

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL CODE CONSTRUCTION; GENERAL  
PENALTY**



## CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

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### § 10.01 APPROVAL, ADOPTION AND TITLE OF CODE.

(A) Pursuant to 53 P.S. § 48301.5, the codification of all ordinances of a permanent and general nature for the Borough of New Alexandria, Commonwealth of Pennsylvania, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, are approved, adopted, ordained and enacted as a single ordinance of the Borough of New Alexandria and shall be known and designated as the Borough of New Alexandria Code, for which designation "code of ordinances", "codified ordinances" or "code" may be substituted.

(B) Code title, chapter and section headings do not constitute any part of the law as contained in the code.

**§ 10.02 RULES OF INTERPRETATION AND DEFINITIONS.***(A) Rules of interpretation.*

(1) Words and phrases shall be taken in their plain, ordinary and usual sense. Technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(2) Words imputing joint authority to three or more persons shall be construed as imputing authority to a majority of the persons unless otherwise declared in the section giving the authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

(4) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

*(B) Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ADMINISTRATIVE SERVICE.** All departments and the personnel thereof established by the Borough Code or ordinance.

**ADOPTING ORDINANCE.** The ordinance of the Borough of New Alexandria adopting the codified ordinances of New Alexandria, Pennsylvania, in accordance with the Borough Code of Pennsylvania.

**AND.** May be read **OR**, and **OR** may be read **AND**, if the sense requires it.

**AUTHORITY.** Whenever in this code, authority is given to an officer or an act is required to be performed, the authority may be exercised and the act may be performed, at the instance of the officer, by a deputy or subordinate, unless contrary to law or to the clear intent of any particular provision.

**BOROUGH and MUNICIPALITY.** The Borough of New Alexandria, Pennsylvania.

**BOROUGH CODE.** The Act of the General Assembly No. 581, passed 2-1-1996, Pub. L. No. 1656, being 53 P.S. §§ 45101 et seq., as amended.

**BUDGET.** The annual budget of the borough.

**CALENDAR/COMPUTATION OF TIME.** The terms *MONTH* and *YEAR* mean the *CALENDAR MONTH* or *YEAR*. The time expressed in days within which an act is to be done or a period is to expire shall be computed by excluding the first and including the last day, unless the last day is a Sunday, in which case it shall be excluded. If time is expressed in hours, the whole of Sunday shall be excluded.

**CONTRACT ADMINISTRATION.** The management of the execution of contracts between the borough and any individual, partnership, association, corporation or governmental body.

**COUNCIL.** The Council of the Borough of New Alexandria, Pennsylvania.

**COUNTY.** The County of Westmoreland, Pennsylvania.

**ENGINEER.** The engineer of the borough.

**KEEPER and PROPRIETOR.** Persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or as a servant, agent or employee.

**LAND/REAL ESTATE.** Includes rights and easements of an incorporeal nature.

**LAW.** All applicable laws and ordinances of the United States of America, the Commonwealth of Pennsylvania and the County of Westmoreland.

**MAYOR.** The *BOROUGH MAYOR*.

**OATH.** Includes *AFFIRMATION*. When an oath is required or authorized by law, an affirmation in lieu thereof may be taken by a person having conscientious scruples about taking an oath. An *AFFIRMATION* shall have the same effect as an *OATH*.

**ORDINANCE.** Any ordinance of the Borough of New Alexandria, including this code.

**OWNER.** When applied to property, includes a part owner, joint owner or tenant in common of the whole or any part of the property.

**PERSON.** An individual, association, club, corporation, firm, partnership, body politic or any other legal entity.

**PREMISES.** When used as applicable to property, extends to and includes land and buildings.

**PROPERTY.** Includes real and personal property and any mixed and lesser estates or interests therein. *PERSONAL PROPERTY* includes every kind of property except *REAL PROPERTY*. *REAL PROPERTY* includes lands, tenements and hereditaments.

**REASONABLE TIME.** In all cases where provision is made for an act to be done or notice to be given within a **REASONABLE TIME**, it shall be deemed to mean the time only as may be necessary for the prompt performance of the act or the giving of the notice.

**SIDEWALK.** Any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

**SOLICITOR.** The solicitor of the borough.

**STATE and COMMONWEALTH.** The Commonwealth of Pennsylvania.

**STREET.** Alleys, avenues, boulevards, lanes, roads, streets, state highways and other public ways in the borough.

**TENANT and OCCUPANT.** As applied to buildings or land, shall extend and be applied to any person holding a written or oral lease of, or who occupies the whole or any part of, a building or land, alone or with others.

**TIME.** Whenever any time established in the codified ordinances for the taking of any action expires on a Sunday or legal holiday, the time shall not expire on the day but shall expire on the next week day.

### **§ 10.03 EFFECT OF CODE ON PREVIOUS PROVISIONS.**

The provisions of this code, insofar as they are substantially the same as those of ordinances and resolutions in force immediately prior to the enactment of this code, are intended as a continuation of the ordinances and resolutions, and not as new enactments, and the effectiveness of the provisions shall date from the date of adoption of the prior ordinance or resolution. All the provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Borough Council, and it is the intention of the Borough Council that each provision contained within the code is hereby reenacted and reaffirmed as it appears in the code.

### **§ 10.04 SECTIONS AND ORDINANCES REPEALED.**

All ordinances and parts of ordinances in conflict with the provisions of this code are hereby repealed.

**§ 10.05 EXEMPTIONS FROM REPEAL.**

The repeal provided for in § 10.04 shall not affect the following ordinances, resolutions, rights and obligations which are hereby expressly saved from repeal; provided, however, that the repeal of ordinances or parts thereof in § 10.04, or the saving from repeal of ordinances or parts thereof pursuant to this section, shall not be construed so as to revive an ordinance or part thereof previously repealed, superseded or no longer of any effect:

(A) Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the adoption of these codified ordinances;

(B) Any ordinance or resolution promising or guaranteeing the payment of money by or to the borough, or authorizing the issuance of any bonds of the borough, or any evidence of the borough's indebtedness, or any contract or obligation assumed by the borough;

(C) Any ordinance or resolution of Council not in conflict or inconsistent with the provisions of these codified ordinances;

(D) Any right, license or franchise conferred by any ordinance or resolution of Council or any other person or corporation;

(E) Any ordinance establishing, naming, relocating or vacating any street or other public way;

(F) Any ordinance or part thereof providing for the establishment of positions, for salaries or compensation;

(G) Any prosecution, suit or other proceeding pending, or any judgment rendered, on or prior to the adoption of these codified ordinances;

(H) Any ordinance levying or imposing taxes or assessments;

(I) Any ordinance establishing or changing the boundaries of the borough; or

(J) Any ordinance or resolution adopted by Council after the adoption of the codified ordinances.

**§ 10.06 APPLICATION TO FUTURE ORDINANCES.**

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

**§ 10.07 CHANGES AND REVISIONS IN PREVIOUSLY ADOPTED ORDINANCES.**

(A) *Nonsubstantive grammatical changes.* In compiling and preparing the ordinances and resolutions of the borough for adoption and revision as part of the code, certain nonsubstantive grammatical and style changes were made in one or more of the ordinances. It is the intention of the Borough Council that all the changes be adopted as part of the code as if the ordinances and resolutions so changed had been previously formally amended to read as such.

(B) *Substantive changes and revisions.* In addition to the changes and revisions in division (A) above, changes and revisions of a substantive nature are hereby made to various ordinances and resolutions included in the code. These changes are enacted to bring provisions into conformity with the desired policies of the Borough Council, and it is the intent of the Borough Council that all the changes be adopted as part of the code as if the ordinances and resolutions so changed have been previously formally amended to read as such. All changes and revisions shall be deemed to be in effect as of the effective date of this code.

**§ 10.08 INTERPRETATION OF PROVISIONS.**

In interpreting and applying the provisions of the code, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of the code impose greater restrictions or requirements than those of any state statute, other ordinance, resolution or regulation, the provisions of the code shall control. Where the provisions of any statute, other ordinance, resolution or regulation impose greater restrictions or requirements, the provisions of the statute, other ordinance, resolution or regulation shall control.

**§ 10.09 HEADINGS, EDITOR'S NOTES, STATUTORY REFERENCES.**

(A) Headings of titles, chapters, sections and divisions in the code, or in supplements to the code, are inserted into the code, and may be inserted into the supplements to the code, for the convenience of persons using the code and are not part of the legislation.

(B) Editors's notes and/or statutory references indicating sources of sections, giving other information or referring the statutes or to other parts of the code are inserted in the code, and may be inserted in supplements to the code, for the convenience of persons using the code and are not part of the legislation.

**§ 10.10 FILING COPIES OF CODE.**

(A) Three copies of the code in a bound volume shall be filed with the ordinance books in the office of the Borough Mayor, and shall remain there for use and examination by the public.



(B) Upon adoption, the copies shall be certified to by the Borough Mayor, as provided by law, and the certified copies shall remain on file in the office of the Borough Mayor, available to persons desiring to examine the same during all times while the code is in effect.

**§ 10.11 AMENDMENTS TO THE CODE; CODE BOOKS TO BE KEPT UP-TO-DATE.**

(A) Any and all additions, deletions, amendments or supplements to the code, when passed and adopted so as to indicate the intention of Borough Council to be a part thereof, shall be deemed to be incorporated into the code so that the references in the code shall be understood and intended to include the changes. When any and all additions, deletions, amendments or supplements to the code shall be adopted, they shall be printed and inserted in the bound code book as amendments and supplements to it.

(B) The Borough Mayor or someone authorized or directed by him or her shall keep the certified copies of the code book, which are required to be kept in the Borough Mayor's office for public use, up-to-date. All changes in the code, and all ordinances and resolutions adopted subsequent to the effective date of this code, which the Borough Council specifically adopts as part of the code, shall be included in the code book by reference until the changes or new ordinances or resolutions are printed as supplements to the code book and inserted into the code book.

**§ 10.12 SEVERABILITY.**

(A) If any title, chapter, section, division or part thereof of this code now enacted or subsequently amended or its application to any person or circumstances is held to be illegal, invalid or unconstitutional by a court of competent jurisdiction, that determination shall not affect, impair or invalidate the remainder thereof, but is confined in its operation and application to the title, chapter, section, division or part thereof determined illegal, invalid or unconstitutional.

(B) It is the intent of the Borough Council to declare that this ordinance and code would have been adopted if the illegal, invalid or unconstitutional title, chapter, section, division or part thereof would not have been included.

**§ 10.13 REFERENCE TO OTHER SECTIONS.**

Whenever in one section, reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered, unless the subject matter is changed or materially altered by the amendment or revision.

**§ 10.14 ERRORS AND OMISSIONS.**

(A) If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published.

(B) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

**§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) (1) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section.

(2) Example: (Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (53 P.S. § 46008) (Ord. 10, passed 1-17-1980; Ord. 20, passed 1-1-1985)

(2) If a statutory cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

**§ 39.01 PUBLIC RECORDS AVAILABLE.**

This code book consists of all ordinances and resolutions of the borough and shall be known as the codified ordinances of the borough.

***Statutory reference:***

*Codification of ordinances, see 53 P.S. § 48301.5*

**§ 10.16 ALTERING OR TAMPERING WITH THE CODE; PENALTIES FOR VIOLATION.**

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, or to alter or tamper with the code or any part or portion thereof, in any manner which will cause the law of the borough to be misrepresented thereby.

**§ 10.99 GENERAL PENALTY.**

(A) (1) Whoever violates or fails to comply with any of the provisions of these codified ordinances, including a provision of any technical or other code adopted in these codified ordinances by reference, and including a rule or regulation promulgated pursuant to any provision of these codified ordinances or of any technical or other code adopted in these codified ordinances by reference, and including any order made under authority, express or implied, of any provision of these codified ordinances or of any technical or other code adopted in these codified ordinances by reference, having to do with building, housing, property maintenance, health, fire or public safety codes or ordinances, or with water, air or noise pollution violations, for which no penalty is otherwise provided, shall be fined not more than \$1,000 or imprisoned for not more than 90 days, or both for each offense. Unless otherwise stated, a separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(2) Whoever violates or fails to comply with any of the provisions of these codified ordinances, including a provision of any technical or other code adopted in these codified ordinances by reference, and including a rule or regulation promulgated pursuant to any provision of these codified ordinances or of any technical or other code adopted in these codified ordinances by reference, and including any order made under authority, express or implied, of any provision of these codified ordinances or of any technical or other code adopted in these codified ordinances by reference, for which no penalty is otherwise provided, shall be fined not more than \$600 or imprisoned not more than 90 days, or both, for each offense. Unless otherwise stated, a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(3) The penalty provided for herein shall be in addition to any fee, deposit, charge, surcharge, interest, insurance or bond requirement or equitable remedy provided in these codified ordinances, or in any standard, technical or other code adopted by reference in these codified ordinances, or in any rule or regulation promulgated under authority of the standard, technical or other code adopted by reference in these codified ordinance, or under authority of any other provision of these codified ordinances, or under authority of state law.

(B) Anybody violating § 10.16 shall, upon conviction, be punished by a fine not to exceed \$600, plus costs of prosecution or imprisonment not to exceed 90 days or both.

***Statutory reference:***

*Collection of fines and penalties, amounts, prosecution, and imprisonment, see 53 P.S. § 48301.5*

