

DWELLING, MULTIFAMILY — A building or portion thereof for occupancy by three or more families living independently of each other and containing three or more dwelling units.

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 entirely surrounded by open space on the same lot.

DWELLING, TWO-FAMILY — A building arranged, designed, or intended for occupancy by two families living independent of each other and doing their own cooking therein, on a single lot.

EASEMENT — The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

EATING ESTABLISHMENT — A commercial establishment that serves food and beverages primarily for on-premises consumption. This includes cafes, sit-down restaurants and outdoor cafes.

EATING ESTABLISHMENT, DRIVE-IN — A retail outlet where food or beverages are sold to a substantial extent for consumption off-premises or a drive-in window is provided.

ESSENTIAL SERVICE — The erection, construction, alteration or maintenance by public utilities or public service establishment or municipal or other governmental agencies of: underground gas, electrical, telephone, radio, television transmission or distribution systems; and public water, public sanitary sewer and public storm sewer facilities including wires, mains, drains, sewers, pipes, conduits, fire alarm boxes, traffic signals, hydrants and similar equipment and accessories in connection therewith; including buildings necessary for the furnishing of adequate services for the public health, safety and general welfare; excluding sanitary landfills.

FENCE — An artificially constructed barrier of any material or combination of materials erected to enclose, separate or screen areas of land.

A. FENCE, CLOSED — A solid fence with 0% open area, including gates, effectively screening the

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activities conducted on a property from adjacent properties and rights-of-way.

B. FENCE, OPEN/ORNAMENTAL — A fence with greater than 25% open area, including gates, including but not limited to split rail fence.

FLEA MARKET — An occasional or periodic market held in an open area or structure where groups of individual sellers or dealers offer goods for sale to the public.

FORESTRY — The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

FRATERNAL ORGANIZATION — A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal written membership requirements.

GARAGE — An enclosed space for the storage of one or more motor vehicles, either attached to or detached from the principal building, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

GROSS FLOOR AREA — The sum of the total horizontal areas of the building of all floors of a building sustaining a particular use, measured from the exterior face of exterior walls, or from the center line of a common wall separating two buildings or uses, excluding any space where the floor-to-ceiling height is less than six feet and any interior parking/garage/loading space.

GROUP HOME — A facility or dwelling unit providing food, shelter and personal guidance with supervision to four or more persons who are not within the second degree of kinship and are operating as a group family household, including but not limited to handicapped persons, foster children, elderly, battered children and women, and operates as a special treatment facility providing less than primary health care.

HABITABLE FLOOR AREA — In a dwelling unit, the sum of the interior floor area excluding the area devoted to a kitchen, bathroom/powder room, closets, pantry, hallways, basement, garage, porch/deck, attic and storage space.

HOME OCCUPATION — An occupation, profession, activity, or use other than a no-impact home-based business as defined in this chapter, permitted under the provisions and conditions of this chapter.

HORTICULTURE — The science or art of cultivating fruits, vegetables, flowers, or ornamental plant.

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.

INDUSTRIAL PARK — A tract of land that has been planned, developed and operated as an integrated facility for a number of individual light industrial users, with special attention to circulation, parking, utilities, aesthetics and compatibility.

INDUSTRIAL, 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.

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.

JUNKYARD — A commercial establishment on a lot or in a structure, or part thereof, used primarily for the collecting, storage, and sale of wastepaper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition, and for the sale of

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parts thereof.

LAND DEVELOPMENT — Any of the following activities are included as land developments:

A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

   (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots, regardless of the number of occupants or tenure; or

   (2) The division or allocation of land or space, whether initially of 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.

B. A subdivision of land.

C. Development in accordance with Section 503(1.1), Article V, of the Pennsylvania Municipalities Planning Code.[146]

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 proprietary interest in land.

LOT (see also LOT OF RECORD) — A platted parcel of land intended to be separately owned, developed, and otherwise used as a unit.

LOT AREA — The area of horizontal plan bounded by the vertical planes through front, side, and rear lot lines.

LOT COVERAGE — Determined by dividing that area of lot that is occupied or covered by the total horizontal projected surface of all 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, FRONT (see also YARD, FRONT) — On an interior lot, the lot line abutting a street; or, on a corner lot, the shorter lot line abutting a street; or, on a through lot, the lot line abutting the street providing the primary access to the lot; or, on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained.

LOT OF RECORD — A lot whose existence, location, and dimensions have been legally recorded or registered in a deed or on a plat.

LOT WIDTH — The horizontal distance between side lot lines, measured at the required front setback line.

LOT, CORNER — A lot abutting two or more streets at their intersection.

LOT, INTERIOR — A lot other than a corner lot.

MALL — A shopping center where tenants are located on one or both sides of a covered walkway with direct pedestrian access to all establishments from the walkway.

MANUFACTURING — The act of producing, processing, preparing or assembling finished products or goods from raw materials or component parts through the repetitious use of an established or set process.

146.Editor's Note: See 53 P.S. § 10503(1.1).

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MOBILE HOME — A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

MOBILE HOME PARK — A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

MOTEL (see also HOTEL) — A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room.

MUNICIPALITY — The Borough of Tyrone, Blair County, Pennsylvania.

NEIGHBORHOOD CONVENIENCE COMMERCIAL — A commercial establishment having a maximum size of 900 square feet of gross floor area, primarily to serve day-to-day convenience needs of local residents of the immediate neighborhood in a pedestrian-oriented design. Examples of such establishments are those meeting the maximum size requirement and include but are not limited to groceries, cafes, drugstores, beauty shops/hairstylists and craft stores.

NO-IMPACT HOME-BASED BUSINESSES — This includes business or commercial activity administered and conducted as an accessory use clearly secondary to the residential use of the dwelling, and which involves no vehicular or pedestrian customer, client or patient traffic, and the business use requires no pickup, delivery or removal functions to or from the premises in excess of those normally associated with the residential use. The business or commercial activity must satisfy the following:

A. The business activity shall be compatible with the residential use of the property and surrounding residential uses;

B. The business shall employ no employees other than family members residing in the dwelling;

C. The business shall not involve the display or sale retail goods and no stockpiling or inventory of a substantial nature;

D. There shall be no outside appearance of a business use, including but not limited to parking, signs or lights;

E. The business activity may not use any equipment or process that creates noise, vibration, glare, fumes, odors, electronic or electrical interference, including interference with radio or television reception, which is detectable in the neighborhood;

F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential uses in the neighborhood;

G. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor space; and

H. The business may not involve any illegal activity.

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 a zoning ordinance or amendment heretofore

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or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

NONCONFORMING USE — A use, whether of land or of structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

NURSING HOME — An institution for the care of the aged or the infirm, who are residents by virtue of requiring specialized care and supervision relating to health, social and/or rehabilitative services, but not for the care and treatment of alcoholism or narcotics addiction. The facility shall be licensed in accordance with appropriate state and/or county laws and regulations.

OPEN SPACE — Any parcel or designated land area in its natural state or essentially unencumbered by either principal or accessory uses, buildings, structures, or impervious surfaces.

OUTDOOR FURNACE — A solid fuel-burning appliance, not construed to be an accessory building or accessory use under this chapter, located to the exterior of the building it serves, used for space heating and/or domestic water heating.

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 SPACE — An area on a lot and/or within a building intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with parking stall. Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached, and townhouse residential uses shall be considered to have a means of access to a public street.

PATIO — An unroofed area or courtyard built at ground level, paved with concrete, bituminous, brick or a similar dustless all-weather surface, adjoining a residential dwelling used as an area for outdoor lounging, dining, etc.

PEDESTRIAN-ORIENTED COMMERCIAL RETAIL — Commercial establishments in that portion of a building or property located at or closest to the level of the public sidewalk or within 40 feet of a public sidewalk.

PENNSYLVANIA MUNICIPALITIES PLANNING CODE — Act of 1968, P.L. 805, No. 247 as reenacted and amended, the enabling legislation that permits municipalities in Pennsylvania to prepare and enact comprehensive development plans, zoning ordinances and other land use controls.[147]

PERSONAL CARE HOME — Facilities that provide lodging, food and some support services for people who are elderly or who have mental or physical disabilities; who are unable to care for themselves but who do not require twenty-four-hour nursing services in a licensed nursing care facility. Typically, residents of these facilities need help with dressing, feeding, taking medications, mobility issues and finances.

PHILANTHROPIC FACILITIES — Offices of organizations primarily involved in dispensing or receiving aid from funds set aside for humanitarian purposes.

PLANNING COMMISSION, COUNTY — The Planning Commission of the County of Blair.

PLANNING COMMITTEE/COMMISSION, BOROUGH — A municipal planning committee or commission established by Borough Council, in conformance with Article II of the Pennsylvania Municipalities Planning Code.[148]

147.Editor's Note: See 53 P.S. § 10101 et seq.

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PLAT — A map, plan or layout of a subdivision indicating the location and boundaries of individual properties.

PORCH — A roofed open area, which may be glazed or screened, attached to and directly accessible to/from a principal building, conforming to the dimensional requirements required for principal buildings in the respective zoning district.

PRINCIPAL BUILDING — A structure in which the principal use of the site is conducted.

PRINCIPAL USE — The main use of land or structures, as distinguished from a secondary or accessory use.

PRIVATE CLUB — An organization catering exclusively to members and their guests; or premises and building for recreational or athletic purposes which are not conducted primarily for gain, providing that any vending stands, merchandise or commercial activities are conducted only as required generally for the membership of each club.

PROFESSIONAL OFFICE — The office of a member of a recognized profession practitioner of a calling or occupation that the commonly identified to be professional in character by virtue of specialized knowledge, training, education and/or experience required for the practice of said calling or occupation. Said professions shall include, but not be limited to, law, medicine, chemistry, ministry, architecture, accounting, engineering, writing and education.

PUBLIC HEARING — A formal meeting held pursuant to public notice by the governing body, the Planning Committee/Commission or the Zoning Hearing Board, intended to inform and obtain public comment, prior to taking action in accordance with this chapter.

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."[149]

PUBLIC NOTICE — Notice published once each week for two successive weeks in a newspaper of general circulation in the Tyrone Borough area. Such notice shall state 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.

PUBLIC USES — Includes public and semipublic uses of a welfare and educational nature, such as parks, churches or houses of worship, cemeteries, fire stations, municipal buildings, essential public utilities that require enclosures within a building, municipal active and passive recreational facilities, easements for alleys, streets, and public utility rights-of-way.

RECREATION, ACTIVE — Leisure time activities requiring specialized equipment, sites and fields, carried out in an organized fashion and usually performed by teams or other individuals.

RECREATION, PASSIVE — A leisure time activity not considered active, occurring in a nonstructured manner and requiring little if any community infrastructure or equipment, including but not limited to hiking, bicycling, nature walks and rustic camping.

RECYCLING CENTER — A facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, plastic containers, and metal cans, are collected, stored, flattened, crushed, or bundled, essentially by hand, within a completely enclosed building.

RECYCLING COLLECTION POINT — A collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure.

148.Editor's Note: See 53 P.S. § 10201 et seq.

149.Editor's Note: See now 65 Pa.C.S.A. § 701 et seq.

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RIGHT-OF-WAY — A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.

ROAD — A public or private way that affords principal means of access to abutting properties. The word "road" shall include, but not be limited to, the words "street," "highway," "alley," and "thoroughfare."

ROAD CENTER LINE — The center of the surveyed road right-of-way, or where not surveyed, the center of the traveled cartway.

ROAD CLASSIFICATION — For the purpose of this chapter, the following definitions are employed:

A. MAJOR ARTERIAL — A road whose function is to provide for the movement of high volumes of through traffic subject to necessary control of entrances, exits and curb use.

B. COLLECTOR — A road or street that provides for the movement of large volumes of traffic between arterials and local roads and direct access to abutting properties.

C. LOCAL — A road whose function is to provide for local traffic movement and direct access to abutting properties.

D. PRIVATE or NONPUBLIC — All streets which are not public including, but not limited to, streets maintained by private agreements, by private owners or for which no maintenance responsibility has been established; and including all private driveway easements or rights-of-way for access.

SCREEN PLANTING — A vegetative material of sufficient height and density to conceal from the view of property owners in adjoining residential districts the structures and uses on the premises on which the screen planting is located.

SELF-SERVICE STORAGE — A warehousing facility where separate storage spaces of varying size are available for lease or rental, usually on a self-service basis. For the purposes of this chapter, there shall be no residential occupancy or nor commercial sales conducted from such storage areas.

SERVICE STATION — Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tuneups, lubrication, minor repairs, and carburetor cleaning are conducted for motor vehicles.

SETBACK — The required minimum horizontal distance between the building line and the related front, side, or rear property line.

SEXUALLY ORIENTED BUSINESS — A business establishment with more than 15 square feet of floor area devoted to an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theatre, adult theater, escort agency, nude model studio, or sexual encounter center as defined and further regulated in Chapter 58, Adult Entertainment.

SHOPPING CENTER — A group of commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on-site, provision for goods delivery separated from customer access.

SIGN — A structure that consists of any device, light, letter, word, model, banner, pennant, trade flag, logo, insignia, balloons or representation that advertises, directs, or announces the use conducted; goods, products, services or facilities available; or that influences persons or conveys information, or that calls attention to the building or the use located on the lot. The term "sign" does not include the flag of the United States of America or the Commonwealth of Pennsylvania, or any federal, state or municipal traffic or directional sign or other official federal, state, county or municipal government signs.

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A. SIGNS, FREESTANDING — Any nonmovable sign not affixed to a building.

B. SIGNS, BUSINESS — A sign that directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured or to an entertainment event offered on the premises where the sign is located.

C. SIGNS, BILLBOARD — A sign that directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises or land on which the sign is located.

D. SIGN, AWNING — A sign painted on or attached to a removable frame, of the hinged, rolled or folding type, that may have a covering, either combustible or noncombustible.

E. SIGN, COMMERCIAL OR OFFICE CENTER — A directory, on or off premises, used to identify specific enterprises that are located within the commercial, industrial, business or office center.

F. SIGN, MARQUEE — A sign painted on, attached to, or consisting of an interchangeable copyreader, on the face of a building, or as part of a freestanding sign.

G. SIGN, PROJECTING — A sign other than a wall sign that is attached to and projects from a building face or wall, or from a structure whose primary purpose is other than the support of the sign.

H. SIGN, WALL — A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and does not project more than 10 inches from such building or structure.

I. SIGN, WINDOW — A sign affixed to the surface of a window, or within the display area of a window, with its message intended to be visible to and readable from the public right-of-way, and/or from adjacent properties.

SIGN AREA — The area of the smallest geometric figure or sum of the combination of regular geometric figures and background that comprise the sign face, excluding structural supports, and decorative trim, that displays the sign copy.

SILVICULTURE — The development and/or maintenance of a forest or wooded preserve.

SPECIAL EXCEPTION — A use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX of Act 247, the Pennsylvania Municipalities Code, as amended.[150]

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 be no floor above it, then the space between any floor and the ceiling next above it.

STRUCTURE — Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

SUBDIVISION — The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer or ownership of 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 — Any reasonably permanent pool or open tank, not located within a completely

150.Editor's Note: See 53 P.S. § 10101 et seq.

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enclosed building, and containing, or normally capable of containing, water to a depth any point greater than two feet. Ponds and/or lakes are not included, provided that swimming is not the primary purpose for their construction. Barrier requirements for aboveground pools shall be measured from the ground.

TRANSFER STATIONS — A lot or structure, or part thereof, used primarily for the collection and/or storage of garbage, refuse and other discarded materials including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, agriculture and residential activities.

USE — The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

VARIANCE — A modification of the literal provisions of this chapter pursuant to the provisions of Articles VI and IX of Act 247, the Pennsylvania Municipalities Code, as amended,[151] which the Zoning Hearing Board is permitted to grant when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.

VEGETATIVE MATERIAL — Natural landscaping materials providing decoration and/or screening, including trees, bushes, ornamental grass, shrubs and similar material.

WAREHOUSING — Terminal facilities and buildings used for the storage of goods and materials and/or handling of freight, with or without maintenance facilities.

WHOLESALING — The business of selling merchandise to retailer, industrial, commercial, institutional, professional or other business users; or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

YARD — An open space that is between the principal building or group of buildings and the nearest lot line. Such space shall be unoccupied and unobstructed from the ground upward except as may herein be permitted.

A. YARD, FRONT — An open space between the principal building or group of buildings and the front lot lines, unoccupied and unobstructed from the ground upward, extending the full width of the lot.

B. YARD, REAR — An open space extending the full width of the lot between a principal building and the rear lot line, unoccupied and unobstructed from the ground upward.

C. YARD, SIDE — An open space extending from the front yard to the rear yard between a principal building and the nearest side lot line, unoccupied and unobstructed from the ground upward.

ZONING HEARING BOARD — The Zoning Hearing Board of the Tyrone Borough

ZONING MAP — The Official Zoning Map of Tyrone Borough, together with all notations, references and amendments that may subsequently be adopted. The Zoning Map shall be considered a part of this chapter.

ZONING OFFICER — The administrative officer charged with the duty of enforcing the provisions of this chapter.

ZONING ORDINANCE — The ordinance in effect as adopted or amended that controls or regulates land use in the Borough.

151.Editor's Note: See 53 P.S. § 10101 et seq.

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ARTICLE IV
Zoning Districts

§ 205-9. Establishment and description of districts.

A. For the purpose of implementing the community development objectives of this chapter, the following zoning districts are hereby established:

R-1	Low-Density Residential District
R-2	Moderate-Density Residential District
T-C	Town Center Commercial District
H-C	Highway Commercial District
I-M	Industrial/Manufacturing District

B. The districts and district requirements are delineated in this article.

§ 205-10. R-1 Low-Density Residential District.

The purpose of the Low-Density Residential District is to protect existing residential areas from incompatible land uses and to provide for the continuation of relatively low-density residential development. The district also provides for certain public and semipublic uses considered necessary to the general welfare of the district. Uses that would substantially interfere with the principle uses are discouraged.

A. Permitted uses. The following are permitted uses in the R-1 District:

(1) Single-family detached dwellings.

(2) Two-family detached dwellings.

(3) Houses of worship, convent, rectory, parsonage or other incidental structures.

(4) Public uses.

(5) Cemeteries and necessary incidental structures.

(6) Essential services.

(7) Accessory buildings and uses on the same lot with and incidental to any of the above uses.

(8) Forestry.

(9) No-impact home-based business.

B. Special exception uses. The following require special exceptions in accordance with Article VI of this chapter, and are subject to review and action by the Zoning Hearing Board:

(1) Educational and philanthropic facilities (public and private).

(2) Day-care facilities (child and adult) subject to appropriate state regulations.

(3) Home occupations.

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(4) Funeral homes.

(5) Group homes.

(6) Bed-and-breakfast inns.

(7) Hospitals.

(8) Accessory buildings and uses on the same lot with and incidental to approved special exception uses in this subsection.

C. Conditional uses. The following require conditional uses in accordance with Article VI of this chapter, and are subject to review and action by the Borough Council:

(1) Neighborhood convenience commercial.

(2) Accessory buildings and uses on the same lot with and incidental to approved conditional uses in this subsection.

D. Area. The minimum lot area for uses within the R-1 District are as follows:

(1) Single-family dwelling: 7,500 square feet.

(2) Other dwellings: 5,000 square feet, except 3,750 square feet per dwelling unit for two-story structures.

(3) Other uses: 15,000 square feet or minimum required to meet off-street parking and other requirements, whichever is greater.

E. Minimum lot width. The minimum lot width within the R-1 District at setback is as follows:

(1) Single-family detached and two-family dwellings: 75 feet.

(2) Bed-and-breakfast inn: 75 feet.

(3) Other uses: 150 feet.

F. Lot coverage. All buildings, including accessory buildings/structures, shall not cover more than 30% of the lot.

G. Setback. The minimum distance from the right-of-way or property line is as follows:

(1) Front yard.

(a) Principal building: 30 feet.

(2) Side yard.

(a) Interior lot.

[1] Principal building. Each lot shall have two side yards with each being a minimum of 20% of the lot width up to a maximum of eight feet.

(b) Corner lot.

[1] Principal building: side yard facing street shall be 1 1/2 that required for an interior lot.

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[2] Swimming pool: six feet.

[3] Accessory building (other): three feet (for accessory buildings having an area of 100 square feet or less).

[4] Decks: the side setbacks formed by the existing principal building.

(3) Rear yard.

(a) Principal building: 20 feet.

(b) Swimming pool: six feet.

(c) Accessory building.

[1] Three feet for accessory buildings having an area of 100 square feet or less.

[2] Ten feet for accessory buildings having an area of greater than 100 square feet.

(d) Decks: three feet.

H. Height. The maximum height of buildings within the R-1 District is 35 feet.

I. Off-street parking. Shall be provided as under § 205-33.

J. Building area. The building area of any lot shall provide at least 1,000 square feet of gross floor area on the first floor of a one-story house or within the perimeter of a split-level house and at least 700 square feet of gross floor area on the first floor of a two-story house.

§ 205-11. R-2 Moderate-Density Residential District.

The Moderate-Density Residential District is intended to protect existing residential areas from incompatible land uses and to provide primarily for single-family and two-family housing at moderate densities. Certain public and semipublic uses are also provided for in this district.

A. Permitted uses. The following are permitted uses in the R-2 District:

(1) Single-family detached dwellings.

(2) Two-family detached dwellings.

(3) Conversion of single-family detached dwellings into conversion apartments.

(4) Hospital.

(5) Public uses.

(6) Educational and philanthropic facilities (public and private).

(7) Group homes.

(8) Essential services.

(9) Accessory buildings and uses on the same lot with and incidental to any of the above uses.

(10) Forestry.

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(11) No-impact home-based businesses.

B. Special exception uses. The following require special exceptions in accordance with Article VI of this chapter, and are subject to review and action by the Zoning Hearing Board:

(1) Private clubs and fraternal organizations.

(2) Day-care facilities (child and adult) subject to appropriate state regulations.

(3) Home occupations.

(4) Funeral homes.

(5) Personal-care homes.

(6) Nursing homes.

(7) Bed-and-breakfast inns.

(8) Multifamily dwellings.

(9) Accessory buildings and uses on the same lot with and incidental to approved special exception uses in this subsection.

C. Conditional uses. The following require conditional uses in accordance with Article VI of this chapter, and are subject to review and action by the Borough Council:

(1) Neighborhood convenience commercial in a freestanding building or on first floor of a multifamily building.

(2) Mobile home park.

(3) Accessory buildings and uses on the same lot with and incidental to approved conditional uses in this subsection.

D. Area. The minimum lot area for uses within the R-2 District are as follows:

(1) Single-family dwelling: 4,500 square feet.

(2) Two-family dwellings: 3,000 square feet per dwelling unit.

(3) Multifamily dwellings.

(a) One story: 2,000 square feet per dwelling unit.

(b) Two stories: 1,500 square feet per dwelling unit.

(c) Three stories: 1,500 square feet per dwelling unit.

(d) Four stories and higher: 1,000 square feet per dwelling unit.

(4) Other uses: 9,000 square feet or minimum required to meet off-street parking and other requirements, whichever is greater.

E. Minimum lot width. The minimum lot width within the R-2 District at setback is as follows:

(1) Single-family detached: 45 feet.

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(2) Two-family dwellings: 60 feet.

(3) Other uses: 90 feet.

F. Lot coverage. All buildings, including accessory buildings/structures, shall not cover more than 40% of the lot.

G. Setback. The minimum distance from the right-of-way or property line is as follows:

(1) Front yard (interior lot).

(a) Principal building.

[1] Fifteen feet in cases where no principal buildings are on abutting lots.

[2] The shallower of the setback of the principal buildings on abutting lots.

(2) Side yard.

(a) Interior lot.

[1] Principal building. Each lot shall have two side yards with each being a minimum of 20% of the lot width up to a maximum of eight feet.

(b) Corner lot.

[1] Principal building. Side yard facing street shall be 1 1/2 that required for an interior lot.

[2] Swimming pool: six feet.

[3] Accessory building (other): three feet (for accessory buildings having an area of 100 square feet or less).

[4] Decks: the side setbacks formed by the existing principal building.

(3) Rear yard.

(a) Principal building: 20 feet.

(b) Swimming pool: six feet.

(c) Accessory building:

[1] Three feet for accessory buildings having an area of 100 square feet or less.

[2] Ten feet for accessory buildings having an area of greater than 100 square feet

(d) Decks: three feet.

H. Height. The maximum height of buildings within the R-1 District is 35 feet.

I. Off-street parking shall be provided as under § 205-33.

J. Building area. The building area of any lot shall provide at least 900 square feet of gross floor area on the first floor.

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§ 205-12. T-C Town Center Commercial District. [Amended 5-12-2025 by Ord. No. 1485]

The purpose of the Central Business District is to provide for a variety of commercial uses within certain contiguous areas at the intersection of and along portions of major access corridors within the Borough; to promote a greater concentration and continuity or retail stores, restaurants and commercial services having a primary pedestrian orientation; and to promote the use of buildings within certain areas of the Central Business District for retail sales, personal and finance services, eating establishments and similar uses.

A. Permitted uses. The following are permitted uses in the T-C District:

(1) Pedestrian-oriented commercial retail establishments, including general merchandise stores, food stores, antique shops, craft shops, artisan shops/studios, hardware stores, clothing stores, and similar retail sales, excluding adult entertainment establishments.

(2) Commercial services establishments, including insurance offices, photography studios, travel agencies, educational services, and similar service establishments.

(3) Banks and other financial institutions.

(4) Church or house of worship.

(5) Commercial recreation establishments, including health clubs, dance studios, social centers and gymnasiums.

(6) Hotels and motels.

(7) Professional offices, including medical, dental, optical, legal, accounting services and similar recognized professions.

(8) Cultural facilities, including libraries, museums and theatres.

(9) Eating and drinking establishments.

(10) Business offices and service establishments.

(11) Personal service establishments including tailoring, haircutting and hairstyling, day care, shoe repair, dry cleaning, and similar establishments, excluding personal services defined as adult entertainment.

(12) Private clubs and fraternal organizations.

(13) Off-street parking as a principal use.

(14) Post office and government buildings.

(15) Multifamily dwellings under 35 feet in height.

(16) Public uses.

(17) Mixed-use buildings housing two or more permitted uses in this district.

(18) Accessory buildings and uses on the same lot with and incidental to any of the above uses.

(19) Essential services.

(20) Forestry.

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B. Special exception uses. The following require special exceptions in accordance with Article VI of this chapter, and are subject to review and action by the Zoning Hearing Board:

(1) Multifamily dwellings exceeding 35 feet in height.

(2) Accessory buildings and uses on the same lot with and incidental to approved special exception uses in this subsection.

(3) Flea market.

(4) Drive-thru lanes and windows for eating and drinking establishments.

C. Conditional uses. The following require conditional uses in accordance with Article VI of this chapter, and are subject to review and action by Borough Council:

(1) Vehicle service stations.

(2) Funeral homes.

(3) Accessory buildings and uses on the same lot with and incidental to approved conditional uses in this subsection.

D. Area. The minimum lot area for uses within the T-C District is as follows:

(1) None unless otherwise noted in this section. Minimum lot shall be sufficient to comply with all dimensional, parking, loading buffer requirements of this district.

(2) Multifamily dwellings:

(a) One story: 1,500 square feet per dwelling unit.

(b) Two or three stories: 1,000 square feet per dwelling unit.

(c) Four stories and more: 750 square feet per dwelling unit.

E. Minimum lot width. None required.

F. Lot coverage. All buildings, including accessory buildings, shall not cover 60% of the lot. At least 5% of the lot area shall be covered with vegetative material.

G. Setback. The minimum distance from the right-of-way or property line is as follows:

(1) Front yard, principal building:

(a) Minimum: none required.

(b) Maximum: 10 feet.

(2) Side yard.

(a) Principal building: each lot shall have two side yards with both at least five feet.

(b) Accessory building: three feet for accessory buildings having an area of 100 square feet or less.

(c) Decks: the side setbacks formed by the existing principal building.

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(3) Rear yard.

(a) Principal building: 20 feet.

(b) Accessory building:

[1] Three feet for accessory buildings having an area of 100 square feet or less.

[2] Ten feet for accessory buildings having an area of greater than 100 square feet.

(c) Decks: three feet.

H. Height. The maximum height of buildings within the T-C District is 35 feet.

I. Off-street parking. Permitted uses in the T-C District operating in a principal building or portion thereof with a gross floor area under 2,000 square feet are exempt from off-street parking requirements due to the supply of on-street spaces. Permitted uses in excess of the two-thousand-square-foot threshold shall supply off-street parking in accordance with § 205-33 for the gross floor area in excess of 2,000 square feet.

§ 205-13. H-C Highway Commercial District.

The purpose of the Highway Commercial District is to provide for a wide range of needed highway-oriented commercial uses in locations that are less likely to involve conflicts with existing residences, as well as exercise special care and control on access onto arterial and connector streets to avoid traffic hazards.

A. Permitted uses. The following are permitted uses in the H-C District:

(1) Convenience stores.

(2) Shopping center and mall.

(3) Highway-oriented commercial retail establishments, including department stores, supermarkets, building supply and lumberyards and similar retail sales.

(4) Vehicle sales/service establishments, including new/used vehicle dealers, boat sales/service, vehicle service stations, car wash establishments and car rental agencies.

(5) Commercial services establishments, including insurance offices, photography studios, travel agencies, educational services, and similar service establishments.

(6) Banks and other financial institutions.

(7) Church or house of worship.

(8) Commercial recreation establishments, including health clubs, dance studios, social centers and gymnasiums.

(9) Motels.

(10) Cultural facilities, including auditoriums and drive-in theaters.

(11) Eating and drinking establishments, including drive-in eating establishments.

(12) Business offices and service establishments.

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(13) Personal service establishments including tailoring, haircutting and hair styling, daycare, shoe repair and dry cleaning.

(14) Private clubs and fraternal organizations.

(15) Multifamily dwellings under 35 feet in height.

(16) Public uses.

(17) Retail nurseries, greenhouses and garden supply establishments.

(18) Nursing homes.

(19) Beverage distributors.

(20) Professional offices.

(21) Building contractors office and storage facilities.

(22) Funeral homes.

(23) Self-service storage facilities.

(24) Recycling collection point.

(25) Veterinary offices, animal hospitals and kennels.

(26) Accessory buildings and uses on the same lot with and incidental to any of the above uses.

(27) Essential services.

(28) Forestry.

B. Special exception uses. The following require special exceptions in accordance with Article VI of this chapter, and are subject to review and action by the Zoning Hearing Board:

(1) Stone or monument works.

(2) Multifamily dwellings exceeding 35 feet in height.

(3) Sexually oriented business.

(4) Outdoor furnaces.

(5) Accessory buildings and uses on the same lot with and incidental to approved special exception uses in this subsection.

(6) Flea market.

C. Conditional uses. The following require conditional uses in accordance with Article VI of this chapter, and are subject to review and action by the Borough Council:

(1) Trucking and transfer facilities.

(2) Warehouses and wholesale businesses.

(3) Accessory buildings and uses on the same lot with and incidental to any approved conditional

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uses in this subsection.

D. Area. The minimum lot area for uses within the H-C District is as follows:

(1) Shopping center or mall: 10 acres.

(2) Warehousing and wholesaling: three acres.

(3) Motels: two acres.

(4) All other uses: 10,000 square feet. Minimum lot shall be sufficient to comply with all dimensional, parking, loading buffer requirements of this district.

E. Minimum lot width. The minimum lot width within the T-C District for all uses at setback is 50 feet.

F. Lot coverage. All buildings, including accessory buildings, shall not cover 50% of the lot. At least 10% of the lot area shall be covered with vegetative material.

G. Setback. The minimum distance from the right-of-way or property line is as follows:

(1) Front yard.

(a) Principal building: 60 feet.

(2) Side yard.

(a) Principal building: each lot shall have two side yards with both at least 10 feet.

(b) Accessory building: same as principal building.

(3) Rear yard.

(a) Principal building: 20 feet.

(b) Accessory building: three feet (for accessory buildings having an area of 100 square feet or less).

H. Height. The maximum height of buildings within the H-C District is 35 feet.

I. Off-street parking shall be provided as under § 205-33.

§ 205-14. I-M Industrial Manufacturing District.

The purpose of the Industrial Manufacturing District is to permit and encourage industrial development that will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the community, to contribute to the economic base and create local employment opportunities.

A. Permitted uses. The following are permitted uses in the I-M District:

(1) Convenience stores.

(2) Trucking and transfer facilities.

(3) Warehouses and wholesale businesses.

(4) Yards of general contractors, or similar tradesmen, engaged in building or construction.

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(5) Building materials storage and sales.

(6) Cold storage plant, frozen food plant, beverage distribution plant and catering plant.

(7) Tool, die, welding and machine shop.

(8) Plumbing, heating, roofing, carpentry, electrical, welding, buffing, finishing, plating, heat treating, painting and pipefitting shop.

(9) Central dry-cleaning plants or laundries, provided that such plants shall not deal directly with the consumer at retail.

(10) Printing, photo finishing, engraving, lithographing, reproducing or binding establishment.

(11) Manufacture, compounding, processing, canning, containing, packaging, treatment and distribution of products including food products, pharmaceuticals, paper products, hardware, cutlery, tools, scientific instruments, musical instruments, toys, novelties, optical goods, wood products, sheet metal products, electrical or electronic devices and articles or merchandise from previously prepared materials.

(12) Laboratory and research facilities.

(13) Mail order business.

(14) Self-service storage facilities.

(15) Electrical substation or bulk transformer.

(16) Recycling center.

(17) Finishing, grinding, polishing, stamping or heat treating of products.

(18) Manufacture of textiles, apparel, shoes and apparel accessories.

(19) Sales and rental of industrial equipment, other than vehicles primarily intended for use on public streets.

(20) Manufacture of transportation equipment.

(21) Manufacture of manufactured or modular housing.

(22) Manufacture of fabricated metal products.

(23) Assembly of products from materials manufactured off the premises.

(24) Junkyard.

(25) Accessory buildings and uses on the same lot with and incidental to any of the above uses.

(26) Essential services.

(27) Forestry.

B. Special exception uses. The following require special exceptions in accordance with Article VI of this chapter, and are subject to review and action by the Zoning Hearing Board:

(1) Broadcast transmission facilities.

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(2) Other industrial uses not identified as permitted uses, excluding transfer stations.

(3) Outdoor furnaces.

(4) Accessory buildings and uses on the same lot with and incidental to approved special exception uses in this subsection.

(5) Billboards.

C. Conditional uses. The following require conditional uses in accordance with Article VI of this chapter, and are subject to review and action by the Borough Council:

(1) Transfer stations.

(2) Accessory buildings and uses on the same lot with and incidental to approved conditional uses in this subsection.

D. Area. The minimum lot area for uses within the I-M District is 10,000 square feet. Minimum lot shall be sufficient to comply with all dimensional, parking, loading buffer requirements of this district.

E. Minimum lot width. None required.

F. Lot coverage. All buildings, including accessory buildings, shall not cover 80% of the lot.

G. Setback. The minimum distance from the right-of-way or property line is as follows:

(1) Front yard.

(a) Principal building: 30 feet.

(2) Side yard.

(a) Principal building: each lot shall have two side yards with both at least 10 feet.

(b) Accessory building: same as principal building.

(3) Rear yard.

(a) Principal building: 20 feet.

(b) Accessory building: same as principal building.

H. Height. There is no maximum height of buildings within the I-M District.

I. Off-street parking. Shall be provided as under § 205-33.

§ 205-15. Zoning Map.

The boundaries of the zoning districts shall be shown on the map attached to and made a part of this chapter that shall be designated the "Official Zoning Map." The same map and all the notations, references, and other data shown thereon are hereby incorporated by reference into this chapter as if all were fully described within the text of this chapter.

§ 205-16. Interpretation of zoning district boundaries.

Where uncertainty exists as to boundaries of any district as shown on said map, the following rules shall

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apply.

A. District boundary lines are intended to follow or be parallel to the center line of streets, streams and railroads, and lot or property lines as they exist on a recorded deed or plan or record in the Blair County Recorder of Deed's office at the time of the adoption of this chapter, although District boundary lines are graphically depicted in scale as per the legend on the Zoning Map.

B. Where a District boundary is not fixed by dimensions and where it approximately follows lot lines and where it does not scale more than 10 feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.

C. In unsubdivided land or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by the use of the scale appearing on the maps.

D. In cases of uncertainty as to the true location of a district boundary line in a particular instance, the Zoning Officer shall request the Zoning Hearing Board to render its determination; provided, however, that no boundary shall be changed by the Zoning Hearing Board.

§ 205-17. Application of district regulations.

The regulations set forth in this article for each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

A. No building, structure, or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

B. No building or other structure shall hereafter be erected or altered:

(1) To exceed height or bulk requirements.

(2) To occupy a greater percentage of lot area.

(3) To accommodate or house a greater number of families, except as permitted in a residential conversion.

(4) To have narrower or smaller rear yards, front yards, side yards, or other open space than herein required, or in any other manner be contrary to this chapter.

C. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

D. No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

E. Any territory which may hereafter be annexed to the Borough shall be considered to be in the Low-Density Residential District until otherwise classified.

§ 205-18. Use regulations and dimensional requirements.

The specific use regulations and dimensional requirements pertaining to each district are contained in the

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descriptions in this article.

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ARTICLE V
Special and Supplementary Regulations

§ 205-19. Intent.

This article lists specific controls over general aspects of land utilization that either further explain requirements of this chapter, provided additional requirements or are not included elsewhere in this chapter.

§ 205-20. Accessory buildings.

Accessory buildings shall meet the following requirements:

A. Shall not be constructed in any front yard in any district;

B. Shall either meet the identified setback requirements for accessory buildings as noted in Article IV, or if none apply shall meet those for principal buildings; and

C. Shall not exceed a height of 15 feet.

§ 205-21. Broadcast transmission facilities.

A. Building-mounted broadcast transmission antennas shall not be located on any single-family or two-family dwelling.

B. Building-mounted broadcast transmission antennas shall be permitted to exceed the height limitations of the applicable zoning district by not more than 20 feet. Broadcast transmission antennas co-located on existing permitted antennas shall not exceed the height established by Borough Council.

C. Omnidirectional or whip antennas shall not exceed 20 feet in height and seven inches in diameter.

D. Directional or panel broadcast transmission antennas shall not exceed five feet in height and three feet in width.

E. Any applicant proposing broadcast transmission antennas to be mounted on a building or other structure shall submit evidence from a Pennsylvania registered professional engineer or architect certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.

F. Any applicant proposing broadcast transmission antennas to be mounted on a building or other structure shall submit detailed construction and elevation drawings to the Borough Council indicating how the antennas will be mounted on the structure.

G. Any applicant proposing broadcast transmission antennas to be mounted on a building or other structure shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas and broadcast transmission equipment building can be accomplished.

H. Broadcast transmission antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.

I. Broadcast transmission antennas shall not cause radio frequency interference with other broadcast transmission facilities located in the Borough.

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J. Broadcast transmission antennas shall be set back from any residence in an abutting zoning district a distance equal to the height of the tower plus 50 feet.

K. A broadcast transmission equipment building shall be subject to the height and setback requirements of the applicable zoning district for an accessory structure. Broadcast transmission equipment housed in underground vaults shall be exempt from setback requirements.

L. The owner and/or operator of broadcast transmission antennas shall be licensed by the Federal Communications Commission to operate such antennas.

M. The applicant shall supply documentation to the Borough documenting the need for the broadcast transmission facilities and efforts to secure co-location; a visual impact assessment and neighborhood impact assessment of the proposed facilities; and scale drawings showing the proposed placement, spacing, construction and/or modification of the broadcast transmission antennas and related facilities.

N. As conditions to issuance of the permit, applicants for broadcast transmission facilities shall be required to supply the following:

(1) Financial security in the amount of $100,000 shall be placed with the Borough to assure compliance with the provisions of this chapter. The form of security shall be subject to the Borough's approval and shall be maintained until the removal of the facility.

(2) Public liability insurance for personal injuries, death and property damage in the amount of $2,000,000 per occurrence. The Borough shall be listed as an additional insured, and the policy shall contain an endorsement that gives the Borough a thirty-day notice prior to policy cancellation. A copy of said policy shall be delivered to the Borough upon issuance.

(3) All documentation applicable to the facility including its operation and any enforcement/ activities by other agencies.

§ 205-22. Building height exceptions.

The following are exceptions to the height requirements of the districts:

A. Height regulations of this chapter shall not apply to water towers, church spires, belfries, antennas, chimneys, architectural ornament, or appurtenances placed above the roof level not intended for human occupancy, although certain height regulations may be in other Borough ordinances.

B. The height of any principal building may exceed the maximum permitted height noted in Article IV by one foot for each additional foot by which the side yard setback provided exceeds the relevant minimum side yard setback for the district.

§ 205-23. Building yard exceptions.

No structure or part of a structure shall be erected within or shall project into any required yard setback except the following:

A. Overhanging eaves, gutters, cornices or solar energy collector not exceeding two feet in width;

B. Arbors, trellises, garden sheds, flagpoles, unroofed steps, unroofed patios, awnings, movable canopies, walls and fences;

C. Unenclosed fire escapes that extend no more than six feet into any required yard area; and

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D. Ramps and other access aids and appurtenances required to assure ADA access and/or access by persons with mobility limitations.

§ 205-24. Clubs, lodges and fraternal organizations.

In districts where permitted, these uses are restricted to those not conducted primarily for gain, although a dining room may be operated for the benefit of club members; providing that no sign advertising the sale of food or beverages will be permitted. Buildings or structures hereafter erected or converted for such uses are subject to all applicable regulations for the zoning district in which it is located.

§ 205-25. Environmental performance standards.

Tyrone Borough may require safeguards to assure compliance with the certain environmental standards for nonresidential development. When required, the applicant shall demonstrate that adequate provisions will be made to reduce and minimize any objectionable elements related to this section. Upon request of the Borough, the owner shall furnish or obtain proof at his own expense that he is in compliance with the following environmental standards:

A. Air management.

(1) The burning of tires, plastic, or any toxic substance is not permitted.

(2) No gases, vapors or fumes shall be emitted which are harmful to persons, property, animals, or vegetation.

(3) No radioactive vapors or gases shall be emitted.

(4) No objectionable odors other than agricultural in origin shall be detectable beyond the property boundaries.

B. Solid waste management. No storage of waste materials on a lot shall be permitted in excess of 30 days. All waste materials awaiting transport shall be kept in enclosed containers and be screened from view.

C. Noise and vibration.

(1) There shall be no noise nuisance beyond the boundary of the lot boundary.

(2) No physical vibration shall be perceptible without use of an instrument at the lot boundaries.

D. Lighting and heat.

(1) All lighting shall be shielded and not cause a glare beyond the lot boundary.

(2) Any operation producing heat shall prevent any effect from the heat beyond the property lines.

(3) No flashing or oscillating lights shall be permitted.

(4) Lighting that by reason of intensity, color, location or movement of its beam that may interfere with or abrogate public safety shall not be permitted.

E. Groundwater supplies. No use shall endanger groundwater levels and quality nor adversely affect groundwater supplies of nearby properties.

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§ 205-26. Group homes.

Group homes are facilities intended to accommodate certain persons (Article III, Terminology) and are allowed as a permitted use in R-2 and a special exception in R-1 Districts, subject to the following requirements:

A. The number of persons living in such a group home shall not exceed two persons per bedroom and shall include at least one on-site support staff member who shall not be included in the maximum number.

B. All group home structures should have the appearance of single family or other traditionally residential structures.

C. All group homes shall meet the minimum yard, setback and lot width requirements in the applicable zoning district.

D. A group home must be sponsored and operated by a group, organization or corporation licensed by either the county or the state. Proof of licensing shall be submitted with applications for the group home use. Proof of compliance with all applicable county or state regulations shall be furnished to the Zoning Officer.

E. No group home shall be located within a one-half-mile radius of any other group home.

§ 205-27. Habitable floor area.

The minimum habitable floor area of any dwelling unit hereafter established shall conform with the International Property Maintenance Code, which provides for the following minimums for differing types of floor space:

		Minimum Area (square feet)	
Space	**1-2 occupants**	**3-5 occupants**	**6+ occupants**
Living room/area*	No requirements	120	150
Dining room/area*	No requirements	80	100
Bedrooms:			
First person	70	70	70
Each additional person	50	50	50

NOTE:

* Combined living/dining areas shall comply with the total of each as per table.

§ 205-28. Home occupations.

Home occupations not meeting the definition of a no-impact home-based business are special exception uses in the R-1 and R-2 Districts, subject to the following requirements:

A. The home occupation shall be carried on only by residents of the dwelling and/or no more than one employee other than the residents of dwelling. Additional nonresident employees may be approved as part of the special exception.

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B. The character or external appearance of the dwelling unit or accessory structure must be consistent with the zoning district. No display of products may be shown so as to be visible from outside.

C. A nameplate not larger than two square feet in area shall be permitted, and cannot be animated or illuminated by direct light.

D. Not more than 35% of the gross floor area of a dwelling unit may be devoted to a home occupation.

E. The use will not involve any waste product other than domestic sewerage or municipal waste.

F. The use is clearly an incidental and secondary use of a residential dwelling unit.

G. The use does not require mechanical equipment other than that customarily used for domestic or hobby purposes.

H. The use requires shipments or deliveries by the U.S. Postal Service or commercial parcel services customarily associated with deliveries and shipments in residential areas.

I. The use will not be one that creates dust, heat, glare, smoke, vibration, audible noise, or odors outside the building.

§ 205-29. Existing lots of record.

In the case of a lot of record held in single and separate ownership at the effective date for Chapter 205 of the Code of Tyrone Borough, the following apply:

A. For lots not meeting the minimum area for the district, buildings for permitted uses may be constructed and those for special exceptions and conditional uses may be constructed after approval in accordance with Section VI.

B. For lots having unusual depth or width rendering construction in strict accordance with yard requirements of the district, yard requirements may be reduced as a variance under Article VI.

§ 205-30. Junkyards.

Within the I-M District, junkyards meeting the definition of this chapter shall be permitted as a permitted use, subject to the following requirements:

A. The deposit or storage for more than 120 days of two or more motor vehicles not having valid inspection stickers issued by the Pennsylvania Department of Transportation, excluding farm vehicles, or of two or more wrecked or broken vehicles, or the major parts of two or more such vehicles, shall be deemed to make the lot a junkyard.

B. No material shall be placed in any junkyard in such a manner that is capable of being transferred out of the junkyard by wind, water, or other natural causes.

C. The boundaries of any junkyard shall at all times be clearly delineated by a closed fence.

D. All paper, rags, cloth and other fibers, and activities involving the same, other than loading and unloading, shall be kept within fully enclosed buildings.

E. The land area used for junkyard purposes shall not be less than one acre and shall not be exposed to public view from any public street or road by virtue of its location on a hillside or location on a plateau below street level.

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F. Screening of the junkyard from neighboring land uses shall, as a minimum, require the following:

(1) The junkyard shall be entirely enclosed by a closed fence at least eight feet by no more than 10 feet high constructed of approved fencing material with access only through solid gates. Such fence or wall shall be kept in good repair. A brick wall, stockade fence or a chain link fence with opaque insets that shields the view of the property will meet this requirement.

(2) The contents of such a junkyard shall not be placed or deposited to a height greater than the height of the fence or wall herein prescribed.

(3) The fence or wall shall be situated no closer to any street or property line than 25 feet.

G. All materials shall be stored in such a manner as to prevent the breeding or harboring of rats, insects, or other vermin. When necessary, this shall be accomplished by enclosure in containers, raising of materials above the ground, separation of types of material, preventing the collection of stagnant water, extermination procedures, or other means.

H. No burning shall be carried on in any junkyard. Fire shall be prevented and hazards avoided by organization and segregation of stored materials, with particular attention to the separation of combustibles from other materials and enclosure of combustibles where necessary by the provision of adequate aisles at least 15 feet for escape and firefighting, and by other necessary measures.

§ 205-31. Mobile home parks.

Mobile home parks are permitted as a conditional use in the R-2 District, subject to the following provisions:

A. General standards.

(1) A notice shall be placed on the land development plan stating that it shall be the responsibility of the mobile home park owner to maintain all park facilities, including private streets, sewage disposal facilities, and areas designated as open space.

(2) The minimum width of any mobile home lot shall be not less than 75 feet. The minimum length of any mobile home lot shall be not less than 120 feet or equal to the overall length of any mobile home located on the lot plus 30 feet, whichever length is greater. The maximum number of mobile home lots per acre shall be four.

(3) Construction and related standards associated with design, foundation systems, skirting and perimeter enclosures, footings and foundations, pier construction/height anchorage installation and ties/materials installation governing the placement of units in a mobile home park shall conform with the requirements of the International Residential Code.

(4) A minimum of two off-street parking spaces per each mobile home lot within the development shall be provided within 200 feet of the lot to be served.

B. Setbacks, buffer strips, and screening requirements.

(1) All mobile homes, auxiliary park buildings and other park structures shall be located at least 40 feet from the mobile home park boundary lines. The minimum buffer strip may be reduced to 25 feet if a suitable perimeter screening of plantings of fencing is provided and approved by the Zoning Hearing Board.

(2) Mobile homes shall be located at least 50 feet from any auxiliary park buildings and any repair,

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maintenance or storage areas of buildings.

C. Design standards.

(1) A mobile home park shall have a gross area of a least five contiguous acres of land suitable for development.

(2) The developer shall provide a minimum of 10% of the gross area of the mobile home park for recreational/open space.

(3) Access to mobile home lots within the development shall be provided via an internal street designed and constructed in accordance with the standards of Chapter 174, Subdivision of Land.

(a) The state highway system includes all public streets and highways maintained by the Pennsylvania Department of Transportation.

(b) The municipal street system includes all public streets and roads maintained by Tyrone Borough. Developers proposing public dedication of streets within the mobile home park shall submit road design and construction plans which meet the minimum specifications of the Borough as part of the plan submission process. A deed, which dedicates the land to be used as a public street to the municipality, shall be recorded with the final plan.

(c) Private streets include all streets or roads not dedicated, accepted, and maintained for public use. Private streets may be permitted where the following conditions can be met:

[1] A survey of the center line of the private right-of-way shall be shown on the plot plans along with a notation identifying the street and right-of-way as being private.

[2] The subdivider shall provide a right-of-way use and maintenance agreement in each deed, lease, or conveyance prescribing a right-of-way width and location and setting forth an arrangement between the subdivider and buyer or lessee for maintenance of the private right-of-way.

[3] Where an existing private right-of-way is proposed to provide access to a new subdivision, the subdivider shall provide a right-of-way use and maintenance agreement signed by all property owners using all the right-of-way if such an agreement has not been previously included in the existing deeds. This agreement shall be recorded with the final plan and prescribe a right-of-way width and location in accordance with the standards of this chapter and set forth arrangements for maintenance of the private right-of-way.

(4) Mobile home parks shall be provided with water supply facilities designed and constructed in accordance with the standards of the Department of Environmental Protection and the following regulations.

(a) The developer shall construct a system of water mains and connect with such public water supply system where a public water supply with sufficient capacity is available at plat boundary or within 1,000 feet of any section of the mobile home park.

(b) If a public water supply system is not available under the conditions stated above, the developer shall provide individual or community wells to serve the mobile home park that shall be approved by the Department of Environmental Protection.

(c) All public water systems shall be laid wherever possible in the planting strip on the higher

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side of the street and constructed in accordance with the standards of the authority, utility company, Department of Environmental Protection or municipal department operating such water mains.

(5) Mobile home parks shall be provided with sanitary sewer facilities designed and constructed in accordance with the standards of the Department of Environmental Protection and the following regulations.

(a) The developer shall construct a sanitary sewer system and connect with such sewer main and provide lateral connections for each lot where a public sanitary sewer main is available at plat boundary or within 1,000 feet of any section of the mobile home park.

(b) All sanitary sewers shall be constructed and installed according to the standards of the authority or municipal department operating such sewers. Stormwater shall not be permitted to enter sanitary sewers.

(c) All phases of construction, including excavation, trench, pipe size, grade, backfill and manholes shall be in accordance with approved construction drawings, Department of Environmental Protection requirements, and inspected by the Borough Engineer, his authorized representative, authority or health officer during the entire construction period.

(6) All phases of construction, including minimum size line, excavation, trench, type pipe, backfill hydrants, tees and valves shall be in accordance with approved construction drawings, Department of Environmental Protection's standards and inspected by the Borough Engineer, his authorized representative or the authority or agency representative of the utility company during the entire construction period.

§ 205-32. Obstructions.

A. On a corner lot, no structure shall be erected or enlarged, and no vegetation shall be planted or maintained which may cause visual obstruction to motorists on any public road.

B. Clear sight triangles shall be provided at all street intersections. Within such triangles, no object shall be permitted which obscures vision above the height of 30 inches and below 10 feet, measured from the center-line grade of intersecting streets. Such triangles shall be established from a distance of 50 feet from the point of intersection of the center lines of local and collector streets. For all intersections with arterial, triangles shall be established in accordance with the current edition of Geometric Design of Highways and Streets, by the American Association of State Highways and Transportation Officials (AASHTO) that takes factors such as vertical grade, speed limit, number of travel lanes and other factors of the intersecting arterial into account.

§ 205-33. Off-street parking, traffic control and loading.

A. To minimize traffic congestion and hazard, control road access and encourage orderly development of street frontage, the following regulations shall apply:

(1) Every building erected or altered shall be on a lot adjacent to a public road or have access to a public road via an approved private road/driveway.

(2) Each use with less than 100 feet of road frontage shall not have more than one ingress and egress lane to such road. No use with 100 feet or more of road frontage shall have more than two accessways to any one road for each 300 feet of road frontage. A common access point for two

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or more uses is encouraged, where practical, to minimize vehicular access points along roads classified other than local roads.

(3) All driveways to any public road shall be located a minimum of 40 feet from any intersection of road center lines.

(4) Provision shall be made for safe and efficient ingress and egress to and from public roads, without undue congestion or interference with normal traffic flow. The developer shall be responsible for the design and construction, and the costs thereof, of any necessary traffic control device and/or highway modifications required by the county, Borough or the Pennsylvania Department of Transportation.

(5) The maximum width of driveway entrances and exits onto a public road, measured at the road line and within the road right-of-way, shall be 14 feet for one-way driveways and 28 feet for two-way driveways. The radius of the edge of the driveway apron shall not exceed 25 feet.

B. The following internal circulation regulations shall apply to multiple-family residential, commercial and industrial uses, unless otherwise specified:

(1) Design of access aisles and drives:

(a) Internal drives and service areas shall be designed to prevent blockage of vehicles entering or leaving the site. Drives may be one-way or two-way. Egress to the road shall be in a forward direction.

(b) Accessways, parking areas and loading areas shall have clearly defined parking bays and circulation designated by markings, curbs, and/or landscaped islands, so that patrons shall not impede traffic as a result of any confusion as to location of entrances and exits.

(c) All interior drives and accessways shall be paved with an approved all-weather cohesive and dust-free surface, and shall be graded, properly drained and maintained in a good condition. Interior drives shall have a maximum grade of 8%.

(d) Minimum interior drive cartway widths (with no abutting parking):

	Two Lane	One Lane
Use	**Two-Way Drives (feet)**	**One-Way Drive (feet)**
Multifamily residential	20	12
Commercial/office	22	12
Industrial	26	15

(e) Common or shared access driveways to parking and loading areas are permitted and encouraged, provided landowners submit an agreement of maintenance responsibility.

(2) Landscaping requirements. At least 5% of the land area of a required parking lot shall be landscaped, comprising perimeter and/or interior areas.

(a) Perimeter landscaping shall include a landscaped strip at least five feet wide along the boundary of the parking lot, with one shade tree per 40 lineal feet and one shrub per three lineal feet of frontage, or compliance with § 205-34 if applicable.

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(b) Interior landscaping shall include islands and/or peninsulas within the parking area, each having a minimum of 18 square feet, with shade trees and shrubs prepared at the discretion of the developer.

(3) Fire lane easements. Any use or building located more than 600 feet from a road shall provide a dedicated fire lane easement consisting of an unobstructed right-of-way width of 30 feet.

C. Loading and unloading requirements in connection with any use, building or structure which requires the receipt or distribution of materials by trucks or similar vehicles, there shall be provided a sufficient number of off-street loading and unloading berths in accordance with the following requirements:

(1) Location. Loading and unloading areas shall not be located between the front building setback line and street line, and loading facilities shall be screened in accordance with § 205-34.

(2) Space allowed. Space allowed to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements of any off-street parking facilities or portions thereof.

(3) Loading and unloading space shall be at least 10 feet wide, 25 feet in length with 14 feet of vertical clearance, and shall have an adequate maneuvering area.

(4) Surface. Loading and unloading areas shall have an all-weather cohesive and dust-free surface.

(5) Minimum requirements. Each new use shall provide the following:

Use	Gross Floor Area (square feet)	Minimum No. Spaces
Commercial and industrial	Under 8,000	1
	8,000 to 40,000	2
	40,001 to 250,000	3
	Each additional 200,000	1
Offices and multifamily housing	Under 100,000	1
	100,000 to 300,000	2
	Over 300,000	3

D. Off-street parking requirements are subject to the following:

(1) Off-street parking facilities shall be provided whenever a building is constructed or a new use is established in an existing building, or an existing building or its use is changed.

(2) Off-street parking facilities existing at the effective date of this chapter shall not be reduced to an amount less than that required under this chapter for a similar new building or use.

(3) Land use issues:

(a) Off-street parking shall be an accessory use solely for the parking of patrons, occupants and/or employees.

(b) No motor vehicle repair work of any kind except emergency service shall be permitted

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within parking lots.

(4) Location.

(a) All parking spaces shall be on the same lot as the principal building except herein described. Parking spaces may be located within a structure or in the open.

(b) The parking spaces may be located elsewhere than on the same lot when authorized by the Zoning Hearing Board, subject to some portion of the off-street parking area being within 300 feet of an entrance regularly used by patrons.

(c) For all residential dwellings, the parking spaces shall be within 100 feet of the dwelling unit they serve.

(d) Parking areas requiring direct access to a municipal street shall require a curb cut approved by the Borough, while those having direct access to a state highway shall be subject to PennDOT highway occupancy requirements.

(5) Size and design of parking lot.

(a) In the layout of parking lots, minimum parking stall dimensions shall be 20 feet in length and nine feet in width.

(b) Parking lots shall be landscaped in accordance with Subsection B(2).

(c) Parking lots for commercial and residential uses shall be illuminated at night.

(d) Parking lots shall have an all-weather cohesive and dust-free surface.

(e) Parking lots shall have a minimum slope of 1% and a maximum slope of 5%. Stormwater runoff shall not be directed across pedestrian walkways or other lots.

E. Handicapped parking. This subsection shall apply to projects where parking is provided including commercial, industrial, office, institutional, multifamily residential and educational uses.

(1) The number and location of handicapped accessible parking spaces shall conform to the requirements of the International Building Code. Specific numbers of spaces from this Code are as follows:

Total Parking Spaces Required for Use	Required Minimum Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8

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Total Parking Spaces Required for Use	Required Minimum Accessible Spaces
401 to 500	9
501 to 1,000	2% of total
More than 1,000	20 plus 1/each 100 over 1,000

(2) Dimensions and design standards for handicapped-accessible spaces/access aisles shall conform with the requirements of the International Code Council (ICC) and American National Standards Institute (ANSI), as per ICC/ANSI A117.1-1998 (Chapter 5), as periodically amended and updated. The minimum width of car/van parking spaces shall be 96 inches and shall have an adjacent access aisle with dimensions as outlined in the referenced ICC/ANSI publication.

F. Specific parking requirements for various uses in each district shall be as follows:

Use	Parking Space Requirement
Banks and financial	1 space per 300 square feet of gross floor area plus 3 space reservoir area at each drive-in window and/or ATM
Barber and beauty shops	2 spaces per shop plus 1 1/2 spaces per chair
Day-care facilities	1 space per employee
Doctor/dental office	4 spaces per doctor/dentist, plus 1 space per employee
Eating and drinking establishments	1 parking space for every 2 1/2 seats for patron use and 1 space for each employee per shift
Eating establishment, drive-in	1 space for every 50 square feet of gross floor area and 1 space for each employee per shift, plus 3 space stacking area at each drive-in window
Educational facilities	3 space per classroom plus 1 space per employee (in addition to spaces for auditoriums above)
Furniture store	1 space per 1,000 square feet of gross floor area
Golf courses/ranges	1 space per 4 holes/stalls and 1 space per employee
Home occupations	2 spaces in addition to the residential parking requirement
Hospital/clinic	3 spaces per bed
Houses of worship/auditorium/ assembly halls/theaters	1 space for every 4 seats
Indoor recreation/health clubs	1 space for every 100 square feet of gross floor area
Industrial uses	1.5 spaces for every 2 employees on the largest shift plus 5 for visitors
Motels, hotels, bed-and-breakfasts and guest homes	1 space for each unit and 1 space for each employee on the largest shift

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Use	Parking Space Requirement
Nursing/personal care home	1 space for every three beds plus 1 space per employee on the largest shift
Office buildings and professional offices (not medical/dental)	1 space for each 300 square feet of floor area
Parks and outdoor recreation	1 space for every 4 persons of design capacity
Residential	Single/two-family: 2 spaces per dwelling unit Multifamily/conversion apartments: 1.5 per dwelling unit
Retail/commercial (not otherwise classified)	1 space per 300 square feet of gross floor area used for sales purposes
Self-service storage	1 space per 2,000 square feet of gross floor area
Service stations and vehicle repair	2 spaces per repair bay and 1 space per employee
Shopping centers/malls	1 space for each 350 square feet of floor space used for sales purpose
Social halls, private clubs and fraternal organizations	1 space per 200 square feet of gross square feet
Supermarkets and food stores	1 space for every 200 square feet of gross floor area used for sales purposes

§ 205-34. Screening requirements.

It is the intent of the screening provisions to provide visual and auditory separation between potentially incongruous land uses. It is a further intent of the following provisions to provide flexibility to the developer or property owner to create effective concealment through performance design requirements below.

A. Screening.

(1) Screening requirements shall be applicable under the following circumstances:

(a) A proposed nonresidential use abuts an existing residential use or residential district.

(b) A proposed multifamily residential building abuts an existing single-family residential use or district;

(c) A mobile home parks shall be screened along their entire perimeter, as specified in § 205-31.

(d) Any other instance where screening is required by this chapter, or deemed necessary by the Borough Council or the Zoning Hearing Board in relation to conditional uses or special exceptions.

(2) Screening is not required if the features to be screened are set back 300 feet or more from the lot line along which screening would otherwise be required.

B. In addition to the Zoning District boundary areas described above, the following land development

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features shall be screened on the lot for which development is proposed:

(1) Loading and unloading areas;

(2) Parking lots for 10 or more vehicles;

(3) Storage of products or raw materials;

(4) Refuse storage and transfer facilities;

(5) Mechanical equipment, vents, fans, and similar appurtenances.

C. Site and district requirements.

(1) For screening of features, screening may be located anywhere on the lot provided it effectively shields the features to be screened.

(2) For a zoning district buffer, screening shall be located at the lot perimeter representing the zoning district boundary.

(3) Screening may be interrupted for necessary driveways to the street, provided a gap in the screening does not exceed 30 feet.

D. Effective screening may be accomplished through the use of one or more of the following methods:

(1) Placement of features to be screened behind an existing or proposed landform or berm.

(2) Use of existing or proposed 90% opaque architectural barriers such as walls, fences and buildings.

(3) Use of existing woody vegetation masses such as hedges, woodlands and hedgerows, provided they are preserved intact during construction on the site.

(4) Proposed woody vegetation plantings such as trees and shrubs.

E. Buffer/screen width.

(1) Buffer/screen width located between divergent land uses shall be in response to the degree of land use conflict. The width shall be as follows:

(a) A minimum buffer of 10 feet width of existing or newly planted trees is required where any proposed commercial and/or industrial uses abut the existing residential dwellings/ district, or when a multifamily residential use abuts an R-1 use/district.

(b) A planted buffer of 15 feet width is required between any other incongruous land uses so deemed by the Borough Council or Zoning Hearing Board, as applicable for the specific conditional or special exception use.

(c) The width of the buffer may be reduced by means of employing other methods as noted in Subsection D above, as approved by the Zoning Officer (for permitted uses), Council (for conditional uses) and the Zoning Hearing Board (for variances, special exceptions and appeals).

(2) To meet the above screening requirements in part or in whole, existing wood lots and hedgerows should be utilized, if they exist.

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F. The following design standards shall guide the design of the buffer:

(1) For areas requiring a screen width of 10 feet or more, a tree plantation or a combination of trees and shrubs is required.

(2) Where trees are proposed for screening, at least one tree that normally achieves a height greater than 30 feet shall be planted for every 20 linear feet of distance required to be screened. Any resulting fraction of this division shall be rounded up to the next whole number. Location of the required trees is flexible.

(3) Where proposed shrubs are used, the maximum distance between plant centers shall be eight feet.

(4) At a minimum, screening shall be of sufficient height and density to constitute a continuous opaque screen in summer months to a height of six feet within a period of three years of planting.

(5) Proposed trees and shrubs shall be healthy, typical of their species, have normal growth habits with well-developed branches and vigorous root systems.

G. The following performance standards affect the design and requirement of screening:

(1) The developer is encouraged to consider placing improvements on the land in a manner that would lessen the extent and cost of required screening. Examples of sensitive design include the following:

(a) Situating development in or behind existing vegetation such as woodlots or hedgerows.

(b) Consolidating or clustering development in the smallest possible land area.

(c) Situating development far from the lot line.

(d) Situating development behind landform crests.

(2) To assure compliance with screening requirements, the applicant shall provide a screening plan to enable the Borough to access whether proposed screening will create an effective buffer at necessary points. The screening plan shall be drawn to scale and proposed plants shall be indicated, including type, quantity, size at planting time, and spacing, and may include any one of the following:

(a) Plot plan with view analysis;

(b) Landscaping and grading plan;

(c) Topographic profiles and cross-sections; or

(d) Photographic evidence.

H. The following maintenance requirements apply to all screening/buffering:

(1) Any tree or shrub planted for screening purposes that dies shall be replaced.

(2) Any fence, wall or other architectural method utilized for screening shall be maintained in a structurally sound condition.

(3) Any landform or existing vegetation mass approved for screening shall not be altered or

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otherwise developed, except for usual maintenance.

(4) The owner shall be responsible for continual maintenance of the screening. A note on the application or site plans shall indicate this, and be signed by the applicant.

§ 205-35. Sexually oriented businesses.

Sexually oriented businesses may be permitted by special exception in the H-C Highway Commercial District, subject to the procedural requirements of Article VI of this chapter and the requirements of Chapter 58, Adult Entertainment. Applications for special exceptions for a sexually oriented business shall specifically address the following land use standards and criteria for review by the Zoning Hearing Board:

A. The building or structure of such use shall be located not less than 1,000 feet from any existing residential use or district; public or private pre-elementary, elementary or high school; church or house of worship; day-care center or nursery school; recreation facility; businesses primarily serving or catering to persons under 18 years of age; and public library or any other religious, institutional, or educational use.

B. No such use shall be located within 1,000 feet of a similar adult entertainment use.

C. No materials sold within shall be visible from any window, door, or exterior of the building.

D. No person under the age of 18 years of age shall be permitted within an adult commercial store or sold any adult entertainment material.

E. Signage shall be limited to one attached sign no larger than 12 square feet. Signage may be lighted by a covered and recessed fixture located at the top or base of the sign.

§ 205-36. Sign regulations.

A. General requirements. The following regulations shall apply to all zoning districts:

(1) Permits to construct, install and maintain signs shall be obtained from the Zoning Officer, and shall be in accordance with the requirements of the respective zoning district.

(2) Signs may be erected and maintained only when in compliance with the provisions of this chapter and all other ordinances and regulations relating to the erection, alteration, or maintenance of signs.

(3) Signs shall not contain moving mechanical parts or use flashing or intermittent illumination. The source of light shall be steady and stationary.

(4) No sign shall be placed in a position, or have illumination that it will cause any danger or distraction to pedestrians or vehicular traffic.

(5) Floodlighting of any sign shall be arranged so that the source of light is not visible nor glare is detected from any property line or vehicular access, and that only the sign is illuminated.

(6) No sign other than official traffic signs shall be mounted within the right-of-way lines of any street.

(7) Every sign must be constructed of durable material and be kept in good condition. Any sign that is allowed to become dilapidated shall be removed by the owner, or upon failure of the owner to do so, by the Borough at the expense of the owner or lessee.

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(8) No sign shall be erected or located as to prevent free ingress to or egress from any window, door, fire escape, sidewalk or driveway.

(9) No sign shall be erected which emits smoke, visible vapors or particles, sound or odor.

(10) No sign shall be erected which uses an artificial light source or reflecting device which may be mistaken for a traffic signal.

(11) No sign shall be erected containing information that implies that a property may be used for any purpose not permitted under the provisions of this chapter.

(12) The distance from ground level to the highest part of any freestanding sign shall not exceed eight feet in residential districts.

(13) Signs shall not project above the maximum building height permitted in any district in which they are located.

(14) Signs necessary for the identification, operation, and protection of public utilities, may be erected within the street right-of-way when authorized by the Zoning Officer for a special purpose and for a specified time.

(15) All signs erected within the right-of-way of a state highway shall be in accordance with the regulations of Pennsylvania Department of Transportation.

B. Signs in the R-1 and R-2 Districts are subject to the following requirements:

(1) Official traffic signs.

(2) Identification signs, bulletin or announcement boards for schools, churches, hospitals, or similar institutions, for similar permitted uses, approved special exception uses and approved conditional uses, with the exception of home occupations:

(a) No more than two such signs shall be erected on any frontage to any one property.

(b) The sign area on one side of any such sign shall not exceed 20 square feet.

(3) Home occupations may have an identification sign indicating the name, profession, or activity of the occupant of a dwelling, provided:

(a) The area of any one side of any such sign shall not exceed two square feet.

(b) One such sign shall be permitted for each permitted use or dwelling.

(c) A sign indicating the permitted home occupation use shall be erected on the property where that use exists.

(d) The sign shall not be illuminated or animated.

(4) Real estate signs, including signs advertising the rental or sale of premises, provided that:

(a) The area on any one side of any such sign shall not exceed six square feet.

(b) A sign shall be located on the property to which it refers.

(c) Such signs shall be removed within seven days upon the closing of the premises.

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(d) Not more than one such sign shall be placed on any one street frontage.

(5) Temporary signs of contractors, architects, special events, and the like, provided that:

(a) Such signs shall be removed within 14 days upon completion of the work or special event.

(b) The area of such signs shall not exceed six feet.

(c) Such signs shall be located on the applicable property.

(6) Signs advertising an existing nonconforming use, provided that:

(a) The area on one side of such sign shall not exceed 20 square feet.

(b) The sign shall be erected only on the applicable premises.

(c) No more than one such sign shall be erected on any one street frontage.

(7) Signs necessary for the identification and protection of public utility corporation facilities, provided that the area of one side of such sign shall not exceed four square feet.

(8) Signs within a residential subdivision to direct persons to a rental office or sample unit within that subdivision provided that the area on one side of any such sign shall not exceed two square feet.

(9) Trespassing signs and signs indicating the private nature of the premises. The area of any one side of such signs shall not exceed two square feet and the signs shall be placed at intervals of not less than 100 feet along any street frontage.

(10) Sign denoting the name of a subdivision or development, provided that:

(a) The area on one side of such sign shall not exceed 24 square feet.

(b) The sign shall be erected only on the premises on which the subdivision or development is located.

(c) No more than one such sign shall be erected on any one street frontage.

C. Signs in the T-C, H-C and I-M Districts are subject to the following:

(1) Any sign permitted under Subsection B of this section are permitted in these districts.

(2) Commercial/industrial business signs, provided that:

(a) The total area on one side of all business signs placed on or facing any one street frontage of any one premises shall not exceed one square foot for every on lineal foot in lot frontage up to a maximum as follows:

[1] Fifty square feet in the T-C District.

[2] One hundred square feet in the H-C District.

[3] No limit in the I-M District.

(b) In the case of a building or tract of land housing more than one use, one permanent directory or identifying sign for the building or tract may be erected. The sign area on one

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side shall not exceed that identified in the table of Maximum Square Footage Allowed in Subsection D. In addition, for each use located within that building, or on the same lot, one wall-mounted sign shall be permitted. The area of such sign shall not exceed that identified in the table of Maximum Square Footage Allowed in Subsection D.

(c) No more than two separate signs shall face any one street frontage for any one use.

(3) Freestanding signs, provided that:

(a) No more than one freestanding sign, exclusive of all directional signs, shall be allowed on any one property.

(b) The sign area on one side of a freestanding sign shall conform to the table of Maximum Square Footage Allowed in Subsection D.

(4) Billboards may be allowed as a special exception in the I-M District, provided that:

(a) Billboards shall be located no closer than within 1,000 feet of another billboard.

(b) Billboards shall be a minimum of 50 feet from all side and rear property lines.

(c) All billboards shall be set back at least 50 feet from any road right-of-way lines.

(d) All billboards shall be set back at least 100 feet from any existing residential dwelling.

(e) Billboards shall not obstruct the view of motorists on adjoining roads, or the view of adjoining commercial or industrial uses, which depend upon visibility for identification.

(f) Billboards shall not exceed an overall size of 300 square feet, nor exceed 25 feet in height.

(5) Marquee/awning signs are allowed in the T-C and H-C Districts, subject to the following.

(a) Such sign may be painted on or attached flat against the surface of the marquee, but may not extend or project beyond the marquee or be attached to the underside thereof.

(b) Letters or symbols on such sign shall not exceed 16 inches in height.

(c) The bottom of such sign shall have a minimum clearance of 10 feet above the sidewalk.

(6) Projecting signs are allowed in the T-C and H-C Districts, subject to the following.

(a) No sign(s) shall project beyond four feet from the building or structure to which it is attached.

(b) All projecting signs shall allow a minimum nine-foot clearance from finish grade.

(c) All signs overhanging any public right-of-way (including sidewalks) shall be covered by a liability insurance policy with a company authorized to conduct business in the Commonwealth of Pennsylvania.

(7) Shopping, office or commercial center signs. Occupants of a shopping office or commercial center, mall or complex are permitted one on-premises identification sign in addition to the common sign identifying the occupants of such a center or complex. Said common sign identifying the occupants of such a center or complex is the shopping, office, or commercial center sign.

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(8) Wall signs. No wall sign shall project more than 10 inches from the building surface, nor extend beyond the ends of the wall to which it is attached.

(9) Window signs. The total area of any window sign shall not exceed 30% of the total glass area of that window and such sign shall advertise only on-premises use, activity, goods, services or products.

D. The following table delineates the maximum of each sign type allowed in the T-C, T-C and I-M Districts:

	Maximum Square Footage Allowed		
Type of Sign	**T-C District**	**H-C District**	**I-M District**
Freestanding	32	50	200
Marquee/awning	1 square feet per lineal foot frontage	2 square feet per lineal foot frontage	Not permitted
Billboard	Not permitted	Not permitted	300
Projecting	12	18	18
Shopping center			
Directory	20	40	40
Individual/wall	10	20	40
Wall	1 square feet per lineal foot frontage	2 square feet per lineal foot frontage	4 square feet per lineal foot frontage
Window	25% of glass area	25% of glass area	25% of glass area
Total maximum of all types	50	100	Unlimited

E. Existing signs at the time of the passage of this chapter are subject to the following:

(1) Existing signs may be continued provided that all such signs shall conform to the general requirements as set forth in Subsection A of this section.

(2) Any sign existing at the time of the passage of this chapter that does not conform with the regulations of the district in which such sign is located shall be considered a nonconforming use and may continue in such use in its present location until replacement or rebuilding becomes necessary and/or ordered by the Borough, at which time a sign permit will be required and the sign brought into conformity with this chapter.

§ 205-37. Swimming pools.

Private swimming pools are permitted as accessory uses subject to the following land use requirements, in addition to swimming pool regulations of the Borough of Tyrone:

A. The pool shall be intended and shall be used solely for the enjoyment of the occupants and their guests of the principal use of the property.

B. The pool shall be located in either the rear or side yard of the property.

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C. All pools shall have a fence barrier of at least four feet for aboveground and five feet for in-ground pools and be maintained in structurally sound condition.

D. Pools shall conform with other locational, barrier, pedestrian gate, wiring and other applicable requirements as per Chapter 176, Swimming Pools, and the International Residential Code.

§ 205-38. Vehicle service stations.

Automobile repair garage, including paint spraying and body and fender work, shall be permitted in the H-C District and by conditional use in the T-C District, subject to the following requirements:

A. All automobile parts, tires, equipment, refuse, and similar articles shall be stored within a building or an area enclosed by a solid wall or fence of six feet in height. Stored vehicles, parts, equipment, etc. in an area enclosed by a solid wall or fence, parts, etc. shall not extend above the height of the wall or fence.

B. All repair and paintwork shall be performed within an enclosed building.

C. Storage of junked vehicles shall conform with the requirements of Chapter 188, Vehicles, Abandoned and Junked.

D. Fuel pumps, lubricating devices and other dispensing devices shall be located no closer than 25 feet from any public right-of-way.

§ 205-39. Walls and fences.

Walls and fences are exempt from setback requirements. All solid walls and fences shall not exceed six feet in height, with the exception of the following:

A. Retaining wall or part of a building wall approved as part of a Borough-approved application for construction;

B. Open/ornamental fences in the R-1, R-2, T-C and H-C Districts.

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ARTICLE VI
Administration, Enforcement and Procedures

§ 205-40. Purpose.

This article establishes the procedures and framework necessary for the enforcement and administration of this chapter in accordance with the Pennsylvania Municipalities Planning Code.[152]

§ 205-41. Zoning Officer.

A. Appointment. The Zoning Officer shall be appointed by the Borough Council to administer and enforce this Zoning Ordinance. The Zoning Officer shall not hold any elective office within the municipality. No building, structure or sign shall be erected, constructed, moved, added to, or structurally altered, nor shall land be put to any use without a permit issued by the Zoning Officer for that purpose.

B. Legal framework. The Zoning Officer shall have all the duties and powers conferred by the Zoning Ordinance in addition to those reasonably implied for that purpose. He/she shall not issue a building permit in connection with any contemplated erection, construction, alterations, repair, extension, replacement and/or use of any building, structure, sign and/or land unless it first conforms with the requirements of this Zoning Ordinance, with all other ordinances of the Borough, and with the laws of the Commonwealth of Pennsylvania.

C. Duties and powers of the Zoning Officer. It shall be the duty of the Zoning Officer to enforce literally the provisions of this chapter and amendments. He/she shall have such other duties and powers as are conferred upon him/her by this chapter or as are reasonably implied for that purpose, or as may be, from time to time, conferred upon him by the Borough Council. The Zoning Officer's powers and duties shall include but are not limited to the following:

(1) Receive applications for and issue building permits and sign permits as permitted by the terms of this chapter.

(2) Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this chapter and the action taken consequent to each such complaint. All such records shall be open and available for public inspection. File copies of all applications received, permits issued, reports and inspections made in connection with any structure, building, sign and/or land, shall be retained in hard copy as long as they remain in existence.

(3) At his/her discretion, examine, or cause to be examined, all buildings, structures, signs, and/or land or portions thereof, for which an application has been filed for the erection, construction, alteration, repair, extension, replacement, and/or use before issuing any permit, and otherwise as required to fulfill her/his duties. Thereafter, he/she may make such inspections during the completion of work for which a permit has been issued. Upon completion of the building, structure, sign and/or change, a final inspection shall be made and all violations of the approved plans or building permit shall be noted and the holder of the building permit shall be notified of the discrepancies. He/she shall have the power to enter any building or structure or enter upon any land at any reasonable hour in the course of his/her duties. Should such access be prevented by any property owner, lessee or other person, he/she shall have the authority, with the approval of the Borough Council, to obtain a search warrant for said property.

152.Editor's Note: See 53 P.S. § 10101 et seq.

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(4) Issue permits for special exception uses, conditional uses and/or variances only after such uses and/or buildings have been approved in writing by either the Zoning Hearing Board, in the case of special exceptions and/or variances, and the Borough Council in the case of conditional uses.

(5) Maintain responsibility for keeping this chapter and the Official Zoning Map up to date so as to include all amendments thereto.

(6) Issue certificates of zoning compliance in accordance with the provisions of this chapter.

(7) Investigate alleged violations and address violations to this chapter.

(8) Prepare and submit annual reports, as required in this chapter, to the Planning Committee/ Commission and Borough Council.

(9) Identify and register nonconforming uses and structures created as a result of the adoption of this chapter or created as a result of amendments thereto.

(10) Any other such duties as directed by Borough Council.

§ 205-42. Administration and administrative procedures.

A. Applicability of ordinance. No 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 or variance, or upon written order from the Borough Council in the form of a conditional use, or as otherwise provided for by this chapter, any applicable laws or any court of competent jurisdiction.

B. Requirement for permit. It shall be unlawful to commence the excavation for or the construction or alteration of any buildings until the Zoning Officer has issued a building permit for such work. A building permit shall be required for all construction or alterations. No building permit shall be required for repairs to or maintenance of any building, structure or grounds, provided such repairs do not change the use or otherwise violate the provisions of this chapter. All applications shall be made in writing and shall be accompanied by all applicable fees and two sets of plans showing, at a minimum, the following information to be considered as a complete application, if applicable:

(1) Actual dimensions and shape of the lot to be used.

(2) The exact size and location on the lot of buildings, structures, or signs existing and/or proposed, including any extensions thereto.

(3) The number of dwelling units.

(4) A parking plan, indicating the number, size and location of all off-street parking spaces and/or required loading areas for the specific use(s).

(5) Statement indicating any existing or proposed use(s).

(6) Height of any structure, building or sign existing or proposed.

(7) Statement indicating the provider of essential services such as water supply, sewage disposal, electrical service, natural gas service, etc.

(8) The name, address and telephone number of the property owner, the applicant (if different from the owner), and the estimated value of any proposed improvements.

(9) Any other information deemed necessary by the Zoning Officer in order to determine

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compliance with this and any other applicable ordinances.

C. Action by Zoning Officer. One copy of the submitted plans and associated information shall be returned to the applicant by the Zoning Officer after he/she shall have made a determination of compliance with the provisions of this chapter and other applicable ordinances.

(1) Said plans shall be either marked approved or disapproved, and shall be attested to it by the signature of the Zoning Officer.

(2) Plans that are marked approved shall be returned with a permit, and shall note any conditions of approval.

(3) Plans that are marked disapproved shall be accompanied by a written statement of the deficiencies of said plans.

D. Review period. All applications shall be reviewed and marked for approval or disapproval within 30 days from the date of submission of a complete application.

E. Disapproval procedure. All applications marked for disapproval shall be accompanied by a letter informing the applicant of the applicable ordinance sections and requirements that were used to deny the plans, the applicant's rights for appeal and a copy of the hearing application.

F. Forms. Applications for a permit shall be submitted in such form as the Zoning Officer may prescribe.

G. Effective period. Building permit(s) become invalid unless the authorized construction work begins 180 days after the permit's issuance or if the authorized construction work is suspended or abandoned for 180 days after the work has commenced. A permit holder may submit a written request for an extension of time to commence construction for just cause. The Zoning Officer may grant extensions of time to commence construction in writing. A building permit may be valid for no more than five years from its issue date.

H. Nonpermitted work. Work initiated prior to the issuance of a building permit will be subject to fees double those outlined in § 205-47.

I. Zoning compliance. A Building Occupancy Permit (BOP) shall be required upon the completion of any buildings permitted under this chapter. It shall be unlawful to use and/or occupy any building in any manner until the BOP is issued.

(1) The application for the BOP shall be submitted in such form as the Zoning Officer may prescribe when all construction and related activities are complete.

(2) The Zoning Officer shall inspect any use, structure, building, sign and/or land or portions thereof and shall determine the compliance therewith to the provisions of this chapter.

J. Exemptions. This chapter shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience and welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the Borough have notice of such hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.

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§ 205-43. Enforcement; violations and penalties.

A. Notice. The Zoning Officer shall serve written notice of violation upon any person, firm, corporation or partnership deemed responsible for violating any of the provisions of this chapter, or in violation of any detailed statement or plan approved thereunder. Such written notice shall be served personally or by certified mail, indicating the nature of the violation and ordering the action necessary to correct same. Such notice shall contain, at a minimum, the following information:

(1) The party deemed responsible for the violation, and the name of the owner of record of the property in question.

(2) The date and location of the violation.

(3) The specific section of this chapter that has been violated.

(4) The specific action required to correct such violation.

(5) The time period within which such violation shall be corrected.

(6) The penalties that could be assessed for such violation.

(7) The right of the party to appeal the decision of the Zoning Officer, and the procedures to be followed to file such appeal.

(8) The signature of the Zoning Officer.

B. Noncompliance. Should such notice of violation not be complied with within the time period set forth in said notice, the Zoning Officer shall order the discontinuance of such unlawful use of structure, building, sign and/or land involved in said violation. The Zoning Officer shall also file a report of said noncompliance with the Borough Council, and upon authorization from the Borough Council, shall initiate legal action, in accordance with the provisions of Subsection C of this section.

(1) Causes of action. In case any building, structure, landscaping or land is erected, constructed, reconstructed, altered, converted, maintained or used in violation of this chapter, the Borough Council shall have the power to authorize the Zoning Officer or Borough Solicitor to initiate any appropriate action or proceeding to prevent, restrain, correct or abate such violation.

(2) When any such action is instituted by the Borough Council, written notice shall be served by the municipality upon the owner or tenant of said property or use in violation.

(3) The Zoning Hearing Board shall have initial jurisdiction for proceedings brought under this section. Any subsequent legal action shall be in accordance with Article X-A of the Pennsylvania Municipalities Planning Code.[153]

C. Penalties. Any person, partnership or corporation who or that has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof.

(1) Each day that a violation continues shall constitute a separate violation, unless the Magisterial District Judge determines that there was a good faith basis for the continuance of the violation, in which case there shall be deemed to have been only one such violation until the fifth day

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153.Editor's Note: See 53 P.S. § 11001-A et seq.

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following the date of the determination of a violation by the Magisterial District Judge and thereafter each day that a violation continues shall constitute a separate violation.

(2) All judgments, costs and reasonable attorney fees collected for the violation of this chapter shall be paid over to the Borough.

(3) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence any action pursuant to this section.

§ 205-44. Zoning Hearing Board.

A. Membership. The Borough hereby creates a Zoning Hearing Board (ZHB), herein referred to as the ZHB, consisting of three members, and two alternate members, pursuant to Article IX of the Pennsylvania Municipalities Planning Code Act of 1967, P.L. 705, No. 246, as amended,[154] who shall perform all the duties and have all the powers prescribed by said statute and as herein provided.

B. Terms and related. The membership of the ZHB shall consist of three residents of the Borough, appointed by the Borough. The terms of office shall be three years. One member shall be appointed to serve until the first day of January of the year following the adoption of this chapter; one member until the first day of January of the second year following the adoption of this chapter; and one member until the first day of January of the third year following the adoption of this chapter.

(1) There shall be two alternate members of the ZHB appointed by the Borough. The term of office shall be three years. The terms for the alternate members shall coincide with the terms of the members as specified in Subsection B above.

(a) Alternate members, when seated pursuant to the provisions of Section 906 of Act 246, as amended by Acts 66 and 67 of 2000, (the Pennsylvania Municipalities Planning Code),[155] shall be entitled to participate in all proceedings, and shall have the powers and duties specified in the statute and this chapter.

(b) Any alternate may participate in any proceeding or discussion of the ZHB but shall not be entitled to vote as a member, nor be entitled to any compensation unless designated as a voting alternate member pursuant to Section 906 of the Pennsylvania Municipalities Planning Code Act of 1967, P.L. 705, No. 246, as amended.

(2) Members of the ZHB and alternate members of the ZHB shall hold no other office of the municipality.

(3) Any member or alternate member of the ZHB may be removed for malfeasance, misfeasance or nonfeasance or for other just cause by a majority vote of the Borough.

(a) A member or alternate member shall receive a minimum of 15 days advance notice of the intent to take such a vote.

(b) A public hearing shall be held, if the member or alternate member requests one in writing.

(4) Vacancies shall be filled by appointment by the Borough Council for the unexpired portion of the vacated term.

154.Editor's Note: See 53 P.S. § 10901 et seq.

155.Editor's Note: See 53 P.S. § 10906.

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C. Compensation. The members of the ZHB shall receive such compensation if and/or as shall be fixed by the Borough Council, by resolution, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Borough Council.

D. Technical assistance. Within the limits of funds appropriated by the Borough Council, the ZHB may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical or legal staff. The solicitor to the ZHB shall not be the solicitor of the municipality.

E. Procedures. The ZHB may make, alter and rescind rules and forms for its procedure, consistent with the ordinances of the Borough and the laws of Pennsylvania.

(1) The ZHB shall keep full public records of its business.

(2) The records of the ZHB shall be the property of the Borough.

(3) The ZHB shall submit a report of its activities and any recommendations to the Borough Council as requested by the Borough Council. In addition, the ZHB shall submit an annual report of its activities to the Borough Council.

(4) Such rules as may be established by the ZHB shall continue in force and effect, until amended or repealed by the ZHB, by municipal ordinance or by federal or state law.

(5) The ZHB shall elect, from its own membership, its officers, who shall serve annual terms as such, and may succeed themselves.

(6) Meetings and hearings of the ZHB shall be held at the call of the Chairman and at such other times as the ZHB, by majority vote, may determine.

F. Hearings. The ZHB shall conduct hearings and make decisions in accordance with the following requirements:

(1) For the conduct of any hearing and the taking of any action, a quorum of not less than a majority of the members or voting alternates shall be present. In the event that any member is disqualified for reason of conflict of interest, his/her place on the hearing panel may be taken by a voting alternate.

(2) Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, abutting or adjoining property owners and such other persons as the Borough Council or the ZHB may designate, and to any person who as made a timely request for same. Written notice of said hearing shall be conspicuously posted on the affected tract at least one week prior to the hearing.

(a) Public notice shall consist of publication of an advertisement in a newspaper of general circulation in the Borough, not more than 30 or less than seven days prior to the hearing.

(b) Written notice shall consist of letter signed by the Zoning Officer on behalf of the Chairman of the Board. Written notice shall be provided a minimum of 15 days prior to the hearing.

(3) Hearings shall be conducted by the ZHB.

(a) The hearing shall be commenced within 60 days from the date of the receipt of the applicant's request, unless the applicant has agreed in writing to an extension of time. Any subsequent hearing shall be held within 45 days of the prior hearing, unless otherwise

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agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of the presentation of the case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the ZHB shall assure that the applicant receives at least six hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete the case-in-chief, provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

(b) Fees for hearings shall be established by the Borough Council.

[1] Fees may include compensation for the members and secretary (or court stenographer), notice, advertising costs and administrative costs.

[2] Fees shall not include legal expenses, consultant expenses or expert witness costs.

(c) The findings shall be made by the ZHB.

(d) The ZHB shall not appoint a member to serve as a hearing officer.

(e) The parties to any hearing shall be the Borough, the applicant, any person affected by the application who has made timely appearance of record before the ZHB, and any other person including civic or community organizations permitted to appear by the ZHB. The ZHB shall have the power to require that all persons who wish to be considered parties enter appearances in writing in a form acceptable to the ZHB.

(f) The chairman or acting chairman of the ZHB shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and production of relevant documents and papers, including any witnesses and/or documents requested by the parties.

(g) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and 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 ZHB shall keep a stenographic record of the proceedings.

[1] The appearance fee for a stenographer shall be shared equally by the ZHB and the applicant.

[2] The cost of the original transcript shall be paid by the ZHB if the transcript is ordered by the ZHB.

[3] The cost of the transcript shall be paid by any person or party who might appeal from the decision of the ZHB.

[4] Additional copies of the transcript shall be paid by the person requesting such copy.

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(j) The ZHB shall not communicate, directly or indirectly, with any party or his/her representatives in connection with any issue involved except upon notice and opportunity for all parties to participate.

[1] The ZHB shall not take notice of any communication, reports staff memoranda, or other materials, except advice from their solicitor, unless parties are afforded an opportunity to contest the material so noticed.

[2] The ZHB shall not inspect the site or its surroundings after the commencement of hearings with any party or his/her representative unless all parties are given an opportunity to be present.

(k) The ZHB shall render a written decision, or when no decision is called for, a written finding on the application within 45 days after the last hearing before the ZHB.

[1] Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor.

[2] Conclusions based on the provisions of Pennsylvania Municipalities Planning Code Act of 1967, P.L. 705, No. 246, as amended,[156] this chapter or any other rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.

[3] Where the ZHB fails to render the decision within the required forty-five-day period, or fails to hold a hearing within the required sixty-day period, 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.

[4] In such case when a decision has been rendered in favor of the applicant because of the failure of the ZHB to meet or render a decision as herein provided, the ZHB shall give public notice of said decision within 10 days from the last day it could have met to render such decision as provided in this chapter. If the ZHB should fail to provide such notice, the applicant may do so.

[5] Nothing in this section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

(l) A copy of the final decision or where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him/her not later than the day following its date. To all other persons who have filed their name and address with the ZHB not later than the last day of the hearing, the ZHB shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the time and place at which the full decision or findings may be examined.

G. Functions of the Zoning Hearing Board. The ZHB shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

(1) Substantive challenges to the validity of this chapter or Chapter 174, Subdivision of Land, except that the ZHB shall have no jurisdiction regarding any landowner curative amendments.

(2) Challenges to the validity of this chapter or Chapter 174, Subdivision of Land, raising

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156.Editor's Note: See 53 P.S. § 10101 et seq.

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procedural questions or alleged defects in the process of enactment or adoption.

(a) Such challenges shall be raised on appeal within 30 days after the effective date of said ordinance.

(b) The ZHB shall immediately notify the Borough Council of such challenges.

(3) Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease-and-desist order, the registration or refusal to register any nonconforming use, structure or lot, the interpretation of any district boundary line or any other official map.

(a) In exercising this power, the ZHB may reverse or affirm, wholly or in part, or may modify, the order, requirement, decision, determination or permit appealed from.

(b) Nothing in this section shall be construed to deny the appellant the right to proceed directly to court, when appropriate, pursuant to the Pennsylvania Rules of Civil Procedure relating to mandamus.

(4) Appeals from the decision by the professional engineer retained by the Borough or the Zoning Officer with reference to the administration of Chapter 99, Floodplain Regulations, or the Borough's Stormwater Management Ordinance.

(5) Applications for variances from the terms of this chapter pursuant to Article VI of this chapter.

(6) Applications for special exceptions under this chapter pursuant to any special exception criteria established under this chapter.

(7) Appeals from the determination of the Zoning Officer regarding any performance or density provisions of this chapter.

(8) Appeals from the determination of the professional engineer or consultant retained by the Borough with reference to sedimentation and erosion control plans.

H. Standards for variances. The ZHB shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The ZHB shall, by rule, prescribe the form of application and may require the submission of a preliminary application to the Zoning Officer. The ZHB may grant a variance, provided that all the following findings are made where relevant to a given case:

(1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size and 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 created by the provisions of this chapter in the 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 the ordinance 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 applicant.

(4) That the variance if authorized, will not alter the essential character of the neighborhood in which the property is located, nor substantially or permanently impair the appropriate use or

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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.

I. Other conditions and safeguards. The ZHB may also grant a variance, provided that all the following findings are made where relevant to a given case:

(1) That no nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or nonconforming use of land, structure or buildings in other districts shall be considered grounds for the granting of any variance.

(2) That in no case shall a variance be granted solely for reasons of financial hardship or additional financial gain on the part of the applicant.

(3) In granting any variance, the ZHB may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter.

J. Standards for special exceptions. The ZHB shall have the power to hear and decide only such special exceptions as specifically authorized in Article IV of this chapter. All special exceptions shall meet the following criteria:

(1) Special exception uses shall be specifically authorized in the zoning district, and shall meet any special exception criteria established in Article V.

(2) Special exception uses shall be found to be consistent with the community development goals and objectives; the general purposes and intent of this chapter.

(3) Special exception uses shall not adversely affect the character of the district, nor the conservation of property values, nor the health and safety of residents or workers on adjacent properties and in the general neighborhood.

(4) Special exception uses shall be in substantial compliance with county and/or local comprehensive plans.

(5) Special exception uses shall comply with the supplemental regulations contained in Article V.

(6) Special exception uses requiring a variance from this or any other ordinance shall be granted after such time as the variance may be authorized.

(7) The ZHB may attach any reasonable conditions and safeguards as it may deem advisable and appropriate to any special exception permit. Refusal of the applicant to accept such conditions shall result in the revoking of the special exception permit.

§ 205-45. Functions of Borough Council.

A. The Borough Council shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

(1) All applications for approval of subdivisions or land developments, pursuant to Chapter 174, Subdivision of Land, demonstrating compliance with this chapter.

(2) Applications for conditional use.

(3) Applications for curative amendment to this chapter.

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(4) All petitions for amendments to this chapter, as well as other ordinances enacted and administered by the Borough Council.

(5) Petitions for waivers from the requirements of Chapter 174, Subdivision of Land.

(6) Appeal from the any determination by the Zoning Officer or municipal engineer in the administration or enforcement of the provisions of Chapter 174, Subdivision of Land, where final administrative action is vested in said chapter.

B. Standards for conditional use. The Borough Council shall hold a public hearing for all conditional uses listed in this chapter. In granting any conditional uses, the below listed criteria shall be applied:

(1) The presence of nearby similar uses.

(2) An adjoining district in which the use is permitted.

(3) Compatibility of the use with the provisions of the county and/or local comprehensive plan.

(4) Sufficient lot area to provide effective screening from adjacent residential uses.

(5) That the use will not detract from permitted uses in the district.

(6) Compliance with relevant requirements in Article V of this chapter.

(7) Notification of adjoining property owners.

(8) Compliance with the provisions of Chapter 174, Subdivision of Land.

C. Additional procedural matters. The following apply to conditional use applications before Borough Council:

(1) Should any conditional use require a variance from this or any other ordinance, said variance shall be authorized prior to the scheduling of a conditional use hearing.

(2) The Borough Council may attach such reasonable conditions to a conditional use permit as they may deem appropriate and advisable. Failure of the applicant to agree to said conditions shall result in the immediate revoking of the permit.

(3) Should the work authorized under a conditional use permit fail to commence within 180 days of the issuance of the permit, it shall be conclusively presumed that the applicant has waived, withdrawn or abandoned said permit and all such permits shall be automatically rescinded by the Borough Council.

(4) All applications for conditional use shall be submitted to the Planning Committee/Commission for their review and recommendation. Lack of recommendation by the Planning Committee/ Commission shall be deemed as recommended approval of the application.

(5) Where the Borough Council fails to render a decision within the period required by Section 913.2 of the Pennsylvania Municipalities Planning Code[157] (i.e., within 45 days after the last hearing), or fails to commence, conduct or complete the required hearing as provided in Section 907(1.2) of the Pennsylvania Municipalities Planning Code[158] (i.e., hearing is not commenced within 60 days of applicant's request or not completed within 100 days of the completion of the

157. Editor's Note: See 53 P.S. § 10913.2.

158. Editor's Note: See 53 P.S. § 10907(1.2).

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applicant's case-in-chief), the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Borough Council to meet or render a decision as hereinabove provided, the Borough Council shall give public notice of the decision within 10 days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of the Pennsylvania Municipalities Planning Code.

§ 205-46. Procedures for hearings.

The procedures discussed in this section shall apply to all proceedings before the ZHB and where applicable shall apply to proceedings before the Borough Council.

A. Enabling regulation. All hearings shall be held in strict accordance with the procedures contained in Article IX of Act 246, as amended by Acts 66 and 67 of 2000, the Pennsylvania Municipalities Planning Code.[159]

B. Applications. All appeals and other applications shall be in writing, in a form prescribed by the Board. Such applications shall contain, at a minimum:

(1) The specific ordinance and provision of said ordinance involved.

(a) The interpretation that is claimed for any challenges to the validity of said ordinance;

(b) The use for which special exception or conditional use is sought; or

(c) The details of the variance that is applied for, and the grounds on which it is claimed that the variance shall be granted.

(2) All required filing fees as may be established by the Borough Council.

C. Appeals, general. No person shall be allowed to file any proceeding with the Board later than 30 days after an application for development, preliminary or final, has been approved by the 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/she had no notice, knowledge or reason to believe that such approval had been given.

(1) If such person has succeeded to his interest after such approval, he/she shall be bound by the knowledge of his/her predecessor in interest.

(2) The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan pursuant to Article VI of this chapter or from an adverse decision by the Zoning Officer on a challenge to the validity of an ordinance or map pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code Act of 1967, P.L. 705, No. 246, as amended,[160] shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative plan.

D. Appeal time frame. All appeals from determinations adverse to landowners shall be filed by the landowner within 30 days after the determination is issued.

159.Editor's Note: See 53 P.S. § 10901 et seq.

160.Editor's Note: See 53 P.S. § 10916.2.

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E. Stay. Upon filing of any proceeding referred to in this article and during its pendency before the ZHB, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any appropriate agency or bodies certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, that may be granted by the ZHB or by a court of competent jurisdiction on petition, after notice to the Zoning Officer or other appropriate agency or body.

F. Bonding for approved applications. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the ZHB by persons other than the applicant, the applicant may petition a court of competent jurisdiction to order such persons to post bond as a condition to continuing the proceedings before the Board.

(1) The question of whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court.

(2) An order denying a petition for bond shall be interlocutory.

(3) An order directing the responding party to post a bond shall be interlocutory.

§ 205-47. Schedule of fees, charges and expenses.

A. Establishment of fees. The Borough Council shall establish a schedule of fees, charges and expenses and the collection procedures for building permits, certificates of occupancy, special exceptions, variances, appeals and any other matters pertaining to this chapter.

B. Schedule and changes. The schedule of fees shall be available for inspection in the office of the Zoning Officer and may be altered or amended, by resolution, by the Borough Council.

C. Payment of fees. No action shall be taken on any application or appeal until such time as all fees, charges and expenses have been paid in full.

§ 205-48. Nonconforming lots, uses, structures and buildings.

A. Statement of intent. Within the zoning districts established pursuant to this chapter or subsequent amendments thereto, there exists or will exist certain nonconformities that, if lawful before this chapter was enacted or amended, may be continued, subject to certain limitations, although such nonconformities would be prohibited, regulated or restricted under the terms of this chapter or subsequent amendments thereto. In order to avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any buildings or structures on which actual construction was lawfully begun prior to the effective date of adoption of amendment to this chapter and upon which actual building construction has been diligently carried on.

B. Nonconforming lots of record. Lots of record existing at the date of adoption or amendment of this chapter that do not conform to the regulations of the zoning district in which they are located may be used for primary structures or dwellings and customary accessory uses as a special exception, and if the buildings are erected according to the following stipulations:

(1) The yard requirements for the any such nonconforming lot in a block shall conform at a minimum to the average setbacks of the two adjoining lots, or the average of the setbacks for the nearest lots upon which a primary structure is located.

(a) These provisions shall apply even though such lot fails to meet the requirements for area

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or width, or both, that are generally applicable in the district.

(b) A block shall be defined as a tract of land bounded by streets, or by a combination of streets, public parks, cemeteries, railroad rights-of-way, waterways or any municipal boundary.

(2) If two or more lots, combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of adoption of this chapter or amendment thereto, and if all or part of the lots do not meet the requirements established for lot width and/or area, the land shall be considered to be an undivided parcel for the purpose of this chapter. No portion of said parcel shall be used or sold in a manner that diminishes compliance with lot width and/or area requirements established by this chapter, nor shall any division of any parcel be made that creates a lot with width or area below the minimum requirements established in this chapter.

C. Nonconforming structures or buildings.

(1) Structures or buildings that at the effective date of this chapter or subsequent amendments thereto that do not conform to the requirements contained therein by reason of restrictions on area, lot coverage, height, yards, its location on the lot or other requirements concerning the building or structure, may be continued to be used, maintained and repaired so long as such structure or building remains otherwise lawful, subject to the following provisions:

(a) No such nonconforming structure or building may be enlarged or altered in any way that increases its nonconformity.

(b) No nonconforming structure or building shall be, for any reason, moved any distance unless it shall thereafter conform to the zoning regulations for the district in which it is located after it is moved.

(c) Whenever any nonconforming structure or building has been vacated and not publicly advertised or marketed for a period of 12 consecutive months, such structure or building shall thereafter not be used except in compliance with the provisions of this chapter.

(2) Should a nonconforming structure or building be destroyed by fire, flood, wind or other means not of the owner's decision, it shall not be reconstructed in any manner that increases its nonconformity. This will allow the rebuilding and/or reconstruction of a building/structure on the same horizontal footprint for the same type, height and density of use that existed prior to the fire, flood, wind or other applicable event not of the owner's decision, in conformance with Chapter 99, Floodplain Regulations, and other applicable Borough ordinances and regulations in effect at the time of the rebuilding/reconstruction.

(3) In cases where two or more uses or principal structures, exclusive of any accessory structures, exist on a single parcel, all such buildings or uses shall comply with all requirements of this chapter and subsequent amendments that would normally apply to each building or use if each was on a separate lot. In cases where existing multiple uses and/or primary buildings are nonconforming, any alterations or modifications shall be in accordance with Article VI of this chapter.

D. Nonconforming uses.

(1) Lawful uses of land, structures or buildings that at the effective date of this chapter or as a result of subsequent amendments thereto that do not conform to the requirements contained therein may be continued by the present or any subsequent owner so long as such use remains otherwise

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lawful, subject to the following provisions:

(a) Any nonconforming use, if changed to a conforming use, shall not thereafter be changed back to any nonconforming use. A nonconforming use may, by variance, be changed to another nonconforming use, provided that the ZHB shall find that the proposed use is equally or more appropriate in the zoning district in which the property is located than the previously existing nonconforming use.

(b) Whenever a nonconforming use of any land, structure or building has been discontinued and/or not publicly advertised or marketed for a period of 12 consecutive months such land, structure or building or any portion thereof shall be used only in a manner in full compliance with this chapter.

(c) Should a structure or building that sustains a nonconforming use be destroyed by fire, flood, wind or other means not of the owner's decision, it shall not be reconstructed in any manner that increases its nonconformity. This will allow the rebuilding and/or reconstruction of a building/structure on the same horizontal footprint for the same type, height and density of use that existed prior to the fire, flood, wind or other applicable event not of the owner's decision in conformance with Chapter 99, Floodplain Regulations, and other applicable Borough ordinances and regulations in effect at the time of the rebuilding/ reconstruction.

(d) Voluntary removal or destruction of the structure or building in which any nonconforming use is located shall eliminate the use of the land upon which the structure or building was erected for such nonconforming use.

(2) A nonconforming use may be extended throughout any part of the existing land, structure or building, or a new extension or addition to a structure or building may be constructed, provided that all such structural alterations, extensions or additions shall comply with all provisions of this chapter with respect to height, area, width, yard and coverage requirements for the zoning district in which the building is located. Total extension of any nonconforming use shall not exceed 25% of the gross floor area of any building or 25% of the gross land area of any outdoor use, occupied by said nonconforming use at the time of the adoption and/or amendment of this chapter.

E. Effect of special exception. Any use that is permitted as a special exception in any zoning district under the terms of this chapter (other than a change through ZHB action from one nonconforming use to another nonconforming use) shall not be deemed a nonconforming use in such a zoning district, but shall without further action be considered a conforming use.

F. Registration of nonconformities. To facilitate the administration of this chapter, the Zoning Officer may prepare and maintain an accurate listing of all uses and structures in all districts, or use, update and maintain the approved Existing Land Use Map as per the Borough's most recent Comprehensive Plan Update as a permanent record.

(1) Uses permitted by special exception and/or variance may be so noted on a permanent record of the subject parcel.

(2) Nonconforming uses and structures may be registered separately or on this permanent record.

(3) This listing/permanent record will be a matter of public record and constitute sufficient notice of the nonconforming status of said uses and/or structures and will constitute sufficient status of

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said use and/or structures and the limitations therein expressed and implied to any transferee acquiring any right to use or own such property.

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ARTICLE VII
Amendments

§ 205-49. Changes by Borough Council.

The provisions of this chapter and the boundaries of the Zoning Districts as set forth on the Official Zoning Map, may from time to time be amended or changed by the Borough Council, in accordance with the provisions of Section 609 of the Pennsylvania Municipalities Planning Code Act of 1967, P.L. 705, No.246, as amended.[161]

§ 205-50. Amendment procedures.

A. Procedural. Before voting on the enactment of an amendment, the Borough Council shall hold at least one public hearing thereon, pursuant to adequate public notice in a newspaper of general circulation. In addition, for rezoning excluding that associated with comprehensive rezoning, the following notifications shall occur:

(1) If the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Zoning Officer along the perimeter of the tract(s) to be affected.

(2) The affected tract(s) shall be posted at least seven days prior to the date of the hearing.

(3) Written notice shall be provided at least 30 days prior to the date of the hearing by first-class mail to the addresses to which real estate tax bills are sent for real property located within the area being rezoned, as evidenced by real estate tax records within the possession of the Borough. The notice shall include the location, date and time of the public hearing.

B. Borough Planning Committee/Commission. In the case of an amendment other than that prepared by the Borough Planning Committee/Commission, the Borough Council shall submit each such amendment to the Borough Planning Committee/Commission at least 30 days prior to the hearing on such proposed amendment to provide the planning agency an opportunity to submit recommendations.

C. Substantial change. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include any land not previously affected by it, the Borough Council shall hold another public hearing before proceeding to vote on the amendment.

D. County Planning Commission review. All proposed amendments shall be submitted by the Borough Council to the Blair County Planning Commission at least 45 days prior to the public hearing for recommendation.

E. Submission to County Planning Commission. Within 30 days after enactment, a copy of the amendment shall be forwarded to the Blair County Planning Commission.

§ 205-51. Procedure for landowner curative amendments.

A. Background. A landowner who desires to challenge on substantive ground the validity of the Zoning Ordinance or Map, or any provision thereof, that prohibits or restricts the use or development of land in which he/she has an interest, may submit a curative amendment to the Borough Council, pursuant to the provisions of Section 609.1 of the Pennsylvania Municipalities Planning Code Act of 1967,

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161.Editor's Note: See 53 P.S. § 10609.

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P.L. 705, No.246, as amended.[162]

B. Hearing, timing and notice. The Borough Council shall commence a hearing thereon within 60 days of the request, pursuant to public notice, unless the landowner requests or consents to an extension of time. Public notice shall include notice that the validity of the Zoning Ordinance or Map is in question and the place and time when a copy of the requests, including any plans, explanatory material or proposed amendments may be examined by the public.

C. Review by Planning Committee/Commissions. The landowner curative amendment shall be referred by the Borough Council to the Borough Planning Committee/Commission and County Planning Commissions for review and recommendation.

D. Enabling regulations for hearing. The hearing shall be conducted by the Borough Council in accordance with Section 908 of the Pennsylvania Municipalities Planning Code and all references therein to the Zoning Hearing Board shall, for the purposes of this section, be references to the Borough Council: provided, however, that the provisions of Section 908(1.2) and (9) shall not apply and the provisions of Section 916.1 shall control.[163]

E. Severability. In the event the Borough Council does not accept the landowner curative amendment and a court of competent jurisdiction subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire Zoning Ordinance, but only for those provisions that specifically relate to the landowner's curative amendment and challenge.

F. Additional criteria considered. The Borough Council shall consider the curative amendment, plans and explanatory material submitted by landowner and shall also consider:

(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 to and affordable by classes of persons otherwise excluded by the challenged provisions of the Zoning Ordinance or Map.

(3) 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.

(4) The impact of the propose 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.

(5) The impact of the proposal on the preservation of agricultural and other uses that is essential to public health and welfare.

G. Decisionmaking time frame. The Borough Council shall render its decision within 45 days after the conclusion of the last hearing. If the Borough Council fails to act on the landowner's request within this time period, a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.

162.Editor's Note: See 53 P.S. § 10609.1.

163.Editor's Note: See 53 P.S. § 10908(1.2) and (9) and 10916.1, respectively.

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§ 205-52. Procedure for municipal curative amendments.

Should the Borough Council determine that this chapter or any portion thereof is substantially invalid, it shall take the actions outlined in this section.

A. Background. The Borough Council shall declare this chapter or portions thereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days following such declaration and proposal, the Borough Council shall:

(1) By resolution make specific findings setting forth the invalidity of this chapter that may include:

(a) References to those specific uses that are either not permitted or not permitted in sufficient quantity.

(b) Reference to a class of use or uses that require revision.

(c) Reference to the entire ordinance that requires revision.

(2) Begin to prepare and consider a curative amendment to this chapter to correct the declared invalidity.

B. Time frame. Within 180 days from the date of the declaration and proposal, the Borough Council shall enact a curative amendment to cure the declared invalidity.

C. Procedural. Upon initiation of the procedures, as set forth above, the Borough Council shall not be required to consider or entertain any landowner's curative amendment, nor shall the Zoning Hearing Board be required to provide the report required in Section 916.1 of Act 246, as amended (the Pennsylvania Municipalities Planning Code).[164] Upon completion of the procedures set forth above, no rights to a cure pursuant to the provisions of this section shall, from the date of declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended ordinance.

D. Subsequent use requirements. A municipal curative amendment may not be utilized for a period of 36 months following the date of enactment of a municipal curative amendment; provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Borough by virtue of a change in statute or by virtue of an Appellate Court decision, the Borough may utilize the provisions of this section to prepare a curative amendment to fulfill said duty or obligation.

§ 205-53. Advertising requirements.

The Borough Council shall publish public notice of any proposed amendment not more than 30 nor less than seven days prior to the public hearing, in a newspaper of general circulation. Such notice shall be posted for a minimum of once a week, for two consecutive weeks. Such notice shall contain, at a minimum:

A. The time and place of the meeting.

B. A reference to where copies of the proposed amendment may be examined without charge, or obtained for a charge not greater than the cost thereof.

C. A brief summary of the amendment, including the title, prepared by the Borough Solicitor. An attested copy of the full text of the amendment shall be filed in the County Law Library and in the

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164.Editor's Note: See 53 P.S. § 10916.1.

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Office of the Blair County Planning Commission. The attested copies may be distributed to the public and a fee for such copies may be imposed that is not greater than the actual cost of preparing the copies.

D. In the event that substantial amendments are made to the ordinance, ("substantial" being defined as amending more than 10% of the ordinance) before voting upon any enactment, the Borough Council shall, at least 10 days prior to scheduled enactment, readvertise; readvertisement shall be in one newspaper of general circulation and shall summarize, in reasonable detail, all the amendment provisions.

§ 205-54. Incorporation.

Amendments shall be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

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ARTICLE VIII
Miscellaneous Provisions

§ 205-55. Reviews and appeals.

Proceedings for securing review and/or appeal of any ordinance, decision, determination or order of the Borough Council, its agencies or officers adopted pursuant to this chapter shall be in strict accordance with the provisions of the Pennsylvania Municipal Planning Code Act of 1967, P.L. 705, No. 246, as amended.[165]

§ 205-56. Remedies.

In case any building, structure or land is, or is proposed to be, erected, constructed, reconstructed, altered, repaired, converted, maintained or used in violation of this chapter, the Borough Council, or, with their approval the Zoning Officer, in addition to other remedies, may institute in the name of the Borough any appropriate action or proceedings to prevent, restrain, correct or abate such building, structure or use in or about such premises, any act, conduct, or business constituting a violation.

§ 205-57. Official Zoning Map.

The Official Zoning Map, for purposes of district identification, shall be the Official Zoning Map adopted as part of this chapter and posted in the offices of the Borough and Borough Zoning Officer. Any reproductions, reductions or copies of said map shall be for information purposes only.[166] Amendments to the Official Zoning Map shall be made by ordinance and a new Official Zoning Map prepared within 30 days of said amendment.

165.Editor's Note: See 53 P.S. § 10101 et seq.

166.Editor's Note: The Zoning Map is included at the end of this chapter.

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Appendix

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Chapter A210

CABLE TELEVISION FRANCHISE

[HISTORY: Adopted by the Borough Council of the Borough of Tyrone 6-8-1987 by Ord. No. 931. Amendments noted where applicable.]

§ A210-1. Purpose and nature of franchise.

In consideration of the faithful performance of the conditions, restrictions and reservations hereinafter specified, a franchise is hereby granted to SBC Cable of Pa. Limited Partnership, hereinafter called the "grantee," to construct, reconstruct, operate and maintain a cable television system in, under, over, along, across and upon the streets, sidewalks, alleys, bridges and other public places in the limits of the Borough of Tyrone, Pennsylvania, hereinafter called the "Borough," and subsequent additions thereto in accordance with the laws and regulations of the United States of America and the State of Pennsylvania and the ordinances and regulations of the Borough of Tyrone.

§ A210-2. Definitions and word usage.

For the purpose of this franchise, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense shall include the future; words in the plural include the singular; and words in the singular include the plural; and the use of any gender shall be applicable to all genders whenever the sense requires. The word "shall" is mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meanings.

BASIC CABLE SERVICE — Any service tier which includes the retransmission of local television broadcast signals.

BOROUGH — Both the Borough of Tyrone, Pennsylvania, in its present incorporated from or in any later reorganized, consolidated, enlarged or unincorporated form and its duly authorized officials or agents acting on its behalf.

CABLE ACT — The Cable Communications Policy Act of 1984.

CONVERTER — An electronic device which permits the subscriber to view channels that the cable system is capable of delivering to the subscriber.

COUNCIL — The present governing body of the Borough or any future board constituting the legislative body of the Borough.

FCC — The Federal Communications Commission.

FRANCHISE FEE — Moneys required to be paid to the Borough by the grantee for the right and privilege to operate a cable television system in the Borough and which are allowable by the FCC or any other federal or state statute or regulation.

GRANTEE — SBC Cable of Pa. Limited Partnership, the recipient of the franchise rights granted hereunder.

GROSS REVENUES — Any and all revenues derived directly or indirectly by the grantee, its affiliates or subsidiaries from the operation of a cable television system in the Borough, including but not limited to revenue from basic subscriber service, pay television service, tier service, per-program charges, advertising revenues, multiple outlet charges, installation charges, leased channel charges and charges of any character charged, paid or in any manner received for the operation of the cable system.

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PUBLIC ACCESS — Channel capacity designated for public, educational or governmental use and facilities and equipment for the use of such channel capacity.

RFP — The request for proposal attached to this franchise and marked Attachment D.[167]

STATE — The Commonwealth of Pennsylvania or a political subdivision or agency thereof.

SUBSCRIBER — Any person, firm or corporation or any entity receiving for any purpose the transmission of television service of the grantee.

§ A210-3. Nonexclusive franchise.

The right to occupy and use said streets, alleys and sidewalks for the purpose herein set forth shall not be exclusive, and the Borough reserves the right to grant a similar use of the streets, alleys and sidewalks to any person, company or corporation or any other entity at any time during the period of this franchise.

§ A210-4. Compliance with laws and ordinances.

In accepting this franchise, the grantee acknowledges that its rights hereunder are subject to the lawful exercise of the police power of the Borough to adopt and enforce general ordinances necessary to the safety and welfare of the public, and it agrees to comply with all applicable general laws now in effect or later enacted by the Borough pursuant to such power.

§ A210-5. Necessity of franchise.

It shall be unlawful for any person to own or operate a cable television system in the Borough of Tyrone utilizing public rights-of-way except by a franchise granting such right from the Borough of Tyrone.

§ A210-6. Waiver.

The failure of the Borough at any time to require performance by the grantee of any provision hereof shall in no way affect the right of the Borough hereafter to enforce the same; nor, except as provided in the Cable Act, shall the waiver of the Borough of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or a waiver of the provision thereof.

§ A210-7. Length of franchise.

This franchise shall be in force and effect from July 1, 1987, and shall extend for a period of nine years to June 30, 1996.

§ A210-8. Cost of publication.

The grantee shall pay to the Borough a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting of this franchise within 30 days after a written statement from the Borough of such expenses. Such sum shall not exceed $150.

§ A210-9. Refranchising costs.

On the effective date of this franchise ordinance, the grantee agrees to pay a grant fee to the Borough in the sum of $6,000, which reflects the refranchising costs incurred by the Borough and shall be used for defraying the cost of preparation of proposal documents, legal fees and other costs incurred by the Borough

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in its study, evaluation and examination of the grantee's qualifications in granting this franchise renewal. The grantee shall exercise no rights under this franchise until such payment is made. It is further understood and agreed that this payment is in addition to the franchise fee and other fees herein and shall not be passed through to subscribers.

§ A210-10. Present franchise territory.

This franchise is for the present territorial limits of the Borough of Tyrone and any areas annexed thereto during the term of this franchise. Service rendered by the grantee shall be made available to all inhabitants of the Borough who may desire such service. The grantee shall not be required to make a standard aerial drop of more than 150 feet of cable from its existing distribution lines without additional charge. Failure to provide Borough-wide service shall constitute a material breach of this franchise and shall subject the franchise to termination.

§ A210-11. Extension of service area.

The grantee shall extend service to any area annexed to the Borough during the life of this franchise where the density is at least 30 housing units per strand mile of overhead cable. Such service shall be initiated for new customers in any annexed area within nine months of the application of said customer.

§ A210-12. Nondiscrimination of services.

Cable television services shall not be denied to any groups of potential residential cable subscribers because of the income of the residents of the local area in which the group resides.

§ A210-13. Franchise renewal procedure.

A. If the grantee desires renewal of this franchise, it shall notify the Borough not less than 30 months prior to the expiration of this franchise and formally request the commencement of proceedings to determine if renewal will be granted. Such request shall be accompanied by a nonrefundable application fee of $2,000. Upon receipt of such request, the Borough shall establish a date on which the grantee is to file its renewal proposal and the form of the information therein. Following the filing of the proposal, the Borough will commence public proceedings consistent with the then-applicable requirements of the Cable Act to determine whether said renewal shall be granted.

B. The public proceeding, at which interested parties may comment, will be for the purpose of determining whether the grantee's franchise should be renewed, considering any applicable or allowable criteria. Based on the record of this proceeding and the reevaluation sessions, the Council will issue a written decision granting or denying renewal.

§ A210-14. Transfer of franchise.

Any franchise granted under this ordinance shall be a privilege to be held in trust by the grantee and is nonassignable. It cannot, in any event, be sold, transferred, leased, assigned or disposed of, in whole or in part, either by forced or voluntary sale, merger, consolidation or otherwise, without the prior consent of the council as expressed by resolution and then only under such conditions as described in §§ A210-15, A210-16, A210-17 and A210-18 of this ordinance.

§ A210-15. Transfer of ownership.

A. No transfer of effective ownership or control of the cable system shall take place, whether by forced

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or voluntary sale, lease, mortgage, assignment, encumbrance or any other form of disposition, without prior notice to and approval by the Borough Council. The Council shall receive an application for transfer at least 60 days prior to the proposed transfer, and the notice shall include full particulars of the proposed transfer. Sixty days following receipt of an application for transfer and following a properly noticed public hearing, of which the grantee and the proposed assignee(s) or transferee(s) shall be given 10 days' written notice and at which they shall be entitled to present evidence, the Council shall act to approve or disapprove, by resolution, the proposed transaction stating therein the basis for its decision. The sixty-day period may be extended by the Council, if necessary, to include at least two regularly scheduled Council meetings. If the Council fails to act within the sixty-day period or any extension thereof, such transfer shall be deemed approved. Council approval or disapproval of the requested transfer shall be based on a determination of whether or not the proposed transferee(s) possesses the character, legal, financial and technical qualifications to operate a cable system and whether the quality of service to be expected from the proposed transferee(s) would be satisfactory to meet the needs of the subscribers. The following conditions must be met prior to the grantee's application for approval of transfer:

(1) The grantee's franchise fees or any pro rata portion thereof must be paid in full.

(2) All personal property taxes and other assessments levied by federal, state or local government must be paid in full or suitable provisions made for securing the same.

(3) All violations of this ordinance must be corrected or waived by Council resolution.

(4) The grantee shall pay to the Borough a nonrefundable transfer fee in the amount of $100 to be submitted with the application for approval of transfer.

B. For the purpose of this section, a "transfer of effective ownership or control" shall be taken to mean and include the acquisition, within any consecutive period of 36 months, of not more than 10% interest in the grantee's voting stock, franchise, plant, equipment or other property used in the conduct of the business, but such definition shall not include:

(1) A pledge or hypothecation or mortgage or similar instrument transferring conditional ownership in all or part of the system's assets to a lender or creditor in the ordinary course of business so long as the lender does not thereby acquire the right to control the system's operations, but no such transfer or conditional title can be made absolute without prior approval of the Council;

(2) The disposition of facilities or equipment no longer required in the conduct of business; or

(3) Transfer of limited partnership interests in instances where the grantee is a limited partnership, provided that there is no change of or transfer of control in the general partner or general partnership interests.

§ A210-16. Borough purchase of system.

A. The Borough shall have the right and first option to acquire ownership of the cable system or to effect a transfer of ownership of the system to another person if the grantee does not seek renewal and if the system is sold during the last 36 months of the franchise. Such acquisition or transfer shall be at fair market value, determined on the basis of the cable system valued as a going concern, but with no value allocated to the franchise itself.

B. The Borough shall have the right and first option to acquire ownership of the cable system or to effect a transfer of ownership of the system to another person if a renewal is denied. Such acquisition or

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transfer shall be at fair market value, determined on the basis of the cable system valued as a going concern, but with no value allocated to the franchise itself.

C. The Borough shall have the right and first option to acquire ownership of the cable system or to effect a transfer of ownership of the system to another person if the franchise is revoked for cause. Such acquisition or transfer shall be at an equitable price.

§ A210-17. Grantee right and condition of sale.

If the franchise is revoked for cause and if the Borough elects not to exercise its option to purchase, the grantee shall have the right, within 120 days thereafter, to obtain a purchaser acceptable to the Council as a grantee and to sell and transfer the same and all of the system's assets to such purchaser for an amount not to exceed fair market value. The Borough reserves the right to reject any proposed grantee which it feels is unqualified and to amend any and all of the franchise terms as it finds appropriate for such new franchise. The grantee shall first meet the requirements set forth in § A210-15A(1) through (4).

§ A210-18. Continuity of service mandatory.

The grantee shall be obligated during the entire term of this franchise to provide continuous service to all subscribers for payment of the established fee.

A. The obligation of the grantee to provide such service to subscribers shall not be limited, altered or modified by any action of the grantee to overbuild, rebuild, modify or sell the system.

B. Upon expiration of this franchise or if a renewal is denied or if the franchise is revoked for cause, the grantee may be required by the Borough as part of this franchise, in addition to any other remedies provided herein or by law, to continue to operate the system for a period not to exceed 12 months or until such time as a permanent operator is selected, whichever is shorter.

C. In the event that the grantee fails to operate the system in accordance with either Subsection A or B above for five consecutive days without prior approval of the Council, the Borough may, at its option, operate the system until such time as a new operator is selected.

§ A210-19. Revocation.

A. In addition to all other rights and powers retained by the Borough under this franchise, the Borough reserves the right to revoke and terminate the franchise and all the rights and privileges of the grantee granted hereunder in the event of a substantial breach of its terms and conditions. A substantial breach shall include, but shall not be limited to:

(1) An uncured violation of any material breach of the franchise or any rule, regulation or determination of the Borough made pursuant thereto.

(2) An attempt to evade any material provision of the franchise or the practice of any fraud or deceit upon the cable system subscribers and customers or upon the Borough.

(3) The failure to provide the broad categories of programming or other services specified in this franchise.

(4) The material misrepresentation of facts in the RFP or during negotiations relating to this franchise.

(5) The failure to provide or maintain in full force and effect the liability and indemnification

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coverage or the performance bond as required herein.

(6) The grantee becomes insolvent, unable or unwilling to pay its debts (unless such debt is to a third party and is contested in good faith) or is adjudged bankrupt.

(7) If the FCC finds after notice and hearing that the grantee has willfully and repeatedly without good cause failed to comply with the equal employment requirement of the Cable Act.

B. The Borough shall make written demand that the grantee comply with any such provision, rule, order or determination under or pursuant to the franchise. If the violation by the grantee continues for a period of 30 days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued to the satisfaction of the Borough, the Borough may consider terminating the franchise; provided, however, that the grantee must be given an opportunity to appear before the Borough Council to present its arguments. Should the Borough determine, following the hearing, that the violation was the fault of the grantee and within the grantee's control, the Borough may, by resolution, declare that the franchise be revoked and terminated.

§ A210-20. Removal of cable system.

Upon expiration of the franchise or if the franchise renewal is denied or if the franchise is revoked for cause and if the system has not been sold in place pursuant to the provisions of this franchise, the grantee shall, within a period of six months and at its own expense, remove all portions of its system from all the public ways and restore such public ways to a condition satisfactory to the Borough. If the grantee fails to remove any portion of its facilities within the time prescribed and to the satisfaction of the Borough, the Borough, at its option, may perform the work or cause the work to be performed, and the grantee shall pay to the Borough the cost thereof within 30 days after receipt of an itemized account from the Borough for such work.

§ A210-21. Cable access for hearing impaired subscribers.

The grantee shall provide, upon the effective date of this franchise and at the request of the subscriber, a captioning decoding device to be attached to the subscribers set for the reception of basic service by hearing impaired individuals. Such device shall be provided at cost. There shall be no installation charge for units purchased from the grantee. Subscribers shall be permitted to purchase and install captioning decoding devices of their own without payment of any charge or fee to the grantee.

§ A210-22. Lock boxes.

Upon request of any subscriber, the grantee shall make available for sale a lockout device which will enable the subscriber to control children's viewing of programming which is obscene or indecent and during the hours the subscriber desires. Lock boxes shall be of such quality so as to ensure, as far as practicable, that there will be no interference on adjacent channels or any other technical problems associated with the use thereof.

§ A210-23. Free company services.

The grantee agrees to provide installation and basic service free of charge upon request to the following buildings:

A. Tyrone Borough.

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B. YMCA.

C. Tyrone High School.

D. Logan School.

E. Lincoln School.

F. Adams School.

G. Tyrone Library.

H. Citizens Fire Company.

I. Neptune Fire Company.

J. Blazing Arrow Fire Company.

K. St. Matthews School.

§ A210-24. Emergency use by Borough.

In case of an emergency or disaster, the grantee, on request of the Borough, shall make its facilities available for emergency use during the emergency or disaster period at no cost to the Borough except to the extent of any costs incurred by the grantee from such use.

§ A210-25. Standby power.

The grantee shall provide standby power generating capacity rated for at least three hours duration during normal power outages.

§ A210-26. Programming offer by grantee.

The parties agree and understand that the present cable television system within the Borough consists of a twenty-four-channel system. All 24 channels are presently activated, with 12 channels allocated for basic service and 12 channels designated for other optional pay services. Attachment A, attached and incorporated herein,[168] describes the composition of services which the grantee provides on the date of this franchise. In accordance with the Cable Act, the grantee shall, for the term of this franchise, maintain the mix, quality and level of service for the broad categories of video programming as set forth in Attachment A.

§ A210-27. Obscene programming.

Cable services that are obscene by community standards shall not be presented on the cable system.

§ A210-28. Limitation of services.

Services offered by the grantee shall not include the repairing, servicing, selling, leasing or renting of television sets, nor shall the grantee recommend service by any other persons, except for such items as may be directly related to the cable installation and/or connection.

168.Editor's Note: This attachment is on file in the Borough offices.

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§ A210-29. Public access.

A. Channel capacity, facilities and equipment. The grantee shall designate one clear channel with no reception problems for a future public access channel. The channel shall be for the combined use of public, educational and governmental access and shall be provided as part of basic service. The grantee agrees to make its three-fourths-inch Sony videotape player or like equipment available for access use at its head end facility.

B. Channel use before activation. Until such time as the public access channel is required by the Council, the grantee shall have unrestricted use of the channel for provision of other cable services, provided that the grantee shall not enter into any agreement, lease or contract for the use of the channel that would prevent its use for public access. In no event is this channel to remain dark.

C. Channel activation procedure. The public access channel shall be activated at the request of the Council and upon 90 days' notice to the grantee. The Council may activate the channel for full-time use or for part-time use by specifying the number of hours to be made available. Commencing at the request of the Council and continuing until the activation of the channel for public access, the grantee agrees that notices will be aired on the automated channel of the system informing viewers of the availability of the channel for public access use. These notices shall be broadcast not less than once daily between the hours of 8:00 a.m. and 11:00 p.m.

D. Reservations. The Council reserves the right, now or at any other later time, to appoint a Cable Access Committee of interested citizens for the purpose of promoting programming of the public access channel. This committee will include one nonvoting representative of the grantee. The duties of the Committee will include:

   (1) Establishing general operating procedures for efficient use of the channel, subject to the approval of the Council.

   (2) Encouraging community cable users to design and produce their own programs.

   (3) Seeking and developing independent financial resources for the use of the channel.

E. Editorial control. The grantee shall not exercise any editorial control over any public, educational or governmental use of the channel capacity provided by this section.

§ A210-30. Safety requirements.

The grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failure and accidents which are likely to cause damage, injuries or nuisances to the public. The grantee shall install and maintain its cables, fixtures and other equipment in such manner that they will not interfere with any installations of the Borough or of any public utility serving the Borough. All public ways shall be restored, at the grantee's expense, to their former condition as soon as practicable after the completion of any work. The grantee shall maintain a force of sufficient employees at all times to provide safe, adequate and prompt service to its facilities.

§ A210-31. Technical standards.

The grantee shall install, operate and maintain its system in a manner consistent with all applicable laws, ordinances, construction standards, governmental requirements and, particularly, FCC technical standards, which standards are incorporated herein. The cable system shall, at a minimum, conform to the technical standards contained in the FCC rules and any recommendations which may supersede such rules; provided,

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however, that if the FCC discontinues promulgation or enforcement of such technical standards, such standards shall remain in force and effect for the life of this franchise.

§ A210-32. Overhead and underground construction.

The grantee shall be permitted to place its cables, wires and other equipment overhead when local or state law permits overhead construction and other like facilities are overhead. The grantee shall place its cables, wires and other equipment underground when local or state law requires underground placement and where other like facilities are underground.

§ A210-33. Pole agreements.

The grantee is prohibited from entering into any pole agreement with any person, firm or other corporation which precludes the use of such poles by any other cable operator. Copies of all pole agreements shall be filed in the office of the Borough Manager.

§ A210-34. Relocation to accommodate improvements.

The grantee shall, without expense to the Borough, relocate, change or remove its facilities to accommodate such public works as the Borough, in its judgment, shall require. The grantee shall, at the request of any person holding a permit issued by the Borough, temporarily raise, lower or remove its wires to permit the improvement of property. The expense of such change shall be paid by the person requesting the same, and the grantee shall have the authority to require payment in advance. The grantee shall be given no fewer than 48 hours of advance notice to arrange such temporary wire change.

§ A210-35. System construction, alteration or change.

Twenty-four months after the effective date of this franchise, and every 24 months thereafter for the term of this franchise, the grantee shall provide to the Council a written report detailing the physical and technical condition of the system. The grantee has demonstrated in its RFP, marked Attachment D,[169] attached and incorporated herein, that no rebuild or changes to the system are required or anticipated at this time. Therefore, any construction, rebuild, upgrade, overbuild, expansion or substantial change of any nature to the system during the term of this franchise shall be conducted in the following manner:

A. At least 90 days prior to the commencement of any construction, rebuild, upgrade, overbuild, expansion or substantial change of any nature to the system requiring a capital expenditure exceeding $100,00, the grantee shall submit to the Council for approval a detailed description of the proposed changes or alterations, cost of the improvement, evidence of satisfactory construction insurance, construction schedules, timetables for completion and such other information as the Council may request. The Council shall have the right to request additional information within 30 days of the first submission date.

B. Upon receipt of all information, the Council shall, within 30 days or at least two regular Council meetings (whichever is greater), act to approve or disapprove the proposed changes. If no action is taken during the specified time, the proposed changes shall be deemed approved. Council consideration to approve or disapprove shall include, but not be limited to, whether such change is reasonable to meet the cable-related needs of the community, taking into account the cost of providing such change. Such approval shall not be unreasonably withheld.

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C. In the event that the system is rebuilt during the term of this franchise, the grantee shall extend increased service to all subscribers of the Borough simultaneously or within a reasonable time, such time not to exceed 30 days.

§ A210-36. Right to inspect.

The Borough shall have the right to supervise or inspect all work performed by the grantee or its agents upon the public ways to ensure compliance with this franchise. In the event that such inspection reveals that the grantee has failed, in the Borough's judgment, to fulfill its obligations, the Borough shall notify the grantee, in writing, of its deficiencies. Absent commencement of corrective action by the grantee within five business days of receipt of notification, the Borough may undertake the necessary repairs or restorations at the grantee's sole expense.

§ A210-37. Tree trimming.

The grantee shall have the right to trim trees in and overhanging the public ways, in a workmanlike manner, so as to prevent its facilities from abrasive contact. The grantee shall obtain permission of the owner of a privately owned tree or other vegetation before it trims or prunes the same.

§ A210-38. Initial rates.

Upon the date of this franchise, the grantee's rates for subscriber services rendered to normal residential customers are as shown in Attachment B, attached and made a part of this franchise.[170]

§ A210-39. All rates to be nondiscriminatory.

The grantee shall administer any and all rates and charges so as not to give preference to or discriminate among customers of basic cable service. Nothing in the foregoing shall be deemed to prevent the grantee from establishing special reduced rates for senior citizens or for subscribers who pay promptly. Bulk customers shall be billed at the discretion of the grantee so long as its rates are not arbitrary and capricious. Bulk rates shall require a minimum of six or more units at the same building or location, and all units must be activated.

§ A210-40. Regulation of rates.

The grantee shall have the right to regulate rates for the provision of cable service subject to Section 623 of the Cable Act, provided that:

A. The Borough reserves the right, at any time during the term of this franchise, to petition the FCC for the right to regulate basic subscriber rates by establishing that effective competition does not exist in accordance with FCC Regulations, Section 76.33.

B. The Borough shall regulate any rate to any extent now or later permissible by law.

§ A210-41. Subscriber converters.

The grantee shall, to the extent now feasible or upon upgrade of the system, install equipment which permits the full utilization of cable-ready television receivers by subscribers to avoid converter usage where possible. The grantee shall permit subscribers to purchase compatible converters of their own and use them for cable reception without payment of any charge or security fee to the grantee; provided,

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however, that nothing herein shall permit a subscriber to obtain services over the cable system without proper authorization from the grantee and payment of the appropriate fee therefor.

§ A210-42. Rate increases.

Rate increases shall be nondiscriminatory and in accordance with the Cable Act. No increase in rates charged to subscribers shall be made except as provided under federal law or, if permitted, as authorized by the Council after an appropriate public proceeding affording interested parties the opportunity to comment and present testimony.

§ A210-43. Franchise fee.

A. In consideration for the franchise granted herein and for the right and privilege of using the streets and public ways in the Borough of Tyrone, the grantee shall pay to the Borough annually a franchise fee in an amount equal to 5% of the grantee's annual gross revenues, as defined in § A210-2, and subject to the following conditions:

(1) Payments due under this section shall be payable, without notice, on a semiannual basis. Payment shall be made not later than July 31 for the period from January 1 to June 30 and on January 31 for the period from July 1 to December 31.

(2) Each such payment shall be accompanied by a completed franchise fee payment form, Attachment C,[171] attached hereto and made a part of this franchise, and shall be certified correct by a cable comptroller of the grantee. By March 31 of each year, the grantee shall file a completed franchise fee payment form with the Borough Manager showing the total gross revenues for the previous calendar year. If that report demonstrates that the franchise fee liability for the calendar year based on actual gross revenues differed from the fees actually paid by the grantee, an appropriate adjustment shall be made within 30 days following the filing of the report.

(3) No acceptance of any payment shall be construed as an accord that the amount paid is in fact correct. All amounts shall be subject to recomputation by the Council or audit by an independent auditor of the Borough's choice and at the Borough's expense for one year.

(4) If the audit determines that the franchise fee paid differs from that which should have been paid by 2% or more, then the audit expense shall be paid by the grantee.

(5) In the event that recomputation or audit results in additional fees owed, such amount shall be subject to an interest charge of 10% per annum.

(6) In addition to the foregoing, the Borough shall have access at all reasonable hours to all the grantee's statistical, income and service records required to be kept hereunder, insofar as such records concern franchise fee payments to the Borough.

(7) In billing subscribers for cable communication services, the grantee shall not designate the franchise fee as a tax.

(8) The grantee shall pass through to subscribers any decrease in the franchise fee.

(9) Nothing in this section shall be interpreted as relieving the grantee of its liability for any other properly applicable taxes.

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B. If during the term of this franchise any court, agency or other authority of competent jurisdiction takes any action or makes any declaration that adversely affects the amount of the franchise fee set forth in this section, the Borough and the grantee shall enter into negotiations to amend this franchise to make the Borough whole in a manner consistent with said action or declaration by restoring the Borough to a position equivalent to that which it held prior to said action or declaration to the extent allowed by law. In such event, Subsection A(8) above may not apply.

§ A210-44. Right of individuals.

The grantee shall comply with the provisions of the Cable Act regarding:

A. Subscriber privacy rights (Section 631).

B. Nondiscrimination against subscribers [Section 621(3)].

C. Equal employment opportunity [Section 634, as described in § A210-19A(7) of this franchise].

§ A210-45. Interruption of service.

The grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

§ A210-46. Local business office.

The grantee shall maintain a business office in the Borough which shall be open during the usual business hours, have a publicly listed, toll-free telephone and be so operated that complaints and requests for repairs and adjustments may be received on a twenty-four-hour basis.

§ A210-47. Complaint response.

The grantee shall maintain a repair and maintenance crew capable of responding and resolving subscriber complaints and requests for service within 48 hours after receipt. However, in case of complete loss of service, the grantee shall repair said loss of service within 24 hours if technically possible. No charge shall be made for this service; provided, however, that a charge may be made if the service call is the result of repeated abuse of the service or the equipment or for subscriber-caused damage.

§ A210-48. Advance charges and billing practices.

The grantee may bill for more than one month in advance but may not require subscribers to pay for service more than one month in advance, and any billing of more than one month in advance must advise the subscriber, in prominent writing on the bill, of his option to pay only one month in advance.

§ A210-49. Disconnection.

If any subscriber fails to pay a properly due monthly subscriber fee or any other properly due fee, the grantee may disconnect the subscriber's service, provided that such disconnection shall not be affected until 45 days after the due date and shall include 10 days' written notice of the intent to disconnect properly mailed to the subscriber in question. Upon payment of the delinquent amount, reconnection fee and the first months' service charge, service shall be restored.

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§ A210-50. Removal of subscriber equipment.

Upon termination of service to any subscriber, the grantee shall promptly remove its facilities and equipment from the premises of such subscriber upon his request.

§ A210-51. Maintenance service log.

The grantee shall maintain a maintenance service log indicating the date and time that subscriber complaints and requests for repair service are received and resolved and the nature of the complaint and resolution. This log shall be available for reasonable inspection by the Borough and kept for the life of this franchise.

§ A210-52. Rebates.

If any subscriber terminates regular subscriber service prior to the end of a prepaid period, all unearned service fees in excess of $2, as of the date the grantee receives notice of said termination, shall be refunded to the subscriber promptly, such time not to exceed 45 days after termination.

§ A210-53. Installation and service agreement.

At the time that the grantee enters into an agreement to provide service to a subscriber, the grantee shall provide the subscriber a written statement that clearly sets forth the following:

A. A complete schedule of rates, fees, charges and terms and conditions of service currently applicable.

B. A brief written explanation of all services offered, including but not limited to basic service, tier service, parental lockout devices, hearing impaired devices, proper use of the converter and other cable-related equipment and installation procedures.

C. A complete statement of the subscriber's right to privacy in conformance with 47 U.S.C. § 631.

D. Information concerning the procedures for making inquiries, complaints or repair requests, including the twenty-four-hour telephone number.

E. The address and telephone number of the Borough officer responsible for the administration of the franchise.

§ A210-54. Indemnification.

A. The grantee shall, at its sole cost and expense, fully indemnify, defend and hold harmless the Borough, its officers, boards and commissions and Borough employees against any and all claims, suits, actions, liability and judgment for damages, including but not limited to expenses for reasonable legal fees and disbursements and liabilities:

   (1) To persons or property in any way arising out of or through the acts or omissions of the grantee, its servants, agents or employees or to which the grantee's negligence shall in any way contribute with respect to the construction, maintenance or operation of the grantee's system under this franchise.

   (2) From any claim for invasion of the right of privacy, for defamation of any person, firm or corporation or the violation or infringement of any copyright, trademark, trade name, service mark or patent or of any other property right of any firm or corporation arising from the construction, maintenance or operation of the grantee's system (excluding claims arising out of

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or relating to Borough programming).

(3) Arising out of the grantee's failure to comply with the provisions of any federal, state or local statute, ordinance or regulation applicable to the grantee in its business hereunder.

B. The foregoing indemnity is conditioned upon the following: The Borough shall give the grantee prompt notice of the making of any claims or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the Borough from cooperating with the grantee and participating in the defense of any litigation by its own counsel at its sole cost and expense.

§ A210-55. Insurance policy.

A. The grantee shall obtain, effective from the date of execution of this franchise, and shall keep in force and effect during the entire term of this agreement a policy of comprehensive general liability insurance as shall be approved by the Borough Solicitor and the Borough Manager. Such policy of insurance shall name the Borough, its officers, employees and agents as additional insureds and shall protect the Borough and all persons against liability for loss or damage for personal injury, death and property damage with respect to the construction, maintenance or operation of the grantee's system under this franchise and shall evidence minimum liability limits as follows: combined single limit for bodily injury and property damage of $3,000,000 for each occurrence and $3,000,000 aggregate.

B. No policy of insurance required under this franchise shall be replaced, renewed, canceled or materially changed or altered in any way, except upon 30 days' written notice to the Borough of Tyrone prior to the date said material alteration or cancellation shall become effective. All required insurance premiums shall be at the expense of the grantee. A certificate of insurance of all policies of insurance required by the franchise and all renewals thereof and written evidence of payment of required premiums shall be filed with the Borough Manager within 10 days of the granting of the franchise and maintained during the life and term of this franchise.

§ A210-56. Performance bond.

The grantee shall maintain and, by its acceptance of this franchise, specifically agrees that it will maintain, throughout the term of this franchise, a faithful performance bond running to the Borough of Tyrone and approved by the Borough Solicitor in the penal sum of $12,500, conditioned that the grantee shall well and truly observe, fulfill and perform each term and condition of this franchise and that, in case of any breach of condition, the amount thereof shall be recoverable from the principal and/or sureties by the Borough of Tyrone for all damages resulting from the failure of the grantee to well and faithfully observe and perform any of the provisions of this franchise. The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled nor the intention not to renew be stated until 30 days after receipt by the Borough Manager of Tyrone, Pennsylvania, by registered mail, of two copies of a written notice of such intent to cancel or not renew." A copy of said performance bond shall be filed with the Borough Manager within 10 days of the granting of this franchise and be maintained during the life of the franchise.

§ A210-57. Reevaluation sessions.

The Borough and the grantee may hold scheduled reevaluation sessions within 30 days following the second anniversary of the effective date of this franchise and each year thereafter during the term of the franchise. The purpose of the sessions is to ensure that the cable communications needs and interests of the subscribers are being met.

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A. Sessions shall be open to the public and announced at least five days in advance. In addition to other notification, the grantee shall notify the public of the meeting by announcement on at least one channel of the cable system between the hours of 7:00 p.m. and 9:00 p.m. for five consecutive days prior to the scheduled meeting.

B. The following topics may be considered for discussion at each evaluation session: system performance, system rebuild or upgrade, programming offered, customer complaints, franchise compliance, pertinent judicial and federal rulings and franchise fees. Topics may be added by either party or by the general public.

C. The grantee shall fully cooperate with the Borough in providing records and reports to be used as resource and reference items at such sessions.

D. Special reevaluation sessions may be held at any time at the request of the grantee or the Borough and shall be held upon request of the public by presenting a petition to the Council bearing the signatures of 50 or more cable subscribers in the Borough and stating the topics to be discussed.

E. Nothing contained herein shall prevent either the grantee or the Borough from discussion of these subjects in meetings other than the above-described reevaluation sessions.

§ A210-58. Records and reports.

The grantee shall file with the office of the Borough Manager:

A. Annually, not later than March 1 of each year, a financial statement for the previous year, including a profit and loss statement that encompasses all revenue for the Tyrone system, with revenues separately stated for the Borough of Tyrone and certified correct by a senior officer of the company.

B. Copies of such rules, regulations, terms and conditions adopted by the grantee for the conduct of its business.

C. Copies of all petitions, applications, agreements, communications, reports, letters or other documents submitted to or received from the FCC or any other state or federal regulatory agency relating to the grantee's operation of the cable system in the Borough. This information shall be filed with the Borough Manager within five days of submission or receipt as to such agency.

D. A copy of the grantee's affirmative action policy.

E. No later than December 31 of each year, a full schedule of subscriber services offered and the rates charged for each. The schedule shall include but not be limited to basic subscriber service, pay television, leased channels, installation, multiple outlets, converter charges and any other charges made in connection with the system. The schedule shall be updated when any change is made in service or rates within five working days of such change.

F. Such other reasonable information as the Borough may request with respect to the grantee's properties and expenses related to its system and operations within the Borough.

§ A210-59. Documents to be incorporated.[172]

The following documents shall be incorporated and made a part of this agreement:

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A. Attachment A: Initial programming offer.

B. Attachment B: Initial rates.

C. Attachment C: Franchise fee payment form.

D. Attachment D: Request for proposal (RFP).

§ A210-60. Regulatory responsibility.

The Borough Manager is designated as the local officer having primary responsibility for the continuing administration of the franchise. The Borough Manager shall have the following regulatory responsibilities:

A. Administering and enforcing the provisions of this franchise.

B. Receiving and investigating subscriber complaints.

C. Coordinating plans for expansion, change and growth of the cable services.

D. Formulating long-range cable television policies for the Borough.

§ A210-61. Severability.

If any section, subsection, sentence, clause, phrase or any portion of this franchise is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

§ A210-62. Effect on existing franchise.

The Borough and the grantee hereby agree that upon the taking effect of this ordinance and franchise, all ordinances or parts of ordinances which would otherwise be in effect be and the same are hereby repealed.

§ A210-63. Captions.

Captions to sections throughout this franchise are intended solely to facilitate reading and referencing and shall not affect the meaning or interpretation of this franchise.

§ A210-64. Time is of the essence.

Whenever this franchise agreement sets forth any time for any act to be performed by either of the parties, such time shall be deemed to be of the essence of this agreement.

§ A210-65. Action by state or federal authorities.

Should the Commonwealth of Pennsylvania or the FCC or the United States Congress or any other state or federal agency require the grantee to perform or refrain from performing any act, the performance or nonperformance of which is inconsistent with any provisions of this franchise, the grantee shall so notify the Borough, and the Borough shall thereupon, if it determines that a material provision herein is affected, have the right to seek modification of any of the provisions herein to such extent as may be necessary to carry out the full intent and purpose of this franchise.

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§ A210-66. Familiarity with franchise.

The grantee acknowledges and warrants, by acceptance of the rights, privileges and franchise granted herein, that it has carefully read and fully comprehends the terms and conditions of the franchise ordinance and is willing to and does accept all reasonable risks of the meaning of the provisions, terms and conditions herein. The grantee further acknowledges and states that it has fully studied and considered the requirements and provisions of the franchise ordinance and finds that the same are commercially practicable.

§ A210-67. Effective date of franchise.

Within 10 working days after passage of this ordinance by the Tyrone Borough Council awarding a franchise, the grantee shall file with the Borough Manager its written acceptance of the franchise, together with the bond and insurance policy and all other fees required herein. Such acceptance and agreement shall be acknowledged by the grantee before a notary public and signed by a senior officer of the grantee and shall be in a form and content satisfactory to and approved by the Borough Council. If such execution is not effectuated within the time prescribed herein, this franchise shall be of no force and effect.

Disposition List

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Chapter DL

DISPOSITION LIST

The following is a chronological listing of legislation of the Borough of Tyrone adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the original publication of the Code was Ord. No. 1319, adopted 12-12-2011.

§ DL-1. Disposition of legislation.

Ord. No.	Adoption Date	Subject	Disposition
1320	12-12-2011	Personnel policies	Ch. 39, reference only
1321	12-12-2011	Earned income tax amendment	Ch. 180, Art. III
1322	2-13-2012	Appointment of and allocation of additional vacation to Borough Manager	NCM
1323	2-13-2012	Appointment of and allocation of additional vacation to Chief of Police	NCM
1324	2-13-2012	Nonuniformed Employees Pension Plan amendment	See Ch. 37
1325	3-12-2012	Appointment, salary and benefits of Interim Borough Manager	NCM
1326	3-12-2012	Designation of Chief Administrative Officer of pension plans	Repealed by Ord. No. 1343
1327	3-12-2012	Repeal of residency requirement for Chief of Police	NCM
1328	4-9-2012	Transfer of funds	NCM
1329	8-13-2012	Abandoned and junked vehicles amendment	Ch. 188
1330	9-10-2012	Pawnbrokers, junk dealers and secondhand dealers	Ch. 142
1331	9-10-2012	Alcoholic beverages	Ch. 60A
1332			Not adopted
1333	9-10-2012	Fees amendment	Repealed by Ord. No. 1336
1334	11-13-2012	Vehicles and traffic amendment	Ch. 190
1335	12-10-2012	2013 budget	NCM
1336	12-10-2012	Fees	Repealed by Ord. No. 1346
1337	12-10-2012	Salaries	NCM
1338	12-10-2012	Adoption of Code	Ch. 1, Art. I

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Ord. No.	Adoption Date	Subject	Disposition
1339	2-11-2013	Vehicles and traffic amendment	Ch. 190
1340	4-8-2013	Intergovernmental agreement (police-specific jurisdiction)	NCM
1341	5-13-2013	Appointment, salary and benefits of Borough Manager	NCM
1342	5-13-2013	Administration of government amendment	Ch. 3
1343	6-10-2013	Designation of Chief Administrative Officer of pension plans	NCM
1344	6-10-2013	Amendment and reaffirmation of Police Department Policies and Procedures Manual	NCM
1345	12-9-2013	Salaries	NCM
1346	12-9-2013	Fees	Repealed by Ord. No. 1359
1347	12-9-2013	2014 budget	NCM
1348	2-10-2014	Solid waste: waste management and recycling amendment	Ch. 170, Art. II
1349	2-10-2014	Fees amendment	Repealed by Ord. No. 1359
1350	4-14-2014	Vehicles and traffic amendment	Ch. 190
1351	5-12-2014	Vehicles and traffic amendment	Ch. 190
1352			Not adopted
1353	8-11-2014	Capital transfer	NCM
1354			Not adopted
1355	9-8-2014	Vehicles and traffic amendment	Ch. 190
1356	11-10-2014	Vehicles and traffic amendment	Ch. 190
1357	11-10-2014	Vehicles and traffic amendment	Ch. 190
1358	12-8-2014	Salaries	NCM
1359	12-8-2014	Fees	Repealed by Ord. No. 1367
1360	12-8-2014	2015 budget	NCM
1361	1-12-2015	Vehicles and traffic amendment	Ch. 190
1362	2-9-2015	Handicapped parking space	NCM
1363	7-13-2015	Sale of Borough-owned property	NCM
1364	9-17-2015	Fire Department amendment	Ch. 20
1365	9-17-2015	Police Department Personnel Policy amendment	See Ch. 39
1366	12-14-2015	Salaries	NCM

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Ord. No.	Adoption Date	Subject	Disposition
1367	12-14-2015	Fees	Repealed by Ord. No. 1379
1368	12-14-2015	2016 budget	NCM
1369	12-14-2015	Vehicles and traffic amendment	Ch. 190
1370	1-11-2016	Sewers amendment	See. Ch. 162
1371	2-8-2016	Nuisances amendment	Ch. 133
1372	2-8-2016	Feeding of wild animals	Ch. 61, Art. III
1373	5-9-2016	Vehicles and traffic amendment	Ch. 190
1374	7-11-2016	Nuisances: general provisions amendment; disorderly gatherings	Ch. 133; Art. I; Ch. 133; Art. II
1375	9-12-2016	Licenses: transient retail merchants	Ch. 111, Art. I
1376	10-10-2016	Fire Department amendment	Ch. 20
1377	10-10-2016	Intergovernmental agreement (jurisdiction granted to Borough Police in certain areas of Snyder Township)	NCM
1378	12-12-2016	Salaries	NCM
1379	12-12-2016	Fees	Repealed by Ord. No. 1409
1380	12-12-2016	2017 Budget	NCM
1381	2-13-2017	Personnel policies amendment	See Ch. 39
1382	2-13-2017	Personnel policies amendment	See Ch. 39
1383	2-13-2017	Personnel policies amendment	See Ch. 39
1384	2-13-2017	Personnel policies amendment	See Ch. 39
1385			Not adopted
1386	3-13-2017	Appointment of Interim Borough Manager	NCM
1387	3-13-2017	Designation of Interim Manager as Chief Administrative Officer of Borough's police employees and nonuniformed employee pension plans	Repealed by Ord. No. 1404
1388	3-13-2017	Appointment of Tax Collector	NCM
1389	5-8-2017	Appointment of Tax Collector	NCM
1390	5-8-2017	Vehicles and traffic amendment	Ch. 190
1391	5-8-2017	Reservoir Park: rules and regulations amendment	NCM
1392	5-8-2017	Licenses: transient retail merchants amendment	Ch. 111, Art. I

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Ord. No.	Adoption Date	Subject	Disposition
1393	5-8-2017	Parks and recreation areas	Ch. 140
1394	6-12-2017	Fees amendment	Ch. 92
1395	5-8-2017	Appointment of Tax Collector	NCM
1396	5-8-2017	Appointment of Tax Collector	NCM
1397	6-12-2017	Capital transfer	NCM
1398	7-10-2017	Recreation Committee	Ch. 43
1399	7-10-2017	Appointment of Borough Manager	NCM
1400	8-21-2017	Projects Committee	Ch. 41
1401	8-21-2017	Capital transfer	NCM
1402	8-21-2017	Vehicles and traffic amendment	Ch. 190
1403	8-21-2017	Fees amendment	Ch. 92
1404	8-21-2017	Designation of Manager as Chief Administrative Officer of Borough's police employees and nonuniformed employees pension plans	NCM
1405	10-9-2017	Reservoir Park: Rules and Regulations Amendment	NCM
1406	10-9-2017	Sale of Land	NCM
1407	11-13-2017	Reservoir Park: Rules and Regulations Amendment	NCM
1408	12-11-2017	Salaries	NCM
1409	12-11-2017	Fees	Superseded by Ord. No. 1437
1410	12-11-2017	2018 Budget	NCM
1411	3-12-2018	Floodplain Regulations	Ch. 99
1412	3-12-2018	Police Department Personnel Policies and Procedures Manual Amendment	NCM
1413	4-9-2018	Deed of Correction	NCM
1414	4-9-2018	2018 Budget Amendment	NCM
1415	4-9-2018	Vehicles and Traffic Amendment	Ch. 190
1416	5-14-2018	Salaries	NCM
1417	5-14-2018	Fees Amendment	Ch. 92
1418	8-13-2018	Fireworks Amendment	Ch. 98

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Ord. No.	Adoption Date	Subject	Disposition
1419	10-8-2018	Animals: Cats Amendment; Disposal of Pet Wastes Amendment; Feeding of Wild Animals Amendment	Ch. 61, Art. I; Ch. 61, Art. II; Ch. 61, Art. III
1420	11-13-2018	Appointment of Tax Collector	NCM
1421	11-13-2018	Nuisances Amendment	Ch. 133
1422	12-10-2018	Salaries	NCM
1423	12-10-2018	Fees Amendment	Ch. 92
1424	12-10-2018	2019 Budget	NCM
1425	12-10-2018	Animals: Cats Amendment; Disposal of Pet Wastes Amendment; Feeding of Wild Animals Amendment	Ch. 61, Art. I; Ch. 61, Art. II; Ch. 61, Art. III
1426	1-11-2019	Intergovernmental Agreement (Grant of Police-Specific Jurisdiction)	NCM
1427	2-11-2019	Trailers and Motor Homes Amendment	Ch. 185

Ord. No.	Adoption Date	Subject	Disposition	Supp. No.
1428	6-10-2019	Water Amendment	See Ch. 196	15
1429	6-10-2019	Solid Waste: Collection and Disposal Amendment; Waste Management and Recycling Amendment	Ch. 170, Art. I; Ch. 170, Art. II	15
1430	6-10-2019	Fees Amendment	Ch. 92	15
1431	8-12-2019	Vehicles and Traffic Amendment	Ch. 190	15
1432	8-12-2019	Administration of Government Amendment	Ch. 3	15
1433	9-9-2019	Numbering of Buildings and Naming of Streets Amendment	Ch. 134	15
1434	9-9-2019	Vehicles and Traffic Amendment	Ch. 190	15
1435	12-9-2019	Street Vacation	NCM	16
1436	12-9-2019	Salaries	NCM	16
1437	12-9-2019	Fees Amendment	Ch. 92	16
1438	12-9-2019	Budget	NCM	16

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Ord. No.	Adoption Date	Subject	Disposition	Supp. No.
1439	2-10-2020	Vehicles and Traffic Amendment	Ch. 190	17
1440	2-10-2020	Sale of Property	NCM	17
1441	4-13-2020	Bond	NCM	17
1442	8-10-2020	Animals: Chickens	Ch. 61, Art. IV	17
1443	12-14-2020	Salaries	NCM	17
1444	12-14-2020	Fees Amendment	Ch. 92	17
1445	12-14-2020	Budget	NCM	17
1446	12-14-2020	Appointment	NCM	17
1447	2-8-2021	Salaries	NCM	17
1448	3-8-2021	Street Vacation	NCM	17
1449	5-10-2021	Sale of Property	NCM	17
1450	6-14-2021	Sale of Property	NCM	17
1451	7-12-2021	Vehicles and Traffic Amendment	Ch. 190	17
1452	7-12-2021	Signs	Ch. 163	17
1453	8-9-2021	Fire Department Amendment	Ch. 20	17
1454	9-13-2021	Appointment	NCM	17
1455	12-13-2021	Salaries	NCM	17
1456	12-13-2021	Fees Amendment	Ch. 92	17
1457	12-13-2021	Appropriation	NCM	17
1458	1-10-2022	Animals: Chickens and Ducks	Ch. 61, Art. IV	17
1459	3-14-2022	Vehicles and Traffic Amendment	Ch. 190	17
1461	5-9-2022	Vehicles and Traffic Amendment	Ch. 190	17
1462	8-8-2022	Street Vacation	NCM	17
1463	12-12-2022	Budget	NCM	17
1464	12-12-2022	Salaries	NCM	17
1465	12-12-2022	Fees Amendment	Ch. 92	17
1466	2-13-2023	Vehicles and Traffic Amendment	Ch. 190	17

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Ord. No.	Adoption Date	Subject	Disposition	Supp. No.
1467	7-10-2023	Vehicles and Traffic Amendment	Ch. 190	18
1468	7-10-2023	Fees Amendment	Ch. 92	18
1469	7-10-2023	Salaries	NCM	18
1470	12-11-2023	Budget	NCM	18
1471	12-11-2023	Salaries	NCM	18
1472	12-11-2023	Fees Amendment	Ch. 92	18
1473	12-11-2023	Pensions: Police Pensions Amendment	See Ch. 37, Art. I	18
1474	12-11-2023	Pensions: Nonuniformed Employees Pension Plan Amendment	See Ch. 37, Art. II	18
1475			Not Adopted	18
1476	5-13-2024	Reservoir Park: Rules and Regulations Amendment	NCM	18
1477	12-9-2024	Budget	NCM	19
1478	12-9-2024	Salaries	NCM	19
1479	12-9-2024	Fees Amendment	Ch. 92	19
1480	12-9-2024	Personnel Manual Amendment	Ch. See	19
1481	1-13-2025	Vehicles and Traffic Amendment	Ch. 190	19
1482	1-13-2025	Property Maintenance	Ch. 146	19
1483	3-10-2025	Vehicles and Traffic Amendment	Ch. 190	19
1484	4-14-2025	Salaries	NCM	19
1485	5-12-2025	Zoning Amendment	Ch. 205	19
1486	5-12-2025	Conveyance of Land	NCM	19
1487	5-12-2025	Vehicles and Traffic Amendment	Ch. 190	19
1488	7-14-2025	Personnel Manual Amendment	Ch. See	19
1489	9-8-2025	Appointment	NCM	19
1490	11-10-2025	Skateboards Amendment	Ch. 165	19
1491			Not adopted	20
1492	12-8-2025	Budget	NCM	20

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Ord. No.	Adoption Date	Subject	Disposition	Supp. No.
1493	12-8-2025	Salaries	NCM	20
1494	12-8-2025	Fees Amendment	Ch. 92	20
1495			Not adopted	20
1496	2-9-2026	Streets and Sidewalks: Street Openings	Ch. 172, Art. II	20
1497	3-9-2026	Vehicles and Traffic Amendment	Ch. 190	20

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