

BOROUGH OF NEW CUMBERLAND
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 674

AN ORDINANCE AMENDING ORDINANCE 662 (PROPERTY MAINTENANCE ORDINANCE) ADDING AND MODIFYING DEFINITIONS AND PROVISIONS FOR MAINTENANCE OF WEEDS, NOXIOUS VEGETATION, INCLUDING PROVISIONS FOR THE PLANTING, REPLANTING AND MAINTENANCE OF ALL TREES, REPEALING ORDINANCE 581, IN THE BOROUGH OF NEW CUMBERLAND.

BE IT ENACTED AND ORDAINED by the Council of the Borough of New Cumberland, Cumberland County, Pennsylvania, and it is hereby enacted and ordained by the authority of same:

SECTION 1: AUTHORITY. This Ordinance is enacted pursuant to 53 P.S. § 46202 (24) (Building, housing, property maintenance, plumbing and other regulations), 53 P.S. § 46720, et. seq. (Shade Trees), 53 P.S. § 46202 (74) (General Powers) and 53 P.S. § 48301, et seq. (Enforcement of Ordinances), and 68 P.S. §1081, et. seq. (Municipal Code and Ordinance Compliance Act).

SECTION 2: STATEMENT OF PURPOSE. The Borough Council of the Borough of New Cumberland recognizes a need to establish minimum requirements and standards order to promote and protect the public health, safety, convenience, order and to maintain safety and sanitary conditions for the general welfare of the citizens of the Borough.

SECTION 3: AMENDMENTS TO ORDINANCE 662. The Borough Council of the Borough of New Cumberland hereby amends Ordinance 662 (Property Maintenance Ordinance) by modifying and amending the definition of RUBBISH in ARTICLE 4 and ARTICLE 7, Section 720,

as follows:

A. The definition of "RUBBISH" as set forth in ARTICLE 4 of Ordinance 662 is hereby amended and modified, as follows:

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, concrete, discarded building materials, crockery, trash, debris, dust and other similar materials.

B. SECTION 720 of ARTICLE 7 of Ordinance 662 is hereby amended and modified, as follow:

SECTION 720. WEEDS, NOXIOUS VEGETATION; TREE PLACEMENT, MAINTENANCE AND REMOVAL REQUIREMENTS.

(A) **Weeds and Noxious Vegetation.** All premises and exterior property shall be maintained free from weeds, grass or plant growth in excess of six (6) inches, excluding shrubs, cultivated flowers and gardens. All noxious weeds as defined by the Noxious Weed Control Law (3 P.S. Section 255.3(b), as amended, shall be prohibited.

(B) **Trees.**

(i) **Hazardous Trees; Notice.** Any person owning a tree within the public right-of-way which is deemed by the Borough to a danger to public safety, health and welfare, or a danger to public or private property, by reason of the trees damaged or diseased condition or the trees not being maintained in compliance with the care provisions of this Ordinance, shall be notified in writing to remove or trim the tree as required within such time as specified. If the written notice to remove or trim the tree is not complied within the time period specified in the written notice, the Borough may cause the removal or trimming of a hazardous tree as appropriate and necessary at the expense of the property owner and the entire costs thereof shall be a lien upon such premises. Any and all claims associated with costs for tree removal or trimming shall be filed and collected by the Borough Solicitor or Enforcement Official in the manner in which municipal claims are filed or prosecuted. Nothing

herein shall prohibit the Borough from proceeding to recover such costs by filing an action in assumpsit or pursuing equitable relief to recover costs incurred by the Borough of New Cumberland during enforcement of any provisions of this Section 720.

(ii) Emergency Action by the Borough of New Cumberland. When, due to natural disaster, motor vehicle accident, windstorm, weather event or other unforeseen cause, a tree or portion(s) of a tree within the public right of way (area between the curb and sidewalk) along or adjacent to any public highway or in a public area constitutes an immediate hazard or danger to persons or property, the Borough may remove the hazardous tree without notice or appeal by the abutting property owner.

(iii) Tree Replacement. The replacement of any tree within a public right of way removed pursuant to subparagraph (ii) above otherwise shall be made at the discretion of the Borough of New Cumberland and at the expense of the property owner as determined by the Borough. In addition, any curb or sidewalk damaged or destroyed during tree removal shall be repaired or replaced at the expense of the property owner in accordance with applicable Borough ordinances. No tree, new tree or replacement tree shall be removed or replaced without notifying the Pennsylvania ONE Call System prior to removal or replacement.

(iv) Tree planting. No new tree or replacement tree shall be planted within any public right-of way without advance approval of Borough Council.

(v) Tree maintenance and care requirements.

(a) Trees overhanging a public street. The owner of a property shall trim branches from any tree overhanging the streets, highways, avenues and alleys in the Borough of New Cumberland so that there will be a clear height of twelve (12) feet above the surface of a street, highway, avenue or alley.

(b) Trees, shrubberies and other vegetation overhanging any sidewalk. The owner of a property shall trim branches from any tree overhanging any sidewalk adjacent to the property in the Borough of New Cumberland so that there will be a clear height of eight (8) feet above the surface of the sidewalk on or adjacent to the owner's property. Branches of any shrubs, trees or other form of vegetation shall be trimmed to permit an unobstructed pathway for persons using

sidewalks on or adjacent to the owner's property.

(c) Trimming/Topping restrictions and requirements. No person or company shall top any street tree, or other tree on public property or within a public right of way shall be cut back in such a manner that the tree's health or present or future safety will be impaired. For purposes of this section, topping is defined as a substantial reduction of the upper branches of a tree without consideration of its normal growth habitat or natural forces.

(vi) Additional requirements.

(a) No person shall place any stone, cement or any other substance which shall impede the passage of water and air to the roots of any tree within any public right of way.

(b) No person shall pour salt water, oil or any other materials at any place in such a manner that injury, disease or damage may result to any tree within any public right-of-way.

(c) No person shall cut, break, climb with spikes, disturb the roots or otherwise injure, damage or destroy any tree on public property or within a public right-of-way, or authorize to authorize such action unless required for the installation of curb, sidewalk or other improvement authorized by Borough Council or an agent thereof.

(d) No person shall cause or authorize on public property or within any public right-of-way a wire or other conductor charged with electricity to come in contact with any tree on any public property or within any public right of way that may injure, damage or kill a tree.

(e) No person shall cause or authorize on public property or within a public right-of-way the use of any oil, gasoline, herbicide, paint, brine hot water, steam or other gas, liquid or solid substance deleterious to a tree to contact any tree or enter the soil base of the root system of a tree in any manner which may injure, damage or kill a tree.

(f) No person shall interfere, cause or interfere with the Borough or any of its agents or employees while such personnel is engaged with planting,

acting or maintaining or removing trees on or overhanging public property, or trees within a public right of way.

(g) No person shall cause or authorize alterations, repairs or demolition activities in the vicinity of any tree on public property or within the public right of way without first placing sufficient guards or devices as shall prevent injury, damage or destruction of a tree arising out of such activities.

(h) No person shall fasten any rope, wire, nail, electric attachment, sign or device to any tree on public property or within any public right-of-way, excepting Borough authorized signs.

(i) No person shall plant a tree or knowingly permit the root system of any tree so to damage the public sewer and storm sewer system operated and owned by the Borough of New Cumberland.

SECTION 4: REPEAL OF ORDINANCE 581

Ordinance 581 is hereby repealed in full.

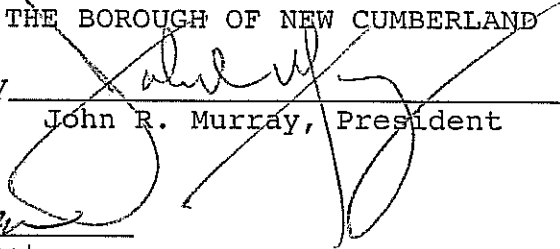
SECTION 5: SEVERABILITY. In the event any provision, section, sentence, clause or part of this Ordinance shall be held invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance or other Ordinances affected by this Ordinance, it being the intent of the Borough of New Cumberland that such remainder shall be and shall remain in full force and effect.

SECTION 6: RELATIONSHIP TO OTHER ORDINANCES. The amendments and modifications established by Section 3 herein shall be incorporated within and shall become part of the Property Maintenance Code (Ordinance 662) of the Borough of New

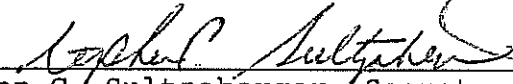
Cumberland, duly stating the effective date of amended Section 720 as hereby enacted. All other Ordinances, parts of Ordinances or parts of Resolutions inconsistent herewith shall be and the same expressly are repealed invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the invalidity of any part.

ENACTED AND ORDAINED, this 2ND day of July, 2014.

COUNCIL OF THE BOROUGH OF NEW CUMBERLAND

By 
John R. Murray, President

ATTEST:


Stephen C. Sultzaberger, Secretary

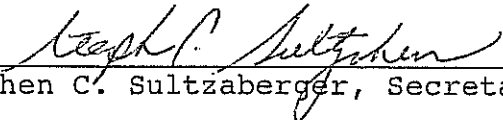
APPROVED this 2ND day of July, 2014.

By 
D.J. Landis, Mayor

CERTIFICATE

I, Stephen C. Sultzaberger, Secretary of the Borough of New Cumberland, Cumberland County, Pennsylvania (the "Borough"), certify that: the foregoing is a true and correct copy of an Ordinance of the Council of the Borough of New Cumberland (the "Council"), which duly was enacted by affirmative vote of a majority of the members of the Council at a meeting held on July 2, 2014; being approved by the Mayor on July 2, 2014; said Ordinance duly has been recorded in the Ordinance Book of the Borough; said Ordinance duly has been published as required by law; and said Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Borough, this 2ND day of July, 2014.



Stephen C. Sultzaberger, Secretary