

CHAPTER 10

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Part 1

Grass, Weeds and Noxious Vegetation

§101. Conditions Constituting a Nuisance. No person, firm or corporation owning or occupying any property within the Borough of Nazareth shall permit any grass or weeds or any vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises so as to exceed a height of six (6) inches or to throw off any unpleasant or noxious odor or to conceal any filthy deposit or to create or produce pollen. Any grass, weeds or other vegetation growing upon any premises in the Borough in violation of any of the provisions of this Section is hereby declared to be a nuisance and detrimental to the safety, cleanliness and comfort of the inhabitants of the Borough. (Ord. 289, 4/6/1959, §1)

§102. Responsibility for Trimming or Removing. The owner of any premises, as to vacant premises or premises occupied by the owner, and the occupant thereof, in case of premises occupied by other than the owner thereof, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such premises in violation of the provisions of §101 hereof. (Ord. 289, 4/6/1959, §2)

§103. Notice to Trim or Remove; Abatement by Borough. The Borough Council, or any officer or employee of the Borough designated thereby for the purpose, is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any premises whereon grass, weeds or other vegetation is growing or remaining in violation of the provisions of §101 hereof, directing and requiring such occupant to remove, trim or cut such grass, weeds or vegetation, so as to conform to the requirements of this Part within five (5) days after issuance of such notice. In case any person, firm or corporation shall neglect, fail or refuse to comply with such notice, within the period of time stated therein, the Borough authorities may remove, trim or cut such grass, weeds or vegetation, and the cost thereof, together with any additional penalty authorized by law, may be collected by the Borough from such person, firm or corporation, in the manner provided by law. (Ord. 289, 4/6/1959, §3)

§104. Repeat Offenses. If an owner or occupant is given notice in accordance with §103 of this Part and fails to conform to the requirements of this Part within five (5) days after the issuance of such notice, that shall be considered an incident. If a second notice is issued to the same owner or occupant in accordance with §103 of this Part for a new failure to conform to the requirements of this Part, that shall be considered a second incident. If a third notice is issued to the same owner or occupant in accordance with §103 of this Part for a new failure to conform to the requirements of this Part, that shall be considered a third incident. After three incidents in any twelve (12) month period by an owner or an occupant documented by the Enforcement Officer, the owner or occupant shall post with the Borough a sufficient Bond to secure performance of the work required to maintain the subject premises in accordance with §101 of this Part. If the owner or occupant fails to post a Bond, that failure constitutes a violation of this Ordinance and subjects the owner or occupant to the penalties provided in §105 of this Part. (Ord. 756, 1/4/2010)

§105. Penalties.

A. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding six hundred dollars (\$600.00) and costs and, in default of payment thereof, be subject to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense. (Ord. 595, 10/7/1991)

B. Such fine and costs may be imposed in addition to the cost of removal, trimming or cutting, and the additional penalty imposed provided in §103. On the other hand, prosecution may be instituted and proceeded with under this Section without the Borough's taking any under §103 for such removal, trimming and/or cutting. (Ord. 289, 4/6/1959, §4; as amended by Ord. 362, 7/3/1967; by Ord. 565, 8/1/1988; and by Ord. 595, 10/7/1991)

## Part 2

### Nuisances

§201. Maintenance of Nuisance Prohibited. It shall be unlawful to maintain on any private or public property within the corporate limits of the Borough of Nazareth, any nuisance, including but not limited to accumulation of garbage and rubbish and the storage of abandoned or junked automobiles, or any dangerous structure, and to carry on any noxious, noisome or otherwise offensive manufacture or business thereon. A nuisance shall include automobile car seats or furniture and other similar products designed exclusively for indoor living, placed or stored on exterior porches or in yards in residential zones, unless it is part of an acceptable decorative purpose. (Ord. 267, 8/2/1954, §1; as amended by Ord. 359, 7/3/1967, §1; as amended by Ord. 690, 9/2/2003)

§202. Borough May Remove Nuisance and Collect Cost. Upon thirty (30) days written notice directed to the owner thereof, any nuisance or dangerous structure on any private or public property shall be removed, and on his, or her default, it shall be lawful for the Borough, by its duly authorized agents or employees, to remove the same, and to collect the cost of such removal from the owner, in the manner provided by law for the collection of municipal claims, or by action of assumpsit, or the Borough may seek relief by bill in equity. (Ord. 267, 8/2/1954, §2; as amended by Ord. 359, 7/3/1967, §1)

§203. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding six hundred dollars (\$600.00) and costs and, in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense. (Ord. 267, 8/2/1954, §3; as amended by Ord. 359, 7/3/1967, §1; and by Ord. 595, 10/7/1991)

#### §204. Unauthorized Signs.

A. Any unauthorized advertising sign, placard, banner, or similar device attached to any utility pole, light standard, street sign, traffic sign, fence, tree or similar object located on any street, sidewalk, public right-of-way or public property shall be deemed a public nuisance and shall be subject to immediate abatement.

B. Penalty. Any person or entity who violates Section 204 shall pay the cost of abatement. In addition to the cost of abatement, any person or entity violating any of the provisions of Section 204 shall, upon conviction thereof, be guilty of a summary offense and sentenced to pay a fine of not more than \$25 plus court costs and reasonable attorney fees. Each day or each violation by the same person or entity shall be considered a new and separate violation of the Code of the Borough of Nazareth. (Ord. 845, 3/4/2019)

Part 3

Outdoor Machinery and Dumpsters.

§301. Maintenance of Outdoor Machinery and Dumpsters. It shall be unlawful to maintain on any private property within the corporate limits of the Borough of Nazareth, any outdoor machinery or dumpsters, except as set forth in this Part.

§302. Outdoor Machinery.

A. Noise. No outdoor machinery, such as exhaust fans, central air conditioning units, freezer compressors, power generators or high voltage electric transformers shall routinely produce noise that would violate the noise standards of Section 504 of the Nazareth Borough Zoning Ordinance.

B. Placement. All outdoor machinery that could create a noise nuisance shall be placed on a side of a commercial or industrial building that does not face an abutting existing dwelling, residential district or other noise-sensitive use.

C. Safety. Hazards involving outdoor machinery and storage shall be well-marked.

§303. Trash Dumpsters and Solid Waste Containers.

A. Excluding commercial trash receptacles in excess of one cubic yard, commonly known as “dumpsters”, temporally placed for new construction, all dumpsters utilized for the collection of garbage, rubbish and refuse must be located entirely on the parcel for which it is intended to serve.

B. All dumpsters shall be no closer than twenty (20) feet to a dwelling unit, other than the unit of the owners.

C. All dumpsters and enclosures shall be no closer than five (5) feet to a property line.

D. All dumpsters shall be buffered on three (3) of four (4) sides by an opaque screening to a height of at least six (6) feet. Such screening shall be constructed of attractive weather-resistant mostly solid wood fence, decorative masonry wall, evergreen plants or a screen designed to be architecturally compatible with the principle building. A landscape screen may be used if it is a single row evergreen shrubs, capable of framing a complete screening of at least six (6) feet in height. All dumpsters shall be screened from abutting properties and public rights-of-way.

E. Dumpsters shall be kept clean, in good repair and free of offensive odors. They should be cleaned a minimum of four (4) times per year (however, additional times may be required by the Borough).

F. The area around the dumpster and enclosure shall be maintained free of litter and debris. Lids shall be kept tightly secured when not in use and shall not have overflowing debris.

G. Temporary construction dumpsters that are placed in the public right-of-way require a permit from the Police Department.

H. All other dumpsters require a permit from the Borough. The type, size, location and screening of all dumpsters shall be approved by the Borough Planning Commission.

I. Any required parking shall not be located in front of the dumpster location.

§304. Permits. No person shall maintain any dumpsters on any private property within the corporate limits of the Borough of Nazareth without having obtained from the administrative clerk a permit, for which a fee will be charged. Such fee shall be as established, from time to time, by Borough Council by resolution.

§305. Waiver of Provisions. The Borough Planning Commission has the authority to waive any of the provisions of this ordinance upon satisfactory evidence from the property owner that a hardship exists.

§306. Compliance. All landowners shall comply with the ordinance within 180 days of the effective date of the ordinance.

§307. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding Six hundred (\$600.00) Dollars and costs and, in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 715, 12/5/2005)

Part 4

Dangerous Buildings Ordinance

§401. Application.

This Ordinance shall apply uniformly to all persons, business organizations, non-profit organizations, and all other legal entities; and it shall apply uniformly to all property and all property owners within the Borough.

§402. Definitions.

Unless otherwise specifically defined below, words or phrases used herein shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the Ordinance its most reasonable application consistent with its intent.

A. The word "Borough" shall mean the Borough of Nazareth.

B. The word "Building" shall mean an independent structure having a roof supported by columns or walls resting on its own foundation and includes dwelling, garage, barn, stable, shed, greenhouse, mobile home, plant, factory, warehouse, school, or similar structure.

C. The phrase "Dangerous Building" shall mean all the buildings or structures which have any or all of the following conditions or defects:

i. Those which have been damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism or other cause so as to fail to provide the amenities essential to decent living or are unfit for human habitation;

ii. Those which have been damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism or other cause so as to have become dangerous to the life, safety, or the general health and welfare of the occupants or the public;

iii. Those which are in such a state or condition as to cause an offensive odor or unsanitary condition, or have become so dilapidated, decayed, unsafe that they fail to provide the amenities essential to decent living;

iv. Those which have parts thereof which are so attached that they might fall and injure members of the public or adjoining property;

§403. Dangerous Buildings Declared Nuisances.

All dangerous buildings as defined in Section 3 of this Ordinance are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as herein provided.

§404. Standards for Repair, Vacation or Demolition.

The following standards shall be followed in substance by the Code Enforcement Officer in ordering repair, vacation or demolition of a dangerous building:

A. If the dangerous building can be repaired, as determined by the Code Enforcement Officer, so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered repaired.

B. If the dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

C. If the dangerous building cannot be reasonably repaired as determined by the Code Enforcement Officer, it shall be demolished.

#### §405. Enforcement Procedures.

A. If any structure is deemed to be a dangerous building within the standards of this Ordinance the Code Enforcement Officer shall cause notice of this order to be served upon the owner or owners of such dangerous buildings or to the occupant, mortgagee, lessee, agent or any other person found with an interest in said dangerous building who can be located.

B. The notice and order required by this section shall be served personally upon the owner of a dangerous building if such owner resides in the Borough or personally upon his agent, if such agent resides within the Borough. If personal service required herein cannot be obtained, such notice shall be sent to the owner of a dangerous building by certified mail at the last known address according to the records available in the Tax Assessment Office for the County of Northampton, Commonwealth of Pennsylvania.

C. The notice and order shall identify the building deemed dangerous; contain a statement of the particulars which made this building a dangerous building and include an order requiring the same to be put in such condition so as to conform to the terms of this Ordinance; in any case where the notice prescribes the repair of any building, the owner thereof shall have the option to remove such building in lieu of making repairs thereto within the time period provided.

D. The notice and order shall require any person notified to repair, vacate or demolish any dangerous building to commence the work or act required by the notice, within ten (10) days of such notice and to comply with such repair, vacation or demolition within sixty (60) days from the receipt of such notice.

#### 406. Penalties.

A. Any owner, occupant or lessee who is in possession of any dangerous building who shall fail to comply notice or order to repair, vacate or demolish any dangerous building issued under Section 6 of this Ordinance, shall upon conviction before a District Justice, be subject to a fine not exceeding Six Hundred Dollars (\$600.00) plus costs, and in default of payment of the fine and costs shall be subject to imprisonment for a period not to exceed thirty (30) days. Each day of a violation shall be considered separate violations and offenses.

B. Any person having an interest in any building who fails to comply with any notice or order to repair, vacate or demolish any dangerous building within ninety (70) days of receipt of such notice, by such failure does empower the Code Enforcement Officer to cause such building or structure to be repaired, vacated or demolished by the Borough and to cause the costs of such repair, vacation or demolition, together with a penalty of ten (10%) percent, to be charged upon the land upon which the building exists as a municipal lien, or alternatively, to recover such costs and penalty in a suit at law against the owner or owners, but failing to recover same, to have the judgment therefore to be charged upon the land as a lien; and, this subsection is separate from and in addition to the fine, penalty and costs which may be imposed by any other subsection of this section.

#### §407. Insurance Claims for Fire Loss.

The Borough hereby authorizes the procedure described in 40 P.S. §638 to be implemented providing no insurance company doing business in the State shall pay a claim of a named insured for fire damage to a structure located within the Borough unless the applicable provisions of 40 P.S. §638 are fully complied with.



The Code Enforcement Officer is hereby designated as the municipal official responsible for compliance with this section.

§408. Emergency Cases.

In cases where it reasonably appears that there exists an immediate danger to the life or safety of any person caused or created by a dangerous building, the Code Enforcement Officer may cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected as provided in Section 7(B) of this Ordinance. (Ord. 768, 2/7/2011)

## Part 5

### Noise

§501. Purpose and Scope. The purpose of this ordinance is to ensure that public health, safety and welfare shall not be abridged by the making and creating of noise pollution or of public nuisances from disturbing, excessive or offensive noises in the Borough. The residents of the Borough recognize that uncontrolled noise represents a danger to the health and welfare of their neighbors and that each person in the community is entitled to live in an environment in which the level of impulsive or amplified noise is minimized for the community good. It is the purpose and scope of this ordinance to provide regulations defining the maximum sound levels that appliances, equipment, instruments, and vehicles shall be allowed to produce at specified distances from these devices, and also to provide for the prohibition of other kinds of offensive noises. These regulations and prohibitions are intended to protect the physical, mental and social well-being of the residents of the Borough.

§502. Definitions. The following words and phrases, when used in this ordinance, shall have, unless the context clearly indicates otherwise, the meaning given to them in this Section. All acoustical terminology shall be interpreted in accordance with that contained in ANSI S1.1, "Acoustical Terminology." All other words and phrases not defined herein shall be used with a meaning of standard usage.

- A. ANSI. – American National Standards Institute or its successors.
- B. Borough. – The Borough of Nazareth, Northampton County, Pennsylvania.
- C. Decibel (dB). – A unit of sound level which is a division of a logarithmic scale used to express the ratio of the sound pressure of the source to the pressure of an arbitrarily chosen reference pressure; the ratio is expressed on the decibel scale by multiplying its base 10 logarithm by 20.
- D. Night Time. – 10:00 p.m. to 7:00 a.m. the following day.
- E. Noise. – Any sound emitted by a person, animal, appliance, equipment, instrument or other device.
- F. Noise Disturbance. – Any noise which:
  - (1) endangers or injures the safety or health of humans or animals,
  - (2) annoys or disturbs a reasonable person of normal sensitivities,
  - (3) jeopardizes the value of property or erodes the integrity of the environment, or
  - (4) is in excess of the allowable noise level established in Section 5 of this ordinance.
- G. Noise Level. – The sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C, as specified in ANSI specifications for sound level meters. The specific weighting network used must be indicated by the proper notation. If the "A" weighting is employed, the sound pressure level is identified as dB(A). If the frequency weighting is not indicated, the "A" weighting shall apply.
- H. Person. – Includes any individual, firm, association, organization, partnership, trust, corporation or any other similar entity.
- I. Sound Level. – See noise level.
- J. Sound Level Meter. – An instrument or combination of instruments which meets or exceeds the requirements for an ANSI Type S1A or S2A Sound Level Meter.

K. Zoning Districts. – Those districts as set forth on the Zoning Map of the Borough.

§503. Noises Prohibited.

A. General Prohibitions. It shall be unlawful for any person to create or allow the creation of a noise disturbance within the limits of the Borough, except as provided in this ordinance. All such disturbances are declared public nuisances.

B. Specific Prohibitions. The following are specifically prohibited, except as otherwise provided for in this ordinance.

(1) Radios, television sets, musical instruments, computer-generated sound and similar devices as follows:

(a) Operating or permitting the use of operation of any musical instrument (computer-generated or otherwise), radio, television or other device for the production or reproduction of sound, in such a manner as to cause a noise disturbance.

(b) Operating any such device at Night Time in such a manner as to be audible across real property boundaries or through partitions common to two parties within a building, or plainly audible at fifty (50) feet from such device when operated within a motor vehicle on a public right-of-way or in a public space.

(2) Loudspeakers/Sound Amplifiers. Operating or permitting the use of operation of any loudspeaker, sound amplifier or any similar device, in such a manner as to cause a noise disturbance.

(3) Street Sales. Selling anything by shouting or by outcry except by permit.

(4) Loading Operations. Loading, unloading, opening or otherwise handling boxes, crates, containers or similar objects at Night Time in such a manner as to create a noise disturbance within a residential district, except during an emergency.

(5) Construction Noise. Operating or causing to be operated any equipment used in commercial construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto in the following manner:

(a) With sound control devices which have been tampered with;

(b) In violation of any regulation of the United States Environmental Protection Agency; or

(c) At Night Time on weekdays and Saturdays or at any time on Sundays or legal holidays which creates a noise disturbance, unless otherwise exempted in this ordinance, or by an act of the Borough Council.

(6) Explosives, Firearms or Similar Devices. The use or firing of explosives, firearms, or similar devices which create a noise disturbance.

(7) Yelling, Shouting, and Whistling. Yelling, shouting, whistling, singing or generally, any sound emitted by a person that creates a noise disturbance at Night Time.

(8) Power Equipment. Operating or causing to be operated, any power saw, sander, drill, grinder, garden equipment or tools of a similar nature, outdoors in residential districts at Night Time, in such a manner as to create a noise disturbance.

(9) Animals. Possessing, harboring or keeping any animal or bird which makes any noise continuously and/or persistently for a period of fifteen (15) minutes or more, or makes such noise intermittently for a period of thirty (30) minutes or more, in such a manner as to create a noise disturbance.

(10) Horns and Signaling Devices. Operating or causing to be operated, any horn or signaling device at Night Time, except in the case of emergency situations.

§504. Maximum Noise Levels. No person shall create or permit to be created noise which exceeds the noise levels as indicated for the following zoning districts when measured with a sound level meter at or beyond the property line of the noise source:

- A. R-10, R-7, and R-5 zoning districts – 62 dB(A),
- B. GC, IC, LI, and EI zoning districts – 90 dB(A).

§505. Exceptions. Noise emitted from the following sources shall be exempt from the noise regulations specified herein:

A. All safety signals and warning devices (e.g. stationary emergency signal devices, intrusion alarms, back-up alarms on trucks, police/fire/ambulance sirens) or any other device used to alert persons to an emergency or used during the conduct of emergency work.

B. The provision, repair and maintenance of municipal facilities, services or public utilities.

C. Bells, chimes or carillons used for religious purposes or in conjunction with national celebrations or public holidays; existing bells, chimes and carillons that are currently in use for any purpose.

D. All activities in the EI (Extractive Industrial) zoning district reasonably related to the limestone quarrying and cement producing industrial processes. Any “blasting” performed in relation to these industrial processes shall be performed in accordance with a permit issued by the Pennsylvania Department of Environmental Protection, the Borough, or any other governmental agency having jurisdiction. Such “blasting” shall occur between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday, unless specifically authorized at a different time by the appropriate permit.

E. Appliances, lawn and garden equipment or household power tools in use between the hours of 7:00 a.m. and 10:00 p.m., provided such are operated within the manufacturer’s specifications and with all standard noise reducing equipment in use, unmodified and in proper operating condition.

F. Snow removal equipment operated within twenty-four (24) hours after a measurable snowfall, and operated within the manufacturer’s specifications and with all standard noise reducing equipment in use, unmodified and in proper operating condition.

G. Heavy construction equipment when being used for a relatively short period of time on a specific short term project (e.g. constructing a building; constructing, repairing or cleaning a road; drilling a well; and other similar short term, specific construction, demolition or repair projects) in use between the hours of 7:00 a.m. and 6:00 p.m., for the duration of such short term, specific project; provided such equipment is operated within the manufacturer’s specifications and with all standard noise reducing equipment in use, unmodified and in proper operating condition.

H. Air conditioners, fans, heating units and similar devices provided such are operated within the manufacturer’s specifications and reasonable measures are taken to reduce noise levels as approved by the Borough.

I. Airplanes, helicopters and normal activities of properly licensed airports.

J. Musical, recreational and athletic events conducted by schools or the Borough including such outdoor practices as may be necessary in preparation for such events.

K. Activities permitted by special waiver, as provided herein, and activities conducted in accordance with special activity permits for the use of public property or the public rights-of-way, approved by the Borough Council.

§506. Enforcement and Penalties. Any noise in violation of this ordinance is hereby declared a public nuisance and may be abated by administrative proceedings, fines and penalties herein provided.

Nothing in this ordinance shall be construed to impair any cause of action or legal remedy thereof, of any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source whatever of noise on such place or manner, or at such levels which may give rise to such cause of action.

A. Procedure. If, in the enforcement of this ordinance, it is determined that a noise disturbance exists, a written warning or a citation may be issued. Any warning shall be in effect for 120 days. If within the 120 days another violation occurs, a citation shall be issued. A citation shall be issued for each subsequent violation that occurs during the 120-day period.

B. dB(A) Measurement and Test Procedures. When required to be measured, dB(A) levels shall be measured by conventional sound level meters on slow response.

C. Penalties. Any person found guilty of violating provisions of this ordinance, shall be fined not less than \$100.00 nor more than \$600.00 for the first offense, and not less than \$200.00 nor more than \$600.00 for the second offense, and not less than \$300.00 nor more than \$600.00 for the third offense and not less than \$400.00 nor more than \$600.00 for the fourth and subsequent offenses in any 120-day period and, upon failure to pay such fine, shall be sentenced to jail for a term not to exceed 30 days for each offense.

A separate and distinct offense shall be committed each day that a violation of the terms of this ordinance continues to exist.

§507. Administration. The provisions of this ordinance shall be enforced by Borough Code Enforcement Officer, Police Officers and others designated by the Borough Council.

§508. Special Waivers. A temporary waiver from strict compliance with the noise standards specified herein may be granted to persons for emergencies, as determined by the Borough Council, to protect health and safety or to comply with other lawful rules, regulations and ordinances.

§509. Relationship with Other Restrictions. The provisions of this ordinance are not intended to interfere with, abrogate or annul other rules, regulations or ordinances, including Title 18 (Crimes Code) and Title 75 (Vehicle Code), Pennsylvania Consolidated Statutes. If more stringent requirements concerning noise abatement are contained in the other rules, regulations or ordinances, the more stringent regulation shall apply.

§510. 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 effect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance, it is hereby declared the intent of the Borough Council that this ordinance would have been adopted had the unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

§511. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed. The following ordinances or parts thereof the Borough of Nazareth Code of Ordinances are hereby specifically repealed:

-- Chapter 2, Part 3 (Animal Noise Control) as originally enacted April 6, 1998 by Ordinance No. 646.

-- Chapter 13, Part 2 (Amplification of Sound) as originally enacted July 3, 1967 by Ordinance No. 374 and all subsequent amendments thereto.

-- Chapter 27, Part 5, Section 504(4) (Performance Standards – Noise) as originally enacted June 6, 1988 by Ordinance Number 561.

Part 6

Bagsters, Temporary Dumpsters and PODs

§601. Definitions. For the purposes of this Ordinance, the following terms shall be defined as follows:

a. Bagster shall be defined as a large, high capacity bag, generally of woven polypropylene, used as a trash receptacle for disposal of refuse, and which is collected by a specially equipped waste hauling vehicle, or any similar device.

b. Dumpster shall be defined as a large trash receptacle for disposal of refuse to be temporarily located on a property, and designed to be hoisted onto a specially equipped truck for emptying or hauling away of refuse contained therein, or any similar device.

c. Temporary Portable Storage Unit shall be defined as a transportable, standardized, reusable vessel or container, or receptacle that is originally and specifically designed for or is used in stowing, packing, shipping, moving, or transporting freight, articles, goods or commodities, and is designed for or is capable of being mounted or moved on a truck, and is located at site for temporary storage of personal property or any similar device, and is more commonly known as a "Pack Rat" or "POD".

d. Unit shall be defined as any Bagster, Dumpster, or Temporary Portable Storage Unit.

§602. Exception to Applicability. The provisions of this ordinance pertaining to permitting, duration, time limitations, time extensions, and number of Units allowed on a property shall not apply to work performed under demolition permits and/or construction permits. Such Units, however, shall be removed from the property when the work being done pursuant to a demolition permit or construction permit is completed.

§603. Permit Required; Application; Fee.

a. Before placing a Unit on a property, the property owner must submit an application for the placement of a Unit on the applicant's property and receive a permit from the Borough Code Enforcement Department.

b. An application for a permit shall, at minimum, include the name and address of the applicant, identification number of the Unit, size, company providing the Unit, telephone number of the company providing the Unit, expected date of placement, and expected date of removal.

c. There shall be no fee for obtaining an initial permit. Any future changes of this permit fee amount shall occur from time to time by Resolution of Borough Council.

§604. Duration; Application for Extension.

a. A Unit shall be located at the applicant's address for a maximum of thirty (30) days, including the days of delivery and removal.

b. At the expiration of the thirty (30) day period, the applicant may request to extend their permit for not more than two (2) additional thirty (30) day periods by requesting an extension for cause from the Borough Code Enforcement Officer. A fee of fifteen (\$15.00) Dollars shall be charged for each requested thirty (30) day permit extension, payable at the time of application for an extension. Any future changes of this permit extension fee amount shall occur from time to time by Resolution of Borough Council.

§605. Placement; Location.

a. A Unit shall be placed on the applicant's property and then only on a paved, gravel or stoned driveway or parking area. With proper cause, this requirement may be waived by the Code Enforcement Officer.

b. The placement of a Unit shall not be in a manner which constitutes a safety hazard to persons or property.

c. The placement of a Unit shall not encroach into drainage areas/easements or landscaping buffers, or the right-of-way, and shall not be placed so that so a person lawfully using the sidewalk must detour into the street in order to go around the Unit.

d. The placement of a Unit must be at least twenty (20) feet away from any crosswalk and from any intersection so that it does not block the view of any motorist pulling onto a roadway.

§606. Identification of Applicant on Unit. The Unit shall be conspicuously marked with the name, address, and phone number of the applicant and a copy of the current effective permit shall be visibly attached to the Unit.

§607. Number and Size of Unit. Only one (1) Unit per property, which for the purposes of this Ordinance shall include the street abutting the property, will be permitted at any time.

§608. Condition of Unit.

a. During all times the Unit is in place and in use, a tarpaulin or other suitable weather resistant cover shall be placed over it in order to protect the contents from being displaced and/or causing litter on public or a private premises or creating dust, offensive odors, or other health hazards.

b. At all times the Unit shall, when necessary, be provided with adequate restraints to prevent inadvertent movement from its original location and protected from high winds or severe weather conditions.

c. There shall be no defect or faulty design in the Unit which might create a hazard to the general public, interfere with its operation, or inhibit the purpose for which it is to be used.

d. No overflow of any material shall be permitted from the Unit, nor shall any accumulation of any material next to the Unit be permitted.

§609. Storage of Certain Materials. No Unit shall be used to store solid waste, recyclable materials, business inventory, commercial goods for sale, or any illegal or hazardous material. Upon reasonable notice, the Borough may inspect the contents of any Unit at any reasonable time to ensure that it is not being used to store such materials.

§610. Liability.

a. The applicant shall assume all risk of damage, and the Borough shall not be liable for any damage to the Unit when the Borough is plowing snow, performing street cleaning, maintaining the street or other facilities, or performing other public functions.

b. The applicant shall be liable to the Borough for any amounts paid or incurred by the Borough consequent from claims, judgment, or settlements, and for all reasonable investigation costs and attorneys fees, resulting from the applicant's noncompliance with this Ordinance.



c. The applicant shall be responsible for all damages to Borough property which may occur as a result of the placement or use of the Unit.

§611. Revocation of Permit. Noncompliance with any of the requirements or provisions set forth in this Ordinance or any material false statement or omission made in connection with the application for a permit shall be grounds for revocation by the Borough of the permit issued pursuant to this Ordinance.

§612. Penalties. Any person who violates or fails to comply with any provision of this Ordinance shall, upon conviction, be sentenced to pay a fine of not more than fifty (\$50.00) Dollars per day for each day the violation or noncompliance exists, plus costs for each such violation. Each day or portion thereof in which a violation exists shall be considered a separate violation of this Ordinance. Each provision of this Ordinance which is violated shall be considered a separate violation of this Ordinance. Such fine shall be in addition to any other fine which may be imposed under the provisions of any other Ordinances of the Borough, Pennsylvania law, or Federal law.

§613. Rights and Remedies Cumulative. The rights and remedies of the Borough as prescribed by this Ordinance or otherwise by law with respect to the units, and the criminal sanctions herein provided, shall be cumulative, and the pursuit of one shall in no way preclude simultaneous or subsequent pursuit of another.

§614. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a 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 severable.

(Ord. 808, 4/6/2015)

Part 7

Bamboo

§701. Purpose and Intent.

The purpose of this Chapter and Part is to preserve and protect private and public property from the damaging effects of the spread of certain invasive, non-native plantings such as bamboo; to protect indigenous plant materials from the invasive spread of non-native plantings such as bamboo; and to maintain the general welfare of the residents of the Borough of Nazareth.

§702. Definitions.

For the purpose of this Chapter and Part the following definitions shall apply:

A. Bamboo. Any monopodial (running) tropical or semi-tropical grasses from the genera *Phyllostachys* or *Pseudosasa*, including, but not limited to, *Phyllostachys aureosulcata* - Yellow Groove Bamboo. In addition, this definitions includes Common Bamboo, Golden Bamboo and Arrow Bamboo.

B. Bamboo Owner. Any Property Owner/Resident who has planted or grows Bamboo on their property; who maintains Bamboo on their property; or who permits Bamboo to grow or remain on their property, even if the Bamboo has spread from an adjoining property. A Property Owner/Resident will not be considered to be a Bamboo owner if:

1. The Property Owner/Resident has provided satisfactory proof to the Borough that, within a reasonable period of time after discovering the encroachment of Bamboo onto his or her property from an adjoining or neighboring property, the Property Owner/Resident advised the owner of such adjoining or neighboring property of his or her objection to the encroachment of the Bamboo; and

2. The Property Owner/Resident has initiated steps for the removal of the Bamboo from the subject property, including seeking available remedies at law and/or equity.

C. Property Owner/Resident. Any person owning or occupying any premises within the Borough of Nazareth. For purposes of this Chapter and Part, Bamboo Owner's responsibilities shall apply to the owner in the case of vacant premises or premises occupied by the owner, or to the occupant of the premises in case of premises occupied by other than the owner.

§703. Bamboo Restrictions.

A. Any Bamboo growing upon any premises in the Borough in violation of any of the provisions of this Chapter and Part is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Borough.

B. The planting or growing of Bamboo shall be prohibited within the Borough unless:

1. The root system of such Bamboo plant is entirely contained within a planter, barrier, or other vessel located entirely above ground-level, and of such design, material, and location as to entirely prevent the spread/growth of the Bamboo's root system beyond the container in which it is planted; or

2. The root system is contained within a barrier, constructed in accordance with the following specifications, and only after a permit has been issued by the Borough:

(a) the barrier shall be composed of high density polypropylene or polyethylene, forty (40) mil or heavier;

(b) portions or sheets of the barrier shall be secured or joined together by the use of stainless steel clamps or stainless steel closure strips designed for such barriers;

(c) the entire perimeter of the barrier shall be more than thirty (30) inches below ground level and more than three (3) inches above ground level; and

(d) when installed the barrier shall slant outward from the bottom to the top.

C. Any person who hereafter plants or grows, or causes to be planted or grown, Bamboo within the Borough, except as under the conditions set forth in subparagraphs i) and ii) above, shall be deemed to be in violation of this Chapter and Part and shall be subject to such penalties as are set forth herein.

D. For purposes of this Chapter and Part, Bamboo found growing upon a property shall constitute presumptive evidence that the Bamboo was planted and/or grown by and/or with the consent of the Bamboo Owner.

E. Property Lines and Removal of Bamboo.

1. Bamboo shall not be planted, maintained, or otherwise be permitted to exist within twenty (20) feet of any property line, utility easement, and public right-of-way. Any Bamboo Owner whose property contains Bamboo shall remove and abate the growth of the Bamboo within twenty (20) feet of any property line, utility easement, and public right-of-way.

2. Whether planted or in existence before the effective date of this Chapter and Part, and/or planted or growing in a container or contained within a barrier, all Bamboo plants shall be located, trimmed, and maintained so that no part of the plant (including stalks, branches, leaves and/or roots) shall extend nearer than ten (10) feet to any property line, utility easement, and public right-of-way.

3. When removing and destroying Bamboo, all rhizome (underground plant stem capable of producing the shoot and root systems of a new plant) disposal must be by incineration only. No composting or trash disposal of rhizomes shall be allowed.

§704. Bamboo Owner Responsibilities.

A. The Bamboo Owner shall remove, trim, or cut all Bamboo growing or remaining upon his or her property in violation of the provisions of this Chapter and Part.

B. The Bamboo Owner shall be responsible for the cost of removal and/or abatement of Bamboo that has encroached upon an adjoining property in violation of this Chapter and Part.

C. Pre-Existing Bamboo.

1. Any Bamboo that has been planted or otherwise permitted to grow on any property within the Borough prior to the effective date of this Chapter and Part may remain on such property, subject to full compliance with this Chapter and Part.

2. Each Bamboo Owner shall be responsible to ensure that the Bamboo planted or growing on his or her property prior to the effective date of this Chapter and Part does not encroach or grow upon any adjoining or neighboring property, including all public property and right-of-ways. Such Bamboo Owners shall be required to take such measures as are reasonably expected to prevent such invasion or encroachment, including, but not limited to, the installation of sheathing comprised of metal or other materials impenetrable

by Bamboo at a sufficient depth within the property line or lines where the Bamboo is planted or is growing to prevent the growth or encroachment upon adjoining or neighboring property by the Bamboo.

D. Re-planting Prohibited. Any Bamboo existing on a property prior to effective date of this Chapter and Part may not be replanted or replaced in kind once such Bamboo is or has become, for any reason, dead, destroyed, uprooted or otherwise removed except in compliance with the provisions of this Chapter and Part.

§705. Bamboo Removal from Borough Property.

A. Encroachment. In the event that Bamboo growing on a Bamboo Owner's property invades or grows onto Borough property, including, but not limited to right-of-ways, the Borough shall notify the Bamboo Owner, in writing, that Bamboo has invaded Borough property and that the Bamboo Owner is responsible for the removal of such Bamboo from the Borough property. This Encroachment Notice shall be sent by certified mail, return receipt requested, and by regular mail to the last known address of the Bamboo Owner, and a copy of the Notice shall also be posted in a conspicuous location on the Bamboo Owner's property.

B. In the event that the Bamboo Owner does not remove the Bamboo from the Borough property, or does not make an arrangement with the Borough for removal of such Bamboo within fifteen (15) calendar days from the date of the Encroachment Notice, the Borough, at Borough's discretion, may remove such Bamboo from the Borough property. The Bamboo Owner shall be liable and responsible to the Borough for all costs associated with the removal of the Bamboo from the Borough property. Such costs may be assessed against the property of the Bamboo Owner, and in the event that the costs remain unpaid more than thirty (30) calendar days after the demand and payment has been made by the Borough on the Bamboo Owner, the Borough may place a lien on the property of the Bamboo Owner for these costs, plus interest, fees, and expenses, as allowed by law.

C. In the event that the Borough is compelled to undertake the removal of Bamboo as provided above, neither the Borough, or its employees, contractors or agents shall have any liability to the Bamboo Owner for any damages or other claims arising out of the removal of such Bamboo. In the event such removal entails or causes damages to the property of any person or entity other than the Bamboo Owner, the Bamboo Owner shall be responsible for such damages.

§706. Notice of Violation.

A. In the event that there is any Bamboo growing or remaining upon any property in violation of the provisions of this Chapter and Part, the Borough shall notify the Bamboo Owner, in writing, of the existence of such violation. Notice of Violation shall be served by handing it directly to the Bamboo Owner; by mailing it to the last known address of the Bamboo Owner; or by posting the Notice of Violation on the premises at a conspicuous location.

B. Any Bamboo Owner receiving a Notice of Violation shall bring his or her property into compliance with this Chapter and Part within fifteen (15) calendar days of the Bamboo Owner's receipt of said Notice. If the Bamboo Owner fails to bring Bamboo Owner's property into compliance with the Notice and this Chapter and Part, then the Borough may issue a non-traffic citation against the Bamboo Owner.

§707. Violation and Penalties.

Any person who violates any of the provisions of this Chapter and Part shall, upon conviction, in a summary proceeding before any Magisterial District Judge of Northampton County, be punishable by a fine of not more than Six Hundred Dollars (\$600.00) and costs of prosecution for each and every offense, or, upon default in payment of the fine and costs not caused by indigence or lack of sufficient assets, by imprisonment in the Northampton County prison for a period not to exceed thirty (30) calendar days. Each day that such violation is continued shall constitute a new and separate offense, punishable by like fine, penalty and imprisonment.

In addition, Borough Council may institute suits, in equity or at law, to restrain, prevent, or abate a violation of this Chapter and Part. Such proceedings may be initiated before any court of competent jurisdiction. The expense of such proceedings shall be recoverable from the violator in any manner as may now or hereafter be provided by law.

§708. Partial Repealer.

All other provisions of the Borough's Code of Ordinances, as amended, shall remain in full force and effect. All other Ordinances or provisions of the Ordinance inconsistent herewith or in conflict with any of the terms hereof are, to the extent of said inconsistencies or conflicts, hereby specifically repealed.

§709. Severability.

The provisions of this Chapter and Part are severable. If any section clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Chapter and Part. It is hereby declared to be the intent of Borough Council that this Chapter and Part would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence or part of a provision had not been included herein.

(Ord. 830. 10/2/2017)

Part 8  
Yard Waste Management and Disposal

§801. Purpose and Intent.

The purpose of this Ordinance is to establish requirements for the proper management and disposal of yard waste in the Borough of Nazareth, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

The Borough Council makes the following findings:

- A. The deposit and accumulation of grass clippings, leaves and other yard waste upon and into the streets of the Borough have created a public problem by increasing the amount of waste and debris in the streets, making the Borough less visually attractive, and increasing pollution and run-off into the Borough's storm water system; and
- B. A significant portion of the run-off and debris in the streets results from persons intentionally disposing or placing grass clippings, leaves and yard waste in the Borough streets; and
- C. The current ordinances and procedures are inadequate to abate the dumping of grass clippings, leaves and yard waste into the streets; and
- D. A new ordinance is required to remediate the problems identified herein.

§802. Definitions.

For the purpose of this Ordinance the following definitions shall apply:

- A. Containerized. – The placement of yard waste in a trash can, bucket, bag or other similar receptacle to prevent yard waste from spilling, blowing or in any way being deposited onto the street and coming into contact with storm water.
- B. Person. – Any individual, corporation, association or similar entity subject to municipal jurisdiction who owns or occupies an improved or unimproved parcel of real property in the Borough.
- C. Street. – Any street, avenue, boulevard, road, parkway, drive, alley, or other way, and includes the lane between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.
- D. Yard Waste. – Including, but not limited, to leaves, grass clippings or other debris or waste produced in conjunction with yard maintenance, gardening or similar activities.

§803. Offense Defined.

- A. Except as stated in Paragraph C below, it shall be unlawful for any person to knowingly cause yard waste to be deposited onto the streets of the Borough unless it is containerized. A property owner or occupier is responsible to ensure that any third-party individuals or entities hired to perform landscape maintenance or other services on the property abide by this Ordinance. Any yard waste which inadvertently enters the streets of the Borough shall be promptly removed; there is no "grace period" within which to remove yard waste.
- B. It shall be unlawful for any person to knowingly cause yard waste to be swept, spilled, blown or in any way deposited directly or indirectly into the storm water system.

C. Sweeping, raking, blowing or otherwise depositing leaves that are not containerized at the curb or along the street shall be permitted only during scheduled and announced collection times during the fall, and any such leaves shall not be deposited within ten (10) feet of any storm water system inlet.

§804. Enforcement.

A. This Ordinance may be enforced by the Police Department or the Borough Code Enforcement Officer. A violation of this Ordinance shall initially be sanctioned by the civil penalty method set forth in Section 805. The enforcing officer will use common sense and discretion in the enforcement of this Ordinance and shall consider means other than the issuance of a citation where appropriate. No citation may be based upon hearsay.

B. There shall be a presumption that yard waste found in a street immediately adjacent to a property was placed there by the property owner or occupier. This is a rebuttable presumption.

§805. Civil Penalty.

A violation of this Ordinance shall constitute a civil penalty punishable by a fine set by resolution of the Borough Council. A citation, similar in form to a parking citation, shall be tendered by the officer to the offending person. Any offending person who does not pay the citation amount at the Borough Office within seventy-two (72) hours may be subject to increased penalties or fines.

§806. Criminal Penalty.

Any person who fails to pay a civil penalty set under Section 805 within thirty (30) days commits a summary offense under the Borough Code and shall be issued a citation to appear before the District Justice. Upon conviction, a Defendant shall be fined not more than six hundred (\$600.00) dollars and costs of prosecution for each offense, or in default thereof, sentenced to the county jail for up to thirty (30) days.

§807. Severability.

Should any portion of this Ordinance be determined to be unlawful or unconstitutional, then the remainder of the Ordinance shall not be affected and shall remain in full force and effect.  
(Ord. 834, 6/4/2018)