

ORDINANCE NO. 2018-6

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF NESQUEHONING, CARBON COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF NESQUEHONING, CHAPTER 10 KNOWN AS HEALTH AND SAFETY ADDING A NEW PART 7 TO BE KNOWN AS DUMPSTERS TO REGULATE THE PLACEMENT OF DUMPSTERS WITHIN THE BOROUGH.

WHEREAS, per Borough Code at 8 Pa C.S.A. Section 1202(5), the Borough Council of the Borough of Nesquehoning is authorized to enact ordinances as may be expedient or necessary for the maintenance of the health, safety, morals, general welfare, cleanliness and safety of the Borough and its residents; and,

WHEREAS, the Borough Council of the Borough of Nesquehoning has determined that it is in the best interests of the Borough that the placement of dumpsters within the Borough be regulated; and

WHEREAS, Borough Council has determined that the regulation of dumpsters within the Borough will promote the health, safety and welfare of the community by preventing hazards associated with these devices, by facilitating pedestrian and traffic flow and by eliminating a nuisance that creates the appearance of inefficiency and economic blight.

NOW, THEREFORE, BE IT ORDAINED and Enacted by the Council of the Borough of Nesquehoning as follows:

Section 701 – Definitions

Dumpster: a unit designed for the deposit of waste materials at a building, commonly located on a temporary basis on a highway abutting the site and transportable to and from the site for the purpose of disposal of its contents by means of a carrying vehicle.

Hazardous Waste: Any garbage, refuse or a combination thereof which, because of its quantity, concentration or its physical, chemical or infectious characteristics, may:

a) Cause of significantly contribute to an increase in mortality or an increase in morbidity in either an individual or total population; or

b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Highway: Any public street, avenue, alley or other thoroughfare within the Borough of Nesquehoning.

Permit: A permit issued by the Borough authorizing the temporary placement of a dumpster or container in or upon a public street or public grounds.

Permittee: A person who obtains or is required to obtain a permit under this ordinance.

Person: Any natural, firm, partnership, corporation, association or similar entity.

Section 702-- Permit Required.

No person, other than agents or employees of the Borough, shall place, maintain or use a dumpster on a highway or public property without first obtaining a permit therefore from the Borough Secretary. The duration of such a permit shall be thirty (30) days and continued validity of such a permit shall be contingent upon full compliance with the requirements set forth herein for the use of a dumpster within the Borough. The permit must be issued before the dumpster is placed on the street or public grounds.

The fee for a permit shall be \$50 and may be changed from time to time by Borough Council by Resolution. If the permittee requires additional time, the permittee may apply for an extension which may be granted if the Borough Secretary deems such an extension necessary and reasonable. Any extension of time for the permit, if granted, shall be limited to an increment of no more than a two (2) week period.

Section 703 – Placement and Use Restrictions.

A. A dumpster placed upon a highway shall not extend into the travel lane.

B. A dumpster placed upon a highway shall bear reflective markings in sufficient positions and with sufficient capacity to provide reasonable warning to approaching nighttime traffic of its location.

C. Location and utilization of a dumpster upon a highway shall not be such as to constitute a safety hazard to person or property.

D. Location and utilization of a dumpster upon a highway shall be in compliance with all

other federal, state and local statutes, rules and regulations applicable thereto.

E. Hazardous waste and garbage shall not be stored in a dumpster.

F. The permittee shall provide a copy of the waste hauler's certificate of insurance, as well as proof of their own Homeowner's liability insurance.

G. The permittee shall execute an indemnity agreement, in a form acceptable to the Borough, promising to indemnify, save harmless and defend the Borough, its officials, agents, servants and employees, and hold it harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and reasonable attorney's fees for or on account of any injury or any damage to any property, which may arise or which may be alleged to have arisen out of or in connection with the placement or utilization of the dumpster on the highway.

H. Only one dumpster per property will be permitted on any highway of the Borough of Nesquehoning.

I. The permittee shall assume all risk of damage, and the Borough shall not be liable for any damage to the dumpster when the Borough is plowing snow, maintaining the street or other facilities within the street or performing other public functions.

SECTION 704 – Revocation of Permit.

Without limitation as to the utilization of any other legal or equitable remedy or action available to the Borough, civil or criminal, noncompliance with any of the requirements or provisions set forth in this Ordinance or any material false statement or omission made in connection with the application for a permit shall be grounds for revocation by the Borough Secretary, the Chief of Police or their designee of the permit issued pursuant to this Ordinance. Anyone who is aggrieved by this revocation may file a written appeal of said revocation to the Borough Council within five (5) days for a hearing before Borough Council regarding the revocation and the reasons therefor. Said request for appeal must be given to the Borough Secretary within the aforesaid five (5) day period.

SECTION 705– Violations and Penalties.

Any person who or which violates or fails to comply with any provision of this Ordinance shall, upon conviction, be sentenced to pay a fine of not less than fifty (\$50.00) dollars nor more than three hundred dollars (\$300.00) and costs of prosecution for each and every offense. Each day or portion thereof in which a violation exists shall be considered a separate violation of this Ordinance.

Section 706– Equitable Relief.

In addition to or in lieu of the penalties provided herein, any violations of the provisions

of this Ordinance may be abated or enforced by proceedings seeking equitable relief against the violator.

Section 707– Severability.

If any provision of this ordinance shall be determined to be unlawful, void or unenforceable, then that provision shall be considered severable from the remaining provisions which shall continue in full force and effect.

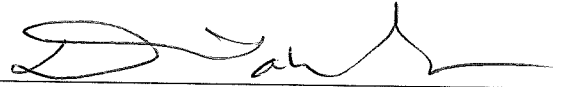
Section 708– Effective Date.

This ordinance shall be in full force and effect immediately upon and after its final passage.

ORDAINED AND ENACTED this 19th day of December, 2018.

BOROUGH OF NESQUEHONING

BY:



ATTEST:


Secretary

Examined and Approved this 19th day of December, 2018.


Mayor