

Agenda
New Britain Borough
Planning Commission
December 19, 2017

- 1. Pledge of Allegiance**
- 2. Minutes of November 21, 2017**
- 3. New Business**
- 4. Old Business**
 - A. Comprehensive Plan Update**
 - B. Review of Omnibus Zoning Ordinance Update**
 - C. Residential Resale U/O**
- 5. Adjournment**

Planning Commission
Meeting Minutes
October 17, 2017

The monthly meeting of the New Britain Planning Commission was called to order by Chairman Michael Stanislaw at 7:30 PM. Planning Commission members present were Dr. Michael Parke, Ms. Loren Frasco, Mr. Robert Binkley, Mr. Richard Moxey, Mr. David Holewinski and Ms. Margaret Remmey. Also present was Mr. Sam Bryant. Not present were Mr. Karl Dieterichs and Mr. Richard Eggleston.

Minutes of September 19, 2017: Mr. Holewinski made a motion to approve the minutes of September 19, 2017. The motion was seconded by Ms. Frasco and was unanimously approved.

Appointment of New Vice-Chairperson: The current Vice-Chairman of the Planning Commission is Mr. Dieterichs. Mr. Holewinski made a motion to appoint Ms. Frasco as Vice-Chairwoman. The motion was seconded by Mr. Eggleston and was unanimously approved.

Introduction of Kent Baird as Planning Consultant: Mr. Stanislaw congratulated Mr. Kent Baird of Gilmore & Associates on being appointed as the new Planning Consultant. Mr. Baird will bring a wealth of knowledge and experience to New Britain Borough and will invigorate the Borough. He also stated that Borough Council is very excited about Mr. Baird in anticipation of the work he is going to do for the Borough. Mr. Holewinski stated that Borough Council and the Planning Commission has only been “blown away” three times. The first was Mr. Michael Savona of Eastburn and Gray applying for the position of Borough Solicitor, the second was Mr. Bryant, applying for the position of Borough Manager and the third was Mr. Kent Baird.

Old Business:

Comprehensive Plan Update: Mr. Bryant stated he has been in touch with Bucks County Planning Commission and Mr. Evan Stone has been hired to replace Ms. Lynn Bush. He also stated he is working on getting the Comprehensive Plan updated materials from BCPC. Mr. Stanislaw stated that this will give the Planning Commission the opportunity to update the Borough’s Comprehensive Plan the right way.

Mr. Stanislaw stated a long term goal of the Borough is to have everyone hooked up to public water. He also stated the Planning Commission will need to focus on the details of goals and not just the goal.

Mr. Baird stated with authorization from Mr. Bryant, he can request an electronic version of the Comprehensive Plan from Bucks County Planning Commission.

Mr. Binkley inquired to Mr. Baird as to what is the importance of a Comprehensive Plan? Mr. Baird stated one of the purposes of a streamlined Comprehensive Plan is to look for more efficient ways to accomplish goals and to have only 4 or 5 major goals to focus on. He also stated that water and sewer is a very important part of a Comprehensive Plan and it tends to be put off. People do not realize the importance of it.

Review of Omnibus Zoning Ordinance Update: Mr. Stanislaw stated that all of the other items which have been reviewed and discussed such as lighting, etc. will be included in this Ordinance.

Mr. Hintenlang stated he is working with Mr. Bryant and Mr. Michael Peters on making revision to the Comprehensive Plan.

Mr. Stanislaw made a motion to adjourn the meeting. The motion was seconded by Mr. Moxey and the meeting adjourned at 8:47 pm.

Respectfully submitted,

Ms. Carrie Gamble

Planning Commission
Meeting Minutes
November 21, 2017

The monthly meeting of the New Britain Planning Commission was called to order by Chairman Michael Stanislaw at 7:30 PM. Planning Commission members present were Dr. Michael Parke, Ms. Loren Frasco, Mr. Robert Binkley, Mr. David Holewinski, Mr. Karl Dieterichs, Mr. Richard Eggleston and Ms. Margaret Remmey. Not present were Mr. Sam Bryant and Mr. Richard Moxey.

Minutes of October 17, 2017: Minutes of October 17, 2017 will be approved at the December 19, 2017 meeting.

New Business:

Residential Resale U/O: It was the general consensus of the Planning Commission that the Residential Resale Use & Occupancy Permit is a duplication of the required home inspection when a property is sold. It was decided to table this discussion until next month as Mr. Michael Italia should be present to answer questions from the Planning Commission. After a lengthy discussion, Mr. Binkley made a motion that the Planning Commission recommend to Borough Council to not pursue this proposed Ordinance. The motion was seconded by Dr. Parke. There was a four to four deadlock. Ms. Remmey stated this should be tabled until Mr. Bryant and Mr. Italia can be present. Six Commission members were in favor of this.

Old Business:

Comprehensive Plan Update: After a lengthy discussion it was decided to table the discussion until the December Planning Commission meeting.

Ms. Frasco made a motion to adjourn the meeting. The motion was seconded by Mr. Holewinski and the meeting adjourned at 9:09 pm.

Respectfully submitted,

Carrie Gamble

**NEW BRITAIN BOROUGH
BUCKS COUNTY, PENNSYLVANIA
ORDINANCE NO. _____**

AN ORDINANCE OF THE BOROUGH OF NEW BRITAIN, BUCKS COUNTY, PENNSYLVANIA, AMENDING THE NEW BRITAIN ZONING ORDINANCE OF 1994, AS AMENDED; ADDING THE MEDICAL MARIJUANA GROWER/PROCESSOR, MEDICAL MARIJUANA DISPENSARY, AND SOBER LIVING FACILITY USES AND REGULATIONS RELATING THERETO; EFFECTING VARIOUS AMENDMENTS OF THE ZONING ORDINANCE IDENTIFIED DURING IMPLEMENTATION OF SAME; REPEALING ALL PRIOR INCONSISTENT ORDINANCES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2016 the Pennsylvania General Assembly enacted the Medical Marijuana Act, XX P.S. § XXX *et seq.*, which provides a program of access to medical marijuana for patients suffering from certain medical conditions,

WHEREAS, Borough Council believes it to be in the best interest of the Borough and its residents to regulate the location and nature of licensed organizations growing, acquiring, possessing, manufacturing, selling, delivering, transporting, and/or distributing/dispensing medical marijuana within the Borough;

WHEREAS, the Medical Marijuana Act provides for two distinct land uses: a Medical Marijuana Grower/Processor and a Medical Marijuana Dispensary; and

WHEREAS, the Medical Marijuana Act requires that a Medical Marijuana Grower/Processor “shall meet the same municipal zoning and land use requirements as other manufacturing, processing and production facilities that are located in the same zoning district;” and

WHEREAS, the Medical Marijuana Act requires that a Medical Marijuana Dispensary “shall meet the same municipal zoning and land use requirements as other commercial facilities that are located in the same zoning district;” and

WHEREAS, Borough Council has determined that it is in the best interest of the Borough and its residents to amend the New Britain Borough Zoning Ordinance to establish the Medical Marijuana Grower/Processor and Medical Marijuana Dispensary uses;

WHEREAS, the New Britain Borough Zoning Ordinance does not permit Sober Living Facilities, wherein individuals reside together for purposes of recovering from drug, alcohol, and/or substance abuse;

WHEREAS, Borough Council has determined that it is in the best interest of the Borough to establish the Sober Living Facility use and provide regulations for the use;

WHEREAS, Borough staff has identified, during implementation of the Zoning Ordinance, that certain zoning provisions require amendment; and

WHEREAS, Borough Council wishes to amend the Zoning Ordinance to reflect the recommendations of Borough staff.

NOW THEREFORE, be it **ORDAINED** and **ENACTED**, by the Borough Council of the Borough of New Britain as follows:

SECTION 1. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article II *Terminology*, § 450-6 *Definitions* is hereby amended by adding the following new definitions:

MEDICAL MARIJUANA ACT

Act 16 of 2016, 35 P.S. § 1023.101 *et seq.*

MEDICAL MARIJUANA DISPENSARY

A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which is registered by the Department of Health under the Medical Marijuana Act to dispense medical marijuana. The term does not include a Health Care Medical Marijuana Organization under Chapter 19 of the Medical Marijuana Act.

MEDICAL MARIJUANA GROWER/PROCESSOR

A person, including a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, which is registered by the Department of Health under the Medical Marijuana Act to grow and process medical marijuana. The term does not include a Health Care Medical Marijuana Organization under Chapter 19 of the Medical Marijuana Act.

SOBER LIVING FACILITY

Facilities where six (6) or more individuals reside together - either voluntarily or by court order - for the purpose of recovering from drug, alcohol, and/or substance abuse, and which serves as an interim environment between rehabilitation facilities/hospitalization and reintegration to independent living. The term shall include recovery houses and halfway houses.

SECTION 2. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article IV *Use Regulations*, § 450-14 *Use Regulations*, is hereby amended by repealing subsection 450-14.A(1) in its entirety and replacing it with the following language:

- (1) Single-family detached dwelling. Single-family detached dwelling on individual lot with no required public or community open space and with private yards on all sides of the dwelling. Detached dwellings may included dwellings constructed on the lot, prefabricated dwellings, manufactured

dwellings, and modular dwellings. The following area and dimensional requirements shall apply unless other area and dimensions are otherwise stated for a specific district:

[area and dimensional requirements unchanged]

SECTION 3. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article IV *Use Regulations*, § 450-14 *Use Regulations*, is hereby amended by adding new subsections, § 450-14.B(26.A), § 450-14.B(26.B), AND § 450-14.B(43A) as follows:

(26A) Medical Marijuana Dispensary

(a) Conditional use criteria

- (i) A Medical Marijuana Dispensary shall provide proof of registration with the Department of Health or proof that registration has been sought and is pending approval, and shall at all times maintain a valid, accurate, and up to date registration with the Department of Health. Should registration be denied or revoked at any time, any special exception shall immediately become void.
- (ii) A Medical Marijuana Dispensary shall at all times operate in compliance with all Department of Health regulations pertaining to such facilities.
- (iii) A Medical Marijuana Dispensary must be located on a lot containing not less one (1) acre.
- (iv) A Medical Marijuana Dispensary shall not be operated or maintained on a parcel within 1,000 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a residentially zoned property or a parcel containing a public, private or parochial school, day-care center, place of worship, public park, or community center. Nor shall a Medical Marijuana Dispensary be located closer than 2,500 feet from another Medical Marijuana Dispensary or from a Medical Marijuana Grower/Processor.
- (v) A Medical Marijuana Dispensary must operate entirely within an indoor, enclosed, and secure facility. No exterior sales, and no sidewalk displays, shall be permitted. No drive-through, drop-off, or pick-up services shall be permitted.
- (vi) A Medical Marijuana Dispensary may not operate on the same site as a Medical Marijuana Grower/Processor.
- (vii) A Medical Marijuana Facility shall be limited to hours of operation not earlier than 9:00 A.M. and not later than 9:00 P.M.
- (viii) A Medical Marijuana Dispensary shall submit a disposal plan to, and obtain approval from the Police Chief. Medical marijuana remnants and bi-products shall be disposed of according to an approved plan, and shall not be placed within an exterior refuse container.
- (ix) There shall be no emission of dust, fumes, vapors or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the Medical Marijuana Dispensary is operating.

- (x) No one under the age of eighteen (18) shall be permitted in a Medical Marijuana Dispensary, unless accompanied by a caregiver as required under Section 506 of the Medical Marijuana Act.
- (xi) No use of medical marijuana shall be permitted on the premises of a Medical Marijuana Dispensary.
- (xii) The minimum size of a Medical Marijuana Dispensary facility shall be two thousand (2,000) gross square feet in total floor area.
- (xiii) A Medical Marijuana Dispensary shall submit a security plan to, and obtain approval from, the Borough Engineer, the Borough Planner, and the Police Chief. The Medical Marijuana Grower/Processor shall demonstrate how it will maintain effective security and control. The security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility as required by Section 1102 of the Medical Marijuana Act and as supplemented by regulations promulgated by the Department of Health pursuant to the Medical Marijuana Act.
- (xiv) A Medical Marijuana Dispensary shall provide proof of a contract with a private security company, and shall be staffed with/monitored by security personnel twenty-four (24) hours a day and seven (7) days a week.
- (xv) A Medical Marijuana Dispensary shall submit a site plan for approval by the Borough Engineer and a Floor Plan for approval by the Borough Building Code Official. The floor plan shall identify internal security measures. All medical marijuana product, byproduct, and waste shall be stored in an interior secure vault or receptacle in such a manner as to protect against improper dissemination.

(26B) Medical Marijuana Grower/Processor

- (a) Conditional use criteria
 - (i) A Medical Marijuana Grower/Processor shall provide proof of registration with the Department of Health or proof that registration has been sought and is pending approval, and shall at all times maintain a valid, accurate, and up to date registration with the Department of Health. Should registration be denied or revoked at any time, any conditional use approval shall immediately become void.
 - (ii) A Medical Marijuana Grower/Processor shall at all times operate in compliance with all Department of Health regulations pertaining to such facilities.
 - (iii) A Medical Marijuana Dispensary must be located on a lot containing not less two (2) acres.
 - (iv) A Medical Marijuana Grower/Processor shall not be operated or maintained on a parcel within 1,000 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing a public, private or parochial school or a day-care center. Nor shall a Medical Marijuana Grower/Processor be located closer than 2,500 feet from another Medical Marijuana Grower/Processor or Medical Marijuana Dispensary.
 - (v) A Medical Marijuana Grower/Processor must operate entirely within an indoor, enclosed, and secure facility.
 - (vi) A Medical Marijuana Grower/Processor may not operate on the same site as a Medical Marijuana Dispensary.

- (vii) A Medical Marijuana Grower/Processor shall be limited to hours of operation not earlier than 9:00 A.M. and not later than 9:00 P.M.
- (viii) A Medical Marijuana Grower/Processor shall submit a disposal plan to, and obtain approval from the Police Chief. Medical marijuana remnants and bi-products shall be disposed of according to an approved plan, and shall not be placed within an exterior refuse container.
- (ix) There shall be no emission of dust, fumes, vapors or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the Medical Marijuana Grower/Processor is operating.
- (x) No one under the age of twenty-one (21) shall be permitted in a Medical Marijuana Grower/Processor.
- (xi) No retail sales of medical marijuana shall be permitted on the premises of a Medical Marijuana Grower/Processor.
- (xii) No use of medical marijuana shall be permitted on the premises of a Medical Marijuana Grower/Processor.
- (xiii) A Medical Marijuana Grower/Processor shall submit a security plan to, and obtain approval from the Police Chief. The Medical Marijuana Grower/Processor shall demonstrate how it will maintain effective security and control. The security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility as required by Section 1102 of the Medical Marijuana Act and as supplemented by regulations promulgated by the Department of Health pursuant to the Medical Marijuana Act.
- (xiv) A Medical Marijuana Grower/Processor shall contract with a private security company, and the Grower/Processor shall be staffed with/monitored by security personnel twenty-four (24) hours a day and seven (7) days a week.
- (xv) A Medical Marijuana Grower/Processor shall submit a site plan for approval by the Borough Engineer and a Floor Plan for approval by the Borough Building Code Official. The floor plan shall identify internal security measures. All medical marijuana product, byproduct, and waste shall be stored in an interior secure vault or receptacle in such a manner as to protect against improper dissemination.

(43A) A facility wherein individuals reside together for purposes of recovering from drug, alcohol, and/or substance abuse.

SECTION 4. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article IV *Use Regulations*, § 450-14 *Use Regulations*, is hereby amended by repealing subsection 450-14.B(45)(g)[9] in its entirety and replacing it with the following language:

- [9] As part of the land development agreement for the construction or installation of any telecommunications facility, provisions shall be made for the removal of the structure by the applicant should the facility not be used for a period of six consecutive months. A bond satisfactory to the Borough shall be established to guarantee the facility

removal. Provision shall be made for annual inspection reports, to be prepared at the sole expense of the owner/operator of the facility and provided to the Borough.

SECTION 5. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article IV *Use Regulations*, § 450-14 *Use Regulations*, is hereby amended by repealing subsection 450-14.B(48) in its entirety and replacing it with the following language:

- (48) Truck sales: truck and heavy equipment repair and/or sales
[criteria associated with this use remain unchanged)

SECTION 6. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article IV *Use Regulations*, § 450-14 *Use Regulations*, is hereby amended by repealing subsection 450-14.C(3)(h) and (i) in their entirety and replacing them with the following language:

- (h) The maximum uninterrupted length of stay at a bed-and-breakfast shall be 14 days.
- (i) The use of any amenities provided by the bed-and-breakfast such as swimming pool or tennis courts shall be restricted in use to guests of the establishment.

SECTION 7. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article IV *Use Regulations*, § 450-14 *Use Regulations*, is hereby amended by repealing subsection 450-14.C(6)(a)[8] in its entirety and replacing it with the following language:

- [8] Village historic district requirements. In addition to the requirements in Subsection C(6)(a)[1] through [7] all permit applications for dish antennas within the Village Historic District shall demonstrate to the satisfaction of Borough Council, upon recommendation by the Planning Commission, that the antenna will not be visible from any public street in the VH District and that its size, location, and type of screening will not be designed or located in such a way as to impinge on or diminish the historic values of the

district, homes, businesses, or other historic structures within the Village Historic District.

SECTION 8. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article IV *Use Regulations*, § 450-14 *Use Regulations*, is hereby amended by repealing subsection 450-14.C(9)(b) and (c) in their entirety and replacing them with the following language:

- (b) The deck or patio shall be fully enclosed by the rear wall of the housing unit, and the common walls of adjoining units or a wall or fence along the rear and side of the deck or patio. The height of the walls or fences shall not be less than four feet. The spa or hot tub shall be located anywhere within the enclosed patio, either below ground, at grade, or above ground, provided that level of the water surface is at least two feet below the height of the shortest wall or fence enclosing the patio.
- (c) The spa or hot tub shall be required to have a cover capable of being locked, for the purposes of safety and to cover the water surfaces during the off season or such other periods of nonuse. The cover shall be locked when not in use.

SECTION 9. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article IV *Use Regulations*, § 450-14 *Use Regulations*, is hereby amended by repealing subsection 450-14.C(9)(b) and (c) in their entirety and replacing them with the following language:

- (b) The deck or patio shall be fully enclosed by the rear wall of the housing unit and the common walls of adjoining units or a wall or fence along the rear and side of the deck or patio. The height of the walls or fences shall not be less than four feet. The spa shall be located anywhere within the enclosed patio, either below ground, at grade, or above ground, provided that level of the water surface is at least two feet below the height of the shortest wall or fence enclosing the patio.
- ...
- (c) The spa or hot tub shall be required to have a cover capable of being locked, for the purposes of safety and to cover the water surfaces

during the off season or such other periods of nonuse. The cover shall be locked when not in use.

SECTION 10. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article IV *Use Regulations*, § 450-14 *Use Regulations*, is hereby amended by repealing subsection 450-14.C(10)(i) and (l) and replacing them with the following language:

- (i) All electrical work connected with the pool and all equipment incidental thereto shall comply with all regulations and must be inspected and certified by an approved inspection agency prior to the issuance of a certificate of occupancy. In no event may said pool be used prior to such approval.
- (l) The water in the pool or pool area shall not emit an offensive odor or create any unhealthful condition. It shall be a violation of this chapter to cause or allow drainage onto adjoining land, public or private.

SECTION 11. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article IV *Use Regulations*, § 450-14 *Use Regulations*, is hereby amended by repealing subsection 450-14.D(3) in their entirety and (4) and replacing them with the following language:

- (3) Nonresidential accessory building. Accessory building or structure or uses are permitted which are customarily incidental to the uses permitted in nonresidential districts in connection with such uses, except outside storage. Any use accessory to a use permitted only under a special exception shall be established only and as provided in such special exception. Nonresidential accessory buildings shall meet the minimum setbacks for the principal nonresidential use.
- (4) Outside storage or display. Outside storage or display, other than storage as a primary use of the land (which shall not be permitted), necessary but incidental to the normal operation of a primary use, is subject to the following additional regulations:

[additional regulations to remain unchanged]

SECTION 12. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-15 *R-1 Residential District*, is hereby amended by repealing subsection 450-15.B in its entirety and replacing it with the following language:

- B. General. A building or structure may be erected or altered, to be used either in whole or in part, and a lot may be used or occupied for any one of the following uses, and no other, provided that such use, buildings, or structures shall comply with such regulations as yard, lot size, lot width, building area, height, impervious surface coverage, easement, buffer yard, off-street parking and other requirements as specified in this chapter.

SECTION 13. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-16 *R-2 Residential District*, is hereby amended by repealing subsection 450-16.B in its entirety and replacing it with the following language:

- B. General. A building or structure may be erected or altered, to be used either in whole or in part, and a lot may be used or occupied for any one of the following uses, and no other, provided that such use, buildings, or structures shall comply with such regulations as yard, lot size, lot width, building area, height, impervious surface coverage, easement, buffer yard, off-street parking and other requirements as specified in this chapter.

SECTION 14. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-17 *VH Village Historic District*, is hereby amended by repealing subsection 450-17.B in its entirety and replacing it with the following language:

- B. General. A building or structure may be erected or altered, to be used either in whole or in part, and a lot may be used or occupied for any one of the following uses, and no other, provided that such use, buildings, or structures shall comply with such regulations as yard, lot size, lot width, building area, height, impervious surface coverage, easement, buffer yard, off-street parking and other requirements as specified in this chapter.

SECTION 15. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-18 *MHP Mobile Home Park District*, is hereby amended by repealing subsection 450-18.B in its entirety and replacing it with the following language:

- B. General. A building or structure may be erected or altered, to be used either in whole or in part, and a lot may be used or occupied for any one of the following uses, and no other, provided that such use, buildings, or structures shall comply with such regulations as yard, lot size, lot width, building area, height, impervious surface coverage, easement, buffer yard, off-street parking and other requirements as specified in this chapter.

SECTION 16. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-19 *C-1 Commercial District*, is hereby amended by repealing subsection 450-19.B in its entirety and replacing it with the following language:

- B. General. A building or structure may be erected or altered, to be used either in whole or in part, and a lot may be used or occupied for any one of the following uses, and no other, provided that such use, buildings, or structures shall comply with such regulations as yard, lot size, lot width, building area, height, impervious surface coverage, easement, buffer yard, off-street parking and other requirements as specified in this chapter.

SECTION 17. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-19 *C-1 Commercial District*, subsection 450-19.C(1) *Uses permitted by right* is hereby amended by adding “Sober Living Facility” as a permitted use directly after “Retail trade and services”.

SECTION 18. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-19 *C-1 Commercial District*, subsection 450-19.C *Permitted uses* is hereby amended by adding a new subsection 450-19.C(3) *Uses permitted by conditional use* with the following language:

- (3) Uses permitted by conditional use.

Medical Marijuana Dispensary

SECTION 19. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-20 *C-2 Commercial District*, is hereby amended by repealing subsections 450-20.B and D(5)(b) in their entirety and replacing them with the following language:

B. General. A building or structure may be erected or altered, to be used either in whole or in part, and a lot may be used or occupied for any one of the following uses, and no other, provided that such use, buildings, or structures shall comply with such regulations as yard, lot size, lot width, building area, height, impervious surface coverage, easement, buffer yard, off-street parking and other requirements as specified in this chapter.

...

D. [no change]

(5) [no change]

...

(b) Side (each): 15 feet

SECTION 20. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-20 *C-2 Commercial District*, subsection 450-20.C *Permitted uses* is hereby amended by adding a new subsection 450-20.C(3) *Uses permitted by conditional use* with the following language:

(3) Uses permitted by conditional use.

Medical Marijuana Dispensary

SECTION 21. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-21 *C-3 Commercial District*, is hereby amended by repealing subsections 450-21.B and D(5)(b) in their entirety and replacing them with the following language:

B. General. A building or structure may be erected or altered, to be used either in whole or in part, and a lot may be used or occupied for any one of the following uses, and no other, provided that such use, buildings, or structures shall comply with such regulations as yard, lot size, lot width, building area, height, impervious

surface coverage, easement, buffer yard, off-street parking and other requirements as specified in this chapter.

...

D. [no change]

(5) [no change]

...

(b) Side (each): 15 feet

SECTION 22. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-21 *C-3 Commercial District*, subsection 450-21.C *Permitted uses* is hereby amended by adding a new subsection 450-21.C(3) *Uses permitted by conditional use* with the following language:

(3) Uses permitted by conditional use.

Medical Marijuana Dispensary

SECTION 23. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-22 *HC Historic Commercial District*, is hereby amended by repealing subsection 450-22.A in its entirety and replacing it with the following language:

A. The Historic Commercial District is intended to promote and preserve the historic and limited craft/commercial character of the area around the historic Godshalk’s Mill.

SECTION 24. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-23 *SC Shopping Center District*, subsection 450-23.C *Permitted uses* is hereby amended by adding the “Medical Marijuana Dispensary” use as a permitted conditional use under subsection 450-23.C(3) *Uses permitted by conditional use*

SECTION 25. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-24 *LI Light Industrial District*, is hereby amended by repealing subsections 450-24.A, B, C, D(5)(b), and E(4) in their entirety and replacing them with the following language:

- A. Purpose. The purposes and intent of the LI Light Industrial District is to permit light industrial development located along the railroad line, to ensure that development has sufficient setbacks, buffers, and limits on intensity of development to preserve the overall residential character of the Borough, to protect environmental features, including woodlands, slopes, wetlands and floodplains, and to ensure that industrial development, along Butler Avenue is consistent with the Borough's corridor planning and streetscape standards.

- B. General. A building or structure may be erected or altered, to be used either in whole or in part, and a lot may be used or occupied for any one of the following uses, and no other, provided that such use, buildings, or structures shall comply with such regulations as yard, lot size, lot width, building area, height, impervious surface coverage, easement, buffer yard, off-street parking and other requirements as specified in this chapter.

- C. Permitted uses.
 - (1) Uses permitted by right.
 - Contractor service

 - Forestry/timber harvesting

 - Microwave or satellite dish antennas

 - Motel/hotel

 - Nonresidential accessory building

 - Nonresidential accessory structure

 - Nursery/greenhouse/garden center

 - Office, business or professional

 - Office, governmental

 - Public recreation facility

 - Research

Sober Living Facility

Temporary use or structure

Utilities

Veterinary office

- (2) Uses permitted by special exception. The following uses may be permitted by special exception. However, the following uses shall not be permitted on lots which front or which take access from Butler Avenue/Route 202.

Adult commercial

Automobile body repair or paint shop

Fuel storage and distribution

Light manufacturing

Telecommunications facility

Truck sales

Warehousing and distribution

Wholesale trade

- (3) Uses permitted by conditional use.

Lawful use not otherwise permitted

Medical Marijuana Dispensary

Medical Marijuana Grower/Processor

D. [no change]

...

(5) [no change]

...

(b) Side (each): 15 feet

...

E. [no change]

...

- (4) Lots or properties which front on or take direct access to Butler Avenue (Route 202-Business) shall meet the following additional requirements:

[no change to requirements]

SECTION 26. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article V *District Requirements*, § 450-25 *C-U College/University District*, subsection 450-5.D(1)(e) is hereby amended by deleting the words “(as measured from perimeter of property)”.

SECTION 27. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article VI *General Regulations Application to All Districts*, section 450-32 *Height* is hereby amended by repealing its introductory paragraph in its entirety and replacing it with the following language:

No building shall exceed a height of thirty-five (35) feet, except as provided in the following and except as provided in other provisions of this Zoning Ordinance.

[enumerated exceptions remain unchanged]

SECTION 28. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article VI *General Regulations Application to All Districts*, section 450-35 *Lighting* is hereby amended by repealing subsection 450-35.D in its entirety and replacing it with the following language:

- D. Light at the property line. Illumination from light originating on the site shall not exceed 0.3 footcandle at the lot line. Overhead light pollution caused by unshielded or bright lights shall not be permitted. No light shall shine directly into windows or onto streets and driveways in such a manner as to interfere with or distract driver’s vision or be a nuisance to property owners or residents.

SECTION 29. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article VI *General Regulations Application to All Districts*, section 450-40 *Protection standards; nuisances* is hereby amended by repealing subsections 450-40.B(4), 450-40.B(5), and 450-40.B(6) in their entirety and replacing them with the following language:

- (4) General sound standard. All sound sources, including nonconforming uses, shall comply with the general sound standard for the district in which it is located unless covered specifically by another section herein.

Land Use Category	dBa Rating Limit	
	DAY (7:00 am-7:00 pm)	NIGHT (7:00 pm-7:00 am)
All residential districts, education/institutional districts, park/open space districts and college/university districts	60	50
Shopping Center	75	65
C-1, C-2, C-3 Districts	75	65
Light industrial	75	65
Mobile home park	60	50

All measurements shall be taken at the property boundary of the sound source.

- (5) Specific prohibitions. The following acts and the causes thereof, are declared to be in violation of this chapter.
- (a) Operating, playing, or permitting the operation or playing of any radio, television, phonograph, sound amplifier, musical instrument, or other such device between the hours of 7:00 p.m. and 7:00 a.m. in such a manner as to create a noise disturbance across a real property line or within a noise-sensitive zone.
 - (b) Owning, possessing, or harboring any animal which frequently or for any continued duration howls, barks, crows, or makes any other sound so as to create a noise disturbance across any real property boundary or within a noise-sensitive zone.
 - (c) Performing any construction operation or operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work between the hours of 7:00 p.m. and 7:00 a.m. if such operation creates a noise disturbance across a real property boundary line or within a noise-sensitive zone. This section does not apply to domestic

power tools or to vehicles which are designed for transportation use on public highways.

- (d) Repairing, rebuilding, modifying, testing, or operating a motor vehicle, motorcycle, recreational vehicle or powered model vehicle in such a manner as to cause a noise disturbance across a real property boundary or within a noise-sensitive zone. This section shall not apply to operation on public highways of any vehicle in a normal manner.
 - (e) Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower or similar device (used outdoors) between the hours of 9:00 p.m. and 7:00 a.m. so as to cause a noise disturbance across any nonindustrial real property boundary or within a noise-sensitive zone.
- (6) Exceptions.
- (a) The provisions of this chapter shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, the emission of sound in the performance of emergency work, or the performance of municipal service operations or activities.
 - (b) A temporary permit for exceeding the above limits may be issued by the Borough Manager upon due cause shown, in consultation with the Borough Zoning Officer and Borough Engineer.

SECTION 30. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article VI *General Regulations Applicable to All Districts*, § 450-42 *Parking standards*, subsection 450-42.G *Parking requirements for uses*, is hereby amended by adding the following minimum parking requirements to § 450-42.G(2) *Nonresidential uses*:

Use	Number of Required Parking Spaces
Medical Marijuana Dispensary	1 off-street parking space for every 250 square feet of gross floor area
Medical Marijuana Grower/Processor	1 off-street parking space for every employee on the largest shift, plus 1 space for each company vehicle normally stored on the premises, plus 5 additional spaces for visitor parking.

Sober Living Facility

A minimum of three (3) spaces per facility. Garage spaces do not count as required parking spaces. One (1) additional off-street parking space shall be provided for each non-resident staff person. One additional off-street parking space shall be provided for each additional two (2) residents over five (5), unless demonstrated that such individuals are incapable or not permitted to operate a motor vehicle during the period of residency.

SECTION 31. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Article VIII *Administration*, section 450-52 *Application requirements for zoning permits* is hereby amended by repealing subsection D in its entirety and replacing it with the following language:

- D. Whenever the topography and vegetation is disturbed, a plan for the control of erosion and sediment and grading is required. A zoning permit is required for any fill or change in the existing grade of any land; and it shall be unlawful to disturb, modify, block, divert, or otherwise affect the overland or subsurface flow of a stream or creek or stormwater without first obtaining a zoning permit and any other applicable permits. No permits shall be required for normal agriculture or horticultural operations or where the area to be altered does not exceed 1,000 square feet (or less if required by the Bucks County Conservation District) and where the grade change does not exceed six inches in any one area and where all bare earth is properly seeded, sodded, or otherwise protected from erosion. Zoning permits for activities which also require review and approval from the Bucks County Soil Conservation District shall be issued only after approval by the Conservation District.

SECTION 32. The Code of Ordinances of the Borough of New Britain, Chapter 450 *Zoning*, Attachment 1 is hereby amended by adding the following Nonresidential Uses:

Use	District												
	R-1	R-2	VH	MHP	C-1	C-2	C-3	HC	SC	LI	C-U	E-I	P-OS
Medical Marijuana Dispensary	N	N	N	N	C	C	C	N	C	C	N	N	N
Medical Marijuana Grower/Processor	N	N	N	N	N	N	N	N	N	C	N	N	N
Sober Living Facility	N	N	N	N	N	N	N	N	N	Y	N	N	N

SECTION 33. Repealer. Any and all other Ordinances or parts of Ordinances in violation or in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.

SECTION 34. Severability. The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, enforceable or unconstitutional, the Council hereby declares its intent that the Ordinance shall have been enacted without regard to the invalid, enforceable, or unconstitutional portion, part or provision of this Ordinance.

SECTION 35. Effective date. This Ordinance shall become effective immediately.

ORDAINED and **ENACTED** an ordinance of the Borough of New Britain this ____ day of _____, 2017.

NEW BRITAIN BOROUGH COUNCIL

By:

Robyne Kelemen, Council President

Approved:

David Holewinski, Mayor

Attest:

Carrie Gamble, Borough Secretary

**BOROUGH OF NEW BRITAIN
BUCKS COUNTY, PENNSYLVANIA
ORDINANCE NO. _____ 2017**

AN ORDINANCE OF THE BOROUGH OF NEW BRITAIN, BUCKS COUNTY, AMENDING THE CODE OF THE BOROUGH OF NEW BRITAIN, CHAPTER 450 ZONING, ARTICLE VIII, ADMINISTRATION, BY REPEALING SECTION 450-55 CERTIFICATE OF OCCUPANCY IN ITS ENTIRETY AND REPLACING IT WITH COMPREHENSIVE REGULATIONS FOR ISSUANCE OF USE AND OCCUPANCY CERTIFICATES AND ESTABLISHING ADDITIONAL PROCEDURES FOR THE ISSUANCE OF USE AND OCCUPANCY CERTIFICATES IN ACCORDANCE WITH THE MUNICIPAL CODE AND ORDINANCE COMPLIANCE ACT; REPEALING PRIOR INCONSISTENT ORDINANCES; CONTAINING A SAVINGS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Borough Council of the Borough of New Britain is empowered by section 1202 of the Borough Code, 8 Pa.C.S.A. § 1202, to enact regulations relating to the public health, safety, and welfare of the citizens of the Borough of New Britain;

WHEREAS, Borough Council further has authority under the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101, *et seq.* to establish zoning regulations in the Borough and to amend the Borough's zoning ordinance as necessary to promote the public health, safety, and welfare of the citizens of the Borough of New Britain;

WHEREAS, the Pennsylvania Municipal Code and Ordinance Compliance Act (MCOCA), 68 P.S. §§ 1081-1083, establishes certain procedures for the issuance of a use and occupancy certificate related to the sale of property, addressing both minor violations of municipal codes and ordinances and also "substantial violations" that make a property unfit for human habitation; and

WHEREAS, the Borough Council intends to bring the Borough's procedures for issuing certificates of occupancy into compliance with the requirements of MCOCA.

NOW, THEREFORE, be it ORDAINED and ENACTED by the Council of the Borough of New Britain, Bucks County, Commonwealth of Pennsylvania, as follows:

SECTION 1

Chapter 55 *Zoning*, Article VIII *Administration*, Section 450-55 *Certificate of Occupancy* is hereby retitled "Use and Occupancy Certificate".

SECTION 2

Chapter 450 *Zoning*, Article VIII *Administration*, Section 450-55 *Certificate of Occupancy*, is hereby repealed in its entirety and replaced with the following language:

§ 450-55 *Use and occupancy certificate.*

A. Definitions.

The words and terms used in this section shall have the following meanings:

"Borough" means the Borough of New Britain, Bucks County, Pennsylvania, and any designated agents or representatives thereof.

"Borough Codes" means the Code of the Borough of New Britain and any ordinances, rules, or regulations of the Borough, including those established by this section.

"Date of purchase." The date on which title and right to possess the property transfers to the purchaser or, in cases where the property is sold pursuant to the act of May 16, 1923 (P.L. 207, No. 153), referred to as the Municipal Claim and Tax Lien Law, the first day following the right of redemption period authorized under the Municipal Claim and Tax Lien Law.

"Person" means any individual, partnership, association, corporation, legal representative, or trustee.

"Substantial violation" means a violation of Borough Codes that makes a building, structure, dwelling unit, or any part thereof unfit for human habitation and is discovered during the course of a Borough inspection of a property and disclosed to the record owner, owner's agent, prospective purchaser, or prospective tenant through the issuance of a use and occupancy inspection report (U&O Report).

"Temporary access certificate" means a certificate issued by the Borough as the result of a Borough inspection of a property incident to the sale, change in use or occupancy, or change in residential or nonresidential tenant of the property that identifies at least one substantial violation. The purpose of the certificate is to authorize the owner, owner's agent, prospective purchaser, or prospective tenant to access the property to correct the identified substantial violations. No person may occupy or use a property during the term of a temporary access certificate, but the owner, owner's agent, purchaser, or tenant may store personalty related to the proposed use or occupancy of the property or needed to repair the substantial violations during the time of the temporary access certificate.

“Temporary use and occupancy certificate” means a certificate issued by a municipality as a result of a Borough inspection of a property incident to the sale, change in use or occupancy, or change in nonresidential tenant of the property that reveals a violation, but not a substantial violation. The purpose of the certificate is to authorize the owner, owner’s agent, prospective purchaser, existing tenant, or prospective tenant to fully utilize or reside in the property while correcting the identified violations.

“Unfit for human habitation” means a condition which renders a building, structure, dwelling unit, or any part thereof, dangerous or injurious to the health, safety or physical welfare of an occupant or the occupants of neighboring dwellings. The condition may include substantial violations of Borough Codes that show evidence of: a significant increase to the hazards of fire or accident; inadequate sanitary facilities; vermin infestation; or a condition of disrepair, dilapidation, or structural defects such that the cost of rehabilitation and repair would exceed one-half of the agreed-upon purchase price of the property.

“Use and occupancy certificate” means a certificate issued by the Borough stipulating that the property meets all Borough Codes and may be used or occupied as intended.

“Violation” means a violation of Borough Codes that does not rise to the level of a substantial violation and is discovered during the course of a Borough inspection of a property and disclosed to the record owner, owner’s agent, prospective purchaser, or prospective tenant of the property through the issuance of a U&O Report.

B. Certificate required; exceptions.

- (1) Certificate required.** No structure, building, dwelling unit, or any part thereof, shall be used or occupied, change ownership, or change residential or nonresidential tenant until a use and occupancy certificate has been issued by the Borough. The Borough shall, after application for such certificate by the owner, agent of the owner, prospective purchaser, or prospective residential or nonresidential tenant of the premises to be occupied, on forms provided for such purpose by the Borough, inspect the structure, building, or dwelling unit no later than 15 days after being notified of the completion of authorized construction or alteration or (where no construction or alteration is involved) within 15 days after receipt of such application, to determine compliance with the provisions of applicable sections of the Code of the Borough of New Britain and any ordinances, rules, or regulations of the Borough, including, but not limited to, compliance with section 450-55.E of this section.

(2) Exceptions.

(i) Except as set forth in subsection (ii), the requirements of this section do not apply to any of the following that take title to property for the purpose of holding the property for sale to offset losses incurred on a loan or other obligation in default secured by a mortgage, deed of trust, or other lien on the property:

- (a)** Bank
- (b)** Savings association
- (c)** Credit union
- (d)** Mortgage lender
- (e)** Financial institutional similar to an institution listed in subparagraphs (a) through (d)
- (f)** Subsidiary of a financial institution listed in subparagraphs (a) through (e)

(ii) A financial institution or other business organization not subject to this section under subsection (i) may be required by the Borough to correct a substantial violation.

C. Application and certificate contents/fees; responsibility for obtaining.

- (1)** All applications for a use and occupancy certificate shall be in writing on a form furnished by the Zoning Officer.
- (2)** The applicant for a use and occupancy certificate shall pay, at the time of application, a fee to the Borough in an amount established by a fee schedule which has been adopted by resolution by the Borough Council. The fee shall be nonrefundable in the event that a use and occupancy certificate is not issued after the required inspection.
- (3)** The use and occupancy certificate shall state the use to which the structure, building, or dwelling unit is to be put.
- (4)** It shall be the responsibility of any person who/which changes the use of, sells, or otherwise transfers ownership of any structure, building, or dwelling unit or, changes residential or nonresidential tenant, to apply for and obtain the use and occupancy certificate prior to the transfer of ownership rights or change of use or occupancy of such premises. Failure

on the part of a seller, transferor, or owner to obtain the required certificate shall not excuse the purchaser, transferee, or residential or nonresidential tenant from complying with the requirements of this section.

D. Issuance.

Following an inspection of the structure, building, dwelling unit, or part thereof required by section 450-55.E, the Borough shall issue to the owner, agent of the owner, prospective purchaser, or prospective residential or nonresidential tenant of the premises to be occupied a certificate in the following manner:

- (1)** If the inspection reveals no violations, the Borough shall issue a use and occupancy certificate.
- (2)** If the inspection reveals at least one violation, but no substantial violations, the Borough shall specifically note those items on a U&O Report and shall issue a temporary use and occupancy certificate.
- (3)** If the inspection reveals one or more substantial violations, the Borough shall specifically note those items on a U&O Report and shall issue a temporary access certificate.
- (4)** Other Permits. The Borough may require additional permits specified in other related chapters and laws.

E. Inspections.

(1) An inspection pursuant to section 450-55.B shall be conducted before any use and occupancy certificate is issued confirming compliance with the provisions of the applicable sections of the Borough Codes, including, but not limited to the following inspections for which every item shall comply with Borough standards, and all information and fees, as requested within the application shall be received, reviewed and approved by the Borough Zoning Officer or assigned Borough officer/employee:

- (a)** Exterior:
 - (i)** Gutters and downspouts.
 - (ii)** Sidewalks (no trip hazards or broken curbs).
 - (iii)** No broken windows

- (iv)** Interior and exterior guardrails for stairs and porches over 30 inches aboveground.
- (v)** Four inches maximum spacing.
- (vi)** Guardrails must be 36 inches high on open porches and 34 inches high on stairs.
- (vii)** No tall grass and weeds.
- (viii)** No accumulation of trash.
- (ix)** Swimming pools.
 - [A]** Aboveground pools must have four-foot-high walls.
 - [B]** In-ground pools must have at least a four-foot-high fence with a self-closing gate, with a maximum fence/gate spacing of four inches.

(b) Electrical:

- (i)** Proper grounding of panel box and outlets.
- (ii)** No exposed or dangerous wiring.
- (iii)** Missing covers on receptacle, switches and junction boxes.
- (iv)** Labeling of breakers at panel.
- (v)** Open slots at panel box (sealed or capped).
- (vi)** Switched lighting at stairways, top and bottom except basements.
- (vii)** Outlets in all habitable rooms.
- (viii)** Vent above stove.
- (ix)** All one-hundred-twenty-five-volt, single-phase, fifteen- and twenty-ampere receptacles installed in bathrooms shall have ground-fault circuit-interrupter protection for personnel.
- (x)** All one-hundred-twenty-five-volt, single-phase, fifteen- or twenty-ampere receptacles installed in garages and grade-level portions of unfinished accessory buildings used for storage or work areas shall have ground-fault circuit-interrupter protection for personnel.

[A] Exceptions:

- (1)** Receptacles that are not readily accessible.
- (2)** A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that in normal use is not easily moved from one place to another, and that is cord- and plug-connected.

- (xi)** All one-hundred-twenty-five-volt, single-phase, fifteen- and twenty-ampere receptacles installed outdoors shall have ground-fault circuit-interrupter protection for personnel.
- (xii)** Where a crawl space is at or below grade level, all one-hundred-twenty-five-volt, single-phase, fifteen- and twenty-ampere receptacles installed in such spaces shall have ground-fault circuit-interrupter protection for personnel.
- (xiii)** All one-hundred-twenty-five-volt, single-phase, fifteen- and twenty-ampere receptacles installed in unfinished basements shall have ground-fault circuit-interrupter protection for personnel. For purposes of this Section, unfinished basements are defined as portions or areas of the basement not intended as habitable rooms and limited to storage areas, work areas, and the like.

[A] Exceptions:

- (1)** Receptacles that are not readily accessible.
 - (2)** A single receptacle or duplex receptacle for two appliances located within dedicated space for each appliance that in normal use is not easily moved from one place to another, and that is cord- and plug-connected.
- (xiv)** All one-hundred-twenty-five-volt, single-phase, fifteen- and twenty-ampere receptacles that serve countertop surfaces shall have ground-fault circuit-interrupter protection for personnel.
 - (xv)** All one-hundred-twenty-five-volt, single-phase, fifteen- and twenty-ampere receptacles that serve a countertop surface, and are located within six feet (1,829 mm) of the outside edge of a wet-bar sink shall have ground-fault circuit-interrupter protection for personnel. Receptacle outlets shall not be installed in a face-up position in the work surfaces or countertops.
 - (xvi)** The outlet(s) that supplies a self-contained spa or hot tub, or a packaged spa or hot tub equipment assembly, or a field-

assembled spa or hot tub with a heater load of 50 amperes or less, shall be protected by a ground-fault circuit-interrupter.

(xvii) All pools shall have ground fault protection.

(xviii) Notwithstanding the above, when the existing wiring is incompatible with installation of ground-fault circuit interruption outlets, the existing wiring shall be certified with a notation on the certificate that substandard wiring is present.

(c) Fire protection and safety:

(i) Smoke detectors.

[A] Battery type is proper in existing structures.

[B] Located in basement.

[C] Located outside bedrooms and in each bedroom and on each level of the house.

(ii) Fire separation between building and garage (i.e., 1/2 inch drywall).

(iii) Egress from all bedrooms (window size requirements should not apply here, check window operation).

(iv) Thumb latch dead bolts for doors (keyed type not permitted).

(v) Continuous railing system at all staircases in house.

(d) Plumbing and heating:

(i) Drip let on water heater relief valve (maximum of six inches from floor with one-inch air gap off floor, rigid pipe only).

(ii) Fix leaks in plumbing at faucets and taps.

(iii) Properly functioning toilets.

(iv) Heat to all habitable rooms.

(v) Proper ventilation for bathrooms (window or fan).

(vi) Proper ventilation for dryers:

[A] Flexible plastic duct shall not be concealed in walls.

[B] Must vent directly to outside.

(vii) Gutters, downspouts, sump pumps, floor drains, or any other sources of stormwater inflow and infiltration may not be connected to the public sewer system. In the event an unauthorized connection is suspected, the Sewer Authority shall have access to the property to conduct a dye test prior to issuance of a use and occupancy certificate.

(e) For new construction, the driveway serving the dwelling or structure on the lot, as applicable, must be completed to the stone base.

(2) Any change in use or ownership of any structure or any change in occupancy of an apartment shall require written notice to the Borough two weeks prior to any change. The inspections required in subsection E(1) above shall be required prior to any change in use or ownership of any structure or any change in occupancy of an apartment. In addition, all electrical outlets shall be upgraded to include GFIs following the use and occupancy inspection and prior to any change.

F. Construction Use and Occupancy Permit.

(1) Scope; Conditions. In situations where (1) an existing residential dwelling or structure is being altered, rehabilitated and/or renovated, or (2) a new residential dwelling or structure is being constructed and all exterior on-lot work cannot be completed because of adverse weather conditions a construction use and occupancy permit may be issued for the dwelling or structure, in the sole discretion of the Zoning Officer, subject to the satisfaction of the following conditions:

(a) The application for a construction use and occupancy permit shall be in writing on a form furnished by the Borough.

(b) The portion or portions of the dwelling or structure to be occupied shall be fully completed, fully habitable, with all life and safety features completed and fully inspected, so that such portion or portions for which the construction use and occupancy permit is issued shall be occupied safely.

- (c)** All fees for the initial inspection for issuance of a construction use and occupancy permit shall be paid in full prior to the issuance of the construction use and occupancy permit.
 - (d)** All fees for the reinspection for issuance of a final occupancy permit shall be paid in full prior to the issuance of the construction use and occupancy permit.
 - (e)** All incomplete work required to obtain a final occupancy permit shall be completed within the time established in the construction use and occupancy permit or as extended by the Zoning Officer.
 - (f)** The applicant shall execute the construction use and occupancy permit acknowledging and identifying that the incomplete work listed on the construction use and occupancy permit is the applicant's responsibility or that of the lot owner/purchaser.
- (2)** Issuance.
- (a)** An application for a construction use and occupancy permit shall be granted or denied by the Zoning Officer within five days after the application and all required supporting documents have been submitted to the Borough.
 - (b)** A copy of the construction use and occupancy permit shall be kept on the premises and shall be displayed upon request made by any officer of the Borough.
 - (c)** The issuance of a construction use and occupancy permit is in no way a municipal warranty that the building is habitable or that there is no defect in the lot, building or other structure.
 - (d)** The permit applicant is responsible for obtaining all zoning and construction permits required for the work to be performed, in accordance with all applicable Borough codes and ordinances.
- (3)** Fees. The fee for a construction use and occupancy permit shall be established by the Borough Council, as amended by resolution from time to time.
- (4)** Failure to Complete Construction; Revocation; Extension Requests.

- (a) In the event the work to obtain a final occupancy permit is not completed within the time established in the construction use and occupancy permit, or as extended by the Zoning Officer, then, in that event, the applicant shall be deemed in violation, and the Borough may immediately revoke the construction use and occupancy permit.
- (b) The Zoning Officer shall, in writing, suspend or revoke a construction use and occupancy permit whenever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the residential dwelling or structure or portion thereof is in violation of any ordinance, resolution or regulation of the Borough.
- (c) Any extension of time requested by the applicant to complete the work may be granted or denied by the Zoning Officer in his or her sole discretion.

G. Compliance Requirements and Reinspection.

(1) Compliance requirements.

- (a) **Purchasers of property.** Within twelve (12) months of the date of purchase, the purchaser of a property known to be in violation of Borough Codes shall, at its option either:
 - (i) Bring the property into compliance with Borough Codes; or
 - (ii) Demolish the structure, building, dwelling unit, or part thereof, in accordance with all applicable Borough ordinances, rules, and regulations.
- (b) **Changes in use, occupancy, or tenant.** Within ninety (90) days of the issuance of a U&O Report related to a change in use or occupancy or a change in residential or nonresidential tenant that identifies any violations or substantial violations, the owner, owner's agent, prospective purchaser, existing residential or nonresidential tenant, or prospective residential or nonresidential tenant shall bring the structure, building, dwelling unit, or part thereof into compliance with Borough Codes.

- (c) At the request of the owner, owner's agent, prospective purchaser, existing residential or nonresidential tenant, or prospective residential or nonresidential tenant, the Borough may negotiate, at its discretion, longer time periods for maintenance and repair of the building, structure, dwelling unit, or part thereof.

(2) Reinspection of property.

- (a) At the expiration of the time period set forth in section (1) or before that time, if requested by the owner, owner's agent, prospective purchaser, existing residential or nonresidential tenant, or prospective residential or nonresidential tenant, the Borough shall re-inspect the property for the purpose of determining compliance with the violations identified in the U&O Report.
- (b) If a temporary access permit was issued and re-inspection demonstrates that the substantial violations noted in the U&O Report have been corrected but other cited violations have not yet been corrected, the Borough shall issue a temporary use and occupancy permit, valid for the time remaining on the original temporary access permit.
- (c) If the re-inspection demonstrates that all violations noted in the U&O Report have been corrected, the Borough shall issue a use and occupancy certificate for the property.

H. Revocation. Any use and occupancy certificate issued hereunder may be revoked in the event that the structure, building, dwelling unit, or part thereof, is determined to be unsafe, uninhabitable, or that a condition exists that is in violation of any ordinance of the Borough, or that the actual use is in violation of any ordinance of the Borough. In the event that the use and occupancy certificate is issued subject to conditions, the certificate may be revoked if the conditions remain unsatisfied within the time limit provided for at the time of issuance of the certificate.

I. Penalties.

- (1) Failure to obtain a use and occupancy certificate.** Any person who or which occupies or uses any structure, building, dwelling unit, or part thereof, without obtaining a use and occupancy certificate or, who or which

continues to occupy or use any structure, building, dwelling unit, or part thereof following the revocation of a previously issued use and occupancy certificate shall be in violation of this section and shall be subject to the payment of fines and penalties of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) in addition to the cost of prosecution and collection, and, in default thereof, to imprisonment for a period not exceeding thirty (30) days as provided by law. Each and every day that occupancy or use of any structure, building, dwelling unit, or part thereof shall continue without the certificate required by this section after notice to cease and desist such occupancy or use has been given, shall constitute a separate offense and be punishable as such.

(2) Failure to comply with the requirements of § 490-55.G.

Failure to comply with the requirements of section 490-55.G shall result in the:

- (a)** Revocation of the temporary access certificate or temporary use and occupancy certificate.
- (b)** The owner being subject to the fines and penalties set forth in subsection (a) relating to the occupation of a property without a use and occupancy certificate.
- (c)** The owner being personally liable for the costs of maintenance, repairs, or demolition sufficient to correct the cited violations, and a fine of not less than \$1,000 and not more than \$10,000.

SECTION 3. Repealer.

Any and all other ordinances or parts of ordinances in violation or in conflict with the terms, conditions and provisions of this ordinance are hereby repealed to the extent of such irreconcilable conflict.

SECTION 4. Severability.

The terms, conditions, and provisions of this ordinance are hereby declared to be severable, and, should any portion, part, or provision of this ordinance be found by a court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, the Borough declares its intent that the ordinance shall have been enacted without regard to the invalid, unenforceable, or unconstitutional portion, part, or provision of this ordinance.

SECTION 5. Effective date.

This ordinance shall become effective immediately.

RESOLVED AND ENACTED by the Borough Council of New Britain Borough this
_____ day of _____, 2017.

Robyne Kelemen, Council President

Carrie Gamble, Borough Secretary

Examined and approved by me this _____

Day of _____ 2017.

David Holewinski, Mayor