

BOROUGH OF DUNBAR,  
FAYETTE COUNTY, PENNSYLVANIA

ORDINANCE NO. 219

AN ORDINANCE PROVIDING FOR THE ASSESSMENT, LEVY AND COLLECTION OF A TAX, FOR GENERAL REVENUE PURPOSES, OF ONE (1%) PER CENTUM ON EACH DOLLAR ON ALL REAL ESTATE TRANSFERS WITHIN THE BOROUGH OF DUNBAR, TO BE PAID AT THE TIME OF TRANSFER; PROVIDING A METHOD OF COLLECTION THE TAX IMPOSED; PROVIDING CERTAIN EXEMPTIONS; AND IMPOSING PENALTIES.

BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Dunbar, Fayette County, Pennsylvania, under and by virtue of the Local Tax Enabling Act of the General Assembly of the Commonwealth of Pennsylvania, No. 511, duly enacted December 31, 1965, and it is hereby enacted and ordained by and with the authority of the same as follows:

Section 1. This Ordinance shall be known as the "REAL ESTATE TRANSFER TAX ORDINANCE OF THE BOROUGH OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA." The provisions hereof shall become effective on September 16, 1978.

Section 2. Definitions.

The following words and phrases when used in this Ordinance shall have the meanings ascribed to them in this

section, except when the content clearly indicates a different meaning:

"Association" - A partnership, limited partnership, or any other form of unincorporated enterprise, owned or conducted by two or more persons.

"Corporation" - A corporation or joint-stock association organized under the laws of the United States, or any State or territory thereof, or foreign country, or dependancy, including, but not limited to, banking institutions.

"Person" - Every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "Person" as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof. The singular shall include the plural and the masculine shall include the feminine and the neuter.

"Borough" - Shall mean the area within the corporate limits of the BOROUGH OF DUNBAR.

"Collector" - The person appointed and empowered by the Borough of Dunbar from time to time to collect any taxes imposed by this Ordinance.

"Taxpayer" - Any person required hereunder to pay a realty transfer tax.



"Transaction" - The transfer of real property by the active or constructive delivery of any instrument of conveyance whether or not such instrument is recorded.

"Transfer of Real Property" - The transfer of title to any land, tenement or hereditament, or to any interest therein, regardless of where the instrument or instruments making the transfer are made, executed or delivered or where the actual settlement on such transfer takes place.

"Value" - The amount of the actual consideration for any transaction involving the transfer of real property, including liens or other encumbrances thereon and ground rents, or a commensurate part of the liens or encumbrances thereon and ground rents where such liens or other encumbrances and ground rents also encumber or are charged against other lands, tenements or hereditaments; provided, that where the instrument of conveyance sets forth a nominal and not the actual consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale, or, in the case of a gift, or any other transaction without consideration or with only partial consideration, from the actual monetary worth of the property conveyed which, in any event, shall not be less than the amount of the assessment of such lands, tene-

ments or hereditaments for the Borough's real estate tax purposes.

Section 3. Realty Transfer Tax Levy.

Except as hereinafter provided, a tax to provide revenue for general purposes is hereby levied, assessed and imposed on the transfer of real property situate within the Borough of Dunbar at the rate of one (1%) per centum of the value of the transaction, which tax shall be due and payable at the time the transaction is effected. In the case of a transfer of real property situate partly within and partly without the Borough of Dunbar, such tax shall be based upon the value of the portion thereof situate within the boundaries of the Borough of Dunbar.

Section 4. Non-Taxable Transfers.

The realty transfer tax levied by this Ordinance shall not be imposed upon the transfer of real property when the transfer is:

(1) By Will or Mortgage, or the Intestate Laws of the Commonwealth of Pennsylvania;

(2) By the owner of previously occupied and residential premises to a builder of new residential premises when such previously occupied residential premises is taken in

trade by such builder as part of the consideration from the purchaser of a new previously unoccupied single-family residential premises;

(3) Between corporations operating housing projects pursuant to the housing and redevelopment assistance law and the shareholders thereof;

(4) Between non-profit industrial development agencies and industrial corporations purchasing from them;

(5) To non-profit industrial development agencies;

(6) Between Husband and Wife;

(7) Between persons who were previously husband and wife, but have since been divorced, provided such transfer is made within three (3) months of the date of the granting of the final Decree in Divorce and the property or interest therein, subject to such transfer, was acquired by the husband and wife, or husband or wife, prior to the granting of the final Decree in Divorce;

(8) Between parent and child or the spouse of such a child;

(9) Between parent and trustee for the benefit of a child or the spouse of such child;

(10) Between brother and sister or brother and brother or sister and sister or the spouse of such brother or sister;



(11) By and between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises;

(12) Made without consideration to correct a prior instrument of transfer;

(13) To the United States, the Commonwealth of Pennsylvania, or to any of their instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance is made within one (1) year from the date of condemnation;

(14) A lease only;

(15) To a trustee under a recorded trust agreement for the express purpose of holding title in trust as security for a debt contracted at the time of the transfer under which the trustee is not the lender and requiring the trustee to make reconveyance to the grantor-borrower upon the repayment of the debt.

#### Section 5. Personal Liability.

The transferor, or transferee, jointly and severally, of any taxable transfer of real property shall be and remain

liable for any unpaid realty transfer tax and interest or penalty thereon imposed by this Ordinance.

Section 6. Penalty.

Any realty transfer tax imposed by this Ordinance which is not paid when due shall be charged with a penalty or interest thereon at the rate of one-half (1/2) of one (1%) per cent per month from the due date until paid, which penalty or interest shall be added to the tax by the realty transfer tax collector and collected by him.

Section 7. Determination, Redetermination and Appeal.

In the event that any realty transfer tax imposed by this Ordinance is not paid when due, the Collector is hereby authorized and empowered to make a determination of the tax and interest or penalty due based upon the information used in determining tax due the Commonwealth of Pennsylvania under the Realty Transfer Tax Act, approved December 27, 1951, as amended, where such Commonwealth tax is imposed, and otherwise upon any information that he shall obtain. Notice of such determination shall be sent by Registered Mail to the taxpayer who shall have ninety (90) days from the date such notice was mailed to file with the Borough Council of the Borough of Dunbar, a petition for the

redetermination of such tax, stating specifically the reasons which the petitioner believes entitle him to such redetermination and attaching such affidavits as petitioner shall desire in support of his petition. The Borough Council of the Borough of Dunbar shall act upon the petition within six (6) months from the date of filing and notify the petitioner promptly of such action. Petitioner shall have the right to appeal to the Court of Common Pleas of Fayette County, Pennsylvania, from the action taken by the Borough, provided such appeal is perfected within six (6) months from the date said last mentioned notice was mailed to petitioner.

Section 8. Lien.

Any realty transfer tax determined to be due hereunder and remaining unpaid, and all penalties and interest thereon, shall be, and remain until paid, a lien in favor of the Borough upon the real property or interest therein which is the subject of the taxable transaction, which lien shall be perfected as to any subsequent owner of said real property or interest by the filing of a notice thereof in the Office of the Prothonotary of Fayette County, Pennsylvania.

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Section 9. Violations and Penalties.

Any persons, co-partnership or corporation who shall fail, neglect or refuse to comply with any of the terms or provisions of this Ordinance or of any regulation or requirement pursuant thereto and authorized thereby, shall in addition to other fines or penalties provided by law or imposed by any other section of this Ordinance, upon summary conviction before any District Magistrate, be sentenced to pay a fine not to exceed Three Hundred Dollars (\$300.00) and costs of prosecution of each such offense, and in default of payment of said fine within ten (10) days from the imposition thereof to be imprisoned for a period not exceeding ninety (90) days.

Section 10. Receipt and Payment to Borough.

The Collector shall furnish a receipt for all monies collected by him, keep a record showing the amount received from each taxpayer, the nature thereof, and the date of such collection, and shall each month pay over the same to the Borough with a report thereof. All such receipts, together with all other taxes, interest, fines and penalties received, collected or recovered under the provisions of this Ordinance shall be paid into the Borough Treasury for the use and benefit of the Borough.

Section 11. Saving Clause and Severability.

(a) The validity of any Ordinance or part of any Ordinance providing for or relating to the imposition, levy or collection of any other tax imposed by the Borough or any Ordinance which may under even date herewith or may hereafter be passed by said Borough shall not be affected or impaired by anything contained in this Ordinance.

(b) If any section, clause, sentence, word or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not effect or impair any of the remaining provisions, sentences, clauses, sections, words or parts of this Ordinance. It is hereby declared as the intent of said Board of Supervisors that this Ordinance would have been adopted as if such unconstitutional, illegal or invalid sentence, clause, section, word or part thereof had not been included herein.

ORDAINED AND ENACTED THIS 18 day of November,  
1985.

BOROUGH COUNCIL OF DUNBAR,  
FAYETTE COUNTY, PENNSYLVANIA

ATTEST:

Anna Catherine Harper  
Anna Catherine Harper,  
Secretary  
(SEAL)

BY: Robert S. Patroca  
President of Council

EXAMINED, APPROVED AND SIGNED BY ME, THIS 19 DAY  
OF November, 1985.

Kenneth J. Miller  
MAYOR

ATTEST:

Anna Catherine Harper  
SECRETARY

MCCUE & WATSON  
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AN ORDINANCE ESTABLISHING A 15  
TON WEIGHT LIMIT ON THE  
CONNELLVILLE STREET BRIDGE  
AND PROVIDING PENALTIES FOR  
VIOLATIONS THEREOF.

No. 220

BE IT ORDAINED AND ENACTED and it is hereby ordained  
and enacted by the Council of the Borough of Dunbar as  
follows:

Section I. Vehicle Weight Limit Established  
for Connellsville Street Bridge

By authority granted by Section 4902(a) of the Vehicle  
Code of the Commonwealth of Pennsylvania, 75 Pa. C.S.A §4902  
(a), it shall be unlawful for any person or persons to drive  
any vehicle or combination on the "Connellsville Street  
Bridge" located in the Borough of Dunbar having a gross  
weight in excess of 15 tons (30,000 pounds).

Section II. Penalty for Violation

Any person who violates Section I of this Ordinance  
shall be prosecuted under Sections 4902(a) and 4902(g[1]) of  
the Vehicle Code, 75 Pa. C.S.A §§4902(a), 4902(g[1]), and,  
upon conviction, shall be sentenced to pay a fine of One  
Hundred Fifty Dollars (\$150.00) plus One Hundred Fifty  
Dollars (\$150.00) for each 500 pounds or part thereof, in

excess of 3,000 pounds over the maximum allowable weight of 15 tons, and costs.

Section III. Effective Date

This Ordinance shall become effective on NOVEMBER 1, 1986.

"ORDINANCE ENACTED" into an Ordinance this 20<sup>th</sup> day of OCTOBER, 1986.

BOROUGH COUNCIL OF DUNBAR,  
PENNSYLVANIA

BY: Mark Tucker Oct. 20  
PRESIDENT

ATTEST:

Anna C. Harper  
SECRETARY

Examined, approved and signed by me, this 20<sup>th</sup> day of OCTOBER, 1986.

ATTEST:

Reddy W. Bentley  
MAYOR

Anna C. Harper  
SECRETARY

5/31/12

PER GLENN Wolfe of  
WIDMER ENGINEER, this  
Bridge was Replaced in  
19 and no longer  
has a weight limit

ORDINANCE <sup>#</sup>220



ORDINANCE NO. 222

AN ORDINANCE OF THE BOROUGH OF DUNBAR  
REGULATING THE STORAGE OF MOTOR VEHICLES  
OR PARTS THEREOF ON PRIVATE GROUNDS;  
REQUIRING THE REMOVAL, REPAIR, OR  
ALTERATION OF THE CONDITIONS  
CONSTITUTING A NUISANCE OR DANGER TO THE  
CITIZENS; REPEALING ORDINANCE NO. 199;  
AND PRESCRIBING PENALTIES FOR  
VIOLATIONS.

The Council of the Borough of Dunbar hereby ordains:

SECTION 1. FINDINGS OF FACT AND DECLARATION OF POLICY

(a) FINDINGS OF FACT. In the Borough of Dunbar, Fayette County, Pennsylvania, motor vehicles have been and continue to be abandoned, dismantled, wrecked, junked and otherwise discarded or left about on private premises other than in approved junk yards or other appropriate places within the Borough. The widespread accumulation and storage of such vehicles interferes with the enjoyment of and reduces the value of private property throughout the Borough, creates severe health and safety hazards to children and adult residents of the Borough of Dunbar and creates, extends and aggravates community blight. The need to protect the public health, safety and welfare of the citizens of the Borough of Dunbar mandates that the Council of Dunbar Borough take necessary steps to regulate,

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abate or prohibit the accumulation and storage of motor vehicles on private property throughout the Borough.

(b) DECLARATION OF POLICY. The purpose of this Ordinance is to protect the health, safety and welfare of the citizens of the Borough of Dunbar; to insure orderly and efficient growth and development of the Borough of Dunbar; to diminish and eliminate community blight in the Borough of Dunbar; to preserve and protect the enjoyment, use and value of private property throughout the Borough of Dunbar.

#### SECTION 2. DEFINITIONS

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

ENFORCEMENT OFFICER - the official designated herein or otherwise charged by the Borough of Dunbar with the responsibilities of administering this Ordinance, or the official's authorized representative.

LESSEE - owner for the purpose of this Ordinance when the lessor holds the lessee responsible for maintenance and repair of the leased premises.

MOTOR VEHICLE - any type of mechanical device, propelled by a motor, in which persons or property may be transported upon public streets or highways, and including trailers or semi-trailers pulled thereby.

NUISANCE - any condition, structure or improvement which shall constitute a threat or potential threat to the health, safety or welfare of the citizens of the Borough of Dunbar.

OWNER - the actual owner, agent or custodian of the premises on which motor vehicles are stored, whether individual or partnership, association, or corporation.

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

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

### SECTION 3. MOTOR VEHICLE NUISANCES PROHIBITED

It shall be unlawful for any person, owner or lessee to maintain, store or permit a motor vehicle nuisance upon the open private grounds of such person, owner or lessee within the Borough of Dunbar. A motor vehicle nuisance shall include any motor vehicle which which does not have a current registration, current license and current valid inspection sticker or any motor vehicle which is unable to move under its own power and has any of the following physical defects:

1. Broken windshields, mirrors or other glass, with sharp edges;



2. One or more flat or open tires or tubes which could permit vermin harborage.

3. Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.

4. Any body parts with sharp edges including holes resulting from rust.

5. Missing tires resulting in unsafe suspension of the motor vehicle.

6. Upholstery which is torn or open which could permit animal vermin harborage.

7. Broken headlamps or tail-lamps with sharp edges.

8. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.

9. Protruding sharp objects from the chassis.

10. Broken vehicle frame suspended from the ground in an unstable manner.

11. Leaking or damaged oil pan or gas tank which could cause fire or explosion.

12. Exposed battery containing acid.

13. Inoperable locking mechanism for doors or trunk.

14. Open or damaged floor boards including trunk and firewall.

15. Damaged bumpers pulled away from the perimeter of vehicle.

16. Broken grill with protruding edges.
17. Loose or damaged metal trim and clips.
18. Broken communication equipment antennae.
19. A motor vehicle suspended on unstable supports.
20. Such other defects which could threaten the health, safety and welfare of the citizens of the Borough of Dunbar.

The terms of this Section 3 shall not apply to the maintenance or storage of any motor vehicle nuisance upon the premises of a business enterprise operated in accordance with all applicable zoning rules and regulations when the maintenance or storage of such motor vehicle nuisance is a necessary part of the operation of the business enterprise. The terms of this Section 3 shall also not apply to the maintenance or storage of a motor vehicle nuisance in a junk yard, storage yard or other depository operated in accordance with all applicable zoning rules and regulations.

#### SECTION 4. STORAGE OF MOTOR VEHICLE NUISANCES PERMITTED

Any person, owner or lessee who has one or more motor vehicle nuisances as defined in section 3 above may store such vehicle(s) in the Borough of Dunbar only in strict compliance with the following conditions and restrictions and such other regulations as may from time to time be adopted by resolution of the Council of Dunbar Borough.

First, such person, owner or lessee must, apply for a permit for either temporary or permanent storage and pay a fee to the Borough of Dunbar such as may be provided from time to time by resolution of the Borough of Dunbar.

Secondly, the motor vehicle nuisance(s) must be stored within a garage or other enclosed building or, outside within an opaqued fence at least six (6) feet high which is locked at all times when unattended. With the special approval of the Borough of Dunbar motor vehicle nuisances may also be stored outside in an area enclosed by a chain link fence, at least six (6) feet high, screened by shrubbery around the perimeter to the height of the fence, with an unobstructed gate capable of admitting fire or emergency equipment. Such gate shall remain locked at all times when unattended. In addition, all gas and oil or other flammable liquid shall be removed from the motor vehicle and it shall be kept free of vermin infestation while being stored. The total area of storage of motor vehicle nuisances may not exceed \_\_\_\_\_ square feet.

Nothing herein is intended or shall be construed to authorize or permit the storage of motor vehicle nuisances contrary to the provisions of the Fayette County Zoning Ordinance.



SECTION 5. INSPECTION; NOTICE TO COMPLY

The Enforcement Officer is hereby empowered to inspect any premises on which motor vehicles are stored to determine if there is compliance with the provisions of this Ordinance. If noncompliance with the provisions of this Ordinance constitutes a nuisance, or if any condition, structure, or improvement poses a threat to the health, safety, or welfare of the public, he shall issue a written notice to be served by registered or certified mail upon the owner of said premises, or, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.

The written notice shall specify the condition or structure or improvement complained of, and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth therein within fifteen (15) days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within such time as deemed reasonable by the Enforcement Officer under the circumstances.

SECTION 6. AUTHORITY TO REMEDY NONCOMPLIANCE

If the owner or lessee of any premises on which motor vehicles are stored does not comply with the notice to abate the conditions within the time limit prescribed, the

Borough of Dunbar shall have the authority to take any lawful measures to correct the conditions and to collect all costs incurred in making such corrections from the owner or lessee or other responsible person. The Borough of Dunbar, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

#### SECTION 7. HEARING

Any person aggrieved by the decision of the Enforcement Officer may request and shall then be granted a hearing before the Borough of Dunbar; provided, he files a written petition with the Borough of Dunbar within ten (10) days after notice of the Enforcement Officer's decision. The written petition shall request such hearing and shall set forth a brief statement of the grounds for the request. The hearing shall commence not later than thirty (30) days after the date on which the petition was filed unless postponed for sufficient cause.

After such hearing, the Borough of Dunbar shall sustain, modify or overrule the action of the Enforcement Officer.

#### SECTION 8. PENALTIES

Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than Three Hundred Dollars (\$300.00), or to undergo imprisonment for a term not to exceed ninety (90) days or be sentenced to pay a fine and undergo imprisonment. Each day that a violation of this Ordinance continues shall constitute a separate offense.

#### SECTION 9. REMEDIES NOT MUTUALLY EXCLUSIVE

The remedies provided herein for the enforcement of this Ordinance, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Borough of Dunbar.

#### SECTION 10. REPEALER

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed. The following ordinances or parts thereof are specifically repealed:

- (a) Ordinance No. 199 enacted

#### SECTION 11. SEVERABILITY

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality



or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough of Dunbar that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 12. EFFECTIVE DATE

This Ordinance shall become effective on July 15, 1989.

BOROUGH OF DUNBAR

BY: Reddy W. Buntz

BY: John Maddas

BY: James E. Martin

ATTEST:

Anna Catherine Harper  
ANNA CATHERINE HARPER  
SECRETARY  
(SEAL)

**McCUE & WATSON**

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ORDINANCE NO. 223

AN ORDINANCE OF THE BOROUGH OF DUNBAR  
PROHIBITING DRINKING OF INTOXICATING  
LIQUOR OR ALCOHOLIC BEVERAGE OF ANY KIND  
UPON ANY STREET, PARK, PLAYGROUND,  
PUBLIC GROUND OR VACANT LOT IN THE  
BOROUGH AND PRESCRIBING PENALTIES FOR  
VIOLATIONS.

The Council of the Borough of Dunbar hereby ordains and  
enacts the following Ordinance:

Section I. Definitions.

Person - a natural person, firm, partnership,  
association, corporation or other legal entity.

In this Ordinance, the singular shall include the  
plural, the plural shall include the singular, and the  
masculine shall include the feminine and the neuter.

Section II. Drinking of Intoxicants Unlawful in  
Streets, Alleys, Public Grounds and Vacant Lots .

It shall be unlawful for any person to engage in  
drinking any ale, beer, wine, whiskey or other intoxicating  
liquor or alcoholic beverage, of any kind whatsoever, in or  
upon any street or alley in the Borough of Dunbar (whether  
the same shall be designated and named a street, alley,  
lane, avenue or highway) or in or upon any park, playground  
or public ground in the Borough, or upon any vacant lot in  
the Borough.

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Section III. Penalty for Violations.

Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than Three Hundred Dollars (\$300.00) and costs of prosecution, or, in default of payment of such fine and costs, to undergo imprisonment for a term not to exceed ninety (90) days.

Section IV. Severability.

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough of Dunbar that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

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Section V. Effective Date.

This Ordinance shall become effective on July 15, 1989.

BOROUGH OF DUNBAR

BY: Reddy M. Butler

BY: John Maddas

BY: James E. Martin

ATTEST:

Anna Catherine Harper  
ANNA CATHERINE HARPER  
SECRETARY  
(SEAL)





AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A BUILDING PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH BUILDING PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE BOROUGH OF DUNBAR WHICH ARE SUBJECT TO FLOODING; AND ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL, OR REFUSE TO COMPLY WITH, THE REQUIREMENTS OF THIS ORDINANCE.

BE IT ENACTED AND ORDAINED by the Borough Council of Dunbar Borough, Fayette County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

**ARTICLE I - GENERAL PROVISIONS**

**Section 1.00 - Intent**

The intent of this Ordinance is to:

- A. Promote the general health, welfare and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with federal and state floodplain management requirements.

**Watson & Mundorff**

ATTORNEYS-AT-LAW

PROFESSIONAL BUILDING, SUITE 2A  
110 SOUTH ARCH STREET  
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### **Section 1.01 - Applicability**

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough of Dunbar unless a Building Permit has been obtained from the Building Permit Officer.
- B. A Building Permit shall not be required for minor repairs to existing buildings or structures.

### **Section 1.02 - Abrogation and Greater Restrictions**

This Ordinance supersedes any other conflicting provision which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.

### **Section 1.03 - Severability**

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

### **Section 1.04 - Warning and Disclaimer of Liability**

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural cause, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified floodplain area, or that land uses permitted within such areas will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the Borough of Dunbar or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

## **ARTICLE II - ADMINISTRATION**

### **Section 2.00 - Building Permits Required**

Building Permits shall be required before any construction or development is undertaken within any area of the Borough of Dunbar.

### **Section 2.01 - Issuance of Building Permit**

- A. The Building Permit Officer shall issue a Building Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- B. Prior to the issuance of any building permit, the Building Permit Officer shall review the application for permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); the U. S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Borough of Dunbar, and until all required permits or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.

In addition, the Federal Insurance Administrator and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified by the Borough of Dunbar prior to any alteration or relocation of any watercourse.

### **Section 2.02 - Application Procedures and Requirements**

- A. Application for such a building permit shall be made, in writing, to the Building Permit Officer on forms supplied by the Borough of Dunbar. Such application shall contain the following:
  - 1. Name and address of applicant.



2. Name and address of owner of land on which proposed construction is to occur.
  3. Name and address of contractor.
  4. Site location.
  5. Listing of other permits required.
  6. Brief description of proposed work and estimated cost.
  7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Building Permits shall provide all the necessary information in sufficient detail and clarity to enable the Building Permit Officer to determine that:
- (a) all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
  - (b) all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate floodplain damage; and
  - (c) adequate drainage is provided so as to reduce exposure to flood hazards.

Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in Section 5.01) as may be required by the Building Permit Officer to make the above determination;

1. A completed Building Permit Application Form.
2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
  - (a) north arrow, scale, and date;
  - (b) topographic contour lines, if available;
  - (c) all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;



- (d) the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
  - (e) the location of all existing streets, drives, and other accessways; and
  - (f) the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
- (a) the proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929;
  - (b) the elevation of the one hundred (100) year flood;
  - (c) if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood; and
  - (d) detailed information concerning any proposed floodproofing measures.
4. The following data and documentation:
- (a) documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area (Special Flood Plain Area), when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one foot at any point.
  - (b) a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the one hundred (100) year flood.

Such statement shall include a description of the type

and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.

- (c) detailed information needed to determine compliance with Section 4.03 F., Storage, and Section 4.04, Development Which May Endanger Human Life, including:
  - (1) the amount, location and purpose of any materials or substances referred to in Sections 4.03 F. and 4.04 which are intended to be used, produced, stored or otherwise maintained on site.
  - (2) a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 4.04 during a one hundred (100) year flood.
- (d) the appropriate component of the Department of Environmental Resources' "Planning Module for Land Development."
- (e) where any excavation of grading is proposed, a plan meeting the requirement of the Department of Environmental Resources, to implement and maintain erosion and sedimentation control.

#### **Section 2.03 - Review by County Conservation District**

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Building Permit Officer to the County Conservation District for review and comment prior to the issuance of a building permit. The recommendations of the Conservation District shall be considered by the Building Permit Officer for possible incorporation into the proposed plan.

#### **Section 2.04 - Review of Application by Others**

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Building Permit Officer to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.



### **Section 2.05 - Changes**

After the issuance of a building permit by the Building Permit Officer, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Building Permit Officer. Requests for any such change shall be in writing, and shall be submitted by the applicant to Building Permit Officer for consideration.

### **Section 2.06 - Placards**

In addition to the building permit, the Building Permit Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Building Permit Officer.

### **Section 2.07 - Start of Construction**

Work on the proposed construction and/or development shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Building Permit Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Building Permit Officer to approve such a request.

### **Section 2.08 - Inspection and Revocation**

- A. During the construction period, the Building Permit Officer or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.
- B. In the discharge of his duties, the Building Permit Officer shall have the authority to enter any building, structure,

premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Ordinance.

- C. In the event the Building Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Building Permit Officer shall revoke the building permit and report such fact to the Board for whatever action it considers necessary.
- D. A record of all such inspections and violations of this ordinance shall be maintained.

#### Section 2.09 - Fees

Applications for a building permit shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Building Permit Officer at the following rates:

<u>Estimated Cost</u>	<u>Fee</u>
\$ 0.00 to \$ 200.00	\$ .00
201.00 to \$1,000.00	5.00
Each additional \$1,000.00 or part thereof beyond the first \$1,000.000.	1.00

#### Section 2.10 - Enforcement

##### A. Notices

Whenever the Building Permit Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulation adopted pursuant thereto, the Building Permit Officer shall give notice of such alleged violation as hereinafter provided. Such notice shall

- (a) be in writing;
- (b) include a statement of the reasons for its issuance;
- (c) allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;



- (d) be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
- (e) contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance.

**B. Penalties**

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Building Permit Officer or any other authorized employee of the municipality shall be guilty of an offense and, upon conviction, shall pay a fine to the Borough of Dunbar of not less than Twenty-five and 00/100 Dollars (\$25.00) nor more than Three Hundred and 00/100 Dollars (\$300.00) plus costs of prosecution. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed ten (10) days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or any building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Board to be a public nuisance and abatable as such.

**Section 2.11 - Appeals**

- A. Any person aggrieved by an action or decision of the Building Permit Officer concerning the administration of the provisions of this Ordinance, may appeal to the Board. Such appeal must be filed, in writing, within thirty (30) days after the decision or action of the Building Permit Officer.
- B. Upon receipt of such appeal the Board shall set a time and place, within not less than ten (10) nor more than thirty (30) days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.

- C. Any person aggrieved by any decision of the Board may seek relief therefrom by appeal to court, as provided by the laws of this Commonwealth including the Pennsylvania Flood Plan Management Act.

### **ARTICLE III - IDENTIFICATION OF FLOODPLAIN AREAS**

#### **Section 3.00 - Identification**

The identified floodplain area shall be those areas of Dunbar Borough which are subject to the one hundred (100) year flood, as shown on the Flood Insurance Rate Map (FIRM) which accompanies the Flood Insurance Study (FIS) prepared for the Borough of Dunbar by the Federal Emergency Management Agency (FEMA), dated March 18, 1991, or the most recent revision thereof.

#### **Section 3.01 - Description of Floodplain Areas**

The identified floodplain area shall consist of the following specific areas:

- A. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA and for which one hundred (100) year flood elevations have been provided in the FIS.

#### **Section 3.02 - Changes in Identification of Area**

The identified floodplain area may be revised or modified by the Board where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

#### **Section 3.03 - Boundary Disputes**

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Borough of Dunbar Planning Commission and any party aggrieved by this decision may appeal to the Board. The burden of proof shall be on the appellant.



## ARTICLE IV - TECHNICAL REQUIREMENTS

### Section 4.00 - General

- A. In the identified flood plain area, the development and/or use of any land shall be permitted provided that the development and/or use complies with the restrictions and requirements of this and all other applicable codes and ordinances in force in the municipality.
- B. Within any floodway area, no new construction or development shall be permitted that would cause any increase in the one hundred (100) year flood elevation.
- C. Within any AE Area/District, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one (1) foot at any point.
- D. Within any identified floodplain area, no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.
- E. Within any identified floodplain area, no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- F. Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or substantially improved residential structure shall be one and one-half (1-1/2) feet or more above the one hundred (100) year flood elevation.
- G. Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or substantially improved nonresidential structure shall be one and one-half (1-1/2) feet or more above the one hundred (100) year flood elevation or be floodproofed up to that height.

Any non-residential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least one and one-half (1-1/2) feet above the one hundred (100) year flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the

W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U. S. Army Corps of Engineers (June 1972), or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction area in conformance with the above referenced standards.

- H. Enclosed areas below the lowest floor (including basement) area prohibited.

#### **Section 4.01 - Special Requirement for the AE Area/District**

- A. Within any AE Area/District, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one (1) foot at any point.

#### **Section 4.02 - Elevation and Floodproofing Requirements**

- A. Residential Structures

Within any identified floodplain area, the lowest floor (including basement) of any new residential structure, or any substantial improvement to an existing residential structure, shall be at least one and one-half (1-1/2) feet above the one hundred (100) year flood elevation. Fully enclosed spaces below the lowest floor shall be prohibited.

- B. Non-residential Structures

1. Within any identified floodplain area, the lowest floor (including basement) of any new non-residential structure, or any substantial improvement to an existing non-residential structure, shall be at least one and one-half (1-1/2) feet above the one hundred (100) year flood elevation, or be designed and constructed so that the space enclosed by such structures shall remain either completely or essential dry during any flood up to that height. Fully enclosed spaces below the lowest floor shall be prohibited.
2. Any non-residential structure, or part thereof, having a lowest floor which is not elevated to at least one and one-half (1-1/2) feet above the one hundred (100)



year flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U. S. Army Corps of Engineers (June 1972), or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.

#### **Section 4.03 - Design and Construction Standards**

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

##### **A. Fill**

If fill is used, it shall:

1. extend laterally at least fifteen (15) feet beyond the building line from all points;
2. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
3. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
4. be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Building Permit Officer; and,
5. be used to the extent to which it does not adversely affect adjacent properties.

##### **B. Drainage Facilities**

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

##### **C. Water and Sanitary Sewer Facilities and Systems**

1. All new or replacement water and sanitary sewer

facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.

2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

D. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

E. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

F. Storage

All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 4.04 Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or floodproofed to the maximum extent possible.

G. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored

or affixed to prevent flotation.

I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
2. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
3. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
4. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other water-resistant material.

J. Paints and Adhesives

1. Paints or other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.
2. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the one hundred (100) year flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment

Water heaters, furnaces, air conditioning and ventilating units, and other mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.



M. Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

**Section 4.04 - Development Which May Endanger Human Life**

A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which:

- will be used for the production or storage of any of the following dangerous materials or substances; or
- will be used for any activity requiring the maintenance of a supply of more than five hundred fifty (550) gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or
- will involve the production, storage, or use of any amount of radioactive substances;

shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

1. Acetone
2. Ammonia
3. Benzene
4. Calcium carbide
5. Carbon disulfide
6. Celluloid
7. Chlorine
8. Hydrochloric acid
9. Hydrocyanic acid
10. Magnesium
11. Nitric acid and oxides of nitrogen
12. Petroleum products (gasoline, fuel oil, etc.)
13. Phosphorus
14. Potassium
15. Sodium
16. Sulphur and sulphur products
17. Pesticides (including insecticides, fungicides and rodenticides)
18. Radioactive substances, insofar as such substances are



not otherwise regulated.

- B. Within any FW (Floodway Area), any structure of the kind described in Subsection A., above, shall be prohibited.
- C. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:
  - 1. elevated or designed and constructed to remain completely dry up to at least one and one half (1-1/2) feet above the one hundred (100) year flood and,
  - 2. designed to prevent pollution from the structure or activity during the course of a one hundred (100) year flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry up floodproofing contained in the publication "Flood-Proofing Regulations (U. S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

#### **Section 4.05 - Special Requirements for Manufactured Homes**

- A. Within any identified floodplain area, all manufactured homes and any additions thereto shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- B. Where permitted within any identified floodplain area, all manufactured homes and additions thereto shall be:
  - 1. placed on a permanent foundation.
  - 2. elevated so that the lowest floor of the manufactured home is one and one-half (1-1/2) feet or more above the elevation of the one hundred year flood.
  - 3. anchored to resist flotation, collapse or lateral movement.

### **ARTICLE V - ACTIVITIES REQUIRING SPECIAL PERMITS**

#### **Section 5.00 - General**

In accordance with the administrative regulations promulgated by the Department of Community Affairs to implement the Pennsylvania

Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area unless a Special Permit has been issued by the Borough of Dunbar.

- A. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
  - 1. hospitals
  - 2. nursing homes
  - 3. jails or prisons
- B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

**Section 5.01 - Application Requirements for Special Permits**

Applicants for Special Permits shall provide five (5) copies of the following items:

- A. A written request including a completed Building Permit Application Form.
- B. A small scale map showing the vicinity in which the proposed site is located.
- C. A plan of the entire site, clearly and legible drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
  - 1. north arrow, scale and date;
  - 2. topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of two (2) feet;
  - 3. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
  - 4. the location of all existing streets, drives, other accessways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
  - 5. the location of any existing bodies of water or watercourses, buildings, structures and other public or

private facilities, including railroad tracks and facilities, and any other natural and man made features affecting, or affected by, the proposed activity or development;

6. the location of the floodplain boundary line, information and spot elevations concerning the one hundred (100) year flood elevations, and information concerning the flow of water including direction and velocities;
7. the location of all proposed buildings, structures, utilities, and any other improvements; and
8. any other information which the municipality considers necessary for adequate review of the application.

D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

1. sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
2. for any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
3. complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the one hundred (100) year flood;
4. detailed information concerning any proposed floodproofing measures;
5. cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
6. profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
7. plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

1. certification from the applicant that the site upon



which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;

2. certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the one hundred (100) year flood;
3. a statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a one hundred (100) year flood, including a statement concerning the effects such pollution may have on human life;
4. a statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on one hundred (100) year flood elevations and flows;
5. a statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the one hundred (100) year flood elevation and the effects such materials and debris have on one hundred (100) year flood elevations and flows;
6. the appropriate component of the Department of Environmental Resources' "Planning Module for Land Development";
7. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources to implement and maintain erosion and sedimentation control;
8. any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Resources under Section 302 of Act 1978-166; and
9. an evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a one hundred (100) year flood.

### **Section 5.02 - Application Review Procedures**

Upon receipt of an application for a Special Permit by the Borough of Dunbar, the following procedures shall apply in addition to those of Article II;

- A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Borough of Dunbar Planning Commission and Borough of Dunbar Engineer for review and comment.
- B. If an application is received that is incomplete, the Borough of Dunbar shall notify the applicant in writing, stating in which respect the application is deficient.
- C. If the Borough of Dunbar decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- D. If the Borough of Dunbar approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community Affairs, by registered or certified mail, within five (5) working days after the date of approval.
- E. Before issuing the Special Permit, the Borough of Dunbar shall allow the Department of Community Affairs thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the Borough of Dunbar.
- F. If the Borough of Dunbar does not receive any communication from the Department of Community Affairs during the thirty (30) day review period, it may issue a Special Permit to the applicant.
- G. If the Department of Community Affairs should decide to disapprove an application, it shall notify the Borough of Dunbar and the applicant, in writing, of the reasons for the disapproval, and the Borough of Dunbar will not issue the Special Permit.

### **Section 5.03 - Special Technical Requirements**

- A. In addition to the requirements of Article IV of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special



Permit. If there is any conflict between any of the following requirements and those in Article IV of this Ordinance or in any other code, ordinance, or regulation, the more restrictive provision shall apply.

- B. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
1. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
    - (a) the structure will survive inundation by waters of the one hundred (100) year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the one hundred (100) year flood elevation.
    - (b) the lowest floor elevation will be at least one and one half (1-1/2) feet above the one hundred (100) year flood elevation.
    - (c) the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one hundred (100) year flood.
  2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Borough of Dunbar and the Department of Community Affairs.

## **ARTICLE VI - EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS**

### **Section 6.00 - Existing Structures**

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure,



the provisions of Section 6.01 shall apply.

#### **Section 6.01 - Improvements**

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one hundred (100) year flood.
- B. No expansion or enlargement of an existing structure shall be allowed within any AE area that would, together with all other existing and anticipated development, increase the one hundred (100) year flood elevation more than one (1) foot at any point.
- C. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) per cent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
- D. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50) per cent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

### **ARTICLE VII - VARIANCES**

#### **Section 7.00 - General**

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the Borough of Dunbar may, upon request, grant relief from the strict application of the requirements.

#### **Section 7.01 - Variance Procedures and Conditions**

Requests for variances shall be considered by the Borough of Dunbar in accordance with the procedures contained in Section 2.11 and the following:

- A. No variance shall be granted for any construction,

development, use, or activity within any floodway area that would cause any increase in the one hundred (100) year elevation.

- B. No variance shall be granted for any construction, development, use, or activity within any FE area that would, together with all other existing and anticipated development, increase the one hundred (100) year flood elevation more than one (1) foot at any point.
- C. Except for a possible modification of the one and one half (1-1/2) foot freeboard requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (Article V) or to Development Which May Endanger Human Life (Section 4.04).
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, the Borough of Dunbar shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.
- F. Whenever a variance is granted, the Borough of Dunbar shall notify the applicant in writing that:
  - 1. the granting of the variance may result in increased premium rates for flood insurance.
  - 2. such variances may increase the risks to life and property.
- G. In reviewing any request for a variance, the Borough of Dunbar shall consider, at a minimum, the following:
  - 1. that there is good and sufficient cause.
  - 2. that failure to grant the variance would result in exceptional hardship to the applicant.
  - 3. that the granting of the variance will (1) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expenses, (ii) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- H. A complete record of all variance requests and related actions shall be maintained by the Borough of Dunbar. In



addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one hundred (100) year flood.

## **ARTICLE VIII - DEFINITIONS**

### **Section 8.00 - General**

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its most reasonable application.

### **Section 8.01 - Specific Definitions**

- A. Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- B. Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
- C. Completely dry space - a space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.
- D. Construction - the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of manufactured homes.
- E. Development - any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations and the subdivision of land.
- F. Essentially dry space - a space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.
- G. Flood - a temporary inundation of normally dry land areas.



- H. Floodplain area - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.
- I. Floodproofing - means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- J. Floodway - the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.
- K. Identified floodplain area - the floodplain area specifically identified in this ordinance as being inundated by the one hundred (100) year flood. Includes would be areas identified as Floodway (FW), Flood-Fringe (FF) and General Flood Plan (FA).
- L. Land development - (i) the improvement of one lot, or two or more contiguous lots, tracts, or parcels of land for any purpose involving (a) a group of two or more buildings, or (b) the division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features; (ii) a subdivision of land.
- M. Manufactured Home - a transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than one hundred eighty (180) consecutive days.
- N. Manufactured Home Park - a parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.
- O. Minor repair the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away

of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

- P. One hundred (100) year flood - a flood that, on the average, is likely to occur once every one hundred (100) years (i.e. that has one (1) per cent change of occurring each year, although the flood may occur in any year).
- Q. Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- R. Regulatory flood elevation - the one hundred (100) year flood elevation plus a freeboard safety factor of one and one half (1-1/2) feet.
- S. Special Permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.
- T. Structure - anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, manufactured homes, and other similar items.
- U. Subdivision - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership or building or lot development: provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or residential dwellings shall be exempted.
- V. Substantial improvement - any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) per cent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is

being restored, before the damage occurred.

ENACTED AND ORDAINED this 15 day of March,  
1993.

BOROUGH OF DUNBAR

BY: John Maddas

ATTEST:

Shirley E. Fyfe  
Secretary

(SEAL)



**ORDINANCE NO. 274**

AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A BUILDING PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH BUILDING PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE BOROUGH OF DUNBAR WHICH ARE SUBJECT TO FLOODING; AND ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL, OR REFUSE TO COMPLY WITH, THE REQUIREMENTS OF THIS ORDINANCE.

BE IT ENACTED AND ORDAINED by the Borough Council of Dunbar Borough, Fayette County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

**ARTICLE I - GENERAL PROVISIONS**

**Section 1.00 - Intent**

The intent of this Ordinance is to:

- A. Promote the general health, welfare and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- ✓ E. Comply with federal and state floodplain management requirements.

### **Section 1.01 - Applicability**

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough of Dunbar unless a Building Permit has been obtained from the Building Permit Officer.
- B. ( A Building Permit shall not be required for minor repairs to existing buildings or structures. )

### **Section 1.02 - Abrogation and Greater Restrictions**

This Ordinance supersedes any other conflicting provision which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. (If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.)

### **Section 1.03 - Severability**

OK. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

### **Section 1.04 - Warning and Disclaimer of Liability**

OK. The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural cause, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified floodplain area, or that land uses permitted within such areas will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the Borough of Dunbar or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.



## **ARTICLE II - ADMINISTRATION**

### **Section 2.00 - Building Permits Required**

Building Permits shall be required before any construction or development is undertaken within any area of the Borough of Dunbar.

### **Section 2.01 - Issuance of Building Permit**

- A. The Building Permit Officer shall issue a Building Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- (B.) Prior to the issuance of any building permit, the Building Permit Officer shall review the application for permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); the U. S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- (C.) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Borough of Dunbar, and until all required permits or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.

In addition, the Federal Insurance Administrator and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified by the Borough of Dunbar prior to any alteration or relocation of any watercourse.

### **Section 2.02 - Application Procedures and Requirements**

- A. Application for such a building permit shall be made, in writing, to the Building Permit Officer on forms supplied by the Borough of Dunbar. Such application shall contain the following:
  - 1. Name and address of applicant.



2. Name and address of owner of land on which proposed construction is to occur.
  3. Name and address of contractor.
  4. Site location.
  5. Listing of other permits required.
  6. Brief description of proposed work and estimated cost.
  7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Building Permits shall provide all the necessary information in sufficient detail and clarity to enable the Building Permit Officer to determine that:
- (a) all such proposals are consistent with the need to minimize flood damage (and conform with the requirements of this and all other applicable codes and ordinances;)
  - (b) all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate floodplain damage; and
  - (c) adequate drainage is provided so as to reduce exposure to flood hazards.

Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in Section 5.01) as may be required by the Building Permit Officer to make the above determination;

- ✓ 1. A completed Building Permit Application Form.
- ✓ 2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
  - (a) north arrow, scale, and date;
  - (b) topographic contour lines, if available;
  - (c) all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;

- (d) the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
  - (e) the location of all existing streets, drives, and other accessways; and
  - (f) the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
- (a) the proposed lowest flood elevation of any proposed building based upon National Geodetic Vertical Datum of 1929;
  - (b) the elevation of the one hundred (100) year flood;
  - (c) if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood; and
  - (d) detailed information concerning any proposed floodproofing measures.
4. The following data and documentation:
- (a) documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an FE (Special Flood Plain Area), when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one foot at any point.
  - (b) a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the one hundred (100) year flood.

Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.



- (c) detailed information needed to determine compliance with Section 4.03 F., Storage, and Section 4.04, Development Which May Endanger Human Life, including:
  - (1) the amount, location and purpose of any materials or substances referred to in Sections 4.03 F. and 4.04 which are intended to be used, produced, stored or otherwise maintained on site.
  - (2) a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 4.04 during a one hundred (100) year flood.
- (d) the appropriate component of the Department of Environmental Resources' "Planning Module for Land Development."
- (e) where any excavation or grading is proposed, a plan meeting the requirement of the Department of Environmental Resources, to implement and maintain erosion and sedimentation control.

✓ **Section 2.03 - Review by County Conservation District**

OK A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Building Permit Officer to the County Conservation District for review and comment prior to the issuance of a building permit. The recommendations of the Conservation District shall be considered by the Building Permit Officer for possible incorporation into the proposed plan.

✓ **Section 2.04 - Review of Application by Others**

OK A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Building Permit Officer to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

**Section 2.05 - Changes**

OK ✓ After the issuance of a building permit by the Building Permit Officer, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents



submitted with the application without the written consent or approval of the Building Permit Officer. Requests for any such change shall be in writing, and shall be submitted by the applicant to Building Permit Officer for consideration.

#### **Section 2.06 - Placards**

OK  
In addition to the building permit, the Building Permit Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Building Permit Officer.

#### **Section 2.07 - Start of Construction**

Work on the proposed construction and/or development shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Building Permit Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Building Permit Officer to approve such a request.

#### **Section 2.08 - Inspection and Revocation**

- A. During the construction period, the Building Permit Officer or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.
- B. In the discharge of his duties, the Building Permit Officer shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Ordinance.
- C. In the event the Building Permit Officer discovers that the

work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Building Permit Officer shall revoke the building permit and report such fact to the Board for whatever action it considers necessary.

- D. A record of all such inspections and violations of this ordinance shall be maintained.

#### Section 2.09 - Fees

Applications for a building permit shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Building Permit Officer at the following rates:

<u>Estimated Cost</u>	<u>Fee</u>
\$ 0.00 to \$ 200.00	\$ .00
201.00 to \$1,000.00	5.00
Each additional \$1,000.00 or part thereof beyond the first \$1,000.000.	1.00

#### Section 2.10 - Enforcement

##### A. Notices

Whenever the Building Permit Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulation adopted pursuant thereto, the Building Permit Officer shall give notice of such alleged violation as hereinafter provided. Such notice shall

- ✓ (a) be in writing;
- ✓ (b) include a statement of the reasons for its issuance;
- 6K ✓ (c) allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
- ✓ (d) be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized



or required by the laws of this State;

- ✓(e) contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance.

B. Penalties

OK. Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Building Permit Officer or any other authorized employee of the municipality shall be guilty of an offense and, upon conviction, shall pay a fine to the Borough of Dunbar of not less than Twenty-five and 00/100 Dollars (\$25.00) nor more than Three Hundred and 00/100 Dollars (\$300.00) plus costs of prosecution. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed ten (10) days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or any building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Board to be a public nuisance and abatable as such.

**Section 2.11 - Appeals**

- A. Any person aggrieved by an action or decision of the Building Permit Officer concerning the administration of the provisions of this Ordinance, may appeal to the Board. Such appeal must be filed, in writing, within thirty (30) days after the decision or action of the Building Permit Officer.
- B. Upon receipt of such appeal the Board shall set a time and place, within not less than ten (10) nor more than thirty (30) days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.
- C. Any person aggrieved by any decision of the Board may seek relief therefrom by appeal to court, as provided by the laws of this Commonwealth including the Pennsylvania Flood Plan Management Act.



## ARTICLE III - IDENTIFICATION OF FLOODPLAIN AREAS

### Section 3.00 - Identification

The identified floodplain area shall be those areas of Dunbar Borough which are subject to the one hundred (100) year flood, as shown on the Flood Insurance Rate Map (FIRM) which accompanies the Flood Insurance Study (FIS) prepared for the Borough of Dunbar by the Federal Emergency Management Agency (FEMA), dated \_\_\_\_\_, 19\_\_\_\_, or the most recent revision thereof.

### Section 3.01 - Description of Floodplain Areas

The identified floodplain area shall consist of the following specific areas:

- o R
- A. FW (Floodway Area) - the areas identified as "Floodway" in the AE Zone in the Flood Insurance Study prepared by the FEMA. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study.

For the purposes of this Ordinance, the floodway is based upon the criteria that a certain area within the floodplain would be capable of carrying the waters of the one hundred (100) year flood without increasing the water surface elevation of that flood more than one (1) foot at any point.

- o R
- B. FF (Flood-Fringe Area) - the remaining portions of the one hundred (100) year floodplain in those areas identified as an AE Zone in the Flood Insurance Study, where a floodway has been delineated.

The basis for the outermost boundary of this area shall be the one hundred (100) flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

- C. FE (Special Floodplain Area) - the areas identified as Zone AE in the Flood Insurance Study, where one hundred (100) year flood elevations have been provided, but no floodway has been delineated.
- D. FA (General Floodplain Area) - The areas identified as Zone A in the FIS for which no one hundred (100) year flood elevation have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the one hundred (100) year elevation, as well as a floodway area, if possible. When no

other information is available, the one hundred (100) year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.

In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by a professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough of Dunbar.

### **Section 3.02 - Changes in Identification of Area**

OK The identified floodplain area may be revised or modified by the Board where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

### **Section 3.03 - Boundary Disputes**

OK Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Borough of Dunbar Planning Commission and any party aggrieved by this decision may appeal to the Board. The burden of proof shall be on the appellant.

## **ARTICLE IV - TECHNICAL REQUIREMENTS**

### **Section 4.00 - General**

- OK A. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.

In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified prior to any alteration or relocation of any watercourse.



- OK B. Any new construction, development, uses or activities allowed within any identified floodplain area, shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.

**Section 4.01 - Special Requirement for the AE Area/District**

- A. Within any FW (Floodway Area), the following provisions apply:
- OK 1. Any new construction, development, use, activity, or encroachment that would cause any increase in flood heights shall be prohibited.
- OK 2. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.
- B. Within any FE (Special Floodplain Area), no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one (1) foot at any point.
- C. Within any FE (Special Floodplain Area) or FA (General Floodplain Area), the following provisions apply:
- OK 1. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- OK 2. Any new construction or development, which would cause any increase in flood heights shall be prohibited within any floodway area.

**Section 4.02 - Elevation and Floodproofing Requirements**

- A. Residential Structures

OK Within any identified floodplain area, the lowest floor (including basement) of any new residential structure, or any substantial improvement to an existing residential structure, shall be at least one and one-half (1-1/2) feet above the one hundred (100) year flood elevation. Fully enclosed spaces below the lowest floor shall be prohibited.



B. Non-residential Structures

1. Within any identified floodplain area, the lowest floor (including basement) of any new non-residential structure, or any substantial improvement to an existing non-residential structure, shall be at least one and one-half (1-1/2) feet above the one hundred (100) year flood elevation, or be designed and constructed so that the space enclosed by such structures shall remain either completely or essentially dry during any flood up to that height. Fully enclosed spaces below the lowest floor shall be prohibited.
2. Any non-residential structure, or part thereof, having a lowest floor which is not elevated to at least one and one-half (1-1/2) feet above the one hundred (100) year flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U. S. Army Corps of Engineers (June 1972), or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.

Section 4.03 - Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

A. Fill

If fill is used, it shall:

1. extend laterally at least fifteen (15) feet beyond the building line from all points;
2. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
3. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
4. be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Building Permit Officer; and,

5. be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. Water and Sanitary Sewer Facilities and Systems

1. All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

D. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

E. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

F. Storage

All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 4.04 Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or floodproofed to the maximum extent possible.

G. Placement of Buildings and Structures



All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
- OK 2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
2. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
- OK 3. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
4. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other water-resistant material.

J. Paints and Adhesives

1. Paints or other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.
- OK 2. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. Electrical Components



- OK 1. Electrical distribution panels shall be at least three (3) feet above the one hundred (100) year flood elevation.
- OK 2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment

OK Water heaters, furnaces, air conditioning and ventilating units, and other mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

M. Fuel Supply Systems

OK All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

**Section 4.04 - Development Which May Endanger Human Life**

A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which:

- will be used for the production or storage of any of the following dangerous materials or substances; or
- will be used for any activity requiring the maintenance of a supply of more than five hundred fifty (550) gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or
- will involve the production, storage, or use of any amount of radioactive substances;

shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

1. Acetone
2. Ammonia
3. Benzene
4. Calcium carbide
5. Carbon disulfide

6. Celluloid
7. Chlorine
8. Hydrochloric acid
9. Hydrocyanic acid
10. Magnesium
11. Nitric acid and oxides of nitrogen
12. Petroleum products (gasoline, fuel oil, etc.)
13. Phosphorus
14. Potassium
15. Sodium
16. Sulphur and sulphur products
17. Pesticides (including insecticides, fungicides and rodenticides)
18. Radioactive substances, insofar as such substances are not otherwise regulated.

B. Within any FW (Floodway Area), any structure of the kind described in Subsection A., above, shall be prohibited.

OK C. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:

- OK 1. elevated or designed and constructed to remain completely dry up to at least one and one half (1-1/2) feet above the one hundred (100) year flood and,
2. designed to prevent pollution from the structure or activity during the course of a one hundred (100) year flood.

OK Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry up floodproofing contained in the publication "Flood-Proofing Regulations (U. S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

#### **Section 4.05 - Special Requirements for Manufactured Homes**

A. Within any FW (Floodway Area), manufactured homes shall be prohibited.

B. Where permitted within any floodplain area, all manufactured homes and additions thereto shall be:

1. placed on a permanent foundation.
2. elevated so that the lowest floor of the manufactured home is one and one half (1-1/2) feet or more above the

elevation of the one hundred (100) year flood.

3. anchored to resist flotation, collapse, or lateral movement.

## **ARTICLE V - ACTIVITIES REQUIRING SPECIAL PERMITS**

### **Section 5.00 - General**

In accordance with the administrative regulations promulgated by the Department of Community Affairs to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area unless a Special Permit has been issued by the Borough of Dunbar.

- A. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
  1. hospitals
  2. nursing homes
  3. jails or prisons
- B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

### **Section 5.01 - Application Requirements for Special Permits**

Applicants for Special Permits shall provide five (5) copies of the following items:

- A. A written request including a completed Building Permit Application Form.
- B. A small scale map showing the vicinity in which the proposed site is located.
- C. A plan of the entire site, clearly and legible drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
  1. north arrow, scale and date;
  2. topography based upon the National Geodetic Vertical



Datum of 1929, showing existing and proposed contours at intervals of two (2) feet;

- OK
3. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
  4. the location of all existing streets, drives, other accessways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
  5. the location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man made features affecting, or affected by, the proposed activity or development;
  6. the location of the floodplain boundary line, information and spot elevations concerning the one hundred (100) year flood elevations, and information concerning the flow of water including direction and velocities;
  7. the location of all proposed buildings, structures, utilities, and any other improvements; and
  8. any other information which the municipality considers necessary for adequate review of the application.
- D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
- OK
1. sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
  2. for any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
  3. complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the one hundred (100) year flood;
  4. detailed information concerning any proposed floodproofing measures;
  5. cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing

all rights-of-way and pavement widths;

6. profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
7. plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

- OK 1. certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
- ✓ 2. certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the one hundred (100) year flood;
- OK 3. a statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a one hundred (100) year flood, including a statement concerning the effects such pollution may have on human life;
- OK 4. a statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on one hundred (100) year flood elevations and flows;
- OK 5. a statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the one hundred (100) year flood elevation and the effects such materials and debris have on one hundred (100) year flood elevations and flows;
- OK 6. the appropriate component of the Department of Environmental Resources' "Planning Module for Land Development";
- ✓ 7. where any excavation or grading is proposed, a plan meeting the requirements of the Department of



Environmental Resources to implement and maintain erosion and sedimentation control;

- OK 8. any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Resources under Section 302 of Act 1978-166; and
- OK 9. an evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a one hundred (100) year flood.

#### Section 5.02 - Application Review Procedures

Upon receipt of an application for a Special Permit by the Borough of Dunbar, the following procedures shall apply in addition to those of Article II;

- OK A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Borough of Dunbar Planning Commission and Borough of Dunbar Engineer for review and comment.
- B. If an application is received that is incomplete, the Borough of Dunbar shall notify the applicant in writing, stating in which respect the application is deficient.
- C. If the Borough of Dunbar decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- OK D. If the Borough of Dunbar approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community Affairs, by registered or certified mail, within five (5) working days after the date of approval.
- E. Before issuing the Special Permit, the Borough of Dunbar shall allow the Department of Community Affairs thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the Borough of Dunbar.
- F. If the Borough of Dunbar does not receive any communication from the Department of Community Affairs during the thirty (30) day review period, it may issue a Special Permit to the applicant.



- OK
- G. If the Department of Community Affairs should decide to disapprove an application, it shall notify the Borough of Dunbar and the applicant, in writing, of the reasons for the disapproval, and the Borough of Dunbar will not issue the Special Permit.

**Section 5.03 - Special Technical Requirements**

- OK
- A. In addition to the requirements of Article IV of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Article IV of this Ordinance or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
- B. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
- OK
1. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
    - OK (a) the structure will survive inundation by waters of the one hundred (100) year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the one hundred (100) year flood elevation.
    - (b) the lowest floor elevation will be at least one and one half (1-1/2) feet above the one hundred (100) year flood elevation.
    - (c) the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one hundred (100) year flood.
  - OK 2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

OK All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical

review by the Borough of Dunbar and the Department of Community Affairs.

## **ARTICLE VI - EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS**

### **Section 6.00 - Existing Structures**

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 6.01 shall apply.

### **Section 6.01 - Improvements**

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one hundred (100) year flood.
- B. No expansion or enlargement of an existing structure shall be allowed within any FE area that would, together with all other existing and anticipated development, increase the one hundred (100) year flood elevation more than one (1) foot at any point.
- C. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) per cent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
- D. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50) per cent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

## **ARTICLE VII - VARIANCES**

### **Section 7.00 - General**

If compliance with any of the requirements of this Ordinance



would result in an exceptional hardship to a prospective builder, developer or landowner, the Borough of Dunbar may, upon request, grant relief from the strict application of the requirements.

**Section 7.01 - Variance Procedures and Conditions**

Requests for variances shall be considered by the Borough of Dunbar in accordance with the procedures contained in Section 2.11 and the following:

- A. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the one hundred (100) year elevation.
- B. No variance shall be granted for any construction, development, use, or activity within any FE area that would, together with all other existing and anticipated development, increase the one hundred (100) year flood elevation more than one (1) foot at any point.
- C. Except for a possible modification of the one and one half (1-1/2) foot freeboard requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (Article V) or to Development Which May Endanger Human Life (Section 4.04).
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, the Borough of Dunbar shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.
- F. Whenever a variance is granted, the Borough of Dunbar shall notify the applicant in writing that:
  - 1. the granting of the variance may result in increased premium rates for flood insurance.
  - 2. such variances may increase the risks to life and property.
- G. In reviewing any request for a variance, the Borough of Dunbar shall consider, at a minimum, the following:
  - 1. that there is good and sufficient cause.
  - 2. that failure to grant the variance would result in



exceptional hardship to the applicant.

3. that the granting of the variance will (1) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expenses, (ii) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

- H. A complete record of all variance requests and related actions shall be maintained by the Borough of Dunbar. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one hundred (100) year flood.

## **ARTICLE VIII - DEFINITIONS**

### **Section 8.00 - General**

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its most reasonable application.

### **Section 8.01 - Specific Definitions**

- A. Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- B. Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
- C. Completely dry space - a space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.
- D. Construction - the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of manufactured homes.
- E. Development - any man-made change to improved or unimproved real estate, including but not limited to buildings or other

structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations and the subdivision of land.

- F. Essentially dry space - a space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.
- G. Flood - a temporary inundation of normally dry land areas.
- H. Floodplain area - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.
- I. Floodproofing - means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- J. Floodway - the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.
- K. Identified floodplain area - the floodplain area specifically identified in this ordinance as being inundated by the one hundred (100) year flood. Includes would be areas identified as Floodway (FW), Flood-Fringe (FF) and General Flood Plan (FA).
- L. Land development - (i) the improvement of one lot, or two or more contiguous lots, tracts, or parcels of land for any purpose involving (a) a group of two or more buildings, or (b) the division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features; (ii) a subdivision of land.
- M. Manufactured Home - a transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The



term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than one hundred eighty (180) consecutive days.

- N. Manufactured Home Park - a parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.
- O. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.
- P. One hundred (100) year flood - a flood that, on the average, is likely to occur once every one hundred (100) years (i.e. that has one (1) per cent change of occurring each year, although the flood may occur in any year).
- Q. Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- R. Regulatory flood elevation - the one hundred (100) year flood elevation plus a freeboard safety factor of one and one half (1-1/2) feet.
- S. Special Permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.
- T. Structure - anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, manufactured homes, and other similar items.
- U. Subdivision - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or



future, of lease, transfer of ownership or building or lot development: provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or residential dwellings shall be exempted.

- V. Substantial improvement - any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) per cent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred.

being restored, before the damage occurred.

ENACTED AND ORDAINED this 15 day of March,  
1993.

BOROUGH OF DUNBAR

BY: John Maddas

ATTEST:

Glenn E. Fitzmaurice  
Secretary

(SEAL)

148 Civil 1995

ORDINANCE NO. 225

AN ORDINANCE OF THE BOROUGH OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA, PURSUANT TO ACT 98 OF 1992 PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO A DESIGNATED OFFICER OF THE MUNICIPALITY AS A PORTION OF THE INSURANCE PROCEEDS TO BE HELD AS SECURITY AGAINST THE TOTAL COST OF REMOVING, REPAIRING, OR SECURING THE DAMAGED BUILDING, PROVIDING FOR FEES, PROVIDING FOR PENALTIES FOR VIOLATION AND SETTING FORTH PROCEDURES AND REQUIREMENTS PERTAINING TO SUCH INSURANCE PROCEEDS AND TO THE IMPLEMENTATION OF ACT 98 OF 1992 IN THE BOROUGH OF DUNBAR.

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 98 of 1992 effective on September 7, 1992, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims; and

WHEREAS, it is the purpose of said legislation to deter the commission of arson and related crimes, to discourage the abandonment of property, and to prevent urban blight and deterioration; and

WHEREAS, the Borough of Dunbar, Fayette County, Pennsylvania, desires to adopt an ordinance pursuant to Section 508 of the Insurance Company Law of 1921 to provide for the payment of proceeds from certain fire loss claims to the Municipality;

IT IS THEREFORE ORDAINED AND ENACTED by the Borough Council of the Borough of Dunbar as follows:

**SECTION I**

The Code Enforcement Officer or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

DUNBAR BOROUGH  
47 CONNELLSVILLE STREET  
DUNBAR, PA 15431



## SECTION II

No insurance company, association or exchange (hereinafter the "Insuring Agent") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located with the Borough of Dunbar (hereinafter the "Municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds Five Thousand and 00/100 (\$5,000.00) Dollars, unless the named insured or Insuring Agent is furnished by the municipal treasurer with a municipal certificate pursuant to Section 508(B) of Act 98 of 1992 and unless there is compliance with Section 508(C) and (D) of Act 98 of 1992 and the provisions of this Ordinance.

## SECTION III

Where pursuant to Section 508(B)(1)(I) of Act 98 of 1992, the municipal treasurer or tax collector issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the Insuring Agent shall pay the claim of the named insured, provided however, that if the loss is agreed upon by the named insured and the Insuring Agent equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

(1) The Insuring Agent shall transfer from the insurance proceeds to the designated officer of the Municipality in the aggregate of \$1,000.00 for each \$20,000.00 of a claim and for each fraction of that amount of claim, this section to be applied such that if the claim is \$20,000.00 or less, the amount transferred to the Municipality shall be \$1,000.00; or

(2) If at the time of a proof of loss agreed to between the named insured and the Insuring Agent, the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, the Insuring Agent shall transfer to the Municipality from the insurance proceeds the amount specified in the estimate.

(3) The transfer of proceeds shall be on pro rata basis by all companies, associations or exchanges insuring the building or other structure.

(4) After the transfer, the named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, and the designated officer shall return the amount of the funds transferred to the Municipality

in excess of the estimate to the named insured, if the Municipality has not commenced to remove, repair or secure the building or other structure.

(5) Upon receipt of proceeds under this section, the Municipality shall do the following:

(a) The designated officer shall place the proceeds in the separate fund to be used solely as security against the total costs of removing, repairing, or securing the building or structure which are incurred by the Municipality. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the municipality in connection with such removal, repair or securing of the building or any proceeding related thereto; and

(b) It is the obligation of the Insuring Agent when transferring the proceeds to provide the Municipality with the name and address of the named insured. Upon receipt of the transferred funds and the name and address of the named insured, the designated officer shall contact the named insured, certify that the proceeds have been received by the Municipality and notify the named insured that the procedures under this subsection shall be followed; and

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

(d) To the extent that interest is earned on proceeds held by the Municipality pursuant to this Section, and not returned to the named insured, such interest shall belong to the Municipality. To the extent that proceeds are returned to the named insured, interest earned on such proceeds shall be distributed to the named insured at the time that the proceeds are returned.

(6) Nothing in this section shall be construed to limit the ability of the Municipality to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Municipality and the named insured from entering into an



agreement that permits the transfer of funds to the named insured of some other reasonable disposition of the damaged property has been negotiated.

#### **SECTION IV**

The Borough Council of Dunbar Borough may by resolution adopt procedures and regulations to implement Act 98 of 1992 and this Ordinance and may by resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992 and this Ordinance; including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

#### **SECTION V**

Any owner of property, any named insured or any Insuring Agent who violates this Ordinance shall be subject to a penalty of up to \$1,000.00 per violation.

#### **SECTION VI**

The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

#### **SECTION VII**

All ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as same affects this Ordinance.

#### **SECTION VIII**

This Ordinance shall become effective immediately.



ORDAINED AND ENACTED at a duly assembled public meeting by the Borough Council of Dunbar Borough, Fayette County, Pennsylvania, this 16 day of October, 1995.

ATTEST:

BOROUGH OF DUNBAR

Carol Riggan

CAROL RIGGAR  
SECRETARY

BY: John Maddas

JOHN MADDAS  
PRESIDENT

(SEAL)

**CERTIFICATE**

I, the undersigned, Secretary of Dunbar Borough, Fayette County, Pennsylvania, do hereby certify that the foregoing and attached is a true and correct copy of an Ordinance of said Dunbar Borough which was duly enacted by the affirmative vote of a majority of a quorum of the members of the Governing Body of said Dunbar Borough at a meeting thereof on October 16, 1995, duly recorded in the Ordinance Book of said Dunbar Borough and Notice of the Borough Council's intention to adopt said Ordinance was duly published, as required by law, in a newspaper circulating generally in said Dunbar Borough, and said Ordinance is in full force and effect.

WITNESS my hand and seal of Dunbar Borough this 16 day of October, 1995.

Carol Riggan  
CAROL RIGGAR

TO: DUNBAR BOROUGH COUNCIL  
C/O CAROL RIGGAR, SECRETARY  
47 CONNELLSVILLE STREET  
DUNBAR PA 15431

**RECEIPT**

The undersigned officer of The Daily Courier, a daily newspaper of general circulation in Fayette County, Pennsylvania, hereby acknowledges that a Legal Notice in regard to the adoption of a FIRE INSURANCE ESCROW ORDINANCE by Dunbar Borough, Fayette County, Pennsylvania, was received by The Daily Courier on 22nd September, 1995, said copy of the proposed Ordinance having been supplied by the Borough Council of Dunbar Borough, Fayette County, Pennsylvania, in accordance with the provisions of the law of the Commonwealth of Pennsylvania, as set forth at 53 P. S. Section 65741, which provides that a copy of the full text of a proposed Ordinance must be supplied to a newspaper of general circulation in the County at the time of the public notice in regard to the adoption of the Ordinance is published, when such public notice contains only the title and a summary of the proposed Ordinance and not the full text.

DATED this 22nd day of September, 1995.

THE DAILY COURIER

BY: Carolyn L. Means

Notarial Seal  
Carolyn L. Means, Notary Public  
Connellsville, Fayette County  
My Commission Expires Feb. 9, 1998  
Member, Pennsylvania Association of Notaries



TO: DUNBAR BOROUGH COUNCIL  
C/O CAROL RIGGAR, SECRETARY  
47 CONNELLSVILLE STREET  
DUNBAR PA 15431

RECEIPT

I, ELIDA M. MICKLO, Librarian, Fayette County Law Library. Courthouse, Uniontown, Fayette County, Pennsylvania, hereby acknowledge receipt of an attested copy of the FIRE INSURANCE ESCROW ORDINANCE, designated as Ordinance No. 225, which was enacted by the Borough Council of Dunbar Borough, Fayette County, Pennsylvania, at regular monthly meeting held on October 16, 1995.

I further acknowledge that said Ordinance was supplied to the Fayette County Law Library by the Borough Council of Dunbar Borough, to be filed in the Fayette County Law Library in accordance with the provisions of the Law of the Commonwealth of Pennsylvania, as set forth 5741, which provides that an attested copy of an Ordinance must be filed in the County Law Library in such cases where the full text of the Ordinance is not included in the Public Notice of the Borough Council's intention to adopt the Ordinance.

I further acknowledge that the above recited Ordinance has been is available for review and inspection.

DATED this 22nd day of September, 1995.

WITNESS:

SIGNED:

Jean M. Polando

Elida M. Micklo

ELIDA M. MICKLO, LIBRARIAN  
FAYETTE COUNTY LAW LIBRARY

- (9) The Council and Code Enforcement Officer have the authority to authorize burning which would not be within containers upon request.
- (10) there shall be no burning of any hazardous or recycable material.

SECTION 6. That Section 4 of Ordinance No. 193 shall be amended to read as follows:

Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than Fifty (\$50.00) Dollars and not more than Three Hundred (\$300.00) Dollars and/or imprisonment for a term which shall be fixed by the Court at not more than ninety (90) days. Each violation shall constitute a separate offense.

SECTION 7. REPEALER. All Ordinance or parts of Ordinances inconsistent herewith are hereby repealed.

SECTION 8. SEVERABILITY. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 9. This Ordinance shall take effect immediately upon its enactment.

ORDAINED AND ENACTED this 15<sup>th</sup> day of July, 1996.

BOROUGH OF DUNBAR

BY John C. Williams  
Council President

ATTEST:

Carol Riggan  
Borough Secretary

EXAMINED AND APPROVED THIS 18 DAY OF July, 1996

Angie Granato  
Mayor

ATTEST:

Carol Riggan  
Borough Secretary



INTRODUCED June 24, 1996

BY Ben Beal

ENACTED \_\_\_\_\_

ORDINANCE NO. 227

AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NUMBERS ONE (1) THROUGH TWO HUNDRED TWENTY-SIX (226) OF THE BOROUGH OF DUNBAR.

WHEREAS, the Borough of Dunbar has enacted Ordinances wherein fines and/or penalties have been assessed; and

WHEREAS, the Borough of Dunbar desires to amend said provisions in said Ordinances to include amended fines and penalties; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF DUNBAR, and it is hereby ordained and enacted by the authority of the same.

SECTION ONE: The provisions of Ordinance Numbers One (1) through Two Hundred Twenty-six (226) wherein fines and/or penalties are assessed are hereby amended to read as follows:

"Any person, firm, corporation, or partnership who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than Fifty (\$50.00) Dollars and not more than Three Hundred (\$300.00) Dollars and/or imprisonment for a term which shall be fixed by the Court at not more than ninety (90) days. Each violation shall constitute a separate offense."

SECTION TWO: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

SECTION THREE: This Ordinance shall take effect immediately upon enactment.

BILL NO. \_\_\_\_\_

INTRODUCED \_\_\_\_\_

BY \_\_\_\_\_

ORDINANCE NO. 228

AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF DUNBAR IN THE COUNTY OF FAYETTE, COMMONWEALTH OF PENNSYLVANIA, APPROPRIATING SPECIFIC SUMS ESTIMATED TO BE REQUIRED FOR THE SPECIFIC PURPOSES OF THE MUNICIPAL GOVERNMENT, HEREINAFTER SET FORTH, DURING THE YEAR 1997.

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Borough Council of the Borough of Dunbar, County of Fayette, Commonwealth of Pennsylvania:

SECTION 1. That for the expenditures and expenses of the fiscal year 1997, the following amounts are hereby appropriated from the fund equities, revenues, and other financing sources available for the year 1997 for the specific purposes set forth on the following pages.

SECTION 2. That any ordinance conflicting with this ordinance be and the same is hereby repealed insofar as the same affects this ordinance.

ORDAINED AND ENACTED this 16 day of December, 1996.

John C. Williams  
President of Council

ATTEST:

Carol Riggan  
Borough Secretary

Angie Traynard  
Mayor

ATTEST:

Carol Riggan  
Borough Secretary



BILL NO. \_\_\_\_\_

INTRODUCED \_\_\_\_\_

BY \_\_\_\_\_

ORDINANCE NO. 229 \_\_\_\_\_

AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF DUNBAR, COUNTY OF FAYETTE, COMMONWEALTH OF PENNSYLVANIA, FIXING THE TAX RATE FOR THE YEAR 1997.

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Borough Council of the Borough of Dunbar, County of Fayette, Commonwealth of Pennsylvania.

SECTION 1. That a tax be and the same is hereby levied on all real property within the Borough subject to taxation for the fiscal year 1997 as follows:

For general purposes, the sum of \_\_\_\_\_  
11 mills on each dollar of assessed valuation, or the sum of \_\_\_\_\_ Dollars and \_\_\_\_\_ [\$\_\_\_\_\_] cents on each one hundred dollars of assessed valuation.

SECTION 2. That any ordinance, or part of ordinance, conflicting with this ordinance be and the same is hereby repealed insofar as the same affects this ordinance.

ORDAINED AND ENACTED, this 16 day of December, 1996.

John C Williams  
President of Council

ATTEST:

Carol Biggar  
Borough Secretary

Angie Graziano  
Mayor

ATTEST:

Carol Biggar  
Borough Secretary

INTRODUCED May 19, 1997

BY Jim Martin

ENACTED June 23, 1997

ORDINANCE NO. 230

AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA, AMENDING ARTICLE VIII OF ORDINANCE NO. 224, ENTITLED "AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A BUILDING PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH BUILDING PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITH AREAS OF THE BOROUGH OF DUNBAR WHICH ARE SUBJECT TO FLOODING; AND ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL OR REFUSE TO COMPLY WITH THE REQUIREMENTS OF THIS ORDINANCE".

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF DUNBAR, and it is hereby ordained and enacted by the authority of the same.

SECTION 1. That Section 8.01 - Specific Definitions of Article VIII of Ordinance No. 224 shall be amended to include the following Definitions:

Recreational Vehicle - A vehicle which is (i) built on a single chassis; (ii) not more than 400 square feet, measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; (iv) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Substantial damage - Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.

SECTION 2. REPEALER. All Ordinance or parts of Ordinances inconsistent herewith are hereby repealed.

SECTION 3. SEVERABILITY. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of



this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 4. This Ordinance shall take effect immediately upon its enactment.

ORDAINED AND ENACTED this 23 day of June 1997.

BOROUGH OF DUNBAR

BY John C Williams  
Council President

ATTEST:

Carol Riggan  
Borough Secretary

EXAMINED AND APPROVED THIS 23 DAY OF June, 1997.

x Angie Graziano  
MAYOR

ATTEST:

Carol Riggan  
Borough Secretary

INTRODUCED JUNE 23, 1997

BY JOE TRENKER

ENACTED 7-21-97

ORDINANCE NO. 231

AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA, RENAMING CERTAIN STREETS IN THE SPEERS HILL, BRYSON HILL AND THE VETERANS PROJECT AREAS OF THE BOROUGH OF DUNBAR AND REPEALING ALL ORDINANCE OR PARTS OF ORDINANCES INCONSISTENT HERewith.

WHEREAS, certain streets in the Speers Hill, Bryson Hill and Veterans Project areas of the Borough of Dunbar have the same name; and

WHEREAS, Borough Council has been requested by officials of the Fayette County Emergency 911 System to rename certain streets in the Speers Hill, Bryson Hill and Veterans Project areas of the Borough having the same names to eliminate emergency vehicles being sent to the wrong address in the Borough.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF DUNBAR, and it is hereby ordained and enacted by the authority of the same.

SECTION 1. That the names of the following streets on Speers Hill shall remain unchanged:

FIRST STREET shall remain FIRST STREET  
SECOND STREET shall remain SECOND STREET  
THIRD STREET shall remain THIRD STREET  
FOURTH STREET shall remain FOURTH STREET

SECTION 2. That the following streets on Bryson Hill shall be renamed as follows:

FIRST STREET shall be renamed WALNUT AVENUE  
SECOND STREET shall be renamed HAZEL AVENUE  
THIRD STREET shall be renamed CHESTNUT AVENUE  
FOURTH AVENUE shall remain FOURTH AVENUE

SECTION 3. That the following streets in the Veterans Project shall be renamed as follows:

FRONT STREET shall remain FRONT STREET.  
SECOND STREET shall be renamed VETERAN STREET.  
THIRD STREET shall be renamed MEMORIAL STREET.  
FOURTH STREET shall be renamed INDEPENDENCE STREET.

SECTION 4. HIGHLAND AVENUE EXTENSION shall be renamed LIBERTY AVENUE.

SECTION 5. FROM CONNELLSVILLE STREET THROUGH FAYETTE STREET TO HIGH STREET shall be renamed HANCOCK STREET.

SECTION 6. REPEALER. All Ordinance or parts of Ordinances inconsistent herewith are hereby repealed.

SECTION 7. SEVERABILITY. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 8. This Ordinance shall take effect immediately upon enactment.

ORDAINED AND ENACTED this 21 day of July, 1997.

BOROUGH OF DUNBAR

BY John C. Williams  
COUNCIL PRESIDENT

ATTEST:

Carol Riggan  
Borough Secretary



INTRODUCED June 23, 1997

BY Joe Trenker

ENACTED 7-21-97

ORDINANCE NO. 232

## AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA, ESTABLISHING REGULATIONS FOR THE KEEPING OF DOGS AND CATS IN THE BOROUGH, PRESCRIBING PENALTIES AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT HERewith.

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF DUNBAR, AND IT IS HEREBY ORDAINED AND ENACTED BY THE AUTHORITY OF THE SAME.

SECTION I. It shall be unlawful for the owner, custodian or keeper of any dog or cat to allow such dog or cat to run at large at any time upon any streets, highways, alleys or public grounds in the Borough of Dunbar or upon the property of other than the owner, custodian or keeper of such dog or cat.

SECTION II. DOGS AND CATS TO BE CONFINED BY OWNER, CUSTODIAN OR KEEPER. Dogs and cats must be confined on the premises of the owner, custodian or keeper at all times. When allowed out, the same must be under control at all times of the owner, custodian or keeper thereof. Dogs are permitted on the streets, highways, alleys or public ground in the Borough of Dunbar when on a leash and in the care of the owner, custodian or keeper.

SECTION III. DOGS AND CATS AT LARGE TO BE DETAINED. It shall be the duty of the police officers of the Borough, or the Borough's designated animal control officer, to seize and detain any dog found at large and confine them in accordance with the provisions of the State Dog Law of 1982, and its amendments.

It shall be the duty of the police officers of the Borough or the Borough's designated animal control officer, to seize and detain any cat found at large and confine them in the licensed facility owned and operated by the Fayette SPCA.

The owner, custodian or keeper of any dog or cat bearing an identification tag

seized and detained by the police officers of the Borough, or the Borough's designated animal control officer shall be notified of the impoundment by certified mail with return receipt.

Any unlicensed dog or cat shall be confined in the licensed facility owned and operated by the Fayette SPCA.

**SECTION IV. LICENSED FACILITY DESIGNATED.** The Borough Council hereby designates the facility owned and operated by the Fayette SPCA as the licensed facility where dogs and cats seized and detained by the police officers of the Borough, or the Borough's designated animal control officer, shall be kept.

**SECTION V. UNLAWFUL TO KEEP VICIOUS DOG OR CAT.** It shall be unlawful for any person to keep in the Borough, under any circumstances, any vicious dog or cat.

**SECTION VI. EXCESSIVE NOISE.** It shall be unlawful for any owner, custodian or keeper of a dog or cat in their possession or under their control to permit the same to make any frequent or long continued noise of such character or intensity as to disturb the comfort or repose any person in the neighborhood, vicinity, passersby or Borough.

**SECTION VII. ANIMAL DISCHARGE OF EXCRETA.** It shall be unlawful for any owner, custodian or keeper of any dog or cat to permit the same to discharge such animal's excreta upon any street, highway, alley or public ground of the Borough or upon the property of other than the property of the owner, custodian or keeper of any dog or cat, within the Borough, if such owner, custodian or keeper does not immediately thereafter remove and clean up, by sanitary methods, such animal excreta from said public and private property.

**SECTION VIII. ENFORCEMENT PERSONNEL.** It shall be the duty of the police officers of the Borough of Dunbar, or the Animal Control officer as designated by the Borough Council of the Borough of Dunbar, to enforce all provisions of this ordinance.

**SECTION IX. PENALTIES.** Any owner, custodian or keeper of any detained dog or cat shall be responsible to pay a fine as hereinafter stated and all reasonable expenses incurred in the detention of said dog or cat.

Any owner, custodian or keeper found to be in violation of any provision of this Ordinances shall be guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than Fifty (\$50.00) Dollars nor more than Three Hundred (\$300.00) Dollars and /or to undergo imprisonment in the Fayette County jail for a period of not more than ninety (90) days.

INTRODUCED November 17, 1997

BY Ben Beal

ORDINANCE # 233

AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF DUNBAR IN THE COUNTY OF FAYETTE, COMMONWEALTH OF PENNSYLVANIA, APPROPRIATING SPECIFIC SUMS ESTIMATED TO BE REQUIRED FOR THE SPECIFIC PURPOSES OF THE MUNICIPAL GOVERNMENT, HEREINAFTER SET FORTH, DURING THE YEAR 1998.

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Borough Council of the Borough of Dunbar, County of Fayette, Commonwealth of Pennsylvania:

SECTION 1. That for the expenditures and expenses of the fiscal year 1998, the following amounts are hereby appropriated from the fund equities, revenues, and other financing sources available for the year 1998 for the specific purposes set forth on the following pages.



SECTION 2. That any ordinance conflicting with this ordinance be  
and the same is hereby repealed insofar as the same affects this ordinance.

ORDAINED AND ENACTED this 15 day of December, 1997.

John C Williams  
President of Council

ATTEST:

Shirley E. Fyfe  
Borough Secretary

Mayor Angie Graziano  
Mayor

ATTEST:

Shirley E. Fyfe  
Borough Secretary

INTRODUCED November 17, 1997

BY Pres. John Williams

ORDINANCE # 234

AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF DUNBAR, COUNTY OF FAYETTE, COMMONWEALTH OF PENNSYLVANIA, FIXING THE TAX RATE FOR THE YEAR 1998.

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Borough Council of the Borough of Dunbar, County of Fayette, Commonwealth of Pennsylvania.

SECTION 1. That a tax be and the same is hereby levied on all real property within the Borough subject to taxation for the fiscal year 1998 as follows:

For general purposes, the sum of 11 mills on each dollar of assessed valuation, or the sum of \_\_\_\_\_ Dollars and \_\_\_\_\_ (\$\_\_\_\_\_) cents on each one hundred dollars of assessed valuation.

SECTION 2. That any ordinance, or part of ordinance, conflicting with this ordinance be and the same is hereby repealed insofar as the same affects this ordinance.

ORDAINED AND ENACTED, this 15 day of December, 1997.

John C. Williams  
President of Council

ATTEST:

Shirley E. Fitzgerald  
Borough Secretary

Mayor Angie Grayano  
Mayor

ATTEST:

Shirley E. Fitzgerald  
Borough Secretary



INTRODUCED: 6-15-98.

BY: JOHN C. WILLIAMS

ENACTED: 8-17-98.

ORDINANCE NO. 237

AN ORDINANCE

AN ORDINANCE ESTABLISHING STOP INTERSECTIONS ON THE STREETS, ALLEYWAYS, THROUGHWAYS, AND ALL LEGALLY DEFINED ROADS UNDER THE BOROUGH CODE AND THE MOTOR VEHICLE CODE.

WHEREAS, the Borough desires to establish stop intersections in the Borough of Dunbar, Fayette County, Pennsylvania, on the throughways, streets, alleyways, and all legally defined roads under the Borough Code and the Motor Vehicle Code.

NOW, THEREFORE, the Borough of Dunbar ordains and enacts the following:

SECTION 1. The following intersections are established as stop intersections, to wit:

1. Intersection of Walnut Street and Bryson Street;
2. Intersection of Hazel Street and Bryson Street;
3. Intersection of Hazel Street and Furnace Street;
4. Intersection of Chestnut Street and Bryson Street;
5. Intersection of Chestnut Street and Furnace Street;
6. Intersection of Susan Street and Fayette Street;
7. Intersection of Hancock Street and Fayette Street;
8. Intersection of Hancock Street and Connellsville Street;

INTRODUCED   November 16, 1998

BY               Joe Trenker

ORDINANCE # 239

### ORDINANCE

AN ORDINANCE OF THE BOROUGH OF DUNBAR, COUNTY OF FAYETTE,  
COMMONWEALTH OF PENNSYLVANIA, FIXING THE TAX RATE FOR THE  
year 1999.

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted  
by the Borough Council of the Borough of Dunbar, County of Fayette,  
Commonwealth of Pennsylvania.

SECTION 1. That a tax be and the same is hereby levied on all real  
property within the Borough subject to taxation for the fiscal year 1999 as  
follows:

For general purposes, the sum of 11 mills on each dollar of  
assessed valuation, or the sum of \_\_\_\_\_ Dollars and 1231.35 \_\_\_\_\_  
(\$ \_\_\_\_\_)  
cents on each hundred dollars of assessed valuation.

SECTION 2. That any ordinance, or part of ordinance, conflicting with  
this ordinance be and the same is hereby repealed insofar as the same affects  
this ordinance.

ORDAINED AND ENACTED, this \_\_\_\_21\_\_\_\_ day of December, 1999.

John C. Williams  
President of Council

ATTEST:

Heidi E. Fitzgerald  
Borough Secretary

Wanda G. Kohn  
Mayor



INTRODUCED: 2-15-99

BY: JOE Trenker

ENACTED: 3-15-99

ORDINANCE NO.: 240

AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA, INCREASING THE MONTHLY COMPENSATION PAYABLE TO THE MAYOR AND COUNCILMEN, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT HEREWITH.

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF DUNBAR, and it is hereby ordained and enacted by the authority of the same.

SECTION ONE: That the monthly compensation paid to the Mayor shall be increased from \$50.00 per month to \$60.00 per month.

SECTION TWO: That the monthly compensation paid to the member of Borough Council shall be increased from \$<sup>3</sup>25.00 per month to \$<sup>4</sup>35.00 per month.

SECTION THREE: All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION FOUR: This Ordinance shall become effective immediately upon enactment.

ORDAINED AND ENACTED by the Borough Council of the Borough of  
Dunbar this 15<sup>th</sup> day of March, 1999.

BOROUGH OF DUNBAR

By John C. Williams  
President of Council

ATTEST:

Shirley E. FitzGerald  
Borough Secretary

APPROVED this 15 day of March, 1999

Wame C. Roder  
Mayor

ATTEST:

Shirley E. FitzGerald  
Borough Secretary

*office copy*

**BOROUGH OF DUNBAR  
FAYETTE COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 271**

**AN ORDINANCE INCREASING THE INDEBTEDNESS OF BOROUGH OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA, BY THE ISSUE OF A GENERAL OBLIGATION NOTE IN THE AMOUNT OF \$35,000.00 FOR SUNDRY PURPOSES; FIXING THE FORM, NUMBER, DATE, INTEREST, AND MATURITY THEREOF; MAKING A COVENANT FOR THE PAYMENT OF THE DEBT SERVICE ON THE NOTE; PROVIDING FOR THE FILING OF THE REQUIRED DOCUMENT, PROVIDING FOR THE APPOINTMENT OF A SINKING FUND DEPOSITORY FOR THE NOTE; AND AUTHORIZING EXECUTION, SALE AND DELIVERY THEREOF.**

WHEREAS, it is necessary that the indebtedness of the Borough of Dunbar, Fayette County, Pennsylvania be increased for the following purpose: to purchase parcel of land along L.R. 26179 in the Borough of Dunbar; and



WHEREAS, the local government unit has received preliminary realistic cost estimates from professional consultants indicating the sum of \$35,000.00 will be needed to complete the project; and

WHEREAS, the proposed increase of debt, together with its nonelectoral indebtedness and its lease rental indebtedness presently outstanding, will not cause the limitations of the local government unit debt incurring power, pursuant to constitutional and statutory authority to be exceeded;

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Dunbar, Fayette County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same as follows:

SECTION 1. That the aggregate principal amount of the Note of the Borough of Dunbar, Fayette County, Pennsylvania, proposed to be issued is \$35,000.00, same to be issued for the foregoing purposes and same to be incurred as nonelectoral debt.

SECTION 2. The period of useful life of the improvements for which this obligation is to be issued is estimated to be in excess of \_\_\_\_\_ years.

SECTION 3. Said indebtedness shall be evidenced by one general obligation Note, in fully registered form, in the sum of \$35,000.00 dated and

bearing interest from the earliest date of possible issue of said Note under the statutory time requirements as set forth in the Act of the General Assembly of the Commonwealth of Pennsylvania approved the 28<sup>th</sup> day of April, 1978, being Act 51 of 1978 Session and known as the Local Government Unit Debt Act, at the rate of interest of 5.50% per annum, payable on the unpaid balance of said Note on \_\_\_\_\_, 19\_\_ during the term of said Note, together with interest on overdue principal, and to the extent permitted by law, on overdue interest, at the rate of \_\_\_\_% per annum (computed on the basis of 365 days to the year) until paid, which Note shall mature in installments on the annual anniversary date of said Note as follows: **SEE ATTACHED EXHIBIT "A"**.

The local government unit reserves the right any or all installments of principal or any payment of interest at any time prior to the respective dates thereof, without notice or penalty.

The principal and interest of said Note shall be payable at the office of the sinking fund depository selected for the Note as hereinafter provided.

SECTION 4. The said Note is hereby declared to be a general obligation of the Borough of Dunbar, Fayette County, Pennsylvania. The local government unit hereby covenants that it shall include the amount of debt service on the Note for

each fiscal year in which such sums are payable in its budget for that year, shall appropriate such amounts to the payment of such debt service, and shall duly and punctually pay or cause to be paid the principal of the Note and the interest thereon at the dates and places and in the manner stated in the Note according to the true intent and meaning thereof, and for such proper budgeting, appropriation, and payment, the full faith, credit and taxing power of the Borough of Dunbar is hereby irrevocably pledged.

The amounts which the local government unit hereby covenants to pay in each of the following fiscal years on the basis of an interest rate of 5.5% are as follows: **SEE ATTACHED EXHIBIT "B"**.

SECTION 5. The form of said Note shall be substantially as set forth in the attached **Exhibit "N"**.

SECTION 6. The said Note shall be executed in the name and under the corporate seal of the local government unit by the President and \_\_\_\_\_ and attested to by the Secretary. The Treasurer is hereby authorized and directed to deliver said Note to the purchaser, and receive payment therefor on behalf of the local government unit. The President of Council and Secretary of the local



government unit are authorized and directed to prepare, verify and file the debt statement required by Section 8110 of the Act and to take other necessary action, including, if necessary or desirable, any statements required to qualify any portion of the debt from the appropriate debt limit as self-liquidating or subsidized debt.

SECTION 7. Scottsdale Bank & Trust Company is hereby designated as the Sinking Fund Depository for the obligation herein authorized, and there is hereby created and established a Sinking Fund, to be known as "Sinking Fund 1999 General Obligation Note" for the payment of the principal and interest thereon which shall be deposited into the Sinking Fund no later than the date upon which the same becomes due and payable. The Treasurer shall deposit into the Sinking Fund, which shall be maintained until such obligation is paid in full, sufficient amounts for payment of principal and interest on the obligation no later than the date upon which such payments shall become due. The Sinking Fund Depository shall, as and when said payments are due, without further action by the local government unit, withdraw available monies in the Sinking Fund and apply said monies to payment of principal and interest on the obligation.

SECTION 8. The President of Council and \_\_\_\_\_ of the local government unit are hereby authorized to contract with Scottsdale Bank &

Trust Company for its services as Sinking Fund Depository for the Note and paying agent for the same.

SECTION 9. In compliance with Section 8161 of the Act, the members of the governing body have determined that a private sale by negotiation rather than public sale is in the best financial interest of the local government unit. Therefore, the general obligation Note in the amount of \$35,000.00, herein authorized to be issued and sold is hereby awarded and sold to the Scottsdale Bank & Trust Company in accordance with its proposal to purchase the said Note at par; provided the said Note is dated the delivery thereof to the Scottsdale Bank & Trust Company and is in the form set forth in this Ordinance as Exhibit "N"; and further provided that the proceedings have been approved by the Department of Community and Economic Development if such approval is required under the provisions of the Act.

SECTION 10. The action of the proper officers and the advertising of a summary of this Ordinance as required by law in the Daily Courier, a newspaper of general circulation, is ratified and confirmed. The advertisement in said paper of the enactment of the ordinance is hereby directed within fifteen (15) days following the day of final enactment.

SECTION 11. All ordinance or parts of ordinances not in accord with this Ordinance are hereby repealed insofar as the conflict herewith.

ORDAINED AND ENACTED this 27 day of May, 1999.

BOROUGH OF DUNBAR

ATTEST:

BY: John C. Williams

Huda E. FitzGerald

BY: William J. Watson

Approved this 27 day of May, 1999.

MAYOR OF DUNBAR

Wm. A. Rader

ATTEST:

Huda E. FitzGerald



**SAMPLE FORM OF NOTE  
EXHIBIT N**

UNITED STATES OF AMERICA  
COMMONWEALTH OF PENNSYLVANIA

COUNTY OF FAYETTE  
BOROUGH OF DUNBAR

**GENERAL OBLIGATION NOTE**

\$35,000.00

DATED: MAY 24, 1999

KNOW ALL MEN BY THESE PRESENTS, that the Borough of Dunbar, Fayette County, Commonwealth of Pennsylvania, a local government unit existing by and under the laws of said Commonwealth, for value received, hereby acknowledges itself indebted and promises to pay to the purchaser, or registered assigns, the sum of Thirty-five Thousand Dollars and 00/100 (\$35,000.00) in installments as follows: **SEE ATTACHED EXHIBIT "A"**

with interest on the unpaid principal balance at the rate of five and one-half percent (5.5%) per annum, payable on \_\_\_\_\_, 19\_\_\_\_, together with interest on overdue principal, and to the extent permitted by law, on overdue interest, at the rate of five and one-half percent (5.5%) per annum

(computed on the basis of 365 days to the year), with the option in the local government unit to anticipate any installment of principal or any payment of interest at any time prior to the respective payment dates thereof, without notice of penalty.

Both principal and interest are payable in such coin or currency as at the respective dates of payment thereof shall be legal tender for the payment of public and private debts, at the office of the Scottdale Bank & Trust Company, 125 South Arch Street, Connellsville, Pennsylvania.

It is hereby recited that this Note is authorized to be issued in accordance with the Act of the General Assembly of the Commonwealth of Pennsylvania approved the 28<sup>th</sup> day of April, 1978, being Act 52 of the 1978 Session.

It is hereby certified that all acts, conditions, and things required to be or be done, happen, and be performed precedent to and in the issuance of this Note or in the creation of the debt of which it is evidence, have been done, happened and been performed in regular and due form and manner as required by law; and that this Note, together with all other indebtedness of the said local government unit is not in excess of any constitutional or statutory limitation and for the proper budgeting, appropriation, and the prompt and full payment of all the obligations of

this Note the entire full faith, credit and taxing power of said local government unit are hereby irrevocably pledged.

It is hereby further certified that the said local government unit has effectively covenanted to include the amount of the debt service on this Note in each fiscal year for which such sums are due, in its budget for that year, to appropriate such amounts to the payment of such debt service, and to periodically pay or cause to be paid the principal and interest thereon at the dates and places and in the manner stated herein, according to the true intent and meaning hereof.

IN WITNESS WHEREOF, the Borough of Dunbar, Fayette County, Pennsylvania, has caused this Note to be properly executed by the proper officers of the local government unit and its corporate seal to be hereto affixed, attested to by the Secretary as of the 27 day of May, 1999.

BOROUGH OF DUNBAR

(SEAL)

BY: John C. Williams

BY: William J. Water

ATTEST:

Glenn E. Fitzgerald



INTRODUCED: 5/20/99

BY: BILL WATSON

ENACTED: 5/24/99

ORDINANCE NO.: 242

AN ORDINANCE

AUTHORIZING COUNCIL OR BOROUGH OF DUNBAR TO SELECT AND APPROPRIATE CERTAIN PLOTS OF GROUND WITH THE IMPROVEMENTS THEREON SITUATED IN THE BOROUGH OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA, FOR PUBLIC USE AS A SIDEWALK AND STAIRWAY LEADING FROM CONNELLSVILLE STREET TO WALNUT STREET.

The Council of the Borough of Dunbar hereby ordains:

SECTION ONE: The Council of Dunbar Borough is hereby authorized to select and appropriate the following plots of ground for public use.

ALL that certain strip of land being five feet in width being a portion of a larger piece or parcel recorded in Deed Book Volume 1198, page 644, situate in the Borough of Dunbar, Fayette County, Pennsylvania, being more particularly described as follows:

BEGINNING at a point in Connellsville Street; thence along now or formerly Laureen Malachin South 88 degrees 51 minutes 00

seconds East, 174.00 feet to a point; thence along now or formerly Sheila Hall and Angela Fairbee South 81 degrees 03 minutes 48 seconds East, 38.64 feet to the western right-of-way line of Walnut Street South 10 degrees 21 minutes 23 seconds West, 5.00 feet to a point; thence along now or formerly William Keilbach North 81 degrees 03 minutes 48 seconds West 38.17 feet; thence through now or formerly Dunbar Community Development Corporation North 88 degrees 51 minutes 00 seconds West 173.66 feet to a point in Connellsville Street; thence through said street North 01 degrees 09 minutes 00 seconds East, 5.0 feet to the place of beginning, containing 0.02 acres according to a survey by McMillen Engineering, Inc.

**SECTION TWO:** The solicitor of the Borough of Dunbar is authorized and directed to prepare and file with the appropriate Court a declaration of taking which shall be executed by the president and secretary of Council, and to take any action that may be necessary or desirable to carry out the intent and purposes of this ordinance.

**SECTION THREE:** The Borough shall acquire fee simple title.

**SECTION FOUR:** The amount of damages when determined shall be charged against any present or future collections of revenue of the General Fund.

ORDAINED AND ENACTED by the Borough Council of the Borough  
of Dunbar this 24 day of MAY, 1999.

BOROUGH OF DUNBAR

By: John C. Williams  
President of Council

ATTEST:

Hilda E. Fitzgerald  
Borough Secretary

APPROVED this 24 day of MAY, 1999.

Wm. A. Ralston  
Mayor

ATTEST:

Hilda E. Fitzgerald  
Borough Secretary



INTRODUCED: July 19, 1999

BY: Joseph Tranker

ENACTED: \_\_\_\_\_

ORDINANCE NO.: 243

AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA, PROHIBITING LOITERING ON ANY PUBLIC STREET, PUBLIC HIGHWAY, PUBLIC SIDEWALK OR IN ANY OTHER PUBLIC PLACE OR BUILDING, PROVIDING FOR PENALTIES FOR THE VIOLATION THEREOF, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT HERewith.

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF DUNBAR, and it is hereby ordained and enacted by the authority of the same.

SECTION ONE: It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone and/or in consort with others in a public in such manner so as to:

- A. Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or attempting to

hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.

B. Commit in or upon any public street, public highway, public sidewalk, or any other public place or building, any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by any one in or upon or facing or fronting on any such public street, public highway, public sidewalk, or any public place or building, all of which prevents the free and uninterrupted ingress, egress, and regress, therein, thereon, and thereto.

SECTION TWO: When any person causes or permits any of the conditions enumerated in Section One herein, a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such order shall be guilty of a summary offense.

SECTION THREE: Any person who violates any of the provisions of this Ordinance shall be subject to a fine of not less than \$50.00 or not to exceed \$300.00 or by imprisonment in the County jail for a period not to exceed ninety (90) days, or both.

SECTION FOUR: This Ordinance shall take effect immediately upon its enactment.

SECTION FIVE: All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

ORDAINED AND ENACTED by the Borough Council of the Borough of Dunbar this 16<sup>th</sup> day of Aug, 1999.

BOROUGH OF DUNBAR

By John C Williams  
President of Council

ATTEST:

Huda E. FitzGerald  
Borough Secretary

APPROVED this 16 day of August, 1999

Walter A. Runk  
Mayor

ATTEST:

Huda E. FitzGerald  
Borough Secretary



INTRODUCED \_\_\_\_\_  
BY \_\_\_\_\_  
ORDINANCE # 244

AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF DUNBAR, COUNTY OF FAYETTE,  
COMMONWEALTH OF PENNSYLVANIA, FIXING THE TAX RATE FOR THE  
YEAR 2000.

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by  
the Borough of Dunbar, County of Fayette, Commonwealth of Pennsylvania.

SECTION 1. That a tax be and the same is hereby levied on all real property  
within the Borough subject to taxation for the fiscal year 2000 as follows:

For general purposes, the sum of 11 mills on each dollar of assessed valuation, or  
the sum of \_\_\_\_\_ Dollars and \_\_\_\_\_ cents on each one hundred dollars of assessed valuation.

SECTION 2: That any ordinance, or part of ordinance, conflicting with this  
ordinance be and the same is hereby repealed insofar as the same affects this ordinance.

ORDAINED AND ENACTED, this \_\_\_\_\_ day of December, 1999.

\_\_\_\_\_  
President of Council

ARREST:

\_\_\_\_\_  
Borough Secretary

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Borough Secretary

Seal

INTRODUCED: 11-15-99

BY: \_\_\_\_\_

ENACTED: \_\_\_\_\_

ORDINANCE NO.: 245

AN ORDINANCE

OF THE BOROUGH OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA,  
RESCINDING ORDINANCE NO. 242, ADOPTED MAY 24, 1999.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF  
DUNBAR, FAYETTE COUNTY, PENNSYLVANIA, AND IT IS HEREBY ORDAINED  
AND ENACTED BY THE AUTHORITY OF THE SAME.

SECTION ONE. THAT ORDINANCE NO. 242 ADOPTED MAY 24, 1999,  
WHICH AUTHORIZED THE COUNCIL OF BOROUGH OF DUNBAR TO SELECT AND  
APPROPRIATE CERTAIN PLOTS OF GROUND WITH THE IMPROVEMENTS THEREON  
SITUATED IN THE BOROUGH OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA,  
FOR PUBLIC USE AS A SIDEWALK AND STAIRWAY LEADING FROM  
CONNELLSVILLE STREET TO WALNUT STREET, IS HEREBY RESCINDED.

SECTION TWO. THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY  
UPON ITS ENACTMENT.



SECTION THREE. ORDAINED AND ENACTED BY THE BOROUGH COUNCIL  
OF THE BOROUGH OF DUNBAR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,  
1999.

BOROUGH OF DUNBAR

BY: \_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST:

\_\_\_\_\_  
BOROUGH SECRETARY

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1999

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
BOROUGH SECRETARY

## ORDINANCE No. 246

AN ORDINANCE OF THE BOROUGH OF DUNBAR REQUIRING EACH OWNER OF PROPERTY ACCESSIBLE TO THE PUBLIC SEWAGE SYSTEM IN THE BOROUGH OF DUNBAR TO CONNECT/TAP-IN TO THE SYSTEM; DIRECTING AND REQUIRING ABANDONMENT OF ALL PRIVY VAULTS, CESSPOOLS, SEPTIC SYSTEMS, SAND MOUNDS AND OTHER SIMILAR NON-PUBLIC SEWAGE SYSTEMS, AND PROHIBITING THE ERECTION OF NEW NON-PUBLIC SEWAGE SYSTEMS; REQUIRING COMPLIANCE WITH THE REGULATIONS OF THE DUNBAR BOROUGH/TOWNSHIP SANITARY AUTHORITY CONCERNING CONNECTIONS/TAP-INS AND PAYMENT OF CONNECTION/TAP-IN CHARGES; PROVIDING FOR PENALTIES FOR VIOLATIONS HEREOF; AND REPEALER.

THE COUNCIL OF THE BOROUGH OF DUNBAR HEREBY ORDAINS:

**This ordinance shall be known as the Public Sewer Enforcement Ordinance.**

### **SECTION 1— DEFINITIONS:**

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

Authority — The Dunbar Borough/Township Sanitary Authority.

Connection; Sewer Connection; Connect; Tap-in — An extension from the public sewage system which connects to a residence, building or unit by means of a pipe or pipeline allowing sewage waste to flow from the residence, building or unit into the public sewage system.

Residence or Principal Building — Any building which has running water by pipe or by well, and/or toilet(s), bathtub(s), shower(s), sink(s) or floor drain(s).

Property Owner — The person or persons to whom land or real property is titled.

Public Sewage System — Any and all portions of a sanitary sewer system (including pipelines, pumping facilities, and treatment facilities), whether publically or privately constructed or installed, located within the Borough of Dunbar and controlled, maintained, owned and/or serviced by the Dunbar Borough/Township Sanitary Authority, and which is used for the collection, disposal, carrying, pumping and/or treatment of sewage and/or industrial wastes of a liquid nature.

## **SECTION 2 — MANDATORY CONNECTION/TAP-IN:**

(a) The property owner of each piece, parcel or lot of land whose residence(s) or principal building(s) thereon, heretofore and hereafter constructed, is/are within two hundred fifty (250) feet of the public sewage system and otherwise accessible to the public sewage system shall connect to the public sewage system.

(b) In the event that the public sewage system or a portion thereof is installed or becomes available to the existing principal building(s) of property owners, [as provided in Section 2(a), above] the said property owner(s) shall connect to the public sewage system at any time within ninety (90) days after notice is given to the property owner by the Borough of Dunbar, Dunbar Borough/Township Sanitary Authority, or any of their respective agents, employees, officers, members or representatives that the public sewage system is or will be available (such notice may be actual or constructive).

(c) With regard to apartment buildings, hotels, motels, boarding houses, shopping centers, business plazas and any other building which contains multiple units intended for occupancy as living quarters by an individual, a single family or a discrete group of persons, or intended for occupancy as separate or joint businesses, and which fall within the provisions of Section 2(a) or (b), above, each such unit shall be connected to the public sewage system.

(d) From time to time in the future, the public sewage system may become available to additional properties within the Borough of Dunbar by reason of construction, installation, improvement or acquisition of pipelines and/or sewer facilities. In such instances, Sections 2(a) and (b), herein, shall immediately and without further action by the Borough of Dunbar become applicable to such portions of the public sewage system.

## **SECTION 3 — PREREQUISITES TO LAWFUL CONNECTION/TAP-IN AND COSTS ASSOCIATED THEREWITH:**

(a) Each and every property owner to whom Section 2, above, applies shall comply with any and all rules, regulations, resolutions and lawful conditions which may, from time to time, be placed by the Dunbar Borough/Township Sanitary Authority upon connections and tap-ins to the public sewage system, including but not limited to payment of a tap-in/connection fee to the Authority, obtaining a tap-in/connection permit from the Authority, obtaining specifications concerning the size and quality of piping to be used, and inspection and approval by an Authority representative of a tap-in/connection prior to covering the same.

(b) No more than one hundred and twenty (120) days prior to connecting/tapping-in to the public sewage system, each and every property owner to whom Section 2, above, applies, shall contact the Dunbar Borough/Township Sanitary Authority or its designated agent, representative or officer, and shall obtain from the Authority its rules, regulations, resolutions and conditions which pertain to public sewage system tap-ins/connections.



(c) The failure, refusal or neglect of a property owner to comply with Section 3(a) and/or Section 3(b), herein, shall in no way be considered justification not to tap-in/connect to the public sewage system or an extension of time within which to tap-in/connect to the public sewage system, and the same shall not be a defense under the provisions of this ordinance.

(d) The costs associated with tapping into and/or accessing the public sewage system shall be born solely by the property owner, as assessed by the Dunbar Borough/Township Sanitary Authority, including the costs of any devices or mechanisms (eg. grinder pump) which may be required for the property owner to make any improvements on his/her property fully accessible to the public sewage system.

#### **SECTION 4 — ACCESS TO PROPERTY:**

For the purpose of making any inspection to ensure compliance with this ordinance or the rules, regulations and resolutions of the Dunbar Borough/Township Sanitary Authority, an officer, agent, representative or employee of the Borough of Dunbar and/or the Authority shall have access at all reasonable hours of the day to all parts of the property to which sewage service is supplied or intended to be supplied, and to any connections or taps, and excavations relating thereto.

#### **SECTION 5 — FAILURE, REFUSAL OR NEGLECT TO CONNECT/TAP-IN:**

(a) In the event any property owner to which Section 2, herein, applies fails, refuses or neglects to tap-in/connect to the public sewage system in accordance with the provisions herein, an officer, agent, representative or employee of the Borough of Dunbar and/or the Authority may enter upon such property and construct such sewer tap-in/connection. Upon construction of such sewer connection, the property owner shall be:

- (1) Provided with an itemized bill of costs for construction of the said sewer tap-in/connection; and
- (2) Assessed any additional sums which may be payable pursuant to Section 3, herein.

(b) The costs set forth in Section 5 (a)(1) shall be collectable in any manner provided by law or equity.

(c) The sums set forth in Section 5 (a)(2) shall be collectable in any manner provided by law or equity, and/or payment of the same may be enforced pursuant to the provisions of this ordinance.

## **SECTION 6 — NON-PUBLIC SEWAGE SYSTEM FACILITIES:**

From and after the time of passage of this ordinance, each property owner to whom this ordinance applies or thereafter becomes applicable by the terms hereof:

- (1) Shall forthwith abandon all privies, cesspools, sinkholes, septic tanks, private sewer systems and other receptacles on the premises for receiving or disposing of sewage and/or industrial waste; and
- (2) Shall not at any time thereafter erect, construct, use or maintain any pipe, conduit, drain or other facility for the discharge of sewage and/or industrial waste except for the purpose of discharge into the public sewage system; and
- (3) Shall forthwith clean and fill, under the direction of an officer, agent, representative or employee of the Borough of Dunbar and/or the Authority, all privy vaults, cesspools or similar receptacles for human excrement on the premises.

## **SECTION 7 — PROHIBITION OF STORM WATER INTO PUBLIC SEWAGE SYSTEM**

(a) No basement seepage, ground water drainage, building drain or storm drain or any other non-sewage source of water shall be discharged into the public sewage system and all property owners desiring connection to the public sewage system shall, by the filing of the documents required by the Authority, be certifying that no ground water, seepage drains, building drains or storm drains are or shall be connected to the public sewage system. After connection to the sewer is made, the property owner shall maintain his/her residence or principal building in such manner that no such seepage, ground water drainage, building drains or storm water drains enter the public sewage system.

(b) No downspout, roof drain, french drain or surface or area drain shall be connected to the public sewage system, and before attachment to the public sewage system, the property owner shall remove such connections and adequately plug such drains to prevent the entrance of the downspouts, roof drain, french drain, surface or area drain.

(c) No cross connections shall be made between the public sewage system and the potable water system whereby vacuums or back siphonage could permit sanitary waste to enter the potable water system. No cross connections shall be made between the public sewage system and any storm drains or storm sewers.



## **SECTION 8 — SPECIAL AGREEMENTS OR ARRANGEMENTS:**

(a) Nothing in this ordinances shall be construed to prevent the Authority, in its sole and absolute discretion, from making a special agreement or arrangement with a property owner, upon the showing of good cause, such that the property owner is granted a reasonable extension of time within which to tap-in/connect, or is granted an exemption or forgiveness from compliance with any of the rules, regulations, resolutions or conditions of the Authority pertaining to tap-ins/connections.

(b) A written agreement, arrangement, extension or exemption with the Authority, as described in (a) above, shall be an absolute defense to a charge or action implemented for violation of this ordinance, if the agreement, arrangement, extension or exemption pertains to the alleged violation and the time-period referred to in the charge or action.

## **SECTION 9 — ADDITIONAL ENFORCEMENT PROVISIONS:**

The Authority is hereby authorized and empowered to institute any civil action and/or criminal action, on behalf of the Borough of Dunbar, to enforce this ordinance and any provision of any other ordinance which relates to the public sewage system. Nothing herein shall be construed to limit the authority or ability of the Mayor or Council Members of the Borough of Dunbar, Dunbar Borough/Township Sanitary Authority, the Dunbar Borough Police Department, the Dunbar Borough Code Enforcement Officer(s), other law enforcement agencies, or any other agent of the Borough of Dunbar to enforce this or any other ordinance.

## **SECTION 10 — PENALTIES FOR NON-COMPLIANCE:**

(a) All actions for enforcement to this ordinance shall be brought as follows:

- (1) As a summary offense, before a District Justice in the same manner provided for the enforcement of a summary offense under the Pennsylvania Rules of Criminal Procedure. Any person who shall violate or fail to comply with any of the provisions of this ordinance shall, upon conviction thereof, in a summary proceeding before a District Justice, be sentenced to pay a fine of not less than twenty-five (\$25.00) dollars nor more than one thousand (\$1000.00) dollars, costs of prosecution, restitution and/or a term of imprisonment up to ninety (90) days, per violation. Each day that a violation continues shall constitute a separate offense; or
- (2) As a civil action in law or in equity, before a District Justice in the same manner provided for under the Pennsylvania Rules of Civil Procedure of District Justice Rules. Any person who shall violate or fail to comply with any of the provisions of this ordinance shall be assessed a civil penalty of not less than twenty-five (\$25.00) dollars nor more than six hundred (\$600.00)



dollars, court costs, restitution and reasonable attorney fees incurred by the Township in the enforcement of proceeding, per violation. Each day that a violation continues shall constitute a separate offense.

(b) Nothing in this ordinance shall in any way prevent or preclude the Authority from enforcing its rules, regulations, resolutions, fees and assessments, and/or making collections thereon in any manner provided in law or in equity.

**SECTION 11 — REPEALER:**

All ordinances or parts of ordinances inconsistent with the provisions hereof are hereby repealed or rescinded.

This ordinance shall become effective on the 22<sup>nd</sup> day of February, 2000.

Wane A. Randle - Mayor

John C. Williams President

ORDINANCE NO.     /     - 2000

TOWNSHIP OF DUNBAR

AN ORDINANCE OF THE TOWNSHIP OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA, DIRECTING AND REQUIRING THE CONNECTION TO PUBLIC SANITARY SEWERS, ALL ADJACENT PROPERTY, ALL ADJOINING PROPERTY AND ALL OCCUPIED BUILDINGS WITHIN 150 FEET; DIRECTING AND REQUIRING ALL ABANDONMENT OF ALL PRIVY VAULTS, CESSPOOLS, SEPTIC TANKS AND SAND MOUNDS ON SAID PREMISES; PROHIBITING THE ERECTION AND CONSTRUCTION OF NEW PRIVY VAULTS, CESSPOOLS, SEPTIC TANKS AND SAND MOUNDS IN AND UPON SUCH PREMISES; AND PROVIDING PENALTIES FOR VIOLATION.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of Dunbar, Fayette County, Pennsylvania, and it is hereby ordained and enacted by authority of the same, as follows:

SECTION 1 - PURPOSE

The Township of Dunbar has determined that it is in the best interests of the community to provide for public sanitary sewers and the Township has upgraded its Act 537 Plan, in cooperation with the Department of Environmental Protection, to implement programs for the installation of public sanitary sewage systems.

Dunbar Township has agreed to jointly cooperate with the Dunbar Borough/Township Sanitary Authority (successor to the Dunbar Borough Sanitary Authority) and the Dunbar Township Municipal Authority, pursuant to the provisions of the Municipalities Authorities Act of 1954 as amended. As part of the development of a public sanitary sewage system, Dunbar Township has determined that mandatory connection to the public sanitary sewer system is required in order to alleviate the existing sewage

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sewer system is required in order to alleviate the existing sewage problems and to assure the economic viability of the public sanitary sewer system. This ordinance is to provide for the mandatory connection to the public sanitary sewer system, to provide for the abandonment and destruction of existing privy vaults, cesspools, septic tanks and sand mounds and to provide penalties for failure to comply with this Ordinance.

## SECTION 2 - DEFINITIONS

1. "Authority" shall mean the Dunbar Borough/Township Sanitary Authority and/or the Dunbar Township Municipal Authority. Both authorities have been organized in compliance with Pennsylvania statutory law.

2. "Township" shall mean the Township of Dunbar.

3. "Building Drain" or "House Drain" shall mean that part of the lowest horizontal piping or a drainage system which receives the sewage or discharge from soil pipes, waste pipes and other drainage pipes inside the walls of a building or structure and conveys waste to the building sewer beginning five (5) feet outside the inner face of the building wall.

4. "Inspector" shall mean the person appointed or employed by the Authority to inspect public sewers, water lines, building sewers, privies, cesspools, septic tanks, sand mounds, "tap-ins" and all other connections between occupied structures, buildings, and the public sewer lines in areas of Dunbar Township which area

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or areas shall be serviced by the sewage system.

5. "Person" shall mean any individual, partnership, association, company, corporation, municipality, municipal authority or political subdivision or any agency of the federal or state government. The term includes the officers, employees and agents of any partnership, association, company, corporation, municipality, municipal authority or political subdivision or any agency of the federal, state or county government.

6. "Public Sanitary Sewer" shall mean a sanitary sewer maintained, installed and operated by the Authority for the purpose of carrying household waste waters and toilet wastes from any improved property.

7. "Public Sewer" shall mean a sewer in which all owners of abutting or adjoining property have equal rights and which line is controlled by the authority.

8. "Sanitary Sewer" shall mean a sewer which carries household waters and toilet waters from any improved property.

9. "Sewage" shall mean a combination of household water, toilet water carried from a residence, a business and commercial buildings, apartments, institutions, industrial establishments and trailer parks. Sewage shall not include industrial waste nor vegetable matter unless prior approval in writing has been secured by the authority prior to placement into the public sanitary sewer system.

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10. "Sewage Treatment Plant" or "Sewage Treatment Works" shall mean any arrangement of buildings, devices, systems and structures used for receiving, processing and treating sewage.

11. "Sewer" shall mean a pipe or conduit for carrying sewage.

12. "Shall" is mandatory.

13. "Storm Drain" or "Storm Sewer" shall mean a pipe or line which carries storm water, surface water, surface drainage and footer drainage but shall exclude all forms of sewage and industrial wastes.

14. "Suspended Solids" shall mean solids that either float on the surface of or are in suspension in water, sewage or other liquids which are removable by filtering or processing.

15. "Owner" shall mean any person, partnership or corporation vested with ownership, legal or equitable, sole or partial, of any improved property.

### SECTION 3 - MANDATORY CONNECTION

(A) Within sixty (60) days after the passage of this Ordinance or the installation of sanitary sewer lines by the authority, the owner or owners of all adjacent property, adjoining property, all occupied buildings located on premises adjacent to or adjoining a public sanitary sewer, shall connect or cause to be connected all buildings or structures to which the property is accessible. It shall be presumed that any building located within

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150 feet of a public sanitary sewer is accessible and shall be connected to such sanitary sewer. All trailers or mobile homes located within a mobile home park adjacent to or adjoining the sanitary sewer system shall be required to connect to the sanitary sewer system. All commercial buildings on property owned by a partnership, corporation or individual located adjacent to or adjoining the sanitary sewer line shall be required to connect to the sanitary sewer. Notwithstanding the provisions of this section, this Township shall not require any commercial or industrial business or mobile home or trailer park to connect to the sewer system when such is operating a sewer treatment plant under mandate of any agency of the state or federal government. This exemption shall last as long as such sewer treatment plant continues to meet the specifications and standards mandated by such federal or state agency and for forty-five (45) days thereafter. If during the days immediately subsequent to the day that an existing sewer treatment plant is determined to be below federal or state mandates, repairs cannot be made to bring the system back up to satisfactory condition, this township shall require such business to connect to the sewer system, in which case the full cost of connection to and any necessary refurbishing of the sewer system, including replacement of lines and/or tap-ins shall be borne by such business entity.

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(B) As public sanitary sewers are laid and provided in other areas of Dunbar Township, the owners of all occupied buildings, adjoining property or adjacent property to or abutting the public sanitary sewers so laid and constructed, shall within sixty (60) days connect or cause to be connected all occupied buildings to the sanitary sewer as required by regulations.

**SECTION 4**  
**ABANDONMENT OF PRIVIES, PRIVY VAULTS,**  
**CESSPOOLS, SEPTIC TANKS AND SAND MOUNDS**

When connection has been made with the public sanitary sewer, the owner or owners of such property shall forthwith abandon any and all privies, privy vaults, cesspools, septic tanks and sand mounds then existing on the said premises and shall use them no longer. Such abandoned privies, privy vaults, cesspools, septic tanks and sand mounds shall have pumped from them all sewage, septage or other waste and shall cause each to be completely filled with sand or other acceptable material. Any and all connection or connections with structures or occupied building previously served by any privy, privy vaults, cesspools, septic tanks and sand mounds shall be disconnected, broken and destroyed in such a manner that sanitary sewage can no longer enter therein, as required by regulation and inspection.

**SECTION 5**  
**PROHIBITION AGAINST USE OF PRIVIES, PRIVY**  
**VAULTS, CESSPOOLS, SEPTIC TANKS AND SAND MOUNDS**

(A) From and after the passage of this Ordinance, it shall be unlawful for any person, firm, corporation, partnership or

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entity to erect or construct any privy, privy vault, cesspool, septic tank or sand mound or any other type of disposal, receptacle or structure in, on or under any premises adjoining, adjacent to, or within one hundred fifty (150) feet of any public sanitary sewer in Dunbar Township.

(B) From and after the passage of this Ordinance, it shall be unlawful for any person, firm, corporation or entity to connect with any privy, privy vault, cesspool, septic tank, sand mound or any other type of disposal for sanitary sewage or industrial waste in any area serviced by public sanitary sewage in Dunbar Township.

(C) From and after the passage of this Ordinance, it shall be unlawful in areas where public sanitary sewers have been provided and where the owner or owners of premises have connected with the public sanitary sewer, or are by this Ordinance duly bound to connect to sanitary sewers, to connect any occupied building to a privy, privy vault, cesspool, septic tank, sand mound or any other type of disposal, receptacle or structure for sewage.

#### **SECTION 6**

#### **COMPLIANCE WITH RULES AND REGULATIONS**

All connections to the sewer lines that are part of the Sanitary Sewer Systems of Dunbar Township shall be made in strict compliance with the rules and regulations adopted by the authorities controlling said connections. Any abandonment of any existing privy, privy vault, cesspool, septic tank or sand mound

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or other disposal, receptacle or structure shall be made in strict compliance with rules and regulations adopted by the Authority.

**SECTION 7**  
**PROHIBITION OF STORM WATER, RAIN**  
**WATER OR RUNOFF INTO SANITARY SEWAGE SYSTEM**

(A) No basement seepage, ground water drainage, building drain, storm drain, footer drain, roof drain or water drain of any type or any other non-sewage source of water shall be discharged into the sanitary sewer system and all applicants desiring connection to the public sanitary sewage system shall certify that no ground water, seepage drains, building drains, footer drains, roof drains, storm drains or water drains are or shall be connected to the public sanitary sewage system. After connection to the sewer is made, all applicants shall maintain the house system, the industrial system or the commercial trailer park system in such a manner that no such seepage, ground water drainage, building drains, storm drains, footer drains, roof drains or water drains shall enter the sanitary sewage system.

(B) No downspouts, roof drainage or surface water or area drainage shall be connected into the public sanitary sewage system and before attachment to the sewer system, each property owner, applicant for service, business entity, mobile home park facility or commercial user shall remove such connections and rightly plug each system to prevent the entrance of downspouts, roof drains,

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surface drains, footer drains or any other area drainage into the public sanitary sewer system. The Authority engineer or inspector, shall inspect, confirm and approve the adequacy of each system before final connection has been approved or made.

#### **SECTION 8** **SPECIFICATION FOR HOUSE PLUMBING SYSTEM**

Each user of the public sanitary sewer system before connections are made thereto shall provide the necessary piping, venting and connections as required by the rules and regulations of the Authority in compliance with BOCA requirements.

#### **SECTION 9 - CROSS CONNECTIONS**

No cross connections shall be made between the sanitary sewer system and the potable water system, whereby vacuums or back siphonage could permit sanitary waste to enter the potable water system. No cross connections shall be made between the sanitary sewage system and the storm drains or storm sewers for any user of the system.

#### **SECTION 10 - INSPECTIONS**

The Authority shall be permitted to enter upon all properties, at reasonable times and before final connections, for the purpose of inspection, observation, sampling, testing and retesting in accordance with rules and regulations adopted by the Authority to ensure compliance with this Ordinance.

#### **SECTION 11 - PENALTIES**

(A) If the owner or owners of any occupied building or

buildings, trailer parks or commercial establishments shall neglect or refuse to comply with the provisions of this Ordinance, the Authority shall serve a written notice upon said owner or owners, or upon the tenant or party in possession of the premises if the owner or owners cannot be found on said premises, requiring said owner or owners or tenants to comply in every respect with the provisions of this Ordinance within thirty (30) days after the service of such notice. If the owner, owners or tenants shall neglect or refuse to comply with the notice, the Authority shall perform or cause to be performed such work and labor, and furnish or cause to be furnished such material as may be necessary to comply with the provisions of this Ordinance, at the cost and expense of the owner, owners or tenants together with a twenty (20%) percent override to cover the costs, fees and expenses associated therewith. All charges, expenses and fees incident to such connection by the Authority shall be collected from said owner, owners or tenants for the use of the Authority in a legal manner as debts are by law collectible, or the said Authority may, by proper officer, file a municipal claim or municipal lien therefore against said premises as provided by the Acts of Pennsylvania law.

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(B) In addition to any penalty hereinabove prescribed, any person violating any of the provisions of this Ordinance shall be subject to a fine of not less than Three Hundred and 00/100

(\$300.00) Dollars, nor more than One Thousand and 00/100 (\$1,000.00) Dollars, and in default of payment thereof within thirty (30) days, shall be sentenced to undergo a period of imprisonment of not less than ten (10) days, nor more than thirty (30) days. Each additional day that the violation continues shall constitute a separate offense and shall be deemed a violation of the health, welfare and water pollution requirements of the Authority. In addition to the foregoing, the defendant/violator shall pay the costs of prosecution, costs incurred for inspection, and reasonable attorney's fees for each enforcement, which shall be added by the District Justice, or his successor, after a hearing where the alleged violator is given an opportunity to be heard. Fines and penalties collected for violation of the Ordinance shall be paid to the Authority.

(C) In addition to any of the penalties set forth above, any person, firm, organization, partnership or entity who fails to connect to the public sanitary sewer as required under this Ordinance and such failure to connect continues for a period of thirty (30) days after written notice to connect from the Authority to the person, firm, organization, partnership or entity shall become liable for the monthly minimum charge for sanitary sewer service and such minimum charge shall continue monthly regardless of whether service has been established to the property.

#### SECTION 12 - CONNECTIONS

Each improved property shall be connected separately and independently with a sewer through a building sewer. Grouping of



more than one (1) improved property on one building sewer shall not be permitted except under special circumstances and for good sanitary reasons but only after special permission from the Authority, in writing shall have been secured and only subject to such rules, regulations and conditions as may be prescribed by the Authority.

All costs and expenses of construction of a building sewer and all costs and expenses of connection of a building sewer to the Authority's sewer, including such costs and expense of acquiring and installing a grinder pump or similar apparatus approved by the Authority, shall be borne by the owner of the property to be connected and such owner shall indemnify and save harmless the Authority from all loss or damage that may be occasioned directly or indirectly as a result of construction of a building sewer or a connection to the sewer line.

The Authority shall prescribe rules, regulations, conditions and specifications for connection to the sewer line.

#### SECTION 13 - REPEALER

All ordinances or parts of ordinances inconsistent with or conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with the provisions of this Ordinance.

#### SECTION 14 - PARTIAL INVALIDITY

The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of the Ordinance which shall be given force and effect without

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such invalid part or parts.

SECTION 15 - EFFECTIVE DATE

This Ordinance shall be effective upon enactment by the Dunbar Township Board of Supervisors.

ENACTED AND ORDAINED into law as an Ordinance the 3rd day of February, 2000.

TOWNSHIP OF DUNBAR

BY: Thomas Yekel  
THOMAS YEKEL, Chairman

BY: Ronald Keller  
RONALD KELLER,  
Secretary/Treasurer

BY: Eugene Frazier  
EUGENE FRAZIER, Member

ATTEST:

Ronald Keller  
RONALD KELLER, Secretary

(SEAL)

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## ORDINANCE No. 246

AN ORDINANCE OF THE BOROUGH OF DUNBAR REQUIRING EACH OWNER OF PROPERTY ACCESSIBLE TO THE PUBLIC SEWAGE SYSTEM IN THE BOROUGH OF DUNBAR TO CONNECT/TAP-IN TO THE SYSTEM; DIRECTING AND REQUIRING ABANDONMENT OF ALL PRIVY VAULTS, CESSPOOLS, SEPTIC SYSTEMS, SAND MOUNDS AND OTHER SIMILAR NON-PUBLIC SEWAGE SYSTEMS, AND PROHIBITING THE ERECTION OF NEW NON-PUBLIC SEWAGE SYSTEMS; REQUIRING COMPLIANCE WITH THE REGULATIONS OF THE DUNBAR BOROUGH/TOWNSHIP SANITARY AUTHORITY CONCERNING CONNECTIONS/TAP-INS AND PAYMENT OF CONNECTION/TAP-IN CHARGES; PROVIDING FOR PENALTIES FOR VIOLATIONS HEREOF; AND REPEALER.

THE COUNCIL OF THE BOROUGH OF DUNBAR HEREBY ORDAINS:

**This ordinance shall be known as the Public Sewer Enforcement Ordinance.**

### SECTION 1— DEFINITIONS:

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

Authority — The Dunbar Borough/Township Sanitary Authority.

Connection; Sewer Connection; Connect; Tap-in — An extension from the public sewage system which connects to a residence, building or unit by means of a pipe or pipeline allowing sewage waste to flow from the residence, building or unit into the public sewage system.

Residence or Principal Building — Any building which has running water by pipe or by well, and/or toilet(s), bathtub(s), shower(s), sink(s) or floor drain(s).

Property Owner — The person or persons to whom land or real property is titled.

Public Sewage System — Any and all portions of a sanitary sewer system (including pipelines, pumping facilities, and treatment facilities), whether publically or privately constructed or installed, located within the Borough of Dunbar and controlled, maintained, owned and/or serviced by the Dunbar Borough/Township Sanitary Authority, and which is used for the collection, disposal, carrying, pumping and/or treatment of sewage and/or industrial wastes of a liquid nature.



## **SECTION 2 — MANDATORY CONNECTION/TAP-IN:**

(a) The property owner of each piece, parcel or lot of land whose residence(s) or principal building(s) thereon, heretofore and hereafter constructed, is/are within two hundred fifty (250) feet of the public sewage system and otherwise accessible to the public sewage system shall connect to the public sewage system.

(b) In the event that the public sewage system or a portion thereof is installed or becomes available to the existing principal building(s) of property owners, [as provided in Section 2(a), above] the said property owner(s) shall connect to the public sewage system at any time within ninety (90) days after notice is given to the property owner by the Borough of Dunbar, Dunbar Borough/Township Sanitary Authority, or any of their respective agents, employees, officers, members or representatives that the public sewage system is or will be available (such notice may be actual or constructive).

(c) With regard to apartment buildings, hotels, motels, boarding houses, shopping centers, business plazas and any other building which contains multiple units intended for occupancy as living quarters by an individual, a single family or a discrete group of persons, or intended for occupancy as separate or joint businesses, and which fall within the provisions of Section 2(a) or (b), above, each such unit shall be connected to the public sewage system.

(d) From time to time in the future, the public sewage system may become available to additional properties within the Borough of Dunbar by reason of construction, installation, improvement or acquisition of pipelines and/or sewer facilities. In such instances, Sections 2(a) and (b), herein, shall immediately and without further action by the Borough of Dunbar become applicable to such portions of the public sewage system.

## **SECTION 3 — PREREQUISITES TO LAWFUL CONNECTION/TAP-IN AND COSTS ASSOCIATED THEREWITH:**

(a) Each and every property owner to whom Section 2, above, applies shall comply with any and all rules, regulations, resolutions and lawful conditions which may, from time to time, be placed by the Dunbar Borough/Township Sanitary Authority upon connections and tap-ins to the public sewage system, including but not limited to payment of a tap-in/connection fee to the Authority, obtaining a tap-in/connection permit from the Authority, obtaining specifications concerning the size and quality of piping to be used, and inspection and approval by an Authority representative of a tap-in/connection prior to covering the same.

(b) No more than one hundred and twenty (120) days prior to connecting/tapping-in to the public sewage system, each and every property owner to whom Section 2, above, applies, shall contact the Dunbar Borough/Township Sanitary Authority or its designated agent, representative or officer, and shall obtain from the Authority its rules, regulations, resolutions and conditions which pertain to public sewage system tap-ins/connections.

## **SECTION 6 — NON-PUBLIC SEWAGE SYSTEM FACILITIES:**

From and after the time of passage of this ordinance, each property owner to whom this ordinance applies or thereafter becomes applicable by the terms hereof:

- (1) Shall forthwith abandon all privies, cesspools, sinkholes, septic tanks, private sewer systems and other receptacles on the premises for receiving or disposing of sewage and/or industrial waste; and
- (2) Shall not at any time thereafter erect, construct, use or maintain any pipe, conduit, drain or other facility for the discharge of sewage and/or industrial waste except for the purpose of discharge into the public sewage system; and
- (3) Shall forthwith clean and fill, under the direction of an officer, agent, representative or employee of the Borough of Dunbar and/or the Authority, all privy vaults, cesspools or similar receptacles for human excrement on the premises.

## **SECTION 7 — PROHIBITION OF STORM WATER INTO PUBLIC SEWAGE SYSTEM**

(a) No basement seepage, ground water drainage, building drain or storm drain or any other non-sewage source of water shall be discharged into the public sewage system and all property owners desiring connection to the public sewage system shall, by the filing of the documents required by the Authority, be certifying that no ground water, seepage drains, building drains or storm drains are or shall be connected to the public sewage system. After connection to the sewer is made, the property owner shall maintain his/her residence or principal building in such manner that no such seepage, ground water drainage, building drains or storm water drains enter the public sewage system.

(b) No downspout, roof drain, french drain or surface or area drain shall be connected to the public sewage system, and before attachment to the public sewage system, the property owner shall remove such connections and adequately plug such drains to prevent the entrance of the downspouts, roof drain, french drain, surface or area drain.

(c) No cross connections shall be made between the public sewage system and the potable water system whereby vacuums or back siphonage could permit sanitary waste to enter the potable water system. No cross connections shall be made between the public sewage system and any storm drains or storm sewers.



## **SECTION 8 — SPECIAL AGREEMENTS OR ARRANGEMENTS:**

(a) Nothing in this ordinances shall be construed to prevent the Authority, in its sole and absolute discretion, from making a special agreement or arrangement with a property owner, upon the showing of good cause, such that the property owner is granted a reasonable extension of time within which to tap-in/connect, or is granted an exemption or forgiveness from compliance with any of the rules, regulations, resolutions or conditions of the Authority pertaining to tap-ins/connections.

(b) A written agreement, arrangement, extension or exemption with the Authority, as described in (a) above, shall be an absolute defense to a charge or action implemented for violation of this ordinance, if the agreement, arrangement, extension or exemption pertains to the alleged violation and the time-period referred to in the charge or action.

## **SECTION 9 — ADDITIONAL ENFORCEMENT PROVISIONS:**

The Authority is hereby authorized and empowered to institute any civil action and/or criminal action, on behalf of the Borough of Dunbar, to enforce this ordinance and any provision of any other ordinance which relates to the public sewage system. Nothing herein shall be construed to limit the authority or ability of the Mayor or Council Members of the Borough of Dunbar, Dunbar Borough/Township Sanitary Authority, the Dunbar Borough Police Department, the Dunbar Borough Code Enforcement Officer(s), other law enforcement agencies, or any other agent of the Borough of Dunbar to enforce this or any other ordinance.

## **SECTION 10 — PENALTIES FOR NON-COMPLIANCE:**

(a) All actions for enforcement to this ordinance shall be brought as follows:

- (1) As a summary offense, before a District Justice in the same manner provided for the enforcement of a summary offense under the Pennsylvania Rules of Criminal Procedure. Any person who shall violate or fail to comply with any of the provisions of this ordinance shall, upon conviction thereof, in a summary proceeding before a District Justice, be sentenced to pay a fine of not less than twenty-five (\$25.00) dollars nor more than one thousand (\$1000.00) dollars, costs of prosecution, restitution and/or a term of imprisonment up to ninety (90) days, per violation. Each day that a violation continues shall constitute a separate offense; or
- (2) As a civil action in law or in equity, before a District Justice in the same manner provided for under the Pennsylvania Rules of Civil Procedure of District Justice Rules. Any person who shall violate or fail to comply with any of the provisions of this ordinance shall be assessed a civil penalty of not less than twenty-five (\$25.00) dollars nor more than six hundred (\$600.00)



dollars, court costs, restitution and reasonable attorney fees incurred by the Township in the enforcement of proceeding, per violation. Each day that a violation continues shall constitute a separate offense.

(b) Nothing in this ordinance shall in any way prevent or preclude the Authority from enforcing its rules, regulations, resolutions, fees and assessments, and/or making collections thereon in any manner provided in law or in equity.

**SECTION 11 — REPEALER:**

All ordinances or parts of ordinances inconsistent with the provisions hereof are hereby repealed or rescinded.

This ordinance shall become effective on the 22<sup>nd</sup> day of February, 2000.

Wane A. Radwin - Mayor

John C. Williams President

(c) The failure, refusal or neglect of a property owner to comply with Section 3(a) and/or Section 3(b), herein, shall in no way be considered justification not to tap-in/connect to the public sewage system or an extension of time within which to tap-in/connect to the public sewage system, and the same shall not be a defense under the provisions of this ordinance.

(d) The costs associated with tapping into and/or accessing the public sewage system shall be born solely by the property owner, as assessed by the Dunbar Borough/Township Sanitary Authority, including the costs of any devices or mechanisms (eg. grinder pump) which may be required for the property owner to make any improvements on his/her property fully accessible to the public sewage system.

#### **SECTION 4 — ACCESS TO PROPERTY:**

For the purpose of making any inspection to ensure compliance with this ordinance or the rules, regulations and resolutions of the Dunbar Borough/Township Sanitary Authority, an officer, agent, representative or employee of the Borough of Dunbar and/or the Authority shall have access at all reasonable hours of the day to all parts of the property to which sewage service is supplied or intended to be supplied, and to any connections or taps, and excavations relating thereto.

#### **SECTION 5 — FAILURE, REFUSAL OR NEGLECT TO CONNECT/TAP-IN:**

(a) In the event any property owner to which Section 2, herein, applies fails, refuses or neglects to tap-in/connect to the public sewage system in accordance with the provisions herein, an officer, agent, representative or employee of the Borough of Dunbar and/or the Authority may enter upon such property and construct such sewer tap-in/connection. Upon construction of such sewer connection, the property owner shall be:

- (1) Provided with an itemized bill of costs for construction of the said sewer tap-in/connection; and
- (2) Assessed any additional sums which may be payable pursuant to Section 3, herein.

(b) The costs set forth in Section 5 (a)(1) shall be collectable in any manner provided by law or equity.

(c) The sums set forth in Section 5 (a)(2) shall be collectable in any manner provided by law or equity, and/or payment of the same may be enforced pursuant to the provisions of this ordinance.

ORDINANCE NO. 247

AN ORDINANCE OF THE BOROUGH OF DUNBAR DEFINING AND REGULATING STREET EXCAVATIONS AND OPENINGS; SETTING FORTH REQUIREMENTS FOR PERMIT APPLICATIONS, FORMS AND FEES AND THE APPROVAL AND ISSUANCE OR DISAPPROVAL THEREOF; REQUIRING NOTIFICATION OF UTILITIES; FIXING RESPONSIBILITY FOR RESTORATION OF OPENINGS AND SURFACES AND DEFECTS THEREFROM; ESTABLISHING REQUIREMENTS AND SPECIFICATIONS FOR WORK UNDER PERMIT; AUTHORIZING EMERGENCY WORK; PROHIBITING REMOVAL OR DESTRUCTION OF TREES AND SHRUBBERY; ESTABLISHING LIMITATIONS UPON EXCAVATIONS AFTER STREET IMPROVEMENTS AND CONDITIONS FOR LAYING AND EXTENDING UTILITY LINES; AUTHORIZING THE BOROUGH OF DUNBAR TO DO WORK AND COLLECT COSTS; REQUIRING POSTING OF BONDS; THE METHOD OF SETTING FEES; REPEALING ORDINANCE 194 AND ALL OTHER ORDINANCES INCONSISTENT HERewith; AND PRESCRIBING PENALTIES FOR VIOLATION.

The Borough Council of the Borough of Dunbar hereby ordains:

**Section 1. Definitions and Interpretation.** The following words, when used in this ordinance, shall have the meaning subscribed to them in this section, except those instances where the context clearly indicates otherwise:

*Excavation* — Any activity within the right of way of any street, alley or cartway which involves cutting, breaking, or disturbing the surface thereof. In this ordinance, the term "opening" shall have essentially the same meaning as excavation.

*Street* — Any public street, avenue, road, square, alley, highway, or other public place located in the Borough of Dunbar and established for the use of vehicles, but shall not include state highways.

*Person* — Any natural person, partnership, firm, association, corporation, or municipal authority.

In this ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

**Section 2. Permit Required to Make Opening or Excavation.** It shall be unlawful for any person to open or to make any excavation of any kind in any of the streets in the Borough of Dunbar without first securing a permit therefor, as hereinafter provided.



**Section 3. Application for Permit.** Any person who shall desire to make any opening or excavation in any of the streets in the Borough of Dunbar shall make application to the Borough Council or the Street Commissioner (who is appointed by the Borough Council) of the Borough of Dunbar in writing for that purpose. Such application shall be made upon forms to be furnished by the Borough of Dunbar and shall set forth the following information:

- a. name of the applicant;
- b. the exact location of the proposed opening or excavation and the approximate size thereof;
- c. an agreement on the part of the applicant that the work shall be done in full compliance with the ordinances of the Borough of Dunbar and the laws of the Commonwealth of Pennsylvania in relation thereto;
- d. an agreement that the applicant shall well and truly save, defend and keep harmless the Borough of Dunbar from and indemnify it against any and all actions, suits, demands, payments, costs, and charges for or by reason of the proposed opening or excavation, and all damages to persons or property resulting in any manner therefrom or occurring in the prosecution of the work connected therewith, or from any other matter, cause or thing relating thereto.

**Section 4. Permit Fee.** Before any permit shall be issued to open or excavate any street in the Borough of Dunbar, the applicant shall pay a permit fee in the amount fixed according to Section 20 herein, and its amendments. When application shall be made to open or excavate any opening or excavation in excess of 50 square feet, before any permit shall be issued so to open or excavate, the applicant shall pay in addition to such minimum fee, an additional fee per square foot to be opened or excavated upon the street, pursuant to Section 20 herein, and its amendments.

**Section 5. Issuance of Permits Restricted.** Permits shall be issued only to persons furnishing public utility services or the owner or owners of the real property adjoining the location where such opening or excavation is to be made, unless the applicant sets forth on the application good cause for the making of the opening or excavation.

**Section 6. Information Contained on Permit.** Any permit issued herein under shall specify the exact location where the opening or excavation is to be made, the approximate permitted size or depth thereof, the time within which the work for which the permit is granted will begin, and the time within which the work for which the permit is granted is to be completed.

**Section 7. Permit Approval /Disapproval.** Approval of any application shall occur only upon the approval of the Street Commissioner of the Borough of Dunbar or the Borough Council of the Borough of Dunbar. A permit may be issued to the applicant after all of the requirements therefor have been met. If the application is disapproved, written notice of disapproval together with reasons therefor shall be given to the applicant. In the event that the Street Commissioner disapproves the said application, that decision is may be appealed by the applicant in writing to the Borough Council of the Borough of Dunbar.

**Section 8. Responsibility to Contact Utilities.** When work authorized by the permit is subject to all of the conditions, requirements and provisions of the laws of the Commonwealth of Pennsylvania, it shall be the permittee's responsibility to contact utilities that have recorded their facilities in compliance with said Act. A partial list of utilities providing services in the Borough of Dunbar and their office addresses may be obtained from the Fayette County Recorder of Deeds.

**Section 9. Refilling Opening or Excavation; Restoration of Surface; Responsibility for Defects Occurring Within Two Years.** Any person who shall open or excavate any street in the Borough of Dunbar shall thoroughly and completely refill the opening or excavation in such a manner as to prevent any settling thereafter, and shall restore the surface to the same condition as it was before the opening or excavation, and such restoration shall be in accordance with the specifications of the Department of Transportation of the Commonwealth of Pennsylvania which are hereby adopted as Specifications of the Borough of Dunbar for restoration of surfaces of streets in the Borough of Dunbar, as restored; the surface shall conform to the proper grade and be the same surface covering as the part of the thoroughfare immediately adjoining the opening. If within two years after the restoration of the surface as herein provided, defects shall appear therein resulting from defective backfilling by the applicant, the applicant shall reimburse the Borough of Dunbar for the cost of all necessary repairs to the permanent paving.

**Section 10. Responsibility of Permit Holder for Certain Work; Right of the Borough of Dunbar to do Certain Work; Charges Therefor.** All other work in connection with openings in any street, including excavation, protection, refilling and temporary paving, shall be done by or for the person to whom or which the permit has been issued at his or its expense, and all such work shall be subject to the provisions of this ordinance and to the supervision and approval of the Borough Council of the Borough of Dunbar, provided that the Borough Council of the Borough of Dunbar may, if they deem it necessary, to be proper performance of the work, require that cutting of the surface of streets and the backfilling of all excavations therein shall be done by the Borough of Dunbar, in which event the applicant shall pay the actual cost of the work performed by the Borough of Dunbar.

**Section 11. Requirements for Work; Correction of Unsatisfactory Work; Completion of Incomplete Work.**

- (1) No opening or excavation in any street shall extend from the curb line into the highway beyond the center line of the street before being refilled and the surface of the highway restored to a condition safe and convenient for travel.
- (2) No more than 500 square feet shall be opened within any street at any one time.
- (3) The work of excavation shall be so conducted as not to interfere with the water mains, sewers or their connections, with the houses, or any other subsurface lines or constructions, until permission of the proper authorities in connection with such subsurface lines or constructions shall have been obtained.



(4) No tunneling with an opening in excess of 1 square foot shall be allowed without the express approval of the Borough Council of the Borough of Dunbar and permission therefor endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of an agent, representative or employee of the Borough of Dunbar, or with the express written waiver of such presence, and shall be done only in a method approved by the Borough Council of the Borough of Dunbar.

(5) All openings or excavations shall be backfilled promptly with modified 2A stones and thoroughly compacted in layers, each of which layers shall not exceed 8 inches in depth. Backfilling shall be placed to within 10 inches of the surface.

(6) A temporary paving of cold patch premix, thoroughly bound and compacted, shall be installed flush with the surface of the adjoining paving and maintained for a period of ninety (90) days.

(7) On concrete based streets, such base shall be replaced with concrete and the minimum size of the opening or excavation shall be 16 square feet.

(8) During the making of any excavation in the street, every necessary and reasonable precaution shall be taken by the applicant and the parties making the same to keep the street in a safe and passable condition, both day and night, by guards, barriers, lanterns and other devices, and all excavating permits granted hereunder are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the Borough of Dunbar from any loss in damages, or otherwise whatsoever, which may or shall be occasioned at any time by the said excavation, or by any leak, explosion or other injury from any pipe, apparatus, conduit, or any other matter placed in the said excavation.

(9) The applicant shall notify the Borough Council of the Borough of Dunbar when the opening or excavation is ready for backfilling, before any backfilling is done, when backfilling work is completed, when the temporary paving has been installed, and when the street has been permanently restored so that inspections may be made.

(10) In the event that any work performed by or for a permit holder shall, in the opinion of the Borough Council of the Borough of Dunbar be unsatisfactory and the same shall not be corrected in accordance with their instructions within the time fixed by them, or in the event that the work for which the permit was granted is not completed within the time fixed by the Borough Council of the Borough of Dunbar, the Borough of Dunbar may proceed to correct such unsatisfactory work or complete any such work not completed, and charge the cost thereof, plus 20 percent to the applicant.



**Section 12. Emergency Openings.** In the case of any leak, explosion or other accident in any subsurface pipe, line, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, construction or apparatus, to commence an excavation to remedy such condition before securing a permit, provided that application for a permit shall be made immediately and not later than the next business day thereafter, and that all other provisions of this ordinance are fully complied with. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such pipe, line, construction, or apparatus, the Borough Council of the Borough of Dunbar, after such notice as they shall deem necessary under the circumstances of the particular case, shall proceed to do the work necessary and required by such emergency, and charge the same on the basis of cost plus 20 percent to such owner or person.

**Section 13. Restrictions Regarding Trees and Shrubbery.** The permission herein granted does not confer upon the permittee or its contractors the right to cut, remove or destroy trees or shrubbery within the legal right of way except under specifications, regulations and conditions as the Borough of Dunbar may from time to time prescribe.

**Section 14. Work Necessitating Opening or Excavation to be Done Prior to Street Improvement and Not Until Five Years Thereafter; Exception.** The Borough Council of the Borough of Dunbar shall give timely notice in person or by publication to all persons owning property abutting on any street within the Borough of Dunbar about to be paved or improved, and to all public utility companies operating in the Borough of Dunbar, and all such persons and utility companies shall make all water, gas, electric, or sewer connections, as well as any repairs thereto which would necessitate excavation of the said street within thirty (30) days from the giving of such notice, unless such time is extended in writing for cause shown by the Borough Council of the Borough of Dunbar. New paving shall not be opened or excavated for a period of five years after the completion thereof, except in case of emergency, the existence of which emergency and necessity for the opening or excavating of such paving to be determined by the Borough Council of the Borough of Dunbar. If it is sought to excavate upon or open a roadway within five (5) years after the completion of the paving, applicant shall make written application to the Borough of Dunbar, and a permit for such opening shall be issued only after express approval of the Borough Council of the Borough of Dunbar.

**Section 15. Permittee Responsibility for Future Relocation of Work.** If at any time in the future the roadway is widened, reconstructed or the alignment or grades are changed, the permittee further agrees to change or relocate all or any part of the structures covered by this permit which interfere with the improvement of the roadway at its own cost and expense.

**Section 16. Conditions of Laying and Extending Utility Lines.** No new water, sewer, steam or gas main, electric, telephone or other utility line shall hereafter be laid or constructed, and no such existing main or line shall be extended, in any of the streets of the Borough of Dunbar until the plan therefor shall have been first filed with the Borough Council of the Borough of Dunbar and such plan and the exact location of such main or line, approved by them. The Borough Council of the Borough of Dunbar shall not approve the locating of any such main or line at a depth less than thirty (30) inches from the surface of the street unless they shall be convinced that locating the same at a depth of more than thirty (30) inches from the surface is impossible or impractical.

**Section 17. Bond Required.** No company, corporation or association shall excavate or open any street or alley without first giving to the Borough of Dunbar a bond with some acceptable trust or surety company as surety in the sum determined by the schedule of fees, set forth in Section 20, and its amendments, conditioned for the faithful performance of these provisions and also for any and all damages, claims, demands, suits, costs, and counsel fees occasioned or arising from the excavation, opening or closing of said streets and alleys. The Borough Council of the Borough of Dunbar reserves the right to eliminate the necessity of a bond, upon review of the proposed opening or excavation, and upon the approval of the Borough Council.

**Section 18. Payment for Work Done by the Borough of Dunbar.** Payment for all work done by the Borough of Dunbar under the provisions hereof shall be made by the person made liable therefor under the provisions hereof within thirty (30) days after a bill therefor is sent to the person by the Borough of Dunbar. Upon failure to pay such charges within such time, the same shall be collectible by the Borough of Dunbar by a civil action at law or in any manner provided by law for the collection of municipal claims.

**Section 19. Permit Holder to Remove and Dispose of Excess Excavated Materials.** All excess of excavated materials on any street shall be promptly removed from the street by the permittee, and shall be properly and lawfully disposed of at the expense of the permittee. The Borough Council of the Borough of Dunbar reserves the right to designate the manner and place of disposal of any and all excess excavated materials, including the surfacing materials removed from such street.

**Section 20. Schedule of Permit and Other Fees.** A schedule of permit fees and other fees relating to this ordinance shall be adopted by resolution of the Borough Council of the Borough of Dunbar, which the Borough Council may, from time to time, be alter, change, increase, decrease or amend. Fees may be reduced or waived in the discretion of a majority of the Borough Council based upon the circumstances of the proposed excavation and the best interests of the Borough. The said resolution shall set forth the following information.

- (1) The permit fees to accompany application;
- (2) The fee for inspection and supervision by Dunbar Borough Engineer;
- (3) The fee for openings or excavations per square foot, for each square foot opened or excavated in excess of 50 square feet
- (4) Fee schedule for bond required.

**Section 21. Penalties.** Any person, firm or corporation who shall violate any provision of this ordinance, shall, upon being found liable therefor in a civil enforcement proceeding, pay a civil fine set by the Borough Council of the Borough of Dunbar of not more than \$600.00 plus costs and reasonable attorneys, fees. Every day that a violation of this ordinance continues shall constitute a separate offense or occurrence.




**Section 22. Applicability.** The provisions of this ordinance shall not apply to laying sidewalks or curbs.

**Section 23. Repealer.** Ordinance 194 and all other ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

**Section 24. Severability.** If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council of the Borough of Dunbar that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof had not been included herein.

**Section 25. Effective Date.** This ordinance shall become effective on the 19 day of June, 2000.

  
JOHN WILLIAMS, PRESIDENT  
DUNBAR BOROUGH COUNCIL

APPROVED:

  
WARNE RANKIN, MAYOR

DATE: 6-19-00



RESOLUTION 2006-05

A RESOLUTION SETTING FEES FOR APPLICATION UNDER  
ORDINANCE 247 — ROAD OPENINGS.

WHEREAS, the Borough Council of Dunbar Borough has adopted Ordinance 247 which governs road openings and excavations within the Borough; and

WHEREAS, the said Ordinance requires that a permit be obtained from the Borough Council of Dunbar Borough to excavate any portion of a Borough roadway within Dunbar Borough; and

WHEREAS, the said Ordinance states that the Borough Council of Dunbar Borough shall, from time to time, set the application/permit fee for road openings and excavations pursuant to Section 4 and Section 20 thereof; and

WHEREAS, the Borough Council of Dunbar Borough believes that it is in the best interest of the Borough to set the application/permit fee for road openings and excavations as follows:

NOW, THEREFORE, BE IT RESOLVED That pursuant to Section 4 and Section 20 of Ordinance 247 :

— the application/permit fee shall be \$ 150.00 to open or excavate any street in the Borough for each opening or excavation not exceeding 50 square feet;

— any application/permit for an opening or excavation in excess of 50 square feet shall submit the fee set forth above, plus the sum of \$ 1.50 for each square foot opened or excavated in excess of 50 square feet;

— the fee for inspection and supervision by the Dunbar Borough Engineer shall be \$ 50 per hour.

— A surety bond in the amount of \$ 500 shall be posted for any opening up to ~~200~~<sup>200</sup> square feet. For openings in excess of ~~200~~<sup>200</sup> square feet, the following schedule shall apply:

Greater than 50 square feet, up to 100 square feet	\$ _____
Greater than 100 square feet, up to 150 square feet	\$ _____
Greater than 150 square feet, up to 200 square feet	\$ _____

Any opening in excess of 200 square feet — \$ 1000<sup>00</sup>

THIS RESOLUTION WAS APPROVED AND ADOPTED ON THE 19 DAY OF

June, 2000<sup>2000</sup>~~1999~~, UPON A VOTE OF A MAJORITY OF THE QUORUM OF THE

MEMBERS OF THE BOROUGH COUNCIL OF THE BOROUGH OF DUNBAR.

ATTEST:

Rochelle Dawson  
Rochelle Dawson, Secretary

Borough Council of Dunbar  
Borough:

John C. Williams  
John Williams, Chairman

APPROVED

Warne Rankin  
Warne Rankin, Mayor

Date: 6-19, 2000

**PUBLIC NOTICE**

NOTICE is hereby given pursuant to the requirements of the Borough Code, 53 P.S. 460006, that the Council of the Borough of Dunbar, in the County of Fayette, Commonwealth of Pennsylvania, proposes and intends to adopt an Ordinance under the authority of the Borough Code, at the regular meeting of the said board, to be held on Monday, June 19, 2000, at 7:30 P.M., prevailing time, at the Dunbar Borough Council Municipal Chambers, 47 Connellsville St., Dunbar, Pennsylvania, said ordinance defining and regulating street excavations and openings; setting forth requirements for permit applications, forms and fees and the approval and issuance or disapproval thereof; requiring notification of utilities; fixing responsibility for restoration of openings and surfaces and defects therefrom; establishing requirements and specifications for work under permit; authorizing emergency work; prohibiting removal or destruction of trees and shrubbery; establishing limitations upon excavations after street improvements and conditions for laying and extending utility lines; authorizing the Borough of Dunbar to do work and collect costs; requiring the posting of bonds; the method of setting of fees; repealing Ordinance 194 and all other ordinances inconsistent therewith and prescribing penalties for violation.

Copies of the proposed Municipal Ordinance are available for public examination at the Dunbar Borough Council Municipal Chambers.

The Council of Dunbar Borough



RESOLUTION 2000 - 05

**A RESOLUTION SETTING FEES FOR APPLICATION UNDER  
ORDINANCE 247 — ROAD OPENINGS.**

WHEREAS, the Borough Council of Dunbar Borough has adopted Ordinance 247 which governs road openings and excavations within the Borough; and

WHEREAS, the said Ordinance requires that a permit be obtained from the Borough Council of Dunbar Borough to excavate any portion of a Borough roadway within Dunbar Borough; and

WHEREAS, the said Ordinance states that the Borough Council of Dunbar Borough shall, from time to time, set the application/permit fee for road openings and excavations pursuant to Section 4 and Section 20 thereof; and

WHEREAS, the Borough Council of Dunbar Borough believes that it is in the best interest of the Borough to set the application/permit fee for road openings and excavations as follows:

NOW, THEREFORE, BE IT RESOLVED That pursuant to Section 4 and Section 20 of Ordinance 247:

— the application/permit fee shall be \$ 150.00 to open or excavate any street in the Borough for each opening or excavation not exceeding 50 square feet;

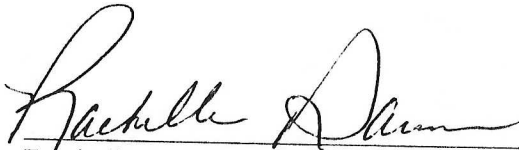
— any application/permit for an opening or excavation in excess of 50 square feet shall submit the fee set forth above, plus the sum of \$ 1.50 for each square foot opened or excavated in excess of 50 square feet;

— the fee for inspection and supervision by the Dunbar Borough Engineer shall be \$ 50.00 per hour.

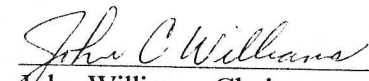
— A surety bond in the amount of \$ 500 shall be posted for any opening up to 250 square feet. For openings in excess of 250 square feet, a bond in the amount of \$ 1000.00 shall be posted.

THIS RESOLUTION WAS APPROVED AND ADOPTED ON THE 19<sup>th</sup> DAY OF JUNE, 2000, UPON A VOTE OF A MAJORITY OF THE QUORUM OF THE MEMBERS OF THE BOROUGH COUNCIL OF THE BOROUGH OF DUNBAR.


ATTEST:

  
Rachelle Dawson, Secretary

Borough Council of Dunbar  
Borough:

  
John Williams, Chairman

APPROVED

  
Warne Rankin, Mayor

Date: June 19, 2000

**ORDINANCE NO. 249**

**AN ORDINANCE OF THE BOROUGH OF DUNBAR,  
COUNTY OF FAYETTE, COMMONWEALTH OF  
PENNSYLVANIA, FIXING THE TAX RATE FOR THE  
YEAR 2001.**

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted  
by the Borough Council of the Borough of Dunbar, County of Fayette,  
Commonwealth of Pennsylvania:

**Section 1.**

That a tax be and the same is hereby levied on all real property within the  
Borough subject to taxation for the fiscal year 2001, as follows:

For general purposes, the sum of four (4) mills on each dollar of assessed  
valuation or the sum of \_\_\_\_\_ Dollars and \_\_\_\_\_ Cents on  
each hundred dollars of assessed valuation.

**Section 2.**

This ordinance contemplates and intends to establish millage rate based  
upon an assessment of one hundred (100) per cent of the value of real property.



**Section 3.**

That any ordinance, or part of ordinance, conflicting with this ordinance be and the same is hereby repealed insofar as the same affects this ordinance.

ENACTED this 18 day of December, 2000, by an affirmative vote of 7 members of the Council of the Borough of Dunbar.

**BOROUGH OF DUNBAR**

BY: John C. Williams  
**JOHN WILLIAMS, PRESIDENT**

BY: Warne A. Rankin  
**WARNE A. RANKIN, MAYOR**

**ATTEST:**

Rachelle C. Dawson  
**RACHELLE A. DAWSON**  
**SECRETARY**

**(SEAL)**

## ORDINANCE NO. 250

**AN ORDINANCE GRANTING THE NON-EXCLUSIVE CONDITIONAL RIGHT AND PRIVILEGE TO CONSTRUCT, INSTALL, OPERATE, REPAIR, MAINTAIN AND REMOVE TRANSMISSION AND DISTRIBUTION FACILITIES IN, UPON, ALONG, ACROSS, ABOVE, OVER, AND UNDER THE STREETS, LANES, ALLEYS, BRIDGES, VIADUCTS AND OTHER PUBLIC PLACES IN THE BOROUGH OF DUNBAR, FOR THE PURPOSE OF THE MAINTENANCE AND OPERATION IN THE BOROUGH OF DUNBAR OF A CABLE TELEVISION SYSTEM AND OTHER ELECTRONIC SIGNALS TO CUSTOMERS WITHIN THE BOROUGH OF DUNBAR; ESTABLISHING A FRANCHISE FEE; REQUIRING REPORTS AND RESERVING A RIGHT OF INSPECTION; AND ESTABLISHING SAFETY MEASURES.**

WHEREAS, Armstrong Utilities, Inc., and its predecessors, have constructed, operated and maintained a cable television system in the Borough of Dunbar; and

WHEREAS, Armstrong Utilities, Inc., desires to continue to construct, operate and maintain a cable television system in the Borough; and

WHEREAS, the Borough has carefully considered all of the circumstances, including:

1. The performance of Armstrong Utilities, Inc., and its predecessors, in the past, and through and including the present date;
2. The services presently provided and proposed to be provided by Armstrong Utilities, Inc.;
3. The unique responsibility and authority of the Borough in police power matters and particularly in the safe and proper use of the Borough's streets and facilities for the benefit and welfare of the municipality and its residents, and the appropriate exercise of the police power to provide cable television services and related services to the residents of the Borough; and

WHEREAS, the Borough of Dunbar desires that Armstrong Utilities, Inc., continue to construct, operate and maintain its cable television system in the Borough:

BE IT ORDAINED by the Council of the Borough of Dunbar, and it is ordained by and with the authority of the same:

#### Section 1. - Definitions

For the purpose of this ordinance, each of the following terms shall have the meaning ascribed below. When not inconsistent with the context, words, used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- A. "Borough" shall mean the Borough of Dunbar, Fayette County, Pennsylvania.
- B. "Borough Council" shall mean the present governing body of the Borough or any future board constituting the legislative body of the Borough.
- C. "Grantee" shall mean the person, firm or corporation to whom or to which a franchise under this ordinance and borough ordinance is granted by the Borough Council, lawful successor and assignee of such person, firm or corporation.
- D. "Cable television system" or "system" means a system of poles, wires, cables, fibers, lines, underground conduits, convertors, equipment, appliances and or facilities designed, constructed or used for the purpose of producing, receiving, amplifying, transmitting and distributing radio, television, data and two-way inter-active impulses and energy and other information or matter to residential and commercial customers of the grantee within the Borough.



- E. "Gross revenues" for the purpose of calculation of this franchise fee, shall mean any and all compensation in the form of gross rental, received directly or indirectly from subscribers or users located within the Borough of Dunbar, Fayette County, Pennsylvania, and payment for basic, expanded basic cable service and pay video services and fees received for installation and/or re-connection of said services.

## Section 2. - Grant of Franchise

- A. In consideration of the within undertaking by the Grantee, the Borough agrees that the Grantee shall have, and hereby confirms and grants unto the Grantee, the right, license and privilege to construct and reconstruct, to install, operate, maintain, repair, replace and remove, and solicit and sell customers, subscribers, users and advertisements for, and otherwise to own, promote and operate a cable television system within the Borough.
- B. The right, license and privilege hereby granted shall not be exclusive, and the Borough reserves the right grant similar franchises to any person at any time. The Borough's grant of any additional franchise(s) will not contain any term or condition that is more favorable than any terms and conditions granted to the Grantee under this Ordinance, including any amendments thereto or by any other Borough regulation.
- C. The right, license and privilege herein granted and confirmed shall be deemed to include a continuing right to enter upon and to use and occupy the surface, sub-surface and space above or below any public streets, lanes, alleys, paths, ways, rights-of-way, bridges and viaducts within the Borough, when and to the extent necessary to carry out the intent and purpose of this Ordinance, subject however, to limitations and qualifications herein contained or otherwise set by the Borough.

- D. Exercising the right, license and privilege granted and confirmed hereby, the Grantee shall be and remain subject to and shall comply with all federal, state and local laws, rules and regulations applicable to it and the conduct of the activities contemplated hereby.

### Section 3. - Construction and Maintenance Activities

- A. In cases where existing poles or other structures, conduits or other facilities owned or leased by public utilities or third parties having the right to permit attachment thereto or location therein or thereon of the system by the Grantee are not available or impractical for that purpose, and the proposed means of attachment, construction or conduit shall be submitted to the Borough engineer or to the chairman of the Borough council or other person who may be designated by the Borough by drawings, plans and explanatory agenda at least 30 days before such proposed attachment, installation or construction, and it shall be subject to his approval in writing before commencement of such attachment, installation or construction. Such approval shall not be unreasonably withheld, and the Borough engineer or chairman of the Borough council or other designated person shall advise the Grantee of its determination within 20 days after receipt of the Grantee's proposed means of attachment, construction or conduit.

### Section 4. - Conditions on Use and Occupancy of Streets

- A. Use. Pull attachments and the construction, installation, repair and replacement of basic systems, basic system hardware and the operation and removal of such system and all parts thereof by the Grantee within the Borough shall be conducted in such manner as to cause minimum interference with the proper use of streets, lanes, alleys, bridges, viaducts and other public places, and to cause minimum interference with the rights or reasonable convenience

of the proper owners, tenants or occupants who adjoin any of the said streets, lanes, alleys, bridges, viaducts and other public places.

- B. Restoration. In the event of any disturbance caused by the Grantee's activities hereunder to the pavement, sidewalk, driveway or other surfacing as to which the Borough is responsible, the Grantee at its own cost and expense, shall replace and restore all such paving, sidewalk, driveway or surface so distributed in a good and workmanlike manner and to as functionally sound condition as before said activities were commenced, and shall be completed within 60 days from the disturbance or such longer period as may be approved by the Borough council. All such replacement and restoration by the Grantee shall be subject to the approval and inspection of the Borough engineer or other designated person and such approval shall not be unreasonably withheld.
- C. Relocation. In the event that, at any time during the existence of the within right, license and privilege to the Grantee, the Borough elects to alter or change the grade, alignment or paved width of any street, lane, alley, bridge, viaduct or other public way, the Grantee, upon notice by the Borough at its own expense shall remove and relocate any affected part of the system within 30 days of the date of notice or such reasonable extension thereof as may be granted by the Borough council considering the circumstances of the case.
- D. Placement of Fixtures. The Grantee shall not place the system of any part thereof where the same will interfere with any gas, electric, telephone or telegraph line or any other public utility.



## Section 5. - Fees and Reports

- A. Consideration of the right, license and privilege granted hereby and in order to defray any cost and expenses of the Borough in connection with the execution, delivery, performance and administration of this ordinance, the Grantee shall pay to the Borough on a quarterly basis during the term of this ordinance an amount equal to five percent of the gross revenues of the Grantee as defined in Section 1(E).
- B. The franchise fee shall be paid quarterly to the Borough and shall commence as of the effective date of this franchise. The Borough shall be furnished, at the time of each payment, with a statement certified by the Grantee's chief financial officer or financial representative reflecting the total amount of quarterly gross receipts for payment. Quarterly payments shall be made to the Borough no later than 60 days following the end of each quarter. Quarterly computation dates are the last days of the months of March, June, September and December. Not later than 60 days after the close of each fiscal year of the Grantee during the term of this ordinance, the Grantee shall file with the Borough representative a written report, certified by the Grantee's chief accounting officer, setting forth the amounts of basic subscriber service receipts and premium subscriber service receipts paid to the Grantee during the fiscal year.
- C. The Borough shall have the right to inspect and audit the Grantee's records from which the payments hereunder are computed and to re-compute the amount of such payments to correct errors in the computation and reporting of the same. The Grantee's records shall be made available at the corporation's headquarters. Such request to inspect the records shall be made in writing by the Borough and scheduled by the Grantee's corporate accounting staff any time mutually convenient and reasonable to the Borough's representative and the Grantee's representative, which time shall not be later than 60 days after such request to inspect and audit is submitted to the Grantee.

#### Section 6. - Safety Measures

- A. Construction and maintenance of the system shall be in accordance with the provisions of the National Electric Safety Code of the National Board of Fire Underwriters, and such other applicable laws of the Commonwealth of Pennsylvania, Fayette County and regulations of the Borough which may be lawfully in effect from time to time.
- B. All structures, lines, equipment and connections in, over, under and upon the streets of the Borough, wherever situated or located, shall at all times be kept and maintained in a safe, suitable condition and in good order and repair.

#### Section 7. - Voluntary Subscriptions

All subscriptions for services under any franchise shall be on a voluntary basis and may be terminated any time by the customer except in circumstances whereby a mutually agreed upon contract has been executed.

#### Section 8 - Expiration

Unless otherwise extended by action of the Borough of Dunbar, this ordinance shall expire on December 31, 2015, at 11:59 Eastern Daylight Time.

Adopted this 18 day of December, 2000, by a vote of 5  
affirmative votes of the Borough Council of Dunbar.

This ordinance shall become effective on the first day of January, 2001.

John C. Williams  
JOHN C. WILLIAMS, PRESIDENT

ATTEST:

Rachelle Dawson  
RACHELLE DAWSON, SECRETARY

Examined, approved and signed by me on the 18 day of December,  
2000.

Warne Rankin  
WARNE RANKIN, MAYOR

ATTEST:

Rachelle Dawson  
RACHELLE DAWSON, SECRETARY



ORDINANCE NO. 251

**AN ORDINANCE ESTABLISHING THE MINIMUM REGULATIONS GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES, BY PROVIDING THE STANDARDS FOR CERTAIN UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE AND THE DEMOLITION OF SUCH STRUCTURES; AND SETTING PENALTIES FOR VIOLATIONS THEREOF; KNOWN AS THE *PROPERTY MAINTENANCE CODE*.**

BE IT ORDAINED by the Council of the Borough of Dunbar, and it is ordained by and with the authority of the same:

SECTION 1

That a certain document, a copy of which is on file in the Dunbar Borough Building, being marked and designated as the International Property Maintenance Code as published by the International Code Council, Inc., (hereinafter BOCA 2000 International Property Maintenance Code) be and hereby is adopted as the Property Maintenance Code of the Borough of Dunbar, Fayette County, Pennsylvania; for the control of buildings and structures as herein provided; and except as otherwise provided, each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

## SECTION 2

The following section in the body of the said BOCA 2000 International Property Maintenance Code is hereby revised — Deletions are by ~~strike-out~~ and insertions are **underlined in bold**:

Section 101.1 [Name of Jurisdiction] — **Borough of Dunbar (hereinafter "Borough")**

Section 103.1 ~~General.~~ **Enforcement/Code Official.** ~~The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the code official.~~ **Any Borough Police Officer, Borough Code Enforcement Officer, Borough Health Officer, any other Law Enforcement Officer having jurisdiction within the Borough and any other person designated by the Borough Council is hereby empowered to enforce the provisions of this ordinance and such person shall be known as "the code official" for purposes of the text of this ordinance.**

Section 106.3 Prosecution of violation. ~~Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the a notice of violation is not complied with, the code official shall institute the appropriate at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.~~ **All actions for enforcement to this ordinance shall be brought as follows:**

- (a) **As a summary offense, before a District Justice in the same manner provided for the enforcement of a summary offense under the Pennsylvania Rules of Criminal Procedure. Any person who shall violate or fail to comply with any of the provisions of this ordinance shall, upon conviction thereof, in a summary proceeding before a District Justice, be sentenced to pay a fine of not less than twenty-five (\$25.00) dollars nor more than one thousand (\$1000.00) dollars, costs of prosecution, restitution and/or a term of imprisonment up to ninety (30) days, per violation. Each day that a violation continues shall constitute a separate offense; or**
- (b) **As a civil action in law or in equity, before a District Justice in the same manner provided for under the Pennsylvania Rules of Civil Procedure of District Justice Rules. Any person who shall violate or fail to comply with any of the provisions of this ordinance shall be assessed a civil penalty of not less than twenty-five (\$25.00) dollars nor more than six hundred (\$600.00) dollars, court costs, restitution and reasonable attorney fees incurred by the Borough in the enforcement of proceeding, per violation. Each day that a violation continues shall constitute a separate offense.**



Section 111.2 Membership of board. The board of appeals shall consist of ~~a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms~~ **the members of the Borough Council.**

Section 111.4.1 Procedure. The board shall **may** adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

Section 111.7 Court review. Any person, whether or not a previous party of the appeal, shall have the right to ~~apply to the appropriate court for a writ of certiorari to correct errors of law.~~ **file an appeal with the Court of Common Pleas in the manner and form specified by and with in the time limitations provided in the Pennsylvania Rules of Civil Procedure and applicable statutes for the filing of an appeal from a local or administrative agency.** Applications for review shall be made in manner and time required by law following the filing of the decision in the office of the chief administrative officer.

Section 602.3 [Date] to [Date] — **October 1** — **May 1**

Section 602.4 [Date] to [Date] — **October 1** — **May 1**

### **SECTION 3**

The following sections or chapters in the body of the said BOCA 2000 International Property Maintenance Code are hereby deleted in their entirety:

Section 103.1	Section 103.2	Section 103.3	Section 103.6
Section 111.2.1	Section 111.2.2	Section 111.2.4	Section 111.2.5
Section 302.7.1	Section 303.3	Section 303.13.2	Section 303.14
Section 303.15	Section 303.17	Section 304.6	Chapter 4
Section 503	Section 505.2	Section 505.4	Section 604.1
Section 604.2	Section 605.2	Section 605.3	Chapter 7



Adopted this 15 day of January, 2001, by a vote of 5

affirmative votes of the Borough Council of Dunbar.

This ordinance shall become effective on the first day of January, 2001.

John C. Williams  
JOHN C. WILLIAMS, PRESIDENT

ATTEST:

Rachelle Dawson  
RACHELLE DAWSON, SECRETARY

Examined, approved and signed by me on the 15 day of January,  
2001.

Warne Rankin  
WARNE RANKIN, MAYOR

ATTEST:

Rachelle Dawson  
RACHELLE DAWSON, SECRETARY



## CHAPTER 1

# ADMINISTRATION

### SECTION 101 GENERAL

**101.1 Title.** These regulations shall be known as the *Property Maintenance Code* of [NAME OF JURISDICTION], hereinafter referred to as "this code."

**101.2 Scope.** The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

**101.3 Intent.** This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

**101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

### SECTION 102 APPLICABILITY

**102.1 General.** The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

**102.2 Maintenance.** Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

**102.3 Application of other codes.** Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Plumbing Code*, *International Mechanical Code*, *International Fuel Gas Code* and the *ICC Electrical Code*. Nothing in this code shall be construed to

cancel, modify or set aside any provision of the *International Zoning Code*.

**102.4 Existing remedies.** The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

**102.5 Workmanship.** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

**102.6 Historic buildings.** The provisions of this code shall not be mandatory for existing buildings or structures designated by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.

**102.7 Referenced codes and standards.** The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

**102.8 Requirements not covered by code.** Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official.

### SECTION 103 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

**103.1 General.** The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the code official.

**103.2 Appointment.** The code official shall be appointed by the chief appointing authority of the jurisdiction; and the code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.

**103.3 Deputies.** In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the code official shall have the authority to appoint a deputy code official, other related technical officers, inspectors and other employees.

**103.4 Restriction of employees.** An official or employee connected with the enforcement of this code, except one whose only connection is that of a member of the board of appeals established under the provisions of Section 111, shall not be en-



gaged in, or directly or indirectly connected with, the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building, or the preparation of construction documents thereof, unless that person is the owner of the building; nor shall such officer or employee engage in any work that conflicts with official duties or with the interests of the department.

**103.5 Liability.** The code official, officer or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.

Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer of the department of property maintenance inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

**103.6 Fees.** The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule.

[JURISDICTION TO INSERT APPROPRIATE SCHEDULE.]

## SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

**104.1 General.** The code official shall enforce the provisions of this code.

**104.2 Rule-making authority.** The code official shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

**104.3 Inspections.** The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

**104.4 Right of entry.** The code official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

**104.5 Identification.** The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

**104.6 Notices and orders.** The code official shall issue all necessary notices or orders to ensure compliance with this code.

**104.7 Department records.** The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations.

**104.8 Coordination of inspections.** Whenever in the enforcement of this code or another code or ordinance, the responsibility of more than one code official of the jurisdiction is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the code official having jurisdiction.

## SECTION 105 APPROVAL

**105.1 Modifications.** Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases, provided the code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

**105.2 Alternative materials, methods and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

**105.3 Required testing.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

**105.3.1 Test methods.** Test methods shall be as specified in this code or by other recognized test standards. In the ab-



sence of recognized and accepted test methods, the code official shall approve the testing procedures.

**105.3.2 Testing agency.** All tests shall be performed by an approved agency.

**105.3.3 Test reports.** Reports of tests shall be retained by the code official for the period required for retention of public records.

**105.4 Material and equipment reuse.** Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved.

## SECTION 106 VIOLATIONS

**106.1 Unlawful acts.** It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

**106.2 Notice of violation.** The code official shall serve a notice of violation or order in accordance with Section 107.

**106.3 Prosecution of violation.** Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

**106.4 Violation penalties.** Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**106.5 Abatement of violation.** The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

## SECTION 107 NOTICES AND ORDERS

**107.1 Notice to owner or to person or persons responsible.** Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the manner prescribed in Sections 107.2 and 107.3. Notices for condemnation procedures shall also comply with Section 108.3.

**107.2 Form.** Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.

2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.
5. Inform the property owner of the right to appeal.

**107.3 Method of service.** Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

**107.4 Penalties.** Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

**107.5 Transfer of ownership.** It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

## SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT

**108.1 General.** When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

**108.1.1 Unsafe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

**108.1.2 Unsafe equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.



**108.1.3 Structure unfit for human occupancy.** A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

**108.1.4 Unlawful structure.** An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

**108.2 Closing of vacant structures.** If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

**108.3 Notice.** Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

**108.4 Placarding.** Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

**108.5 Prohibited occupancy.** Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

**108.6 Removal of placard.** The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

## SECTION 109 EMERGENCY MEASURES

**109.1 Imminent danger.** When, in the opinion of the code official, there is imminent danger of failure or collapse of a build-

ing or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

**109.2 Temporary safeguards.** Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

**109.3 Closing streets.** When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

**109.4 Emergency repairs.** For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

**109.5 Costs of emergency repairs.** Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

**109.6 Hearing.** Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

## SECTION 110 DEMOLITION

**110.1 General.** The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

**110.2 Notices and orders.** All notices and orders shall comply with Section 107.



**110.3 Failure to comply.** If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

**110.4 Salvage materials.** When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

## SECTION 111 MEANS OF APPEAL

**111.1 Application for appeal.** Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means, or that the strict application of any requirement of this code would cause an undue hardship.

**111.2 Membership of board.** The board of appeals shall consist of a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.

**111.2.1 Alternate members.** The chief appointing authority shall appoint two or more alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

**111.2.2 Chairman.** The board shall annually select one of its members to serve as chairman.

**111.2.3 Disqualification of member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.

**111.2.4 Secretary.** The chief administrative officer shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

**111.2.5 Compensation of members.** Compensation of members shall be determined by law.

**111.3 Notice of meeting.** The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.

**111.4 Open hearing.** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the board membership.

**111.4.1 Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

**111.5 Postponed hearing.** When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

**111.6 Board decision.** The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

**111.6.1 Records and copies.** The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

**111.6.2 Administration.** The code official shall take immediate action in accordance with the decision of the board.

**111.7 Court review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

**111.8 Stays of enforcement.** Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.



## CHAPTER 2

# DEFINITIONS

### SECTION 201 GENERAL

**201.1 Scope.** Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

**201.2 Interchangeability.** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

**201.3 Terms defined in other codes.** Where terms are not defined in this code and are defined in the *International Building Code*, *International Fire Code*, *International Zoning Code*, *International Plumbing Code*, *International Mechanical Code*, ASME A17.1 or the ICC *Electrical Code*, such terms shall have the meanings ascribed to them as in those codes.

**201.4 Terms not defined.** Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

**201.5 Parts.** Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

### SECTION 202 GENERAL DEFINITIONS

**APPROVED.** Approved by the code official.

**BASEMENT.** That portion of a building which is partly or completely below grade.

**BATHROOM.** A room containing plumbing fixtures including a bathtub or shower.

**BEDROOM.** Any room or space used or intended to be used for sleeping purposes.

**CODE OFFICIAL.** The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

**CONDEMN.** To adjudge unfit for occupancy.

**DWELLING UNIT.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EXTERIOR PROPERTY.** The open space on the premises and on adjoining property under the control of owners or operators of such premises.

**EXTERMINATION.** The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their

food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

**GARBAGE.** The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**GUARD.** A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

**HABITABLE SPACE.** Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

**IMMINENT DANGER.** A condition which could cause serious or life-threatening injury or death at any time.

**INFESTATION.** The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

**LABELED.** Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

**LET FOR OCCUPANCY OR LET.** To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or 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 of contract for the sale of land.

**OCCUPANCY.** The purpose for which a building or portion thereof is utilized or occupied.

**OCCUPANT.** Any individual living or sleeping in a building, or having possession of a space within a building.

**OPENABLE AREA.** That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

**OPERATOR.** Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

**OWNER.** Any person, agent, operator, firm or corporation having a 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.

**PERSON.** An individual, corporation, partnership or any other group acting as a unit.

**PREMISES.** A lot, plot or parcel of land including any structures thereon.

**ROOMING HOUSE.** A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

**ROOMING UNIT.** Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

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

**STRICT LIABILITY OFFENSE.** An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

**STRUCTURE.** That which is built or constructed or a portion thereof.

**TENANT.** A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

**TOILET ROOM.** A room containing a water closet or urinal but not a bathtub or shower.

**VENTILATION.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

**WORKMANLIKE.** Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

**YARD.** An open space on the same lot with a structure.



## CHAPTER 3

# GENERAL REQUIREMENTS

### SECTION 301 GENERAL

**301.1 Scope.** The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

**301.2 Responsibility.** The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit or premises which they occupy and control.

**301.3 Vacant structures and land.** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

### SECTION 302 EXTERIOR PROPERTY AREAS

**302.1 Sanitation.** All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

**302.2 Grading and drainage.** All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

**Exception:** Approved retention areas and reservoirs.

**302.3 Sidewalks and driveways.** All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

**302.4 Weeds.** All premises and exterior property shall be maintained free from weeds or plant growth in excess of 10 inches (254 mm). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

**302.5 Rodent harborage.** All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

**302.6 Exhaust vents.** Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abut-

ting or adjacent public or private property or that of another tenant.

**302.7 Accessory structures.** All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

**302.7.1 Gates.** Gates which are required to be self-closing and self-latching in accordance with the *International Building Code* shall be maintained such that the gate will positively close and latch when released from a still position of 6 inches (152 mm) from the gatepost.

**302.7.2 Swimming pools.** Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

**302.8 Motor vehicles.** Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

**Exception:** A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

**302.9 Defacement of property.** No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

### SECTION 303 EXTERIOR STRUCTURE

**303.1 General.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

**303.2 Protective treatment.** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.



**[F] 303.3 Premises identification.** Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

**303.4 Structural members.** All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

**303.5 Foundation walls.** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

**303.6 Exterior walls.** All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

**303.7 Roofs and drainage.** The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

**303.8 Decorative features.** All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

**303.9 Overhang extensions.** All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

**303.10 Stairways, decks, porches and balconies.** Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

**303.11 Chimneys and towers.** All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

**303.12 Handrails and guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**303.13 Window, skylight and door frames.** Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

**303.13.1 Glazing.** All glazing materials shall be maintained free from cracks and holes.

**303.13.2 Openable windows.** Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

**303.14 Insect screens.** During the period from [DATE] to [DATE], every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working condition.

**Exception:** Screen doors shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

**303.15 Doors.** All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

**303.16 Basement hatchways.** Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

**303.17 Guards for basement windows.** Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

## SECTION 304 INTERIOR STRUCTURE

**304.1 General.** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

**304.2 Structural members.** All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

**304.3 Interior surfaces.** All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.

**304.4 Stairs and walking surfaces.** Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

**304.5 Handrails and guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**304.6 Interior doors.** Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

### SECTION 305 RUBBISH AND GARBAGE

**305.1 Accumulation of rubbish or garbage.** All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

**305.2 Disposal of rubbish.** Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

**305.2.1 Rubbish storage facilities.** The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

**305.3 Disposal of garbage.** Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

**305.3.1 Garbage facilities.** The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leakproof, covered, outside garbage container.

**305.3.2 Containers.** The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

### SECTION 306 EXTERMINATION

**306.1 Infestation.** All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

**306.2 Owner.** The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

**306.3 Single occupant.** The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.

**306.4 Multiple occupancy.** The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination.

**306.5 Occupant.** The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

**Exception:** Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.



## CHAPTER 4

# LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

### SECTION 401 GENERAL

**401.1 Scope.** The provisions of this chapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

**401.2 Responsibility.** The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

**401.3 Alternative devices.** In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the *International Building Code* shall be permitted.

### SECTION 402 LIGHT

**402.1 Habitable spaces.** Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

**Exception:** Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m<sup>2</sup>). The exterior glazing area shall be based on the total floor area being served.

**402.2 Common halls and stairways.** Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m<sup>2</sup>) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 footcandle (11 lux) at floors, landings and treads.

**402.3 Other spaces.** All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of

sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

### SECTION 403 VENTILATION

**403.1 Habitable spaces.** Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 402.1.

**Exception:** Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m<sup>2</sup>). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

**403.2 Bathrooms and toilet rooms.** Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 403.1, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

**403.3 Cooking facilities.** Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a rooming unit or dormitory unit.

**Exception:** Where specifically approved in writing by the code official.

**403.4 Process ventilation.** Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

**403.5 Clothes dryer exhaust.** Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions.

### SECTION 404 OCCUPANCY LIMITATIONS

**404.1 Privacy.** Dwelling units, hotel units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

**404.2 Minimum room widths.** A habitable room, other than a kitchen, shall not be less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less



than 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

**404.3 Minimum ceiling heights.** Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7 feet (2134 mm).

**Exceptions:**

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height.
2. Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet (1524 mm) or more shall be included.

**404.4 Bedroom requirements.** Every bedroom shall comply with the requirements of Sections 404.4.1 through 404.4.5.

**404.4.1 Area for sleeping purposes.** Every bedroom occupied by one person shall contain at least 70 square feet (6.5 m<sup>2</sup>) of floor area, and every bedroom occupied by more than one person shall contain at least 50 square feet (4.6 m<sup>2</sup>) of floor area for each occupant thereof.

**404.4.2 Access from bedrooms.** Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

**Exception:** Units that contain fewer than two bedrooms.

**404.4.3 Water closet accessibility.** Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

**404.4.4 Prohibited occupancy.** Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

**404.4.5 Other requirements.** Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

**404.5 Overcrowding.** Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

**TABLE 404.5  
MINIMUM AREA REQUIREMENTS**

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room <sup>a,b</sup>	No requirements	120	150
Dining room <sup>a,b</sup>	No requirements	80	100
Kitchen <sup>b</sup>	50	50	60
Bedrooms	Shall comply with Section 404.4		

For SI: 1 square foot = 0.093 m<sup>2</sup>.

a. See Section 404.5.2 for combined living room/dining room spaces.

b. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

**404.5.1 Sleeping area.** The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 404.4.

**404.5.2 Combined spaces.** Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

**404.6 Efficiency unit.** Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet (20.4 m<sup>2</sup>). A unit occupied by three occupants shall have a clear floor area of not less than 320 square feet (29.7 m<sup>2</sup>). These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.
3. The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathtub or shower.
4. The maximum number of occupants shall be three.

**404.7 Food preparation.** All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.



## CHAPTER 5

# PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

### SECTION 501 GENERAL

**501.1 Scope.** The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

**501.2 Responsibility.** The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this chapter.

### SECTION 502 REQUIRED FACILITIES

**502.1 Dwelling units.** Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

**502.2 Rooming houses.** At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

**502.3 Hotels.** Where private water closets, lavatories, and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.

**502.4 Employees' facilities.** A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

**502.4.1 Drinking facilities.** Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler, or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

### SECTION 503 TOILET ROOMS

**503.1 Privacy.** Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

**503.2 Location.** Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

**503.3 Location of employee toilet facilities.** Toilet facilities shall have access from within the employees' regular working area. The required toilet facilities shall be located not more than one story above or below the employees' regular working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or public customer facilities.

**Exception:** Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

### SECTION 504 PLUMBING SYSTEMS AND FIXTURES

**504.1 General.** All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

**504.2 Fixture clearances.** Plumbing fixtures shall have adequate clearances for usage and cleaning.

**504.3 Plumbing system hazards.** Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

### SECTION 505 WATER SYSTEM

**505.1 General.** Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *International Plumbing Code*.

**505.2 Contamination.** The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets, and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum

breaker or an approved permanently attached hose connection vacuum breaker.

**505.3 Supply.** The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

**505.4 Water heating facilities.** Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 120°F (49°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

## **SECTION 506 SANITARY DRAINAGE SYSTEM**

**506.1 General.** All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

**506.2 Maintenance.** Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

## **SECTION 507 STORM DRAINAGE**

**507.1 General.** Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.



## CHAPTER 6

# MECHANICAL AND ELECTRICAL REQUIREMENTS

### SECTION 601 GENERAL

**601.1 Scope.** The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

**601.2 Responsibility.** The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this chapter.

### SECTION 602 HEATING FACILITIES

**602.1 Facilities required.** Heating facilities shall be provided in structures as required by this section.

**602.2 Residential occupancies.** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 65°F (18°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the *International Plumbing Code*. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

**602.3 Heat supply.** Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from [DATE] to [DATE] to maintain a temperature of not less than 65°F (18°C) in all habitable rooms, bathrooms, and toilet rooms.

**Exception:** When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.

**602.4 Occupiable work spaces.** Indoor occupiable work spaces shall be supplied with heat during the period from [DATE] to [DATE] to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

#### Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

**602.5 Room temperature measurement.** The required room temperatures shall be measured 3 feet (914 mm) above the floor

near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

### SECTION 603 MECHANICAL EQUIPMENT

**603.1 Mechanical appliances.** All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

**603.2 Removal of combustion products.** All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

**Exception:** Fuel-burning equipment and appliances which are labeled for unvented operation.

**603.3 Clearances.** All required clearances to combustible materials shall be maintained.

**603.4 Safety controls.** All safety controls for fuel-burning equipment shall be maintained in effective operation.

**603.5 Combustion air.** A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

**603.6 Energy conservation devices.** Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

### SECTION 604 ELECTRICAL FACILITIES

**604.1 Facilities required.** Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

**604.2 Service.** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the ICC *Electrical Code*. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

**604.3 Electrical system hazards.** Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

## SECTION 605 ELECTRICAL EQUIPMENT

**605.1 Installation.** All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

**605.2 Receptacles.** Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

**605.3 Lighting fixtures.** Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric lighting fixture.

## SECTION 606 ELEVATORS, ESCALATORS AND DUMBWAITERS

**606.1 General.** Elevators, dumbwaiters and escalators shall be maintained to sustain safely all imposed loads, to operate properly, and to be free from physical and fire hazards. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter; or the certificate shall be available for public inspection in the office of the building operator.

**606.2 Elevators.** In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

**Exception:** Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

## SECTION 607 DUCT SYSTEMS

**607.1 General.** Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.



## CHAPTER 7

# FIRE SAFETY REQUIREMENTS

### SECTION 701 GENERAL

**701.1 Scope.** The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

**701.2 Responsibility.** The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.

### SECTION 702 MEANS OF EGRESS

**702.1 General.** A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way.

**[F] 702.2 Aisles.** The required width of aisles in accordance with the *International Fire Code* shall be unobstructed.

**[F] 702.3 Locked doors.** All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *International Building Code*.

**[B] 702.4 Emergency escape openings.** Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates, or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the *International Building Code* and such devices shall be releasable or removable from the inside without the use of a key, tool, or force greater than that which is required for normal operation of the escape and rescue opening. Where such bars, grilles, grates, or similar devices are installed in existing buildings, smoke detectors shall be installed in accordance with Section 704.

### [F] SECTION 703 FIRE-RESISTANCE RATINGS

**703.1 Fire-resistance-rated assemblies.** The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

**703.2 Opening protectives.** Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

### [F] SECTION 704 FIRE PROTECTION SYSTEMS

**704.1 Smoke detectors.** Existing Group R occupancies not already provided with single-station smoke alarms shall be provided with approved single-station smoke alarms.

**704.2 Installation.** Approved single-station smoke alarms shall be installed in existing dwelling units, congregate residences, and hotel and lodging house guestrooms. Installation shall be in accordance with the *International Fire Code*.

**704.3 Power source.** In Group R occupancies, single-station smoke alarms shall be battery operated or shall receive their primary power from the building wiring provided that such wiring is served from a commercial source. When power is provided by the building wiring, the wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.



## CHAPTER 8 REFERENCED STANDARDS

This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title, and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.7.

### ASME

American Society of Mechanical Engineers  
Three Park Avenue  
New York, NY 10016-5990

Standard reference number	Title	Referenced in code section number
A17.1—96	Safety Code for Elevators and Escalators — with A17.1a-97 and A17.1b-98 Addenda	201.3

### ICC

Standard reference number	Title	Referenced in code section number
IBC—2000	International Building Code®	102.3, 201.3, 302.7.1, 401.3, 702.3, 702.4
ICC EC—2000	ICC Electrical Code™	102.3, 201.3, 604.2
IFC—2000	International Fire Code®	201.3, 702.2, 703.1, 704.2
IFGC—2000	International Fuel Gas Code®	102.3
IMC—2000	International Mechanical Code®	102.3, 201.3
IPC—2000	International Plumbing Code®	102.3, 201.3, 505.1, 602.2, 602.3
IZC—2000	International Zoning Code™	102.3, 201.3

*John Muddas*  
ORDINANCE NO.

252

**AN ORDINANCE SETTING MINIMUM SAFETY AND ASTHETIC STANDARDS; REQUIRING MINIMUM STANDARDS FOR WATER SUPPLY, SEWAGE DISPOSAL, ELECTRICAL SYSTEMS, FUEL STORAGE; AND PRESCRIBING PENALTIES FOR VIOLATION.**

THE BOROUGH OF DUNBAR HEREBY ORDAINS:

SECTION 1. DEFINITIONS.

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

Mobile Home – a single-family dwelling which is designed after assembly and fabrication, for transportation, on streets and highways on its own running gear, and which may be temporarily or permanently affixed to real estate, used for non-transient residential purposes, and constructed with the same, or similar, electrical, plumbing, and sanitary facilities as immobile housing. For the purposes of this ordinance, this term shall include trailers, recreational vehicles and any other motor vehicle which is used by one or more individuals as a residence for a period in excess of fifteen (15) days at or near the same location, except for a location specifically designated and approved for use and parking by recreational vehicles.

Mobile Home Space – a plot of ground upon which a Mobile Home is placed for use.

Sewer Connection – all pipes, fittings and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe.

Water Connection – all pipes, fittings and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within the mobile home.

## SECTION 2. SAFETY AND ASTHETIC STANDARDS.

It shall be unlawful for any person to maintain, construct, erect or place a mobile home upon any mobile home space:

- A. Unless the mobile home is set upon a foundation constructed of cinder block or similar building material, or is set upon a slab of concrete or similar building material, with the minimum dimensions of said slab equal to, the dimensions of the mobile home and with a minimum depth of the slab being five (5) inches at any point; and
- B. Unless the space between the mobile home (set upon a slab of concrete, as required above) and the slab is completely enclosed by wood, brick, vinyl, aluminum or similar material; and
- C. Unless the wheels, tires, axel or undercarriage of the mobile home is completely enclosed by wood, brick, vinyl, aluminum or similar material, such that the same is not open and/or exposed to public view.

## SECTION 3. WATER SUPPLY.

- A. All mobile homes shall have an adequate supply of water provided to the mobile home by a direct connection to a well-water system or a direct tap-in to a public water system. It is unlawful for the water of a mobile home to be provided by a connection through the water system of an adjoining residence, building or mobile home.
- B. Individual water-riser pipes shall be located within the confined area for the mobile home stand and at a point where the water connection will approximate a vertical position, thereby insuring the shortest water connection possible and decreasing susceptibility to water pipe freezing.
- C. The water-riser pipe shall have a minimum inside diameter of three-quarter (3/4) inches and terminate at least four (4) inches above the ground surface.



#### SECTION 4. SEWAGE DISPOSAL.

All mobile homes shall be connected to an adequate and safe sanitary sewerage system, which shall be:

- A. An on-lot sanitary sewage system (eg. a septic system or a "sand mound"); or
- B. A direct tap-in to the public sanitary sewage system, placed and performed in accordance with the Sewage Enforcement Ordinance of the Borough of Dunbar, and any amendments thereto.

It is unlawful for the sanitary sewage service of a mobile home to be provided by a connection to a sewage system of an adjoining residence, building or mobile home. Sewage holding tanks are declared to be unlawful under this ordinance.

#### SECTION 5. ELECTRICAL SYSTEMS.

Main power lines not located underground shall be suspended above the ground in a manner safe and consistent with the requirements of the public utility company which provides the electrical service. It is unlawful for the electrical service of mobile home to be provided by a connection to a sewage system of an adjoining residence, building or mobile home.

#### SECTION 6. FUEL.

All piping from outside fuel storage tanks or cylinders to mobile homes shall be copper or other metallic tubing and shall be permanently installed and securely fastened in place. All fuel storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath the mobile home or less than five (5) feet from any mobile home exit.

## SECTION 7. OTHER ORDINANCES

The requirements of the within ordinance shall be in addition to any and all other ordinances governing the use, placement and erection of, and limitations upon mobile homes within the Borough of Dunbar.

## SECTION 8. PENALTIES FOR VIOLATION.

All actions for enforcement of this Ordinance shall be brought as follows:

- A. As a summary offense, before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person who shall violate or fail to comply with any provision of this Ordinance shall, upon conviction thereof, in a summary proceeding before a district justice, be sentenced to pay a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Thousand Dollars (\$1000.00) and costs of prosecution, and/or term of imprisonment up to thirty (30) days per violation. Each day that a violation continues after initial notice of the violation has been served, shall constitute a separate offense; or,
- B. As a civil action in law or equity in the same manner as provided under the Pennsylvania Rules of Civil Procedure.

## SECTION 8. SEVERABILITY.

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections or parts of this Ordinance. It is hereby declared as the intent of the Borough of Dunbar that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof, not been included herein

Adopted this                      day of                      , 2001, by a vote of  
affirmative votes of the Borough Council of Dunbar.

This ordinance shall become effective on the 12 day of July, 2001.

John C. Williams  
JOHN C. WILLIAMS, PRESIDENT

ATTEST:

Rachelle Dawson  
RACHELLE DAWSON, SECRETARY

Examined, approved and signed by me on the 12 day of July,  
2001.

Warne Rankin  
WARNE RANKIN, MAYOR

ATTEST:

Rachelle Dawson  
RACHELLE DAWSON, SECRETARY



## AMENDMENT TO ORDINANCE NO. 252

### AMENDMENT TO AN ORDINANCE SETTING MINIMUM SAFETY AND ASTHETIC STANDARDS; REQUIRING MINIMUM STANDARDS FOR WATER SUPPLY, SEWAGE DISPOSAL, ELECTRICAL SYSTEMS, FUEL STORAGE; AND PRESCRIBING PENALTIES FOR VIOLATION.

THE BOROUGH OF DUNBAR HEREBY ORDAINS AND AMENDS THE FOLLOWING SECTIONS AND PROVISIONS OF ORDINANCE 252 (additions are indicated by ***bolded italics***, deletions by ~~strike-out~~):

#### SECTION 2. SAFTEY AND ASTHETHIC STANDARDS.

1. *It shall be unlawful for any person to maintain, construct, erect or place a mobile home upon any mobile home space, except in a mobile home park, unless the mobile home is set upon a full foundation constructed of cinder block (with properly mortared joints), concrete or similar building material, equal to the dimensions of the mobile home and having a minimum height of not less than three (3) feet at its lowest point.*
2. It shall be unlawful for any person to maintain, construct, erect or place a mobile home ~~upon any mobile home space~~ *in a mobile home park:*
  - A. Unless the mobile home is set upon a foundation constructed of cinder block or similar building material, or is set upon a slab of concrete or similar building material, with the minimum dimensions of said slab equal to, the dimensions of the mobile home and with a minimum depth of the slab being five (5) inches at any point;

- B. Unless the space between the mobile home (set upon a slab of concrete, as required above) and the slab is completely enclosed by wood, brick, vinyl, aluminum or similar material; and
- C. Unless the wheels, tires, axel or undercarriage of the mobile home is completely enclosed by wood, brick, vinyl, aluminum or similar material, such that the same is not open and/or exposed to public view.

## SECTION 7. OTHER ORDINANCES

The requirements of the within ordinance *and any amendments thereto* shall be in addition to any and all other ordinances governing the use, placement and erection of, and limitations upon mobile homes within the Borough of Dunbar. *The provisions of this ordinance and any amendments thereto shall supersede and repeal the provisions of any other ordinance which provides for lesser standards (pertaining to the erection of mobile homes) than those set forth herein or which are otherwise inconsistent herewith.*

### SECTION 7.1. INSPECTIONS

1. *Each and every mobile home must be inspected by the Borough Health and Safety Officer, Code Enforcement Officer or other designated agent or official of the Borough prior to the mobile home being erected in the Borough.*
2. *The Dunbar Borough Council may, by resolution enacted hereafter, establish an inspection fee which shall be assessed to the owner(s) of a mobile home being erected in the Borough.*

## SECTION 8. PENALTIES FOR VIOLATION.

All actions for enforcement of this Ordinance shall be brought as follows:

- A. As a summary offense, before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person who shall violate or fail to comply with any provision of this Ordinance shall, upon conviction thereof, in a summary proceeding before a district justice, be sentenced to pay a fine of not less than Twenty-five Dollars (\$25.00) nor more than ~~One Thousand Dollars (\$1000.00)~~ **Six Hundred Dollars (\$ 600.00)**, costs of prosecution, and/or term of imprisonment up to thirty (30) days per violation. Each day that a violation continues after initial notice of the violation has been served, shall constitute a separate offense; or,
- B. As a civil action in law or equity in the same manner as provided under the Pennsylvania Rules of Civil Procedure.

Adopted this 16 day of October, 2006, by a vote of 6 affirmative votes of the Borough Council of Dunbar.

This ordinance shall become effective on the 16 day of October, 2006.

  
JOHN MADDAS, PRESIDENT

ATTEST:

  
ROBIN BEAL, SECRETARY



Examined, approved and signed by me on the 16 day of October, 2006.

John C. Williams  
JOHN C. WILLIAMS, MAYOR

ATTEST:

Robin Beal  
ROBIN BEAL, SECRETARY

## ORDINANCE NO. 256

### **AN ORDINANCE REGULATING THE MANNER AND PLACE OF PARKING IN THE BOROUGH AND DESIGNATING FINES AND PENALTIES FOR VIOLATIONS THEREOF.**

THE BOROUGH OF DUNBAR HEREBY ORDAINS:

#### ***Section 1 -- Definitions***

The words and phrases defined in this section have the meaning indicated when used in this Ordinance, unless the context clearly requires another meaning:

1. "Bicycle" means every device propelled by human power upon which any person may ride, and supported by either two tandem wheels or three wheels, one of which is sixteen inches or more in diameter.
2. "Booting" means to immobilize a vehicle through the use of a device that is designed to be attached to the tire/wheel and which renders the vehicle inoperable.
3. "Borough" means the Borough of Dunbar, Fayette County, Pennsylvania.
4. "Moped/Motorbike" means every two-wheeled vehicle that is self-propelled by means of a motor and is capable of carrying passenger(s).
5. "Motor Vehicle" means any licensed vehicle that is self-propelled and any vehicle designed to run upon the highway that is pulled by a self-propelled vehicle. This includes automobiles, trucks, motorcycles and any other licensed motor-powered, passenger-carrying device.
6. "Park" means to leave a motor vehicle unattended by any person authorized to move it or capable of moving it immediately upon the direction of a law or traffic enforcement officer.

#### ***Section 2 -- Method of Parking***

The Borough Council or its designated representative may cause each area in which parking is permitted by this Ordinance to be surveyed and developed for parking. Each parking space or area may be defined by appropriate signs and/or painted lines (when the parking area is paved). The erection and placement of such signs shall be in the discretion of the Borough Council. When parking spaces have been established in the area in which parking is lawful, vehicles shall be parked within the spaces so designated at all times.

1. Some spaces shall be specially marked and/or designated, by sign or other method, for specific vehicles or for a specific manner of parking. These special designations include, but are not limited to: handicapped; handicapped van-only; and Police Vehicles. It is prohibited to park in these specifically marked spaces with a vehicle which does not meet the specifications of the sign.

2. It is prohibited at any time to occupy portions of more than one space when painted lines define such or to park in any portion of the area not clearly designated for parking.
3. When spaces are designed at an angle (diagonally) to a street curb or dividing median, vehicles shall be parked therein with the front of the vehicle next to the curb or median. When parking spaces are parallel to a curb or dividing median, vehicles shall be parked with the front of the vehicle facing the direction of travel authorized for that side of the street or driveway.
4. Double parking is prohibited in all public parking spaces or facilities.
5. Parking is prohibited along a yellow line unless it is marked for parking.
6. Parking in a direction facing against oncoming traffic is prohibited.

### ***Section 3 --Disabled Vehicles***

It is prohibited to leave a disabled vehicle parked in violation of this Ordinance without immediately notifying the Borough Police Department. If the vehicle is obstructing traffic or creating a hazard, it must be removed immediately. Disabled vehicles must be removed from public property within 24 hours or are subject to being towed.

### ***Section 4 -- Metered Spaces***

The Borough Council or its designee may designate metered parking spaces within any parking lot or area on the campus for general use. He/she may also specify the length of time for parking in each space. It is prohibited for any person to park a vehicle in metered spaces pursuant to this section without activation and for longer than the indicated length of time.

1. Activation of meters: Parking meters shall be marked so that they can be activated by insertion of lawful coins of the United States;
2. Multiple violations: Vehicles parked in metered spaces without the meter being activated with lawful coins shall be subject to the issuance of a citation for each period of one hour that the vehicle occupies the space with an expired meter.
3. Extended parking at meters: it is prohibited for a vehicle to occupy any portion of a metered space for more than twenty-four consecutive hours, regardless of whether or not the meter is activated.
4. Abuse of meters: it is prohibited for any person to damage, tamper with, willfully break, destroy or impair the usefulness of, or open without lawful authority any parking meter installed pursuant to this Ordinance. It is prohibited for any person to insert into a parking meter any object that is not a coin of the United States.
5. Government vehicles, other than those of the Borough, are not exempt from meter regulations.



Whenever a meter is discovered to be inoperative, this information must be immediately reported to the Borough Police Department. Unless such a report is made, the vehicle(s) parked at such a meter shall be subject to ticket sanctions.

### ***Section 5 -- Motorcycle/Moped/Motorbike***

Motorcycle/Moped/Motorbike operators must obey all procedures and regulations issued according to this Ordinance. In addition, they may not be parked in areas designated for the use of bicycles.

### ***Section 6 -- Bicycle Parking***

1. Bicycles shall be parked in accordance with this Ordinance, state, and local fire/safety regulations. Bicycle parking may be designated by the presence of bicycle racks and lockers or specifically marked parking areas. Restrictions governing bicycle parking are in effect at all times.
2. Bicycles shall not be parked or stored in any location other than areas designed for bicycle parking.
3. Any bicycle parked in violation of this Ordinance is subject to impoundment. It is lawful for the Borough to remove locking devices in order to impound a bicycle. The Borough is not responsible for damage done to locks during impoundment.

### ***Section 7 --Temporary Parking***

The Borough Council and the Borough Police Department is authorized to temporarily prohibit parking, stopping, or standing on driveways, streets, alleys, and public parking lots. The Borough Council and the Borough Police Department is authorized to reserve parking spaces for special use when such action is necessary due to special events, emergencies, and/or construction. Temporary signs or barriers shall be posted, and a representative of the Borough shall give notice of regulations issued under this section. It is prohibited for any person to violate such regulations.

### ***Section 8 --Emergency Vehicles***

Emergency vehicles are exempt from the provisions of this Ordinance when being operated as such by a valid operator.

### ***Section 9 --Interference with Traffic***

It is prohibited for any person to park or bring to a halt any vehicle in such a manner as to interfere with normal vehicular or pedestrian traffic.

The Borough Council and the Borough Police Department may cause traffic to be restricted or rerouted as necessitated by construction, emergency situations, or special events. Notice of such restrictions shall be given by temporary signs or barriers by a representative of the Department of Safety and Security or other University officials. It shall be prohibited to violate such regulations.

### ***Section 10 --Fire Lanes/Fire Hydrants***

No person shall park a vehicle (whether disabled or not), or permit it to stand in or block access to any area designated as a fire lane or fifteen feet in either direction of a fire hydrant. Any emergency authorization for use of fire lanes must be obtained through the Borough Police Department or the Borough Council. Fire lanes shall be indicated prominently by pavement markings and/or signs.

### ***Section 11 --Vehicle Parking or Driving on Sidewalks, Grass, or Shrubbery***

It is prohibited for any person to drive or to park a motor vehicle on a public sidewalk, walkway, patio, plaza, on grass or shrubbery unless such areas are signed and marked for parking. It is prohibited to ride or operate a moped or motorbike with the engine running on public sidewalks, walkways, patios, and/or plazas.

### ***Section 12 --Non-Motorized Vehicle Parking or Driving on Sidewalks, Grass, or Shrubbery***

It is prohibited to operate a bicycle, skateboard or other non-motorized vehicle in a manner that jeopardizes pedestrian safety, and/or Borough or private property.

### ***Section 13--Pedestrian Obstructing Traffic***

It is prohibited for a pedestrian to stand on the traveled portion of any street, alley, or driveway in such a manner as to obstruct or prevent the free flow of traffic thereon; and in crossing streets, alleys, or driveways, pedestrians shall maintain appropriate motion when in the traveled portion thereof.

### ***Section 14--Passenger Pick Up and Discharge***

It is prohibited for any person to stop a motor vehicle on any street, alley, or driveway for the purpose of picking up or discharging a pedestrian without first drawing up to the right-hand curb.

### ***Section --15 Penalties for Violations:***

The penalty for parking in a handicapped designated zone shall be: \$ 75.00

The penalty for parking in a specifically marked zone other than handicapped shall be: \$ 25.00

The penalty for any other violation of Section 2 shall be: \$ 5.00

The penalty for any violation of Section 3 shall, in addition to towing, be: \$ 25.00

The penalty for any violation of Section 4 shall be: \$ 1.00 if paid on the day of the violation

\$ 5.00 if not paid on the day of the violation

The penalty for any violation of any other section of this ordinance shall be: \$ 10.00

### ***Section 16 --Emergency and other law enforcement circumstances***

Vehicle operation and parking may be prohibited under emergency and/or other law enforcement operational necessities. It shall be prohibited for any person to violate police instructions related to this section.

### ***Section 17 --Impoundment***

Any vehicle parked in violation of this Ordinance or a regulation issued hereunder may be booted or removed to a storage area. When a vehicle is towed, the vehicle owner or custodian shall be notified. This notification shall include the name and the phone number of the towing contractor. The Borough Police may refuse to authorize release of the vehicle to the owner or custodian until the cost of boot removal and storage fees have been paid, in accordance with this ordinance.



### ***Section 18 --Cost of Towing, Booting, and Storage***

The costs for towing and booting are as follows (subject to change):

Tow	\$100.00 or as charged by contractor
Vehicle impoundment/storage fee	\$50.00 per day, or as charged by contractor
Booting	\$50.00

If the operator of the vehicle to be towed or booted arrives at the vehicle prior to the boot or tow being attached, such operator shall be issued a Borough parking citation, and the penalty shall be the normal tow or boot fee.

### ***Section 19 --Vehicle Immobilization***

Any vehicle parked in violation of this Ordinance or any parking regulation issued hereunder may be immobilized by use of a wheel boot. Notice of the application of a wheel boot shall be posted prominently in one of three locations: (1) on the driver's side of the front window of the vehicle, (2) on the rear windshield, or (3) on the driver's side window. Placement of the notice shall depend on the type of vehicle.

Your vehicle may be booted or towed for any of the following reasons:

1. It is parked in violation of posted signs.
2. It is blocking a fire lane or hydrant.
3. It is blocking a roadway, drive, or loading dock.
4. It is blocking one or more other vehicles.
5. It is creating a real or potential safety hazard.
6. You have outstanding delinquent parking tickets.
7. When parking in areas not usually restricted, but signs are posted in advance.

The Borough Police Department may refuse to authorize release of the vehicle to the owner or custodian until the cost of immobilization has been paid or bond posted. Wheel boots may be removed only by the Borough Police Department, upon payment of the \$50.00 boot fee and outstanding fees and parking tickets, as applicable.

Vehicles immobilized for longer than thirty-six hours may be towed to a storage area. The owner/custodian of the vehicle shall be responsible for both the immobilization and removal fee as well as any storage fees.

### ***Section 20 --Removal of Abandoned and Derelict Vehicles***

Any vehicle which is partially dismantled or wrecked and/or that does not display a current license plate and which is left in a public street or other public place such condition for more than 24 hours shall be considered abandoned and junked. Such vehicles shall be removed to a storage area at the owner's expense and disposed of.

### ***Section 21--Removal of Abandoned and Junked Bicycles***

The Borough Police Department may impound at the owner/rider's expense, any bicycle that is considered abandoned, lost/stolen, parked/stored or operated in violation of this Ordinance or Commonwealth or local fire safety regulations. Security devices attached to vehicles also may be removed for impoundment purposes. The Borough shall not be held liable for damages made to security devices while impounding the bicycle.

Bicycles that remain stored for more than ninety days will be considered abandoned and shall be deemed Borough property, for disposal purposes.

### ***Section 22--Disposal of Abandoned and Junked Bicycles***

A letter shall be sent notifying bicycle owners with registered permits when bicycles have been impounded. When the owner is unknown, notice shall be posted at the Borough Council Chambers and the Borough Police Department. Bicycles unclaimed ninety calendar days after the original date of impoundment shall be considered abandoned by the owner and shall be deemed Borough property, for disposal purposes.

### ***Section 23 --Enforcement***

All actions for enforcement of this Ordinance shall be brought as follows:

As a summary offense, before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person who shall violate or fail to comply with any provision of this Ordinance shall, upon conviction thereof, in a summary proceeding before a district justice, be sentenced to pay a fine in accordance with Section 15, above, and costs of prosecution, and/or term of imprisonment up to thirty (30) days per violation. Each day that a violation continues after initial notice of the violation has been served, shall constitute a separate offense.

**Section 23 –Severability**

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections or parts of this Ordinance. It is hereby declared as the intent of the Borough of Dunbar that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof, not been included herein.

Adopted this 17<sup>th</sup> day of June 2002, by a vote of 6  
affirmative votes of the Borough Council of Dunbar.

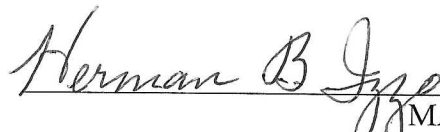
This ordinance shall become effective on the 24<sup>th</sup> day of June, 2002.

  
JOHN MADDAS, PRESIDENT

ATTEST:

  
RACHELLE DAWSON, SECRETARY

Examined, approved and signed by me on the 17 day of June,  
2002.

  
MAYOR

ATTEST:

  
RACHELLE DAWSON, SECRETARY



**AMENDMENT TO ORDINANCE No. 256**

AMENDMENT ESTABLISHING THE SETTING OF PENALTIES FOR  
VIOLATIONS OF THE ORDINANCE.

The Council of Dunbar Borough, Fayette County, Pennsylvania, hereby ordains and amends the following sections and provisions of Ordinance 256 (additions are indicated by ***bolded italics***, deletions by ~~strike-out~~):

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*Section 15 – Penalties for Violations:*

~~The penalty for parking in a handicapped designated zone shall be: \$ 75.00~~

~~The penalty for parking in a specifically marked zone other than handicapped shall be: \$ 25.00~~

~~The penalty for any other violation of Section 2 shall be: \$ 5.00~~

~~The penalty for any violation of Section 3 shall, in addition to towing, be: \$ 25.00~~

~~The penalty for any violation of Section 4 shall be: \$ 1.00 if paid on the day of the violation  
\$ 5.00~~

~~The penalty for any violation of any other section of this ordinance shall be: \$ 10.00~~

***The penalty for any violation of this ordinance shall be set from time to time by  
Resolution of the Dunbar Borough Council***

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All original provisions and sections of Ordinance 256 which are not affected by the amendment herein shall remain in full force and effect.

This Amendment to Ordinance 256 was approved by a vote of 7 affirmative votes of the Dunbar Borough Council and shall become effective on the 16th day of AUGUST, 2004.



Frank Zedell  
FRANK ZADELL, PRESIDENT

ATTEST:

Debby Visnosky  
DEBBY VISNOSKY, SECRETARY

Examined, approved and signed by me on the 16th day of AUGUST, 2004



John Williams  
JOHN WILLIAMS, MAYOR

ATTEST:

Debby Visnosky  
DEBBY VISNOSKY, SECRETARY

**ORDINANCE NO. 257****STORMWATER MANAGEMENT ORDINANCE****SECTION 1. PURPOSE**

The purpose of this Ordinance is to control stormwater in a manner consistent with the county stormwater management plan.

**SECTION 2. DEFINITIONS**

*Accelerated Erosion* – The removal of the surface of the land through the combined action of man's activities and natural processes at a rate greater than would occur because of the natural processes alone.

*Conservation District* – The Conservation District serving Fayette County.

*Developer* – A person or persons, partnership, association, corporation or other entity, or any responsible person therein or agent thereof, that undertakes the activities covered by this ordinance.

*Impervious Surface* – A surface which prevents the penetration of water into the ground.

*Land Development* – (i) the improvement of one lot or two or more contiguous lots, tracts of parcels of land for any purpose involving (a) a group of two or more buildings, or (b) the division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leasehold, condominiums, building groups or other features; (ii) a subdivision of land.

*Land Disturbance* – Any activity involving grading, tilling, digging or filling of ground, or stripping of vegetation, or any other activity which causes land to be exposed to the danger of erosion.

*Municipality* – Dunbar Borough, Fayette County, Pennsylvania.

*Runoff* – That part of precipitation which flows over the land.

*Sediment* – Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by water.



*Stormwater Management Plan* – The plan for managing stormwater runoff adopted by County as required by the Act of October 4, 1978, P.L. 864, (Act 167), and known as the “Storm Water Management Act”.

*Subdivision* – The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership or building or lot purposes into parcels of more than ten acres, not involving any new street or easement of access, shall be exempt.

*Swale* – A low lying stretch of land which gathers or carries surface water runoff.

### **SECTION 3. APPLICABILITY**

The following activities are included under the provisions of this ordinance:

- A. Land development
- B. Subdivision

### **SECTION 4. STORMWATER MANAGEMENT REQUIREMENTS**

The following requirements apply to all activities regulated by this ordinance:

- A. Stormwater runoff – The quantity, velocity and direction of stormwater runoff must be managed in a manner which protects health and property from possible injury.
- B. Erosion and sedimentation – Measures to prevent accelerated erosion and resulting sedimentation must at a minimum meet the standards of the Conservation District.

### **SECTION 5. PLAN REQUIREMENTS**

- A. Prior to the commencement of any activity regulated by this ordinance, the owner, subdivider, developer, his agent or other responsible party must have a stormwater management plan approved by the municipality or its designated agent.
- B. The following activities are specifically exempt from these planning provisions:
  - 1. Land disturbances associated with existing dwellings.

2. Subdivisions of fewer than five (5) single family homes.
3. Commercial, industrial or multi-family buildings resulting in less than a total of twenty thousand (20,000) square feet of impervious surface.
4. Agriculture when operating in accordance with a conservation plan approved by the Conservation District.
5. Forest management operations which are following DEP management practices contained in its publication "Soil Erosion and Sedimentation Control Guidelines for Forestry" and are operating under an erosion and sedimentation control plan.

C. The plan must include the following:

1. All existing and proposed structures, land disturbances and impervious surfaces.
2. All temporary and permanent stormwater management controls.
3. All erosion and sedimentation controls.
4. Maintenance responsibilities of permanent stormwater management control facilities.
5. All streams or other bodies of water, swales and drainageways.

D. Completed plans, accompanied by the requisite fees, are to be submitted to the municipality or its designated agent for approval. The municipality or its designated agent shall notify the applicant within sixty (60) days of its decision. A disapproval of an applicant's plan shall contain the reasons for disapproval.

## **SECTION 6. INSPECTIONS**

The applicant must notify the municipality or its designated agent seventy-two (72) hours prior to the commencement of any activity covered by this ordinance so that appropriate inspections to insure compliance with this ordinance can be made.

## **SECTION 7. FEES**

A schedule of fees adopted in conjunction with this ordinance shall be set forth from time to time by resolution of the Borough Council.

## **SECTION 8. FINANCIAL GUARANTEES**

The Borough Council or its designated agent may require a landowner or developer to provide a bond of an amount not in excess of Fifty Thousand and 00/100 Dollars (\$50,000.00) to insure that any stormwater management plan is complied with during land development.

## **SECTION 9. ADMINISTRATION**

The Borough Council may agree with and/or designate another governmental or quasi-governmental entity or agency to administer and/or enforce the provisions of this ordinance. Approval of such designation or agreement shall be by resolution adopted by the Borough Council.

## **SECTION 9. ENFORCEMENT AND PENALTIES**

A. Duly authorized representatives of the municipality or its designated agent have the right to enter private property at reasonable times to investigate any condition associated with this ordinance.

In addition to any other person or persons who the Borough Council may from time to time designate, the Borough Council hereby designates each member of council, the mayor, each Borough Police Officer and the Borough Engineer and his employees, the Borough Health Code Officer as the authorized representatives of the Borough for purposes of enforcing this ordinance and the authorized representative or designee of any governmental or quasi-governmental entity or agency with which the municipality agrees for purposes of administering and/or enforcing the provisions of this ordinance

### **B. PENALTIES FOR VIOLATION.**

All actions for enforcement of this Ordinance shall be brought as follows:

As a summary offense, before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person who shall violate or fail to comply with any provision of this Ordinance shall, upon conviction thereof, in a summary proceeding before a district justice, be sentenced to pay a fine of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$ 600.00) and costs of prosecution, and/or term of imprisonment up to ten (10) days per violation. Each day that a violation continues after initial notice of the violation has been served, shall constitute a separate offense; or,

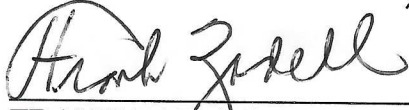


As a civil action in law or equity in the same manner as provided under the Pennsylvania Rules of Civil Procedure.


In addition, the municipality may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

Adopted this 19<sup>th</sup> day of April, 2004, by a vote of 6  
affirmative votes of the Borough Council of Dunbar.

This ordinance shall become effective on the first day of MAY, 2004.


  
FRANK ZADELL, PRESIDENT

ATTEST:



SECRETARY

Examined, approved and signed by me on the 19<sup>th</sup> day of April, 2004.

  
JOHN WILLIAMS, MAYOR

ATTEST:



SECRETARY

AN ORDINANCE OF THE BOROUGH OF DUNBAR ADOPTING THE UNIFORM CONSTRUCTION CODE AS THE MUNICIPAL BUILDING CODE AND SETTING FORTH THE MANNER OF ADMINISTRATION AND ENFORCEMENT, ESTABLISHING A BOARD OF APPEALS, PROVIDING FOR THE ASSESSMENT OF CERTAIN FEES AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

***BE IT ENACTED and ORDAINED*** by The Borough of Dunbar, Fayette County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same:

1. INTENT. The intent of this Ordinance is to:
  - A. Promote the general health, welfare and safety of the community;
  - B. Encourage the utilization of appropriate construction practices in order to prevent haphazard and unsafe construction;
  - C. Reduce financial burdens imposed upon the community, its governmental units and its residents by preventing un-workmanlike construction from occurring;
  - D. Comply with the state mandated legislation known as the "Pennsylvania Construction Code Act", 35 P.S. Section 7210.101, et seq., as amended, and its corresponding administrative regulations.
2. ELECTION. The Borough of Dunbar hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, 35 P.S. Section 7210.101, et seq., as amended, and its corresponding administrative regulations (hereinafter referred to collectively as "the Code").

3. MUNICIPAL BUILDING CODE. The Borough of Dunbar hereby adopts the Uniform Construction Code, as set forth in 34 Pa. Code, Chapters 401-405, as amended from time to time, as its municipal building code and the same is hereby adopted and incorporate herein by reference thereto.
4. ADMINISTRATION AND ENFORCEMENT. Administration and enforcement of the Code within the Borough of Dunbar shall be undertaken in any one or combination of the following ways as determined by the Borough Council by resolution:
  - a. By the designation of an employee of the Borough to serve as the municipal code official to act on behalf of the Borough;
  - b. By the retention of one or more construction code officials or third party agencies to act on behalf of the Borough;
  - c. By agreement with one or more other municipalities for the joint administration and enforcement of the Code through an intermunicipal agreement;
  - d. By entering into a contract with another municipality for the administration and enforcement of the Code on behalf of the Borough;
  - e. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utilities and miscellaneous use structures.



5. BOARD OF APPEALS. A Board of Appeals shall be established by resolution of the Borough Council in conformity with the Code, as amended, and for the purposes set forth therein. If at any time enforcement and administration of the Code is undertaken jointly with one or more other municipalities, the Board of Appeals shall be established by joint action and agreement of the participating municipalities.

6. REPEALER CLAUSES.

- a. Any and all prior ordinances or amendments thereto or portions thereof which were adopted on or before July 1, 1999, and which have provisions equal to or in excess of the minimal requirements of the Code shall remain in full force and effect until such time as those provisions fail to equal or fail to exceed the minimal requirements of the Code, as amended from time to time.
- b. Any and all prior ordinances or amendments thereto or portions thereof which are in effect as of the date of this ordinance and which have provisions less than the minimal requirements of the Code are hereby repealed.
- c. Any and all prior ordinances, regulations and policies of the Borough of Dunbar or amendments thereto or portions thereof which are not governed by the Code shall remain in full force and effect.

6. FEES AND ASSESSMENTS. The Borough of Dunbar shall, from time to time by resolution, establish and adopt a schedule of fees and assessments to be levied for the administration and enforcement of the Code and for all inspections and acts required under the Code.

7. SAVINGS CLAUSE. If any section, subsection, sentence or clause of this ordinance or the Code is, for any reason, held to be invalid, such decision or decisions shall not affect the validity of the remaining provisions of this ordinance.
8. ENFORCEMENT. Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or the Code, or who fails or refuses to comply with any provisions of this Ordinance or the Code, or who fails to or refuses to comply with any notice, order of direction of municipal official designated to enforce this code shall be subject to criminal and/or civil penalties. All actions for enforcement to this ordinance shall be brought as follows:
  - a. As a summary offense, before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person who shall violate or fail to comply with any provision of this Ordinance shall, upon conviction thereof, in a summary proceeding before a district justice, be sentenced to pay a fine of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$ 600.00) and costs of prosecution, and/or term of imprisonment up to ten (10) days per violation. Each day that a violation continues after initial notice of the violation has been served, shall constitute a separate offense; or,
  - b. As a civil action in law or equity in the same manner as provided under the Pennsylvania Rules of Civil Procedure.

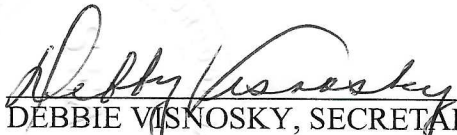
In addition, the municipality may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

THIS ORDINANCE WAS ADOPTED ON THE 21<sup>ST</sup> DAY OF  
JUNE, 2004, BY AN AFFIRMATIVE VOTE OF 6 MEMBERS OF  
THE BOROUGH COUNCIL.

THIS ORDINANCE SHALL BECOME EFFECTIVE ON THE 8<sup>th</sup> DAY  
OF JULY, 2004.

  
FRANK ZADEL, PRESIDENT

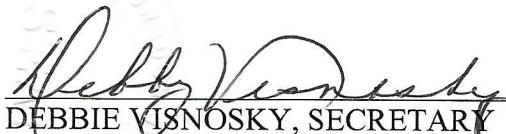
ATTEST:

  
DEBBIE VISNOSKY, SECRETARY

Examined, approved and signed by me on the 21<sup>ST</sup> day of  
JUNE, 2004.

  
JOHN WILLIAMS, MAYOR

ATTEST:

  
DEBBIE VISNOSKY, SECRETARY



ORDINANCE NO. 259

**AN ORDINANCE ESTABLISHING THE MINIMUM REGULATIONS GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES, BY PROVIDING THE STANDARDS FOR CERTAIN UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE AND THE DEMOLITION OF SUCH STRUCTURES; AND SETTING PENALTIES FOR VIOLATIONS THEREOF; KNOWN AS THE *PROPERTY MAINTENANCE CODE*.**

BE IT ORDAINED by the Council of the Borough of Dunbar, and it is ordained by and with the authority of the same:

#### SECTION 1

That a certain document, a copy of which is on file in the Dunbar Borough Building, being marked and designated as the International Property Maintenance Code as published by the International Code Council, Inc., (hereinafter BOCA 2003 International Property Maintenance Code) be and hereby is adopted as the Property Maintenance Code of the Borough of Dunbar, Fayette County, Pennsylvania; for the control of buildings and structures as herein provided; and except as otherwise provided, each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

## SECTION 2

The following section in the body of the said BOCA 2003 International Property Maintenance Code is hereby revised — Deletions are by ~~strike-out~~ and insertions are **underlined in bold**:

Section 101.1 [Name of Jurisdiction] — **Borough of Dunbar (hereinafter “Borough”)**

Section 103.1 General. **Enforcement/Code Official**. ~~The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the code official.~~ **Any Borough Police Officer, Borough Code Enforcement Officer, Borough Health Officer, any other Law Enforcement Officer having jurisdiction within the Borough and any other person designated by the Borough Council is hereby empowered to enforce the provisions of this ordinance and such person shall be known as “the code official” for purposes of the text of this ordinance.**

Section 106.3 Prosecution of violation. ~~Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the a notice of violation is not complied with, the code official shall institute the appropriate at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.~~ **All actions for enforcement to this ordinance shall be brought as follows:**

- (a) **As a summary offense, before a District Justice in the same manner provided for the enforcement of a summary offense under the Pennsylvania Rules of Criminal Procedure. Any person who shall violate or fail to comply with any of the provisions of this ordinance shall, upon conviction thereof, in a summary proceeding before a District Justice, be sentenced to pay a fine of not less than twenty-five (\$25.00) dollars nor more than one thousand (\$1000.00) dollars, costs of prosecution, restitution and/or a term of imprisonment up to ninety (30) days, per violation. Each day that a violation continues shall constitute a separate offense; or**
- (b) **As a civil action in law or in equity, before a District Justice in the same manner provided for under the Pennsylvania Rules of Civil Procedure of District Justice Rules. Any person who shall violate or fail to comply with any of the provisions of this ordinance shall be assessed a civil penalty of not less than twenty-five (\$25.00) dollars nor more than six hundred (\$600.00) dollars, court costs, restitution and reasonable attorney fees incurred by the Borough in the enforcement of proceeding, per violation. Each day that a violation continues shall constitute a separate offense.**

Examined, approved and signed by me on the 17<sup>th</sup> day of OCTOBER,  
2005.

John Williams  
JOHN WILLIAMS, MAYOR

ATTEST:

Holly Green  
SECRETARY





# Pennsylvania Uniform Construction Code: Municipal Election Form

## Section 1:

Name of Municipality:			
Check type:	<input type="checkbox"/> Borough	<input type="checkbox"/> City	<input type="checkbox"/> Township
Located in County of:			
<input type="checkbox"/> Elects <u>not to enforce</u> the provisions of Act 45 of 1999.			
Name of Chief Elected Official:			
Signature of Chief Elected Official:			
Date Official Action Taken:			

## Section 2:

Name of Municipality:	<u>DUXBURG</u>		
Check type:	<input checked="" type="checkbox"/> Borough	<input type="checkbox"/> City	<input type="checkbox"/> Township
Located in County of:	<u>FAYETTE</u>		
<input checked="" type="checkbox"/> Elects <u>to enforce</u> the provisions of Act 45 of 1999.			
Number of UCC adoption ordinance:		<u>258</u>	
Effective date of ordinance:		<u>JULY 8, 2004</u>	
Has this municipality preserved code amendments which were adopted prior to July 1, 1999 and which equal or exceed the standards found in the Uniform Construction Code?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<p>Please note that the term "Building Code Official" (below) refers to the person who will be the chief administrator, manager, or director of your code program. If the person directing your building code program is a registered ("grandfathered") code official, it is not required that this person be certified as a "Building Code Official" at the outset of the UCC program. Please list after this title the name of the person who will direct your code program.</p>			
Building Code Official Name:		<u>MIDDLE DEPARTMENT INSPECTION AGENCY (MDIA)</u>	
Address:		<u>10230 PERRY HIGHWAY PO BOX 1356</u>	
City:		<u>WEXFORD</u>	
State:		<u>PA</u>	Zip Code: <u>15090</u>
E-mail Address (if any):			
Telephone:		<u>(1-800) 580 - 6342</u>	
Name of Chief Elected Official:		<u>FRANK J. ZABEL</u>	
Signature of Chief Elected Official:		<u>Frank J. Zabel</u>	