

Chapter 11

Housing

Part 1

Housing and Structure Code

- §11-101. Short Title
- §11-102. Definitions
- §11-103. Minimum Standards for Basic Equipment and Facilities
- §11-104. Minimum Standards for Light, Ventilation, and Heating
- §11-105. Minimum Standard for Safety from Fire
- §11-106. Minimum Standards for Safe and Sanitary Maintenance
- §11-107. Minimum Standards for Cooking Equipment
- §11-108. Responsibilities of Owners and Occupants
- §11-109. Inspection and Access to Dwellings and Structure
- §11-110. Notices and Appeals
- §11-111. Abatement of Violation
- §11-112. Penalties

Part 2

Moving Permits

- §11-201. Purpose; Statutory Authority
- §11-202. Permit Required
- §11-203. Application; Contents
- §11-204. Fees
- §11-205. Enforcement
- §11-206. Violations and Penalties

Part 3

Rental Property Registration

- §11-301. Definitions and Interpretation
- §11-302. Appointment of an Agent and/or Manager
- §11-303. Duties of the Owner and/or Agent
- §11-304. Duties of the Occupant
- §11-305. Notices
- §11-306. Insurance
- §11-307. Rental Registration and License Requirements
- §11-308. Fees
- §11-309. Enforcement
- §11-310. Failure to Correct Violations
- §11-311. Failure to Comply with this Part; Penalties
- §11-312. Applicability and Exemptions to this Part
- §11-313. Confidentiality of Information

Part 1**Housing and Structure Code****§11-101. Short Title.**

The short title of this Part shall be the “Nesquehoning Housing and Structure Code.”

(*Ord. 89-2, 2/16/1989, §1*)

§11-102. Definitions.

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

Approved—in accordance with regulations established by the Department of Public Safety.

Basement—a portion of any building located partly underground, but having less than half of its clear floor-to-ceiling height below the average grade of the adjoining grounds.

Cellar—a portion of any building having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Dwelling—a building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants.

Dwelling unit—a group of rooms locate within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

Exterior property areas—any open space on the premises and vacant open space on adjacent premises.

Extermination—the control and elimination of insects, rodents, or any other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the public officer.

Garbage—the animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

Habitable room—a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, foyers, pantries, communicating corridors stairways, closets, and storage spaces.

Housing Review Board—a three member board, created under this Part, and appointed by the Council of the Borough of Nesquehoning. Tenure will be for 3 years, with one member appointed to serve for 1 year; one member to serve for 2 years; one member to serve for 3 years. The appointments shall be made effective as of January 1, 1989, with subsequent appointments to be made for the full 3-year term. This board will elect its own chairman and set forth and adopt such rules for guidance which will give continuity to its findings.

Multi-family dwelling—any dwelling or part thereof containing three or more dwelling units.

Occupant—any person (including an owner or operator) over 1 year of age living and sleeping in a dwelling unit or rooming unit.

Operator—any person having charge, care, management or control of any dwelling or part of it, in which dwelling unit or rooming units are let.

Owner—any person who, alone, jointly, or severally with others holds legal or equitable title to any dwelling, rooming house, dwelling unit or rooming unit.

Person—an individual, firm, corporation, association, or partnership.

Plumbing or plumbing fixtures—gas pipes and gas burning equipment, oil pipes and oil burning equipment, water-heating facilities, water pipes, garbage disposal unit waste pipes, water closets, sinks, installed dish washers, lavatories, bathtubs, shower baths, installed clothes washing machine catch basins, drains, vents, and other similar supplied fixtures, together with all connections to water, sewer, and gas lines.

Premises—a lot, plot, or parcel of land including the building and structures therein.

Public officer—the officer appointed by the Borough Council.

Rooming house—any dwelling, or that part of any dwelling, containing one or more rooming units, in which space is let by the owner or operator to three or more persons.

Rooming unit—any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes, except that a light housekeeping unit is included in this definition if there is not other than one occupant.

Rubbish—combustible and noncombustible waste materials except garbage; and the term shall include residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

Structure—a building other than a dwelling which is wholly or partly used for storage or is capable of being used for storage or for any other reasonable use.

Supplied—installed, furnished, or provided by the owner or operator at his expense.

Yard—all ground, lawn, court, walk, driveway, or other open space constituting part of the same premises as a dwelling.

(Ord. 89-2, 2/16/1989, §2)

§11-103. Minimum Standards for Basic Equipment and Facilities.

No person shall occupy as owner-occupant or shall let to another for occupancy and dwelling, rooming house, dwelling unit or rooming unit which does not comply with the following minimum standards for basic equipment facilities:

A. Every dwelling unit shall contain within its walls a room, separate from the habitable rooms, which affords privacy to a person in the room and which is

equipped with a flush water toilet and a lavatory basin.

B. Every dwelling unit shall contain within its walls a room separate from its habitable rooms, which affords privacy to a person in the room and which is equipped with a bathtub or shower.

C. Every dwelling unit shall contain within its walls a kitchen sink.

D. Every kitchen sink, lavatory basin, and bathtub or shower required by this Part shall be properly connected with both hot and cold water lines. The hot water lines shall be connected with a supplied water-heating facilities which are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, and bathtub or shower at a temperature of not less than 120° Fahrenheit even when the dwelling heating facilities required by §11-104.E of this Part are not in operation.

E. All plumbing fixtures for this Section shall be properly connected to an approved water system and to an approved sewerage or sewage disposal system.

F. Every dwelling unit shall have approved garbage and rubbish storage or disposal facilities. In every multi-family dwelling, such facilities shall be placed in a location approved by the public officer.

(Ord. 89-2, 2/16/1989, §3)

§11-104. Minimum Standards for Light, Ventilation, and Heating.

No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling rooming house, dwelling unit, or rooming unit which does not comply with the following minimum standards for light, ventilation, and heating:

A. Every habitable room shall have a window or skylight opening directly to the outdoors. All windows and skylights shall be enclosed with glass and shall be provided with suitable hardware. In the absence of natural ventilation, every habitable room shall be ventilated by approved mechanical means.

B. Every bathroom and flush-water toilet room shall have at least one window facing to the outdoors.

C. Every dwelling shall be supplied with electricity, if within 300 feet of available service from power lines. Within such dwellings:

(1) Every habitable room shall contain at least one separate floor or wall type electric convenience outlets or one such convenience outlet.

(2) Every flush-water toilet room, bathroom, laundry room, furnace room, and public hall shall contain at least one supplied ceiling or wall-type electric light fixture.

(3) Every electrical outlet and fixture shall be properly installed and maintained in good and safe working condition.

D. Every dwelling shall have heating facilities which are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments within its walls.

(Ord. 89-2, 2/16/1989, §4)

§11-105. Minimum Standard for Safety from Fire.

No person shall occupy as owner-occupant or shall let to another for occupancy and dwelling, rooming house, dwelling unit, or rooming unit which does not comply with the following minimum standards for safety from fire:

- A. Every dwelling unit and every rooming unit shall have safe unobstructed means of egress leading to safe and open space at ground level.
- B. Every hallway, stairway, corridor, exit, fire escape door, and other means of egress shall be kept clear and lighted at all times.
- C. Storage rooms and storage lockers or closets shall not be used for storage of waste or inflammable material.

(Ord. 89-2, 2/16/1989, §5)

§11-106. Minimum Standards for Safe and Sanitary Maintenance.

No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, rooming house, dwelling unit, or rooming unit which does not comply with the following minimum standards for safe and sanitary maintenance:

- A. Every foundation, exterior wall, and exterior roof shall be substantially weathertight, watertight, and rodent-proof, shall be kept in sound condition and good repair.
- B. Every floor, interior wall, and ceiling shall be substantially rodent-proof; shall be kept in sound condition and good repair.
- C. Every window, exterior door, and basement or cellar door and hatchway shall be substantially weathertight, watertight, and rodent-proof; and shall be kept in sound condition and good repair.
- D. Every inside and outside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.
- E. Every plumbing fixture shall be properly installed and maintained in sanitary working condition, free from defects, leaks, and obstruction.
- F. Every water closet compartment shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be kept in a clean and sanitary condition.
- G. Every supplied facility, piece of equipment, or utility which is required under this Part, and every chimney and smokepipe shall be so constructed and installed that it will function safely and effectively and shall be maintained in sound working condition.
- H. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement or cellar which might provide an entry for rodents, shall be supplied with a screen or other device which will effectively prevent their entrance.
- I. Accessory structures, located on exterior property areas, shall be kept in good repair; free from health, fire, and accident hazards, and vermin, insect, and rodent harborage and:
 - (1) Shall have safe unobstructed means of egress leading to safe and open space at ground level.

(2) Shall have every hallway, stairway, corridor, exit, fire escape door, and other means of egress clear at all times.

(3) Shall not be used for storage of waste or inflammable material.

(4) Shall be maintained in a clean and sanitary condition.

(5) Shall be kept free of insects, rodents, vermin, or other pests.

(6) Shall be kept in an aesthetically reasonable appearance taking into consideration the location of the structure.

(Ord. 89-2, 2/16/1989, §6)

§11-107. Minimum Standards for Cooking Equipment.

No owner, operator, or occupant shall furnish or use any cooking equipment which does not comply with the following minimum standards:

A. Every piece of cooking equipment shall be so constructed and installed that it will function safely and effectively and shall be maintained in sound working condition.

B. Portable cooking equipment employing flame is prohibited.

(Ord. 89-2, 2/16/1989, §7)

§11-108. Responsibilities of Owners and Occupants.

Where in this Part the obligation for observance is not otherwise clearly designated, the respective responsibility of owner, operator, and occupant is as follows:

A. Every owner and occupant of a dwelling, dwelling unit, rooming unit, and structure shall maintain in a clean and sanitary condition that part of the dwelling, dwelling unit structure, and yard he occupies and controls.

B. Every owner or occupant of a two-family dwelling, multi-family dwelling, or rooming house shall maintain in a clear and sanitary condition the shared or public areas of the dwelling and yard.

C. Every owner or occupant of a dwelling, dwelling unit, and structure shall dispose of all rubbish, ashes, garbage, and other organic waste in a clean and sanitary manner by placing it in approved storage or disposal facilities which are safe and sanitary. Every owner and occupant shall provide such facilities and shall maintain them in a clean and sanitary manner. The owner or occupant of a multi-family dwelling shall furnish common storage, or disposal facilities, and shall be responsible for the clean and sanitary maintenance of them. Every owner or occupant of every rooming house shall dispose of all rubbish in a clean and sanitary manner by placing it in approved storage facilities which are safe and sanitary.

D. Every owner or occupant of a dwelling and structure containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests in it or in the yard. In a two-family dwelling or multi-family dwelling the owner or occupant shall be responsible for such extermination whenever his dwelling unit is the only one infected. When, however, infestation is caused by failure of the owner or occupant to maintain a dwelling in a rodent-proof or substantial insect-proof condition, extermination shall be the responsibility of the owner or occupant.

E. Every owner or occupant shall be responsible for extermination of any insects, rodents, or other pests whenever infestation exists in two or more of the dwelling units or structures or in the shared or public area of any two-family or any multi-family dwelling or structure.

F. Every owner or occupant of a rooming house shall be responsible for the extermination of any insects, rodent, or other pests in it or in the yard.

G. Every occupant of a dwelling unit or structure shall keep all plumbing fixtures in it in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and maintenance.

H. During that time of the year when it is necessary, as determined by regulations issued by the Board of Public Health, every owner or occupant of every two-family dwelling, multi-family dwelling, rooming house, or structure, shall supply adequate heat to every habitable room therein except where there are separate facilities for each dwelling unit or structure, which facilities are under the sole control of the occupant of each dwelling unit or structure.

(Ord. 89-2, 2/16/1989, §8)

§11-109. Inspection and Access to Dwellings and Structure.

The public officer, or his recognized deputy is authorized and directed to make inspection to determine compliant with this Part. For this purpose, he is authorized, upon showing adequate identification, to enter and examine any dwelling and structure, yard, or part of either at all reasonable times, and every owner or occupant shall provide him free access to it. Every occupant of a dwelling, dwelling unit, or structure shall give the owner thereof, or his agent or employee, access to any part of such dwelling, dwelling unit, or structure, or its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Part or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this Part.

(Ord. 89-2, 2/16/1989, §9)

§11-110. Notices and Appeals.

1. If a preliminary investigation shall disclose to the public officer that there exists a violation of any provision of this Part, he shall serve written notice of such violation upon the violator. The notice of violation shall specify the violation which exists, shall specify a reasonable time for compliance, and shall contain a notice that a hearing will be held before the public officer at a place therein fixed, not less than 10 days or more than 30 days after serving of notice of violation.

2. The owner or occupant any other party of interest affected by the violation may appeal to the Housing Review Board for a review of the decision of the public officer in accordance with the procedures prescribed by the Housing Review Board except as provided in subsection .5. Compliance with the notice of violation shall not be required when an appeal is pending before the Housing Review Board or a court.

3. The Housing Review Board may modify any notice so as to authorize a variance from the terms of this Part, when, because of special conditions, undue hardship would result from literal enforcement, and when such variance substantially meets with the

spirit of this Part.

4. After the expiration of the time for compliance as stated on the notice of violation, a reinspection shall be made to determine compliance. If the violation has not been corrected and no appeal is pending, the public officer shall order the violation corrected as specified in this Section of this Part, or shall institute prosecution for the violation or both. However, the Housing Review Board may grant a reasonable extension of time for the compliance in cases of hardship.

5. Whenever the public officer finds that there exists any violation of this Part which creates an emergency requiring immediate correction to protect the health or safety of any occupant of a dwelling or the public, if a structure is involved, he may issue a necessary action to be taken immediately. Any person to whom such notice is directed shall comply immediately even though an appeal is taken to the Housing Review Board. Any person aggrieved by such notice of violation may appeal to the Housing Review Board, as provided in subsection .2. The Housing Review Board shall give priority to such appeal.

(Ord. 89-2, 2/16/1989, §10)

§11-111. Abatement of Violation.

1. When upon reexamination the public officer finds that the violation has not been corrected, then he is authorized to cause such dwelling or structure to be repaired, altered, or improved or to be vacated or closed.

2. Whenever the public officer finds that any dwelling or structure constitutes a serious hazard to the health or safety of the occupants or to the public because it is:

A. So damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public.

B. One which lacks illumination, ventilation, or sanitation facilities adequate to protect the health and safety of the occupants or of the public.

C. By nature of its general condition or location, unsanitary or otherwise dangerous, to the health or safety of the occupants or of the public, he shall designate such dwelling or structure unfit for human habitation or use and shall cause to be posted on the main entrance of any dwelling or structure so closed, a placard with the following words:

“This building is unfit for human habitation or use, the use or occupancy of this building is prohibited and unlawful.”

If the owner fails to comply with an order to remove or demolish the dwelling or structure the public officer may cause such dwelling or structure to be removed or demolished. No dwelling or dwelling unit or structure which has been placarded as unfit for human habitation or use shall again be used for human habitation or use until such placard is removed by the public officer. The public officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

3. The amount of the cost of such repairs, alteration, or improvements or vacating and closing, or removal of demolition, when done by the public officer, shall be a lien against the real property upon which such cost was incurred. If the dwelling or

structure is removed or demolished by the public officer, he shall sell the materials of such dwelling or structure and shall credit the remaining proceeds of such sale against the cost of removal or demolition and any balance remaining shall be deposited with the Borough Treasurer by the public officer, shall be secured in such manner as may be directed by the Council of the Borough of Nesquehoning and shall be dispersed by such Council to the persons found to be entitled thereto by final order or decree of such Council; provided, however, that nothing in this Section shall be construed to impair or limit in any way the power of the Borough to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

4. Complaints or orders issued by the public officer, pursuant to this Part, shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to the effect, then the serving of such complaint or order upon such persons may be done by publishing the same once each week for 2 consecutive weeks in a newspaper of general circulation in the Borough of Nesquehoning. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order.

(Ord. 89-2, 2/16/1989, §11)

§11-112. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 89-2, 2/16/1989, §12; as amended by Ord. 95-1, 2/8/1995, §81-12; and by Ord. 2013-1, 6/26/2013)

Part 2**Moving Permits****§11-201. Purpose; Statutory Authority.**

This Part is hereby adopted in accordance with §1202(74) of the Borough Code, 53 P.S. §46202(74), for the purpose of properly managing, caring, and controlling the Borough and its finances.

(*Ord. 74-7, 10/17/1974, Art. 1*)

§11-202. Permit Required.

1. No person or persons, partnership, firm, or corporation shall move, or cause to be moved, from any place within the Borough of Nesquehoning to another place therein or to a place beyond the limits thereof, or move or cause to be moved from any place beyond the limits of the Borough of Nesquehoning to a place or places within the Borough of Nesquehoning, any household goods in bulk, without first securing from the Chief of Police a permit for such moving or transportation.

2. No owner of real estate in the Borough of Nesquehoning shall allow the movement of any household goods in bulk by any occupant of real estate owned by him, without the said occupant or the owner first securing from the Borough's Chief of Police a permit for such moving or transportation.

(*Ord. 74-7, 10/17/1974, Art. 2; as amended by Ord. 83-1, 2/17/1983*)

§11-203. Application; Contents.

Any person or persons, partnership, firm, corporation, or owner of real estate desiring such a permit for the removal or transportation of household goods in the manner described above shall make application to the Chief of Police of the Borough of Nesquehoning setting forth his, her, its, or their name and address and also setting forth names of the owners or reputed owners of the property to be moved, the address and location from which the property is to be moved, and the new address or location of the place to which the property is to be moved.

(*Ord. 74-7, 10/17/1974, Art. 3; as amended by Ord. 83-1, 2/17/1983*)

§11-204. Fees.

The Chief of Police of the Borough of Nesquehoning shall, upon application being made as provided above, issue a permit for which a charge, in an amount as established from time to time by resolution of the Borough Council, shall be paid. Such application shall set forth the name of the permit holder as well as the name or names of the owners of the goods to be moved and the address from which the goods are to be moved and the address to which the goods are to be delivered. No permit shall be issued to remove to a place beyond the limits of the Borough when any taxes due the Borough, other than real estate taxes, remain unpaid by the owners of the goods to be moved.

(*Ord. 74-7, 10/17/1974, Art. 4; as amended by Ord. 83-1, 2/17/1983; by Ord. 89-5, 9/21/1989, Art. 1; and by Ord. 2013-1, 6/26/2013*)

§11-205. Enforcement.

The provisions of this Part shall be enforced by the Mayor of the Borough of Nesquehoning.

(*Ord. 74-7, 10/17/1974, Art. 5*)

§11-206. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 74-7, 10/17/1974, Art. 6; as amended by Ord. 95-1, 2/8/1995, §86-6; and by Ord. 2013-1, 6/26/2013*)

Part 3**Rental Property Registration****§11-301. Definitions and Interpretation.**

The following words, when used in this Part, shall have the meanings ascribed to them in this Section, except in those instances where the context clearly indicates otherwise. 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 shall include the plural, and words in the masculine shall include the feminine and the neuter.

Agent—individual of legal majority who has been designated by the owner as the agent of the owner or manager of the property under the provisions of this Part.

Borough—the Borough of Nesquehoning.

Building Code—the Building Code officially adopted by the Borough Council, or such other codes officially designated by the Borough Council for the regulation of construction, alteration, addition, repair, removal, demolition, location, occupancy and maintenance of buildings and structures.

Disruptive conduct—a form of conduct, action, incident or behavior perpetrated, caused or permitted by an occupant or guest of a regulated rental unit that is:

(1) In violation of ordinances of the Borough of Nesquehoning and that is so loud, untimely as to time of day, offensive, and/or nuisance causing that it unreasonably interferes with the peaceful enjoyment by other persons of their premises or cause damage to property that is owned by others.

(2) Involves music or noise that is disruptive to persons occupying a different dwelling unit.

(3) Involves music or noise that is audible from a street, sidewalk or dwelling from a minimum distance of 50 feet away from the premises where the sound is originating.

(4) Is the subject of a criminal citation for disorderly conduct.

(5) Is the subject of criminal charges under the Pennsylvania Crimes Code, 18 Pa.C.S.A. §101 *et seq.*, or the Pennsylvania Liquor Code, 47 P.S. §1-101 *et seq.*

In order for such disruptive conduct to constitute an offense under this Part, a written report must be issued by a sworn police officer or a Borough Code Enforcement Officer and notice must be sent to an occupant and the owner or manager.

Disruptive conduct report—a written report of “disruptive conduct” that is completed by a police officer or Code Enforcement Officer who investigated the matter.

Dwelling unit—a single habitable unit, providing living facilities for one or more persons, including permanent space for living, sleeping, eating, cooking and bathing and sanitation, whether furnished or unfurnished. There may be more

than one dwelling unit on a premises.

Fire Department—the Fire Department of the Borough of Nesquehoning or any member thereof, and includes the Fire Chiefs or a designee.

Inspector—any person authorized by law or ordinance to inspect buildings or systems, e.g., zoning, housing, plumbing, electrical systems, heat systems, mechanical systems and health necessary to operate or use buildings within the Borough of Nesquehoning. An Inspector would include those identified in §11-308, “Enforcement.”

Let for occupancy—to permit, provide or offer for consideration, possession or occupancy of a building, dwelling unit, rooming unit, premise or structure by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale of land.

Occupant—a person age 18 or older who resides at a premises.

Office—the Borough Office of the Borough of Nesquehoning.

Operator—any person who has charge, care or control of a premises which is offered or let for occupancy.

Owner—any person, agent, or operator having legal or equitable interest in the property; or recorded in the official records of the State, County or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court of competent jurisdiction.

Owner-occupant—an owner who resides in a dwelling unit on a regular permanent basis, or who otherwise occupies a nonresidential portion of the premises on a regular permanent basis.

Person—any person, partnership, firm, association, corporation or municipal authority or any other group acting as a single unit.

Police Department—the Police Department of the Borough of Nesquehoning or any member thereof sworn to enforce laws and ordinances in the Borough, and includes the Chief of Police or his designee.

Premises—any parcel of real property in the Borough, including the land and all buildings and structures in which one or more rental units are located.

Rental unit—a dwelling unit or rooming unit which is let for occupancy and is occupied by one or more tenants.

Rooming unit—any room or groups of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

Tenant—any person authorized by the owner or agent who occupies a rental unit within a premises regardless of whether such person has executed a lease for said premises.

Zoning Ordinance—the Zoning Ordinance [Chapter 27] as officially adopted by the Borough of Nesquehoning.

(Ord. 2009-8, 12/16/2009, §1)

§11-302. Appointment of an Agent and/or Manager.

Each owner who is not an owner-occupant, or who does not reside in the Borough of Nesquehoning or within a 10-mile air radius of the Borough limits, shall appoint an agent and/or manager who shall reside in the Borough or within a 10-mile air radius of the Borough.

(Ord. 2009-8, 12/16/2009, §2)

§11-303. Duties of the Owner and/or Agent.

1. The owner has the duty to maintain the premises in good repair, clean and sanitary condition and to maintain the premises in compliance with the current codes, building codes and Zoning Ordinance [Chapter 27] of the Borough of Nesquehoning. The owner may delegate implementation of these responsibilities to an agent.

2. The duties of the owner and/or agent shall be to receive notices and correspondence, including service of process, from the Borough of Nesquehoning, to arrange for the inspection of rental units, do or arrange for the performance of maintenance, cleaning, repair, pest control, snow and ice removal, and ensure continued compliance of the premises with the current codes, building codes and Zoning Ordinance [Chapter 27] in effect in the Borough of Nesquehoning, as well as arrange for garbage removal.

3. The name, address and telephone number of the owner and agent, if applicable, shall be reported to the Borough Office in writing upon registering the rental units.

4. No dwelling unit shall be occupied, knowingly by the owner or agent, by a number of persons that is in excess of the requirements outlined in 2003 *International Property Maintenance Code*, Chapter 4, "Light, Ventilation and Occupancy Limits," §PM-404.5, "Overcrowding," or any update thereof.

5. All rental agreements for regulated units shall be in writing or otherwise legally enforceable.

6. The owner or occupant shall not include text in a rental agreement that is contrary to the provisions of this Part.

7. *Addendum to Rental Agreement.* An addendum to each rental agreement for regulated rental units shall be provided by the owner to the occupant before a rental agreement is presented for signing by an occupant. Any alternative versions of this addendum must be pre-approved by the Code Enforcement Officer. The owner shall secure a written acknowledgment from occupant(s) that the occupant(s) have received the addendum. Upon oral or written request by the Borough of Nesquehoning, the owner, within 10 days of the request, shall furnish to the Borough copies of the acknowledgment that the occupant(s) received the addendum.

8. *Evictions.* In the event that an occupant(s) of a regulated rental unit is involved in a third disruptive conduct violation within any 1 year period during which a residential rental license was required or the occupant(s) is/are in violation of any Federal, State, or local law, the Code Enforcement Officer shall issue a written statement to the owner or his manager to order him/her to evict the occupant(s) of the regulated rental unit. If this disruptive conduct was caused by only one occupant then the Code Enforcement Officer shall limit the eviction order to that person. Occupant(s) shall be responsible to prevent their guests from engaging in disruptive conduct on the premises. Once an eviction is ordered, those occupant(s) shall not be permitted to

occupy any area on the same lot for a minimum period of 2 years. In addition, once an eviction is ordered, those occupant(s) shall not be permitted to occupy any dwelling unit or boarding/rooming house unit that is owned by the same person or entity within the Borough of Nesquehoning for a minimum period of 2 years. The owner shall begin eviction proceedings until completion, without interruption, unless the occupant(s) vacate the premises.

A. Failure of the owner to carry out an order to evict occupant(s) shall result in the suspension of the residential rental license and shall be a violation of this Part until such time as the owner commences the eviction process. A second or subsequent failure to carry out an order to evict shall result in a revocation of the residential rental license, suspension or revocation of the residential rental license may be appealed by the owner to the Property Maintenance Board of Appeals or, in the absence thereof, to the Borough Council for a review of the decision to suspend or revoke the license within 10 days of the issuance of the order to evict.

B. This Part shall not limit the ability of an owner to evict tenants in compliance with State law for reasons other than violations of this Part.

C. A requirement to evict occupant(s) shall not apply if a successful appeal is made to the Borough Council, or if the magisterial district judge rules in favor of the occupant(s) during the eviction proceedings, or where a court appeal or other legal action has been filed that would lawfully prevent eviction. [Ord. 2013-1]

D. The Code Enforcement Officer shall maintain a list of occupant(s) who were ordered to be evicted and the affected addresses. Such a list shall be maintained for a minimum period of 3 years and shall be available for public review in accordance with applicable laws.

(Ord. 2009-8, 12/16/2009, §3; as amended by Ord. 2013-1, 6/26/2013)

§11-304. Duties of the Occupant.

1. The occupant(s) shall comply with all obligations imposed upon occupant(s) by this Part, all applicable codes and ordinances of the Borough and all applicable provisions of State law.

2. Occupant(s) shall collect and dispose of all rubbish, garbage and other waste in a clean and sanitary manner, and occupant(s) shall comply with Borough solid waste, sanitation and recycling regulations. Occupant(s) shall keep that part of the premises, which occupant(s) occupies or controls in a clean and sanitary manner.

3. Occupant(s) shall not engage in, nor tolerate nor permit guests on the premises to engage in, any conduct declared illegal under any Federal statute, and/or under the Pennsylvania Crimes Code, 18 Pa.C.S.A. §101 *et seq.*, or Liquor Code, 47 P.S. §1-101 *et seq.*, or the illegal sale or distribution of controlled substances under the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. §780-101 *et seq.*, or their successor laws.

4. Occupant(s) shall not engage in, nor tolerate nor permit guests on the premises to engage in disruptive conduct or other violations of this Part.

A. When police investigate an allegation of disruptive conduct, the police officer shall complete a disruptive conduct report upon a finding that the reported incident did, in his or her judgment, constitute “disruptive conduct” as defined

herein. The information provided in this report shall include, if possible, the identity or identities of the alleged perpetrator(s) of the disruptive conduct and the factual basis for the disruptive conduct.

B. When a police officer issues a disruptive conduct report concerning a regulated rental unit, a copy shall be provided by the police to the Code Enforcement Officer, who shall maintain records of such reports. The Code Enforcement Officer shall mail a copy of the disruptive conduct report to an occupant and the owner or manager after his/her receipt of the report.

C. A criminal or civil citation is not required in order for a disruptive conduct report to be issued.

D. If a citation is issued and successfully prosecuted or a guilty plea entered in a District Court, such citation automatically is considered a disruptive conduct report. However, if an appeal of a citation is filed from a decision of a District Court, the matter shall not be deemed to constitute disruptive conduct unless a finding of guilty is affirmed by a final decision on appeal.

E. The occupant(s) shall not intentionally cause, nor permit, nor tolerate others to cause damage to the premises. Conduct which results in damages in excess of \$500 shall be considered as presumptive evidence of disruptive conduct under this Part.

F. Occupant(s) shall permit a Code Enforcement Officer to conduct inspections of the premises during Borough business hours, after receiving notice from the owner, manager or the Borough.

(Ord. 2009-8, 12/16/2009, §4)

§11-305. Notices.

1. Whenever an Inspector or Code Enforcement Officer determines that any rental unit or premises fails to meet the requirements set forth in the applicable codes, the Inspector or Code Enforcement Officer shall issue a correction notice setting forth the violations and ordering the occupant, owner or agent, as appropriate, to correct such violations. The notice shall:

- A. Be in writing.
- B. Describe the location and nature of the violation.
- C. Establish a reasonable time for the correction of the violation.

2. All notices shall be served upon the occupant, owner or agent, as applicable, personally or by certified mail, return receipt requested. A copy of any notices served solely on an occupant shall also be provided to the owner or agent. In the event service is first attempted by mail and the notice is returned by the postal authorities marked "unclaimed" or "refused," then the Code Enforcement Officer or Police Department shall attempt delivery by personal service on the occupant, owner or agent as applicable. The Code Enforcement Officer or any other designee so appointed by Council shall also post the notice at a conspicuous place on the premises. If personal service directed to the owner or agent cannot be accomplished after a reasonable attempt to do so, then the notice may be sent to the owner or agent, as applicable, at the address stated on the most current registration application for the premises in question, by regular first class mail, postage prepaid. If such notice is not returned by the postal authorities within 5

days of its deposit in the U.S. Mail, then it shall be deemed to have been delivered to and received by the addressee on the fifth day following its deposit in the United States Mail.

3. For purposes of this Part, any notice hereunder that is given to the agent shall be deemed as notice given to the owner.

4. There shall be a rebuttable presumption that any notice that is given to the occupant, owner or agent under this Part shall have been received by such occupant, owner or agent if the notice was served in the manner provided by this Part.

5. Subject to subsection .4 above, a claimed lack of knowledge by the owner or agent, if applicable, of any violation hereunder cited shall be no defense to closure of rental units pursuant to §11-309, as long as all notices prerequisite to such proceedings have been given and deemed received in accordance with the provisions of this Part.

6. All notices shall contain a reasonable time to correct, or to take steps to correct violations of the above. The occupant, owner or agent to whom the notice was addressed may request additional time to correct violations. Requests for additional time must be in writing and either deposited in the U.S. Mail (post-marked) or hand-delivered to the Borough Office within 5 days of receipt of the notice by the occupant, owner or agent. The Borough retains the right to deny or modify time extension requests. If the occupant, owner or agent is attempting in good faith to correct violations but is unable to do so within the time specified in the notice, the occupant, owner or agent shall have the right to request such additional time as may be needed to complete the correction work, which request shall not be unreasonably withheld.

7. Failure to correct violations within the time period stated in the notice of violation shall result in such actions or penalties as are set forth in §11-310 of this Part. If the notice of violation relates to actions or omissions of the occupant, and the occupant fails to make the necessary correction, the owner or agent may be required to remedy the condition. No adverse action shall be taken against the owner or agent, for failure to remedy a condition as long as the owner or agent is acting with due diligence and taking bona fide steps to correct the violation, including, but not limited to, pursuing remedies under a lease agreement with an occupant or tenant. The Borough shall not be precluded from pursuing an enforcement action against any occupant or tenant who is deemed to be in violation.

(Ord. 2009-8, 12/16/2009, §5)

§11-306. Insurance.

In order to protect the health, safety and welfare of the residents of the Borough, it is hereby declared that the Borough shall require hazard and general liability insurance for all property owners letting property for occupancy in the Borough.

A. *Minimum Coverage; Use of Insurance Proceeds.* All owners shall be required to obtain a minimum of \$50,000 in general liability insurance, and hazard and casualty insurance in an amount sufficient to either restore or remove the building in the event of a fire or other casualty. Further, in the event of any fire or loss covered by such insurance, it shall be the obligation of the owner to use such insurance proceeds to cause the restoration or demolition or other repair of the property in adherence to the Building Code and all applicable ordinances.

B. *Property Owner to Provide Borough with Insurance Information.* Owners

shall be required to place their insurance company name, policy number and policy expiration date on their rental property registration form, or in the alternative, to provide the Borough office with a copy of certificate of insurance. A registration certificate (see §11-307 below) shall not be issued to any owner or agent unless the aforementioned information has been provided to the Borough office. The Borough office shall be informed of any change in policies for a particular rental property or cancellation of a policy for said property within 30 days of said change or cancellation.

(Ord. 2009-8, 12/16/2009, §6)

§11-307. Rental Registration and License Requirements.

1. No person shall hereafter occupy, allow to be occupied, advertise for occupancy, solicit occupants for, or let to another person for occupancy any rental unit within the Borough for which an application for license has not been made and filed with the Borough office and for which there is not an effective license. Initial application and renewal shall be made upon forms furnished by the Borough office for such purpose and shall specifically require the following minimum information:

A. Name, mailing address, street address and phone number of the owner, and if the owner is not a natural person, the name, address and phone number of a designated representative of the owner.

B. Name, mailing address, street address and phone number of the agent of the owner, if applicable.

C. The street address of the premises being registered.

D. The number and types of units within the premises (dwelling units or rooming units).

2. The owner or agent shall notify the Borough office of any changes of the above information within 30 days of such change.

3. The initial application for registration and licensing shall be made by personally filing an application with the Borough office by January 1, 2008. Thereafter, any new applicant shall file an application before the premises is let for occupancy, or within 30 days of becoming an owner of a current registered premises. One application per property is required, as each property will receive its own license.

4. Upon receipt of the initial application or any renewal thereof and the payment of applicable fees as set forth in §11-308 below, the Borough office shall issue a rental registration license to the owner within 30 days of receipt of payment.

5. Each new license issued hereunder, and each renewal license, shall expire on December 31 of each year. The Borough office shall mail license renewal applications to the owner or designated agent on or before December 1 of each year. Renewal applications and fees may be returned by mail or in person to the Borough office. A renewal license will not be issued unless the application and appropriate fee has been remitted.

(Ord. 2009-8, 12/16/2009, §7)

§11-308. Fees.

1. *Annual License Fee.* There shall be a license fee for the initial license and an

annual renewal fee thereafter. Fees shall be assessed against and payable by the owner, in the amount as established from time to time by resolution of the Borough Council, payable at the time of the initial registration and annual renewal, as more specifically set forth in §11-307 above. [*Ord. 2013-1*]

A. Application for occupancy permits shall be made upon forms furnished by the Borough office for such purpose and shall specifically require the following minimum information:

- (1) Name of occupant.
- (2) Mailing address of occupant.
- (3) Street address of rental unit for which occupant is applying if different from mailing address.
- (4) Name of landlord.
- (5) Date of lease commencement.
- (6) Proof of age if claiming exemption from the permit fee.
- (7) Proper identification showing proof of legal citizenship and/or residency.

B. Upon receipt of the application and the payment of applicable fees as set forth above, the Borough office shall issue an occupancy permit to the occupant immediately.

(*Ord. 2009-8, 12/16/2009, §8; as amended by Ord. 2013-1, 6/26/2013*)

§11-309. Enforcement.

1. The following persons are hereby authorized to enforce this Part:

- A. The Chief of Police.
- B. Any police officer.
- C. Code Enforcement Officer.
- D. The Fire Chief.
- E. Health Officer.
- F. Other Borough designee.

2. The designation of any person to enforce this Part or authorization of an inspector, when in writing, and signed by a person authorized by subsection .1, is to designate or authorize an inspector to enforce this Part, shall be prima facie evidence of such authority before the magisterial district judge, Court of Common Pleas, or any other court, administrative body of the Borough, or of this Commonwealth, and the designating director or supervisor need not be called as a witness thereto.

(*Ord. 2009-8, 12/16/2009, §9*)

§11-310. Failure to Correct Violations.

If any person shall fail, refuse or neglect to comply with a notice of violation as set forth in §11-304 above, the Borough shall have the right to file an enforcement action with the magisterial district judge against any person the Borough deems to be in violation. If, after hearing, the magisterial district judge determines that such person or persons are in violation, the magisterial district judge may assess fines in accordance

with §11-311 below on a daily basis until such violations are corrected. Such order shall be stayed pending any appeal to the Court of Common Pleas.

(*Ord. 2009-8, 12/16/2009, §10*)

§11-311. Failure to Comply with this Part; Penalties.

1. Except as provided in subsection .2 below, any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense; provided, however, that failure to register or renew or pay appropriate fees in a timely manner shall not constitute a continuing offense but shall be a single offense not subject to daily fines.

2. Any owner or agent who shall allow any occupant to occupy a rental unit without first obtaining an occupancy permit is in violation of §11-307.2 and shall, upon conviction thereof after notice and a hearing before a magisterial district judge, be sentenced to pay a fine of not more than \$1,000 for each occupant that does not have an occupancy permit and \$1,000 per occupant per day for each day that an owner or agent continues to allow each such occupant to occupy the rental unit without an occupancy permit after owner or agent is given notice of such violation pursuant to §11-304 above. Owner or agent shall not be held liable for the actions of occupants who allow additional occupancy in any rental unit without the owner or agent's written permission, provided that owner or agent takes reasonable steps to remove or register such unauthorized occupants within 10 days of learning of their unauthorized occupancy in the rental unit. Any occupant having an occupancy permit but who allows additional occupancy in a rental unit without first obtaining the written permission of the owner or agent and without requiring each such additional occupant to obtain his or her own occupancy permit is in violation of §11-307.2 of this Part and shall, upon conviction thereof after notice and a hearing before the magisterial district judge, be sentenced to pay a fine of not more than \$1,000 for each additional occupant permitted by an occupant that does not have an occupancy permit and \$1,000 per additional occupant per day for each day that occupant continues to allow each such additional occupant to occupy the rental unit without an occupancy permit after occupant is given written notice of such violation by owner or agent or pursuant to §11-304 above.

(*Ord. 2009-8, 12/16/2009, §11; as amended by Ord. 2013-1, 6/26/2013*)

§11-312. Applicability and Exemptions to this Part.

The provisions of this Part shall not apply to the following properties, which are exempt from registration and license requirements:

A. Rental units owned by public authorities as defined under the Pennsylvania Municipal Authorities Act, 53 Pa.C.S.A. §5601 *et seq.*, and dwelling units that are part of an elderly housing multi-unit building which is 75 percent occupied by individuals over the age of 65.

B. Multi-dwelling units that operate under the Internal Revenue Service Code, §42, concerning entities that operate with an elderly component.

C. Properties which consist of a double home, half of which is let for occupancy and half of which is owner-occupied as the owner's residence.

(Ord. 2009-8, 12/16/2009, §12)

§11-313. Confidentiality of Information.

All registration information collected by the Borough under this Part shall be maintained as confidential and shall not be disseminated or released to any individual, group or organization for any purpose except as provided herein or as required by law. Information may be released only to authorized individuals when required during the course of an official Borough, State or Federal investigation or inquiry.

(Ord. 2009-8, 12/16/2009, §13)

Property Owner / Application Information: (Information must match Carbon County property tax records)

Full Name: _____ Signature: _____

Address: _____

Phone Numbers: (Daytime) _____ (Cell) _____ (Evening/Fax) _____

Property Manager's Information: (Applicable, if owner resides more than 30 miles from Nesquehoning Borough)

Full Name: _____ Signature: _____

Address: _____

Phone Numbers: (Daytime) _____ (Cell) _____ (Evening/Fax) _____

FOR OFFICE USE ONLY

Property Account No.: _____ Date Payment/Application Received: _____

Amount Received:\$ _____ Check Number: _____ Cash: _____ Rec'd By: _____

Rental Addendum Received: Yes _____ No _____
(Attach copy to this application)

RESIDENTIAL LICENSE NUMBER ISSUED: _____

**APPENDIX A – BOROUGH OF NESQUEHONING
REQUIRED ADDENDUM TO RESIDENTIAL RENTAL AGREEMENT**

This Addendum to Residential Rental Agreement is made this _____ day of _____, 200 , and is incorporated into and shall be deemed to amend and supplement the Residential Rental Agreement made by the undersigned Tenant and Owner, their heirs, successors and assigns, dated _____, 200 . The Residential Rental Agreement and this Addendum pertain to the Premises described in said Agreement and is located at _____ . This Addendum is required by the Residential Rental Licensing and Inspection Ordinance of the Borough of Nesquehoning.

ADDITIONAL COVENANTS AND OBLIGATIONS

In addition to the covenants and obligations set forth in the aforementioned Residential Rental Agreement, Tenant and Landlord hereby covenant and agree as follows:

A. Landlord's Obligations

1. The landlord shall keep and maintain the leased Premises in compliance with all applicable Codes and Ordinances of the Borough of Nesquehoning and all applicable State & Federal laws and shall keep the leased Premises in good and safe condition.
2. The Manager for the Rental Unit shall be as follows:

Name: _____

Street Address: _____

Mailing Address (if different): _____

Daytime Phone Number: _____

Evening Phone Number: _____

3. The Landlord shall be responsible for regularly performing all routine maintenance including lawn mowing and ice and snow removal, and for making any and all necessary repairs in and around the leased Premises, except for any specific tasks which the parties hereby agree shall be delegated to the Tenant and which are identified as follows:

B. Tenant's Obligations

1. The Tenant shall comply with all Codes and Ordinances of the Borough of Nesquehoning and all applicable State laws.
2. The Tenant agrees that the maximum number of unrelated persons permitted within the Regulated Rental Unit at any time shall be three (3), unless a more restrictive provision is established in the lease, or unless a higher number has specifically been allowed in the Borough Zoning Permit.
3. The Tenant shall dispose of all rubbish, garbage and other waste from the leased Premises in a clean and safe manner.

4. The Tenant recognizes that three (3) or more Disruptive Conduct Reports in any one (1) year period will result in eviction from the property under the Borough of Nesquehoning Residential Rental Licensing and Inspection Ordinance. The Tenant recognizes that they are responsible for the behavior of the guests on the property and shall not permit them to engage in disruptive conduct.
 - a. Disruptive Conduct is defined as a form of conduct, action, incident or behavior perpetrated, caused or permitted by an Occupant or Guest of a Regulated Rental Unit that:
 - i. is a violation of Ordinances of the Borough of Nesquehoning and that is so loud, untimely as to time of the day, offensive and/or nuisance-causing that it unreasonably interferes with the peaceful enjoyment by other person of their premises or causes damage to property that is owned by others,
 - ii. involves music or noise that is disruptive to persons occupying a different dwelling unit,
 - iii. involves music that is audible from a street, sidewalk, or dwelling from a minimum distance of fifty (50) feet from the premises where the sound is originating,
 - iv. is the subject of a criminal citation for Disorderly Conduct, or
 - v. is the subject of a criminal citation under the Pennsylvania Crimes Code or the Pennsylvania Liquor Code.
5. The Tenant shall not cause, not permit nor tolerate to be caused, damage to the premises that is beyond standard wear and tear.
6. The Tenant agrees to make the Rental Unit available for a scheduled inspection by Borough Code Enforcement Officers during reasonable hours, after the Tenant receives advance notice from the Owner or Manage of the Rental Unit that the Borough has requested an inspection.
7. The Tenant acknowledges and agrees that this tenancy is subject to the provisions of the Residential Rental License and Inspection Ordinance of the Borough of Nesquehoning and that failure to comply with such ordinance may result in eviction of occupants or suspension or revocation of the Owner's privilege to rent a residential unit.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

Witness

Tenant

Witness

Tenant

Witness

Property Owner