

ORDINANCE NO. 2023-2

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF NESQUEHONING, CARBON COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF NESQUEHONING, CHAPTER 11 AND ADDING A NEW PART 4 ENTITLED ‘SHORT TERM RENTALS’ TO PROVIDE FOR THE LICENSING AND REGULATION OF SHORT-TERM RENTALS WITHIN THE BOROUGH OF NESQUEHONING, CARBON COUNTY, PENNSYLVANIA, DEFINING CERTAIN TERMS USED HEREIN, ESTABLISHING APPLICATION AND LICENSE PROCEDURES; ESTABLISHING STANDARDS FOR SHORT-TERM RENTALS; PROVIDING FOR INSPECTIONS’ PROVIDING FOR ENFORCEMENT RESPONSIBILITY; ESTABLISHING AND PROVIDING FOR VIOLATIONS AND PENALTIES; DECLARING VIOLATIONS TO BE A PUBLIC NUISANCE; AND, PROVIDING APPEAL PROCEDURES.

WHEREAS, Section 1202 of the Borough Code, Act of April 18, 2014, P.L. 432, No. 37, as amended and found at 8 Pa.C.S.A. Section 1202, entitled “Specific Powers”, authorizes the Borough Council to make and adopt ordinances necessary for the proper management, care and control of the Borough, and the maintenance of the health and welfare of the Borough and its citizens; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE Borough Council of Nesquehoning Borough, Carbon County, Pennsylvania, as follows:

Article 1. Short Term Rentals.

A new part 4 entitled “Short Term Rentals” is hereby added to Chapter 11 of the Code of Ordinances of Nesquehoning Borough and shall read as follows:

**PART 4
SHORT TERM RENTALS**

Section 11-401 Title

This Part shall be known as and may be cited as “Short Term Rentals”.

Section 11-402. Findings and Purpose

The Borough Council of Nesquehoning Borough, Carbon County, Pennsylvania, is charged with the duty to protect and provide for the health, safety and general welfare of the citizens of the Borough. The Borough Council specifically finds and declares as follows:

- A. Short-term rentals of dwellings have become a significant segment of the local economy.
- B. Short-term rentals provide a community benefit by expanding the number and type of lodging facilities available and assist owners of short-term rentals by providing revenue which may be used for maintenance, upgrades and deferred costs.
- C. While most of these units operate without a problem, there have been numerous complaints to the Borough regarding excessive noise, parking litter and concerns regarding sewer capabilities, security, public safety and trespass.
- D. The transitory nature of occupants of a short-term rental makes enforcement against the occupants difficult and therefore the unit owner must be the responsible party.
- E. The provision of this Part are necessary to prevent a burden on Borough and community services and negative impacts on residential neighborhoods posed by short-term rentals.
- F. Compliance with the provisions of this Part will maintain the character of the Borough that attracts residents, homeowners and visitors.

Section 11-403. Scope; Interpretation; Responsibility

- A. Scope. This Part shall apply to all short-term rentals as defined in Section 11-405 and all provisions of this Part shall apply in addition to all other applicable requirements of Borough Ordinances, including but not limited to Nesquehoning Borough's Zoning Ordinance. This Part does not apply to a hotel, motel, bed-and-breakfast, boarding or lodging house or group home as defined in the Zoning Ordinance, when the property owner or representative is present at the property on a twenty-four-hour-day basis. BE IT ORDAINED and Enacted by the Council of the Borough of Nesquehoning as follows:
- B. Interpretation. This Part is not intended to, and does not, excuse any landowner from compliance with the Nesquehoning Borough Zoning Ordinance. Whenever possible, this Part shall be construed and interpreted as being consistent with the Borough Zoning Ordinance and not in conflict. In the event of a conflict between this Part and the Borough Zoning Ordinance, the more restrictive provisions shall control.
- C. Responsibility. The owner of the property wherein a short-term rental is located shall be responsible for compliance with the provisions of this Part and the failure of an owner, agent, managing agency, contact person, or renting occupants to comply with this Part, including the monitoring and control of the number of occupants and visitors, shall be deemed non-compliance by the owner and subject the owner to enforcement

proceedings and the penalties contained herein.

Section 11-404. Nuisance Declared.

In the interest of protecting and promoting the public health, safety and welfare, and minimizing the burden on Borough and community services and the negative impacts on residential neighborhoods posed by Short-term rentals, a violation of any of the provision of this Part is declared to be a public nuisance.

Section 11-405. Definitions.

The words and phrases used in this Part shall have the following meanings:

Bedroom: a room intended for, or capable of, being used for sleeping and that is at least 70 square feet in area.

Contact Person. The owner or local property manager or agent of the owner, who is available to respond to a tenant and neighborhood questions, complaints or concerns, or any agent of the owner authorized by owner to take remedial action and respond to any violation of this Part. The Contact Person shall have actual authority to represent the owner for purposes of emergency and non-emergency contact and communication regarding the owner's Short-Term Rental. A Contact Person must provide a 24-hour emergency contact number, be able and willing to come to and be present at the Short-Term Rental within two (2) hours following notification to address any issue that is not capable of being addressed by telephone, and be able to act as legal agent for the owner. The Contact Person may be the owner of the Short-Term Rental. The Borough must be notified, in writing, within fourteen (14) days if there is a change in the identity of the Contact Person.

Dwelling: (see Zoning Ordinance definition)

Dwelling Unit: (See Zoning Ordinance definition)

Multi-Family Dwelling: (See Zoning Ordinance definition)

Owner: The person or entity that holds legal or equitable title to the private property.

Rent: The consideration received by an owner and/or renter in money, credits, property, or other consideration valued in money for lodging.

Single-Family Dwelling: (See Zoning Ordinance definition)

Two-Family Dwelling: (See Zoning Ordinance definition)

Short-Term Rental: A dwelling that is rented and/or leased, in whole or in part, for a transient use in exchange for rent, compensation or remuneration of any kind. This definition applies to all types of dwelling units rented and/or leased for a transient use under this Part, unless excluded herein, including (but not limited to) single family, two family and multi-family dwelling units, whether or not primarily used as permanent residences or seasonal or vacation homes.

Transient Use: Occupancy, use or possession of a dwelling unit by a person or persons for a period of less than 30 consecutive days, other than the owner(s) of the dwelling unit or tenant(s) of the dwelling unit with a lease for 30 consecutive days or more, and or the family of such owner(s) or tenant(s); and further excluding temporary stays by unrelated individuals that are guests of the owner of tenant of the dwelling unit without the payment of any type of rent, compensation or other remuneration.

Section 11-406– Short-Term Rental License Requirements

The owner of a short-term rental shall be responsible for obtaining the license and license renewals. ____

A. License Required. A short-term license shall be required prior to renting out a dwelling unit as a short-term rental. Operating a short-term rental without a short-term rental license is a violation of this Section and shall be subject to the enforcement proceedings and penalties set forth herein.

B. Outstanding Violations. A dwelling unit located on any premises that violates any Borough code or ordinance shall not be eligible for a short-term rental license until such violation is corrected in a manner acceptable to the Borough.

C. License Renewal. A short-term rental license shall need annually and at any time when any of the conditions of the rental which are governed by this Section are changed.

D. Separate Licenses. A separate license is required for each short-term rental; for a two-family or multi-family dwellings, a separate license shall be required for each dwelling unit being rented pursuant to the definition of “short-term rental”.

E. Issuance to Owner: The license shall be issued only to the owner of the short-term rental.

F. Forms and Procedures. The enforcement officer is authorized to prescribe forms and procedures for the processing of licenses under this section.

G. Two-Family/Multi Family Short-Term Rentals. No building shall be used as a short-term rental that as two or more dwelling units unless said building has been approved by

the Borough as a two-family or multi-family dwelling as defined in the Zoning Ordinance. If such approval has been granted by the Borough and one or more of the dwelling units, but not necessarily all, are being rented as set forth in the definition of "Short-term rental", then the requirements of this Section shall apply to such dwelling unit or units being rented.

H. Inspection Authorization. The owner, by making application for a sort-term rental license and/or accepting issuance of such a license grants permission for all inspection authorized hereunder.

I. License Not Transferable.

_____ (1) The license issued to an owner pursuant to this Section is personal to the owner identified in the application and does not run with the property. If the ownership of the property changes, either directly by sale or deed transfer, or indirectly by death, change in ownership of the entity owning the property, sheriff sale or court order, the new owner must apply for a license under the provision of this Section prior to renting the property as a short-term rental, but shall be entitled to get a license provided such new owner complies with the terms of this section.

(2) If an owner has been convicted of a violation of this Section (hereinafter the "violating owner") of it a violating owner's license has been revoked by the Borough, then a transfer of the property by the violating owner to one or more family members, or to an entity owned by the violating owner, or such violating owner's family members, then that new owner shall be subject to the violations and penalties imposed upon the violating owner.

Section 11-407. Contact Person.

Each owner of a short-term rental shall designate a person, property manager or agent as a contact person who has access and authority to assume management of the short-term rental and take remedial measures. The contact person must be accessible by telephone 24 hours a day and must be able and willing to come to and be present at the Short-Term Rental within two (2) hours following notification to address any issue that is not capable of being addressed by telephone, and be able to act as legal agent for the owner. An owner of a short-term rental may designate himself/herself as the contact person. The contact person shall respond to the enforcement officer within one (1) hour after being notified by the enforcement officer or other Borough official of the existence of a violation of this Section or any disturbance requiring immediate remedy or abatement. If the contact person is not the owner, the contact person shall immediately advise the owner of any notification of a violation.

Section 11-408. Application for Short-Term Rental License.

A. Application Required: Information. An application for a short-term rental license shall be filed with the designated Borough official and a license issued prior to the use of the property as a short-term rental, except for an existing short-term rental use which shall apply for a license within ninety (90) days of the effective date of this Ordinance. License applications for properties presently used as short-term rentals shall be filed within 90 days of the effective date of this Section. In the event an existing short-term rental has been booked in advance of the enactment of this ordinance, the owner/applicant may request an extended grace period for compliance with this section, subject to providing the Borough with acceptable proof of the advanced bookings at the time of the application. All applications shall contain the following information:

(1) The name, address, telephone number and email address of the owner of the short-term rental for which the license is being applied for. If the owner does not have a managing agency, agent or contact person, then the owner shall provide a 24-hour telephone number.

(2) The name, address, and 24-hour telephone number of the managing agency, agent and/or contact person for the owner of the short-term rental.

(3) A photograph of the short-term rental taken from the access road side.

(4) The marketing entity identification number for the short-term rental.

(5) A floor plan of the short-term rental drawn to scale.

(6) Acknowledgment that all designated bedrooms contain a minimum of 70 square feet.

(7) The number of bedrooms (each containing the required minimum of 70 square feet) and the maximum number of overnight occupants.

(8) If the building is a Two-Family or Multi-Family Dwelling structure, the number of dwelling units and the number of dwelling units being used as a short-term rental.

(9) A diagram or photograph of the premises showing and indicating the number and location of designated on-site parking spaces and the maximum number of vehicles allowed for overnight occupants.

(10) The location, type, approximate age and capacity of the sewage disposal system. The owner of the property shall supply the Borough with an evaluation

form from a Pumper/Hauler certifying the sewage disposal system is properly functioning as intended, and proof that the tank, if applicable, was pumped by a pumper/hauler within at least three years prior to the date of the application for a short-term rental license, or a renewal thereof.

(11) Acknowledgment that the owner, agent, and/or contact person have read all regulations pertaining to the operation of the short-term rental.

(12) Acknowledgment that the owner, agent, or contact person will post and maintain the short-term rental with the notice required in Section 11-410 hereunder.

(13) Acknowledgment that the owner, agent, or contact person will post and maintain at the short-term rental:

(a) The 911 emergency address sign in accordance with applicable requirements.

(14) A copy of the current Pennsylvania Sales Tax License.

(15) Declaration page of a paid up, current insurance policy in effect with respect to the short-term rental property evidencing at least \$500,000 in liability insurance covering short-term rentals for the full duration of the license term.

(16) Other information the Borough and/or enforcement officers deems reasonably necessary to administer this section.

B. Inspection: Fee If the information supplied by the property owner on the application for a short-term rental license is not consistent with the Borough records, an inspection shall be required prior to the issuance of the short-term rental license. An inspection fee established by Resolution of the Borough Council shall be charged for any inspection deemed necessary by the Borough.

Section 11-409. APPLICATION AND RENEWAL FEES

A. Application Fee. An application for a short-term rental license shall be accompanied by an initial fee established by Resolution of the Borough Council.

B. Renewal Fee An annual renewal fee shall be established by Resolution of the Borough Council that license holders shall pay when renewing their license issued pursuant to this section. Failure to pay the renewal fee by February 15th of each calendar year will result in the assessment of fee twice the amount of the normal renewal fee. If the fee is not paid by May 1st, the license shall be null and void and application for a new license, not a

renewal, shall be required thereafter prior to renting the short-term rental.

C. Non-refundable. Application fees and renewal fees are non-refundable.

Section 11-410 OPERATIONAL STANDARDS AND CONDITIONS

A. Standards. All short-term rental licenses issued pursuant to this Section are subject to the following standards:

(1) The owner shall, by written agreement, limit overnight occupancy of the short-term rental to the specific number of occupants designated in the license, with the number of overnight occupants not to exceed two person per bedroom plus four additional persons per residence for daytime visitation purposes. Infants (under two years of age) shall not count towards the limit of overnight occupants.

(2) The number of bedrooms permitted for a short-term rental shall not exceed the number of bedrooms approved for the dwelling unit on the sewage permit issued for such property. Where there is no sewage permit on record, the short-term rental shall be limited to three bedrooms unless proof is provided to the Borough and/or the Borough Sewer Department that the sewage disposal system is adequate o handle additional flows. Any short-term rental advertising more than five bedrooms shall provide proof that the sewage disposal system is adequate to handle such flows by having the system approved by the appropriate Borough official, or by providing a sewage disposal system permit previously issued by an appropriate Borough official. If a sewage disposal system malfunction occurs, the use of the dwelling unit as a short-term rental shall be discontinued until the malfunction is corrected in accordance with Borough and Pennsylvania Department of Environmental Protection requirements.

(3) In no instance shall the existing number of bedrooms be increased without proper Borough (and DEP, if required) approval being obtained.

(4) A short-term rental shall also have at least one other habitable room containing a minimum of 120 square feet.

(5) The owner shall, by written agreement, limit the number of all vehicles of overnight occupants and day guests to the number designated in the short-term rental license, with the number of all vehicles not to exceed the number of designated on-site parking spaces.

(a) All parking for overnight guests and day guests shall be designated in the license and shall be located on the owner's property and not in any private, community or public right-of-way.

(b) A minimum of one parking space per bedroom shall be provided. The required number of parking spaces may include spaces in a garage which can accommodate vehicles.

(c) All parking spaces shall be improved to a mud-free condition with paving, stone or similar material approved by the Borough and shall count as part of the maximum lot coverage established by the Borough Zoning Ordinance.

(d) Each vehicle parking space shall be a rectangle with a minimum width of nine feet and a minimum length of 18 feet and adequate aisle width shall be provided to facilitate access and use of the spaces.

(e) If the short-term rental is accessed directly by a Borough or State road, all parking spaces shall be accessed from the driveway serving the short-term rental and not directly from the Borough or State road.

(f) Any property owner who believes he/she is aggrieved by the above requirements may appeal to the Borough Council for consideration of modifying the above standards. Any such appeal must be in writing and be submitted to the Borough Secretary concurrent with the application for a license for short term rentals. The appeal shall state the basis for the appeal giving reasons why the above standards should be modified by council.

(7) The owner shall use best efforts to ensure that the occupants or guests of the short-term rental do not create unreasonable noise or disturbance, engage in disorderly conduct, or violate provisions of this Section or any Borough ordinance or state law pertaining to noise or disorderly conduct by notifying the occupants of the rules regarding short-term rentals and responding when notified that occupants are violating laws regarding their occupancy. It is not intended that the owner, local agent or contact person act as an enforcement officer or place himself or herself in harm's way.

(8) The owner shall, upon notification that occupants or guests of the short-term rental have created unreasonable noise or disturbances, engaged in disorderly conduct or violated provisions of this Section or Borough ordinance or state law pertaining to noise or disorderly conduct, promptly use any and all efforts to prevent a recurrence of such conduct by these occupants or guests and/or future occupants or guests. In the event that the unreasonable noise or conduct should reoccur or continue then the short term rental license shall be subject to being revoked by the Code Enforcement officer, Borough Zoning Officer, or other authorized Borough representative

(9) Any lights used for exterior illumination shall direct light away from adjoining properties. Lighting shall be pointed/shielded downward to minimize upward glare.

(10) Occupancy of recreational vehicles, camper trailers and tents shall not be allowed. Children under the age of 13 are permitted to “camp-out” in a tent on the premises.

(11) The use of open fires, fire pits, charcoal-burning grills or other devices(as applicable) shall be the responsibility of the owner or contact person and shall comply with other Borough ordinances regarding open burning in the Nesquehoning Borough Code of Ordinances. All open fires shall be extinguished by midnight.

(12) The owner of the short-term rental shall post a copy of the license and copy of the conditions set forth in section 11-410 in a conspicuous place within the short-term rental.

(13) Each short-term rental shall have a clearly visible and legible notice posted within the unit on or adjacent to the front door, containing the following information: The occupants of a short-term rental shall make the notice, required by this paragraph, available for inspection by the enforcement officer upon request.

(a) The name of the managing agency, agent, property manager, contact person, or owner of the unit, and a telephone number at which that party may be reached on a 24 hour basis.

(b) The maximum number of occupants permitted to stay in the short-term rental dwelling unit and the maximum number of day guests permitted at any one time.

(c) The maximum number of all vehicles allowed to be parked on the property and the requirement that all renter/guest parking must be on the property and not in any private, community or public right-of-way.

(d) The number and location of on-site parking spaces and the parking rules for seasonal snow removal and emergency vehicle access(if any).

(e) The trash pick-up day and notification that trash and refuse shall not be left or stored on the exterior of the property except from 6:00p.m. of the day prior to trash pick-up to 6:00 p.m. on the day designated for trash pick-up unless a bear proof container exists for use by the occupants.

(f) Notification that an occupant may be cited and fined for creating a disturbance or for violating other provisions of this Section; and

(g) Notification that failure to conform to the parking and occupancy requirements of the structure is a violation of this Section subject to a citation and fines along with guests being made to vacate the rented premises.

(14) All short-term rentals shall comply with the following standard: It is unlawful for any person to maliciously and willfully disturb the peace of any neighborhood, person, or family by loud or unusual noises or by tumultuous and offensive conduct, public indecency, threatening, traducing, quarreling, challenging to fight or fighting.

(15) A short-term rental shall comply with all applicable building codes and shall have the requisite number of functioning smoke and/or fire detectors, fire extinguishers, carbon monoxide monitors and other safety devices required under the applicable codes.

B. Additional Standards. The Borough Council, at a duly convened public meeting, shall have the authority to impose additional standards applicable to short-term rentals as necessary to achieve the objectives of this Section.

C. License Conditions. The enforcement officer shall have the authority to impose additional conditions on any license or renewal in the event of any prior violation of the conditions of the license or the provisions of this section.

Section 11-411. Enforcement Officer(s).

A. Appointment. The Borough Council shall appoint one or more enforcement officers, who may be the Borough Zoning Officer, Code Enforcement Officer, or other authorized Borough representative, or an individual, firm, or agency contracted to conduct inspections, make reports and administer and enforce other parts of this Section as determined by the Borough Council.

B. Duties. The administrative, inspection and enforcement responsibilities established by this Section may be delegated to different enforcement officer appointed in accordance with Section 11-411A.

C. Consultation. The enforcement officer, with the authorization of the Borough Council, may engage the services of competent engineers or other Borough consultants to determine the nature and extent of any violation.

Section 11-412. Inspections and Access.

A. Inspection. All places and premises in Nesquehoning Borough used as a short-term rental shall be subject to inspection by the enforcement officer or other authorized Borough representative to verify application, licensing or operating requirements or if there is reason to believe that any provision of this Section is being violated.

B. Interference. Provided that short-term rental dwelling unit is accessed in accordance with this section, it shall be unlawful for any person to hinder, delay, resist or prevent the enforcement officer from having full access to any place or premises upon which a violation of his Section is believed to exist.

Section 11-413. Marketing.

The marketing of a short-term rental which exceeds the maximum occupancy requirements permitted by this section or which promotes any other activity that is prohibited by this section shall be used as evidence of a violation of this Section during enforcement proceedings. The owner or contact person shall provide to the enforcement officer a copy of all advertisements relating to the short-term rental at the time of license application and/or renewal.

Section 11-414. Action on Complaints.

A. Violation in Progress. Upon receipt of a verbal complaint of a violation in progress and if the complainant's name and address is provided, the enforcement officer shall immediately notify the owner and/or the contact person of the complaint and may thereafter investigate the matter. If the enforcement officer believes a crime to be in progress, he/she shall notify the appropriate police department. The Borough may proceed with a notice of violation if the Borough enforcement officer, police officer and/or other authorized Borough representative determines a violation of this Section has occurred.

B. Violation Preceding Complaint. Upon receipt of a complaint of a violation which occurred prior to the date of the complaint, the enforcement officer shall not be obligated to proceed with any action to determine if a violation of this Section exists. However, the enforcement officer may, at his/her sole discretion, proceed with an investigation into the complaint to determine if there is an existing violation of this Section.

C. Confidentiality. The enforcement officer shall make a reasonable effort to maintain the confidentiality of the name and address of the person registering the complaint unless otherwise required by law to release such information.

Section 11-415. Notice to Violators.

A. Service of Notice. Whenever the enforcement official determines that a violation of this Section exists, the enforcement official shall prepare a written Notice of Violation, or Ticket, if warranted by the circumstances in the opinion of Borough Zoning Officer, Code Enforcement Officer, or other authorized Borough representative and to be served on the owner and contact person (if applicable) of the premises on which the violation exists or originates. The written Notice of Violation shall be served on the owner and contact person by one or more of the following methods:

- _____ (1) Personal delivery; or,
- (2) Fixing a copy to the door of the building on the premises of the violation; or,
- (3) Certified mail to the owner and contact person to the addresses on the license; or,
- (4) Other means of legal service deemed appropriate by the Borough and recognized by law. _____

B. Content of Notice.

- (1) The notice shall enumerate the conditions which constitute the violation and what action is required to abate and/or otherwise correct the violation.
- (2) The Notice shall include a time frame for the abatement and/or correction of the violation, with such time frame established by the enforcement officer based upon the nature of the violation and providing a reasonable period for the violator to take the required action. In certain cases, immediate correction may be required.

C. Repeat Violators. If an owner commits the same or a similar violation within six months of receiving a Notice of Violation as set forth in this section, no additional notice shall be required to be served on that owner prior to initiating an enforcement action in accordance with this section.

Section 11-416. Violations, Penalties and Costs.

A. Compliance. Failure to comply with any provision of this Ordinance and/or failure to comply with an order to abate and/or correct a violation of this Ordinance, shall be a violation of this ordinance and subject the owner to criminal prosecution and the revocation of any short-term rental license previously issued.

B. Fine. Any person who has violated or permitted the violation of any provision of this

ordinance shall, upon judgment thereof by a Magisterial District Judge, be sentenced to pay a fine of not more than \$1,000.00 per day of violation, together with the costs of suit, including reasonable attorney fees. Each day of a violation shall constitute a separate offense for which a summary conviction may be sought. All judgments, administrative, enforcement, security firm or police response, and other costs, interest and reasonable attorney fees collected for the violation of this ordinance, shall be paid over to the Borough.

C. Other remedies. The Borough shall also have the right to Injunctive Relief for violations of this ordinance.

D. License Revocation. If an owner is convicted of three (3) violations in any rolling twelve (12) calendar month period, then the license shall be revoked by the Borough for one (1) year and the short-term rental must be discontinued while the license is revoked. The conviction of a fourth or more violations in any rolling twelve (12) calendar month period shall be cause for permanent revocation of the license. Any violation of the PA Sewage Facilities Act and applicable regulations may result in immediate license revocation until the violation is corrected.

E. Reinstatement. The Borough Council may, in its sole discretion, approve the reinstatement of a license, if satisfied that there has been an appropriate change of ownership and/or that the cause of the violations has been corrected and that all other requirements of hi Ordinance have been met.

Section 11-417. Appeals

A. Filing of Appeal. Appeals of an action under this ordinance to deny any application for, or to renew, a Short Term Rental License, or to revoke a Short Term Rental License, shall be filed with the Board of Supervisors within 30 days of the date of the denial of application or revocation of license. Appeal shall be processed as follows:

(1) All appeals shall be in writing and signed by the Appellant on forms prescribed by the Borough, and shall be accompanied by a fee, the amount of which shall be established by the Borough Council, which may include notice and advertising costs, and necessary administrative overhead in relation to the hearing.

(2) Each appeal shall fully set forth the determination appealed from, a detailed reason or basis for the appeal, and the relief sought. Every appeal shall refer to the specific provision of circumstances of the case.

B. Hearings. The Borough Council shall conduct hearings and make decisions pursuant to the Act of December 2, 1968 (P.L. 1133, No. 353), known as the "Local Agency Law", and in accordance with the following requirements:

(1) Written notice shall be given to the Appellant and to any person who has made timely request for same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Borough Council, but not less than 15 days prior to the hearing.

(2) The hearing shall be held within 60 days from the date the appeal is filed, unless the Appellant has agreed in writing to an extension of time.

(3) The hearing shall be conducted by the Borough Council. The decision or , where no decision is called for, the findings, shall be in writing by the Borough Council within 45 days after the conclusion of the hearing, unless the Appellant has agreed in writing to an extension of time, and shall be communicated to the Appellant and any other parties who have entered their written appearance and requested a copy of the decisions, at the addresses provided by them either by personal delivery or by United State First Class mail postage prepaid.

(4) The President or Vice-President of Borough Council presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties.

(5) 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.

(6) Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.

(7) The Borough Council may, but is not required to, make a stenographic record of the proceedings. In the event a stenographic record of the proceedings is not provided by the Borough Council, a stenographic record shall be made and kept at the request of any party agreeing to pay the costs thereof. Any party or other person desiring a copy of the stenographic record shall order the copy directly from the stenographer who prepared the same and shall pay the cost imposed by the stenographer for the copy directly to the stenographer.

(8) The Borough Council shall not communicate, directly or indirectly, with any party or any party's representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any party or any party's representative unless all

parties are given opportunity to be present.

Article II. Severability

It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provision of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective. The Borough Council hereby declares that it would have passed this Ordinance and each section or part thereof, other than any part declared invalid, if it has advance knowledge that any part would be declared invalid.

Article III. Repealer

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

Article IV. Effective Date.

This ordinance shall become effective five (5) days after enactment.

ORDERED AND ENACTED this 22nd day of February, 2023.

BOROUGH OF NESQUEHONING

BY:  _____

ATTEST:  _____
Secretary

Examined and Approved this 22nd day of February, 2023.



Mayor