

BOROUGH OF DUNBAR
FAYETTE COUNTY, PENNSYLVANIA

ORDINANCE NO. 308

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF DUNBAR,
FAYETTE COUNTY, PENNSYLVANIA, REGULATING THE OPENING,
EXCAVATING, BORING, AND RESTORATION OF STREETS WITHIN
THE BOROUGH OF DUNBAR.

WHEREAS, the Council of the Borough of Dunbar is aware of inconsistencies regarding construction and repairs made to Borough streets;

WHEREAS, the Council of the Borough of Dunbar desires to adopt an Ordinance ensuring that whenever repair activities take place on Borough streets, that such activities are done in a way that avoids inconsistent or patchwork repairs and ensures public safety on Borough streets;

WHEREAS, as used herein, the term "street," means and highway, street, roadway, alleyway, or any other paved stretch of land designed for use by motorized vehicles, whether owned and maintained by the Borough of Dunbar, or any other governmental body;

WHEREAS, the Borough Code, 8 Pa.C.S.A. § 1202(12) provides "[t]o regulate the streets, sewers, public squares, common grounds, sidewalks, curbs, gutters, culverts and drains, and the heights, grades, widths, slopes and their construction, and to prohibit the erection or construction of any building or other obstruction to the convenient use of the same;"

WHEREAS, 15 Pa.C.S.A. § 1511(e) provides that "[a] public utility corporation shall have the right to enter upon and occupy streets, highways, waters and other public ways and places for one or more of the principal purposes specified in subsection (a) and ancillary purposes reasonably necessary or appropriate for the accomplishment of the principal purposes, including the placement, maintenance and removal of aerial, surface and subsurface public utility facilities thereon or therein. Before entering upon any street, highway or other public way, the public utility corporation shall obtain such permits as may be required by law and shall comply with the lawful and reasonable regulations of the governmental authority having responsibility for the maintenance thereof;"

WHEREAS, 53 P.S. § 1991 provides that "[t]he proper corporate authorities of such municipality shall have the right to issue permits determining the manner in which public service corporations or individuals shall place, on or under or over such municipal streets or alleys, railway tracks, pipes, conduits, telegraph lines, or other devices used in the furtherance of business; and nothing herein contained should be

construed to in any way affect or impair the rights, powers, and privileges of the municipality in, on, under, over, or through the public streets or alleys of such municipalities, except as herein provided;"

WHEREAS, the Borough of Dunbar desires to exercise its authority to protect and preserve its public rights of way by requiring permits for boring or disturbance beneath any street or public alleyway.

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

Section 1 – SCOPE

- (A) All matters concerning the construction, placing, opening, breaking, excavation, boring, tunneling, repair or alteration of any highway, street, curb, gutter or sidewalk, and their appurtenant structures, shall be considered within the scope of this Ordinance.
- (B) No highway, street, curb, gutter or sidewalk shall be constructed, placed opened, broken, bored, tunneled, excavated, repaired or altered within the Borough except in conformity with the provisions of this Ordinance, the Codified Ordinances of the Borough of Dunbar, and the Acts of the Assembly of the Commonwealth of Pennsylvania and any rules promulgated thereunder.
- (C) No highway, street, curb, gutter, sidewalk or part thereof, already existing or hereafter to be constructed in the Borough, shall be altered in any manner that would violate any of the provisions hereof or any rule promulgated hereunder.
- (D) No driveway or other private access shall be connected or opened upon a street, highway or other public right of way in the Borough after the effective date of this Ordinance, except in conformity with this Ordinance.

Section 2 – RESTORATION

- (A) All openings, excavations or breaks shall be filled immediately with suitable materials in all respects satisfactory to the Borough Engineer, and any sidewalk, curb and gutter shall be replaced with the same type of paving as existed prior to the work undertaken, unless otherwise approved by the Borough Engineer. All work shall be done to the satisfaction of the Borough Engineer and in accordance with all Borough and PennDOT standards and specification, as set forth in PennDOT Publication Number 70, Guidelines for Design of Local Roads and Streets, as may be amended from time to time.
- (B) Any person who shall make an opening, boring, tunneling, or excavation in any street or sidewalk in the Borough of Dunbar shall perform all such opening, boring, tunneling, or excavation work and the restoration work required hereunder in accordance with the standards and provisions set forth in 67 Pa Code § 459.8, as amended. Likewise, any aboveground construction shall be performed in accordance with 67 Pa Code§ 459.9.
- (C) In addition to the foregoing work standards, the Borough Council and Borough

Engineer shall be entitled to promulgate rules and regulations governing the opening, excavation, boring, tunneling, refilling, resurfacing and repaving of streets and sidewalks in the Borough of Dunbar, and after the same have been approved by the Council of Dunbar and entered upon the minutes of Council, any work to be done or performed by any applicant or permitted governed by the terms of this article shall be done in compliance with such rules and regulations. Copies of said rules and regulations shall be furnished to any person making application hereunder.

- (D) If and to the extent that any person shall open or excavate any portion of a street or sidewalk in a manner which results in 10 linear feet or more of such street or sidewalk being excavated on one side of the street only, then such person shall be required to repave the highway or street the full length of the excavation from the center line of the street to the curb or edge of the street where no curb exists on the side of the street being excavated and such excavation occurs on both sides of the street, then such person shall be required to repave the street the full length of the excavation from curb to curb or edge of the street to edge of the street where no curb exists.
- (E) Whenever excavations are less than six feet apart, restoration must include all trenches together in accordance with regulations.
- (F) Restoration work must be completed as soon as possible following completion of the work for which the digging or excavation was performed, and in all cases temporary restoration work shall be completed no later than 24 hours after such underlying work is completed and permanent restoration work shall be completed no later than 90 days after such underlying work is completed. Each day that such excavation work is not completed in compliance with these timing requirements shall be considered a separate offense and violation of this Ordinance.

Section 3 – PENALTY

- (A) Whoever violates or fails to comply with any of the provisions of this Ordinance, for which no penalty is otherwise provide shall be fined not more than \$1,000 per offense and violation.
- (B) In default of the payment of any such fine and costs, the offender may be imprisoned for not more than 30 days in the County Jail, for each offense. Unless otherwise provided, a separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. The penalty provided for herein shall be in addition to any fee, professional expenditure, deposit, charge, surcharge, interest, insurance or bond requirement or equitable remedy provided at law.

Section 4 - PRIOR ORDINANCES: REPEALER

All prior Ordinances or Resolutions are hereby repealed in whole or in part to the extent inconsistent herewith.

Section 5 - SEVERABILITY

- (A) In the event of any provision, section, sentence, clause, or part of this Ordinance being held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of the Ordinance, it being the intent of the Borough that such remainder shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.
- (B) In the event of any legislation by the Commonwealth of Pennsylvania becoming effective dealing with the same or similar subject matter as that included herein, such shall remain in full force and effect if it is more restrictive, and not inconsistent with such legislation, but if such legislation is more restrictive than, inconsistent with, or both, then this Ordinance shall be interpreted according to such legislation and shall be superseded to the extent necessary to give such legislation appropriate effect. However, all the remainder of the ordinance shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

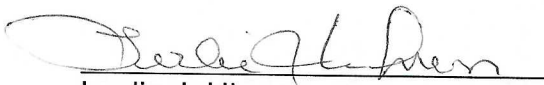
Section 6 - EFFECTIVE DATE

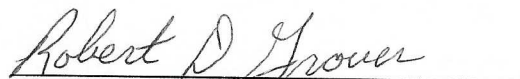
This Ordinance shall take effect immediately.

ORDAINED AND ENACTED this **11th** day of **May, 2021**, by the Council of the Borough of Dunbar in lawful session duly assembled.

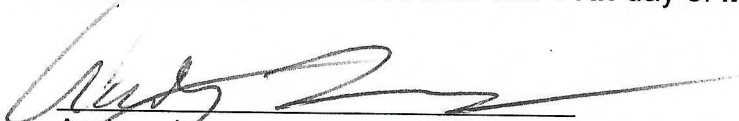
ATTEST:

BOROUGH OF DUNBAR


Leslie J. Uhren
Borough Secretary


Robert D. Grover
President, Borough Council

EXAMINED and APPROVED this **11th** day of **May, 2021**.


Andrew Lowry
Mayor

DUNBAR BOROUGH
FAYETTE COUNTY, PENNSYLVANIA

ORDINANCE NO. 309

AN ORDINANCE OF THE BOROUGH OF DUNBAR, COUNTY OF FAYETTE, COMMONWEALTH OF PENNSYLVANIA, REGULATING PEDDLING AND SOLICITATION; REQUIRING APPLICATIONS AND PERMITS FOR PEDDLING AND SOLICITATION; PROVIDING FOR ENFORCEMENT; AND PRESCRIBING PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED, by the Borough of Dunbar, County of Fayette, and Commonwealth of Pennsylvania, as follows:

SECTION 1: SHORT TITLE - This Ordinance shall be known as "Peddlers, Transient Merchant, and Solicitation Ordinance."

SECTION 2: ENACTMENT - This Ordinance is enacted pursuant to the authority conferred by the Borough Code.

SECTION 3: DEFINITIONS - The following words when used in this Ordinance shall have the following meanings, unless the context clearly indicates otherwise:

Borough – The Borough of Dunbar, Fayette County, Pennsylvania.

Peddler - Any person who shall engage in peddling, as herein defined.

Peddling - Engaging in peddling, transient merchanting, or taking of orders, either by sample or otherwise, or contracts for any goods, wares, merchandise, or services upon any of the streets or sidewalks or from house to house within the Borough of Dunbar (whether by foot or by car), provided that the word "peddling" shall not apply to farmers selling their own produce; to the sale of goods, wares, and merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose; or to any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk or milk products.

Person - Any natural person, association, partnership, firm or corporation.

Solicitation - Canvassing or soliciting contributions or funds from the general public within the Borough for any religious, charitable, patriotic, political, philanthropic, public interest, or community service purpose.

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

SECTION 4: FINDINGS OF THE BOROUGH OF DUNBAR - The Borough has determined and hereby determines that peddlers (including transient merchants) and persons soliciting funds should be regulated through a permitting process for the health, safety, and welfare of the Borough's residents and the general public.

SECTION 5: PEDDLER'S LICENSE REQUIRED - No person shall engage in peddling in the Borough without first having taken out a license as herein provided.

SECTION 6: PROCEDURE - Every person desiring to engage in peddling in the Borough of Dunbar shall first make application to the Council for a license. Upon such application, such person shall give his name, his address, his previous criminal record, if any, the name of the person for whom he works, if any, the type of goods, wares and merchandise he wishes to peddle, the length of time for which he wishes to be licensed, the type of vehicle he uses, if any, and the number of helpers he has, provided that where a person makes application for himself and one (1) or more helpers, all applicable personal information specified above shall be given for each helper, and an individual license shall be required for each helper; provided further, that in order to afford proper officials of the Borough of Dunbar time to make reasonable investigation of the application as submitted, no license shall be issued until two (2) days have elapsed from the date said application is filed. No license issued under this Ordinance shall be transferable from one person to another.

SECTION 6: PEDDLER'S LICENSE FEES - No peddler's license shall be issued under this Ordinance until the proper fee, as designated by ordinance or resolution of Council, is paid to the Borough. Upon acceptance of a permitting application request, those persons approved for a permit will be issued an adhesive, a pin on, or a lanyard-type permit with (i) the person's name, (ii) the company or entity name for which such person is employed or contracted, and (iii) the products, good, wares, or services being peddling.

- A. Foot peddler: twenty dollars (\$20.00) per day or fraction thereof.
- B. Peddler operating from a motor vehicle: twenty dollars (\$20.00) per day or fraction thereof.
- C. Each and every additional peddler employed by or with a foot peddler or peddler operating from a motor vehicle: twenty dollars (\$20.00) per day or fraction thereof.

SECTION 7: EXEMPTIONS - Notwithstanding the foregoing, no peddler's license fees shall be due from any of the following:

- A. To religious speech, political speech, and the distribution of handbills, so long as the principal purpose of solicitation activities is the expression of religious, political or other philosophical beliefs, as opposed to the sale or distribution of goods and merchandise.

- B. For the sale of goods, wares, and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.
- C. To children under the age of eighteen (18) years who take orders for and deliver newspapers, greeting cards, candy, bakery products and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations.
- D. To itinerant vendors and temporary vendors operating in the Borough with a permit pursuant to the other Borough ordinances, rules, or regulations.

Any person claiming any exemption outlined above shall provide the Borough with documentation demonstrating that person qualifies for said exemption.

SECTION 8: ISSUANCE OF PEDDLER'S LICENSE; DISPLAY; EFFECT - Upon making application therefore and paying the proper fee as herein specified, a peddler's license shall be issued to every peddler for so many days for which the peddler applied and paid the applicable fee. Such license shall contain the information required to be given upon the application therefore. Every peddler shall at all times when engaged in peddling in the Borough carry such license upon his person and shall exhibit such license, upon request, to all police officers, Borough officials, and citizens. No peddler shall engage in selling any product not mentioned upon such license nor shall any person having a foot peddler's license operate from or with any motor vehicle.

SECTION 9: NOISE RESTRICTION - No person licensed as a peddler under this Ordinance shall hawk or cry his wares upon any of the streets or sidewalks of the Borough nor shall he use any loudspeaker, audio amplification, horn, or any other device for announcing his presence by which the public is annoyed.

SECTION 10: PARKING RESTRICTION - No person licensed as a peddler under this Ordinance shall park any vehicle upon any of the streets or alleys of the Borough in order to sort, rearrange or clean any of his goods, wares or merchandise; nor may any such person place or deposit any refuse upon any of such streets or alleys; nor may any such person maintain or keep a street or curbstone market by parking any vehicle upon any street or alley in the Borough for longer than necessary in order to sell there from to persons residing in the immediate vicinity.

SECTION 11: LOCATION RESTRICTION - No person licensed as a peddler under this Ordinance shall occupy any fixed location upon any of the streets, alleys or sidewalks of the Borough for the purpose of peddling, with or without any stand or counter.

SECTION 12: PEDDLERS PERMITTED HOURS - No person licensed as a peddler under this Ordinance shall engage in peddling in the Borough before 10:00 a.m. or after 5:00 p.m. of each day in which said person is peddling under this Ordinance.

SECTION 13: RECORD OF PEDDLER'S LICENSES - The Borough Secretary shall keep a record of all licenses issued under this Ordinance, the Chief of Police shall apply daily to the Secretary for a list of all licenses issued here under since the previous

day. The Chief of Police, or assigned patrol officer, shall supervise the activities of all holders of such licenses.

SECTION 14: SUSPENSION OF PEDDLER'S LICENSE - The Mayor of the Borough is hereby authorized to suspend any license issued under this Ordinance when he deems such suspension to be beneficial to the public health, safety or morals or for violation of any of the provisions of this Ordinance or for giving false information upon any application for license hereunder. Council will be made aware of any all actions taken.

SECTION 15: SOLICITATION LICENSE REQUIRED - No person shall engage in solicitation in the Borough without first having taken out a license as herein provided.

SECTION 16: EXEMPTIONS - Notwithstanding the foregoing, no solicitation license fees shall be due from any person who has registered with the Department of State for the Commonwealth under the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §162.1, et seq., as hereafter amended, supplemented, modified or re-enacted by the General Assembly of Pennsylvania, or who is expressly exempted from such registration under such Act. Any person claiming any exemption outlined above shall provide the Borough with documentation demonstrating that person qualifies for said exemption.

SECTION 17: PROCEDURE - At least thirty (30) days before the date of requested solicitation, applicants for a solicitation permit under this Ordinance must file with the Borough an application, in writing, on a form or forms to be furnished by the Borough, which shall give the following information:

- A. The name of the person, organization or institution and its aim and purpose.
- B. Local and national address and phone numbers.
- C. Names and residence addresses of each officer, together with a complete list of names and residence addresses of any board of managers or directors.
- D. Dates of intended solicitation.
- E. Names of persons authorized to solicit, their residence addresses, phone numbers, social security numbers, driver's license numbers and state automobile registration information and a photograph.
- F. A statement on a form furnished by the Borough indicating that they understand and agree to comply with the requirements of this section.

SECTION 18: SOLICITATION PERMIT FEES - No solicitation license shall be issued under this Ordinance until the proper fee, as designated by ordinance or resolution of Council, is be paid to the Borough. Upon acceptance of a solicitation application request, those persons approved for a permit will be issued a written permit.

SECTION 19: DURATION OF PERMIT; RENEWAL - A solicitation permit issued by the Secretary shall be valid for the period of intended solicitation as specified in the applicant's application, but in no event for more than one (1) year, but may be renewed from year to year, if applicable, upon filing a new application, paying any applicable fee and furnishing the information required in on an annual basis. All solicitation licenses issued under the provisions of this Ordinance shall expire on the 31st day of December in the year when issued.

SECTION 20: LIMITATIONS - A. Any resident of the Borough may display a sign or sticker reading NO SOLICITING, and it shall be unlawful for any person to solicit contributions or funds as specified in this chapter at any home or residence where a NO SOLICITING sign or sticker is displayed.

SECTION 21: SOLICITATION PERMITTED HOURS - No person licensed for solicitation under this Ordinance shall engage in solicitation in the Borough before 10:00 a.m. or after 5:00 p.m. of each day in which said person is soliciting under this Ordinance.

SECTION 22: ISSUANCE OF SOLICITATION LICENSE; DISPLAY; EFFECT - Every person soliciting shall at all times when engaged in solicitation in the Borough carry such license upon his person and shall exhibit such license, upon request, to all police officers, Borough officials, and citizens.

SECTION 23: ENFORCEMENT - It shall be the duty of any police officer of the Borough to require any person seen soliciting and who is not known by such officer to be duly licensed to produce his solicitor's permit and to enforce the provisions of this Ordinance against any person found to be violating the same.

SECTION 24: VIOLATIONS AND PENALTIES - Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00) and costs of prosecution and, in default of payment thereof, to imprisonment for not more than thirty (30) days.

SECTION 25: SEVERABILITY -The provision of this Ordinance are severable. If any sentence, clause, or section 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 of this Ordinance. It is hereby declared to be the intent of the Borough of Dunbar that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, or section not been included herein.

SECTION 26: EFFECTIVE DATE -This ordinance shall become effective five (5) days after enactment.

SECTION 27: REPEALS -All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed insofar as they may be inconsistent herewith.

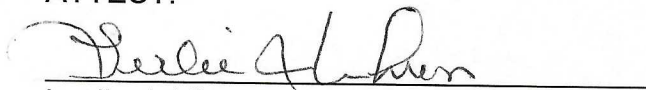
ORDAINED AND ENACTED by the Council of the Borough of Dunbar, after due public notice, at a public meeting held on the 3rd day of August, 20 21.

BOROUGH OF DUNBAR


By: Robert D. Grover


Dunbar Borough Council President

ATTEST:


Leslie J. Uhren
Borough Secretary

EXAMINED and APPROVED this 3rd day of August, 20 21.


Andrew Lowry
Mayor

DUNBAR BOROUGH
FAYETTE COUNTY, PENNSYLVANIA

ORDINANCE NO. 310

AN ORDINANCE OF THE BOROUGH OF DUNBAR, COUNTY OF FAYETTE, COMMONWEALTH OF PENNSYLVANIA, PROHIBITING THE ACCUMULATION AND KEEPING OF GARBAGE AND HOUSEHOLD REFUSE; REQUIRING GARBAGE COLLECTION FROM ALL PREMISES; PROVIDING FOR ENFORCEMENT; AND PRESCRIBING PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED, by the Borough of Dunbar, County of Fayette, and Commonwealth of Pennsylvania, as follows:

SECTION 1: SHORT TITLE - This Ordinance shall be known as "Mandatory Garbage Ordinance."

SECTION 2: ENACTMENT - This Ordinance is enacted pursuant to the authority conferred by the Borough Code and the Pennsylvania Solid Waste Management Act.

SECTION 3: DEFINITIONS - The following words when used in this Ordinance shall have the following meanings, unless the context clearly indicates otherwise:

Borough – The Borough of Dunbar, Fayette County, Pennsylvania.

Garbage or Refuse - Any solid waste derived from animal, grain, food or vegetable matter that is capable of being decomposed by microorganisms with sufficient rapidity to cause such nuisances as odors, gases or vectors.

Person - Any individual or individuals, company, partnership, association, firm or corporation.

Rubbish - Any ashes, cans, waste, broken or worn-out materials, papers, books, litter and refuse in general. The term "rubbish" shall not include solid waste resulting from the construction or demolition of buildings and other structures, including but not limited to wood, plaster, metals, asphaltic substances, bricks, block and unsegregated concrete. Further, the term shall not refer to tires, batteries or any other solid waste or combination of solid waste as defined in Act 97 of the Pennsylvania Solid Waste Management Act of 1980 (P.L. 380, No. 97, July 7, 1980), as amended.

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

SECTION 4: FINDINGS OF THE BOROUGH OF DUNBAR - The Borough has determined and hereby determines that all persons shall obtain garbage collective service, which should be regulated, for the health, safety, and welfare of the Borough's residents and the general public.

SECTION 5: NONACCUMULATION AND FORBIDDEN LOCATIONS - It shall be unlawful to accumulate, keep, burn, or suffer to remain on any person's premises any garbage, refuse, rubbish, or other offensive or unwholesome matter or to cast the same upon any vacant lot or upon any lot or piece of ground belonging to the Borough or highway, street, or alley or upon within the public right of way or margins or without or upon any of the streams within the Borough or so near the limits hereof as to annoy or be offensive. In addition to any provision of this Ordinance, all persons shall conform to the requirements of any property maintenance ordinance or code adopted by the Borough Council, any violation of which shall constitute a separate violation.

SECTION 6: METHOD OF REMOVAL OUTSIDE OF BOROUGH - All garbage, refuse, and rubbish accumulated within the Borough by residents, businesses, organizations, or property owners or occupants of premises located within the Borough shall be collected and removed under the authority of the Borough Council pursuant to such rules and regulations as may be adopted by the Borough Council. It shall be unlawful for any person or business to leave, deliver, or deposit garbage, refuse, or rubbish or other offensive material for collection within the Borough, which garbage, refuse, rubbish or other offensive material has been brought into the Borough from outside Borough limits.

SECTION 6: HAULERS – Any hauler operating within the Borough shall be required to collect and remove garbage, refuse, rubbish and other offensive material from the Borough in a motor-driven vehicle or vehicles, which shall be equipped with watertight beds constructed of an impervious material and while in transit shall be covered with a tarpaulin or other covering similar thereto and to so conduct the collection, removal, and transportation of garbage, refuse, rubbish, and other offensive material so as to assure general sanitation through the entire process and operation thereof and shall not be overfilled so as to endanger any highway or road or person or property within the Borough. Any vehicle so used shall be cleaned at sufficiently frequent intervals to prevent any nuisance from odors.

A. No person except haulers registered and approved by Borough Council may operate and remove garbage, refuse, rubbish, or other offensive material from any property within the Borough. Any hauler applying to be registered and approved by Borough Council shall meet and satisfy such criteria as may be required by Borough Council and shall provide such application, documentation, and fees as may be set by ordinance or resolution of Borough Council.

B. The provision of service by any hauler to a person within the Borough shall be and shall constitute a contract under this Ordinance, which contract shall be entered into consensually between such person and his/her/its choice of hauler registered and approved by Borough Council. The individual length of a contract shall be decided between the person and hauler. Garbage, refuse, rubbish, and other offensive material is to be collected and removed by such hauler at least once a week. Charges will be entirely between the person and hauler.

SECTION 7: DISPOSAL SITE - The hauler shall empty all containers in a clean manner so as not to damage, harm, or foul premises, property, roads, or highways. The hauler shall also be required at his/her/its own cost and expense to dispose of all garbage,

refuse, rubbish, and other offensive material at an approved landfill or appropriate approved site.

SECTION 8: GARBAGE CONTAINERS - Every person from whose premises garbage, refuse, rubbish, or other offensive material is gathered shall place the same in a portable container, made of metal or other nonabsorbent material, watertight with a handle or handles on the outside, and with a tightly fitting cover to hold said garbage and to weigh not more than sixty (60) pounds when filled. All garbage, refuse, rubbish, and other offensive material is to be placed first in a plastic garbage bag and then in a container. No person shall place a garbage can or container out more than twelve (12) hours prior to such person's normal day for collection.

SECTION 9: CONDITION OF CONTAINERS - All garbage cans or containers shall be kept in a sanitary condition by the person from whose premises said garbage is to be collected. All garbage, refuse, rubbish, and other offensive material shall be carefully wrapped and placed in plastic bags before being placed in the garbage can or container, and no more water shall be allowed or permitted in the garbage than naturally accumulates from table refuse.

SECTION 10: CONTAINER SIZE - All containers for garbage, refuse, rubbish and other offensive material shall be of sturdy and durable material and shall not weigh more than fifty (50) pounds when filled. Garbage cans and containers shall be stored beyond view of street or adjoining properties when not placed out for collection, if possible.

SECTION 11: CONTAINER LOCATION - On the days when collection of garbage, refuse, rubbish, and other offensive material is to be made, the person from whose premises it is accumulated shall place the container at a point on the alley or street or on the premises where it is readily accessible to collectors and, where no alley exists, just inside the pavement line of street.

SECTION 12: THEFT OF SERVICE - No person is permitted to provide his/her/its garbage, refuse, rubbish, or other offensive material to another person to dispose of his/her/its garbage, refuse, rubbish, or other offensive material other than a registered and approved hauler. Any violation of this section may constitute theft of service and subject the violator to prosecution under this Ordinance and/or applicable law.

SECTION 13: ENFORCEMENT - It shall be the duty of any police officer or code enforcement officer of the Borough to require any person to provide documentary evidence of compliance with this Ordinance and to enforce the provisions of this Ordinance against any person found to be violating the same.

SECTION 14: VIOLATIONS AND PENALTIES - Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00) and costs of prosecution and, in default of payment thereof, to imprisonment for not more than thirty (30) days.

SECTION 15: SEVERABILITY -The provision of this Ordinance are severable. If any sentence, clause, or section 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 of this

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

SECTION 16: EFFECTIVE DATE -This ordinance shall become effective five (5) days after enactment.

SECTION 17: REPEALS -All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed insofar as they may be inconsistent herewith; provided, however, that this Ordinance shall not repeal all or any portion of any property maintenance ordinance or code previously adopted by Borough Council.

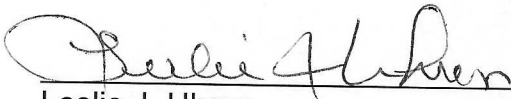
ORDAINED AND ENACTED by the Council of the Borough of Dunbar, after due public notice, at a public meeting held on the 3rd day of August, 2021.

BOROUGH OF DUNBAR

By: Robert D. Grover

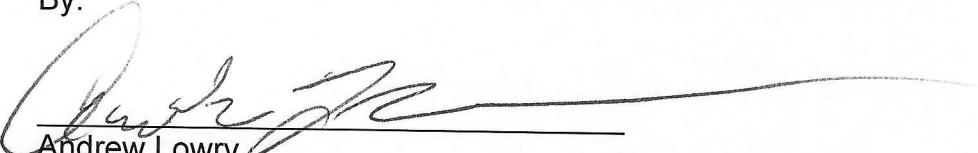

Dunbar Borough Council President

ATTEST:


Leslie J. Uhren
Borough Secretary

EXAMINED and APPROVED this 3rd day of August, 2021.

By:


Andrew Lowry
Mayor

DUNBAR BOROUGH
FAYETTE COUNTY, PENNSYLVANIA

ORDINANCE NO. 311

AN ORDINANCE OF DUNBAR BOROUGH, FAYETTE COUNTY, PENNSYLVANIA, REQUIRING DYE TESTING PRIOR TO THE SALE OR PURCHASE OF REAL ESTATE TO ELIMINATE ILLEGAL STORM WATER OR SURFACE WATER CONNECTIONS INTO THE SANITARY SEWER SYSTEM AND TO ELIMINATE THE ILLEGAL DISCHARGE OF SEWAGE INTO THE SOIL AND/OR THE WATERS OF THE COMMONWEALTH OF PENNSYLVANIA BY MALFUNCTIONING, ON-LOT INDIVIDUAL SEWAGE SYSTEMS; CONTAINING A DEFINITIONS SECTION; REQUIRING A DOCUMENT OF CERTIFICATION PRIOR TO THE SALE OF ANY REAL ESTATE WITHIN THE BOROUGH; REQUIRING THE SUBMISSION OF AN APPLICATION FOR A DYE TEST; FIXING A ONE YEAR LENGTH FOR A VALID DOCUMENT OF CERTIFICATION; LISTING EXEMPTIONS FROM THE REQUIREMENT OF A DOCUMENT OF CERTIFICATION; PROVIDING FOR THE ISSUANCE OF A TEMPORARY DOCUMENT OF CERTIFICATION; EMPOWERING THE BOROUGH OR ITS DESIGNATED ENFORCEMENT OFFICER TO REGULATE THE INSTANT ORDINANCE; ALLOWING FOR THE ADJUSTMENT OF FEES BY RESOLUTION; CONTAINING A PENALTIES AND ENFORCEMENT SECTION; INCLUDING A SAVINGS CLAUSE; REPEALING PRIOR, INCONSISTENT ORDINANCES AND/OR PORTIONS OF PRIOR, INCONSISTENT ORDINANCES, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Borough Council finds that storm water and/or surface water may be illegally deposited into the sanitary sewer system of Dunbar Borough; and,

WHEREAS, the Borough Council finds that sewage may be illegally deposited into the soil and/or waters of the Commonwealth of Pennsylvania by malfunctioning on-lot individual sewage systems; and,

WHEREAS, requiring dye testing prior to the sale or purchase of real estate located in the Borough will eliminate illegal storm water and/or surface connections into the sanitary sewer system and will eliminate the illegal discharge of sewage into the soil and/or waters of the Commonwealth of Pennsylvania by malfunctioning, on-lot individual sewage systems, which will benefit the health, safety and welfare of the Borough's residents.

NOW, THEREFORE, be it Enacted and Ordained by the Borough Council of the Borough of Dunbar, Fayette County, Pennsylvania, as follows:

SECTION 1. SHORT TITLE.

This ordinance shall be known as the Dunbar Borough "Dye Test Ordinance."

SECTION 2. APPLICABILITY.

The Dunbar Dye Test Ordinance shall be applicable to the sale of properties in the Borough that are served by either an on-lot individual sewage system or by the sanitary sewer systems of the Borough.

SECTION 3. DEFINITIONS.

1. Authority: Center-West Joint Sewer Authority, Dunbar Borough Sanitary Authority, and Vestaburg New Hill Joint Sewer Authority.
2. Code: Dunbar Borough Ordinances, as the same may be from time-to-time amended.
3. Document of Certification: An official statement from the Enforcement Officer stating that there is/are no illegal storm water or surface water connection(s), nor improper sewage flow(s) on the property to be sold, which violate any section of the Code.
4. Dye Test: As used in this Ordinance, the term "Dye Test" shall also include a smoke test or any other similar test deemed appropriate by the applicable enforcement officer.
5. Enforcement Officer: The Borough Code Enforcement Officer or other agent of the Borough as may be designated by the Borough Council to administer and to enforce the instant Ordinance in conjunction with the use of any and all properly credentialed plumbers.
6. Illegal Storm Water or Surface Water Connections: The discharge of basement seepage or ground water or the connection of downspouts, roof drainage, or surface or areaway drainage into the sanitary sewer system.
7. Illegal Sewage Flows: The discharge of sewage into the soil and/or waters of the Commonwealth of Pennsylvania by malfunctioning, on-lot individual sewage systems.
8. Municipal Lien and Property Tax Verification: A written letter from the Borough concerning municipal liens and property taxes.
9. On-Lot Individual Sewage System: A system of piping, tanks, or other facilities serving a single lot and collecting and disposing of sewage into the soil.
10. Person: Any person, syndicate, associate, partnership, firm, corporation, institution, agency, authority, or other entity recognized by the laws of Dunbar Borough and the Commonwealth of Pennsylvania as the subject of rights and duties.
11. Sanitary Sewer System: The public systems that provide sewage for the Borough.

12. Temporary Document of Certification: A temporary statement of certification from the Enforcement Officer issued pursuant to the terms of this Ordinance.

13. Borough: Dunbar Borough, Fayette County, Pennsylvania.

SECTION 4. DESIGNATION OF ENFORCEMENT OFFICER FOR ON-LOT INDIVIDUAL SEWAGE SYSTEMS.

The Borough Council of Dunbar Borough hereby designates a representative or agent appointed by the Dunbar Borough/Township Sanitary Authority as its Enforcement Officer for the purposes of the within Ordinance as said Ordinance relates to on-lot individual sewage systems unless and until a subsequent Enforcement Officer is appointed.

SECTION 5. DESIGNATION OF ENFORCEMENT OFFICER FOR SANITARY SEWER SYSTEMS.

The Borough Council of Dunbar Borough hereby designates each Authority as its Enforcement Officer for the purposes of the within Ordinance as said Ordinance relates to their respective sanitary sewer systems unless and until a subsequent Enforcement Officer is appointed.

SECTION 6. SALE OF REAL ESTATE WITHOUT DOCUMENTATION OF CERTIFICATION PROHIBITED.

After the effective date of this Ordinance, it shall be unlawful for any person to sell or to purchase real estate within the Borough on which a building or improvement exists without first delivering to the purchaser(s) a Document of Certification or a Temporary Document of Certification issued by the appropriate Enforcement Officer.

SECTION 7. DOCUMENT OF CERTIFICATION APPLICATION

1. Any person selling real estate as defined in Section 6 of this Ordinance that is located within the Borough (hereafter referred to as "applicant"), shall make application on a form¹ furnished by the appropriate Enforcement Officer at least twenty-one (21) days before the date of closing on the sale. The applicant shall then cause to have performed a dye test on the property to be sold. All dye tests shall be performed by an inspector appointed by the Enforcement Officer (hereafter referred to as "inspector").

2. The inspection fee and any application fee shall be an amount set by the Enforcement Officer. The inspection fee and any application fee shall be paid to the Enforcement Officer at the time of making the application referred to in this Section.

3. The inspector shall complete the appropriate portions on the inspection form and certify that the property has been dye tested and certify the results of such test. In the event that there are no illegal storm water or surface water connection(s) or illegal sewage flow(s,) the Enforcement Officer shall issue a Document of Certification upon payment of such fee as set by the Enforcement Officer.

4. When an illegal storm water or surface water connection(s) or sewage flow(s) is/are discovered by means of the above-referenced dye test, no Document of Certification will be issued until the illegal connection(s) or flow(s) is/are removed and/or remedied and certification of such removal and/or remedy by an inspector is received. An additional inspection fee shall be paid by the applicant for each additional inspection subsequent to the first inspection referenced to in Section 7(1).

SECTION 8. DURATION OF DOCUMENT OF CERTIFICATION.

A Document of Certification shall be valid for a period of one (1) year from the date of issuance. Real estate may be sold during the one (1) year effective life of the Document of Certification without further dye testing or certification.

SECTION 9. INSTANCES WHEN DOCUMENT OF CERTIFICATION IS NOT REQUIRED.

A Document of Certification shall not be required in the following instances:

1. When property is refinanced, but no conveyance takes place.
2. When an improvement to real estate has been recently constructed in accordance with a valid building permit and has been inspected by the Borough and/or Enforcement Officer and has not been formerly occupied but is now occupied within one (1) year of the issuance of the building permit. If such property is sold after one (1) year of the date of the Certificate of Occupancy, or the inspections referenced to in this subsection, compliance with this Ordinance is mandatory.
3. Individual apartment-type units within a single condominium building may be sold without individual certification provided that the building in which the units are located has been certified no longer than one (1) year previous to the date of the sale of the individual condominium unit.
4. When the real estate is such that an on-lot individual sewage system or a connection to the sanitary sewer system is not required by law or ordinance.

SECTION 10. TEMPORARY DOCUMENT OF CERTIFICATION.

A temporary Document of Certification may be issued by the Enforcement Officer, at his/her sole discretion, when, either:

1. The applicant proves that dye testing cannot be performed because of weather conditions. When such is the case, the applicant shall provide the Borough and/or the Enforcement Officer with security in such an amount as the Borough and/or the Enforcement Officer shall establish to guarantee that the dye test will be performed. The applicant will cause to have the dye test performed within fourteen (14) days of written notification from the Enforcement Officer which shall be given at such time as weather conditions make the dye test possible. In addition, the applicant shall provide a signed, written acknowledgment from the purchaser agreeing to correct, at purchaser's sole cost and expense, any violations that may be discovered as a result of subsequent

dye tests. Nothing in this subsection shall prohibit any purchaser from requiring the applicant to reimburse purchaser for any costs incurred; provided, however, that primary liability shall run with the land and no such agreement shall affect the Borough's and/or the Enforcement Officer's enforcement powers or excuse the current owner from compliance with this Ordinance; or

2. When an illegal storm or surface water connection or sewage flow is discovered and the necessary remedial activities to correct such would require a length of time such as to create a practical hardship for the applicant, applicant may apply to the Enforcement Officer for a Temporary Document of Certification which may only be issued when the applicant provides the Borough and/or the Enforcement Officer with all of the following: (i) a true and correct copy of an executed contract between the applicant and a contractor to complete the necessary remedial work with the Borough and/or the Enforcement Officer listed therein as a third-party beneficiary; (ii) cash security in the amount of said contract is posted with the Borough and/or the Enforcement Officer, and (iii) a written agreement by the purchaser to be responsible for all cost overruns and extras related to the remedial work together with a written license to enter upon the property to complete work in case of default of the contractor referred to above. The Enforcement Officer shall determine when such Temporary Document of Certification shall expire. Upon expiration, the security shall be forfeited and the Borough and/or the Enforcement Officer may use the security to have the necessary remedial work completed.

SECTION 11. MUNICIPAL LIEN AND TAX CERTIFICATION LETTERS.

1. A request for a Municipal Lien and/or Tax Certification letter must be accompanied by a valid Document of Certification issued pursuant to this Ordinance and the payment of the required fees.

2. Where requested by a property owner or his agent and subject to time availability as determined solely by the Enforcement Officer, the Borough may issue a Municipal Lien and Tax Certification Letter on two (2) days' notice upon the payment of an expedition fee in addition to the fees set forth above. The amount of the expedition fee shall be established by Resolution of the Borough Council.

SECTION 12. REGULATIONS.

The Borough, by and through the Enforcement Officer, is hereby empowered to undertake the duties imposed by this Ordinance, including, but not limited to, the following:

1. Establishing acceptable forms of security or guarantee.
2. Establishing the form of (i) applications, (ii) purchaser acknowledgements, and (iii) inspector certifications.
3. Limiting the times of year in which the Temporary Document of Certification is available for reasons of weather.

SECTION 13. ADJUSTMENT OF FEES BY RESOLUTION.

The Borough may, by Resolution, change from time-to-time the Municipal Lien fees, Tax Certification letter fees, expedition of Municipal Lien and/or Tax Certification letter fees, and any other applicable fees authorized in this Ordinance.

SECTION 14. CONFLICT WITH GENERAL POLICE POWERS.

Nothing in this Ordinance shall limit in any fashion whatsoever the Borough's right to enforce its Ordinances or the laws of the Commonwealth of Pennsylvania. Nothing in this Ordinance shall be a defense to any citation issued by any municipal corporation or by the Commonwealth of Pennsylvania pursuant to any other law or Ordinance.

SECTION 15. PENALTIES AND ENFORCEMENT

1. A person who violates any of the provisions of this Ordinance may be charged with such violation, and, upon conviction thereof, shall be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00) and not more than Seven Hundred Fifty Dollars (\$750.00) for each violation, or, alternatively, shall be sentenced to pay a fine of not more than the maximum permitted under Pennsylvania law as the same may be from time-to-time amended and in effect as of the date of conviction. In default of payment of any imposed fine(s), the offender may be imprisoned for a term not to exceed ninety (90) days.

2. Whenever any person or entity violating any of the provisions of this Ordinance is notified of such violation, in writing, by the Borough and/or Enforcement Officer, each day, or portion thereof, a violation occurs or continues to occur shall constitute a separate violation.

3. In addition to and not in lieu of the foregoing, the Borough and/or the Enforcement Officer may seek equitable and legal relief to compel compliance with this Ordinance. If a court of competent jurisdiction grants the Borough's and/or the Enforcement Officer's request for equitable and/or legal relief, the person(s) against whom such relief was granted, shall be responsible for any and all court costs, attorney's fees, and/or expenses incurred by the Borough and/or the Enforcement Officer in seeking said relief and/or compliance.

SECTION 16. SAVINGS CLAUSE.

Should any provision of other part of this Ordinance be finally declared to be illegal, unenforceable, void, and/or unconstitutional, such shall not affect the remainder of this Ordinance which shall nonetheless be fully valid, binding, and enforceable.

It is declared to be the intention of the Borough Council of Dunbar Borough that this Ordinance would have been adopted if such invalid or unconstitutional provision had not been included.

SECTION 17. REPEALER.

Any and all prior Ordinances and/or any and all portions of prior Ordinances that are in conflict with this Ordinance are hereby repealed to the extent of such conflict. The remaining Ordinance and/or portions of prior Ordinances, not modified herein, shall remain the same.

SECTION 18. EFFECTIVE DATE.

This Ordinance shall become effective the **1st** day of **February, 2022**.

ORDAINED AND ENACTED by the Council of the Borough of Dunbar, after due public notice, at a public meeting held on the **1st** day of **February, 2022**.

BOROUGH OF DUNBAR

By: Robert D. Grover
Robert D. Grover
President of Council

ATTEST: Leslie J. Uhren
Leslie J. Uhren
Borough Secretary

Examined and Approved this **1st** day of February, **2022**.

By: Andy Lowry
Andy Lowry
Dunbar Borough Mayor

DUNBAR BOROUGH
FAYETTE COUNTY, PENNSYLVANIA

ORDINANCE NO. 312

AN ORDINANCE OF THE BOROUGH OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA, REQUIRING THE MAINTENANCE AND REPAIR OF EXISTING SIDEWALKS AND CURBS, AND THE INSTALLATION OF NEW SIDEWALKS AND CURBS BY THE OWNER OF THE PROPERTY FRONTING THEREON, AND PRESCRIBING THE CHARACTER, WIDTH, CONSTRUCTION AND MATERIALS OF SUCH SIDEWALKS AND CURBS.

WHEREAS, the Borough has the authority under the Pennsylvania Borough Code, 8 Pa.C.S. §1800 to 1806, to require the installation and maintenance of sidewalks and curbs along the public streets within the Borough; and

WHEREAS, the Borough Council has created a Sidewalk Plan for purposes of delineating those areas in the Borough where sidewalks should be installed and maintained; and

WHEREAS, Borough Council has deemed it in the best interest of the Borough and its citizens that sidewalks and curbs be installed along public streets within the Borough, in accordance with the Borough's Sidewalk Plan, and be well maintained so that pedestrian travel on the sidewalks will be safe and unobstructed; and

WHEREAS, there currently exist sidewalks, both inside of the area delineated in the
Sidewalk Plan and outside of the area delineated by the Sidewalk plan

WHEREAS, Borough Council recognizes that requiring installation of new sidewalks and curbs within the area as set forth in the Sidewalk Plan will place a financial burden on abutting property owners if they are required to bear the total cost for the installation; and

WHEREAS, Borough Council intends to seek federal, state and county funding for the installation of new sidewalks and curbs and the repair of existing sidewalks and curbs in order to provide financial assistance to abutting property owners; and

WHEREAS, Borough Council anticipates that the installation of new sidewalks and curbs will be done piecemeal over time and within the area identified in the Sidewalk Plan as such work will be dependent on the amount and availability of government funding.

NOW, THEREFORE, be it Enacted and Ordained by the Borough Council of the Borough of Dunbar, Fayette County, Pennsylvania, as follows:

SECTION I. DEFINITIONS

As used in this Ordinance, the following words have the following meanings:

"Adjacent/Abutting Property"- Any lot or parcel of land adjoining, bordering or touching a public street as defined herein to exclude alleys.

"Borough"- The Borough of Dunbar, Fayette County, Pennsylvania.

"Curb"- The raised pavement at the edge of the roadway which serves as a gutter for the roadway, and functions as a barrier to obstruct a motorist from driving off the roadway onto the shoulder, median, or sidewalk.

"Defect" or "defective"- The condition of a public sidewalk or curb that exhibits one or more of the following characteristics:

- (a) Vertical separations greater than three-fourth inch (3/4");
- (b) Horizontal separations greater than three-fourth inch (3/4");
- (c) Holes or depressions more than three-fourth inch (3/4") deep;
- (d) Spalling over forty percent (40%) of a single square or panel of sidewalk with one or more depressions more than one-half inch (1/2") deep;
- (e) A single square or panel of sidewalk and/or curb cracked in such a manner that no section thereof has an area greater than one (1) square foot, or is cracked in such a manner that it constitutes a danger or potential danger to the public;
- (f) A sidewalk or curb with any part thereof missing to its full depth;
- (g) A deviation on the staked and constructed grade greater than three-fourth inch (3/4");
- (h) Covered in whole or in part with weeds or other plants, garbage, junk, rubbish, debris, solid waste, bird or animal droppings or any nuisances, obstructions or hazards which makes or tends to make pedestrian travel either substantially impaired, dangerous or impractical;
- (i) Settling of the sidewalk, allowing wafer to pond to a depth greater than one inch (1").

"Driveway"- A private drive providing access between a public or private street or access drive and the parking area for a property.

"Existing Sidewalk"- Sidewalks which are in place on the effective date of this Ordinance even though they may not conform to the specifications herein.

"Maintain" or "maintenance"- The duty to repair, remove or replace a public sidewalk and/or curb with all work to be performed in accordance with applicable Borough and Pennsylvania Department of Transportation specifications in effect at the time the work is commenced, so as to render the sidewalk and/or curb free from defect(s) and/or defective conditions.

"PENNDOT or PDT"- Pennsylvania Department of Transportation

"Permittee"- Any person, partnership, firm, company or corporation who has applied for and/or received a permit for the construction, reconstruction, repair or replacement of sidewalks and/or curbs.

"Property owner" or "owner" - The record holder of legal title or other legally recognizable equitable interest.

"Public Street" - A dedicated thoroughfare in the Borough that is designated for public travel and transportation, affording the principal means of access to the abutting property. This does not include any alleys, privately owned roads, or other privately owned paved surfaces or other means of access.

"Repair/Replacement" - The adjustment, removal, realignment, patching or installation of any sidewalk or curb in accordance with the inspection policy and repair/replacement standards of this Ordinance.

"Sidewalk" - The surfaced portion of that area between the curb lines of the roadway and the adjacent property lines intended for use as a walkway by pedestrians. The sidewalk shall be constructed as per the specifications and standards set forth in this Ordinance.

"Sidewalk Plan" – Those areas delineated in Exhibit 1 attached hereto as being areas in which the Borough Council deems it to be in the best interest of the Borough for sidewalks and curbs to be installed.

SECTION II. LOCATION OF SIDEWALKS

Sidewalks within the Borough shall be located only in existing locations or within public rights-of-way or as expressly authorized by Borough Council.

SECTION III. RESPONSIBILITY OF THE ADJACENT OR ABUTTING PROPERTY OWNER FOR THE CONDITION OF EXISTING SIDEWALKS AND CURBS

A. Whether an existing or future installed sidewalk is located within or outside the area delineated for sidewalks in the sidewalk plan, the adjacent or abutting property owner is responsible for keeping sidewalks and curbs free of any defect(s) or defective conditions by maintaining the sidewalks and/or curbs on or abutting their property in accordance with this Ordinance. If the adjacent or abutting property owner does not properly maintain the sidewalk and/or curb, or the sidewalk and/or curb has a defect and/or defective condition as defined in this Ordinance, the Borough Code Enforcement Officer is authorized by Borough Council to direct the property owner to replace or repair the sidewalk or curb to the specifications and standards set forth in this Ordinance.

B. The abutting property owner is responsible for maintaining sidewalks free and clear of all obstacles. The pathway shall be in accordance with the specifications of Section VIII and free from any obstacles such as, but not limited to, tree branches, shrubbery, or any other object that may hinder or obstruct pedestrian traffic upon the sidewalk.

C. Any damage or destruction to sidewalks and/or curbs that results in any defect(s) or defective condition, whether accidental or otherwise, shall be repaired or replaced immediately by the abutting property owner at their expense except any sidewalk and/or curb that is damaged or altered as a result of work done for the Borough, the North Fayette County Municipal Authority, the Dunbar Borough/Township Sanitary Authority, any public utility, and/or PennDOT shall not be assessed to the adjacent property owner. Actions of any other third persons shall not relieve the abutting owner of the responsibility to maintain, replace or repair damaged, destroyed or defective sidewalks or curbs.

SECTION IV. REPAIR, REPLACEMENT AND INSTALLATION OF SIDEWALKS AND CURBS UPON NOTICE BY THE BOROUGH CODE ENFORCEMENT OFFICER

A. The intent of this Ordinance is to institute the new installation of sidewalks and/or curbs over time, except when there is a development or sale of the abutting property as more fully set forth in Section VI. As federal, state, and county funds become available to the Borough for the installation of sidewalks and curbs. The Borough may provide financial assistance for their installation at its sole discretion.

B. Inspections of existing sidewalks and curbs will be performed by the Borough Code Enforcement Officer or his/her designee. The Borough Code Enforcement Officer will determine what sidewalks or curbs are in need of replacement and/or repair based on whether the sidewalk and/or curb has any defect(s) or defective conditions as defined in this Ordinance. The Borough Code Enforcement Officer will also be responsible for inquiries and investigation of complaints regarding the condition of sidewalks and/or curbs.

C. The Borough Code Enforcement Officer will conspicuously mark any inspected sidewalk and/or curb in need of repair or replacement. The Borough Code Enforcement Officer will within five (5) business days notify the adjacent property owner by certified mail and posting on the property that sidewalk and curb repair or replacement is required within ninety (90) days of the date of the notice.

D. The Borough Code Enforcement Officer will be responsible for inspecting all sidewalk and/or curb new construction, repair and replacement, to determine if it meets the specifications and standards of this Ordinance.

E. For the installation of new sidewalks, the property owners of the abutting property shall cooperate with the Borough and contractors to facilitate the construction of the new sidewalk.

F. If the repair/replacement cannot be completed within the required ninety (90) days because of inclement or unseasonable weather, the adjacent property owner may request from the Borough Code Enforcement Officer an extension of time to complete the work. If an extension is granted, the property owner shall post a financial guarantee for the estimated amount of the repair/replacement or installation as determined by the Borough Code Enforcement Officer.

G. If the adjacent property owner disputes the repair/replacement or installation notification by the Code Enforcement Officer, the property owner has the right to file an appeal to Borough Council. Such appeals shall be filed with the Borough Office within thirty (30) days of the date of the written notification. If the appeal is not filed within the thirty day appeal period, the property owner's right to appeal is waived. The filing of an appeal does not toll the ninety (90) day period to repair/replace or the installation of a new sidewalk or curb.

H. If the sidewalk or curb is not repaired/replaced or installed within the ninety (90) day period, the Borough Code Enforcement Officer will cause the sidewalk or curb to be repaired/replaced or installed by the Borough or its designee.

1. All costs of the repair/replacement or the installation of the sidewalk and/or curb that is completed by the Borough or its designee, plus an additional ten percent as allowed by the Pennsylvania Borough Code, 8 Pa.C.S. §1805, will be invoiced to the adjacent/abutting property owner in accordance with this Ordinance. Payment of the invoice in full will be due thirty (30) days from the date of the invoice.

2. If any portion of the invoice remains unpaid thirty (30) days after the date of invoice, the Borough Code Enforcement Officer may request that the Borough Solicitor file a municipal lien against the property. The lien shall be subject in all respects to the law provided for the filing and recovery of municipal liens.

3. The cost of repair/replacement or installation incurred by the Borough shall also be recoverable in accordance with the Borough Code, 8 Pa.C.S. §1800 to 1806. The Borough may also pursue any other remedy at law to collect any amount that is delinquent under this Section.

SECTION V. SIDEWALKS, CURBS OR DRIVEWAYS LOCATED ON PRIVATE STREETS OR WITHIN THE RIGHT-OF-WAY OF A PRIVATELY OWNED ROAD OR STREET

This Ordinance is not applicable to any sidewalks or curbs located on private streets or within the right-of-way of a privately owned road or street.

SECTION VI. REQUIRED REPAIR, REPLACEMENT AND INSTALLATION OF NEW SIDEWALKS OR CURBS DUE TO DEVELOPMENT OR SALE OF PROPERTY

A. For all new construction and development of property within the Borough, subject to the exemptions in subsection D below, new sidewalks and curbs shall be installed and existing sidewalk and curbs shall be repaired in accordance with applicable Borough and PennDOT specifications and standards at the cost of the developer or property owner. Such installation and/or repair shall be completed within one year from the start of construction.

B. Properties meeting any of the following conditions shall be exempt from the requirements of this Section to install new sidewalks and/or curbs.

1. The elevation at the edge of the right-of-way is greater than two (2) feet above or below the top of the curb elevation. (This condition shall only pertain to exemptions for the installation of sidewalks.

2. The roadway drainage patterns would be substantially altered by the installation of the sidewalk and/or curb, as determined by the Borough's Engineer, which determination shall be final. (This condition shall pertain to exemptions for the installations of sidewalks and curbs.)

3. The property is in an area of the Borough where no sidewalk presently exists or has ever existed.

4. The property is in an area of the Borough not required by Borough Council to have mandatory sidewalks or curbs, as specifically and expressly designated by Borough Council.

C. A property owner, who owns property which is adjacent to or abuts a street, may submit to submit to Borough Council a request in writing for an exemption under subsection E. from the requirements of this Section. The request for an exemption must be received within thirty (30) days of being notified that the installation of a sidewalk or curb is required.

1. A determination of the applicability of an exemption under subsection E. based on a condition(s) listed above shall be made by Borough Council upon the recommendation of the Borough's Engineer. Borough Council's determination shall be final and shall be issued in writing.

2. If Borough Council determines that an exemption is inapplicable, such determination shall not toll the one-year period to construct or repair/replace the sidewalks and curbs. If the construction is not completed within one year, the Borough Code Enforcement Officer or his/her designee will cause the sidewalk and/or curb to be installed by the Borough or its designee. Invoicing and collection of the cost of the installation by the Borough shall be as set forth in Section IV of this Ordinance.

SECTION VII. SIDEWALK AND CURB PERMIT REQUIREMENTS

A. The property owner shall be solely responsible for obtaining all permits needed for the construction, alteration, or repair of sidewalks and curbs on PennDOT roadways within Borough limits which require a PennDOT permit.

B. Within the Borough, no person, firm or corporation shall construct, reconstruct, repair, or replace a sidewalk and/or curb without first obtaining a permit from the Borough Secretary, to be in a form prescribed by said Secretary. The charge for said permit shall be as set forth in the Borough's schedule of fees as established by resolution of Borough Council.

C. Upon completion of the construction, the permittee shall notify the Borough in writing that the construction has been completed and is ready for final inspection. Upon

receipt of the notice that the construction has been completed, the Borough will have twenty (20) business days from receipt of such request, within which to allow the Borough's Code Enforcement Officer to certify in writing to the Borough that the construction has been completed in accordance with this Ordinance.

D. No financial guarantee shall be required for repair/replacement of a sidewalk and/or curb, or installation of a sidewalk and/or curb unless more than the ninety (90) days is requested for the construction.

1. The financial security shall be in the form of a performance bond, irrevocable letter of credit, certified check, or cash to be deposited with the Borough Secretary and held without interest. The amount of financial security shall be determined by the Borough Engineer based on an estimate of the cost to install or replace the sidewalk and/or curb.

2. The financial security will be used to reimburse the Borough for all costs and expenses incurred by it (as evidenced by itemized bills thereof), in completion of the construction in the event that the permittee becomes insolvent before completing the construction or the permittee does not complete the construction within twelve (12) months of the date that the permit was issued.

3. Upon satisfactory completion of construction, the Borough Secretary will authorize release of the financial security.

SECTION VIII. SIDEWALK AND CURB SPECIFICATIONS

All sidewalks and curbs, or portions thereof, hereafter constructed or repaired shall comply with the following specifications:

A. Sidewalks abutting state-maintained roadways and Borough streets shall be constructed in accordance with the current Pennsylvania Department of Transportation specifications and standards. All sidewalks shall be constructed to grade established by existing adjoining walks or, in the absence of the foregoing, by the grade established by the Borough Engineer, and shall be paved with a four inch thick single course of Class A cement concrete using limestone aggregate, which shall have a compressive strength of not less than 3,500 pounds per square inch within 28 days of placement, with a minimum of six inches of compacted aggregate base PDT Type C or better Number 2A. Individual pavers (concrete, stone, or clay brick) may be substituted for concrete when authorized by the Borough Council, and must be set on a minimum of six inches of compacted aggregate base PDT Type C or better Number 2A with a 1" sand top setting layer.

B. All sidewalks shall be at least five feet in width. Wider walks to a maximum of eight feet may be required by the Borough in commercial or industrial areas or multiple family areas, due to anticipated traffic and the development of the area. In areas of existing sidewalk or in order to fit existing site constraints, narrow sidewalk widths may be approved by Borough Council upon the recommendations of the Borough Engineer, subject to the Americans with Disabilities Act ("ADA").

C. Paving joints shall be perpendicular to sidelines at intervals consistent with adjoining or abutting sidewalks and not greater than the sidewalk width. One half inch (1/2") expansion joints shall be placed through the walk at least every 20 feet between the sidewalk and curb, and between the sidewalk and other rigid structures.

D. Traverse stress joints (dummy joints) shall be placed at five (5) foot intervals and shall be approximately 1/8 inch wide and at least one inch deep.

E. The surface shall be roughened with a brush or other equipment to prevent smooth and slippery surfaces.

F. All sidewalks shall be constructed so that the outer edge of said walk shall rest flush with the top of the curb, and shall be constructed so as to incline upwards from the street side edge of the sidewalk toward the boundary of the lot at a rate of not less than one-fourth inch nor more than one-half inch in one foot, except as otherwise authorized by the Borough.

G. All sidewalks and curbing shall be designed in accordance with current Americans with Disabilities Act (ADA) requirements and specifications. This includes all curb ramps, curb cuts, and driveway ramps.

H. Curbs abutting state maintained roadways and Borough streets shall be constructed in accordance with the current Pennsylvania Department of Transportation specifications and standards.

SECTION IX. GENERAL SIDEWALK REGULATIONS

A. No person shall remove, deface, damage, destroy or otherwise alter the condition of any sidewalk and/or curb within the Borough of Newburg in a manner which would result in any defect(s) or defective conditions without the express written authorization of the Borough of Dunbar.

B. Any person who shall break or otherwise damage any sidewalk and/or curb in any manner which causes defect(s) or a defective condition shall within ten (10) days thereafter cause the same to be repaired or reconstructed in accordance with the specifications and standards in this Ordinance. Failure to do shall be a violation of this Ordinance.

SECTION X. VIOLATIONS

Any person, firm, corporation, or other entity who violates any of the provisions of this Ordinance shall be guilty of a summary offense, and upon conviction shall be sentenced to pay a fine of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.00) plus the cost of prosecution. Each day a violation of this Ordinance continues to exist shall constitute a separate violation.

SECTION XI. SEVERABILITY

If any section, paragraph, clause, phrase or part of this Ordinance is for any reason held invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance, and the application of those provisions to any person or circumstances shall not be affected thereby.

SECTION XII. INCONSISTENT ORDINANCE REPEALED

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

SECTION XIII. EFFECTIVE DATE

This Ordinance shall take effect ten (10) days from its enactment.

ORDAINED AND ENACTED by the Council of the Borough of Dunbar, after due public notice, at a public meeting held on the **1st day of February, 2022.**

BOROUGH OF DUNBAR

By: Robert D. Grover
Robert D. Grover
President of Dunbar Borough Council

ATTEST: Leslie J. Uhren
Leslie J. Uhren
Borough Secretary

Examined and Approved this **1st day of February, 2022.**

By: Andy Lowry
Andy Lowry
Dunbar Borough Mayor

ORDINANCE NO.

400

**AN ORDINANCE ESTABLISHING HANCOCK STREET AS A
ONE-WAY STREET FROM THE INTERSECTION OF FAYETTE
STREET TO THE INTERSECTION OF CONNELLSVILLE
STREET**

THE BOROUGH OF DUNBAR HEREBY ORDAINS:

Upon erection of the requisite and necessary street signs by the Street Department of Dunbar Borough which is hereby authorized by this Ordinance, Hancock Street shall at all times hereafter be a one-way street from the intersection of Fayette Street to the intersection of Connellsville Street.

Adopted this 18 day of February, 2008, by a vote of affirmative votes of the Borough Council of Dunbar.

This ordinance shall become effective on the 18 day of FEBRUARY, 2008.


JOHN MADDAS, PRESIDENT

ATTEST:


ROBIN BEAL, SECRETARY

Examined, approved and signed by me on the 18th day of FEBRUARY,
2008.

John William Mayor
JOHN WILLIAMS, MAYOR

ATTEST:

Robin Beal
ROBIN BEAL, SECRETARY