

President Gerken convened the meeting of Hanover Borough Council on Wednesday Evening, May 27, 2015, 7:00 PM, in the Hanover Municipal Building, 44 Frederick Street, Hanover, Pennsylvania as advertised.

On roll call the following answered as present: Mr. Eline, Mr. Funke, Mr. Gerken, Mr. McLin, Mr. Morris Mr. Roth and Mrs. Yingling; Solicitor Yingst; Mayor Adams; Manager Krebs and Secretary Neiderer. Councilperson Griffin entered the meeting at 7:15 PM; and Councilmen Marcoccio and Reichart were absent.

It was moved by Mr. Funke, seconded by Mr. Roth to approve the minutes of Hanover Borough Council from April 22, 2015 as presented. Motion carried.

It was moved by Mr. Funke, seconded by Mrs. Yingling to approve the bills, the Report of the Mayor and the Report of the Fire Chief. Motion carried.

It was moved by Mr. Funke, seconded by Mr. Morris to approve the reports of the following Borough Administrators:

- a.) Borough Manager
- b.) Supervisor of Public Works
- c.) Superintendent of Water & Wastewater Treatment
- d.) Supervisor of Water Treatment Plant
- e.) Supervisor of Water Distribution
- f.) Supervisor of Water Meter Department
- g.) Engineering Department
- h.) Library Director

Motion carried.

BID OPENING

Two (2) bids were received, opened and recorded for the Dewatered Biosolids Transportation Services Contract. (*See bid tabulation sheets attached.*)

BOND ORDINANCE

Mr. Chris Hoffert was present from PNC Capital Management to review the refinancing of the 2010 General Obligation bonds that is on this evening's agenda. He explained that the market has fluctuated and the amount of savings has decreased during the past two (2) months. A savings threshold needs to be set by Council this evening to authorize Mr. Hoffert to secure the percentage that Council will allow for finalization of the bond settlement.

After discussion, it was moved by Mr. Roth, seconded by Mr. Funke to set the threshold to secure the bond settlement at three (3%) percent. Mr. McLin asked how this relates to the ordinance on tonight's agenda. Mr. Hoffert replied the percentage needs to be added accordingly, on the blank line provided in the ordinance, based on Council's direction. The Borough will only be using the fund amount required for refinancing the 2010 bonds, as no new bonds are being sought in this ordinance. Mr. Ben Ried, Bond Counsel, Rhoads & Sinon, stated that the ordinance on tonight's agenda has been properly advertised and forwarded to Council members for their review. If the ordinance is enacted this evening, there is no further action required by Council. The Borough will only be obligated to the three (3%) percent threshold savings if this can be achieved in the bond market. Motion carried.

It was moved by Mr. Roth, seconded by Mr. Funke to approve Ordinance No. 2219 entitled "AUTHORIZING AND SECURING THE ISSUANCE OF ONE OR MORE SERIES OF GENERAL OBLIGATION BONDS, IN THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$20,000,000, PURSUANT TO THE PENNSYLVANIA LOCAL GOVERNMENT UNIT DEBT ACT, TO CURRENTLY REFUND ALL OR A PORTION OF THIS BOROUGH'S OUTSTANDING GENERAL OBLIGATION BONDS, SERIES OF 2010, AND TO PAY RELATED COSTS; AUTHORIZING THE ACCEPTANCE OF A BOND PURCHASE PROPOSAL; SETTING FORTH THE PARAMETERS, SUBSTANTIAL FORM OF, AND CONDITIONS FOR ISSUING THE REFUNDING BONDS;

BOND ORDINANCE

PLEDGING THE FULL FAITH, CREDIT, AND TAXING POWER OF THIS BOROUGH TO SECURE THE BONDS; CREATING A SINKING FUND AND APPOINTING A PAYING AGENT AND SINKING FUND DEPOSITORY; AUTHORIZING THE REDEMPTION OF THE REFUNDED BONDS; AND AUTHORIZING RELATED ACTION.” On roll call, the following voted in favor of the motion: Mr. Eline, Mr. Funke, Mr. Gerken, Mrs. Griffin, Mr. McLin, Mr. Morris Mr. Roth and Mrs. Yingling. There were eight (8) voting in favor of the motion and zero (0) against. Motion carried.

CITIZENS WITH ITEMS OF BUSINESS TO BE BROUGHT BEFORE COUNCIL

Ms. Melissa Harris, 28 Carlisle Street, Hanover, PA was present regarding the proposed moving of the Hanover Fire Department Museum from its current location at the old Hanover Shoe Building to the Old Eagle Fire Company building on this evening's agenda. Mr. Roth, former Hanover Borough Fire Commissioner explained the history of the Hanover Fire Museum since its establishment in 1894. Penrose Properties owns the current location in the old Hanover Shoe Building Boiler Room and the Borough pays the taxes, utilities and maintenance costs. The Eagle Fire Company building on East Hanover Street will be vacant when the sewer infiltration and inflow crew moves their equipment from this location to the new Tanger building on High Street. The Fire Museum Committee asked Council to approve the move to the former eagle Fire Company Building due the historical significance of the location. The Fire Museum Committee would not require any funding from the Borough for this move or renovations to the building. Ms. Harris states she is familiar with historical restoration and approves of this move, but questioned the cost to move the historical relics and the museum. The cost to run the museum for 2014 was approximately \$4,700.00. She suggested possibly donating the museum's collections to the York or Harrisburg fire museum, and Mr. Roth replied that their museums have no space. Ms. Harris expressed concern of burdening the taxpayers with costs of relocating, renovating the building and running the museum. Mr. Roth suggested Ms. Harris visit the current location of the fire museum and she explained she has no interest in the museum contents, but only the potential move in regard to additional taxpayer expense.

Mr. Scott Roland, 307 Primrose Lane, Hanover, stated he is not in favor of the move due to the advantage of having the fire museum as a downtown attraction and the small amount of costs to the Borough at the present location. He believes the old Eagle Fire Company building would have exceedingly high renovation costs.

Mr. Tim Seitz, 230 Primrose Lane, Hanover, PA thanked Council, administration and citizens for their attendance tonight and for caring about the Borough.

There being no further comments, President Gerken announced that all comments will be held until the end of the meeting, and the business portion of the Council meeting will now begin.

REPORTS OF THE STANDING COMMITTEES

Finance & Personnel Committee – Mr. Roth

It was moved by Mr. Roth, seconded by Mrs. Yingling to ratify the action of the Borough Officers in making the following investments with ACNB for a period of 28 days, May 1, 2015 to May 29, 2015 at an interest rate of 0.31%:

<u>Funds</u>	<u>Investments</u>
General Fund	\$5,001,417.22
Bicentennial Fund	\$1,382.78
Sewer Fund	\$1,345,900.00
Guthrie Memorial Library Fund	\$0.00
Regional Wastewater Treatment Fund	\$246,800.00
Market House Fund	\$28,300.00

REPORTS OF THE STANDING COMMITTEES

Finance & Personnel Committee – Mr. Roth

<u>Funds</u>	<u>Investments</u>
Liquid Fuels Fund	\$156,300.00
Equipment Fund	\$433,800.00
Local Services Tax Fund	\$305,500.00
Business Privilege Tax Fund	\$120,900.00
Brier Memorial Fund (Library)	\$11,500.00
Leisure Services Fund	\$44,100.00
Old Hanover Videos Fund	\$980.00
Sewer Projects Fund	\$0.00
Library Projects Fund	\$34,300.00
Hanover Recreation Endowment Fund	\$295,300.00
Water Revenue Fund	\$1,600,000.00
Water Projects Fund	\$186,500.00
Market House Reserve Fund	\$5,668.02
Hanover Recreation Reserve Fund	\$12,700.54
Library Endowment Fund	\$860,876.06
Library Endowment Additional Investment	(\$0.00)
2010 Water Bonds	\$105,000.00
2013 Water Bonds	\$5,010,000.00
2013 Sewer Bonds	\$120,000.00
2013 General Bonds	\$150,000.00
Total	<u>\$16,077,224.62</u>

Motion carried.

It was moved by Mr. Roth, seconded by Mr. Funke to approve Ordinance No. 2218 entitled “**AN ORDINANCE OF THE BOROUGH OF HANOVER, YORK COUNTY, PENNSYLVANIA REGULATING THE USE OF PUBLIC SIDEWALKS BY EATING ESTABLISHMENTS FOR THE PURPOSE OF CUSTOMER SEATING; PROVIDING FOR THE GRANTING OF PERMITS FOR SUCH USE; AND PROVIDING FOR THE ENFORCEMENT OF SAID ORDINANCE.**” On roll call, the following voted in favor of the ordinance: Mr. Eline, Mr. Funke, Mr. Gerken, Mrs. Griffin, Mr. McLin, Mr. Morris Mr. Roth and Mrs. Yingling; Solicitor Yingst; with no one voting in opposition to the motion. The motion passed with eight (8) in favor of and zero (0) against. Motion carried.

It was moved by Mr. Roth, seconded by Mr. Funke to approve Resolution No. 1098 establishing the rates as provided for in Ordinance No. 2218 for permits for outdoor seating in the General Business District of the Borough of Hanover for the initial permit period of one (1) year at a rate of \$100.00 with an annual renewal rate of \$50.00. Motion carried.

REPORTS OF THE STANDING COMMITTEES

Finance & Personnel Committee – Mr. Roth

It was moved by Mr. Roth, seconded by Mr. Funke to grant credits to the following sewer billing accounts, one time only, due to leaks that did not enter the sewer system and have since been repaired:

<u>Owner/Location</u>	<u>Amount of Credit</u>	<u>Account No.</u>
Paul E. Forst 134 York Street	\$1,650.30	#51-0043200-0
Teresa Foreman 256 Third Street	\$738.15	#53-0672925-0

Motion carried.

It was moved by Mr. Roth, seconded by Mr. Funke to exonerate Hanover Borough Tax Collector Leroy Wentz, 207 Third Street, Hanover for collection of the following face amounts of Municipal Real Estate Taxes on properties owned by The Borough of Hanover:

<u>Address</u>	<u>Amount</u>
407 George Street	\$ 556.58
222 & 224 High St Rear	\$ 425.78
228 High Street	\$1,839.19

Motion carried.

REPORTS OF THE STANDING COMMITTEES

Planning & Traffic Committee – Mr. Morris

It was moved by Mr. Morris, seconded by Mr. Roth to approve the extension of the time period for execution of the following Community Development Block Grant Contracts until December 31, 2015:

- a. #45582013 for the Jackson, Juniper & Commerce Street Storm Sewer Improvements
- b. #45571986 for the Jackson, Juniper & Commerce Street Storm Sewer Improvements
- c. #45511980 for the Hanover Commons Storm Sewer Reconstruction Project
- d. #45561902 for the Hanover Commons Storm Sewer Reconstruction Project

Motion carried.

It was moved by Mr. Morris, seconded by Mr. Roth to approve the request of Mummert Enterprises, 8 Stuart Avenue, Hanover, PA, for the Cherry Tree Phase IV Development plan drawn by Reginald F. Baugher, PLS, Hanover Land Services, Hanover, PA dated July 28, 2011, last revised February 23, 2012, bearing job #6040, approved by Hanover Borough Council September 28, 2011, for extension of filing and recording said plan until December 12, 2015. Motion carried.

It was moved by Mr. Morris, seconded by Mr. Roth to approve Resolution No. 1100 entitled **A RESOLUTION OF THE BOROUGH OF HANOVER YORK COUNTY, PENNSYLVANIA, AMENDING RESOLUTION NO. 1068 ENACTED JANUARY 22, 2014 ENTITLED "AUTHORIZING THE FILING OF A PROPOSAL FOR MAIN STREET PROGRAM FUNDS WITH THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, COMMONWEALTH OF PENNSYLVANIA."** Mr. Morris asked Mr. Blanda Nace, York County Economic Development/Main Street Hanover if he had any comments he would like to add regarding the resolution. Mr. Nace stated that in addition to the \$40,000 facade grant, the Pennsylvania Department of Community and Economic Development is asking that the \$10,750 grant for the Hanover Heritage Center be combined on the same resolution. The purpose of the Heritage Center grant is for a study to determine what is needed to be done, and how much it will cost, who would own the building, etc. The market analysis for the proposed Heritage Center was already completed in 2012 and the results came back favorable. The \$10,750 for the feasibility study is the next step to move forward in the planning process. The \$10,750 grant that was previously applied through PEDYC, but DCED asks that it be included with the \$40,000 facade grant resolution previously passed through Hanover Borough Council for auditing purposes under the State's regulations. Mr. Eline asked if the Borough

REPORTS OF THE STANDING COMMITTEES

Planning & Traffic Committee – Mr. Morris

would bear any financial obligation. Manager Krebs replied the Borough's only obligation would be to generate a grant closeout statement. Mr. Nace insured that the façade grants would be offered to all downtown businesses, and first time applicants would be considered before those who have already received façade grants. There would be approximately eight (8) grants available in the amount of \$5,000 each. Mr. Gerken asked if the \$10,750 grant for the feasibility study for the Heritage Conference Center could be bid out. It was agreed by Council to approve the \$10,750 grant for the Heritage Conference Center feasibility study to be combined on the same resolution as the \$40,000 façade grant on the condition that the \$10,750 Heritage Conference Center feasibility study project is bid out.

It was moved by Mr. Morris, seconded by Mr. Roth to approve Resolution No. 1100 entitled **A RESOLUTION OF THE BOROUGH OF HANOVER YORK COUNTY, PENNSYLVANIA, AMENDING RESOLUTION NO. 1068 ENACTED JANUARY 22, 2014 ENTITLED "AUTHORIZING THE FILING OF A PROPOSAL FOR MAIN STREET PROGRAM FUNDS WITH THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, COMMONWEALTH OF PENNSYLVANIA WITH THE ADDED CONDITION THAT THE \$10,750 GRANT FOR THE HERITAGE CONFERENCE CENTER FEASIBILITY STUDY PROJECT WILL BE BID OUT."** On roll call, the following voted in favor of the ordinance: Mr. Eline, Mr. Funke, Mr. Gerken, Mrs. Griffin, Mr. McLin, Mr. Morris Mr. Roth and Mrs. Yingling; Solicitor Yingst; with no one voting in opposition to the motion. The motion passed with eight (8) in favor of and zero (0) against. Motion carried.

It was moved by Mr. Morris, seconded by Mr. Roth to approve the placement of a sign overhanging the public right of way at 135 Baltimore Street, Hanover for New Hope Ministries, Inc. in compliance with the Hanover Borough Sign Ordinance. Motion carried.

It was moved by Mr. Morris, seconded by Mr. Roth to enter into a contract with the York County Commissioners for a new Community Development Block Grant entitled the Hanover Sanitary Sewer Main Lining Project Phase I in the amount of \$70,000.00. Motion carried.

Public Service Committee – Mr. Eline

It was moved by Mr. Eline, seconded by Mr. Funke to approve the request of ERA Preferred Properties Real Estate Inc., 570 Carlisle Street, Hanover, PA to hold their 13th annual Hillside/ERA Preferred Properties 5K Run/Walk on Saturday, October 10, 2015 with October 17th as rain date beginning at 9:00 AM to benefit the Muscular Dystrophy Association provided the race route is approved by the Police Chief and Fire Chief and a certificate of insurance is provided naming The Borough of Hanover as an additional insured for the event, as per their letter and race route submitted April 18, 2015. Motion carried.

It was moved by Mr. Eline, seconded by Mr. Funke to approve the request of Amber M. Smith, New Oxford, PA to conduct fitness classes at the Hanover Borough parks and playgrounds from 8:00 AM to 9:00 AM on Tuesdays and Thursdays from June 9th through August 13th, provided a certificate of insurance is submitted naming The Borough of Hanover as additional insured, and the areas are policed for litter following the classes, as per her letter of request and schedule of April 28, 2015. Motion carried.

It was moved by Mr. Eline, seconded by Mr. Funke to approve the request of St. Matthew Lutheran Church to reserve thirty (30) meters on Franklin Street and West Chestnut Street for \$15.00 for their Vacation Bible School June 22nd to June 26th, 2015, 8:30 AM to 12:00 Noon per their letter dated May 13, 2015. Motion carried.

It was moved by Mr. Eline, seconded by Mr. Funke to approve the request of the American Legion Auxiliary to have free parking along Carlisle Street from Gail Street to Library Place for their 28th Annual Community Blood Screening Program on Saturday, June 6, 2015 from 5:30 AM to 10:30 AM as per their letter of request received May 17, 2015. Motion carried.

It was moved by Mr. Eline, seconded by Mr. Funke to approve a baseball tournament for the Bulldog Baseball Club, Hanover, PA at Good Field from Friday evening July 31st through Sunday August 2nd at the rate of \$10.00 per game per field (*certificate of insurance on file*). Motion carried.

REPORTS OF THE STANDING COMMITTEES

Street Committee – Mr. Funke

It was moved by Mr. Funke, seconded by Mr. Roth to deny the request of Mr. R. Daniel Noble, President of North Pointe Unit Owners Association for the Borough of Hanover to accept deeds of dedication for the storm water system and sanitary sewer system within the North Pointe development. Motion carried.

Water & Sewer Committee – Mrs. Yingling

It was moved by Mr. Reichart, seconded by Mr. Funke to award the bid for Dewatered Biosolids Transportation Services to KBS, Inc., Thomasville, PA, low bidder, in the amount of \$17.80 average, per wet ton, as per bid specifications (*see bit tabulation sheet attached*). Motion carried.

It was moved by Mrs. Yingling, seconded by Mr. Funke to enter into an agreement with Gannett Fleming Engineering, Harrisburg, PA, for Phase II of the Water Treatment Plant Improvements for Final Design, Bid, Pre-Construction and Construction Phase Services. Mr. McLin voted in opposition to the motion. Motion carried.

Public Safety Committee – Mrs. Yingling

It was moved by Mrs. Yingling, seconded by Mr. Funke to approve Resolution No. 1099 to relocate the Hanover Fire Museum from its current location at 241 North Franklin Street to the Old Eagle Fire Company building on East Hanover Street.

There was discussion on the motion:

Mr. Morris questioned how much the improvements will cost and where the money will come from. Mr. Roth replied that the Fire Museum Committee will raise the necessary funds. The first floor would be occupied first, with the renovations completed as funds are raised. The Borough would pay the same for maintenance as present, including utilities, etc. but would not have to pay the taxes since the property is owned by the Borough. There should not be any problem with ending the current agreement with Pennrose Properties. Mr. McLin asked if there should be a public hearing regarding the proposed relocation, noting the Eagle Fire Company building is located in a residential neighborhood and there is a lack of adequate parking. Mr. Roth stated the Eagle Fire Company has been in existence for over a hundred years, and parking was never an issue. Mr. Eline stated it is an existing non-conforming use and a hearing is not necessary.

Motion carried.

MAYOR'S REPORT

Mayor Adams reported his attendance along with his son at the Annual Memorial Day Parade held Monday, April 25th with services at Mount Olivet Cemetery. He thanked the Veterans for their service and for the flag presented to the Borough at the ceremony.

CITIZENS' COMMENTS

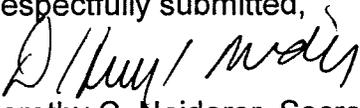
Mr. Scott Roland, 307 Primrose Lane, Hanover, PA voiced his support for a public hearing for the relocation of the Fire Museum. He is opposed to moving the museum out of the downtown. Mr. McLin also stated his support of a public hearing for the Fire Museum relocation.

Mr. Jeff Cramer, a forty-three (43) year veteran of the Hanover Fire Department spoke in support of the relocation of the Fire Museum to the Eagle Fire Company Building, and thanked Hanover Borough Council for approving the Resolution approving same on this evening's agenda.

ADJOURNMENT

There being no further comments by Council or the public, it was moved by Mr. Funke, seconded by Mr. Eline to adjourn the meeting at 8:20 PM to a closed caucus session regarding legal matters. Motion carried.

Respectfully submitted,


Dorothy C. Neiderer, Secretary

BID TABULATION SHEET
BIDS AWARDED WEDNESDAY, MAY 27, 2015 at 7:00 PM

DEWATERED BIOSOLIDS TRANSPORTATION SERVICES CONTRACT

Transportation Services to Beneficial Use Sites

* KBS, Inc.
 4924 Lincoln Highway West
 PO Box 7
 Thomasville, PA 17364

 NAME OF BIDDER

<u>Year</u>	<u>Geographical Region</u>	<u>Transportation Distance</u>	<u>Non-Fuel Component (\$/Wet Ton)</u>	<u>Fuel Component (\$/Wet Ton)</u>	<u>Total Cost (Non-Fuel Component+Fuel Component)</u>	<u>Annual Cost</u>
Year One	Zone 1	0 to ≤ 20 miles	* \$ 11.25 /WT	\$ 1.45 /WT	\$ 12.70 /WT	x 775 \$ 9,842.50
	Zone 2	>20 to ≤ 40 miles	* \$ 17.25 /WT	\$ 2.25 /WT	\$ 19.50 /WT	x 2325 \$ 45,337.50
	Zone 3	>40 to ≤ 60 miles	* \$ 21.00 /WT	\$ 2.70 /WT	\$ 23.70 /WT	Total \$ 55,180.00 ÷ 3,100 WT = \$17.80 per wet ton

Year Two	Zone 1	0 to ≤ 20 miles
	Zone 2	>20 to ≤ 40 miles
	Zone 3	>40 to ≤ 60 miles

ADJUSTED ANNUALLY PER CPI

Year Three	Zone 1	0 to ≤ 20 miles
	Zone 2	>20 to ≤ 40 miles
	Zone 3	>40 to ≤ 60 miles

ADJUSTED ANNUALLY PER CPI

List the Pegged Based Price Fuel Cost (Avg. diesel price for last completed calendar quarter):

\$ _____/gallon (for Calendar Quarter _____)

* Indicates successful bidder at meeting held May 27, 2015

BID TABULATION SHEET
BIDS AWARDED WEDNESDAY, MAY 27, 2015 at 7:00 PM

DEWATERED BIOSOLIDS TRANSPORTATION SERVICES CONTRACT

Transportation Services to Beneficial Use Sites

† Jesse Baro, Inc.
 157 Quarry Road
 Douglassville, PA 19518

NAME OF BIDDER

<u>Year</u>	<u>Geographical Region</u>	<u>Transportation Distance</u>	<u>Non-Fuel Component (\$/Wet Ton)</u>	<u>Fuel Component (\$/Wet Ton)</u>	<u>Total Cost (Non-Fuel Component+Fuel Component)</u>	<u>Annual Cost</u>
Year One	Zone 1	0 to ≤ 20 miles	\$ 10.81 /WT	\$ 3.04 /WT	\$ 13.85 /WT	x 775 \$ 10,733.75
	Zone 2	>20 to ≤ 40 miles	\$ 13.96 /WT	\$ 4.59 /WT	\$ 18.55 /WT	x 2325 \$ 43,128.75
	Zone 3	>40 to ≤ 60 miles	\$ 21.24 /WT	\$ 5.21 /WT	\$ 26.45 /WT	Total \$ 53,862.50 ÷ 3,100 WT = \$17.375 per wet ton
Year Two	Zone 1	0 to ≤ 20 miles	ADJUSTED ANNUALLY PER CPI			
	Zone 2	>20 to ≤ 40 miles				
	Zone 3	>40 to ≤ 60 miles				
Year Three	Zone 1	0 to ≤ 20 miles	ADJUSTED ANNUALLY PER CPI			
	Zone 2	>20 to ≤ 40 miles				
	Zone 3	>40 to ≤ 60 miles				

List the Pegged Based Price Fuel Cost (Avg. diesel price for last completed calendar quarter):

\$ _____/gallon (for Calendar Quarter _____)

* Indicates successful bidder at meeting held May 27, 2015

† Bid rejected due to amendment request for a one year performance bond - specifications demand provision of three (3) year performance bond.

AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF HANOVER,
YORK COUNTY, PENNSYLVANIA REGULATING THE
USE OF PUBLIC SIDEWALKS BY EATING
ESTABLISHMENTS FOR THE PURPOSE OF CUSTOMER
SEATING; PROVIDING FOR THE GRANTING OF
PERMITS FOR SUCH USE; AND PROVIDING FOR THE
ENFORCEMENT OF SAID ORDINANCE.

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

ARTICLE I

Definitions: For the purpose of this Ordinance, the following terms shall have the meanings as indicated:

- A. Abutting property - property contiguous to a public street right-of-way on which is located a public sidewalk.
- B. Code Enforcement Officer - the official of the Borough of Hanover charged with enforcing the terms of this Ordinance as directed by the Borough Manager and Borough Council.
- C. Eating Establishment - a restaurant, cafe, coffee shop or other business which holds a valid, current health license to serve prepared food to the public and engages in said business.
- D. General Business District - the zoning district described in the Hanover Zoning Ordinance which encompasses the area including and surrounding the Hanover center square which is primarily occupied by retail stores, eating establishments and offices.
- E. Outdoor Seating Area - that area of the public sidewalk used by an abutting property owner for the sale, service and display of food and beverage.
- F. Owner - the owner, joint owner, tenant in common, tenant by the entirety or other owner of an interest in property which is contiguous to a street right-of-way.
- G. Pedestrian Walkway - that portion of a sidewalk that is to be kept free of any obstruction, fixture, appurtenance, tree, shrubbery or planting in order to provide for the passage of pedestrian traffic.
- H. Person - includes a natural person, as well as partnership, corporation, limited liability company, association, charitable entity, trust, estate or other legal entity.
- I. Sidewalk - any paved area between the curb line and a structure located on an abutting property which is part of the public right-of-way and is used by the public for primarily pedestrian travel.
- J. Street right-of-way - the entire right-of-way of a public street, highway, road or alley, including any sidewalk located therein.

ARTICLE II

- A. It shall be unlawful for any person to sell, serve or display any food or beverage on a sidewalk anywhere in the Borough of Hanover (hereinafter the "Borough") without applying for and obtaining a permit from the Borough.
- B. The Borough shall accept applications for permits to use a sidewalk for the sale, service or display of food or beverage on a sidewalk located in the General Business District in the Borough on an application form provided by the Borough, which application shall be accompanied by a fee established by resolution of the Borough Council.
- C. Applications for such use of the public sidewalk shall be reviewed by the Code Enforcement Officer and Borough staff to determine compliance with the terms hereof. Permits shall be issued in instances in which the applicants have complied with all of the terms hereof and with the requirements of the application.
- D. The applicant shall specifically identify in the application the location of the abutting property and the area of the sidewalk desired to be used for the sale, service and display of food and beverage and describe in detail the items of personal property, including, but not limited to, tables, chairs, umbrellas, stools, podiums, counters, bars, planters, waste receptacles, fences, railings and/or other barriers proposed to be located therein. The application shall be accompanied by pictures of the area to be so used as requested in the application.

ARTICLE III

- A. Any applicant desiring to obtain a permit and the permittee who obtains such a permit to use the public sidewalk for the sale, service and display of food must meet the following conditions:
 - 1. The sidewalk and the abutting property must be located in the General Business District as defined in the Hanover Borough Zoning Ordinance.
 - 2. The sale, service and display of food on a sidewalk shall be accessory to a lawful, permitted public eating establishment.
 - 3. Outside sale, service and display of food on a sidewalk is permitted only between the hours of 7:00 a.m. and 11:00 p.m.
 - 4. Personal property and accessories placed in the outdoor seating area must not be attached, even in a temporary manner, to the sidewalk or other public property or to any building or structure. All such personal property shall be removed from the sidewalk and stored indoors when the eating establishment is not open for business and, in any event, shall not be on the sidewalk before 7:00 a.m. or after 11:00 p.m.
 - 5. The outdoor seating area shall be separated from the pedestrian walkway by a fence, railing or other barrier which distinguishes the seating area from the walkway.
 - 6. All food and beverages served to customers seated in the outdoor seating area must be prepared within and/or provided by the eating establishment to which the outdoor seating permit has been granted. All food and beverages served to customers seated in the outdoor seating area must be

consumed within said seating area and not in the adjoining pedestrian walkway or outside said seating area, unless such food and beverages are purchased from the eating establishment for consumption off the premises (i.e. "take out").

7. The applicant must comply with all federal, state and municipal laws, ordinances and regulations in the use of the outdoor seating area, including, but not limited to, all such laws, ordinances and regulations related to the serving of food products in a clean and sanitary condition; the sale, service and consumption of alcoholic beverages; the generation of noise; the creation of public disturbances and nuisances; and the disposal of garbage, litter and trash.
8. Prior to the issuance of a permit by the Borough, the applicant must provide proof that all applicable federal, state and municipal licenses and permits have been obtained. The permittee shall be required to maintain such licenses and permits while it is operating the outdoor seating area.
9. The permittee shall both during and after operating hours, police the outdoor seating area, the public sidewalk and right-of-way and neighboring properties in order to keep said areas free of trash, litter and debris generated from the outdoor seating activities. The permittee shall maintain a sufficient number of covered, outdoor trash receptacles to minimize improper disposal of trash, litter and debris and to reduce the presence of rodents, vermin and insect infestation. Such receptacles shall be emptied as necessary but, in any event, at least once per day.
10. The area of sidewalk used by a permittee for outdoor seating shall allow for a minimum clear pedestrian walkway of four feet in width between the outdoor seating area and interior curb line in which no obstructions, including, but not limited to, personal property, furniture, accessories or barriers, as well as existing trees, waste receptacles, fire hydrants, mailboxes, bus stops, benches, streetlights or other public service facilities shall impinge upon the free flow of pedestrian traffic.
11. The permittee shall not allow any disorderly conduct, loud or boisterous behavior, or offensive language to emanate from the outdoor seating area such as would be disturbing to neighboring businesses, residents, pedestrians or members of the general public using the public rights-of-way.
12. No outdoor seating area shall obstruct, redirect or impinge upon the free flow of storm water on the sidewalk or public right-of-way.
13. No awning, roof, sign or other overhead barrier shall extend over the clear pedestrian walkway unless same provides for a minimum seven feet of clearance between the sidewalk and the overhead obstacle and unless such obstacle has been specifically approved by Borough Council.
14. No outdoor seating area shall be permanently located on a raised deck or platform or enclosed by fixed walls. Any temporary walls or raised deck or platform shall be portable and stored indoors with the other personal property located in the outdoor seating area when the eating establishment is not open for business.
15. No outdoor seating area shall obstruct ingress and egress from neighboring businesses or properties, including the driveways or walkways thereto, nor

shall such seating areas block access to fire hydrants, mailboxes, bus stops, benches, streetlights or other public service facilities.

16. All signs for the eating establishment and outdoor seating area shall comply with the Hanover Borough Sign Ordinance, as from time to time amended.
17. No food or beverages shall be served in the outdoor seating area except to patrons of the eating establishment seated in the seating area.
18. All outdoor seating areas shall comply with the applicable requirements of The International Fire Code as adopted by the Borough of Hanover.
19. Seating in the outdoor seating area shall be limited to one (1) seat for every fifteen (15) square feet in the seating area. No standing room for the consumption of food or beverage shall be permitted.

ARTICLE IV

- A. All proposed and operating outdoor seating areas shall be subject to inspection by the Code Enforcement Officer and other Borough staff both prior to and subsequent to the granting of a permit.
- B. Acceptance of an outdoor seating permit shall be an express acknowledgement of and agreement to comply with the terms and restrictions hereof and as set forth in the application. The grant and usage of a permit is a privilege, not a right, and is therefore subject to reasonable restrictions as set forth herein, in the application and as otherwise promulgated by applicable regulatory authority.
- C. A permit shall be valid for a period of one (1) year unless suspended or revoked as provided herein or unless the eating establishment is no longer in operation.
- D. The applicant shall pay an application fee set from time to time by resolution of Borough Council. In addition, the permittee shall pay an annual permit renewal fee as set from time to time by resolution of Borough Council in order to address the continuing costs of inspection and policing of outdoor seating areas.
- E. Included in the requirements for an applicant/permittee for the issuance or renewal of an outdoor seating permit shall be proof of liability insurance in an amount fixed by resolution of Borough Council. In addition, the applicant shall execute a hold harmless and indemnification agreement in favor of the Borough against loss, including legal fees, costs and expenses, resulting from injury to persons and damage to property as a result, direct or indirect, of the operation of an outdoor seating area.
- F. Prior to the issuance of an outdoor seating permit, the Borough shall determine that the applicant has obtained all applicable federal, state and municipal permits and licenses and that the applicant, the property and the proposed use of the outdoor seating area are all in compliance with the terms hereof and any requirements set forth in the application.
- G. Outdoor seating permits are not assignable or transferable to any other person or legal entity. Any proposed transferee shall apply for its own permit by completing the proper application form, paying the application fee and complying with the terms hereof.

H. Prior to obtaining a permit, an applicant must provide proof that the property owner of the property in which the eating establishment is located consents to the granting of a permit for the proposed outdoor seating area.

I. Permit Renewal.

Upon application for renewal, an outdoor seating permit will be reviewed and its complaint history, if any, shall be provided by the Code Enforcement Officer, Police Department, Department of Public Works, and Fire Department. Each department shall provide to the Code Enforcement Officer copies of any inspection results, complaints filed and citations issued concerning the outdoor seating permit under consideration.

Before a permit is renewed, the eating establishment and property upon which the outdoor seating area is located must be compliant with all applicable federal, state and local codes, ordinances and regulations. The permittee seeking renewal of a permit shall provide proof of such compliance to the Code Enforcement Officer prior to the grant of a renewal.

J. Written Notice of Violations; Suspension of Permit.

Upon finding by either the Code Enforcement Officer or Police Department that a permittee has violated any provisions of this section, the Code Enforcement Officer shall give written notice to the permittee to correct said violation. Upon failure to correct said violation within the time frame specified, the Code Enforcement Officer may take appropriate action, as necessary, to insure compliance. The Code Enforcement Officer may suspend the permittee's permit issued pursuant to this section, as well as pursue prosecution in accordance with the requirements herein. The Code Enforcement Officer shall give a violator reasonable time to correct any violation of any provision of this Ordinance. An appeal before Borough Council shall be accorded if requested in writing and within fifteen (15) days from the date of the Code Enforcement Officer's written notice of violation.

K. Violations and Penalties; Effect on Eligibility for Permit.

- (1) Whoever violates any provisions of this section shall, upon conviction thereof in a summary proceeding, be fined the amount fixed by the Code of the Borough of Hanover as from time to time amended, to be collected as other fines and costs are by law collectible, or imprisoned for not more than 90 days, or both. Each day during which violation occurs shall constitute a separate offense. Any person who is convicted of a violation of any of the provisions of this section may have his permit suspended for one full year and may not be eligible for another license until the expiration of one (1) full year from the date of the license suspension.
- (2) In the event of one or more infractions to the provisions herein or other violations of Borough ordinances in the operation of an outdoor seating area, the permit may be revoked by the Code Enforcement Officer. Prior to such revocation, the Code Enforcement Officer shall give ten (10) days written notice to the permittee of his violation. If the permittee requests a hearing in writing prior to the expiration of the 10-day notice period, the Borough Council shall hold a hearing to determine if the permit should be revoked. The permittee may present evidence in his own behalf if he so desires. The decision in regard to the revocation shall be in writing issued

